
Report of the Head of Planning and Development**HEAVY WOOLLEN PLANNING SUB-COMMITTEE****Date: 21-Sep-2023**

Subject: Planning Application 2023/92079 Outline application for erection of residential development of 10 dwellings, demolition of existing extension at 27 Moor Lane, widening of existing access and realignment of boundary walls. Rear of 23 to 43 Moor Lane, Gomersal, Cleckheaton, BD19 4LF

APPLICANT

Helen Davies, Binks
Executive Homes Ltd

DATE VALID

11-Jul-2023

TARGET DATE

10-Oct-2023

EXTENSION EXPIRY DATE

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

[Public speaking at committee link](#)

LOCATION PLAN

Map not to scale – for identification purposes only

Electoral wards affected: Birstall and Birkenshaw

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

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. Off-site Biodiversity Net Gain contribution (£43,470)**
- 2. Incorporation of a Drainage Management Company**
- 3. Incorporation of a Highways Management Company**
- 4. Incorporation of a Public Open Space Management Company**

In the circumstances where the Section 106 agreement has not been completed within 3 months of the date of the Committee's resolution 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 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 The application has been brought to the Heavy Woollen Planning Sub-Committee for decision due to the significant volume of local opinion received over the lifetime of the application (in excess of 90 public comments received). This is in accordance with the Council's Scheme of Delegation.
- 1.2 Ward Councillor Smaje has also requested that the application be referred to the Sub-Committee citing concerns regarding highway safety, housing density and reduction of open space.
- 1.3 The Chair of the Heavy Woollen Planning Sub-Committee has confirmed that Cllr Smaje's reasons for the referral to the committee are valid having regard to the Councillor's Protocol for Planning Committees and in conjunction with the number of representations received in relation to the application.

2.0 SITE AND SURROUNDINGS

- 2.1 The application site is formed from an area of vacant, vegetated land to the north of Moor Lane which is bounded on all sides by existing residential dwellings. The site access would be taken from a small, voided area between Nos. 25 and 27 Moor Lane which currently provides a means of access to the area.

2.2 The site has not previously been developed and hosts a number of large boundary trees which screen some of the existing dwellings at the northeast and northwest of the site, as well as a Listed heritage asset to the west.

2.3 The application site red line boundary measures approximately 0.44 hectares.

3.0 THE PROPOSAL

3.1 The applicant is seeking outline planning permission for the '*erection of residential development of 10 dwellings, demolition of existing extension at 27 Moor Lane, widening of existing access and realignment of boundary walls*'.

3.2 The matters for consideration under this application relate to the principle of development and access. Matters relating to appearance, landscaping, layout, and scale have been reserved.

3.3 This application is a revision of the previously refused application 2022/92100. This application was refused by members of Heavy Woollen Planning Sub-Committee for the following reasons:

- The proposal would result in a cramped and intensive form of development on existing green space which would be out of keeping with the character of the area.
- The proposal would result in detrimental impact on the residential amenity of the occupants of nos. 25 and 27 Moor Lane.
- Inadequate visibility splays, which would require the use of third-party land, would have a detrimental impact on highway safety.

3.4 Since the previous application, the agent has outlined the following amendments to the scheme by way of a justification for resubmission:

- Undertaken an independent density assessment.
- Improvement to amenity open space.
- Acoustic fence up to level of windows on side elevation of no.27 Moor Lane.
- Bollards on visibility splay to prevent parking.
- Plots 1 and 2 re-positioned to allow view to adjacent listed building.

Supporting Information

3.5 In addition to the submitted plans, the following documents have been submitted in support of this application:

- Application Form
- Drainage Statement
- Drainage Investigation Report
- Planning Statement
- Biodiversity Net Gain Assessment
- Biodiversity Metric
- Preliminary Ecological Appraisal
- Coal Mining Risk Assessment
- Phase 1 Geo-Environmental Report
- Tree Survey

- Arboricultural Impact Assessment
- Note on Access Matters
- Character and Density Analysis
- Design and Access Statement
- Climate Change Statement

4.0 RELEVANT PLANNING HISTORY

Application: 2022/92100

Description: Outline application for erection of residential development of 10 dwellings, demolition of existing extension at 27 Moor Lane, widening of existing access and realignment of boundary walls.

Decision: Refused 27/06/2023

Application: 2012/92903

Description: Outline application for erection of detached dwelling

Decision: Withdrawn 10/01/2013

Application: 2009/93447

Description: Outline application for erection of 5 dwellings

Decision: Withdrawn 28/01/2010

5.0 HISTORY OF NEGOTIATIONS

- 5.1 The Lead Local Flood Authority (LLFA) raised concerns regarding the proposed drainage strategy. Amended details were submitted and the LLFA had no further objections to the proposal. Officers queried the density calculations in the submitted Area Character and Density Appraisal. An amended version was submitted by the applicant.

6.0 PLANNING LEGISLATION AND POLICY

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Kirklees Local Plan. The Kirklees Local Plan was adopted on 27 February 2019 and comprises the strategy and policies document, allocations and designations document and associated proposals map.
- 6.2 The following legislation, policies, and guidance are considered relevant to the determination of this application:

Kirklees Local Plan (February 2019)

The site is unallocated in the Kirklees Local Plan.

- Policy LP1 – Presumption in favour of sustainable development
- Policy LP2 – Place Shaping
- Policy LP3 – Location of new development
- Policy LP7 – Efficient and effective use of land and buildings
- Policy LP11 – Housing Mix and Affordable Housing
- Policy LP20 – Sustainable travel

- Policy LP21 – Highways and access
- Policy LP22 – Parking
- Policy LP24 – Design
- Policy LP27 – Flood risk
- Policy LP28 – Drainage
- Policy LP30 – Biodiversity & Geodiversity
- Policy LP32 – Landscape
- Policy LP33 – Trees
- Policy LP35 – Historic environment
- Policy LP52 – Protection and improvements of environmental quality
- Policy LP53 – Contaminated and unstable land

Supplementary Planning Documents

- Affordable housing and housing mix SPD (March 2023)
- Housebuilders Design Guide SPD (June 2021)
- Biodiversity Net Gain Technical Advice Note (June 2021)
- Open Space SPD (June 2021)
- Planning Applications Climate Change Guidance (June 2021)
- Highway Design Guide SPD (November 2019)

National Policies and Guidance

- 6.3 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published in 2012 and updated most latterly in July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for Local Planning Authorities and is a material consideration in determining planning applications.

National Planning Policy Framework (NPPF) (July 2019)

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 5 – Delivering a sufficient supply of homes
- 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

Climate Change

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

- 6.5 On the 12th of November 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 would use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

7.0 REPRESENTATIONS (PUBLIC)

- 7.1 This application has been advertised as a major development.
- 7.2 Publication of the application has been undertaken in accordance with the Council's Development Management Charter (July 2015) and in line with the Council's adopted Statement of Community Involvement (December 2019).
- 7.3 The statutory public consultation period took place between 18/07/2023 to 31/08/2023.
- 7.4 During this period of public consultation, a total of 92 representations were made. Of these, 91 were received as objections, 1 as a general comment and none in support.
- 7.5 It is noted that the 92 representations were received by 57 individuals. 29 of the submitted representations were received by three separate individuals. One of the submitted objections was to inform the council that a previous objection had not been publicised – this has since been resolved.
- 7.6 The key points raised in OBJECTION are summarised as follows:

Highways/Car Parking/Accessibility

- Proposal would exacerbate existing highways safety concerns due to the volume of traffic using and on-street parking on Moor Lane.
- Larger and emergency services vehicles would not be able to access the site easily.
- Footpath provision in the area is insufficient.
- Site access is unsafe for vehicles and pedestrians.
- Construction traffic would cause disturbance in the area.
- Moor Lane is no longer accessed by public transport.
- Level of on-site car parking would not be sufficient.
- The bollards will not be visible in poor light.
- The visibility splays are sub-standard and blocked by no.29 Moor Lane's boundary treatment.
- Road has potholes.
- Parking to the northern side of Moor Lane not considered.
- No measurements annotated on proposed driveways.

