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**Report of the Head of Planning and Development**

**STRATEGIC PLANNING COMMITTEE**

**Date: 08-Dec-2022**

**Subject: Planning Application 2020/92331 Outline planning application for demolition of existing dwellings and development of phased, mixed use scheme comprising residential development (up to 1,354 dwellings), employment development (up to 35 hectares of B1(part a and c), B2, B8 uses), residential institution (C2) development (up to 1 hectare), a local centre (comprising A1/A2/A3/A4/A5/D1 uses), a 2 form entry primary school including early years provision, green space, access and other associated infrastructure (amended and further information received) Land east of, Leeds Road, Chidswell, Shaw Cross, Dewsbury**

**APPLICANT**

C C Projects

**DATE VALID**

21-Jul-2020

**TARGET DATE**

20-Oct-2020

**EXTENSION EXPIRY DATE**

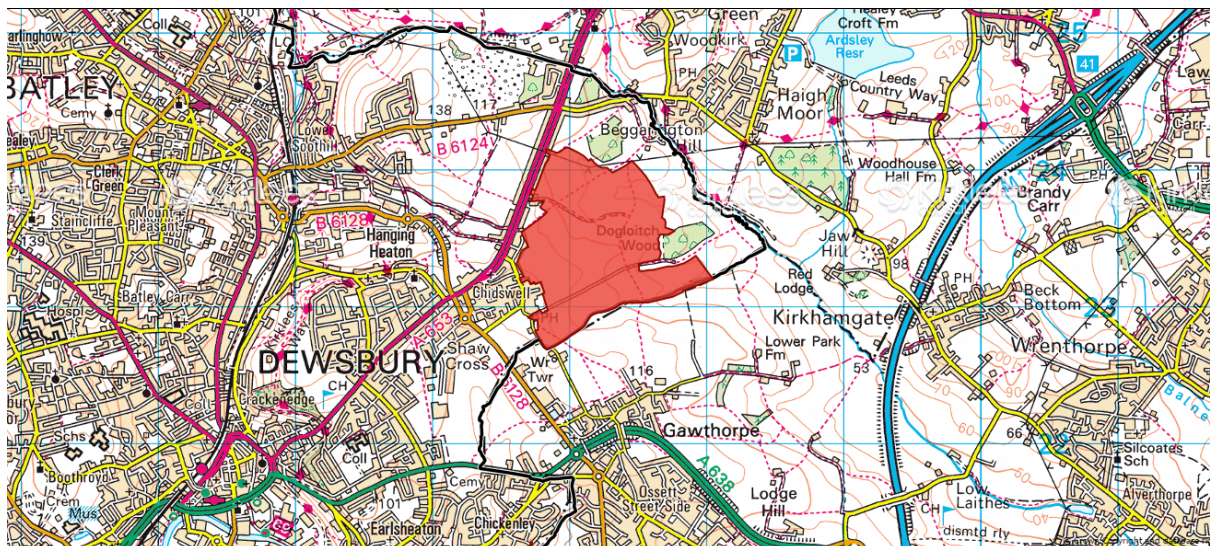
08-Jan-2021

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[Public speaking at committee link](#)

**LOCATION PLAN**



**Map not to scale – for identification purposes only**

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**Electoral wards affected: Batley East and Dewsbury East**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**RECOMMENDATION:**

Subject to the Secretary of State not calling in the application, DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report and to secure a Section 106 agreement to cover the following matters:

1) Highway capacity / improvement / other works

- a) M62 junction 28 monitoring strategy to be submitted, approved and implemented, and capacity improvement (delivery or contribution) to be implemented if monitoring carried demonstrates the need.
- b) M1 junction 40 monitoring strategy to be submitted, approved and implemented, and capacity improvement (delivery or contribution) to be implemented if monitoring carried demonstrates the need.
- c) Monitoring of left-turn movements into Chidswell Lane from spine road, Traffic Regulation Order and implementation of works if signed restriction proves ineffective (contributions totalling £23,500).
- d) Contributions towards junction improvement schemes (applicable should schemes secured by condition prove to be more appropriately delivered via a Section 106 provision).

2) Sustainable transport

- a) Pump-priming of a Dewsbury-Leeds bus route along spine road, triggered by occupation of 1,000 homes across both sites, contribution to be agreed, duration of pump-priming to be agreed, and provision for contributions to cease if bus service becomes self-financing.
- b) Bus stop upgrade contribution (applicable if bus stop audit demonstrates the need).
- c) Framework Travel Plan (and subordinate plans) implementation and monitoring including fees – £15,000 (£3,000 for five years).

3) Education

- a) £700,000 contribution towards interim primary provision to be paid in two tranches (£350,000 upon first occupation, £350,000 upon occupation of 119 homes).
- b) Primary school (including early years and childcare) provision cascade:
  - i) Applicant / developer to decide on whether to build school on site or pay contribution no later than point of occupation of 200 homes;
  - ii) If the former, applicant / developer to provide land and build school on site to the council's specification for use no earlier than when required and no later than point of occupation of 700 homes;
  - iii) If the latter, contribution amount to be reviewed at the time of payment, contribution to be paid in instalments between the occupation of 229 and 919 homes, council to put contribution towards on-site school or alternative provision.
- c) Secondary education contribution of £2,257,029.

4) Open space, including sports and recreation and playspaces – contribution based on Open Space SPD methodology / formulae, taking into account on-site provision (to be confirmed at Reserved Matters stage). Site-wide strategy required to ensure provision across all phases / parcels / Reserved Matters applications is co-ordinated.

5) Affordable housing – 20% provision.

6) Local centre (including community facilities) – arrangements to ensure buildings / floorspace is provided, and details of size, timing, uses and location to be clarified.

7) Air quality – contribution (amount to be confirmed, and subject to applicant / developer measures which may render contribution unnecessary) up to the estimated damage cost to be spent on air quality improvement projects within the locality.

8) Biodiversity

a) Contribution (amount to be confirmed) or off-site measures to achieve biodiversity net gain (only applicable if 10% can't be achieved on-site);

b) Securing other off-site measures (including buffers to ancient woodlands, and provision of skylark plots).

9) Management – the establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure. May include street trees if not adopted.

10) Drainage – management company to manage and maintain surface water drainage until formally adopted by the statutory undertaker. Establishment of drainage working group (with regular meetings) to oversee implementation of a site-wide drainage masterplan.

11) Ancient woodland – management plan (and works, if required) for public access to Dum Wood and Dogloitch Wood (outside application site, but within applicant's ownership).

12) Social value – requirement for applicant / developer, future developer partners and occupants of employment floorspace to provide package of training, apprenticeships and other social value measures.

13) Masterplanning – No ransom scenarios to be created at points where new roads meet other development parcels / phases.

All contributions are to be index-linked.

In the circumstances where the Section 106 agreement has not been completed within three months of the date of the Committee's resolution (or of the date the Secretary of State for Levelling Up, Housing and Communities confirms that the application would not be called in) then the Head of Planning and Development shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the mitigation and benefits that would have been secured; if so, the Head of Planning and Development is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

## **1.0 INTRODUCTION**

- 1.1 This application is presented to the Strategic Planning Committee as the proposal is for a major mixed-use development, including more than 60 residential units.
- 1.2 This report relates to an application for outline planning permission (ref: 2020/92331) which accompanies another outline application (ref: 2020/92350) relating to adjacent land. Both applications were submitted by the same applicant, and both relate to allocated site MXS7.
- 1.3 Position statements relating to these proposals were considered by the Strategic Planning Committee on 11/07/2019 at pre-application stage (refs: 2018/20078 and 2018/20077), and on 17/11/2020 and 06/10/2022 at application stage.
- 1.4 This committee report provides comprehensive assessment of all planning issues relevant to this application. It draws together assessment and commentary from the earlier position statements (updated where necessary), and includes responses to queries raised by Members on 06/10/2022. The officer presentation on 08/12/2022 will include further illustrative information.
- 1.5 The council has been informed that the Secretary of State for Levelling Up, Housing and Communities (SoS) has received a request from a third party to call in the current application. Officers have given an undertaking to the SoS not to issue the decision notice should the Strategic Planning Committee resolve to approve the application – this is to give the SoS an opportunity to decide whether or not to call in the application, which he would only do if the Strategic Planning Committee resolved to grant permission. The position regarding the SoS is reflected in the officer recommendation.

## **2.0 SITE AND SURROUNDINGS**

- 2.1 The application site is 112 hectares in size. Its southern edge meets the Kirklees / Wakefield borough boundary, and its northeastern edge comes within 300m of the Kirklees / Leeds borough boundary. The application site is flanked on its west and southwest edges by existing residential development. To the south and northeast are fields in agricultural use, and the ancient woodlands of Dum Wood and Dogloitch Wood.
- 2.2 The application site generally slopes downhill from southwest to northeast. An east-west depression follows a watercourse that crosses the site. The application site's lowest point is approximately 75m AOD on its northeast edge, and its highest point is approximately 120m AOD close to the former Huntsman PH on Chidswell Lane.
- 2.3 Most of the application site is currently in agricultural (arable) use, and is greenfield. No significant buildings exist within the site's boundaries, other than those listed at paragraph 3.6 below. High-level overhead power lines run east-west across the site.

- 2.4 The application site meets Chidswell Lane to the west, and has an existing vehicular access point off Leeds Road (the A653), between numbers 1060 and 1062. The application site can also be accessed from Chidswell Lane, Leeds Road and Heybeck Lane via several public footpaths. These public rights of way continue across the site. There are also informal paths within the site and through the adjacent woodlands.
- 2.5 No part of the application site is within a conservation area, and there are no listed buildings within the site. The nearest designated heritage assets within Kirklees are the Grade II listed toll gates on Grange Road to the west. Within Wakefield borough, the Gawthorpe Water Tower to the south is Grade II listed.
- 2.6 Several Tree Preservation Orders protect trees and groups of trees within and close to the application site.
- 2.7 Much of the application site is within a Development High Risk Area as defined by the Coal Authority. Other parts of the site are within the Development Low Risk Area.
- 2.8 The application site includes the majority of site MXS7, which is allocated for mixed use development (housing and employment) in the Local Plan.
- 2.9 Two adjacent sites are also allocated for development in the Local Plan. Lees House Farm to the west (site allocation MXS5) is allocated for mixed use development, and land between Chidswell Lane and Owl Lane to the southwest (site allocation HS47) is allocated for residential development.
- 2.10 The application site's characteristics have not materially changed during the life of the application, however the application site's context has materially changed in the following respects:
- Gawthorpe Water Tower was added to the statutory list by Historic England on 04/12/2020. The tower is now a Grade II listed building.
  - The Huntsman Inn on Chidswell Lane (adjacent to one of the proposed site entrances) has closed.
  - Development has commenced at land between Owl Lane and Chidswell Lane (allocated site HS47) to the southwest where full planning permission for a development of 260 dwellings was granted on 24/06/2021 under application ref: 2019/92787.
  - Works have commenced at the east corner of the Shaw Cross junction following the approval at appeal (on 22/03/2022) of full planning permission for a restaurant (refs: 2020/90450 and APP/Z4718/W/21/3285518).
  - Development has commenced at land between High Street and Challenge Way (allocated site HS51) where full planning permission for a development of 55 dwellings was granted on 27/01/2022 under application ref: 2021/91871.
  - Development has commenced at land off Soothill Lane (allocated site HS72) where Reserved Matters approval has been issued in relation to a development of 319 dwellings under application ref: 2021/91731.
  - Planning permission for the erection of two dwellings within the grounds of the former Huntsman Inn was granted on 14/12/2020 under application ref: 2020/91451.

- 2.11 Regarding highways and transport, work has commenced on the Transpennine Route Upgrade, which is intended to deliver faster, more frequent and more reliable services along the route that serves Dewsbury and Batley stations (the two stations nearest to the site). New and improved routes for pedestrians and cyclists have been secured under permission ref: 2019/92787.
- 2.12 A hybrid planning application submitted to Leeds City Council in December 2020 is of relevance to some of the highways and transport matters considered in this committee report. That application (ref: 20/08521/OT) relates to an employment-use (use classes B2 and B8 with ancillary office) development at land at Capitol Park, Topcliffe Lane, Morley. That scheme has capacity implications for junction 28 of the M62. On 14/07/2022 Leeds City Council's City Plans Panel resolved to approve the application, however the planning permission has not yet been issued.

### **3.0 PROPOSALS**

- 3.1 The applicant proposes the demolition of existing dwellings, and the development of a phased, mixed use scheme comprising:
- Residential development (up to 1,354 dwellings);
  - Employment development (up to 35 hectares of B1(part a and c), B2, B8 uses);
  - Residential institution (C2) development (up to 1 hectare);
  - A local centre (comprising A1/A2/A3/A4/A5/D1 uses);
  - A two form entry primary school including early years provision; and
  - Green space, access and other associated infrastructure.
- 3.2 The proposed employment element would provide up to 122,500sqm of floorspace in an area along the site's east-west depression between one of the site's Leeds Road vehicular entrances and Dogloitch Wood.
- 3.3 Most of the dwellings, and the school and local centre, would be to the south of the employment area.
- 3.4 The proposed development would be laid out around two new, primary roads:
- A spine road (serving most of the dwellings, the school and local centre) running through the site between new vehicular entrances on Leeds Road and Chidswell Lane; and
  - A spine road (serving the employment uses) forming a long loop accessed from the site's existing vehicular site entrance on Leeds Road.
- 3.5 A short road connecting these primary roads, but preventing HGV movements into the main residential area, is also proposed.

3.6 Four vehicular entrances are proposed at:

- Chidswell Lane (spine road) – This would involve the demolition of buildings at Chidswell Farm, and would enable the continuation of the spine road between Owl Lane and the MXS7 site (approved under application ref: 2019/92787).
- Chidswell Lane – This would involve the demolition of 97 Chidswell Lane.
- Leeds Road (spine road) – This would involve the demolition of two pairs of semi-detached dwellings at 1010, 1012, 1014 and 1016 Leeds Road.
- Leeds Road (employment) – At an existing field entrance where public footpath BAT/49/10 meets Leeds Road, and beneath existing overhead electricity cables. This would involve the demolition of 1062 Leeds Road.

3.7 Existing public footpaths would largely be retained (some minor diversions are proposed), and new footpaths, footways and cycle routes would be created throughout the site.

3.8 The proposed development includes public open space, a multi-use games area, playspaces, allotment gardens, drainage swales and ponds, treeplanting and soft landscaped areas (indicatively shown).

3.9 This is an outline application. Access is the only matter not reserved.

3.10 The applicant has submitted parameter plans relating to:

- Developable area and use;
- Maximum building heights;
- Access;
- Blue infrastructure; and
- Green infrastructure.

3.11 Of note, the application was submitted prior to the Government's changes to the Use Classes Order, which came into effect on 01/09/2020 and which merged the A1, A2, A3, B1, D1 and some D2 uses into a new E use class, among other changes. Given the timing of the submission, the application is to be determined with reference to the previous use class definitions.

3.12 Development proposed under application ref: 2020/92350 is described in the accompanying committee report.

#### **4.0 RELEVANT PLANNING HISTORY**

4.1 97/92234 – Planning permission refused 15/04/1998 for extraction of coal by open cast methods with subsequent restoration to agriculture, woodland and varied habitats with an extended rights of way network and improved wildlife corridor linkage. The council's four reasons for refusal related to green belt, landscape, character, amenity, public rights of way, and archaeological impacts. Subsequent appeal dismissed 20/12/1999.

## 5.0 HISTORY OF NEGOTIATIONS

- 5.1 A concept masterplan was prepared by the applicant in 2017 for the purpose of informing discussions at the Local Plan Examination in Public. While this concept masterplan had merit, the council and the applicant agreed that it would be appropriate to restart the masterplanning process, looking again at the site's constraints and opportunities, consulting with residents, Members and other stakeholders, and devising a new masterplan through an iterative design process. This masterplanning work began in summer 2018, and culminated in the submission of the current applications in July 2020. Should outline planning permission be granted, masterplanning work would continue, to inform subsequent Reserved Matters applications.
- 5.2 Officers from several council departments have attended regular meetings with the applicant team.
- 5.3 On 24/05/2018 the council issued an EIA Screening Opinion, stating that the proposed development of the application site constituted EIA development, for which an Environmental Statement would need to be submitted (ref: 2018/20078). The council subsequently issued an EIA Scoping Opinion on 03/12/2018 (ref: 2018/20408).
- 5.4 On 25/02/2019 the applicant team presented the emerging proposals to the Yorkshire and Humber Design Review Panel. The Panel commended the working partnership between the council and the applicant. The Panel stated that the principles that inform the emerging masterplan were "on the right track", and that the emerging development principles should be safeguarded so that the next stage of the design process shares the same vision and achieves high quality placemaking – this could be achieved through strict design guidance or coding. Visual demonstrations of the site's shape and topography (and information on how these features informed the proposed layout) were requested. Further work on street widths, character areas, road hierarchy and building heights was recommended. More thought should be given to character, hierarchy, scale and massing, legibility, wayfinding and landmarks. Some pedestrian areas could be made more convenient and be given greater natural surveillance.
- 5.5 Prior to submitting the current planning applications, the applicant held two public consultation events. Three-hour drop-in events were held on 19/06/2019 at Dewsbury Rams rugby ground, and on 25/06/2019 at Woodkirk Valley Country Club. Attendees were able to complete comment cards at these events, and were invited to email the applicant with comments up to 31/07/2019.
- 5.6 On 07/06/2019 the applicant team met all six Members for Batley East and Dewsbury East (at the time: Cllr Akhtar, Cllr Loonat, Cllr Zaman, Cllr Kane, Cllr Lukic and Cllr Scott). The applicant team presented the emerging proposals, and the following comments and questions were raised:
- Site requires a plan that delivers what local people want, that involves extensive engagement with local people, and that is supported locally.
  - Details of local consultation events (including their advertisement and accessibility, how proposals would be presented, and how comments would be recorded) were requested.



- Online consultation was suggested. Applicant should allow for submission of comments after the consultation events.
- Chambers of commerce/trade, schools and colleges, mosques, church organisations, Dewsbury Forward, tenants and residents associations and other parties should be consulted.
- Members asked what weight the applicant would attach to local consultation responses, and how these responses would shape the proposed development.
- Members requested details of timescales of development.
- Flood alleviation measures required. Site entrances on Leeds Road are already vulnerable to flooding from a beck within the site.
- Concerns raised regarding possible coal extraction from the site.
- Members asked how “employment” was defined.
- The proposed location of the community hub was queried.
- A straighter, more direct road alignment from Chidswell Lane to the new school and community hub was suggested.
- Details of specialist accommodation (Extra Care etc) were requested.
- An on-site modular housing construction facility could be provided.
- If several developers bring forward separate developments, they need to work to the same aesthetic guidelines, although some variety in dwellings is needed.

5.7 At pre-application stage, a Position Statement was considered by the Strategic Planning Committee on 11/07/2019.

5.8 A pre-application advice letter was issued by the council on 11/11/2019. The main points of that advice letter are summarised as follows:

- Council shares applicant’s intention to deliver a high quality, sustainable, mixed use development that addresses borough and local needs and that seeks to address all relevant planning considerations, and that mitigates its impacts (including in relation to infrastructure).
- Full planning permission required. List of application documents (required for validation) provided.
- Application for full planning permission preferred, however outline and Reserved Matters applications can be submitted.
- Submission of two applications (one being for c180 units at Heybeck Lane site) acceptable, as this responds to Inspector’s query regarding early delivery.
- Continued public consultation and engagement encouraged.
- Environmental Statement will need to address impacts of development at both sites.
- Indicative phasing plan required.
- Indicative capacities of site allocation MXS7 (1,535 dwellings and 122,500sqm of employment floorspace) should be met.
- Site is within a wider mineral safeguarding area, however overriding housing and employment needs allow for approval of development.
- Applications should demonstrate development would achieve net gains in respect of all three sustainable development objectives (economic, social and environmental).
- Development should respond positively to Climate Emergency declaration and zero carbon target.

- Subject to details and other relevant matters, mixed use at this site can be considered sustainable, given site's location adjacent to an accessible, already-developed area, its proximity to public transport and other facilities, and other material considerations.
- Masterplanned approach required.
- Adjacent site MXS5 should not be sterilised. Access from site HS47 required.
- Parameter plans would provide sufficient high-level detail at outline application stage, provided that sufficient supporting and indicative information is also submitted.
- Proposed retention of existing features (including trees, hedgerows and Public Rights of Way) welcomed.
- Proposed arrangement of uses and the proposed development's four main physical components is well thought out, and is acceptable. Separation of residential and employment uses with open space and landscaping is acceptable.
- Developers should work with existing topography, however some levelling will be necessary. Details required of any importing of infill material.
- 35 dwellings per hectare should be achieved, with variety in densities informed by context and other considerations.
- Landscape and Visual Impact Assessment required. Viewpoints previously agreed with officers.
- Few heritage assets exist close to the site, however impacts must still be assessed.
- Design advice provided for consideration at Reserved Matter stage.
- Further design review encouraged.
- Significant infrastructure required to render the site ready to take development, to support development during its operational phase, and to mitigate its impacts. Application submissions must ascertain what is required, when these works and provisions are required, their costs, and who would be responsible for their delivery.
- Scope exists for a district heat or energy network. On-site energy centre would be appropriate.
- A range of employment uses and unit sizes would be appropriate. B8 (storage and distribution) floorspace should be limited. Site is not suitable for non-ancillary offices. Indicative split of 50% B2 use, 25% B8 use, 15% ancillary offices, and 10% B1b and c use is appropriate for informing the relevant assessments.
- Strong response required to the Kirklees Economic Strategy's emphasis on advanced manufacture and precision engineering is expected.
- High numbers of quality, skilled jobs and apprenticeships expected.
- Opportunities for local employment should be maximised.
- Space should be provided for expansion (without having to relocate) of businesses within the site.
- An on-site modular housing construction facility could be provided.
- Signalised junctions, rather than roundabouts, appropriate for Heybeck Lane, Leeds Road and Chidswell Lane access points.
- Prevention of HGV access to residential spine road is appropriate.
- Potential for significant impacts upon the Strategic Road Network. Cumulative impacts would also need assessing. Development will need to mitigate its highway impacts.

