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

**STRATEGIC PLANNING COMMITTEE**

**Date: 20-Jun-2024**

**Subject: Planning Application 2023/92191 Erection of residential development for 62 dwellings including grouting remedial works for ground stabilisation to facilitate construction of dwellings with associated hard and soft landscaping land at, Cliff Hill, Denby Dale, Huddersfield, HD8**

**APPLICANT**

Nick Gould, Urban Group  
York Ltd

**DATE VALID**

30-Aug-2023

**TARGET DATE**

29-Nov-2023

**EXTENSION EXPIRY DATE**

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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**

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**Electoral wards affected: Denby Dale**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**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) Affordable housing – 12 affordable dwellings (seven social/affordable rent, three First Homes, and two other intermediate) to be provided in perpetuity.
- 2) Open space – Off-site contribution of up to £120,055 to address shortfalls in specific open space typologies.
- 3) On-site open space inspection fee – £250.
- 4) Education – Contribution of £97,444 towards secondary provision.
- 5) Sustainable transport – Measures to encourage the use of sustainable modes of transport, including: i) a £49,335.88 contribution towards sustainable travel measures; ii) implementation of a Travel Plan; iii) £10,000 towards Travel Plan monitoring; and iv) provision of public access between the development's estate road and public footpath DEN/61/10 (and maintenance of links) in perpetuity.
- 6) Biodiversity – Contribution of £147,775 towards off-site measures to achieve biodiversity net gain.
- 7) Management and maintenance – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, of infrastructure (including surface water drainage until formally adopted by the statutory undertaker, and of the site's existing watercourse) and of street trees (if planted on land not adopted).

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, 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 for full planning permission is presented to Strategic Planning Committee as a significant number of representations contrary to the case officer's recommendation for approval have been received.
- 1.2 A previous application (ref: 2022/91911) for a residential development of 48 dwellings was refused on 21/03/2023 in accordance with the Heavy Woollen Planning Sub-Committee's resolution of 16/03/2023.

1.3 The current application was considered by the Strategic Planning Committee on 16/05/2024. A decision was deferred for the following reasons:

*More detail be provided in relation to:*

- *How much material would be removed from the site;*
- *How much material would be imported into the site (as grouting or other material);*
- *How the above operations would be carried out;*
- *How environmental impacts would be mitigated; and*
- *Assurance in respect of the risk associated with combustible material being left on site.*

1.4 Members also asked to see fully-worded recommended conditions. These are provided at the end of this committee report.

1.5 In response to the reasons for deferral, on 31/05/2024 the applicant submitted a document addressing the five matters listed above, and later submitted additional information in further emails. A summary of this information is set out at section 4.0 of this committee report

## **2.0 SITE AND SURROUNDINGS**

2.1 The application site lies to northeast of Cumberworth Lane, to the west of existing dwellings on Leak Hall Crescent, and to the northwest of existing dwellings on Springhead Gardens. The application site is undeveloped, grassed agricultural land, and forms part of the northern edge of the village of Denby Dale. To the north of the application site is the green belt.

2.2 The application site slopes downhill from north to south, and measures approximately 1.9 hectares in size. A public footpath (DEN/61/10) runs along its northern boundary, beyond which there is further grassland and trees. The application site has a narrow street frontage between existing buildings on Cumberworth Lane. Although land directly to the south is also grassed, most land to the south is residential in character. Due to its hillside location and surrounding topography, the application site is visible from several vantagepoints to the south, and from trains passing over the railway viaduct to the west.

2.3 The application site comprises the majority of site allocation HS144 (allocated for residential development in the Kirklees Local Plan). Springhead Gardens, a parcel of land to the south of the application site, and a further parcel to the north of Leak Hall Crescent are within the same site allocation. The application site also includes strips of land outside the site allocation, on Cumberworth Lane either side of the site entrance.

2.4 In relation to minerals, all of the application site is within a wider mineral safeguarding area relating to surface coal resource (SCR) with sandstone and/or clay and shale. In relation to the area's coal mining legacy, the majority of the application site is within the Development High Risk Area as defined by the Coal Authority, while other parts are within the Low Risk Area. A 250m buffer zone (of a historic landfill site) extends into the western edge of the application site.