Ecology/Biodiversity

- Proposal would detrimentally impact local wildlife.
- Proposal would result in a loss of mature and TPO trees.
- Proposal would remove green space from the area.
- Proposal would lead to a significant reduction in biodiversity.

Drainage

- Proposal would increase surface water run-off/flooding risk to neighbouring dwellings.
- Additional drainage requirements would put pressure on the existing system.
- The proposed drainage would be within the control of third parties.

Landscape Character/Heritage

- Character of the area would be impacted.
- Character of the Conservation Area would be impacted.
- Proposal would impact on the setting of a Grade II* Listed Building.

Residential Amenity

- Proposal would lead to overlooking and privacy issues on adjacent dwellings.
- Proposed dwellings would overshadow existing dwellings.
- Proposal would lead to a loss of outlook for neighbouring dwellings.
- Additional light pollution from car headlights leaving the site would impact residential amenity.
- The proposed acoustic fencing would not be sufficient.

Other

- Previous site history shows the site not being acceptable for new dwellings.
- New dwellings should be encouraged on Brownfield sites.
- Strain on local facilities and infrastructure which are already stretched.
- Noise levels would be increased in the area.
- Site is not suitable for development due to previous coal mining activity in the area.
- Proposal would constitute overdevelopment of the site.
- Public consultation process has been questioned.
- Proposed housing mix doesn't reflect local need.
- Negative impact on existing properties house prices.
- Would include land within third party ownership, including owned by Kirklees Council.
- The private driveway adjacent to no.12 Knowles Lane would be used for access.

7.7 The key points raised as COMMENT are as follows:

- Proposal would cause major traffic problems.
- Proposed access is on a blind corner.
- Lack of existing parking.

7.8 It is noted that the previous application received 111 public representations over the lifetime of the application. 1 was made in support, 66 were received as objections, and 5 as general comments. A number of the representations received during the course of this application referred to their comments on the previous application (2022/92100).

7.9 **Local Members:**

Cllr Joshua Sheard (Birstall and Birkenshaw) – No comments received.

Cllr Mark Thompson (Birstall and Birkenshaw) – No comments received.

Cllr Elizabeth Smaje (Birstall and Birkenshaw) – Objects to the proposal.

"I am emailing with objections to the above application. [...] Should you be minded to approve, I would ask that this be referred to planning subcommittee due to the number of responses against the development and on Highways grounds." (30/08/2023)

8.0 **CONSULTATION RESPONSES**

8.1 A summary of consultee responses is set out below. Where appropriate, these are expanded on within the main appraisal:

8.2 **Statutory:**

KC Highways Development Management – No objections subject to conditions.

KC Lead Local Flood Authority – Supports the proposal subject to conditions.

Coal Authority – No objections subject to conditions.

8.3 **Non-Statutory**

As this is a resubmission of a previous application (2022/92100), and there has been limited changes to certain aspects of the scheme, and taking into consideration the relatively short time period since consultee comments on the previous application were received, re-consultation was not considered necessary for all consultees.

Revisions were made to the scheme including the addition of bollards and revisions to the layout in relation to the nearby listed buildings, as well as amendments to the biodiversity net gain. Therefore, the following consultees were re-consulted on the amended scheme:

KC Conservation & Design – No in principle objection subject to conditions.

KC Ecology – No objections subject to conditions and a Section 106 obligation.

KC Environmental Health – No objections subject to conditions.

9.0 MAIN ISSUES

9.1 Taking into consideration the site allocations and constraints, the main issues for consideration as part of the appraisal of the application are:

- Principle of Development
- Design, Layout & Landscape Character
- Amenity
- Highways Safety & Parking
- Heritage
- Ecology, Biodiversity & Trees
- Flood Risk & Drainage
- Other Material Considerations

10.0 OFFICER ASSESSMENT

Principle of Development

Spatial Strategy

- 10.1 Policy LP1 sets out the Local Planning Authority's approach to the presumption in favour of sustainable development, as laid out in NPPF (Chapter 2), particularly Paragraph 11(c). Policy LP1 states that 'when considering development proposals, the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework'.
- 10.2 Policy LP2 requires that 'proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan, in order to protect and enhance the qualities which contribute to the character of these places'. The policy's supporting text identifies Gomersal as having a strong housing market, but that the area is at risk traffic congestion which can detrimentally affect local public transport routes.
- 10.3 To achieve sustainable growth, a housing need of c. 270 new residential dwellings has been identified within Policy LP2 for Gomersal, through a combination of housing and mixed-use site allocations, over the lifetime of the adopted Kirklees Local Plan. As this site is unallocated, it represents a windfall site (as defined within the NPPF) which would provide over and above that need which has been identified within the KLP.
- 10.4 Policy LP3 concerns the location of new development. In considering the abovementioned requirements of Policies LP1 and LP2, proposals are also required to reflect a settlement's size and function, place shaping strengths and opportunities/challenges for growth, spatial priorities for urban renaissance and regeneration, and the need to provide new homes and jobs.

- 10.5 Officers note the unallocated nature of this site for both residential [or other type of] development or environmental designation/protection. However, it is further considered that a new residential development of c. 10 dwellings on this site would not be out of keeping with the housing need for Gomersal and would retain the predominantly residential function of the surrounding area. As such, Officers consider that the principle of development for the proposal to be in accordance with Policies LP1, LP2, and LP3 of the adopted Kirklees Local Plan.

Affordable Housing

- 10.6 Under Policy LP11, affordable housing contributions are only sought for proposals over 10 new residential dwellings (i.e., 11+ dwellings). As this application proposes 10 new dwellings, no affordable housing contribution is being sought in line with adopted policy requirements.

Design, Layout & Landscape Character

Housing Density

- 10.7 The previous application (2022/92100) was refused for the following reason:

“The proposed development, by reason of the number of dwellings and subsequent layout would result in a cramped and intensive form of development on the existing green space which would be out of keeping with the character of the area. To approve the proposed development would be contrary to Policy LP24(a) of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.”