- Strategy for pedestrian and cyclist movement required. Positive response to Core Walking, Cycling and Riding Network required.
- Draft Travel Plan required.
- High quality and design required for housing, with a high standard of amenity for future and neighbouring occupants.
- Details of 20% affordable housing provision to be provided at Reserved Matters stage. Of 1,535 residential units, 307 would be required to be affordable (169 units for social or affordable rent, and 138 intermediate). Affordable housing should be pepper-potted and visually indistinguishable.
- Specialist residential accommodation, such as homes for retirement or sheltered living and/or an Extra Care facility, welcomed.
- Potential locations for bungalows and for self-build development should be explored.
- Applicant should note need for dementia-friendly design, the Government's Nationally Described Space Standard, and the need to accommodate a wide variety of household formats.
- Need for a two form entry primary school likely to be triggered by between 274 and 429 dwellings (subject to review). Two hectares typically required for school. School should be designed to council's standards.
- Early years and childcare provision also required.
- Provision of a local centre supported, subject to sequential testing. For a centre with a total floorspace of 1,500sqm (of which no more than 500sqm would be commercial floorspace – other floorspace would be allocated to doctor and dentist uses), an impact assessment would not be required.
- Health Impact Assessment required.
- Noise, air quality, odour and other matters relevant to environmental health will need to be addressed. Damage cost of air quality impacts may need to be considered.
- Site is potentially contaminated. Phase I contamination report required.
- Site is within the Development High Risk Area. Coal Mining Risk Assessment required.
- Size of the site provides opportunity for on-site measures such as swales and attenuation ponds that could assist in limiting run-off to greenfield rates, and can additionally serve as amenity and biodiversity features within an appropriately landscaped setting.
- Biodiversity designations apply. Biodiversity net gain will need to be demonstrated.
- TPOs protect trees on-site, and adjacent Dogloitch Wood and Dum Wood are ancient woodlands. Arboricultural impact assessment required. Buffers required adjacent to ancient woodlands. White Rose Forest initiative should be responded to.
- Neighbourhood Equipped Area for Play (NEAP), including a multi-use games area, will need to be provided within 720m (or a 15 minute walking distance) of the majority of the proposed dwellings. 30m separate zone (away from dwellings) required around it.
- Section 106 required to secure mitigation and benefits. Heads of Terms likely to relate to:
  - Infrastructure works and provision.
  - Highways and transportation impacts.
  - Two form entry primary school.

- Education contributions.
- Early years and childcare provision.
- Open space, including playspaces and sports provision.
- Affordable housing.
- Drainage.
- Sustainable transport.
- Decentralised energy.
- Costs of development are likely to be significant, and should be reflected in purchase price(s) of site. Developers should not overpay for land, and then argue that these costs were unanticipated and that affordable housing or other necessary mitigation is not viable. Development at this site can reasonably be assumed to be viable at this stage.

5.9 During the life of the application, the applicant has provided further information, including in relation to:

- Phasing and delivery;
- Section 106 and viability matters;
- Highway impacts and mitigation, including in relation to M62 junction 28, M1 junction 40, Shaw Cross junction and other junctions;
- Local centre uses (D2 use no longer proposed, and Planning Statement amended, with a revised sequential assessment included);
- Gawthorpe Water Tower (Archaeology and Historic Environment Addendum submitted);
- Biodiversity (Ecological Design Strategy, bat survey, and biodiversity net gain calculation and assessment submitted); and
- Public consultation (responses to comments made by the Chidswell Action Group submitted).

## 6.0 PLANNING POLICY AND GUIDANCE

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27/02/2019).

### Kirklees Local Plan (2019)

6.2 The application site is allocated for mixed use development in the Local Plan (site allocation ref: MXS7). The site allocation sets out an indicative housing capacity of 1,535 dwellings, and an indicative employment capacity of 122,500sqm for the site.

6.3 Site allocation MXS7 identifies the following constraints relevant to the site:

- Third party land required for access
- Multiple access points required
- Public rights of way cross the site
- Additional mitigation on the wider highway network may be required
- Power lines cross the site
- Multiple watercourses cross the site
- Air quality issues
- Noise source near site

- Odour source near site
- Potentially contaminated land
- Part of the site lies within a UK BAP priority habitat
- Site is within the Wildlife Habitat Network
- Part of the site contains a Habitat of Principal Importance
- Site is close to an archaeological site
- Part/all of the site is within a High Risk Coal Referral Area

6.4 Site allocation MXS7 also identifies several other site specific considerations in relation to landscape impacts, economic development and regeneration, local education provision, access points, the site's relationship with allocated site HS47, residential amenity, cycling, mitigation of highway network impacts, the provision of a new Local Centre (subject to sequential testing and impact assessment) and protective buffers for the adjacent ancient woodlands. The site allocation confirms that a masterplan is required for the site.

6.5 Relevant Local Plan policies are:

- LP1 – Presumption in favour of sustainable development
- LP2 – Place shaping
- LP3 – Location of new development
- LP4 – Providing infrastructure
- LP5 – Masterplanning sites
- LP7 – Efficient and effective use of land and buildings
- LP9 – Supporting skilled and flexible communities and workforce
- LP11 – Housing mix and affordable housing
- LP13 – Town centre uses
- LP18 – Dewsbury Town Centre
- LP19 – Strategic transport infrastructure
- LP20 – Sustainable travel
- LP21 – Highways and access
- LP22 – Parking
- LP23 – Core walking and cycling network
- LP24 – Design
- LP26 – Renewable and low carbon energy
- LP27 – Flood risk
- LP28 – Drainage
- LP29 – Management of water bodies
- LP30 – Biodiversity and geodiversity
- LP32 – Landscape
- LP33 – Trees
- LP34 – Conserving and enhancing the water environment
- LP35 – Historic environment
- LP36 – Proposals for mineral extraction
- LP38 – Minerals safeguarding
- LP47 – Healthy, active and safe lifestyles
- LP48 – Community facilities and services
- LP49 – Educational and health care needs
- LP50 – Sport and physical activity
- LP51 – Protection and improvement of local air quality
- LP52 – Protection and improvement of environmental quality
- LP53 – Contaminated and unstable land
- LP63 – New open space
- LP67 – Mixed use allocations

## Supplementary Planning Guidance / Documents and other documents:

6.6 Relevant guidance and documents are:

- Kirklees Economic Strategy (2019)
- Leeds City Region Strategic Economic Plan (2016)
- Kirklees Strategic Housing Market Assessment (2016)
- Kirklees Housing Strategy (2018)
- Kirklees Interim Affordable Housing Policy (2020)
- Viability Guidance Note (2020)
- Kirklees First Homes Position Statement (2021)
- Providing for Education Needs Generated by New Housing (2012)
- Kirklees Joint Health and Wellbeing Strategy and Kirklees Health and Wellbeing Plan (2018)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Negotiating Financial Contributions for Transport Improvements (2007)
- Providing for Education Needs Generated by New Housing (2012)
- Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
- Highway Design Guide SPD (2019)
- Public Rights of Way Improvement Plan (2010)
- Waste Management Design Guide for New Developments (2020, updated 2021)
- Green Street Principles (2017)
- Housebuilders Design Guide SPD (2021)
- Open Space SPD (2021)
- Planning Applications Climate Change Guidance (2021)
- Biodiversity Net Gain Technical Advice Note (2021)

6.7 On 20/09/2022 the council commenced consultation on a draft Affordable Housing and Housing Mix SPD.

### Climate change

6.8 The council approved Climate Emergency measures at its meeting of full Council on 16/01/2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A Carbon Emission Reduction Pathways Technical Report (July 2020), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority. A West Yorkshire Climate and Environment Plan has also been published.

6.9 On 12/11/2019 the council adopted a target for achieving “net zero” carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target; however, it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the council will use the relevant Local Plan

policies and guidance documents to embed the climate change agenda. In June 2021 the council approved a Planning Applications Climate Change Guidance document.

#### National Planning Policy and Guidance:

6.10 The National Planning Policy Framework (2021) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal. Relevant paragraphs/chapters are:

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 6 – Building a strong, competitive economy
- Chapter 7 – Ensuring the vitality of town centres
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment
- Chapter 17 – Facilitating the sustainable use of minerals

6.11 Since March 2014 Planning Practice Guidance for England has been published online.

6.12 Relevant national guidance and documents:

- National Design Guide (2019)
- National Model Design Code (2021)
- Technical housing standards – nationally described space standard (2015, updated 2016)
- Cycle Infrastructure Design – Local Transport Note 1/20 (2020)
- Fields in Trust Guidance for Outdoor Sport and Play (2015)
- Design Guidelines for Development Near Pylons and High Voltage Overhead Lines (2019)
- Securing developer contributions for education (2019)
- Biodiversity Metric 3.0 (2021)

6.13 The Environment Act 2021 passed into UK law on 09/11/2021.

## **7.0 PUBLIC/LOCAL RESPONSE**

7.1 The application was advertised as a major development that affects Public Rights of Way, and that is Environmental Impact Assessment development accompanied by an Environmental Statement. Nine site notices were posted on 27/08/2020, and corrected site notices were posted on 05/09/2020. A press notice was published on 13/08/2020, and a further press notice (providing details relating to the Environmental Statement) was published on 03/09/2020. Letters were sent to addresses close to the application site and within the surrounding area. This is in line with the council's adopted Statement of Community Involvement. The end date for publicity was 05/10/2020.

7.2 543 representations were received in response to the council's consultation on application 2020/92331, including representations from the Chidswell Action Group, the Woodland Trust, CPRE West Yorkshire and Members of Leeds City Council. These have been posted online. Many of the representations referred to both applications. The following is a summary of the comments made:

- Objection to principle of development.
- Loss of green belt land, greenfield site and open space. Space serves as a green lung. Area is of outstanding natural beauty. Site should be returned to green belt.
- Brownfield sites should be used instead. Vacant properties should be used.
- Loss of valuable agricultural land. Loss of capacity for food production. Increased food miles.
- Open-cast mining was previously rejected at this site.
- Built-up areas would merge. Urban sprawl.
- Proposal is out of scale with village. Local character would be impacted. Area would resemble London.
- Site has archaeological potential. Archaeological watching brief required.
- Existing houses shouldn't be demolished to provide site entrances.
- Increased congestion. Local roads are already at capacity. Queuing is already a problem. Congestion occurs even with large numbers working from home. Local roads would become rat runs. Increased traffic in Ossett, and towards Leeds and motorways. Traffic assessments were carried out during lockdown and school holidays. M2D2L proposals wouldn't be adequate to address increased traffic. Highways England objected.
- Area lacks public transport.
- Highway safety impacts. Accidents (some fatal) already occur on Leeds Road. Accidents will happen at new junction on Heybeck Lane.
- Heybeck Lane site needs a second entrance for emergency access.
- Site's coal mining legacy not accounted for. Unsafe to grant permission for development. Site is at risk of subsidence.
- Loss of privacy.
- Proposals lack buffer zones with existing residential properties.
- Increased pollution.
- Air quality impacts. Land currently absorbs carbon dioxide.
- Creation of dust.
- Increased noise from traffic and employment uses.
- Increased light pollution.
- Adverse impact on mental health. Countryside needed more during pandemic.
- Local work/life balance would be affected.
- Crime prevention not considered.
- Local jobs would not be created. Jobs would be imported.
- Insufficient GP and dental services locally.
- Insufficient capacity at local schools. Proposed school would not solve problems. No provision for secondary schools proposed.



- Increased flood risk. Unclear what off-site work required. Links between flood risk mitigation and coal mining legacy mitigation not clear.
- River pollution.
- Ecological impacts. Loss of habitats. Objections of KC Ecology and Yorkshire Wildlife Trust are agreed with. Ecological matters shouldn't be deferred to Reserved Matters stage. 3% biodiversity net gain is not enough – 10% is required. Bats and birds would be affected. Surveys were inadequate.
- Wildlife teaching opportunities would be lost.
- Impacts on ancient woodlands. Enhanced (50m) buffer required.
- Loss of hedgerows.
- Adverse impacts on public footpaths.
- Contrary to Climate Emergency declaration. Development won't be carbon-neutral.
- Proposals contrary to Local Plan and NPPF.
- Developer's financial gain should not be more important than local wishes.
- Development would set a precedent for other green belt loss.
- Kirklees residents would not benefit. Proposed homes would be bought by people from outside Kirklees.
- These and other applications and developments should be considered together. Cumulative impacts will occur.
- Conditions and required mitigation could make the site undevelopable due to cost.
- Impact on property value.
- Heybeck Lane site red line boundary should include connections to watercourse.
- Online documents unclearly labelled.
- Application submission is contradictory, incomplete and vague.
- Residents of Leeds haven't been consulted.
- Forestry Commission should have been consulted.

7.3 The vast majority of the representations were objections to the application. Four were in support, or set out conditional support.

7.4 Cllr Lukic made the following comments in relation to application 2020/92331:

*I object to this application because it would result in irreversible ecological harm, unsustainable traffic generation and merging of neighbouring towns. Consultees have highlighted that significant flaws mean the application is not compliant with Local Plan policies.*

*It is obvious to anyone who lives or works in this area that Dewsbury and North Kirklees are already developed beyond the capacity of local services and infrastructure. Instead of making our problems worse this council should be preserving the precious little countryside we have left.*

*Effective planning should protect neighbouring towns from expanding into each other and the removal of green belt protection for this beautiful landscape in February 2019 was a serious error. This application straddles and further erodes the already perilous boundary between Dewsbury and Batley without any recognisable physical demarcation, and therefore fails to respect the distinct identities and characters of the two towns.*

*These development proposals are also a clear threat to protected species and habitats, and do not demonstrate a net gain for biodiversity. This landscape contains watercourses, hedgerows and ancient woodlands that need to be properly managed and safeguarded in perpetuity.*

*This proposal is over-development and the scale would not be sustainable for local public services that are already full, along with local and strategic highways networks. There is insufficient detail on public and active transport provision. If this scheme was implemented then very high frequency bus services would be needed along with contributions towards extending high quality walking and cycle routes towards Dewsbury and Batley Town Centres and Leeds.*

*Unfortunately the application tends to demonstrate a lack of commitment to measures that would mitigate some of these adverse impacts, instead merely offering suggestions that can be withdrawn at a later stage if outline permission is granted.*

*On a specific technical point, the indicative masterplan shows a cycle route adjacent to Dogloitch Wood but this is not contained within the red line boundary of the application. There is an existing public right of way along that line but this does not currently allow for cycling. The red line boundary should include all indicated components of the proposed scheme so that the committee knows exactly what they are deciding on.*

*Finally I am also concerned that if this mixed-use scheme is approved then the lucrative residential portions would be rushed into construction while the employment offer being dangled like a 'carrot' would be neglected, followed by attempts to replace it with more housing. I understand that this has already transpired at a long-running mixed-use allocation in the Lindley area. If this scheme at Chidswell is approved we should therefore require that development does not commence on the residential portions until the employment portion has a reasonable level of occupancy.*

7.5 Mark Eastwood MP made the following comments in relation to applications 2020/92331 and 2020/92350:

*I am writing to object [to both planning applications], the approval of either application would be a disaster. I base my objection on the following grounds:*

- *Impact on current residents, infrastructure and agriculture;*
- *Concerning responses from key bodies including Highways England, the Yorkshire Wildlife Trust and the Coal Authority;*
- *Historical precedent;*
- *Alternative sites; and*
- *The timing of the consultation*

*The addition of over 1500 new homes, in the event of both applications being approved, would place an enormous strain on existing residents. The level of noise and air pollution generated in the construction phase, and the routine pollution from additional vehicles post-construction, pose a worrying risk to public health, especially to those with respiratory diseases. This is in stark contrast to the area's present position as a 'green lung'.*

*The residents would not only be deprived of air quality but also of recreational space for sport and exercise, of the beauty of area's ancient woodlands and of the enjoyment of the working farm on the plot. This marks a serious reduction in the quality of life for current residents.*

*Current infrastructure is inadequate to support such a large development. Public service infrastructure such as General Practitioner's surgeries, dental surgeries and schools face being overwhelmed by an influx of new residents. The area's physical structure would not be able sustain thousands of extra cars on the roads, indeed, many residents feel that present provision is already lacking with regular congestion at peak hours. There has been insufficient allocation of highways infrastructure and transport provision from the Council. Highways England in their responses to both consultations have recommended that planning permissions not be granted at this time.*

*The Yorkshire Wildlife Trust (YWT) has also issued a thorough and damning report on both planning applications. The potential impact on Local Wildlife Sites and the Kirklees Wildlife Habitat Network were described as 'significant', alongside negative impacts on breeding farmland bird species. WYT criticises the application of metrics in the supporting documents to the application, and they query some of the methodology deployed in the preparation of the supporting surveys. The loss of habitats does not just deprive local residents of vibrant local wildlife but also represents a loss to district and the nation. The application cannot be approved while glaring concerns remain over the protection of wildlife.*

*It is not just wildlife that is at risk from this proposed development, but also human life. The Coal Authority has assessed that there may be a high risk to the development from the area's coal mining legacy, including unrecorded workings, mine entries and opencast workings. It would be unsafe to allow development to proceed, potentially putting life and structures at risk.*

*The area was included around the turn of the millennium as part of proposals to use the area for opencast mining. Following a successful appeal to the Secretary of State, the decision was overturned. This demonstrates clear historical precedent for protecting this area of beauty, and this ought to be followed when considering these applications.*

*The area should never have been released from the Green Belt for development consideration. Insufficient consideration was given to alternative areas for development in the Local Plan. This is particularly pertinent when one considers the range of other developments that have received (or are in the process of receiving) planning permission in the nearby area, including applications:*

- 2016/93929
- 2018/94189
- 2019/92787
- 2019/91476

*The Yorkshire Wildlife Trust alluded to the cumulative impact of approving the applications I am objecting to, when considering the already approved developments nearby, stating:*

*“Careful consideration must be made by the LPA of cumulative impacts of this and other nearby developments upon sensitive habitats, species and ecological connectivity.”*

*The recent case of Aireborough Neighbourhood Development Forum v Leeds City Council [2020] EWHC 2183 (Admin), following the judge’s findings in the substantive case [2020] EWHC 1461 (Admin), resulted in the remittance to the Secretary of State of all allocations of housing on released Green Belt in the local authority’s plan. The failure to provide adequate reasoning for the release of Green Belt land, site selection decisions, and a lack of consideration for reasonable alternatives led to the judge’s decision. It is my view that the proposed developments at Chidswell may be subject to a similar remittance given the similarity in circumstances.*

*Finally, these consultations come at time when the country, and particularly Kirklees, is under restrictions. It is inadequate to gauge the true opposition to the proposals while many may be unable to contribute to the consultations, especially the elderly. Such a large overall development would change the landscape and the face of the area irreparably and such considerations ought to be made only with full participation from those it affects. At the very least, the opposition of those unable to partake in this abnormal process ought to be taken into account.*

*Both planning applications share the same pitfalls. The threats to ecology, quality of life & health are daunting. The nature of the decision to release the area from the Green Belt is also wrought with concern. As a whole, the proposals amount to various breaches of the National Planning Policy Framework and ought to be rejected outright.*

7.6 Five further representations were subsequently received, all from the Chidswell Action Group, as follows:

- Letter dated 29/04/2021 from solicitors representing the Chidswell Action Group raising concerns regarding Environmental Impact Assessment, climate change, non-residential uses and affordable housing.
- Document titled “Chidswell Heybeck Climate Challenge” dated 06/03/2022.
- Emails dated 04/06/2022, 19/06/2022 and 25/07/2022 regarding biodiversity.

7.7 Cllr Bolt, Cllr Firth and Cllr Lukic also raised queries regarding the application throughout its life.

7.8 A significant volume of further information was submitted by the applicant after the council carried out its consultation in late 2020. Reconsultation was therefore considered necessary before the council makes a decision on the application. On 26 and 27/10/2022 reconsultation letters were sent or emailed to all who were previously consulted on the application, and all who had previously commented. Nine further site notices were posted on 02/11/2022, and further press notices were published on 03/11/2022.

7.9 157 representations were received in response to this reconsultation, including representations from the Chidswell Action Group and the Kirklees Cycling Campaign. The following is a summary of the comments made:

- Amendments and further information do not address concerns.
- Too many important considerations are being left to Reserved Matters stage.
- Proposal is contrary to Local Plan policies and relevant guidance.
- Comprehensive redevelopment of the area would be prejudiced.
- Impacts of nearby developments have not been taken into account.
- Loss of green belt land. Inappropriate development in the green belt.
- Loss of green fields.
- Site should still be green belt. Green belt should only be released in exceptional circumstances.
- Loss of space separating Leeds, Wakefield and Kirklees.
- Loss of traditional field patterns.
- Site is an area of outstanding natural beauty.
- Green space has proven valuable during Covid pandemic and is a free resource of increasing importance due to inflation and recession.
- Walkers' enjoyment would be affected.
- Site should be de-allocated.
- Brownfield land and infill sites should be used instead / first.
- No need for employment development. Many existing warehouses and industrial units are empty.
- Loss of agricultural land. Unclear if site includes best and most versatile land. Assessment requested by Natural England hasn't been provided. Housing and employment need does not outweigh loss of agricultural use. War in Ukraine and Brexit have highlighted need for the UK to produce its own food.
- Human population growth should be limited.
- Overdevelopment.
- Too many developments in the area. Area is overcrowded.
- Increased congestion. Recent and current development is already adding to delays. Development will cause gridlock.
- Risk to highway safety. Roads are already dangerous. Drivers regularly speed. Accidents regularly happen. Danger to children.
- Chidswell Lane will become a rat run.
- Applicant's traffic survey was carried out during lockdown.
- Traffic assessment doesn't take into account approved developments.
- Inadequate provision for walking and cycling, including along routes in the surrounding area.
- Pedestrians are already unable to cross Leeds Road.
- Spine road / Chidswell Lane junction would not prioritise pedestrians or active travel.
- Inadequate travel planning measures.
- Public transport improvements would be inadequate.
- Proposed rapid transit network hasn't been taken into account.
- Insufficient parking.
- Development would be car-dependant. Opportunities to reduce car dependence are not being pursued.
- Parked cars would block Leeds Road.
- Loss of public rights of way.

- Harm to Leeds Country Way.
- Increased flood risk. Site floods in winter. Exception test required. Flood risk hasn't been assessed. Existing watercourses couldn't cope with additional run-off.
- Detailed drainage plan required.
- Existing stream running under adjacent house would be affected by higher water table.
- Climate change and wetter winters will increase flood risk at the site.
- Residents will not be able to obtain insurance due to increased flood risk.
- Public sewers are inadequate.
- Local water supply inadequate.
- Increased pollution. Air quality impacts. Increased vehicle fumes.
- Increase in noise. Noise pollution hasn't been tested.
- Odour impact.
- Loss of natural light.
- Light pollution.
- Loss of views.
- Harm to mental health.
- Impact on wellbeing.
- Applications have caused stress.
- Respiratory illness will increase.
- General amenity impact.
- Amenity impacts of 20 years of construction.
- Loss of wildlife.
- Protected species are present at the site.
- Harm to bats and other species.
- Harm to ground-nesting farmland birds.
- Wildlife surveys inadequate and out-of-date. Several species have been missed. Regular visits required. Independent assessment required. Single walkover after a drought provided an inadequate update.
- Yorkshire Wildlife Trust comments have been ignored.
- Claimed biodiversity net gain not accepted. Earlier independent assessment identified a 14% net loss.
- Threat to an SSSI.
- Ancient woodland at risk. Buffer planting is inadequate. Contamination, new residents and changes to water levels will harm woodland.
- Adverse impact on trees. Loss of TPO-protected trees.
- Site currently contributes to climate change resilience. Watercourses, woodlands and fields contribute to cooling.
- Release of carbon dioxide.
- Approval would be contrary to Kirklees Council's declaration of a climate emergency.
- Development would not be zero carbon.
- Net zero needs to be achieved in Kirklees.
- Release of contamination would adversely affect neighbouring residents.
- A Biodiversity Management Plan, Construction Environmental Management Plan and Invasive Weed Management Plan have not been provided.
- Lighting strategy has not been provided.