- 2.5 There are no designated heritage assets within the application site, however the Wesleyan Methodist Church to the west is Grade II listed.
- 2.6 The application site is located within Flood Zone 1 and is therefore generally at low risk of flooding. A watercourse runs along the application site's northeastern boundary (to the rear of existing dwellings on Leak Hall Crescent). Yorkshire Water sewers exist beneath Cumberworth Lane and other nearby streets.
- 2.7 The Wildlife Habitat Network covers almost all of the application site. All of the application site is within the Impact Risk Zones of the Dark Peak and Denby Grange Colliery Ponds Sites of Special Scientific Interest. Bats, twites and swifts are present at and around the application site. A Tree Preservation Order (TPO 17/21/t1) protects a tree within the application site.
- 2.8 The application site is not located within an Air Quality Management Area (AQMA).
- 2.9 Regarding the social and other infrastructure currently provided and available in Denby Dale, the area has a number of shops, food and drink establishments, education and sports facilities, places of worship, a community hall, a community library, open spaces and other facilities. Denby Dale railway station is a 600m walk (approximately) from the proposed entrance to the application site. The nearest bus stops are on Cumberworth Lane to the south of the application site, and other bus stops further to the south on Wakefield Road are served by several bus routes.

### **3.0 PROPOSALS**

- 3.1 A residential development comprising 62 dwellings, with associated access, open space and landscaping, is proposed.
- 3.2 To stabilise the site, the applicant proposes grouting and capping. Additionally, the applicant has stated that excavation may be necessary at the centre of the site.
- 3.3 The proposed site layout includes a vehicular access provided from Cumberworth Lane, with an estate road extending into the site, off which two branches are proposed. A mix of detached, semi-detached and terraced housing would line the development's roads. Open spaces are proposed at the site entrance and along the site's northeastern boundary.
- 3.4 Of the 62 units proposed, four would be detached. The following unit size mix is proposed:
- 3x 1-bedroom units
  - 12x 2-bedroom units
  - 24x 3-bedroom units
  - 23x 4-bedroom units
- 3.5 12 of the proposed dwellings would be affordable, provided as a mix of affordable rent homes, First Homes and other intermediate homes. These are proposed at units 8 to 13, 34 to 36 and 60 to 62, and would therefore be located at the site entrance and along the application site's northwestern edge.

- 3.6 10 house types are proposed. All dwellings would have two storeys, although some would have rooms in their attics, and some dwellings would have three-storey elevations at the rear where topography allows this. Roofs would be pitched. Eight dwellings would be provided with garages. External materials would include artificial stone (for the walls of most dwellings), natural stone (for the four dwellings at the western end of the application site), concrete slate-effect tiles (for the roofs), grey UPVC (for the windows and doors) and timber (for external entrance canopies).

#### **4.0 RESPONSE TO REASONS FOR DEFERRAL**

- 4.1 The following paragraphs summarise the applicant's response to the Strategic Planning Committee's reasons for deferral, and provides additional information.

*How much material would be removed from the site*

- 4.2 The applicant's response document states that, based on an extraction area of approximately 4,500sqm, a coal seam of between 1m and 2m in thickness, an assumed average seam thickness of 1.4m, and assuming that 30% of the seam has been worked, approximately 4,400 cubic metres of material is anticipated to be extracted. The applicant has stated, however, that this figure is likely to change as works progress and as more information becomes available.

*How much material would be imported into the site (as grouting or other material)*

- 4.3 The applicant's response document states that, based on approximately 300 primary holes and an additional 250 secondary holes being drilled, an anticipated hole depth of approximately 20m, and an approximate volume of 3 cubic metres of grout per treatment hole, a volume of 1,650 tonnes of material would need to be brought to the site. The applicant has stated, however, that this figure is likely to change as works progress and as more information becomes available, and that a more refined estimate may be calculated following additional borehole investigations.

- 4.4 The applicant has added that this material would consist of a mix of pulverised fuel ash (PFA), Ordinary Portland Cement (OPC) and sand.