- 10.8 As part of the submitted information, the applicant has submitted an Area Character and Density Appraisal. This calculates the surrounding relative housing densities of the existing residential developments at between 22 to 42 dwellings per hectare, which is given as justification (in part) for the density proposed under this application. Since the submission of the previous application the Council has also published an update of the five-year land supply.
- 10.9 The Local Plan identifies a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum. National planning policy requires local planning authorities to demonstrate five years supply of deliverable housing sites against their housing requirement.
- 10.10 The 2023 up-date of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land. As the Council is currently unable to demonstrate a five-year supply of deliverable housing sites, it is necessary to consider planning applications for housing development in the context of NPPF paragraph 11 which triggers a presumption in favour of sustainable development. This means that for decision making “Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (NPPF Footnote 8), granting permission unless: (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (NPPF Footnote 7) ; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

- 10.11 The Council's inability to demonstrate a five-year supply of housing land weighs in favour of housing development but has to be balanced against any adverse impacts of granting the proposal. The judgement in this case is set out in the officer's assessment."
- 10.12 Policy LP7 states that developments should achieve a net density of at least 35 dwellings per hectare, where appropriate. Lower densities could be acceptable if it can be demonstrated that this is necessary to ensure the development is compatible with its surroundings (and other criteria considered not to be relevant in this instance). It also identifies that proposals should encourage the use of previously developed land in sustainable locations and give priority to despoiled, degraded, derelict and contaminated land that is not of high environmental value.
- 10.13 NPPF (Chapter 11) Paragraph 119 states that proposals should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Additionally, Paragraph 124 requires that proposals should support development that makes efficient use of land. This includes consideration of the desirability of maintaining an area's prevailing character and setting and the importance of securing well-designed, attractive and healthy places.
- 10.14 The site is formed of an area of unused green space which currently separates 4 distinct existing residential developments; those on Moor Lane, Knowles Lane, Summerdale, and Richmond Grove/Ventnor Close. As outlined above, the applicant has submitted an Area Character and Density Analysis in support of this application which outlines the density of the proposed development in comparison to the surrounding, existing residential developments.
- 10.15 As the proposal is for 10 dwellings on a site of c. 0.44ha, this equates to a proposed housing density of c. 23 dwellings per hectare. Officers recognise that this is considerably lower than the policy requirement of 35 dwellings per hectare and at the lower end of those existing densities in the surrounding area. In being so, Officers also note that the revised proposal, although only indicative at this stage, makes space for other material planning considerations, such as areas for habitat creation, non-car dominated dwelling frontages, and good levels of outdoor amenity garden space for the proposed dwellings.
- 10.16 Officers consider that the site would be incapable of accommodating a residential development of 35 dwellings per hectare due to its size, site constraints, and visual and landscape character impacts on the surrounding area given the nature of the surroundings developments' densities and built form/dwelling types.
- 10.17 It is noted that the previous application, which proposed the same density, was refused by members at planning committee due to the density resulting in a cramped and intensive form of development. Whilst this has been taken into consideration, for the reasons outlined above, as well as other policy and material considerations as laid out throughout this report, the proposed density (10 dwellings on the application site) is considered acceptable in this instance. The proposal is therefore considered to be in accordance with Policy LP7 of the adopted Kirklees Local Plan and NPPF (Chapter 11), particularly Paragraphs 119 and 124.

Landscape Character

- 10.18 Policy LP32 requires that proposals should be designed to take into account and seek to enhance the landscape character of the area, with particular consideration of the setting of settlements and buildings within the landscape, as well as other environmental features in the vicinity.
- 10.19 NPPF (Chapter 12) Paragraph 130 requires that proposals function well and add to the overall quality of the area, are visually attractive, are sympathetic to local character and history (including the surrounding built environment and landscape setting), establish or maintain a strong sense of place, optimise the site's potential for sustainable development, and create safe, inclusive and accessible places.
- 10.20 As noted above, the site currently is mostly unused area of unused green space between existing residential development, seen only predominantly from their back garden areas. In this regard, it is considered that the site does not provide a high landscape character value to the surrounding area, as it is largely unseen except for rear facing aspects of existing private residential dwellings. As a result, the proposed residential development (at a maximum of 2 storeys) would also likely be largely unseen from the roadside, with the exception of the proposed new access track between N0. 25 and 27 Moor Lane. This is not considered to detrimentally affect the landscape character of the surrounding area due to the predominantly residential nature of the area.
- 10.21 It is noted, however, that the proposal would remove and reduce some areas of the boundary walls and landscaping at the frontages of Nos. 23, 25, and 27 Moor Lane to facilitate site access visibility splays. This is considered to impact on the character of this area of Moor Lane, given that this area is currently characterised by strong highway boundaries with characterful stone walling at property boundaries along Moor Lane. Whilst this impact is acknowledged, it is considered to be of limited weight in the planning balance as the proposed visibility splays would likely improve existing road safety concerns at this corner on Moor Lane. It is considered that without the proposed visibility splays resulting from the proposal, there would be little likelihood that road safety improvement measures could be reasonably incorporated within Moor Lane to address the existing concerns due to its existing constraints.
- 10.22 In light of this, the proposal is considered to be, on balance, in accordance with Policy LP32 of the adopted Kirklees Local Plan and NPPF (Chapter 12) in terms of landscape character impacts, particularly as the potential detrimental effects of the proposal are considered to be outweighed by other material considerations.

Housing Type & Mix

- 10.23 Policy LP11 requires proposals on sites larger than 0.4ha to provide a mix of housing (of both size and tenure) suitable for different household types and reflecting the changing household composition in the borough. This includes provision of dwellings suitable for adaptation and/or use from those with specialist needs.

10.24 The proposal seeks an indicative proposed housing mix of:

- 6no. 3-bed dwellings
- 4no. 4-bed dwellings

10.25 At this stage, it is unclear whether the proposed dwellings would be suitable for adaptation and/or use from those with specialist needs; or would meet the voluntary compliance standards of M4(2) (Accessible and adaptable dwellings) and M4(3) (Wheelchair user dwellings) of The Building Regulations 2010 (as amended).

10.26 The Council has adopted the Affordable Housing and Housing Mix SPD (March 2023). Principle 1 (Market Housing Mix) of this SPD states that “all proposals for housing must aim to provide a mix (size and tenure) of housing suitable for different household types which reflects 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. Proposals for more than 10 dwellings, or on sites of at least 0.4 hectares, should seek to meet local housing needs by using the market housing shares set out in Table 1 as a starting point.”

10.27 This site is approximately 0.44 hectares in size and is located in the Batley and Spen sub-area. For the Batley and Spen area, the housing mix set out in Table 1 is:

- 1- and 2-beds: 30-60%
- 3-beds: 20-40%
- 4+ beds: 15-35%

10.28 Given the above figures, Officers consider that the housing mix as indicatively shown would broadly address the housing need for this area of the borough. Further consideration of the proposed housing mix would need to take place under Reserved Matters to be acceptable under Policy LP11 of the adopted Kirklees Local Plan and the Affordable Housing and Housing Mix SPD.

Form, Scale and Massing & Materials

10.29 As this is an outline application, details of appearance have been reserved. As such, no indicative elevational details have been submitted as part of this outline application. However, some indicative information has been received setting out that the proposed dwellings would each be two-storey in height, be a mix of detached and semi-detached dwellings, and exceed the Nationally Described Minimum Space Standards. These features are likely to be considered acceptable in design and amenity terms under Policy LP24 and NPPF Chapter 12 given the prevailing design vernacular and development character of the surrounding area. Further detailed matters of form, scale and massing, along with materials, would be considered at Reserved Matters stage should outline planning permission be granted.

On-Site Landscaping

- 10.30 As this is an outline application, details of landscaping have been reserved. As such, no detailed indicative landscaping information has been received, other than in relation to arboricultural considerations. KC Landscape considered this under the previous application and recommend the imposition of conditions to secure a full hard and soft landscaping scheme with a 5-year management and maintenance plan to be submitted and considered at Reserved Matters stage. Officers note this approach and shall secure the relevant conditions for consideration in due course.
- 10.31 Notwithstanding the indicative nature of the proposed site layout at this stage, Officers note the indicative inclusion of areas of communal habitat land throughout the site which would be considered to add to the visual amenity of the overall site. These would also help – to a limited extent – to retain some of the site's existing scrubland character within the proposal. The inclusion of new open space within smaller site is encouraged by Policy LP63 of the adopted Kirklees Local Plan, although there are no specific requirements to do so.