- Increased crime.
- Adverse economic impact.
- Existing buildings should be retained.
- Harm to setting of a listed building.
- Destruction of archaeology.
- Excessive bulk and scale.
- Buildings will be ugly.
- Landscape impacts. Applicant's assessment of existing landscape is erroneous.
- Harm to character of the area.
- Coal mining legacy risks.
- Geotechnical survey results have not been submitted.
- Existing buildings are subsiding.
- Insufficient local infrastructure.
- Local schools are already oversubscribed.
- Unwise to build additional primary school when existing schools are unviable.
- Additional high school needed.
- Local doctors and dentists have no capacity.
- Inadequate local hospitals.
- The need for the development should be reviewed in five years' time.
- Development is for profit.
- Houses will not be affordable. Affordable housing is not proposed.
- Housing needs would not be met.
- Impact on property values.
- Council should not have redacted representations.
- Some local residents were not reconsulted.
- Majority of local residents are opposed to the development.
- Ward Members should oppose proposals.
- Objections have been ignored.
- Benefits of development do not outweigh shortcomings.
- Decision should be deferred.
- Applications should be refused.

7.10 To date, a total of 705 representations have been received in relation to the application.

7.11 Any further representations received after 24/11/2022 and before the committee meeting of 08/12/2022 will be reported in the committee update or verbally.

## **8.0 CONSULTATION RESPONSES**

### **8.1 Statutory**

8.2 Coal Authority – No objection, subject to conditions. Coal Authority concurs with the recommendations of the applicant's Coal Mining Risk Assessment, and the conclusion that there is currently a moderate to high risk to the proposed development from coal mining legacy. In order to mitigate the risk and inform the extent of remedial or mitigatory measures that may be required to ensure that the development is safe and stable, intrusive site investigations should be undertaken prior to commencement of development.

- 8.3 Environment Agency – No objection or comments to make on this application. There are no environmental constraints/issues within the Environment Agency’s remit that would be affected by the proposals.
- 8.4 Historic England – No comment. Views of the council’s specialist conservation and archaeological advisers should be sought.
- 8.5 National Highways – Mitigation schemes required at M62 junction 28 and M1 junction 40 have been subject to the required operational review, road safety (stage 1 road safety audit and Design Manual for Roads and Bridges compliance checks) and are now considered agreed. We are in the final stages of agreeing the monitoring strategy that will inform when these schemes will be required to be delivered. All that remains is for the applicant, the relevant local authorities and National Highways to agree the wording of the planning conditions that will secure this monitoring strategy and mitigation schemes against any grant of planning consent. Subject to reaching agreement on condition wording National Highways will imminently be replacing the current temporary non-determination recommendation with a “no objection” subject to the relevant conditions being attached to any grant of planning consent.
- 8.6 Natural England – No objection. Proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes. Generic advice provided regarding other natural environment issues. Local planning authorities are responsible for ensuring that they have sufficient detailed Agricultural Land Classification (ALC) information to apply NPPF policies. Request that an ALC and soil assessment be undertaken.
- 8.7 Lead Local Flood Authority – Support proposals, subject to conditions. Fully detailed drainage masterplan required prior to Reserved Matters submissions, to ensure an integrated drainage approach is followed. Working group recommended, to ensure successful masterplanning in relation to drainage. More detailed drainage and flood risk assessment required at Reserved Matters stage. Maintenance and management of sustainable drainage systems must be incorporated into a Section 106 agreement. Discharge restrictions based on a greenfield run-off of 5l/s/ha would be appropriate. Further detailed advice provided.
- 8.8 Non-statutory**
- 8.9 Forestry Commission – Ancient woodlands at Dum Wood and Dogloitch Wood could potentially be impacted by the proposed development. Impacts should be minimised in accordance with the Standing Advice for Ancient Woodland. Proposed 20m ancient woodland buffer zone noted. Tree Preservation Orders should be considered as part of the decision-making process. Advice provided regarding Government guidance, buffering, climate change and resilience, woodland management, Environmental Impact Assessment and felling.
- 8.10 Leeds City Council (Planning Services) – Proposals may have significant adverse impact on road network in Leeds. Transport Assessment needs to take into account journeys in Leeds, and the impacts of developments in Leeds. Risk of rat-running to avoid Tingley roundabout. Sustainability of site questioned due to limited bus service. Buffer required to protect green belt from further encroachment that would put pressure on the strategic gap between the two authorities.



- 8.11 Leeds City Council (Transport Development Services) – Cannot support the development proposals due to lack of complete assessment of the impact of development in terms of required junctions within the Leeds district that are not included in the study area and hence lack of traffic count data and development impact assessment at those junctions; revisions required to the trip generation and committed development; trip distribution and assignment; and measures to mitigate the impact of the development.
- 8.12 National Grid – No objection.
- 8.13 Sport England – Objection. £1,438,683 (£1,676,111 in total for both sites) sports contribution required (based on population of development) if no on-site provision proposed. This includes provision for grass pitches, artificial grass pitches, changing rooms and life cycle costs. Objection could be resolved through on-site provision of playing pitches or a planning contribution to allow their provision off-site (or a combination of the two).
- 8.14 Wakefield Council – Local highway network within Wakefield may be impacted, and mitigation may be needed. Left turns from spine road into Chidswell Lane should not be allowed. Agree that closure of section of Chidswell Lane north of spine road would make movement from Leeds Road to Gawthorpe less attractive. Concept of a spine road through the site is accepted. A condition should require compliance with the submitted masterplan at Reserved Matters stage. High quality boundary treatment required along the site's southern edge (which is also the green belt and borough boundary). Proposed green strip and retention of trees and hedgerows are supported. Earlier comments reiterated. Additional concern raised regarding impacts at Owl Lane / Chancery Road / Leeds Road / Ossett bypass roundabout.
- 8.15 West Yorkshire Archaeology Advisory Service – Applicant's submission is helpful in forming an opinion of the site's archaeological potential (regarding field systems, trackways and farmstead enclosures from the later prehistoric period and Romano-British period, and later mining). The heritage assessment therefore establishes that there is currently up to regionally significant archaeologically significant remains within the site. Should outline permission be granted, further archaeological evaluation, to determine the reliability of the surveys and complexity of the remains, should be carried out prior to determining any Reserved Matters applications. A programme of archaeological mitigation can then be developed to preserve significant remains by record. Condition recommended.
- 8.16 West Yorkshire Combined Authority – Support principle of mixed-use development. Submission includes contradictory information regarding existing public transport provision. Parts of the development would be more than 400m away from existing bus services, and provision to enable buses to move through the site is supported. Bus access to employment element should also be considered. Bus stop locations should be clarified, and laybys considered. Applicant should engage with bus operators. Advice provided regarding possible diversion of existing bus services. Appropriate bus service provision may require a £300,000 per annum contribution. Provision of discounted Metro Cards would be supported, however their use would be limited unless a bus service penetrated the development. Bus priority measures on Leeds Road may be appropriate.

- 8.17 Yorkshire Wildlife Trust – Applicant’s Ecological Design Strategy does not address concerns regarding ancient woodland and local wildlife sites. Areas of greenspace and sustainable drainage solutions should deliver multifunctional benefits. Biodiversity metric should demonstrate net gain, and should be updated with each phase at Reserved Matters stage. Breeding birds have not been appropriately considered. Ground nesting birds were identified on site and require bespoke mitigation such as skylark plots. As no wintering bird surveys have been undertaken at this time, a precautionary approach to the impacts of the loss of wintering and breeding bird habitat should be taken with regards to development design. Open habitats along watercourses should be proposed.
- 8.18 KC Conservation and Design – The proposed development would cause minimal (less than substantial) harm to the settings of St Paul’s Church, Gawthorpe Water Tower and Haigh Hall. The settings of other designated heritage assets would not be harmed. Advice provided regarding design and layout. At Reserved Matters stage, further understanding of the local vernacular should be demonstrated and reflected in the design of the development and opportunities should be taken to create views and vistas of Lees House Farm (undesigned) and Gawthorpe Water Tower (Grade II listed).
- 8.19 KC Ecology – Concur with assessment set out in this committee report.
- 8.20 KC Education – Secondary school contribution of £2,257,029 required.
- 8.21 KC Environmental Health – Regarding air quality, applicant’s methodology is acceptable, however omissions (relating to monetary costs and sensitivity testing) mean report cannot be fully accepted, and condition requiring air quality assessment is necessary. Condition recommended regarding construction-phase dust. Condition requiring electric vehicle charging facilities recommended. Regarding odour, applicant’s methodology is generally satisfactory, however omitted baseline and other information means report cannot be accepted, therefore condition requiring odour impact assessment is necessary, and greater distance between dwellings and neighbouring farm would be necessary. Regarding site contamination, applicant’s Phase I report is satisfactory, and conditions are recommended. Noise from various sources could affect the site, and conditions are recommended. Construction Environmental Management Plan required by condition. External lighting condition recommended.
- 8.22 KC Highways Development Management – No objection subject to conditions and Section 106 agreement.
- 8.23 KC Highways Structures – Conditions recommended requiring details of any highways structures.
- 8.24 KC Landscape – Detailed information required to demonstrate compliance with Local Plan policy LP63 in relation to outdoor sports and the necessary detailed design of the required Local Areas for Play, Local Equipped Areas for Play, Neighbourhood Equipped Areas for Play and Multi Use Games Areas. Welcome the inclusion of buffers to the green belt and existing woodland areas – these should be linked to the green infrastructure within the development site. Landscaped, multifunctional greenspaces and the linking routes between

them are welcomed and should be designed to promote a fully-integrated Sustainable Drainage Network and provide broad opportunities for enhancing green corridors, tree planting and mitigation. Rain gardens encouraged. Masterplanning approach required, and individual planning applications for phases or parcels of land within the red line boundary should not come forward without an integrated and strategic approach to greenspace green corridor provision.

- 8.25 KC Planning Policy – Deletion of D2 use noted. An impact assessment would not be required if specified D1 uses (museums and exhibition halls) were to be deleted from the proposals – this could be conditioned. Revised submission refers to Ossett Town Centre, where no available or suitable development sites have been identified that could accommodate the proposed new local centre. The sequential test has therefore been passed.
- 8.26 KC Public Health – No comments at this stage. Welcome further opportunities to consider health impact matters through Reserved Matters submissions.
- 8.27 KC Public Rights of Way – No objection in principle to development. The applications are outline with access reserved, and it is understood that this would only be the main access points from the existing ordinary road network and not any internal access arrangements. An appropriate arrangement should be made for the off-carriageway links, including that to Leeds Road at the northern entrance to the site near Dum Wood. Outline may be the necessary stage to do this. The site designs must appropriately incorporate or make alternative appropriate provision for public rights of way. No details submitted are sufficient to consider those matters in detail. Significant submissions regarding alignments, widths, construction, levels, sections etc for and affecting public rights of way, will be required prior to any detail being agreed or consented.
- 8.28 KC Strategic Housing – Council seeks 20% affordable housing provision in developments of 11 or more dwellings. On-site provision is preferred, however a financial contribution in lieu of on-site provision can be accepted. In the Dewsbury and Mirfield Sub-Area there is a significant need for affordable three-bedroom (and larger) homes. 307 affordable homes required. A mix of housing that reflects local need and will contribute towards a balanced and sustainable development is required. Affordable homes must be distributed throughout the development (not in clusters), and must be indistinguishable from market housing both in terms of quality and design. A 55% social or affordable rent / 45% intermediate tenure split is required. 169 social or affordable rented dwellings and 138 intermediate dwellings would be appropriate.
- 8.29 KC Strategic Waste – According to council records, there are no closed landfill sites within 250m of the application site address.
- 8.30 KC Trees – General principle of the outline proposal and the access on this site is supported. The illustrative layout and supporting arboricultural impact assessment demonstrates that the site can be developed while incorporating the existing important trees, woodlands and hedgerows into the design and avoiding adverse impact on these features. Significantly more detail required at Reserved Matters stage. Effects on ancient woodland, and woodland management, should be considered.

- 8.31 KC Waste Strategy (Refuse and Cleansing) – No objection to the outline application provided Refuse Collection Vehicle access is adequately considered at all site access points. Advice provided to enable development to meet the operational requirements of the Waste Collection Authority.

## **9.0 SUMMARY OF MAIN ISSUES**

9.1 The main planning issues relevant to this application are:

- Environmental Impact Assessment
- Land use and principle of development
- Employment, skills and social value
- Masterplanning
- Quantum and density
- Phasing and delivery
- Sustainability and climate change
- Urban design matters
- Heritage assets
- Landscape impacts
- Infrastructure requirements and delivery
- Residential quality and amenity
- Affordable housing
- Highway and transportation issues
- Flood risk and drainage issues
- Environmental and public health
- Site contamination and stability
- Ecological considerations
- Trees, ancient woodlands and hedgerows
- Open space, sports and recreation
- Planning obligations and financial viability
- Representations
- Other planning matters

## **10.0 MAIN ISSUES – ASSESSMENT**

### Environmental Impact Assessment (EIA)

- 10.1 As confirmed in the council's EIA Screening Opinion of 24/05/2018 (ref: 2018/20078), the proposed development of the application site constitutes EIA development, for which an Environmental Statement (ES) would need to be submitted.
- 10.2 The council issued an EIA Scoping Opinion on 03/12/2018 (ref: 2018/20408) regarding the scope of the required ES.
- 10.3 The applicant duly submitted an ES with the current application. The applicant's ES refers to the development as described at paragraphs 3.1 to 3.10 above, but takes into account the development proposed under the accompanying application ref: 2020/92350 (which on its own does not constitute EIA development). The matters considered in the ES are:
- Chapter 6 – Socio Economic
  - Chapter 7 – Landscape and Visual Impact

- Chapter 8 – Archaeology and Historic Environment
- Chapter 9 – Noise and Vibration
- Chapter 10 – Air Quality
- Chapter 11 – Flood Risk and Drainage
- Chapter 12 – Contamination
- Chapter 13 – Transport
- Chapter 14 – Ecology
- Chapter 15 – Cumulative Effects

- 10.4 Other environmental matters (namely wind and microclimate, electrical interferences, daylight, sunlight, overshadowing, light pollution, solar glare, arboriculture, human health, climate change and odour) are not assessed in the ES.
- 10.5 The ES is cross-referenced to other application documents, where necessary.
- 10.6 The ES was expanded during the life of the application. On 05/02/2021 an addendum to chapter 8 (Archaeology and Historic Environment) of the ES was submitted.
- 10.7 Officers' assessment of the submitted ES is set out throughout this committee report.

#### Land use and principle of development

- 10.8 Planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
- 10.9 Full weight can be given to site allocation MXS7. The reference made by Mark Eastwood MP to a legal challenge to the Leeds Site Allocations Plan is noted, however the judicial review period for the Kirklees Local Plan passed with no challenge being made.
- 10.10 Allocation of this and other greenfield (and previously green belt) sites was based on a rigorous borough-wide assessment of housing and other need, as well as analysis available land and its suitability for housing, employment and other uses. The Local Plan, which was found to be an appropriate basis for the planning of the borough by the relevant Inspector, strongly encourages the use of the borough's brownfield land, however some release of green belt land was also demonstrated to be necessary in order to meet development needs. Regarding this particular site, in her report of 30/01/2019 the Local Plan Inspector stated that there were no significant constraints that would prevent the site being delivered, that there were exceptional circumstances to justify the release of the site from the green belt, and that the site allocation was soundly based.

#### *Loss of agricultural use*

- 10.11 The Agricultural Land Classification (ALC) system was established by the Government in the 1960s. It provides a method for assessing the quality of farmland to enable informed choices to be made about its future use within the planning system. The latest guidance from the Government regarding ALC

states that the principal physical factors influencing agricultural production are climate, site and soil. These factors, together with the interactions between them, form the basis for classifying land into one of five ALC grades (grade 1 land being of excellent quality and grade 5 land of very poor quality). Grade 3, which constitutes about half of the agricultural land in England and Wales, is divided into two subgrades designated 3a and 3b. The NPPF and paragraph 001 (ref: 8-001-20190721) of the Natural Environment chapter of the Government's online Planning Practice Guidance define "best and most versatile agricultural land" as land in grades 1, 2 and 3a of the ALC. Paragraph 174 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by recognising the wider benefits from natural capital and ecosystem services, including the economic and other benefits of the best and most versatile agricultural land. Paragraph 175 states that, with regard to plan making, where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.

10.12 The Local Plan reflects Government guidance regarding agricultural land, and notes at page 34 (Strategy and Policies document) that the borough's Spatial Development Strategy will promote development that helps to reduce, adapt and mitigate climate change by – inter alia – avoiding the best and most versatile agricultural land where possible. The Local Plan does not, however, state that no agricultural land can be developed for residential use, and neither the Local Plan nor the council's current application validation requirements stipulate that an ALC assessment needs to be submitted with applications for developments at allocated sites that would involve the loss of agricultural use.

10.13 During the preparation of the Local Plan, a high-level assessment of the quality of agricultural land was carried out. The relevant Sustainability Appraisal Report noted that the proposed site allocation MX1905 (which is now adopted site allocation MXS7) would have a significant negative effect in relation to objective 11 (securing the efficient and prudent use of land), and stated:

*Where development takes place on greenfield land or areas of high quality agricultural land it is a less efficient use of land than development on brownfield sites or sites of lower quality agricultural land. This is a relatively large site (122.37 ha) on mainly on greenfield land; therefore a significant negative effect is likely. Most of this site is located on Grade 3 agricultural land, aside from a small area in the west which is located on urban land.*

10.14 However, the same report also identified potential significant positive effects of mixed use development at the site. Having regard to a range of sustainability advantages and disadvantages (of allocating the land for mixed use development), the council concluded that the site was suitable for allocation.

10.15 The relevant Sustainability Appraisal Report stated that the negative effects (of development) would need to be considered further in terms of mitigation and/or enhancement, and that this may be achieved through Local Plan policies. However, in her report of 30/01/2019 the Local Plan Inspector did not refer to the loss of the site's agricultural use, and did not require further consideration of this matter (the Inspector did not require confirmation as to whether any part of the proposed allocation was grade 3a land). Similarly, the

subsequently-adopted site allocation MXS7 requires no further consideration of this matter, and does not identify the quality of the site's agricultural land as a constraint.

- 10.16 Given known housing and employment need, and given the range of sustainability advantages and disadvantages (of allocating the land for mixed use development) that were identified during the preparation of the Local Plan, with sufficient justification the council may still have allocated site MXS7 for mixed use development even if it had been known that part of the site was grade 3a land.
- 10.17 Although there is no Local Plan policy requirement to provide ALC information at application stage, paragraph 5.75 of the applicant's Planning Statement and Sequential Assessment (rev a) reported:

*As per the Agricultural Land Classification Map for the Yorkshire and the Humber region (ref 10-111c), the Site is characterised as Grade 3 Agricultural Land. However, the proposals are considered to be supported in principle by the LPA as indicated by the Site's allocation for development which establishes the principle of development at this location*

- 10.18 The site investigation carried out by the applicant in late 2021 did not include gathering of evidence to inform an ALC and soil assessment. On 12/10/2022 the applicant stated:

*In this case it is not considered that an intrusive assessment to identify the precise grading of the agricultural land would provide the authority with any additional information that would be useful to determine what are outline planning applications. A decision has already been made by the LPA to allocate the site for development in the adopted Plan. In allocating the site consideration has already been given to the agricultural classification of the land, amongst other matters, having regard to the provisions of the NPPF. Having allocated the site for development, it has been accepted in principle that the benefits of much needed new housing and employment development outweigh the impact of the loss of the agricultural land in this case.*

- 10.19 In their comments of 14/08/2020, Natural England advised that local planning authorities are responsible for ensuring that they have sufficient detailed ALC information to apply NPPF policies (now paragraphs 174 and 175), and requested that an ALC and soil assessment be undertaken in connection with the application.
- 10.20 Natural England maintain a publicly-accessible online resource where the ALC grade of land can be ascertained. This resource confirms that the application site is grade 3 land, but does not clarify if this is grade 3a or 3b. Natural England have advised that information provided online is not appropriate for use at a site level.
- 10.21 DEFRA's online "Magic" mapping resource does not include up-to-date ALC information for the application site.

- 10.22 The Chidswell Action Group have referred to the case officer's report relating to a previous proposal for open cast mining at much of the current application site (application ref: 97/92234). Paragraph 1.2 of that report noted that the application site was predominantly (239.8 hectares of 95% of the application site) in agricultural use, and that 68.1 hectares of this was identified as "best and most versatile agricultural land", comprising 18.5 hectares of grade 2 land and 49.6 hectares of grade 3a land. That application, however, related to a much larger area (252 hectares, of which just under half was in Wakefield borough) than the application site currently under consideration, and in any case agricultural land quality can deteriorate or improve in the space of 20 years. That earlier information cannot now be confidently relied upon as sufficiently up-to-date evidence of agricultural land quality at the current application site.
- 10.23 Given the limitations of the available online and earlier information, and given that no ALC assessment has been submitted by the applicant (as no such assessment is required by policy), it cannot be confirmed that no grade 3a land exists at the application site, and it therefore cannot be confirmed that no "best and most versatile agricultural land" would be lost.
- 10.24 However, given the borough's known housing, affordable housing and employment needs (having regard to Local Plan delivery targets), acceptance of the loss of agricultural land at the application site would still have been recommended even if it was known that grade 3a land existed at the application site.
- 10.25 Although in many locations land could be improved (and practices that cause soil degradation could be ceased), and/or land could be used more efficiently, agricultural land is a finite resource. The proposed development would unavoidably involve a reduction in productive agricultural land. This loss would be permanent. This can raise concerns regarding sustainability, however it is noted that definitions of sustainable development do not explicitly rule out the use of a part (and do not require the preservation of all) of any finite resources. The NPPF and the Local Plan (including policy LP1 – presumption in favour of sustainable development) similarly do not state that no part of any finite resources can be used. Of course, the using up of *all* of a finite resource would fail to comply with these definitions and policies (as this would clearly compromise the ability of future generations to meet their needs), however this is not what is proposed under the current application.
- 10.26 Concerns regarding sustainability and the UK's food security have understandably heightened interest in ALC and losses of agricultural land. The proposed development would involve the single biggest loss of agricultural land in Kirklees for many years, the borough's agricultural land supply is finite, and the agricultural use of the land would be irretrievable. However, given current planning policy, and given the council's allocation of site MXS7 for mixed use development (which, by its very nature, prevents the continued use of the application site for agriculture), this matter need not be considered further at outline application stage.