*How the above operations would be carried out*

- 4.5 The applicant has submitted a site cross-section, illustrating the existing and proposed ground levels and the degree of change that would occur following excavation.

- 4.6 The applicant's response document states that different grouting treatments are proposed for different parts of the site, determine by risk. Grouting is not proposed beneath private gardens and open spaces, some grouting is proposed beneath the development's estate roads, and the highest degree of intervention is proposed beneath the new dwellings. A plan attached to the applicant's document (although based on a superseded layout) illustrates this approach.

- 4.7 On site, a mixing plant would be used to prepare the grout. The applicant proposes to use “large tracked rotary rigs” (similar in size to some 360 excavators – the applicant has provided a photograph) which would drill the treatment holes. Rubber grout pipes would carry the grout from the on-site mixing plant to the holes, and the grout would be injected into the holes. Tertiary holes may need to be drilled to check and prove the success of the grouting. Three rigs would be on site at any one time.
- 4.8 The removal of material from the application site would necessitate approximately 550 HGV loads being moved from the site (according to the applicant’s estimate).
- 4.9 The bringing of material to the application site would necessitate further movements to and from the site – the applicant has stated that, at worst, this would involve three deliveries a day (by HGV) for the duration of the drilling and grouting works.
- 4.10 Regarding works and construction traffic routing, officers have advised the applicant that this should make use of higher-order roads as much as possible. That would mean using Wakefield Road (the A636) and only 175m of Cumberworth Lane. It would also mean turning right into the site (across a lane of traffic) and turning left out of the site. Risks involved with HGVs crossing a lane of traffic when turning this can be addressed through signage, bankspeople and temporary traffic lights where appropriate.

*How environmental impacts would be mitigated*

- 4.11 The applicant has agreed to adhere to the working hours recommended by KC Environmental Health (namely: 07:30 to 18:30 hours Mondays to Fridays, 08:00 to 13:00 hours Saturdays, and no working on Sundays or public/bank holidays).
- 4.12 Conditions requiring the submission and implementation of a Groundworks Management Plan and a Construction (Environmental) Management Plan are recommended. These would secure measures regarding the control of noise, dust and other pollutants, and would control other matters relevant to environmental impacts including the prevention of mud and debris being spread along highways, and street sweeping.
- 4.13 Routing works and construction traffic along higher-order roads can additionally help to minimise amenity and environmental impacts.

*Assurance in respect of the risk associated with combustible material being left on site*

- 4.14 As with most fires, three elements would be needed for materials at the application site to combust: fuel, heat and oxygen. With a fuel (in this case coal) present at the site, a source of heat (such as a garden bonfire) could pose a risk if there was not an intervening non-combustible barrier that would prevent the heat and sufficient oxygen from reaching the fuel.
- 4.15 The applicant had asserted that 0.5m of inert cover would provide an adequate barrier, but has acknowledged the advice of KC Environmental Health that 1m of cover would be necessary, and that inert service trenches are also required. The applicant has agreed to provide these, and compliance with these requirements would be enforced through the recommended conditions.

- 4.16 With this inert cover in place, officers are satisfied that fire risks would be sufficiently reduced, and refusal of permission on these grounds is not recommended.

## **5.0 RELEVANT PLANNING HISTORY (including enforcement history)**

- 5.1 Various applications relating to the different parts of the allocated site (HS144) have been considered, as follows:

### *Application site*

2022/91911 – Planning permission refused 21/03/2023 for a residential development of 48 dwellings with associated highways and landscaping. The seven reasons for refusal were:

*1. Insufficient information has been provided to satisfy the Local Planning Authority that the risks arising from land contamination resulting on the site can be adequately mitigated under the proposed land remediation strategy. Likewise insufficient understanding of the residual impacts of the site remediation, inclusive of an incomplete understanding of the site's characterisation, do not provide sufficient comfort to allow the proposed site remediation to be undertaken subject to appropriately worded planning conditions. The current submission therefore incurs unacceptable risks that could cause harm to people and/or the environment contrary to Kirklees Local Plan Policy LP53 as well as National Planning Policy Framework Paragraph 183 (clauses a, b and c).*