Amenity

Separation Distances & Residential Amenity

- 10.32 Policy LP24(b) requires that proposals provide a high standard of amenity for future and neighbouring occupiers; including maintaining appropriate distances between buildings and the creation of development-free buffer zones between housing and employment uses incorporating means of screening where necessary.
- 10.33 Principle 6 of the adopted Housebuilders Design Guide SPD sets out the typical minimum separation between new and existing dwellings. These are:
- 21m between rear habitable room windows;
 - 12m between habitable and non-habitable room windows;
 - 10.5m between habitable room windows and boundaries of adjacent undeveloped land; and,
 - 2m between side walls and shared boundaries where a new dwelling is located within a regular street pattern of 2-storeys or above.
- 10.34 The proposed dwellings are indicatively located c. 7m from the closest dwelling to the east of the site, c. 21m from those to the south, c. 18m from those to the north (to the rear garages), and c. 31.5m from those to the west (Grade II* Listed Building). Officers consider that, depending on the locations and opacity of habitable windows in the final design of the proposed dwellings under Reserved Matters, the proposal would likely be able meet the requisite separation distances as specified by the SPD. It is further considered that as a result of this, and the proposed two-storey dwelling height, they would likely not cause significant detrimental impact on the residential amenity of neighbouring occupiers in terms of overbearing, overlooking, or overshadowing.
- 10.35 The existing dwellings face onto the site via their rear gardens. As such, the proposal would not be expected to cause significant detrimental impact on the residential amenity of neighbouring occupiers resulting from a loss of outlook.

- 10.36 The proposed dwellings would indicatively have access to good outdoor amenity (garden) space to the front and rear of the properties. The proposed internal floor plans of the proposed dwellings are currently unknown and would need to be fully considered under Reserved Matters. However, as noted previously in this report, each of the dwellings as indicatively shown exceed the Nationally Described Minimum Space Standards. As such, the likelihood is that acceptable levels of residential amenity within the dwellings can be achieved in line with Policy LP24 and the Housebuilders Design Guide SPD.

Dwellings Adjacent to Site Access

- 10.37 As the proposed site access would be immediately adjacent to Nos. 25 and 27 Moor Lane, due consideration of the impacts on the residential amenity of these occupants from the proposed access needs to be fully considered at this stage. It is noted that the proximity of the proposed access to these properties was given as a reason for refusal of the previous scheme.
- 10.38 The proposed access road would be located within c. 1.5m of the side of No. 25 Moor Lane and within 2.4m of No. 27. Three windows (some of which are highly likely to be habitable) are sited within the eastern wall of No. 25 which, due to site levels, overlook and are separated from the existing grass track by a 1.8m fence. The applicant is proposing to provide a c. 0.6m wide footpath between the new access road and the boundary fence on No. 25, and a c. 2m path between the road and No. 27.
- 10.39 So as to mitigate any undue the harm to the neighbouring occupants, the applicant has submitted indicative details of boundary treatment, including acoustic timber fencing, in order to reduce the impact of noise pollution on the existing and future occupants. The existing timber fences at no.25 and no.27 would be replaced with acoustic timber fence comprising 150 x 19mm palings with a minimum of 25mm overlap on timber rails to offer 5db noise reduction. The same acoustic timber fencing will also be installed above the existing stone wall.
- 10.40 KC Environmental Health were informally consulted on the proposal, and it is considered that the proposed timber fencing would satisfactorily mitigate noise pollution from vehicles using the proposed access. The proposed fencing generally meets the specification requirements for acoustic fencing, however additional detail would be required regarding the construction to ensure it would adequately perform its required function. This would be secured by condition.
- 10.41 The proposal would require the demolition of an extension to No. 27 Moor Lane. It is unclear what this extension is currently used for, but Officers note that its removal would likely have some impact on the residential amenity of the occupiers of No. 27 Moor Lane.
- 10.42 Officers also note that the rear garden of No. 27 Moor Lane would also be significantly reduced to facilitate internal forward visibility splays due to the indicative layout of the new road. Overall, the total land associated with of No. 27 Moor Lane would be reduced given the extent of land required to accommodate the technical highway requirements of the proposal, which would ultimately have an impact on the residential amenity of future occupiers of the dwelling.

- 10.43 Officers consider that the residential amenities of neighbouring occupiers would likely be detrimentally affected by the proposed access arrangements of the proposal, albeit not significantly with the provision of the proposed mitigation. As such, subject to the inclusion of conditions, the proposals would, on balance, comply with the aims of Policy LP24 of the KLP.

Noise

- 10.44 Policy LP52 of the KLP requires that proposals which have the potential to increase noise pollution must be accompanied by evidence to show that the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution, so as to ensure it does not reduce the quality of life and well-being of people to an unacceptable level or have unacceptable impacts on the environment.
- 10.45 KC Environmental Health reviewed the submitted information under the previous application and note that the site is in the vicinity of two busy roads: A652 (Dewsbury Rd) and A651 (Oxford Rd). It is also within 500m of the M62. As this could lead to detrimental impacts on the residential amenity of future occupiers, KC Environmental Health recommended a pre-commencement condition for a Noise Impact Assessment and Mitigation Scheme. Officers note the recommended approach and it is recommended to secure the necessary conditions in the interests of providing satisfactory levels of residential amenity for existing and future occupiers. As such, the proposal is considered to be in accordance with Policy LP52 of the adopted Kirklees Local Plan.

Refuse and Waste

- 10.46 Policy LP24(d)(vi) of the KLP requires that proposals incorporate adequate facilities to allow occupiers to separate and store waste for recycling and recovery that are well designed and visually unobtrusive and allows for the convenient collection of waste.
- 10.47 As this is an outline application, the full details of the site layout and associated refuse and waste storage and collection measures have not been provided at this stage. However, general consideration of the design principles and full consideration of the site's ability to allow the removal of waste by Refuse Collection Vehicles (RCV) can be considered.
- 10.48 KC Waste Strategy and KC Highways DM have reviewed the submitted information. Detailed advice has been provided in relation to the on-site storage of refuse and waste, collection points, and appropriate drag distances for wheelie bins for submission and assessment at Reserved Matters stage. Following the submission of a revised access plan, it is considered that Refuse Collection Vehicles would be able to safely access and exit the site in forward gear. The indicative site layout shows adequate space for a turning to facilitate this, but Officers note that the final site layout would be fully considered under Reserved Matters.
- 10.49 As such, Officers consider that the proposal is in accordance with Policy LP24(d)(vi) of the adopted Kirklees Local Plan with regards to refuse and waste collection.

Highways Safety & Parking

Location Sustainability

- 10.50 Policy LP20 requires that proposals are located in accordance with the Council's spatial strategy to ensure the need to travel is reduced and that essential travel needs can be met by forms of sustainable transport other than the private car. Furthermore, proposals should be designed to encourage sustainable modes of travel and demonstrate how links have been utilised to encourage connectivity.
- 10.51 The site is located within a reasonable walking distance of a number of bus stops on Moor Lane, A652, and A651. These provide regular bus services to Halifax, Cleckheaton, Brighouse, Batley, Bradford, Dewsbury, and Leeds.
- 10.52 There are also a number of Public Rights of Way within the wider vicinity of the site.
- 10.53 Given the above, Officers consider that the site is located in a sustainable location and offers good links into the local public transport and other sustainable travel networks. In light of this, the proposal is considered to be in accordance with Policy LP20 of the adopted Kirklees Local Plan.