### *Proposed residential use*

- 10.27 Chapter 5 of the NPPF notes the Government's objective of significantly boosting the supply of homes. Applications for residential development should be considered in the context of the presumption in favour of sustainable development.
- 10.28 The Local Plan sets out a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum.
- 10.29 With regard to the five-year housing land supply position in Kirklees, the most recently-updated information confirms that the council is currently able to demonstrate 5.17 years of deliverable housing land supply, and therefore Kirklees continues to operate under a plan-led system.
- 10.30 A residential development of up to 1,354 dwellings would make a significant contribution towards meeting identified needs. This attracts significant weight in the balance of material planning considerations relevant to the current application.

### *Proposed employment uses*

- 10.31 Chapter 6 (paragraph 81) of the NPPF states that planning decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future.
- 10.32 The Local Plan seeks to deliver approximately 23,000 jobs between 2013 and 2031 to meet identified needs. Strategic objective 1 confirms that the council will support the growth and diversification of the economy, to increase skill levels and employment opportunities including the provision of a high quality communication infrastructure.
- 10.33 The Leeds City Region Strategic Economic Plan identifies a major employment growth opportunity (Employment Growth Area) at Chidswell. The Kirklees Economic Strategy supports the growth of employment uses and supporting infrastructure. The North Kirklees Growth Zone initiative identifies Chidswell as a major strategic employment location for the City Region, and a location for over 1,500 new homes. The allocated site (MXS7) is intended to be a key contributor to the council's economic growth aspirations, being one of the major employment sites allocated for development in the Local Plan. The site's role in the regeneration of Dewsbury, Batley and indeed North Kirklees is significant.
- 10.34 The proposed employment element would provide up to 122,500sqm of floorspace, served by a new looped spine road accessed from Leeds Road. The applicant has stated that 3,019 (full-time equivalent) jobs would be created. This aspect of the proposal responds strongly to the national, regional and local policies and initiatives listed above.

- 10.35 Noting the need to provide space for small and medium-sized enterprises (as well as major employers), the applicant's suggestion that 3,019 jobs would be created, and the council's intention to ensure this site serves as a key contributor to the council's economic growth aspirations, a range of employment uses and unit sizes should be provided at this site. Space for expansion (without having to relocate) of businesses should be provided within the site for sustainability and business continuity reasons.
- 10.36 The applicant's indicative masterplan suggests a range of unit sizes would indeed be provided – these would include large footprint buildings towards the centre of the site, and several smaller (and partitionable) units.
- 10.37 Officers have advised the applicant that B8 (storage and distribution) floorspace would need to be limited, that this is not an appropriate location for non-ancillary offices (formerly B1a use), and that a strong response to the Kirklees Economic Strategy's emphasis on advanced manufacture and precision engineering is expected. Members have additionally suggested that an on-site modular housing construction facility could be provided.
- 10.38 For the proposed development's employment element, the applicant does not intend to fix the proportions of uses at outline application stage, however for the purposes of assessing impacts (including in relation to traffic) the applicant has referred to an indicative split of (GEA figures):
- B1a office use: 18,375 sqm (15%);
  - B1c light industrial use: 12,250 sqm (10%);
  - B2 general industrial use: 30,625 sqm (25%); and
  - B8 warehousing: 61,250 sqm (50%).
- 10.39 The applicant has stated that no B1a use would be standalone – it would always accompany or be integral to a B1c, B2 or B8 use. Effectively, although B1a was specified as a proposed use in the applicant's submissions, this use would be ancillary to the other uses.
- 10.40 The above split would not be fixed if outline planning permission is granted. However, a condition restricting the proportions of employment uses is recommended, to ensure that low-employment uses would not dominate, to ensure that the applicant's traffic modelling is robust, to protect amenity, and to ensure no uses (that would otherwise have required sequential testing) are developed. The recommended condition requires all B1a floorspace to be ancillary to a B1c, B2 or B8 use, and requires the employment element's floorspace to comprise a maximum of 65% B8 use and a maximum of 50% B1c and B2 use.
- 10.41 Regarding the proposed employment element, the letter dated 29/04/2021 from solicitors representing the Chidswell Action Group suggested the applicant's reference to "35 hectares" is an error, as 35 hectares is equivalent to 350,000sqm (which differs to the 122,500sqm floorspace figure used by the applicant). However, the 35 hectare figure refers to the amount of employment land within the proposed development, and not to the proposed floorspace. Furthermore, in relation to planning applications floorspace is normally expressed in sqm and not in hectares.

*Local centre and sequential test*

- 10.42 Site allocation MXS7 requires the provision a new two form entry primary school (which is proposed). It also supports the creation of a new local centre commensurate with the scale of growth proposed, subject to sequential testing and impact assessment. A local centre with up to 1,500qm of A1/A2/A3/A4/A5/D1 flexible floorspace (including a maximum of 500sqm of retail floorspace) is indeed proposed.
- 10.43 During the life of the application, the applicant amended the range of uses proposed within the local centre. D2 use was deleted in accordance with officer advice.
- 10.44 At pre-application stage, officers advised the applicant that, for a local centre with a total floorspace of 1,500sqm (of which no more than 500sqm would be commercial floorspace), an impact assessment would not be required. The applicant was, however, still required to provide a sequential assessment. This has been provided at section 6 of the applicant's Planning Statement (as amended). It assesses the following seven centres:
- Wakefield Road (Earlsheaton) local centre;
  - Earlsheaton local centre;
  - Chickenley local centre;
  - Dewsbury town centre;
  - Batley town centre;
  - Batley Carr local centre; and
  - Ossett (in Wakefield borough, added to the assessment at the request of officers)
- 10.45 The applicant's assessment concludes that there are no sites which can adequately accommodate the local centre in its entirety, and states that the proposed location of the local centre is the most sequentially preferable one in Chidswell and the surrounding area. With reference to the NPPF, the applicant states that the proposals satisfy the relevant tests as there are no sequentially preferable sites or vacant units which are available and suitable to accommodate the proposals, and due to the scale and nature of the floorspace proposed, the proposals would not undermine the vitality and viability of any defined centre, and are unlikely to lead to any material impact on either private or public investments within these centres. These conclusions are accepted.
- 10.46 The applicant has stated that the 500sqm of retail floorspace proposed within the local centre is expected to meet the basic amenity needs of the occupiers of the proposed dwellings and employment uses, and is not expected to cater for the needs of people from outside the proposed development. To ensure no more than 500sqm of retail floorspace is provided within the (up to) 1,500qm of A1/A2/A3/A4/A5/D1 flexible floorspace of the local centre, an appropriate condition is recommended.

- 10.47 A further condition is also recommended in accordance with advice from KC Planning Policy, prohibiting the provision of specified uses (museums and exhibition halls) within the local centre's potential D1 element. This condition is considered necessary as these uses are not commensurate with the role and function of a local centre, and their provision may have necessitated an impact assessment.
- 10.48 The flexible A1/A2/A3/A4/A5/D1 use of the local centre's floorspace could include a pharmacy, doctor's surgery and/or dentist, however these have not been explicitly proposed at this outline application stage.
- 10.49 Given the above assessment, and notwithstanding a representation received from the Chidswell Action Group regarding the applicant's approach to sequential testing, the proposed local centre is considered to be compliant with Local Plan policy LP13.

*Summary regarding land use and principle of development*

- 10.50 The proposed development is policy-compliant in terms of land use. The principle of development is considered acceptable.

Employment, skills and social value

- 10.51 High numbers of quality, skilled jobs and apprenticeships would be expected at the application site. Details of these would be considered further at Reserved Matters stage and/or when occupants are identified, having regard to Local Plan policy LP9. Opportunities for local employment should be maximised.
- 10.52 The applicant's suggested employment numbers (3,019 full time equivalent jobs) are considered achievable, given the mix of unit sizes indicatively proposed and the mix of uses that would be secured by the recommended condition. B8 floorspace typically had very low employment densities, although there has been an emergence in recent years of B8 uses that have higher employment densities than previously seen in warehousing, storage and distribution. Notwithstanding these, the recommended restriction on B8 use would help deliver jobs (assuming take-up of floorspace in other uses would be strong), and could additionally help ensure the development's contribution towards local employment is not dominated by low-skilled jobs.
- 10.53 Prior to completion of the proposed development, the applicant has suggested that around 121 full time equivalent jobs would be created during the construction phase, and that total job creation would amount to more than this figure, when taking indirect job creation into account from increased demand within the supply chain.
- 10.54 The references to skills and employment opportunities in strategic objective 1 of the Local Plan are again noted. Local Plan policy LP9 states that the council will work with partners to accelerate economic growth through the development of skilled and flexible communities and workforce in order to underpin future economic growth to deliver the Kirklees Economic Strategy. It adds:

*Wherever possible, proposals for new development will be strongly encouraged to contribute to the creation of local employment opportunities within the district with the aim of increasing wage levels and to support growth in the overall proportion of the districts' residents in education or training. Applicants should reach an agreement with the council about measures to achieve this, which could include: provision of specific training and apprenticeships that are related to the proposed development or support other agreed priorities for improving skills and education in Kirklees or the creation of conditions to support a higher performing workforce, increasing productivity and the in work progression of employees. The Council will therefore seek to secure an agreed training or apprenticeship programme with applicants [where specified thresholds are met by proposed developments].*

10.55 The proposed development meets both thresholds set out in policy LP9 (housing developments which would deliver 60 dwellings or more, and employment developments delivering 3,500sqm or more of business or industrial floorspace).

10.56 On 21/09/2022, Cabinet approved a new Social Value Policy which defines social value as:

*...the broad set of economic, social and environmental benefits that may be delivered in addition to the original goods or service being provided. They may include jobs and training, support of local businesses and community organisations, and to our environment. These benefits may be delivered through procurement, our employment practices, our grants and investments or other processes.*

10.57 The Social Value Policy confirms that the council will consider social value in relation to planning and development, particularly major planning applications. The council will negotiate social value obligations for all major developments, within the exiting Local Plan policy framework and subject to meeting legal tests of the Section 106 process, and will use Section 106 agreements and other levers to ensure commitments are achieved.

10.58 The applicant has not yet identified developer partners, however it is recommended that provisions be secured (via a Section 106 agreement) requiring the applicant to, in turn, require those future partners to actively participate and engage with the council in delivering social value measures of benefit to the people of Kirklees, and in particular those resident in the areas surrounding the application site. This engagement may take the form of entering into an appropriate Employment and Skills Agreement, to include provision of training and apprenticeship programmes. Given the scale of development proposed, there may also be opportunities to work in partnership with local colleges to provide on-site training facilities during the construction phase.

### Masterplanning

10.59 Due to the size of the site, the scale of the proposed development, the wide range of relevant planning considerations, the requirements of site allocation MXS7 and Local Plan policy LP5, and the adjacent site allocations MXS5 and HS47, a masterplanning approach is necessary for this site. Careful masterplanning can ensure efficient use of land, high quality placemaking and

properly co-ordinated development, appropriate location of facilities and infrastructure, prevention of development sterilising adjacent land, appropriate phasing to limit amenity and highway impacts, and fair apportionment of obligations among the respective developers.

- 10.60 A concept masterplan was prepared by the applicant in 2017 for the purpose of informing discussions at the Local Plan Examination in Public. While this concept masterplan had merit, the council and the applicant agreed that it would be appropriate to restart the masterplanning process, looking again at the site's constraints and opportunities, consulting with residents, Members and other stakeholders, and devising a new masterplan through an iterative design process. This masterplanning work began in summer 2018.
- 10.61 At outline application stage, the applicant submitted an indicative masterplan, along with extensive supporting information explaining how a masterplanned approach has been applied to those aspects of development that would be fixed if outline permission is granted.
- 10.62 Applying a masterplanned approach to the site has been assisted by the fact that all of MXS7 is within a single ownership, with the landowner submitting both outline applications at the same time, outlining proposals for all parts of the site allocation. Comprehensive outline proposals have been submitted, appropriate co-ordination of and interfacing between phases (or parcels of development) will be possible, and apportioning of Section 106 responsibilities is relatively straightforward at this site, compared with other large allocated sites where ownership is fragmented.
- 10.63 Appropriate masterplanning, however, must also look beyond the red line boundaries of the current application sites. Appropriately, the proposed spine road (the alignment of which would be fixed at this outline stage) would dovetail with the section of spine road already approved at the adjacent HS47 site under permission ref: 2019/92787. The adjacent undeveloped allocated site to the west (MXS5) would not be sterilised, and access into, through and from it would be possible should the current outline applications be approved. Further afield, the applicant has co-ordinated proposals (with the applicant for the Capitol Park development) for junction 28 of the M62.
- 10.64 The two current outline applications would each shoulder an appropriate proportion of the infrastructure and other provisions needed to enable development of the MXS7 site and mitigate that development's impacts.
- 10.65 Given the above assessment, the proposed development is considered acceptable in masterplanning terms. Local Plan policy LP5 and the relevant requirements of site allocation MXS7 would be complied with.

#### Quantum and density

- 10.66 As noted above, site allocation MXS7 sets out indicative capacities of 1,535 dwellings and 122,500sqm of employment floorspace.
- 10.67 The proposals (across the two outline applications) meet these headline expectations of site allocation MXS7.

## Phasing and delivery

- 10.68 Of relevance to delivery, the applicant chose to submit two applications for outline planning permission – one for the larger (Leeds Road) part of the site, and one for up to 181 dwellings proposed at the north (Heybeck Lane) end of the site. This was intended to respond to a query raised by the Local Plan Inspector as to whether early delivery of housing at part of the site could be demonstrated.
- 10.69 Paragraph 1.66 of the Non-Technical Summary of the applicant's ES states that the intended development programme (including obtaining Reserved Matters approvals and undertaking site preparation works) is anticipated to be split into a number of phases and the full development is anticipated to be completed within 10 to 15 years, although the applicant has elsewhere referred to a longer build programme.
- 10.70 An indicative phasing plan was submitted with the application, and this has not been revised during the life of the application. Recent discussions regarding Section 106 matters, however, have necessitated further consideration of how development would be brought forward at the allocated site, and the applicant has provided more information regarding a possible delivery chronology, as follows:
- Employment element – Likely to be delivered early in the programme, due to high demand for new employment floorspace.
  - Heybeck Lane development – Likely to be delivered early in the programme, due to this phase being less reliant on key infrastructure proposed elsewhere within the allocated site and outside it. Approximately 181 dwellings. Proposed under application ref: 2020/92350.
  - Phase 1a – 457 dwellings between Chidswell Lane and the new spine road.
  - Phase 1b – Primary school, local centre and allotments.
  - Phase 2 – 240 dwellings immediately east of the new spine road.
  - Phase 3 – 277 dwellings in the furthest east phase, south of Dogloitch Wood.
  - Phase 4 – 173 dwellings between the new spine road phase 3.
  - Phase 5 – 207 dwellings in the furthest south phase, close to Chidswell Lane.
- 10.71 To inform discussions regard the point at which the new primary school would need to be provided, the applicant has provided the following indicative information regarding housing delivery:

| <b>Year</b> | <b>Dwellings delivered (cumulative)</b> |
|-------------|---|
| 2025        | 27                                      |
| 2026        | 99                                      |
| 2027        | 171                                     |
| 2028        | 243                                     |
| 2029        | 315                                     |
| 2030        | 387                                     |
| 2031        | 459                                     |

|      |       |
|------|-------|
| 2032 | 531   |
| 2033 | 603   |
| 2034 | 675   |
| 2035 | 747   |
| 2036 | 819   |
| 2037 | 891   |
| 2038 | 963   |
| 2039 | 1,035 |
| 2040 | 1,107 |
| 2041 | 1,179 |
| 2042 | 1,251 |
| 2043 | 1,323 |
| 2044 | 1,395 |
| 2045 | 1,535 |

- 10.72 The above programme is, however, dependent upon several factors, including whether outline permission is granted and Reserved Matters approvals are issued (and the timing of any such approvals), and the interest and actions of the applicant's developer partners.
- 10.73 Some of the uncertainties reported to the Strategic Planning Committee on 17/11/2020 are now less of an influence (and less of a concern) in relation to phasing. For example, the adjacent Owl Lane (HS47 site) development now has planning permission, and work on that development (and its section of the spine road that would ultimately connect Owl Lane with Leeds Road) has commenced, meaning there is less risk of delay to those phases that would be reliant on the completed spine road for access.
- 10.74 Notwithstanding the above, the applicant still seeks a degree of flexibility in relation to delivery, and would not wish the precise phasing of development to be fixed at this outline stage. A condition requiring the submission of a phasing plan is recommended.
- 10.75 While it is considered that a degree of flexibility can indeed be accepted, relevant mechanisms in a Section 106 agreement would be necessary to ensure mitigation is delivered at an appropriate stage. For example, the timely delivery of the new primary school and other on-site infrastructure needed to support the development is essential. Also, phasing of development at this site should be organised to minimise impacts on existing residents, and on residents of the development's early phases, as far as is possible. Phasing should also take into account the availability of construction access routes, biodiversity (if wildlife is to be given time to relocate to land beyond the application site), and the need to ensure development spreads outward from the existing built-up area (to ensure no phase appears as a sprawling, outlying limb that does not read as a planned or logical extension to the existing settlement).
- 10.76 The applicant has not yet identified a master builder / developer, infrastructure provider or other developer partner, however talks with various parties have commenced. Rather than entirely dispose of the site prior to commencement of development, the applicant intends to remain involved over the long term, to retain control over development quality, and to help ensure development (including infrastructure delivery) is co-ordinated. The applicant would also retain ownership of adjacent land to the east of the application site, including



Dum Wood and Dogloitch Wood, and land within Wakefield borough. This ongoing involvement, overseer approach and intended stewardship model may assist in the effective delivery of mitigation required in connection with the proposed development (for example, in relation to ancient woodland access management, and biodiversity). The applicant has also advised that it would enable delivery of the Church Commissioners for England's strategies relating to sustainability, climate change and social value.

#### Sustainability and climate change

- 10.77 As set out at paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF goes on to provide commentary on the environmental, social and economic aspects of sustainable development, all of which are relevant to planning decisions. At pre-application stage, the applicant was advised to respond positively to the net zero carbon emission targets referred to earlier in this report. At application stage, an assessment is necessary to ascertain whether the proposed development would achieve net gains in respect of all three of the NPPF's sustainable development objectives.
- 10.78 The application site is considered to be a sustainable location for residential development, as it is relatively accessible and is on the edge of an existing, established settlement that is served by public transport and other facilities. The site is not within walking distance of a railway station, however Leeds Road is relatively well served by buses, and bus routes also operate along Heybeck Lane and Chidswell Lane (although the comments of Leeds City Council regarding these services being limited are noted). Chidswell, Shaw Cross and Woodkirk have a small number of shops (including a shop offering Post Office services), eating establishments, a church, pubs, petrol stations, social infrastructure, employment uses and other facilities, such that at least some of the daily, economic, social and community needs of residents of the proposed development can be met within the area surrounding the application site, and combined trips could be made, which further indicates that residential development at this site can be regarded as sustainable.
- 10.79 Since the submission of the current application, the council approved a Planning Applications Climate Change Guidance document which advises applicants to submit a Climate Change Statement with all applications. Effectively, the applicant had already done this – a Sustainability Statement was submitted with the current application, and the applicant has referred to sustainability and climate change in other submission documents. This is welcomed.
- 10.80 The applicant's Sustainability Statement looks at how the proposed development has responded to relevant national and regional sustainability policies, and provides an account of how the applicant team have considered and implemented sustainable design when formulating the current proposals. Efficient use of land and buildings, energy efficiency, sustainable transport, waste management, materials sourcing and recycling, built heritage and archaeology, flood risk, land use and ecology and pollution are examined. The report asserts that further information relevant to sustainability would be brought forward at later (Reserved Matters and conditions) stages, but concludes that, subject to those later details, the proposed development shall meet the sustainability requirements of local and national planning policy.

- 10.81 The application must demonstrate that the proposed development delivers net gains in respect of all three sustainable development objectives (economic, social and environmental). Assessment in relation to these three objectives would continue into Reserved Matters and conditions stages if outline permission is granted, however at this stage the following can be noted:

*Economic sustainability*

- 10.82 Economic sustainability can concern a range of matters, including job creation, diversifying employment within the borough, training opportunities and providing a sufficient supply of employment floorspace that is fit for purpose, assists productivity and enables businesses to expand.
- 10.83 Construction-phase and post-construction employment opportunities are relevant to the consideration of the proposed development's economic sustainability. With the inclusion of up to 122,500sqm of employment floorspace, the creation of 121 construction-phase jobs and the later creation of 3,019 new jobs, the proposed development has the potential to contribute significantly to the economic development of Kirklees and West Yorkshire.
- 10.84 As noted earlier in this report, the provision of training and apprenticeships is strongly encouraged by Local Plan policy LP9, and the proposed development meets the relevant thresholds. The provision of construction-phase and post-construction training and apprenticeships could significantly contribute to the borough's skills base and economic resilience.
- 10.85 The proposed location of employment uses relatively close to new and existing housing would create new opportunities for local employment (potentially minimising journey-to-work times), and residents of the development would have access (via the bus services of Leeds Road) to employment opportunities further afield. The provision of space for expansion (without having to relocate) of businesses within the site would be beneficial for sustainability and business continuity reasons.

*Social sustainability*

- 10.86 In relation to the proposed development's residential component, a significant element of social sustainability concerns the creation of places that people will want to live in and remain living in, and that are convivial and create opportunities for interaction and community building. Places offering low standards of residential amenity and quality are often inhabited by short-term and transient populations who do not put down roots – such places are less likely to foster a sense of community, civic pride and ownership. Design, residential amenity and quality, open space, community facilities and other relevant matters would be subject to further consideration at Reserved Matters stage, if outline permission is granted.
- 10.87 The inclusion of a two form entry primary school, a local centre and sports and leisure facilities would help ensure the proposed development would address social sustainability objectives by meeting at least some of the development's social infrastructure needs on-site. Other needs can be met through good integration with (and connections to) the surrounding neighbourhood, and planning obligations.