Highways Safety and Site Access

- 10.54 Policy LP21 requires proposals to demonstrate sustainable modes of transport and be accessed effectively and safely by all users. 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. Furthermore, proposals are required to demonstrate adequate information and mitigation measures to avoid a detrimental impact on highway safety and the local highway network.
- 10.55 NPPF (Chapter 9) Paragraph 111 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 112 further details priority use of new roads, addressing the needs of people with disabilities, creating safe and secure places, allowing for efficient delivery of good and emergency service access, and enabling the use of electric vehicles.
- 10.56 The adopted Highway Design Guide SPD sets out the Council's approach (as the Local Highway Authority) to the design and sustainability of new highways development. This includes technical details of appropriate road types and achieving requisite visibility splays, as well as car parking provision for new developments.
- 10.57 The previous application (2022/92100) was refused due to the inadequate visibility splays, which required the use of third-party land, causing significant harm to highway safety. It is noted this has been raised as a specific concern in public representations, by Cllr Smaje and by members at the previous committee. Members raised concerns during discussion at the previous planning committee, that the visibility splays proposed would be parked in by vehicles, thus blocking the visibility. In response to this, the applicant has provided plans proposing six 0.9m high Manchester type bollards, set 600mm from the highway.

- 10.58 KC Highways DM have been consulted on the revised proposal and consider the addition of the bollards on the new site frontage footway, to prevent parking causing obstructions to visibility, are considered acceptable from a highway's perspective. The Manchester-type bollard proposed has been discussed with KC Section 278 Highways team and is considered an acceptable and appropriate choice of bollard. It would be conditioned that the bollard details are submitted to, and approved in writing by, the Local Planning Authority prior to the access being brought into use. The bollards should comply with standard detailing for a Bollard Type MB1 as outlined in Kirklees Highways Standard Detailing. Officers consider, on balance, that the proposed bollards would overcome members' previous concerns as it would prevent vehicles from being able to park in the proposed visibility splay.
- 10.59 As outlined in the officer's report for the previous application, the applicant has submitted a Highways Access Report and supporting information on highway matters in support of this application. These conclude that the proposal would not likely have a detrimental impact on the free flow of traffic or lead to congestion along Moor Lane or the wider local highway network. The reports further detail that the site entrance would provide a safe means of access and that appropriate visibility splays can be achieved.
- 10.60 A site access strategy has been received which shows the western visibility splay being achieved through the removal and relocation of parts of the southern boundary walls and vegetation of Nos. 23 and 25 Moor Lane. The applicant confirmed during the previous application that permission has been sought from the neighbouring occupiers to do so via relevant legal agreements. Officers recommend this is secured via a S106 agreement, as the visibility splay is included within the red line boundary. Internal forward visibility within the site would be accommodated through the reduction of the applicant-owned No. 27 Moor Lane's rear garden area to achieve the required splay. Provision of a pedestrian footway into the site has also been included in the revised scheme on both sides of the access road.
- 10.61 The applicant has also confirmed that they do not intend to offer the internal estate road for adoption to the Council through a Section 38 Agreement. As such, a management company would need to be secured via a Section 106 Agreement to maintain the estate road for the lifetime of the development.
- 10.62 KC Highways Development Management previously requested conditions for the provision of visibility splays in perpetuity and full details of the internal estate roads. This would be included in the subsequent decision notice, should outline planning permission be granted.
- 10.63 Officers acknowledge the public representations received regarding the proposed means of site access. These have been addressed by the applicant, addressing the concerns raised during representation for the previous application. Officers also note that the statutory technical consultee has raised no objections in highway safety terms, or any other technical highway matters. It is considered that the proposal would provide a safe site access which is capable of allowing access for private and small-scale commercial vehicles, Refuse Collection vehicles and other road users, including pedestrians. The proposed visibility splays are also considered to represent a positive impact on highways safety on this corner of Moor Lane, which is already a pinch point, by widening the carriageway and promoting sight lines further down the street than are currently available.

- 10.64 Overall, subject to conditions and s106 agreement, the proposal is considered to be in accordance with Policy LP21 of the adopted Kirklees Local Plan, the Highway Design Guide SPD, and Chapter 9 of the NPPF.

Car and Cycle Parking

- 10.65 Policy LP22 requires that proposals provide full details of the design and levels of proposed parking provision following the principles set out in the policy wording. In doing so, they should demonstrate how the design and amount of parking proposed is the most efficient use of land within the development as part of encouraging sustainable travel.
- 10.66 The Highway Design Guide SPD does not set local parking standards but notes that it should be used as an initial point of reference in designing new schemes. Based on the calculations within the SPD for this proposal, a total 27 car parking spaces would be required (25 residential and 2 visitor). The SPD also recommends 1 cycle parking space per dwelling.
- 10.67 This details that based on the indicative housing mix, each new dwelling would have access to two off-street car parking spaces. Plots 1, 2, 8, and 10 (4-bed dwellings) would also include integral garages with space for one car (the minimal required internal dimensions would be 6m x 3m to be classed as a parking space). Additionally, the proposal would indicatively cater for three visitor car parking spaces within the site and the re-location of two car parking spaces for No. 27 Moor Lane which would be lost to facilitate the proposed access road. These would be relocated to the west of Plot 3 to the rear of No. 27 Moor Lane. A total of 29 car parking spaces are proposed.
- 10.68 No information on the provision of cycle storage has been submitted at this stage. However, as part of Reserved Matters considerations, details of garden shed storage for cycles at each proposed dwelling would be expected.
- 10.69 The proposal would be expected to incorporate Electric Charging Vehicle Points (EVCPs). No information has been provided in relation this. However, KC Environmental Health recommend the imposition of conditions to secure the relevant number of EVCPs on the site. The applicant's attention is also brought the new EVCP regulations under Part S of The Building Regulations 2010 (as amended).
- 10.70 Officers consider that based on the proposed quantum of residential dwellings, the proposal levels of off-street and visitor car parking are acceptable. As such, the proposal is considered to be in accordance with Policy LP22 of the adopted Kirklees Local Plan and Highway Design Guide SPD.

Heritage

- 10.71 Under the provisions of Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and NPPF (Chapter 16) Paragraph 200, special attention is to be paid to the desirability of preserving or enhancing the character or appearance and settings of Listed Buildings or any features of special architectural or historic interest, and the character of the Conservation Area.

- 10.72 Policy LP35 of the KLP requires that proposals affecting a designated heritage asset should preserve or enhance the significance of the asset. In cases likely to result in substantial harm or loss, development will only be permitted where it can be demonstrated that the proposals would bring substantial public benefits that clearly outweigh the harm or meet the four tests outlined in the policy wording.
- 10.73 The site lies adjacent to the Gomersal Conservation Area, c. 16.5m to the west and c. 3.5m to the south of the site (within Moor Lane).
- 10.74 The site also lies adjacent to the grounds of the Grade II* Listed mid to late C.17 Manor House and Peel House and c. 23m to the east of the listed heritage asset itself.
- 10.75 Whilst it is noted that the harm to historic character was not a previous reason for refusal, it is noted that it was referred to by members at the previous planning committee and has been raised in representation. Since the previous application, the applicant has repositioned Plot 1 and 2, to allow for views to the adjacent listed building. As outlined on the previous application, KC Conservation & Design still have concerns about the removal of trees on the western boundary and the siting of plots 1 and 2 within the setting of this listed building, which will be fully assessed as part of the reserved matters application.
- 10.76 Notwithstanding the above, as previously set out, this is an outline application including access and therefore all other matters, including layout, are to be assessed at the subsequent reserved matters stage. The proposed access to the site is to the south, between nos.25 and 27 Moor Lane. 25 Moor Lane is a modern detached dwelling, while 27-41 Moor Lane are mid-20th century semi-detached properties with no historical or architectural significance. The proposed access is therefore considered to not cause significant harm to the adjacent conservation area, as such KC Conservation & Design have no objections to the proposed access.
- 10.78 Where the front garden boundary wall of 25 Moor Lane would be altered, KC Conservation & Design recommend that the existing copings are reclaimed and re-bedded on the lowered wall. Instead of installing a modern fence on the front garden boundary of 27 Moor Lane, KC Conservation & Design recommend that a natural stone wall with deep copings is built to reflect the local vernacular character of the traditional boundary features in this area. This can be considered in detail at reserved matters stage.
- 10.79 KC Conservation & Design have raised concern about the proposed installation of Manchester-type bollards in this setting, as they consider that these are out of character in a street where the typical boundary feature is natural stone. This was considered by officers who, on balance, consider that the proposed bollards would be of a standard design so would have negligible impact on the historic character and are similar to bollards used within other, sensitive areas, including conservation areas. It is also noted that the proposed bollards comply with highway standards. Therefore, the bollards are considered, on balance, acceptable in this instance.

- 10.80 The applicant submitted a brief supporting heritage statement in support of this application. This concludes that any harm of the development to the setting of the Grade II* Listed Building would be 'less than substantial' given the proposed separation distances, private ownership of the site, and indicative nature of the proposed site layout. Under NPPF (Chapter 16) Paragraph 202, the applicant considers the public benefits of the proposal to outweigh any potential harm. The public benefits are set out as: the provision of 10 new residential dwellings, development of underutilised and sustainable land, and the visual improvement of the site through soft landscaping opportunities.
- 10.81 Officers are content that the proposal would be unlikely to harm the setting of the Gomersal Conservation Area but consider that the proposal has the potential to cause harm to the setting of a Grade II* Listed Building to the east of the site. Left unmitigated as part of a Reserved Matters application, this harm would likely mean that the proposal would be contrary to the requirements of Policy LP35 of the adopted Kirklees Local Plan, NPPF (Section 16), and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. However, as set out, the layout submitted as part of this application is for indicative purposes only and adequate mitigation would be secured as part of the reserved matters, should outline planning permission be granted.

Ecology, Biodiversity & Trees

Trees

- 10.82 The site hosts a number of individual and groups of trees protected by Tree Preservation Orders along its northern boundary.
- 10.83 Policy LP33 states that planning permission will not be granted for developments which directly or indirectly threaten trees or woodland of significant amenity. Furthermore, proposals should normally retain any valuable or important trees where they make a contribution to public amenity, the distinctiveness of a specific location or contribute to the environment.
- 10.84 NPPF (Chapter 12) Paragraph 131 requires that new roads which are created through planning application are tree-lined in the interests of visual amenity and to help mitigate and adapt to climate change.
- 10.85 The applicant has submitted an Arboricultural Impact Assessment and Tree Survey in support of this application. These details that the existing trees offer a range of amenity value, from low to medium and of reasonable condition. Several low value trees would be removed to facilitate the proposal, with those of higher amenity value being retained. Shading from the retained is considered to be unlikely to detrimentally impact the residential amenity of future occupiers. An Arboricultural Method Statement and Tree Protection Plan are recommended to be secured by conditions.
- 10.86 KC Trees reviewed the information submitted under the previous application and note that they have no objection in principle to the proposal and its potential effects on existing trees, but that further detailed assessment would be required at Reserved Matters stage. They further note that the loss of existing trees may have an impact on Biodiversity Net Gain requirements and the future layout of the site and/or dwellings depending on what could be achieved without resulting in long term harm to those trees with public amenity value.

- 10.87 KC Landscape also reviewed the information submitted under the previous application and noted that no street trees have been indicatively included in the proposed site plans. Although this is not for consideration under this outline planning application, further assessment of the requirements for street trees under national planning policy would be required under Reserved Matters. It is noted that this may have an impact of the overall layout of the site as space would need to be made to facilitate the required street trees.
- 10.88 Given the above, Officers consider that the proposal has provided the requisite information for an outline planning application under Policy LP33 in demonstrating that tree constraints have been considered and could be included within a detailed design. However, further detailed assessment would be required at Reserved Matters stage to ensure compliance with the policy requirements as detailed designs and layout of the site and dwellings emerge.

Ecological Implications

- 10.89 The applicant has submitted a Preliminary Ecological Appraisal (PEA) in support of this application. This concludes that the site is generally of low ecological value with low ecological connectivity to the wider landscape. The report further states that significant detrimental impacts on birds, bats, and other fauna are unlikely given the relative remoteness of the area from other habitat networks. Some ecological opportunities have been identified in relation to boundary treatments, wildflower planting, provision of bird and bat boxes, use of small mammal gates, and the implementation of green infrastructure such as rain gardens.
- 10.90 The site also lies within the 'Built-Up Areas' Biodiversity Opportunity Zone (BOZ). Policy LP30 requires proposals to incorporate biodiversity enhancement measures to reflect the priority habitats and species identified for the relevant BOZ.
- 10.91 The applicant has submitted a Preliminary Ecological Assessment Report (PEAR) which concludes that the site is of minimal ecological value; being comprised predominantly of bramble scrub and its relative isolation and low connectivity to the wider landscape.
- 10.92 KC Ecology have reviewed the revised ecological information and consider it to be a comprehensive assessment of the site. KC Ecology have raised no objections to the proposal, subject to recommended conditions for a Biodiversity Enhancement and Management Plan (BEMP) and for works to take place outside of the bird nesting season. Officers note this position and shall the secure via the necessary conditions.

Biodiversity Net Gain

- 10.93 Policy LP30 requires that proposals do not result in unmitigated or uncompensated significant loss of or harm to biodiversity and should provide biodiversity net gain through good design.
- 10.94 The Council's adopted Biodiversity Net Gain Technical Advice Note Paragraph 3.1.1 states that 'at this time, in the absence of legislation, a minimum of 10% net gain in biodiversity is required'.