### *Environmental sustainability*

- 10.88 The proposed development would involve the use of a large area of previously-undeveloped (greenfield) land. However, measures have been proposed, or would be secured, to ensure environmental objectives are met. A biodiversity net gain would need to be achieved. Extensive green and blue infrastructure is required to support the proposed development. As noted at pre-application stage, ample opportunity exists at this site to include significant, beneficial passive and active measures, such as solar gain, measures to facilitate and encourage the use of sustainable modes of transport, and decentralised energy. An on-site modular housing construction facility could also have benefits in relation to sustainability.
- 10.89 Renewable and low carbon energy proposals are encouraged by Local Plan policy LP26. Given the range of uses proposed at the allocated site, at pre-application stage (and in accordance with Local Plan policy LP26) officers advised that there was scope for the creation of a district heat or energy network for which provision (including leaving space for the future provision of an energy centre and pipework beneath footways) should be made at application stage, although it now must be noted that the higher Part L standards applicable since 15/06/2022 will reduce the potential energy savings that could have been achieved through district heating. Local Plan paragraph 12.11 refers to the heat mapping work already carried out for the Leeds City Region – the applicant was advised to refer to this work.
- 10.90 In the submitted Sustainability Statement the applicant proposes to explore the potential for a district heat network within the site at the detailed design stage, once the layout of the development has been established and the range of commercial property types and potential occupants are defined.
- 10.91 For a development at this site, of the scale proposed, transport is among the key considerations of relevance to sustainability assessment. Measures would be necessary to encourage the use of sustainable modes of transport, and to minimise the need to use motorised private transport. A development at this site that was entirely reliant on the use of the private vehicle is unlikely to be considered sustainable. Further consideration of these matters is set out elsewhere in this committee report, however it is noted that the proposed development includes:
- Shared cycle/footways along the development's spine road;
  - Other routes for pedestrians and cyclists throughout the proposed development;
  - Provision for future routing of bus services along the spine road; and
  - Implementation and monitoring of a travel plan.
- 10.92 In addition, detailed and tailored travel planning, and details of cycle storage and electric vehicle charging, would follow at Reserved Matters stage, if outline permission is granted.
- 10.93 Drainage and flood risk minimisation measures would need to account for climate change.

10.94 In light of the assessment set out above, it is considered that the proposal can be regarded as sustainable development, however further assessment of matters relevant to sustainability and climate change would be carried out at Reserved Matters stage (if outline permission is granted).

#### Urban design matters

10.95 Local Plan policies LP2, LP5, LP7 and LP24 are of particular relevance to this application in relation to design, as is the text of site allocation MXS7 and the council's Housebuilders Design Guide SPD. Chapters 11 and 12 of the NPPF and the National Design Guide are also relevant.

10.96 The current proposals are illustrated by an indicative site layout plan (which would not be listed on the council's decision letter, if outline planning permission is approved), and a series of parameter plans (which have been submitted by the applicant for approval, and which would be listed on the council's decision letter). The parameter plans related to:

- Developable area and use;
- Maximum building heights;
- Access;
- Blue infrastructure; and
- Green infrastructure.

10.97 In addition, the applicant has submitted indicative site-wide plans related to phasing and infrastructure, density and movement, as well as illustrative site sections. Design and Access Statements have also been submitted, as has a Landscape and Visual Impact Assessment (at chapter 7 of the Environmental Statement).

10.98 The indicative layout has been influenced by the requirements of the site allocation, the site's topography, the existing and possible locations of vehicular entrances, green infrastructure, drainage, existing watercourses, the need for separation between uses, open space requirements, the most appropriate location(s) for social infrastructure, highway safety and adoption, public rights of way, the high-level overhead power lines and pylons to be retained, adjacent uses, and other factors. The site's relationship with the allocated site HS47 to the southwest (where permission ref: 2019/92787 has been granted), and the allocated site MXS5 to the west (for which no application has been submitted) have also informed the proposals.

10.99 The proposed development (across the two outline applications) would have four main physical components:

- an employment area set within the site's east-west depression between the site's Leeds Road vehicular entrance and Dogloitch Wood;
- a large residential area accommodating most of the development's dwellings, with character areas ("The Pasture", "The Ridge", "Hill Top" and "The Lowlands") identified within;
- an area close to Leeds Road, accommodating the primary school, local centre, multi-use games area, allotments and other uses; and

- a further residential area, accommodating up to 181 dwellings, to the north of the employment area, between Dum Wood and the Leeds Road / Heybeck Lane junction.

10.100 Separation of the development's two main uses (residential and employment) is proposed, with the applicant's plans showing swathes of open space and landscaping between these uses, and two separate primary roads (with restrictions preventing HGVs moving into the main residential area) serving them. This is considered appropriate.

10.101 Much of the proposed development involves the provision of residential accommodation. With up to 1,354 dwellings proposed, and around half of the proposed coverage given over to that use, it is essential that early thought be given to placemaking, to avoid the creation of a monotonous, anonymous, characterless, illegible anytown development that misses opportunities to create a vibrant, safer, legible, well-connected, convivial and attractive place to live and visit.

10.102 It is accepted that the level of detail submitted at outline application stage would not normally include all of the information needed to demonstrate that the above design objectives have been met. However, the applicant's parameter plans, illustrative layout and supporting information provide enough assurance at this stage that sufficient and careful thought has gone into the proposals for which outline approval is sought. The applicant's consideration of connectivity, character areas, building heights and density (among other matters) in particular is encouraging, as are the references to character being influenced by the site's topography, and routes being influenced by topography and existing green and blue infrastructure. This commentary provides a degree of confidence in relation to placemaking, and assurance that the proposed development would, to an appropriate extent, be worked into (and would work with) the site and its existing features, and would not be parachuted in. It is considered that, with appropriate conditions and ongoing masterplanning, high quality development would be brought forward at this site.

10.103 A density plan is included among the applicant's indicative plans. This suggests a range of densities across the site, with lower densities (25 to 35 dwellings per hectare) appropriately proposed at the site's southern edge, and higher densities (35 to 45 dwellings per hectare) towards the local centre. It is accepted that variations in density can assist with placemaking and creating a legible neighbourhood – a crescendo of density would reference the patterns of development commonly found (and recognisable) on approaches to a centre. At Reserved Matters stage, the proposed development's densities should be informed by these patterns, adjacent densities and character, the amount of developable land and the indicative site capacity set out in site allocation MXS7, the need for efficient and effective use of land, and Local Plan policy LP7 which refers to a net density of at least 35 dwellings per hectare (where appropriate).

10.104 Similarly, the applicant's proposed developable areas and height parameters are considered logical and acceptable. These proposals would ensure appropriate scale and appropriate relationships between uses, constraints and existing and proposed features.

10.105 The level of design detail provided is considered appropriate for this outline application stage. Much more detail would be submitted at Reserved Matters stage, if outline permission is granted. This detail would need to comply with the parameters defined at outline stage, and would need to include the outstanding information normally provided with applications for full planning permission.

#### Heritage assets

10.106 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, chapter 16 of the NPPF and Local Plan policies LP24 and LP35, and the text of site allocation MXS7 are relevant.

10.107 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the council to have special regard to the desirability of preserving the nearby listed building, its setting and any features of special architectural or historic interest which it possesses. Furthermore, paragraphs 199 and 200 of the NPPF state that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be), and that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification. Local Plan policy LP35 states that development proposals affecting a designated heritage asset should preserve or enhance the significance of the asset.

10.108 There are few designated heritage assets close to the site (including in Leeds and Wakefield boroughs), however impacts need to be assessed nonetheless. Undesignated heritage assets include field layouts and boundaries, and the nearby ancient woodlands which are of historic (as well as arboricultural and ecological) interest.

10.109 A Heritage Desk-Based Assessment and a Geophysical Survey Report were included in the applicant's ES (chapter 8).

10.110 On 04/12/2022, and during the life of the application, Gawthorpe Water Tower was added to the statutory list by Historic England. This striking and much-loved local landmark is now Grade II listed for the following principal reasons:

#### *Architectural interest:*

- *it has a strikingly elegant neoclassical design executed in reinforced concrete that is atypical in its level of detailing and aesthetic treatment;*
- *it is a prominent landmark structure that makes a strong architectural statement reflecting civic pride;*
- *it compares favourably with other listed water towers nationally and is a distinguished example of a municipal water tower.*

#### *Historic interest:*

- *it is an important physical reminder of the significant advancements in health and sanitation made in the latter half of the C19 and early C20, and developments in public water supply provision.*

- 10.111 The tower is located approximately 90m away from the application site's red line boundary, and stands on land approximately 125m AOD.
- 10.112 The proposed development would result in the loss of part of the open agricultural landscape to the northeast of the water tower, however it is considered that this would not diminish the architectural and aesthetic interest of the building, which is best appreciated from within its immediate environs to the west of Chidswell Lane. The topography of the application site, sloping in a northeasterly direction away from the water tower, in combination with the low massing of the nearest residential properties proposed, would ensure that the water tower remains a prominent feature along the course of Chidswell Lane. In addition, the water tower would remain prominent in the long ranging views available from the neighbouring villages to the east where the water tower would be visible above the low massing of the residential properties proposed within the southwestern part of the application site. The appreciation of the water tower's distinctive design and prominence as a landscape feature would largely be retained, and the proposed extension of the built-up area towards the water tower would not significantly diminish the architectural or historic interest of the structure as a heritage asset.
- 10.113 The proposed development would cause minimal harm to the setting of Gawthorpe Water Tower. KC Conservation and Design have identified this harm as less than substantial. Paragraph 202 of the NPPF states that such harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 10.114 No significant impacts would occur in relation to other heritage assets. It is considered that the proposed development would not cause material harm to the settings of the few above-ground designated heritage assets that exist in the area surrounding the application site.
- 10.115 Historic England corresponded twice regarding the application, both times declining to comment, but suggesting that the council seek the views of its specialist conservation and archaeological advisers, as relevant.
- 10.116 Regarding archaeology, site allocation MXS7 notes that an archaeological site exists nearby. The applicant's Heritage Desk-Based Assessment concluded that there is potential for currently unknown archaeological remains to be present at the application site, and that may range ranging in date from the prehistoric period, potentially through to the modern period.
- 10.117 The West Yorkshire Archaeology Advisory Service (WYAAS) advised that the applicant's submission is helpful in forming an opinion of the site's archaeological potential (regarding field systems, trackways and farmstead enclosures from the later prehistoric period and Romano-British period, and later mining). WYAAS noted that there is currently up to regionally significant archaeologically significant remains within the site, and advised that – should outline permission be granted – further archaeological evaluation, to determine the reliability of the surveys and complexity of the remains, should be carried out prior to determining any Reserved Matters applications. A programme of archaeological mitigation can then be developed to preserve significant remains by record. Further site investigation was indeed carried out by the applicant in late 2021, however the findings of this investigation have not been submitted. The condition suggested by WYAAS is therefore recommended.

### Landscape impacts

- 10.118 Local Plan policy LP32 states that proposals should be designed to take into account and seek to enhance the landscape character of the area considering in particular the setting of settlements and buildings within the landscape; the patterns of woodland, trees and field boundaries; and the appearance of rivers, canals, reservoirs and other water features within the landscape.
- 10.119 The application site has some landscape sensitivity resulting from its location, surrounding topography and visibility from surrounding locations (including in longer views, and vantagepoints within adjacent boroughs) and from public footpaths. Public footpaths (and informal paths) in and around the application site are well-used, and representations received in response to the council's consultation on the application demonstrate that the visual and other amenities of this landscape are highly valued by local residents.
- 10.120 The applicant's Landscape and Visual Impact Assessment illustrates and assess the proposed development's impacts on 11 key views that had previously been agreed with officers, and impacts on aspects of the area's character. A range of impacts are noted, ranging from moderate beneficial to major adverse. Chapter 7 of the ES concludes by stating that, despite its transformative nature, the proposed development could be incorporated into the surrounding landscape context without major harm to landscape character and fabric, notwithstanding the loss of agricultural land.
- 10.121 Officers also note that the applicant has attempted to work with the application site's topography, and has not proposed to radically reshape it with extensive excavation and retention. Extensive green spaces are proposed, including (where possible) green corridors along existing watercourses and public rights of way. Planted buffers are proposed at the edges of the application site adjacent to the two ancient woodlands, and along the Kirklees/Wakefield borough boundary. These aspects of the proposed development would help limit its visual and landscape impact, as would landscaping measures that can be proposed and secured at Reserved Matters stage.
- 10.122 It is accepted that development of the application site would inevitably be transformative. This is unavoidable, given the majority of the site is currently undeveloped. Soft landscaping – however carefully designed – would not hide the proposed development. However, given the above assessment, the proposed development's landscape impacts are considered acceptable.

### Infrastructure requirements and delivery

- 10.123 A major development of this scale, and in this location, would require significant infrastructure to render the site ready to take development, to support development during its operational phase, and to mitigate its impacts.
- 10.124 Works and provisions related to infrastructure would, or may, include site investigation, stabilisation and remediation (including in relation to the site's coal mining legacy), formation of development platforms, provision of new roads and junctions, signalisation works, new cycle routes, new footways and footpaths (and diversions and improvements to existing footpaths), the required two form entry primary school, playspaces, sports and recreation facilities, other social infrastructure, allotments, landscaped areas, ecological



enhancement, other green infrastructure, public realm works, surface water drainage, utilities (water, sewerage, electricity, gas, and telecommunications including fibre broadband), electricity substations, decentralised energy (energy centre and distribution network), work related to the retained pylons, noise and air quality mitigation. Temporary, between-phase, infrastructure may also be required.

- 10.125 It is crucial that these infrastructure requirements are identified at an early stage, and it is important to ascertain when these works and provisions are required (phased delivery of some works may be appropriate), their costs, and who would be responsible for their delivery. Accordingly, the applicant has carried out extensive desktop work and site investigation to inform their conclusions regarding infrastructure requirements and costs. This included further site investigation carried out in late 2021 (the results of which have not been shared with the council, however the applicant has confirmed that no significant constraints or barriers to development were discovered). Throughout 2022, the applicant has also carried out development appraisal work, and shared the findings of this work with the council.
- 10.126 No developer partner has been identified by the applicant at this outline stage, and limited information has therefore been submitted by the applicant regarding infrastructure delivery responsibilities. The submitted indicative phasing and infrastructure plan includes no detail regarding timing of infrastructure delivery. The applicant has, however, consulted with potential infrastructure delivery partners, and has considered different infrastructure delivery models. An Infrastructure Delivery Plan was shared with officers at pre-application stage – this asserted that infrastructure would largely be the responsibility of future developers of the site, albeit in some cases provided via a joint venture with the applicant.
- 10.127 The recommended conditions and Section 106 agreement would secure the delivery of the necessary infrastructure (including its timely delivery, when needed). This includes the following key (or “big ticket”) items:
- M62 junction 28 improvement scheme (to be delivered if and when monitoring confirms it is needed);
  - M1 junction 40 improvement scheme (to be delivered if and when monitoring confirms it is needed);
  - Shaw Cross junction improvement scheme;
  - Spine road;
  - Pump-priming of a bus service through the application site; and
  - Two form entry primary school.
- 10.128 In addition, the applicant intends to submit an early Reserved Matters application (if outline permission is granted) relating solely to infrastructure provision and enabling works. This would potentially unlock large areas of the site (more than would normally be unlocked by an application relating to a single phase or parcel), assisting delivery. This suggestion is welcomed.
- 10.129 The provision of social infrastructure, including in relation to GP and education provision, is considered elsewhere in this committee report.

## Residential quality and amenity

- 10.130 Limited detail of the proposed development's residential element has been provided at this outline application stage, however as noted above the proposed number of dwellings is compliant with site allocation MXS7, and the applicant's submission documents provide some assurance that a high quality residential development would be brought forward. Regarding the quality and amenity of the proposed residential accommodation, there is currently no evidence to suggest that dwellings would not be adequately provided for.
- 10.131 Local Plan policies LP11 and LP24 require all proposals for housing to be of a high quality and design, providing a high standard of amenity for future and neighbouring occupants. There are constraints, or potential constraints, on residential development in certain parts of the site (including in relation to noise, odour, flood risk and the amenities of existing neighbouring properties) that would need to be addressed at Reserved Matters stage to ensure compliance with these policy requirements. Careful construction management would be necessary, to ensure the amenities of neighbouring residents and occupants of early phases are not significantly affected.
- 10.132 Dementia-friendly design and opportunities for inter-generational interaction would need to be included in the proposed development, and would be detailed at Reserved Matters stage.
- 10.133 The applicant has considered locations for specialist residential accommodation, which may include homes for retirement or sheltered living and/or an Extra Care facility. The applicant's indicative site layout plan annotates a "potential location for retirement accommodation / assisted living" adjacent to the proposed local centre. This is considered an appropriate location for such accommodation.
- 10.134 Regarding unit sizes, paragraph 3.5 of the Local Plan recognises that "If identified housing needs are to be met, houses of all sizes are needed together with an increasing number of bungalows and flats/apartments", and policy LP11 requires all proposals for housing to contribute to creating mixed and balanced communities in line with the latest evidence of housing need. It goes on to state that all proposals for housing must aim to provide a mix (size and tenure) of housing suitable for different household types which reflect changes in household composition in Kirklees in the types of dwelling they provide, taking into account the latest evidence of the need for different types of housing. For major developments, the housing mix should reflect the proportions of households that require housing, achieving a mix of house size and tenure. The council's most recent published assessment of housing need is the Kirklees Strategic Housing Market Assessment (2016). This suggests that, across Kirklees, the greatest requirement within the private housing sector is for 3-bedroom houses, however there is also a significant requirement for 1-, 2- and 4-bedroom houses. There is some (albeit less of a) requirement for private flats and bungalows. Within the affordable housing sector, the greatest requirement is for 3-bedroom houses, and affordable flats are also required.

- 10.135 On 20/09/2022 the council commenced consultation on a draft Affordable Housing and Housing Mix SPD. This SPD may be adopted in the relatively near future, and may be a material consideration by the time detailed proposals are considered at the application site.
- 10.136 The sizes (in sqm) of the proposed dwellings would be a material planning consideration at reserved matters stage. Local Plan policy LP24 states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, and the provision of residential units of an adequate size can help to meet this objective. The provision of adequate living space is also relevant to some of the council's other key objectives, including improved health and wellbeing, addressing inequality, and the creation of sustainable communities. Pandemic-related lockdowns in 2020/21 and increased working from home have further demonstrated the need for adequate living space.
- 10.137 Although the Government's Nationally Described Space Standards (March 2015, updated 2016) (NDSS) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed, as set out in the council's Housebuilder Design Guide SPD. NDSS is the Government's clearest statement on what constitutes adequately-sized units, and its use as a standard is becoming more widespread – for example, since April 2021, all permitted development residential conversions were required to be NDSS-compliant.
- 10.138 As the development's residential element is currently proposed in outline, a breakdown of the proposed unit sizes has not been provided, nor did it need to be. The mix of unit sizes would not be set at outline application stage. Further consideration of unit sizes would be carried out at Reserved Matters stage, if outline permission is granted. Any unit size mix proposed at Reserved Matters stage would be required to respond to the above policy and guidance, or any update to that policy and guidance that might apply at Reserved Matters stage.

#### Affordable housing

- 10.139 At this outline application stage no information regarding tenures has been provided by the applicant. Local Plan policy LP11 requires 20% of units in market housing sites to be affordable. At Reserved Matters stage, more detail of the development's affordable housing provision would be required, in particular in relation to tenure and the locations of the dwellings. A 55% social or affordable rent / 45% intermediate tenure split would be required, although this can be flexible. Given the need to integrate affordable housing within developments, and to ensure dwellings of different tenures are not visually distinguishable from each other, affordable housing would need to be appropriately designed and pepper-potted around the proposed development
- 10.140 20% of 1,354 dwellings is 271. It is recommended that this provision be secured via a Section 106 agreement, to ensure the development complies with Local Plan policy LP11. Applying the required 55% / 45% split mentioned above, this provision would include 149 social or affordable rent units and 122 intermediate (including First Homes) units.

- 10.141 Details of the sizes, locations, house types and tenures of the affordable units would be required at Reserved Matters stage.

#### Highway and transportation issues

- 10.142 Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed effectively and safely by all users. The policy also states that new development will normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.
- 10.143 Paragraph 110 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 111 of the NPPF adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.
- 10.144 Regarding cumulative impacts, paragraph 014 of the Government's online Planning Practice Guidance (Travel Plans, Transport Assessments and Statements chapter) states that it is important to give appropriate consideration to the cumulative impacts arising from other committed development (i.e., development that is consented or allocated where there is a reasonable degree of certainty will proceed within the next three years). At the decision-taking stage this may require the developer to carry out an assessment of the impact of those adopted Local Plan allocations which have the potential to impact on the same sections of transport network as well as other relevant local sites benefitting from as yet unimplemented planning approval.
- 10.145 Existing highway conditions around the application site must be noted. The site has an existing vehicular access point off Leeds Road (the A653, which is a dual carriageway with marked cycle lanes and a grassed central strip along this stretch), between numbers 1060 and 1062. A dropped kerb and a bus stop exist at this access point. Bus services to Dewsbury, Huddersfield, Leeds and Wakefield are available from Leeds Road. The part of Chidswell Lane (that the application site red line boundary meets) has signage indicating it is unsuitable for heavy goods vehicles, has a substandard footway on the west side of its carriageway (although improvements have been secured under permission ref: 2019/92787), and lacks central white line markings for much of its length outside the site. There is a single, gated vehicular access on Chidswell Lane opposite Chidswell Farm.

- 10.146 The site can also be accessed by pedestrians from Chidswell Lane, Leeds Road and Heybeck Lane via several public footpaths, including BAT/49/10, BAT/50/10, BAT/50/20, BAT/51/10, BAT/51/20, BAT/51/30, BAT/52/10, DEW/146/10, DEW/150/10, DEW/151/10, DEW/151/20 and DEW/151/30. These public rights of way continue across the site. There are also informal paths within the site and through the adjacent woodlands. Parts of the Core Walking, Cycling and Riding Network pass through the site along existing public rights of way.
- 10.147 Future infrastructure improvement projects are relevant to the consideration of the applications for outline planning permission. As noted earlier in this committee report, work has commenced on the Transpennine Route Upgrade, which is intended to deliver faster, more frequent and more reliable services along the route that serves Dewsbury and Batley stations (the two stations nearest to the application site). New and improved routes for pedestrians and cyclists have been secured under permission ref: 2019/92787.
- 10.148 As noted earlier in this committee report, a hybrid planning application submitted to Leeds City Council in December 2020 is of relevance to some of the highways and transport matters considered in this committee report. That application (ref: 20/08521/OT) relates to an employment-use (use classes B2 and B8 with ancillary office) development at land at Capitol Park, Topcliffe Lane, Morley. That scheme has capacity implications for junction 28 of the M62. On 14/07/2022 Leeds City Council's City Plans Panel resolved to approve the application, however the planning permission has not yet been issued.
- 10.149 Site allocation MXS7 notes that additional mitigation on the wider highway network will be required in connection with the proposed development, as there is potential for significant impacts upon the Strategic Road Network. The proposed development would contribute towards additional traffic at junction 28 of the M62 and junction 40 of the M1. Highways England (later National Highways) initially submitted (and subsequently renewed) a holding objection, noting that work was ongoing to assess the cumulative impacts of this and other major developments (including schemes in Leeds), and that outline planning permission should not be granted until this work was completed.
- 10.150 Under the current application, access is the only matter not reserved. For the avoidance of doubt, and given that relevant legislation defines "access" as "the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes..." (therefore, it can include access through a site), the applicant included an "access" plan among the parameter plans that would be approved at this outline stage. This shows the four vehicular access points proposed, as well as the broad routes of residential and employment spine road corridors. Other details of access through the site are only illustrated indicatively.
- 10.151 The applicant's Transport Assessment (TA) is provided at chapter 13 of the submitted ES.