- 10.95 Chapter 15 of the NPPF, at paragraph 174(d), further requires that proposals should minimise impacts on and provide net gain for biodiversity. In addition, paragraph 180(a) of the NPPF also states that if a proposal would result in unmitigated or uncompensated significant harm to biodiversity, planning permission should be refused.
- 10.96 The applicant has submitted a completed DEFRA Biodiversity Metric 3.1. This concludes that the majority of the site is to be cleared of existing vegetation, which results in a loss of 1.62 Habitat Units.
- 10.97 The submitted PEAR recommends that a BNG Strategy is drawn up during the design process, in this case, at Reserved Matters stage. However, Officers note that consideration of BNG does not form a constituent part of the remaining Reserved Matters. As such, BNG must be considered as part of this outline application as an 'in principle' matter.
- 10.98 KC Ecology have reviewed the submitted information in support of this application. They consider that in order for the development to achieve a 10% net gain, off-setting will be required, in the form of a commuted sum. This commuted sum would be secured via a Section 106 Agreement. To achieve a 10% net gain in biodiversity, 1.89 habitat units will need to be delivered, which will result in a required commuted sum of £43,470. This figure is based on £20,000 per habitat unit (figure taken from DEFRA Biodiversity Net Gain Risk Assessment) plus a 15% admin fee (as detailed in the Biodiversity Net Gain Technical Advice Note).
- 10.99 At this stage, the specific location of where the commuted sum would be spent is not finalised. However, the main priority at this stage is to secure the commuted sum, via the s106 agreement.
- 10.100 Officers note this approach to securing a Biodiversity Net Gain for this proposal, as set out in local and national planning policy, and consider that the proposal is in accordance with Policy LP30 of the adopted Kirklees Local Plan, Biodiversity Net Gain Technical Advice Note, and NPPF (Chapter 15), particularly Paragraph 174.

Flood Risk and Drainage

Flood Risk

- 10.101 Policy LP27 requires that proposals must be supported by an appropriate site-specific Flood Risk Assessment in line with national planning policy. The national policy requirements are set out in NPPF (Section 14). This details the sequential approach to development and flood risk to steer new development to areas with the lowest risk of flooding from any source.
- 10.102 The site lies in Flood Zone 1, meaning it is considered to be at the lowest risk of fluvial and river flooding. Further Government flood risk mapping also shows the site to be a very low to low risk from surface water flooding. Given this, no further sequential test is required.

10.103 Officers note the public representations in relation to historic flooding near the site. However, KC Lead Local Flood Authority (LLFA) have raised no objections with regards to an increased flooding risk potential either on or as a result of the proposal. As such, Officers consider that the proposal is in accordance with Policy LP27 of the adopted Kirklees Local Plan and NPPF (Chapter 14).

Surface and Foul Water Drainage

10.104 Policy LP28 contains a presumption for the use of sustainable drainage systems (SuDS). In addition to this presumption, the policy also states that 'development will only be permitted if it can be demonstrated that the water supply and wastewater infrastructure required is available or can be co-ordinated to meet the demand generated by the new development'.

10.105 NPPF (Chapter 14) Paragraph 169 requires major developments to incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.

10.106 The applicant has submitted a Drainage Assessment and a drainage strategy. The LLFA originally raised concerns regarding the proposed private surface water pumping. Amended details were received, and the LLFA notes that reference to a surface water Pumping Station has been removed and the attenuated surface water drainage will be via a gravity connection into the Yorkshire Water sewer in Moor Lane. Therefore, the LLFA confirms that the Drainage Statement is now acceptable. A surface water discharge flow control rate of 3.5 litres per second has been proposed.

10.107 Foul water drainage is proposed to connect to the existing sewerage system under Moor Lane via a new connection at the proposed site entrance. The private foul pumping station proposed at the eastern end of the site would discharge at a maximum rate of 4.5 litres per second.

10.108 KC LLFA have reviewed the submitted information and consider it to be acceptable, subject to conditions to secure a detailed design strategy for foul and surface water drainage, overland flow routing, and a construction phase surface water flood risk and pollution prevention plan. A legal agreement would also be required to secure the ongoing maintenance and management of the surface water drainage system by the incorporation of a management company. The method of surface water drainage proposed is also considered to be acceptable under the sustainable drainage hierarchy due to the potential for re-emergence of flows outside the site if soakage into the ground (a preferred method under the hierarchy) were proposed.

10.109 Officers also note that the outfall of the proposed surface water drainage system would cross a neighbouring property's [third party] boundaries. As such, this would require legal agreement from the property owner to allow such works to take place.

10.110 Yorkshire Water (YW) have reviewed the submitted information under the previous application and note that the proposed method of drainage is not the preferred option under the sustainable drainage hierarchy. However, this is considered to have been satisfactorily justified in Section 10.96, although YW would also assess this as part of an asset adoption application under Section 104 of the Water Industry Act 1991. YW therefore propose conditions for separate surface and foul water drainage systems and provides advice for the adoption of drainage assets and the requirements for 3rd Party permissions for drainage over/through land outside of the applicant's ownership. Provisions for ongoing surface water management and surveying of an existing culvert to the west of the site must also be secured by conditions.

10.111 Given the above, Officers note the feasibility of the surface and foul water drainage strategies and consultees' requests for pre-commencement conditions – which shall be secured. As such, Officers consider that the proposal is in accordance with Policy LP28 of the adopted Kirklees Local Plan and NPPF (Chapter 14).

Other Material Considerations

Coal Mining

10.112 Policy LP53 requires that development on land that is unstable, currently contaminated or suspected of being contaminated due to its previous history or geology will require the submission of an appropriate contamination assessment and/or land instability risk assessment. Furthermore, any development which cannot incorporate suitable and sustainable mitigation measures (if required) which protect the well-being of residents or protect the environment will not be permitted.

10.113 The site lies within a Coal Referral Area which is considered to be a high-risk area for new development.

10.114 The applicant has submitted a Coal Mining Risk Assessment and Phase 1 Geo-environmental Report in support of this application. These detail that coal mining has taken place in the vicinity of the site and that the presence of a shallow coal seam beneath the site is likely. Both reports recommend further intrusive surveys to be undertaken prior to development to ascertain the depth of any seams and/or workings (which may have a bearing on the foundation design of the proposed dwellings), the presence of ground gas and contamination, and previously unknown entrances of bell pits and/or mine shafts.

10.115 The Coal Authority have reviewed the submitted information and raise no objections to the proposal subject to the imposition of pre-commencement conditions for intrusive site investigations to ensure that the site is fit for development.

10.116 Officers note the findings of the submitted information and the Coal Authority's request for pre-commencement conditions. Given this, the proposal is considered to be in accordance with Policy LP53 of the adopted Kirklees Local Plan with regards to land stability.

Contaminated Land

- 10.117 The applicant has submitted a Phase 1 Geo-environmental Report in support of this application. This concludes that ground contamination from metals, metalloids, polycyclic aromatic hydrocarbons (PAHs – naturally occurring chemicals associated with coal and other fossil fuels), and asbestos may be present, and that there may be potential contamination-pathway-receptor links resulting from the site and wider area's coal mining, industrial, and railway history. The presence of ground gas can also not be ruled out at this stage owing to the coal mining legacy of the area. Further intrusive ground surveys are recommended.
- 10.118 KC Environmental Health previous comments outline that they concur with the findings of the Phase I report. Conditions are recommended to secure a Phase II intrusive site investigation, contamination remediation and implementation strategies and validation report. Furthermore, KC EH recommend that ground gas monitoring is undertaken following the relevant CIRIA C665 guidance.
- 10.119 Officers agree with this approach and, as such, further consider the proposal to be in accordance with Policy LP53 of the adopted Kirklees Local Plan with regards to contaminated land.

Construction Matters

- 10.120 As with any new development project, there would likely be some disturbance to residential amenity during the construction phase of the proposal. Officers note, however, that this is not a material consideration in planning terms that would weigh against a grant of planning permission.
- 10.121 In noting this, on the previous application KC Environmental Health recommended pre-commencement conditions for a Construction Environmental Management Plan (CEMP) to detail the actions that would be taken to minimise adverse impacts on occupiers of nearby properties by effectively controlling noise and vibration, dust, and artificial light pollution during the construction process.
- 10.122 KC Waste Strategy also require further consideration for on-site refuse and waste collection for those dwellings occupied before the completion of the whole site. Therefore, temporary measures may be required to allow waste to be stored/presented at an accessible location adjacent to the nearest adopted highway as RCVs would not enter construction sites for the purpose of domestic waste collection. An additional pre-commencement condition would be required to secure the details of temporary refuse and waste collection arrangements.