### *Trip generation and traffic modelling*

- 10.152 The applicant's proposed trip generation rates and predicted background traffic growth rates are considered acceptable. The scope of the applicant's TA was agreed during pre-application discussions and is based on current guidance and industry standard methodology. Trip rates used in the analysis were derived from the industry standard TRICS trip rate database. These have been reviewed by Kirklees HDM and National Highways and are considered to be appropriate for the proposed development. The applicant's assessment is based on the morning and evening peak hours of 07:30 – 08:30hrs and 16:30 – 17:30hrs respectively. Total person trips were derived for each proposed land use. These were sub-divided into travel modes based on the 2011 Journey to Work Census data set for the local area. For the purposes of the assessment the area used was local area Kirklees 014 Medium Super Output Area, which is considered to be reflective of the site's future occupiers' travel behaviours. Trips have been distributed and traffic assigned on the highway network using origin and destination data from the 2011 Census, Method of Travel to Work data set.
- 10.153 To support the highway proposals in the Kirklees Local Plan, the council commissioned a SATURN (Simulation and Assignment of Traffic to Urban Road Networks) model, which provided future network scenarios for assessment years 2020 and 2030. The applicant was advised to use these outputs, which it was considered would produce a more realistic future traffic scenario, which better reflected detailed changes to traffic assignment and growth, rather than using high level projections such as TEMPro growth factors. It was agreed to assess the traffic impact of the proposed development in future assessment years 2024 and 2030, except in the case of junction 28 of the M62, where the year 2033 has been used (2033 is the end date of the Leeds Local Plan period). The applicant's modelling does not account for Travel Plan-induced modal shifts, or for the possibility of a West Yorkshire mass transit system being implemented in the future. The applicant has therefore suggested that the traffic created by the proposed development may prove to be less than they have predicted.
- 10.154 The tables below (extracted from the applicant's TA) set out the total trips predicted for the proposed development's residential and employment elements.

**Table 5.2: Total Residential Two-Way Person Trips**

| Residential Trips   | Time Period                    | Arrivals     | Departures   | Total Two-Way |
|---|--------------------------------|--------------|--------------|---------------|
| <b>Residential (Private)<br/>(C3 Use Class)</b><br>1382 dwellings   | 08:00 – 09:00                  | 322          | 1130         | 1452          |
|   | 17:00 – 18:00                  | 836          | 539          | 1375          |
|   | <b>Daily<br/>(07:00-19:00)</b> | <b>5,784</b> | <b>6,143</b> | <b>11,927</b> |
| <b>Residential (Affordable)<br/>(C3 Use Class)</b><br>153 dwellings | 08:00 – 09:00                  | 32           | 102          | 135           |
|   | 17:00 – 18:00                  | 73           | 57           | 130           |
|   | <b>Daily<br/>(07:00-19:00)</b> | <b>531</b>   | <b>552</b>   | <b>1083</b>   |
| <b>Residential (Total)</b>  | 08:00 – 09:00                  | 354          | 1233         | 1587          |
|   | 17:00 – 18:00                  | 909          | 596          | 1505          |
|   | <b>Daily<br/>(07:00-19:00)</b> | <b>6,315</b> | <b>6,695</b> | <b>13,010</b> |

**Table 5.3: Total Employment Two-Way Person Trips**

| Residential Trips                            | Time Period                    | Arrivals     | Departures   | Total Two-Way |
|--|--------------------------------|--------------|--------------|---------------|
| <b>B1(a) Office</b><br>18375 sqm GEA         | 08:00 – 09:00                  | 362          | 49           | 411           |
|  | 17:00 – 18:00                  | 40           | 299          | 339           |
|  | <b>Daily<br/>(07:00-19:00)</b> | <b>1,313</b> | <b>1,290</b> | <b>2,604</b>  |
| <b>B1(c) Light Industry</b><br>12250 sqm GEA | 08:00 – 09:00                  | 92           | 32           | 124           |
|  | 17:00 – 18:00                  | 39           | 106          | 146           |
|  | <b>Daily<br/>(07:00-19:00)</b> | <b>595</b>   | <b>580</b>   | <b>1,175</b>  |
| <b>B2 General Industry</b><br>30625 sqm GEA  | 08:00 – 09:00                  | 229          | 81           | 309           |
|  | 17:00 – 18:00                  | 98           | 266          | 364           |
|  | <b>Daily<br/>(07:00-19:00)</b> | <b>1,487</b> | <b>1,450</b> | <b>2,937</b>  |
| <b>B8 Warehousing</b><br>61250 sqm GEA       | 08:00 – 09:00                  | 296          | 52           | 348           |
|  | 17:00 – 18:00                  | 13           | 238          | 252           |
|  | <b>Daily<br/>(07:00-19:00)</b> | <b>1,509</b> | <b>1,612</b> | <b>3,121</b>  |
| <b>Employment (Total)</b>                    | 08:00 – 09:00                  | 978          | 214          | 1192          |
|  | 17:00 – 18:00                  | 191          | 910          | 1101          |
|  | <b>Daily<br/>(07:00-19:00)</b> | <b>4,904</b> | <b>4,933</b> | <b>9,836</b>  |

10.155 In order to understand the current and future capacity levels at junctions affected by the proposed development, a series of junction capacity assessments were undertaken at junctions within the vicinity of the application site. The extent of junctions to be assessed was agreed through the TA scoping process. Including site accesses, a total of 18 junctions were identified and modelled, as follows:

- M1 Junction 40 (Flushdyke Interchange)
- M62 Junction 28 (Tingley)
- A653 Leeds Road / Heybeck Lane / B6124 Soothill Lane
- A653 Leeds Road / Chidswell Lane

- Leeds Road / B6128 Challenge Way / B6128 John Ormsby VC Way (Shaw Cross)
- A653 Leeds Road / High Street
- Windsor Road / Owl Lane
- A638 Chancery Road / Owl Lane / B6128 Leeds Road / A638 Wakefield Road
- Chidswell Lane / Windsor Road
- A653 Leeds Road / Owl Lane
- John Ormsby VC Way / Owl Lane
- A653 Dewsbury Road / Rein Road / Syke Road
- Owl Lane / Southern Site Access 5 / Dewsbury Rams (new roundabout)
- Owl Lane / Amberwood Chase
- Site Access 1 (Heybeck Lane site access)
- Site Access 4 (Chidswell Lane site access)
- Site Access 2 (Commercial/industrial access from Leeds Road)
- Site Access 3 (Primary residential access from Leeds Road)

10.156 The list of committed schemes (taken into account by the applicant in traffic modelling) is considered appropriate. This list is set out from paragraph 6.33 of the applicant's TA. Of note, planning permission at the adjacent HS47 site (ref: 2019/92787) has been granted since the TA was compiled. Current application ref: 2022/92988 is not considered to be a significant material consideration of relevance to the current outline applications for the MXS7 site.

#### *M62 Junction 28*

10.157 Much of the discussions between officers and the applicant during the life of the application have concerned motorway junction assessment and mitigation. Those discussions relating to M62 junction 28 have also involved National Highways (previously Highways England), Leeds City Council and the applicant for the Capitol Park scheme in Leeds.

10.158 Following extensive discussion, modelling and design work, an acceptable highway mitigation scheme for junction 28 (the Tingley roundabout) has been agreed between all interested parties (the applicant, the council, the Capitol Park applicant, National Highways and Leeds City Council).

10.159 This highway mitigation scheme has been designed to take into account assumed traffic growth predicted for the year 2033, as well as the traffic of the two above-mentioned developments, and that of a major residential development already approved at Haigh Moor in Leeds (ref: 17/08262/OT). Of the additional traffic expected at junction 28 (created by those three major developments), approximately 60% would be generated by the Chidswell development, 30% by Capitol Park, and 10% by the Haigh Moor development. The highway mitigation scheme also incorporates sustainable transport improvement works (intended to be of benefit to pedestrians and cyclists) that Leeds City Council had planned to carry out at junction 28.



- 10.160 The proposed scheme includes no departures (from the Design Manual for Roads and Bridges standard) on the parts of the junction for which National Highways is responsible. A minor departure is proposed on part of the junction for which Leeds City Council is responsible, however Leeds City Council have indicated that this can be accepted. A formal departure procedure need not be followed in relation to this.
- 10.161 Of note, although the proposed scheme would mitigate the traffic impacts of the Chidswell and Capitol Park developments, it would not fully mitigate all impacts when predicted background growth is taken into account (there is still likely to be some queueing at junction 28, although this residual impact is not predicted to be severe). All parties, however, are satisfied that the best possible scheme has been devised within the constraints applicable to that junction.
- 10.162 For the motorway junctions affected by the proposed development, the applicant has expressed a preference for moving away from a “predict and provide” approach. The applicant would instead prefer to postpone implementation of the proposed scheme, and monitor traffic growth at this junction to ascertain whether the scheme (or a part thereof) is in fact needed. The applicant is of the view that traffic growth at this junction may not be generated to the extent predicted. A draft Monitoring Strategy Framework has been prepared by the applicant. This monitoring would be used to ascertain whether the mitigation scheme proves necessary. National Highways and Leeds City Council have confirmed that this draft strategy is acceptable. As relevant parties have agreed to this approach, an appropriate mechanism is recommended, securing the implementation of this monitoring, and the delivery of junction mitigation (if the monitoring demonstrates that this is needed).
- 10.163 Of note, although the applicant does not propose early implementation of the scheme, the applicant has earmarked funding for it in an early stage of the development programme.
- 10.164 The entire junction improvement scheme has been costed at approximately £10m. Of note, the outline planning permission for the Haigh Moor development secured a contribution of £816,000 towards improvements at junction 28. A condition regarding delivery of a proportion of the works (via Section 278) is expected to be secured by Leeds City Council in connection with the Capitol Park development. Leeds City Council are also expected to contribute, as that authority had already intended to carry out sustainable transport improvement works at that junction. In discussions regarding development viability, the applicant has allowed for a cost of £5.5m to £6m relating to the scheme.
- 10.165 Clarification from Leeds City Council regarding the provisions and wording of the relevant condition(s) and Section 106 agreement is awaited.
- 10.166 The applicant would prefer to make a financial contribution towards the scheme (rather than deliver the works), and it is understood that Leeds City Council are agreeable to this. The applicant would prefer to make any such payment to Kirklees Council, so that Leeds City Council would not need to be a signatory to the Section 106 agreement.

- 10.167 For the avoidance of doubt, the applicant's contribution towards this junction improvement scheme cannot be repurposed if monitoring demonstrates that the scheme is not required.
- 10.168 The scheme has been designed so that it can be implemented in two phases of roughly equal scale. Although it is likely that the Capitol Park development would be implemented before development at Chidswell is implemented, should the Chidswell development be implemented first, the applicant would need to implement phase 1 of the highway mitigation scheme (phase 1 must be implemented first – the order of implementation is not flexible), and also contribute towards the later implementation of phase 2. This contribution would be necessary because the Chidswell development would have a greater impact at junction 28, and the cost of mitigation would need to be distributed proportionately between the two developers in light of their developments' respective impacts.
- 10.169 Related design and safety assessment work has been carried out by the two applicant teams. This has included a designer's response (to an earlier road safety audit and a walking / cycling / riding assessment), which National Highways and Leeds City Council have confirmed is acceptable.
- 10.170 National Highways have not yet withdrawn their holding objection (most recently renewed on 08/07/2022), however withdrawal of this objection in relation to this junction is expected in the near future, given the significant progress made to date, and given the letter of assurance more recently provided by National Highways. As reported at paragraph 8.5 of this committee report, all that remains is for the applicant, the relevant local authorities and National Highways to agree the wording of the planning conditions that would secure this monitoring strategy and mitigation schemes against any grant of planning consent. Subject to reaching agreement on condition wording National Highways will replace the current temporary non-determination recommendation with a "no objection" subject to the relevant conditions being attached to any grant of planning consent.

#### *M1 Junction 40*

- 10.171 Extensive discussion, modelling and design work has also taken place in relation to junction 40 of the M1. This has involved the applicant, the council, National Highways and Wakefield Council.
- 10.172 A maximum mitigation scheme has been designed for this junction by the applicant. This is a scheme intended to mitigate the maximum possible traffic impacts of the proposed development at this junction, however – as with junction 28 of the M62 – the applicant has proposed to postpone implementation of that scheme, and to monitor traffic growth at this junction to ascertain whether the scheme (or a part thereof) is in fact needed. The applicant is of the view that traffic growth at this junction may not be generated to the extent predicted. A draft Monitoring Strategy Framework has been prepared by the applicant. Again, this monitoring would be used to ascertain whether the mitigation scheme proves necessary. National Highways and Wakefield Council have confirmed that this draft strategy is acceptable.

- 10.173 A related walking / cycling / riding assessment has been completed by the applicant. A road safety audit has also been prepared, and this may necessitate some amendments to the design of the scheme (a designer's response is yet to be completed). The principle of the scheme has, however, been accepted by the relevant authorities.
- 10.174 The proposed maximum mitigation scheme includes departures (from the Design Manual for Roads and Bridges standard) which would need to be agreed with Wakefield Council. No departures are proposed on the parts of the junction for which National Highways are responsible.
- 10.175 As with junction 28 of the M62, National Highways have not yet withdrawn their holding objection (most recently renewed on 08/07/2022), however withdrawal of this objection in relation to this junction is expected in the near future, given the significant progress made to date, and given the letter of assurance more recently provided by National Highways.

#### *Shaw Cross junction*

- 10.176 Major junction improvements are required at the Leeds Road / Challenge Way / John Ormesby VC Way junction (the Shaw Cross junction) to accommodate predicted traffic growth and the traffic of several developments in the surrounding area. A design for this improvement scheme was prepared by the council, and was subsequently amended to include better provision for cyclists. This junction improvement scheme related to the Mirfield to Dewsbury to Leeds project (M2D2L, also identified as scheme TS5 in the Local Plan, and intended to reduce congestion, reduce travel times, improve air quality and enhance the public realm along the A644 and the A653).
- 10.177 The cost of this junction improvement scheme was initially expected to be around £600,000. The planning permission for the HS47 allocated site (ref: 2019/92787) secured a £200,000 contribution towards this scheme, and the High Street / Challenge Way permission (ref: 2021/91871) secured a £40,307 contribution. Work on both those developments has commenced.
- 10.178 The applicant had accepted responsibility for making up the difference in the cost of implementing the improvement scheme. A sum of £400,000 (to be paid to the council) had been allowed for in the applicant's development appraisal. The council had intended to implement the scheme between 2023 and 2025 using this contribution, those contributions secured in relation to other developments, and funding from West Yorkshire Plus Transport Fund (needed as the cost of the scheme is now expected to be closer to £1m).
- 10.179 In a recent development, however, allocations from the West Yorkshire Plus Transport Fund have been reviewed, resulting in the "M2D2L" scheme (including the Shaw Cross junction improvement scheme) being paused for the time being. Officers are continuing to work on the detailed design of the scheme, and still intend to submit a planning application in the new year, however at this stage the council has no implementation date scheduled for the scheme.

10.180 Mitigation at this junction is considered necessary to make the proposed development (and other developments nearby) acceptable in planning terms. Given the recent West Yorkshire Plus Transport Fund review, it therefore now falls on the applicant to implement a mitigation scheme. Contributions secured to date can still be put towards this scheme, as can any other funding that may become available in the future. The applicant has requested flexibility to allow due diligence checks to be carried out, to allow for further consideration of the council-designed scheme, and to allow for an alternative mitigation scheme to be implemented if appropriate. This is considered acceptable in principle if all applicable impacts (including those of other developments from which contributions have been secured) would be mitigated. An appropriate condition is recommended, including a requirement for an appropriate mitigation scheme to be delivered when required.

*Other junctions in Kirklees*

10.181 The applicant has proposed road safety works and improvements for pedestrians and cyclists at the Leeds Road / Heybeck Lane / Soothill Lane junction. Of note, works were previously proposed at this junction in connection with the development of land off Soothill Lane (allocated site HS72) – a draft proposal was submitted under application ref: 2018/94189, and condition 8 of that permission (repeated as condition 8 of permission ref: 2020/94202) required further details of those works, however condition 8 was subsequently amended following the proposal of a more appropriate alternative mitigation scheme at this junction (condition 8 of permission ref: 2022/90889 now applies).

*Other junctions outside Kirklees*

10.182 To the north of the application site, within Leeds, the applicant proposes road safety works and improvements for pedestrians and cyclists at the Dewsbury Road / Syke Road / Rein Road junction. This has not attracted an objection from Leeds City Council. Provisions in the Highways Act enable a local authority to secure works to highways outside their jurisdiction, however a mechanism for the delivery of these works will need to be agreed with Leeds City Council.

10.183 No other junction improvement works are proposed within the adjacent boroughs (Leeds and Wakefield). Wakefield Council have raised a late concern regarding impacts at the Owl Lane / Chancery Road / Leeds Road / Ossett bypass roundabout, however this was received after highways assessments had been concluded, and it was not considered reasonable to request the applicant to provide further highway mitigation.

*Site entrances*

10.184 The applicant has completed road safety audits for the four proposed site entrances listed at paragraph 3.6 above, and designer's responses have been prepared. The applicant has advised that the road safety audits have identified no need for significant amendments, and that previous junction modelling would not be affected by the minor amendments that will need to be made.

- 10.185 Officers remain of the view that, while a new roundabout is to be created at the junction of the spine road and Owl Lane (as part of the development at the HS47 allocated site, ref: 2019/92787), a signalised junction (rather than a roundabout) is appropriate for the spine road's junction with Leeds Road. Similarly, priority or signalled junctions (rather than roundabouts) are considered appropriate for the other three proposed site entrances. Such junctions would enable better control of traffic flows, would provide better pedestrian access, would require less land, and would address topographical constraints.
- 10.186 Regarding the southernmost site entrance (proposed at Chidswell Lane), the requirements of site allocations HS47 and MXS7 are noted – these require the banning of right and left turns into the southern stretch of Chidswell Lane, which are requirements supported by Wakefield Council. The concern is that southwestbound drivers using the spine road may see queueing traffic at the new Owl Lane roundabout, and may decide to turn into Chidswell Lane to reach Ossett and other destinations via Gawthorpe. There is a secondary concern that northbound drivers on Owl Lane may see queueing traffic at the new roundabout and may try to cut through Gawthorpe via Pickering Lane and Chidswell Lane. Wakefield Council officers have previously commented that the southern section of Chidswell Lane, due to its narrow carriageway and traffic calming, is not suited to take additional traffic.
- 10.187 Under application ref: 2019/92787, consideration was given to junction designs that would not significantly restrict access to the former Huntsman Inn, Boundary End Cottage and other properties on Chidswell Lane south of the spine road, that would not cause rat-running along Chidswell Lane between the spine road and Leeds Road, and that could be accommodated within existing highway land and land available within the two development sites. Officers favoured a simple T-junction (a crossroads is not considered appropriate here (except in relation to cycle traffic), and the stopping up of the section of Chidswell Lane between the spine road and Windsor Road is supported) with signs banning left and right turns. This is considered preferable to physical barriers, which would restrict access to existing properties (and some of the dwellings of the Owl Lane development, which would be accessed from Chidswell Lane), and would force residents to make unnecessarily long detours via the spine road, Owl Lane and Pickering Lane. It is considered that a signed solution would be compliant with the requirements of site allocations HS47 and MXS7, and would be sufficient to discourage rat-running down the southern section of Chidswell Lane. However, in relation to application ref: 2019/92787 it was recommended that the adequacy of this solution be monitored, and that physical measures (such as enforcement cameras and/or the provision of a plug prioritising northbound traffic) be considered at a later stage if the signed solution proves unsuccessful. Arrangements for, and contributions towards, this monitoring and subsequent measures (if required) were included in the Section 106 completed in connection with permission ref: 2019/92787. Similar provisions are recommended regarding the current outline application for the MXS7 site.

### *Highway safety*

- 10.188 A review of personal injury accidents in a five-year period shows that in the wider accident study area, which extends from Dewsbury Ring Road to Tingley (junction 28 of the M62) and associated junctions there has been a total of 104 accidents, the majority (87) of which have been slight. The study area included three fatalities, although none of these were within the vicinity of the application site. One occurring at the junction of the A639 (Leeds Road / Dewsbury Road and Quarry Lane, a major-minor priority junction) where a rigid HGV turning right at the junction struck and killed a pedestrian crossing the carriageway. The other two fatalities were recorded on the A650 Tingley Common to the west of junction 28 of the M62. The first involved a cyclist being struck and killed by a car. The second accident involved a motorcyclist being struck and killed by a heavy goods vehicle performing a U-turn manoeuvre. Along the length of the A639 Leeds Road adjacent to the site all recorded accidents were slight and are broadly distributed, with some limited clustering at junctions as would be expected. Accident rate analysis from the junction of Leeds Road / Chidswell Lane to the junction of Leeds Road / Heybeck Lane indicates that the A639 Leeds Road adjacent to the site has an accident rate of approximately half that which might be expected compared to a link on a comparable type of road. It is noted that two of the development's new accesses are proposed along this length of road, these new accesses will be designed to modern highway standards and are expected to have negligible impact on highway safety of this length of road.
- 10.189 It is considered that there are no significant accident clusters or trends in terms of either type or location that would warrant further investigation or mitigation. It is further considered that the proposed development is unlikely to materially exacerbate the current situation.

### *Spine road*

- 10.190 The proposed spine road would be a residential connector street (Type A) as per the Kirklees Highway Design Guide SPD, with a cross section of a 3m shared cycle/footway; a 2m verge; a 6.75m carriageway; a 2m verge; and a 3m shared cycle/footway. This would reflect the design of (and tie into) the section of spine road already approved under application ref: 2019/92787, and is considered to be an appropriate response to the guidance set out in Cycle Infrastructure Design – Local Transport Note 1/20 (LTN 1/20).
- 10.191 The need for, and relative benefits of, full separation of pedestrian and cyclist traffic has been given careful consideration, however it is considered that 3m wide shared cycle/footways, separated from the carriageway by a soft landscaped verge, are appropriate. Of note, this arrangement would segregate cyclists and pedestrians from the spine road's vehicular traffic, which would ensure much safer travel for those more vulnerable road users – the shared cycle/footways are expected to be used by slow-moving, less confident cyclists, including older people and children. Faster, more competent and confident cyclists are considered more likely to use the carriageway of the spine road (sharing that space with vehicular traffic), as their journey would not be interrupted by side streets.