Pre-Commencement Conditions

- 10.123 The recommendation proposes the inclusion of some pre-commencement planning conditions. Therefore, in accordance with Section 100ZA of the Town and Country Planning Act 1990 and The Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the Local Planning Authority served notice upon the applicant to seek agreement to the imposition of such conditions. The applicant has agreed to the imposition of the relevant pre-commencement conditions.

11.0 CONCLUSION AND RECOMMENDATION

- 11.1 The NPPF has 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.
- 11.2 This application has been assessed against relevant policies in the Development Plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for **approval**, subject to a signed Section 106 Agreement (Draft Heads of Terms have been agreed and a draft s106 in being prepared) and the imposition of the conditions listed below.

12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)

1. Details of appearance, landscaping, layout, and scale (hereinafter called the "Reserved Matters") shall be submitted to and approved in writing by the Local Planning Authority no later than 3 years.
2. The development hereby permitted shall begin no later than 2 years from the date of approval of the last of the reserved matters to be approved.
3. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
4. The Reserved Matters referred to in Condition 1 shall include a report specifying the measures to be taken to protect the development from noise from all significant noise sources that are likely to affect the proposed development (including road traffic), to first be submitted to and approved in writing by the Local Planning Authority.
5. The Reserved Matters referred to in Condition 1 shall include a Biodiversity Enhancement and Management Plan (BEMP), to be submitted and approved in writing by the Local Planning Authority.
6. The Reserved Matters referred to in Condition 1 shall include an Arboricultural Impact Assessment, to first be submitted to and approved in writing by the Local Planning Authority.
7. The Reserved Matters referred to in Condition 1 shall include a scheme detailing the full site and dwellinghouse safety and security measures to be implemented, to first be submitted to and approved in writing by the Local Planning Authority.
8. Notwithstanding the approved plans, the Reserved Matters referred to in Condition 1 shall include a scheme of hard and soft landscape proposals, including a maintenance and management plan, to first be submitted to and approve in writing by the Local Planning Authority.

9. The Reserved Matters referred to in Condition 1 shall include a Landscape and Ecological Design Strategy (LEDS) to first be submitted to and approved in writing by the Local Planning Authority.
10. There shall be no commencement of the development hereby approved until (other than those required for a site investigation report) until a Phase II Intrusive Site Investigation Report by a suitably competent person has first been submitted to and approved in writing by the Local Planning Authority.
11. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to Condition 10, there shall be no commencement of any further groundworks or development until a Remediation Strategy by a suitably competent person has first been submitted to and approved in writing by the Local Planning Authority.
12. Remediation of the site shall be carried out and completed in strict accordance with the Remediation Strategy approved pursuant to Condition 11.
13. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy, a Verification Report by a suitably competent person shall be submitted and approved in writing by the Local Planning Authority.
14. There shall be no commencement of the development hereby permitted until;
 - a) a scheme of intrusive site investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;
 - b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.
15. Prior to the first occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall first be submitted to and approved in writing by the Local Planning Authority.
16. There shall be no commencement of the development hereby permitted until a detailed design scheme detailing foul, surface water and land drainage, including agreed discharge rates with the Lead Local Flood Authority of 3.5 l/s indirectly or directly to watercourse, attenuation for the critical 1 in 100 (+ climate change allowance) rainfall event, attenuation construction details /design, plans and longitudinal sections, hydraulic calculations, phasing of drainage provision) has first been submitted to and approved in writing by the Local Planning Authority.

17. There shall be no commencement of the development hereby permitted until an assessment of the effects of 1 in 100 year storm events (+ climate change allowance), blockage scenarios and exceedance events on drainage infrastructure and surface water run-off pre and post development between the development and the surrounding area (both upstream and downstream of the development), has first been submitted to and approved in writing by the Local Planning Authority.
18. There shall be no commencement of the development hereby permitted until a scheme, detailing temporary surface water drainage for the construction phase (after soil and vegetation/site strip) has first been submitted to and approved in writing by the Local Planning Authority.
19. There shall be no commencement of the development hereby permitted until full details of the proposed means of disposal of foul water drainage for the whole site, including details of any balancing works, off-site works and phasing of the necessary infrastructure, have first been submitted to and approved in writing by the Local Planning Authority.
20. There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, full details of which will have first been submitted to and approved in writing by the Local Planning Authority.
21. There shall be no commencement of the development hereby permitted until a Construction Environmental Management Plan (CEMP) has first been submitted to and agreed in writing with the Local Planning Authority.
22. There shall be no commencement of the development hereby permitted until the wall to the site frontage has first been set back to the rear of the proposed visibility splays, as shown on approved plan ref: 18/412/SKH/001 Revision K (Proposed Access Layout with Tracking Manoeuvres Plan, dated 19/07/2023), and has been cleared of all obstructions to visibility and hard surfaced to current standards in accordance with details that have previously been approved in writing by the Local Planning Authority.
23. There shall be no commencement of the development hereby permitted until a scheme detailing the proposed internal estate roads has first been submitted to and approved in writing by the Local Planning Authority.
24. There shall be no commencement of site access and internal highways works until full details of an acoustic barrier (as demonstrated in the approved plan (21942)10_Access Road Elevations) have been submitted to and approved in writing by the Local Planning Authority. The details shall include:
 - A plan showing the location of the barrier;
 - The minimum height of the barrier relative to the adjacent ground level; and
 - The construction specification of the barrier including the barrier support structure, the barrier material, the minimum barrier thickness, the minimum density of the barrier material and the details where the barrier meets the ground.

The access hereby approved shall not commence until the construction of the acoustic barrier has been completed and the barrier shall be retained thereafter.

25. Prior to the first occupation of the development hereby approved, a scheme detailing the dedicated facilities to be provided at each dwelling house for charging electric vehicles and other ultra-low emission vehicles shall first be submitted to and approved in writing by the Local Planning Authority.
26. Where implementation of the development hereby approved is to be phased, and/or any of the dwellings hereby approved are to become occupied prior to the completion of the development, details of temporary arrangements for the storage and collection of wastes from those residential units, and details of temporary arrangements for the management of waste collection points, shall first be submitted to and approved in writing by the Local Planning Authority prior to the occupation of those residential units.
27. No site clearance works shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the site for active birds' nests immediately before the site is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site.
28. Any tree, shrub or hedgerow forming part of an approved landscape scheme which dies, is removed or become seriously damaged or diseased, within a period of five (5) years from the date of planting, shall be replaced during the next planting season following removal with another of a similar size and species as that originally planted, and in the same place.
29. The access hereby permitted shall not be brought into use until details of the bollards demonstrated on the approved plan "18/412/SKH/001 Rev.K", have been submitted to and approved in writing by the Local Planning Authority. The bollards shall then be constructed in accordance with the approved details and thereafter retained.

Background Papers:

Application and history files.

[Planning application details | Kirklees Council](https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023%2f92079)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023%2f92079>

Certificate of Ownership:

Certificate B signed with notice served on the relevant landowners.