- 10.192 Once complete, a vehicular connection between Owl Lane and Leeds Road would be provided, enabling access to Owl Lane (the B6128) which in turn connects to the M1 (via the A638) and the M62 (via the A653). This spine road would also serve the proposed primary school and local centre.
- 10.193 For amenity, safety and placemaking reasons, HGVs would be excluded from the spine road, although buses may be present. A design speed of 25mph would inform the detailed design of the spine road, however a 30mph speed limit would be applied. The spine road would not be signed at either end as a through-route to Leeds or Ossett.
- 10.194 The spine road would be a significant infrastructure cost to the development, and it may not be possible for this cost to be fully met by the first phase of development alone. This may mean a number of dwellings would need to be completed and occupied (and accessed from Leeds Road via a northern section of the new spine road) before the spine road provides a complete connection between Owl Lane and Leeds Road.

#### *Other proposed roads*

- 10.195 The other spine road would serve the employment uses, and would form a long loop accessed from the site's existing vehicular site entrance on Leeds Road. A short road connecting these two primary spine roads, but preventing HGV movements into the main residential area, is also proposed.
- 10.196 The smaller residential area at the north (Heybeck Lane) end of the allocated site would have a separate, new vehicular access from Heybeck Lane.

#### *Public transport*

- 10.197 In their detailed comments of 18/12/2020, the West Yorkshire Combined Authority (WYCA) welcomed the applicant's proposal to allow bus access into the site, along the proposed spine road. Noting that Arriva are the main bus operator within the vicinity of the application site, WYCA advised:
- Bus route 202/203 – "MAX" service every 15 minutes between Leeds, Dewsbury and Huddersfield. Arriva are of the view that diversion of this service into the application site would not be appropriate.
  - Bus route 117/X17 – Arriva have advised that diverting this service into the site could be considered, however this would require additional funding.
  - Bus route 205 – Arriva have advised that diverting this limited service into the site could be considered.
- 10.198 WYCA additionally relayed Arriva's comment that, for a development of the size proposed, a service at least every 30 minutes (Monday to Saturday) and hourly during evenings and Sundays to local key trip generators would be appropriate. In this area Arriva recommend that a service every 30 minutes between Leeds and Dewsbury via White Rose shopping centre would be appropriate. By making some network alterations in the area, Arriva believe that costs could be reduced to around £300,000 per annum. WYCA invited the applicant to discuss a pump-prime funding solution which could enable a self-sustaining commercially viable service to become established after a short-term initial funding period.

- 10.199 The applicant has accepted the principle of pump-priming contributing towards local bus services. The applicant met with Arriva in 2021, and reported that Arriva are agreeable to the possibility of buses entering and turning within the site as an interim measure while completion of the spine road is awaited. This service would need to be carefully timed, so it does not commence before the application site is sufficiently populated – the applicant has proposed that it should not commence before 1,000 homes (across both parts of the MXS7 site) are occupied. It would also be appropriate to allow for contributions to cease early if the bus route proves successful and becomes self-financing at an early stage.
- 10.200 Much of the application site is within 400m walking distance of existing bus stops on Heybeck Lane, Leeds Road, Chidswell Lane and Windsor Road. This means public transport would be reasonably accessible to residents of many of the proposed dwellings before new or diverted bus services are brought into the site. New bus stops along the proposed spine road would bring the majority of the proposed development within 400m walking distances, however dwellings within the easternmost edge of the site (south of Dogloitch Wood) would remain outside those walking distances.
- 10.201 In late 2020 officers requested an audit of existing cycling, walking and public transport facilities within the vicinity of the application site, to provide a quantified and evidenced basis upon which to judge the current accessibility of the site and the adequacy of existing provision. Appendix D of the applicant's Technical Note (ref: A13398/VAA Final 1, dated 10/12/2020) audited nearby bus stops. Officers noted in May 2021 that the quality of the current local bus stop provision was generally good, but that in some places there were ageing historical provisions and apparently limited maintenance which may discourage use. Officers therefor advised that improvements could be made to encourage the use of more sustainable modes of transport. For example, it was noted that none of the existing bus stops in the vicinity of the proposed development site on Heybeck Lane, Leeds Road or Windsor Road have bus shelters. A contribution to the upgrade of these facilities would therefore be appropriate.
- 10.202 While the above assessment is noted, existing bus stop provision may have changed in the intervening period, and may change again in the time likely to elapse before any development at the application site is occupied. It is therefore considered appropriate to review local provision nearer to the time occupants of the development are likely to start using it.
- 10.203 On 23/11/2022 the applicant agreed to a condition being applied, requiring a local bus stop audit, which would then determine what replacements and upgrades the applicant would implement. At other sites the council has been specific about which bus stops would be improved, however at this site (in the absence of guidance from WYCA Metro, and given the possibility of a current audit being out of date by the time occupation commences), the recommended approach is considered appropriate.



### *Walking and cycling*

- 10.204 Local and national policies and guidance adopted and published during the life of the application have further highlighted the need for developments to be designed to enable the use of sustainable modes of transport. The creation of walkable neighbourhoods and provision for cycling are particularly important.
- 10.205 The applicant has submitted a site-wide “movement” illustrative plan, and pedestrian and cyclist movement has been considered by the applicant in light of the requirements of policy LP21 to encourage the use of sustainable modes of transport, policy LP23 regarding the Core Walking, Cycling and Riding Network, and policies LP20, LP24dii and LP47e which require improvements to neighbourhood connectivity and opportunities for walking and cycling. Parts of the borough’s Core Walking, Cycling and Riding Network (which is intended to provide an integrated system of routes that provide opportunities for alternative sustainable means of travel through Kirklees, and provide efficient links to urban centres and site allocated for development) pass through the application site.
- 10.206 The applicant’s indicative masterplan also makes good provision for pedestrians and cyclists in respect of walking-to-school routes and movement between the proposed residential and employment uses. Further consideration of these routes and provisions would be appropriate at Reserved Matters stage, if outline permission is granted.
- 10.207 Existing public footpaths would largely be retained (some minor diversions are proposed). Diversions of existing public rights of way would be subject to applications, fees and consultation under a legislative process separate to planning.

### *Travel planning*

- 10.208 Comprehensive and effective travel planning would be required in connection with all of the proposed development’s uses, in compliance with Local Plan policy LP20. An appropriate Framework Travel Plan (with subordinate plans subsequently prepared at later stages) would be secured via Section 106 planning obligations, however a draft has been submitted at this outline application stage.

### *Other highways and transport matters*

- 10.209 Site allocation MXS5, for the adjacent site to the west, requires the provision of access through that site to site MXS7. An allowance for this is annotated on the applicant’s “access” parameter plan.
- 10.210 Parking provision would be considered at Reserved Matters stage, and would need to reflect anticipated need (balanced against aesthetic, street scene, safety and sustainability considerations), having regard to likely vehicle ownership and the council’s adopted Highway Design Guide SPD.
- 10.211 Conditions related to retaining highway structures are likely to be necessary at Reserved Matters stage, given the wildlife underpasses indicatively proposed by the applicant.

### Flood risk and drainage issues

- 10.212 The site is within Flood Zone 1, and is larger than 1 hectare in size, therefore a site-specific Flood Risk Assessment (FRA) and a full site-wide drainage strategy has been submitted as a chapter of the applicant's ES. In addition, the applicant's blue infrastructure parameter plan identifies the broad locations for the proposed strategic blue infrastructure, including sustainable urban drainage ponds and underground attenuation which form the basis of the proposed strategic drainage strategy. Of note, the applicant has clarified that swales and localised drainage ponds are excluded from this drawing and would be detailed at a subsequent Reserved Matters stage. Soakaways would be used where practical. Where soakaways are not feasible, the applicant proposes to direct surface water runoff to the watercourses located within and to the east of the site.
- 10.213 The requirements of chapter 14 of the NPPF, and Local Plan policies LP27, LP28 and LP29, apply. The site has drainage-related constraints in the form of existing watercourses that cross the site.
- 10.214 In relation to drainage and flood risk, the applicant's outline-stage proposals are considered acceptable. Subject to conditions, the Lead Local Flood Authority (LLFA) have not objected to either application, but have confirmed that a fully detailed drainage masterplan would be required prior to Reserved Matters submissions, to ensure an integrated drainage approach is followed. The LLFA have also recommended that a working group be set up to ensure successful masterplanning in relation to drainage. Across the entire MXS7 site, discharge restrictions based on a greenfield run-off of 5l/s/ha would be appropriate. For the Heybeck Lane site, a discharge rate of 32.4l/s would not be accepted. The ongoing maintenance and management of sustainable drainage systems would need to be secured via a Section 106 agreement.

### Environmental and public health

- 10.215 The applicant's information regarding the health impact of the development must be considered in accordance with Local Plan policy LP47 and chapter 8 of the NPPF. A Health Impact Assessment has been appended to the applicant's ES.
- 10.216 Development at this site would be required to assist in promoting healthy, active and safer lifestyles in accordance with the above planning policies. This can be achieved in many ways – air quality mitigation and improvement, facilitation and encouragement of on-site and local outdoor activity, inclusive design, providing opportunities for inter-generational interaction, new and enhanced public footpath and cycle path connections, careful construction management (including dust control) and other measures can be proposed by the applicant and future developers of the site. As per the comments of KC Public Health and other consultees, however, it is noted that many of these matters would be assessed in detail at Reserved Matters stage.
- 10.217 It is noted that local medical provision has been raised as a concern in representations made by local residents. Although health impacts are a material consideration relevant to planning, there is no policy or supplementary planning guidance that requires a proposed development to contribute specifically to local health services. Furthermore, it is noted that funding for GP provision is based on the number of patients registered at a

particular practice and is also weighted based on levels of deprivation and aging population. Direct funding is provided by the NHS for GP practices and health centres based on an increase in registrations.

- 10.218 An Odour Risk Assessment was submitted by the applicant. Regarding odour from Chidswell Farm, KC Environmental Health commented that that a greater distance would need to be maintained between new dwellings and the curtilage of the farm, to distance them from the risk of potential odours. As layouts at this outline stage are indicative (and developable areas would not be set if outline permission is granted), and as several detailed considerations should inform layout, this matter need not be considered further at outline application stage, but will need to be addressed prior to the relevant Reserved Matters application being submitted. An appropriate condition is recommended.
- 10.219 Chapter 9 of the applicant's ES addresses noise. A condition regarding noise is recommended, however, as per the comments of KC Environmental Health. Further conditions relating to the control of noise may need to be applied at Reserved Matters stage, once more is known regarding the nature of the non-residential uses and their proximities to sensitive receptors within and outside the proposed development.
- 10.220 The application site is not located within an Air Quality Management Area (AQMA). The nearest AQMA within Kirklees is at Dewsbury town centre (Kirklees AQMA 5). Due to the size of the development proposed, and having regard to the West Yorkshire Low Emission Strategy (WYLES) planning guidance, the development is assessed as "major", and air quality needs to be addressed at application stage.
- 10.221 Chapter 10 of the applicant's ES addresses air quality. KC Environmental Health had noted that no relevant monetary cost calculations had been submitted, when in accordance with the WYLES guidance it is necessary for all "major" developments to provide a calculation of monetary damages arising from the proposed development in addition to a full Air Quality Impact Assessment. KC Environmental Health also advised that, as the proposal is for a mixed use development, sensitivity testing should be undertaken for the operational phase using sensitive receptors within the development site that border onto the commercial uses to determine the impact that this will have on any future residents being subjected to harmful pollutant concentrations.
- 10.222 Given the above assessment, while KC Environmental Health agree with the applicant's methodology regarding air quality, a condition requiring a full Air Quality Impact Assessment is considered necessary.
- 10.223 In addition, a provision within the recommended Section 106 agreement is recommended, to enable a contribution to be made (to be put towards air quality mitigation), should collection of a contribution prove necessary.
- 10.224 Although substantial works would not normally commence on site until Reserved Matters approvals have been issued, it may be appropriate for certain works (such as demolition, site preparation and early spine road works) to take place prior to Reserved Matters applications being submitted. It is therefore appropriate to apply a condition requiring the submission and implementation of a Construction (Environmental) Management Plan.

## Site contamination and stability

- 10.225 Site allocation MXS7 notes the potential presence of contamination at the site. Local Plan policy LP53 states that development on land that is currently contaminated or suspected of being contaminated due to its previous history would require the submission of an appropriate contamination assessment. Where there is evidence of contamination, measures to remediate the land would be required to ensure the contamination does not have the potential to cause harm to people or the environment.
- 10.226 The applicant's Phase 1 Geoenvironmental Desk Study Report provides an in-depth appraisal of the site history and previous surrounding land uses since the 1800s. The application site is associated with former mineshafts and associated structure due to historical coal mining activities on and adjacent to the site (the Heybeck Lane site is the former site of the Babes in the Wood Colliery). There are also areas of colliery spoil and demolition waste across the application site. In relation to the site's potential shall mine workings and mine entries, ground gas, metals, polycyclic aromatic hydrocarbons and asbestos have been identified by the applicant's consultant as possible contaminants of concern. The report concludes by recommending a Phase II investigation including but not limited to the installation of gas monitoring standpipes and monitoring for a minimum of twelve visits over six months, soil sampling and laboratory analysis, and rotary borehole investigations to assess the site's coal mining legacy.
- 10.227 For both applications, Environmental Health officers are satisfied with the Phase I report and its recommendations, and have raised no objection on site contamination grounds, subject to conditions being applied.
- 10.228 The application site is within the Development High Risk Area as defined by the Coal Authority, therefore within the site and surrounding area there are coal mining features and hazards.
- 10.229 The applicant's Coal Mining Risk Assessment refers to a range of information sources, and asserts that there is currently a moderate to high risk to the proposed development related to recorded and historic unrecorded mine workings, opencast workings and the presence of three recorded mine entries. Therefore, in order to mitigate the risks, the applicant's consultant has appropriately recommended that intrusive ground investigations and gas monitoring be carried out in order to confirm the exact ground conditions present within the site, including the location and condition of the recorded mine entries.
- 10.230 The Coal Authority has advised that, as part of these investigations, the depth to rock head adjacent to these mine entries should be established – this would enable the applicant's consultant to calculate the zone of influence (and no-build exclusion zone(s)) of all mine entries found present within the site, and this can in turn inform the layout of the development to ensure that adequate separation between buildings and the mine entries is incorporated.
- 10.231 The findings of the site investigations should inform the extent of remedial or mitigatory measures required to ensure that the development will be safe and stable. The nature and extent of the ground investigations / treatment works will require further consent from the Coal Authority prior to commencement of these works.

## Ecological considerations

- 10.232 Chapter 15 of the NPPF and Local Plan policy LP30 apply. Of particular note, paragraph 174 of the NPPF requires the proposed development to achieve a biodiversity net gain.
- 10.233 During the life of the current application, the council published its Biodiversity Net Gain Technical Advice Note, the Environment Act 2021 passed into UK law on 09/11/2021, and Natural England launched the Biodiversity Metric 2.0 in 2019 and the Biodiversity Metric 3.0 (the current applicable version) in 2021. On 02/08/2022 the Government began consultation on Biodiversity Metric 3.1. This consultation ended on 27/09/2022. If that latest version is adopted as the statutory metric in the near future, it would be appropriate for the applicant to refer to it, given that later Reserved Matters applications would be expected to use it.
- 10.234 The biodiversity designations relevant to the application site are:
- Biodiversity Opportunity Zone – Pennine Foothills (entire site);
  - Habitat of Principal Importance (parts of the site);
  - Site of Special Scientific Interest Impact Risk Zone (part of the site);
  - Wildlife Habitat Network (parts of the site and adjacent);
  - Local Wildlife Sites (adjacent, at Dogloitch Wood and Dum Wood); and
  - Habitat-rich ancient replanted woodlands (adjacent, at Dogloitch Wood and Dum Wood).
- 10.235 In addition, several hedgerows within the application site provide valuable habitats, and several trees and groups of trees within the site and nearby are subject to Tree Preservation Orders. Bats are known to be present in the area.
- 10.236 The applicant's green infrastructure parameter plan and other supporting documents confirm that existing assets (trees and hedgerows) would largely be retained.
- 10.237 The applicant stated that a biodiversity net gain could be achieved by the proposed development, and that this would evolve through a detailed scheme at Reserved Matters stage. However, the applicant subsequently provided more detail, including a biodiversity net gain calculation (using the Biodiversity Metric 3.1) that confirms the proposed development would achieve the following net gains (post-intervention):
- Habitat units: 10.05%
  - Hedgerow units: 13.17%
  - River units: 10.2%
- 10.238 In respect of the habitat units, the applicant has indicated that a post-intervention on-site net gain of only 3.53% would be achieved. The applicant is therefore additionally proposing off-site interventions to achieve a 10.05% net gain.

- 10.239 The proposed net gains are considered achievable, given the extensive green infrastructure proposed by the applicant (as illustrated in the submitted green infrastructure parameter plan). Delivery of the proposed off-site interventions would need to be secured via the recommended Section 106 agreement.
- 10.240 Regarding the species currently present at the application site, the applicant has submitted the following surveys (mostly attached as appendices to chapter 14 of the ES):
- Habitat Suitability Index Assessment and Report (March 2018) regarding ponds
  - Barn Owl Scoping Assessment and Report (April 2018)
  - Ornithological Summary (Breeding Birds) (October 2018)
  - Badger Assessment and Report (April 2018)
  - Bat Roost Suitability Assessment and Report (April 2018)
  - Bat Activity Survey (November 2018)
  - Water Vole Report (September 2018)
  - Reptile Survey (October 2018)
  - Hedgerow Assessment and Report (July 2018)
  - Bat Roost Suitability Assessment (August 2018)
  - Bat Emergence Survey (August 2018)
  - Letter regarding bat surveys of lofts (23/08/2022)
  - High-Level Biodiversity Net Gain Assessment (10/10/2022) including findings of a walkover survey undertaken in October 2022
- 10.241 Of note, the above dates refer to the dates of the reports. The surveys carried out by the applicant preceded those dates (for example, the Bat Activity Survey sets out the findings of field surveys carried out in April to September 2018).
- 10.242 It had been noted that – given the age of the current application – much of the applicant’s ecological survey information was over four years old. Although further, up-to-date surveys would in any case be required at Reserved Matters stage (if outline permission is approved), the applicant was asked to respond on this matter at outline stage. The applicant responded with the High-Level Biodiversity Net Gain Assessment listed above. This was dated 10/10/2022 and included the findings of a walkover survey undertaken in October 2022.
- 10.243 The applicant’s earlier surveys found a “likely absence” of several species including great crested newts, barn owls, badgers, water voles and species of reptiles. Evidence of, and potential for, bats and several bird species were noted. Several “red list” (of the Government-recognised UK Birds of Conservation Concern list) bird species (lapwing, herring gull, skylark, starling, song thrush, house sparrow, yellow wagtail, linnet and yellowhammer) and “amber list” bird species (mallard, black-headed gull, lesser black-backed gull, stock dove, kestrel, house martin, willow warbler, dunnoek, meadow pipit, bullfinch and reed bunting) were observed at the application site.
- 10.244 The applicant has acknowledged that the earlier surveys have passed the timeframe by which the Chartered Institute for Ecology and Environmental Management (CIEEM) considers survey results to remain valid. However, the applicant has stated that the earlier ecological information presented a robust picture of the application site’s ecological baseline sufficient to enable the

council to make an informed decision on the outline planning application. The applicant has gone on to note that, for reports aged 18 months to 3 years, CIEEM advise that a professional ecologist should undertake a site visit and review the validity of the reports. The applicant's October 2022 updating walkover survey found the application site to have changed very little since the previous ecological surveys were completed, and no significant changes were identified to the habitats present on site (and/or the ecological conditions, functions or ecosystem functioning upon which they are dependant). The applicant has therefore concluded that the earlier surveys continue to present a reliable baseline for the application site.

- 10.245 The applicant's further bat surveys (undertaken in June and August 2022) found no evidence of bat roosts in the lofts of those dwellings that would be demolished as part of the proposed development.
- 10.246 Regarding ground-nesting farmland birds such as skylarks and yellowhammers, the applicant proposes to set out measures at a later stage. This would involve the provision of "skylark plots" on retained arable farmland (within the ownership of the applicant) to the east, once negotiations with tenant farmers have been concluded.
- 10.247 The applicant's Ecological Design Strategy also sets out proposed measures relating to wetland creation, woodland planting, scrub planting, wildflower grassland, species-rich hedgerows, bird and bat boxes, wildlife underpasses, and log and brash piles.
- 10.248 Local residents remain concerned regarding the age and adequacy of the applicant's ecological surveys, noting that several species are (including kingfisher and barn owl) were present at the site but were not noted in the applicant's earlier surveys, and stating that the applicant's October 2022 walkover survey was not carried out in typical conditions and included errors (including in relation to an on-site watercourse, which the applicant stated was dry at the time of the survey, and where assumptions had been made that the site's streams are in a poor condition as they hold no water, and are choked with scrub vegetation and invasive weeds). The Chidswell Action Group has also referred officers to the iNaturalist website to which residents have uploaded evidence of the presence of species (including kingfishers) within or close to the site.
- 10.249 Representations from local residents have also expressed disbelief that a biodiversity net gain would be achieved by the proposed development.
- 10.250 Representations relating to biodiversity have been received from KC Ecology, the Yorkshire Wildlife Trust (raising concerns) and Natural England (no objection). The Chidswell Action Group has submitted a document dated 06/03/2022 and titled "Chidswell Heybeck Climate Challenge" which includes commentary and raises questions regarding the proposed development's impacts upon biodiversity.
- 10.251 The evidence gathered by local residents is very useful, and the outstanding concerns of residents (which – residents have made clear – have not been addressed by the applicant's most recent submissions) are noted. The gathered evidence demonstrates the need for further, thorough and up-to-date ecological survey work to be carried out before development takes place at the application site.

10.252 Having regard to the information available, however, the council is indeed able to make an informed decision on the current outline applications. Current legislation, planning policy and guidance protects certain aspects of habitat (for example, all birds' nests while in use), but not all (for example, foraging areas). The applicant's survey findings – while needing further detail and updating before development commences – are not disputed. Similarly, the findings of local residents are not disputed, and it is noted that different parties observing sites at different times can obtain different (but not necessarily contradictory) information. The applicant has proposed a policy-compliant biodiversity net gain, and has met other requirements of relevant planning policies. Conditions and provisions (secured via a Section 106 agreement) can be applied to mitigate the ecological impacts of the proposed development.

10.253 Any loss of established, valuable habitat is of course regrettable. However, with the recommended conditions (regarding ecological mitigation and enhancement and restricting work during bird nesting season) and Section 106 provisions (regarding biodiversity net gain and off-site measures) in place, together with the further survey work that would be required prior to the submission of Reserved Matters applications, the proposed development is considered acceptable in relation to ecological impacts.

#### Trees, ancient woodlands and hedgerows

10.254 Several Tree Preservation Orders protect trees and groups of trees within and adjacent to the application site, and ancient woodlands are designated to the east of the site. Local Plan policy LP33 states that planning permission will not be granted for developments which directly or indirectly threaten trees or woodlands of significant amenity, and proposals should normally retain any valuable or important trees where they make a contribution to public amenity or have other benefits.

10.255 The applicant's Hedgerow Assessment and Report (July 2018) at appendix 14.9 of the submitted ES states that three of the MXS7 site's hedgerows can be defined as "important" under the Hedgerow Regulations 1997, and that a further five hedgerows just fall short of being classified as "important", due to there being either one too few woody species or associated features, or by not being adjacent to a public right of way.

10.256 As noted above, the proposed development largely retains existing trees and hedgerows, and buffers are proposed adjacent to the ancient woodlands. The applicant's landscaping proposals are currently indicative, however they illustrate potential biodiversity connections across the site.

10.257 The applicant's illustrative layout and supporting arboricultural impact assessment demonstrates that the site can be developed while incorporating the existing important trees, woodlands and hedgerows into the, and avoiding adverse impact on these features. Significantly more detail would, of course, be required at Reserved Matters stage, including details of how the site's hedgerows would be retained.



- 10.258 The effects of the proposed development upon the adjacent ancient woodlands (Dum Wood and Dogloitch Wood, which are Local Wildlife Sites and are habitat-rich ancient replanted woodlands) have been raised by several residents in their representations, and in submissions from organisations including the Woodland Trust. At pre-application stage, the applicant was advised to design in buffers adjacent to the ancient woodlands, comprising a zone of semi-natural habitat (15m deep at least) between the proposed development and the ancient woodland or tree. The applicant was also advised that a zone of at least 15 times the diameter of a veteran tree or 5m from the edge of its canopy (whichever is greater) should be proposed, and that open space should be designed around veteran trees (including trees that could become veteran in the future). Noise reduction measures adjacent to ancient woodlands, and screening barriers to protect ancient woodland and veteran trees from dust and pollution during construction works, were also discussed.
- 10.259 The applicant's Design and Access Statement confirms that 20m wide buffer zones are proposed around the perimeter of Dum Wood and Dogloitch Wood, and a 15m wildlife corridor provides a link between the two, along the site's eastern edge.
- 10.260 Regarding public access to and through the ancient woodlands at Dogloitch Wood and Dum Wood, it is noted that there are already informal paths through these areas, and there is a risk that an increased (and closer) local population would place further pressure on these ancient woodlands. Controlled access and management could, however, enable a greater number of people to enjoy these woodlands. Although outside the application sites' red line boundaries, both woodlands are within the ownership of the applicant.
- 10.261 Discussion has taken place with the applicant regarding public access to the ancient woodlands at Dogloitch Wood and Dum Wood, and the significant increase in the local population that would be brought about by the proposed development. Both areas of woodland are owned by the applicant, but are within the tenancies of the adjacent farms. Both are informally used by local residents for leisure, play, enjoyment of nature, and dog walking. Public rights of way run along some of the edges of the woodlands, but not through them. The following options have been considered:
- Uncontrolled access to the woodlands – This would enable continued use by existing and new residents, however given the anticipated increase in the nearby population, this could result in significant harm to the woodlands.
  - Prohibition of access – This would be of benefit to the woodlands and their biodiversity, however it would reduce residents' opportunities to access nearby leisure and nature assets, may prove unpopular with local residents, may be ignored, and would create new enforcement responsibilities.
  - Controlled access to the woodlands – This would not be without risk, but could limit harm while maintaining access and the related benefits to the public.

- 10.262 Officers are of the view that controlled access to the woodlands would be the most preferable and realistic way forward. This controlled access could be managed in accordance with details submitted pursuant to Section 106 obligations. These may include details of permissive routes through the woodlands (possibly following the already-trodden routes, unless there are biodiversity and arboricultural reasons for not doing so), and details of any necessary signage and fencing. No-go areas, dog waste bins and interpretation may also be appropriate. In their comments of 17/12/2020, the Forestry Commission recommended that any such woodland management be carried out in accordance with the UK Forestry Standard, and that the use of a Forestry Commission Standard Management Plan be considered. All woodland management proposals would need to be based on a thorough understanding of the biodiversity and arboricultural value of the woodlands. Provision for monitoring of impacts, and remediation (should problems arise) would also need to be included in the details.
- 10.263 Concern has been expressed regarding the risk of the proposed development lowering the area's water table, drying out the land beneath the adjacent ancient woodlands, and harming them and their biodiversity. While it is accepted that this could occur where extensive development involves introducing hard surfaces to previously-permeable land (and where geology and topography are factors), at the Chidswell site the applicant is proposing 20m buffers adjacent to the ancient woodlands, as well as significant areas of green space. Furthermore, although Dum Wood is already on slightly elevated land, the adjacent ancient woodlands would not be left perched on higher land while land around it is lowered and hard surfaced.
- 10.264 In the more detailed designs to be brought forward at Reserved Matters stage, Green Street principles would need to be to be adhered to. Sufficient space should be allowed for in new roads, and these principles would need to be accounted for in any assessment of infrastructure requirements. Detailed designs, showing Green Streets principles followed in full, would be required at Reserved Matters stage.
- 10.265 The applicant's green infrastructure parameter plan confirms that existing trees would be retained and supplemented with new green swathes that would include tree planting. The council promotes the White Rose Forest initiative, which is intended to greatly increase tree cover within the borough, and this large site presents an opportunity to significantly contribute towards that objective.

#### Open space, sports and recreation

- 10.266 Local Plan policy LP63 states that the council will seek to secure well designed new and improved open space, sport and recreation facilities in the district to encourage everyone in Kirklees to be as physically active as possible and promote a healthy lifestyle for all. New housing developments will be required to provide or contribute towards new open space or the improvement of existing provision in the area, unless the developer clearly demonstrates that it is not financially viable for the development proposal.
- 10.267 The council's Open Space SPD was adopted during the life of the current application, on 29/06/2021.

- 10.268 The applicant's illustrative masterplan shows extensive areas of open space, including indicative locations for equipped playspaces. The grounds of the proposed primary school would include sports pitches, and a further pitch is shown adjacent to the local centre. Areas for allotments and for sports and recreation provision for young people are also shown. As noted above, controlled access to the adjacent ancient woodlands is proposed.
- 10.269 Sport England advised that a £1,438,683 (£1,676,111 in total for both sites) sports contribution would be required. This, however, was based on Sport England's formula and the likely population of the proposed development, if no on-site provision was made. Sport England advised that this contribution would be put towards provision for grass pitches, artificial grass pitches, changing rooms and life cycle costs, and acknowledged that their objection could be resolved through on-site provision of playing pitches or a planning contribution to allow their provision off-site (or a combination of the two).
- 10.270 The council's own guidance (as set out in the Open Space SPD) is considered more appropriate in this instance, as it is more nuanced and is tailored to reflect the needs of the borough. Furthermore, calculations carried out in accordance with the SPD note existing nearby provision, and the needs of the relevant wards. It is also noted that significant on-site provision has been illustrated by the applicant.
- 10.271 With reference to the SPD, more detailed information regarding the typologies of the on-site provision would be needed before a further calculation could be carried out. As much of this detail would not become available until further design work is carried out prior to Reserved Matters applications being submitted, at the current outline stage it is recommended that the relevant Section 106 provision secures a contribution based on the relevant formula, with no figure specified.

#### Planning obligations and financial viability

- 10.272 A development of this scale would have significant impacts requiring mitigation. The following planning obligations securing mitigation (and the benefits of the proposed development, where relevant to the balance of planning considerations) would need to be included in a Section 106 agreement:
- 1) Highway capacity / improvement / other works
    - a) M62 junction 28 monitoring strategy to be submitted, approved and implemented, and capacity improvement (delivery or contribution) to be implemented if monitoring carried demonstrates the need.
    - b) M1 junction 40 monitoring strategy to be submitted, approved and implemented, and capacity improvement (delivery or contribution) to be implemented if monitoring carried demonstrates the need.
    - c) Monitoring of left-turn movements into Chidswell Lane from spine road, Traffic Regulation Order and implementation of works if signed restriction proves ineffective (contributions totalling £23,500).
    - d) Contributions towards junction improvement schemes (applicable should schemes secured by condition prove to be more appropriately delivered via a Section 106 provision).
  - 2) Sustainable transport
    - a) Pump-priming of a Dewsbury-Leeds bus route along spine road, triggered by occupation of 1,000 homes across both sites, contribution

to be agreed, duration of pump-priming to be agreed, and provision for contributions to cease if bus service becomes self-financing.

b) Bus stop upgrade contribution (applicable if bus stop audit demonstrates the need).

c) Framework Travel Plan (and subordinate plans) implementation and monitoring including fees – £15,000 (£3,000 for five years).

3) Education

a) £700,000 contribution towards interim primary provision to be paid in two tranches (£350,000 upon first occupation, £350,000 upon occupation of 119 homes).

b) Primary school (including early years and childcare) provision cascade:

i) Applicant / developer to decide on whether to build school on site or pay contribution no later than point of occupation of 200 homes;

ii) If the former, applicant / developer to provide land and build school on site to the council's specification for use no earlier than when required and no later than point of occupation of 700 homes;

iii) If the latter, contribution amount to be reviewed at the time of payment, contribution to be paid in instalments between the occupation of 229 and 919 homes, council to put contribution towards on-site school or alternative provision.

c) Secondary education contribution of £2,257,029.

4) Open space, including sports and recreation and playspaces – contribution based on Open Space SPD methodology / formulae, taking into account on-site provision (to be confirmed at Reserved Matters stage). Site-wide strategy required to ensure provision across all phases / parcels / Reserved Matters applications is co-ordinated.

5) Affordable housing – 20% provision.

6) Local centre (including community facilities) – arrangements to ensure buildings / floorspace is provided, and details of size, timing, uses and location to be clarified.

7) Air quality – contribution (amount to be confirmed, and subject to applicant / developer measures which may render contribution unnecessary) up to the estimated damage cost to be spent on air quality improvement projects within the locality.

8) Biodiversity

a) Contribution (amount to be confirmed) or off-site measures to achieve biodiversity net gain (only applicable if 10% can't be achieved on-site);

b) Securing other off-site measures (including buffers to ancient woodlands, and provision of skylark plots).

9) Management – the establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure. May include street trees if not adopted.

10) Drainage – management company to manage and maintain surface water drainage until formally adopted by the statutory undertaker. Establishment of drainage working group (with regular meetings) to oversee implementation of a site-wide drainage masterplan.

11) Ancient woodland – management plan (and works, if required) for public access to Dum Wood and Dogloitch Wood (outside application site, but within applicant's ownership).

12) Social value – requirement for applicant / developer, future developer partners and occupants of employment floorspace to provide package of training, apprenticeships and other social value measures.

13) Masterplanning – No ransom scenarios to be created at points where new roads meet other development parcels / phases.

- 10.273 Of note, the references to numbers of homes in the above Heads of Terms does not include the (up to) 181 homes proposed at the Heybeck Lane site under application ref: 2020/92350, unless “across both sites” is specifically referred to.
- 10.274 All contributions are to be index-linked. For certain contributions, a relevant index (such as the BCIS Tender Price Index) may be appropriate.
- 10.275 The above obligations are potentially significant, and together with the costs associated with on-site infrastructure, drainage and addressing the application site’s topography and coal mining legacy, would need to be given careful consideration by the applicant prior to the sale of (parts of) the site to developers. These costs would need to be reflected in the application site’s purchase price, to ensure that any future developer will not overpay for the site and then attempt to argue that these costs were unanticipated and that affordable housing or other necessary mitigation is not viable. The application site was promoted for allocation and development by the current applicant, and such development at this site can reasonably be assumed to be viable at this stage. Therefore, and given what is known regarding the application site’s development costs, and having regard to consultee responses (which any developer should make themselves aware of before purchasing the site or parts of it), the council is unlikely to entertain a future argument that development at this site is unviable. Should any such argument be made in the future, the council can and will have regard to paragraph 58 of the NPPF, which states that the weight to be given to a viability assessment is a matter for the decision maker.
- 10.276 During the life of the current application, the applicant commissioned consultants Bentley and Savills to carry out further assessments of costs and to then prepare a development appraisal with the intention of establishing whether development of the site would be financially viable, taking into account the further site investigation work carried out at the end of 2021, and planning obligations similar to those listed above. As part of this appraisal, Savills made reasonable assumptions regarding profit and the site’s existing use value, and a uniform 20% affordable provision was applied to every residential phase.
- 10.277 On 22/07/2022 the applicant confirmed that the proposed development was indeed viable, and that the required planning obligations could indeed be provided. However, that viability was initially dependent upon flexibility being applied in respect of the timing of some of the more costly planning obligations. One key cost relates to the provision of the two form entry primary school which is required under site allocation MXS7. Based on the applicant’s indicative programme and having regard to up-to-date Number on Roll forecasts, the need for this school is likely to be triggered when between 279 and 387 dwellings (across both sites) are occupied, which may happen in or around the year 2029. With the cost of the school likely to be at least £10m, this is a major piece of social infrastructure required relatively early on in the programme, before receipts from the sale of the majority of the residential

element have been collected. In early phases, sales income would be low, but mitigation costs would be high. The provision of the school at this stage adversely affects viability early on in the programme, not only during the first phase (where the applicant is willing to accept a lower profit level) but also beyond.

- 10.278 In light of the applicant's viability findings and in response to officer requests, the applicant tested various scenarios involving later provision of other contributions (such as certain highway works and open space provision, although the applicant has advised that there is little scope for postponing and/or bringing forward the various provisions), and moving greater proportions of affordable housing to later phases (which the applicant would rather not do). The applicant also tested the council's revised affordable housing transfer values, which are currently being consulted on in a draft Affordable Housing and Housing Mix SPD.
- 10.279 Following this and other viability work, the applicant was able to agree to a £1,000,000 contribution towards interim primary provision to be paid as £300,000 from the Heybeck Lane development and a further two tranches from the larger site (£350,000 upon first occupation, £350,000 upon occupation of 119 homes), as well as a primary school provision cascade whereby the applicant / developer would decide on whether to build the school on site or pay a contribution no later than the point of occupation of 200 homes; and (if the former is opted for) to provide the required land and build the school on site to the council's specification for use no earlier than when required and no later than point of occupation of 700 homes. This is considered acceptable.
- 10.280 Of note, it is likely that the applicant's future developer partner will be able to identify savings in the cost of delivering the school and construct it for less than the council would be able to, while still adhering to the council's specification for the school.
- 10.281 If the applicant / developer opts for paying a contribution (instead of building the school on-site), payments equivalent to the value of the school would be made in instalments between the occupation of 229 and 919 homes. The council would be free to put this contribution towards the delivery of an on-site school or towards an alternative provision (subject to assessment against the requirements of site allocation MXS7).
- 10.282 Given that many of the required contributions would be put towards schemes that may only become necessary several years in the future, it is recommended that the required Section 106 agreement should allow the council to retain moneys for longer periods than is normally secured. Of note, the Department for Education's "Securing developer contributions for education" guidance recommends (at paragraph 6) that planning obligations should allow enough time (often 10 years, or no time limit) for developer contributions to be spent.

### Representations

- 10.283 The representations received in response to the council's consultation and reconsultation are responded to throughout this committee report.

- 10.284 The volume of objections and their content is noted. These, and the representations made by elected representatives, are material considerations that must be given due weight when the current applications are determined.
- 10.285 The request made by the Chidswell Action Group to delay determination of the application is noted, but is not supported. As part of the recent reconsultation, letters and emails were sent to everyone who had previously been consulted and everyone who had previously commented on the application, and nine new site notices were posted on 02/11/2022. This greatly exceeds the consultation effort required by the relevant legislation, and would have ensured a good level of local awareness regarding the application and the reconsultation.
- 10.286 Earlier comments regarding the adequacy and timing of the outline applications (and the council's initial consultation on them) are noted, however additional time was added to the initial consultation period in light of the Covid-19 epidemic, the consultation requirements of the EIA Regulations were complied with, and the council's application publicity went further than the statutory requirements and the commitments set out in the council's adopted Statement of Community Involvement.

#### Other planning matters

- 10.287 The Secretary of State for Levelling Up, Housing and Communities (SoS) has received a request from a third party to call in the current application. The SoS would only call in the application if the Strategic Planning Committee resolved to grant permission.
- 10.288 The points raised by the solicitor acting for the Chidswell Action Group (letter dated 29/04/2021) are noted. Regarding the fact that two outline applications have been submitted by the applicant, it must be noted that any applicant or developer of a large site is free to submit several applications at the same time for different parts of their site – there is nothing in planning law to stop them doing this. What is important, however, is how these applications are then assessed. At Chidswell, the two applications (and the impacts of both proposals) are being considered together, including in relation to Environmental Impact Assessment (EIA). This is not an unusual scenario, and the council already has experience of assessing such applications at other sites. A separate EIA Environmental Statement (ES) did not need to be submitted for the Heybeck Lane site.
- 10.289 Should outline planning permission be granted, it is not considered that a precedent would be set for development on green belt land in the future.
- 10.290 Financial gain to be made by the developer is not a material planning consideration.
- 10.291 The impact of the proposed development on property values is not a material planning consideration.
- 10.292 Loss of views across private land (not under the control of the viewer) is not a material planning consideration.

## 11.0 CONDITIONS

11.1 The conditions listed below (in summary) are recommended at this outline application stage. It is recommended that authority to finalise the wording of the conditions, and to amend and add to this list, be delegated to the Head of Planning and Development.

- 1) Standard outline condition (approval of reserved matters prior to commencement, including allowance for an infrastructure-only reserved matters application to be submitted).
- 2) Standard outline condition (implementation in accordance with approved reserved matters).
- 3) Standard outline condition (reserved matters submission time limits – first reserved matters application to be submitted within three years of outline approval, last to be submitted within 12 years).
- 4) Standard outline condition (reserved matters implementation time limit – within two years of reserved matters approval).
- 5) Development in accordance with plans and specifications.
- 6) Details of phasing to be submitted.
- 7) Floorspace of employment element to comprise a maximum of 65% B8 use and a maximum of 50% B1c and B2 uses, and all B1a floorspace to be ancillary to a B1c, B2 and/or B8 use.
- 8) Floorspace of the local centre to include no more than 500sqm of A1 use.
- 9) D1 floorspace within the local centre shall not be used as a museum or exhibition hall.
- 10) Implementation of a traffic mitigation scheme at the Shaw Cross junction when required, in accordance with details (including road safety audits and arrangements for implementation under Section 278) to be submitted.
- 11) Implementation of other junction improvement schemes when required, in accordance with details (including road safety audits and arrangements for implementation under Section 278) to be submitted.
- 12) Submission of interim and final details of spine road (including road safety audits and arrangements for implementation under Section 38), and subsequent implementation.
- 13) Submission of interim and final details of Leeds Road and Chidswell Lane site entrances (including road safety audits and arrangements for implementation under Section 278), and subsequent implementation.
- 14) Primary school to be provided (or alternative provision made) prior to occupation of more than 700 dwellings.
- 15) Assessment of potential for decentralised energy scheme to be carried out prior to submission of Reserved Matters applications.
- 16) Flood risk and drainage – full site-wide scheme to be submitted.
- 17) Flood risk and drainage – detailed drainage proposals to be submitted for each parcel / phase.
- 18) Separate systems of foul and surface water drainage to be provided.
- 19) Ecological mitigation and enhancement details (including an Ecological Design Strategy, measures to address impacts on birds including ground-nesting farmland birds), and details of mitigation and delivery measures to be submitted.
- 20) Air quality mitigation measures to be submitted.
- 21) Further noise assessment and mitigation measures to be submitted.



- 22) Further odour assessment and mitigation measures to be submitted, and odour constraint on developable areas to be considered prior to submission of Reserved Matters applications.
- 23) Contaminated land – phase II intrusive site investigation report to be submitted.
- 24) Contaminated land – remediation strategy to be submitted.
- 25) Contaminated land – remediation strategy to be implemented.
- 26) Contaminated land – validation report to be submitted.
- 27) Coal mining legacy – details of intrusive site investigation (and, where necessary, remediation) to be submitted.
- 28) Archaeological site investigation.
- 29) Site-wide placemaking strategy to be submitted prior to Reserved Matters applications, and to include design principles, coding and other arrangements to ensure high quality, co-ordinated development that appropriately responds to existing guidance including Housebuilders Design Guide SPD.
- 30) Bus stop infrastructure audit and improvement plan to be submitted, with timeframes for implementation.
- 31) Construction (Environmental) Management Plan to be submitted.
- 32) Tree protection measures to be approved and implemented.
- 33) Temporary (construction phase) drainage measures to be approved and implemented.

11.2 Given the size of the proposed development and the likely delivery programme, it is considered appropriate to allow a longer period (up to 12 years) for the submission of Reserved Matters applications.

11.3 Of note, a significant volume of further information is expected to be submitted later at Reserved Matters stage (if outline permission is approved), and further conditions could be applied at that stage (for example, in relation to boundary treatments and electric vehicle charging).

11.3 Conditions would need to be worded to allow for phased implementation of the proposed development.

## **12.0 CONCLUSION**

12.1 The application site is allocated for mixed use development under site allocation MXS7, and the principle of mixed use development at this site is considered acceptable.

12.2 The applicant has satisfactorily addressed relevant policy requirements in relation to masterplanning, infrastructure provision, highway impacts, landscape impacts, biodiversity, sustainability and other planning matters.

12.3 The site has constraints in the form of adjacent residential development (and the amenities of these properties), access, topography, drainage, ecological considerations, and other matters relevant to planning. These constraints have been sufficiently addressed by the applicant, or would be addressed at Reserved Matters and conditions stages.

12.4 Given the above assessment and having particular regard to the up to 1,354 homes (20% of which would need to be affordable homes) and the up to 122,500sqm of employment floorspace that would be delivered by the proposed development, approval of outline planning permission is

recommended, subject to conditions and planning obligations to be secured via a Section 106 agreement.

- 12.5 The NPPF introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. The proposed development has been assessed against relevant policies in the development plan and other material considerations. Subject to conditions, it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) and is therefore recommended for approval.

### **Background Papers:**

Application and history files.

[link to planning application details](#)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f92331>

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