*2. It has not been demonstrated that the proposed development would be environmentally feasible or acceptable nor that the proposal would provide local or national benefits that would outweigh the resultant residual environmental impacts of developing the site for the purposes of winning and working minerals (coal) resulting from the site's remediation. Indeed, the proposed site remediation strategy creates unknown residual environmental impacts that have not been adequately assessed. There are therefore significant concerns with the proposed development in respect of the potential for adverse impacts on water resources, ground gas pathways, human health (noise & air quality in particular) as well as residential amenity more broadly. No overriding community benefits are identified which would make the extraction of coal acceptable from the site. Overall, the proposal is found to be contrary to mineral planning policy with particular regard to Kirklees Local Plan Policies LP36, LP51 and LP52 as well as National Planning Policy Paragraphs 211 (clauses b & c) and 217 (clauses a and b).*

*3. The proposed development layout does not achieve a net density of 35 dwellings per hectare that would be sufficient to use allocated housing land efficiently for a residential purpose. As such the proposal is contrary to Policy LP7 of the Kirklees Local Plan and Paragraph 124 of the National Planning Policy Framework as it does not seek to maximise housing delivery and is not overridden by mitigating reasons with regard to development viability, compatibility with its surroundings or meeting local housing needs. The lack of a sufficient density would also further undermine the Local Planning Authority's housing delivery target, which is subject to a Housing Delivery Test Action Plan.*

4. Proposed plots 35 and 36 are at a topographical level and distance from existing properties at 2 and 3 Springhead Gardens whereby their rear windows and garden terraces would significantly overlook and reduce the privacy of the existing residential properties at significant detriment to residents' amenity. The identified impacts on privacy in respect of levels and separation distances are contrary to the Supplementary Planning Document – Housebuilders Design Guide (with particular regard to clauses 7.19 and 7.21) and Kirklees Local Plan Policy LP24 – Design.

5. It has not been demonstrated, through a lack of information, that the site's internal estate road is designed or is able to be designed to an acceptable layout/adoptable standard that would be safe for use by pedestrians and private vehicles or is operationally feasible to be serviced by a refuse collection vehicle. The proposed development is therefore contrary to the guidance contained within the Highways Design Guide SPD, as well as Policy LP21 – Highways and Access – of the Kirklees Local Plan (with specific regard to clauses a, d, e and f).

6. Insufficient information has been provided to evidence that Plots 42, 43, 44, and 45 would not incur unacceptable privacy issues in relation to the northern elevation of Cruck Cottage, given that the proposed dwellinghouses are set at a higher topographical level and within the 21m facing separation distance from the rear of the existing dwellinghouse. The identified impacts on privacy in respect of levels and separation distances are contrary to the Supplementary Planning Document – Housebuilders Design Guide (with particular regard to clauses 7.19 and 7.21) and Kirklees Local Plan Policy LP24 – Design.

7. Planning obligations directly related to the development have been identified by the Local Planning Authority as being necessary to make the development acceptable in planning terms. These obligations relate to delivery of on-site affordable housing provision, a financial contribution to provide educational capacity for increased school capacity in the local area, a financial contribution to off-set open space typology shortfalls, a financial contribution to offset biodiversity loss and provide a 10% biodiversity net gain, a financial contribution for the encouragement of sustainable travel alongside provision of requisite management of drainage infrastructure and shared spaces serving the proposed development. The terms of a legal agreement to secure these obligations has not been agreed and the weight of viability evidence provided by the applicant does not have full regard to the change in site circumstances (concerning the extraction of minerals) since the Kirklees Local Plan was adopted. By consequence the application is contrary to Policies LP11, LP20, LP28, LP30, LP49 and LP63 of the Kirklees Local Plan.

*Land accessed from Cumberworth Lane (south of the application site)*

2018/93309 – Outline application for erection of residential development – Appeal against non-determination dismissed 25/11/2019.

2019/93906 – Outline application for erection of residential development of up to 10 dwellings – Approved 07/01/2021.

2023/93714 – Reserved Matters application for the erection of 10 dwellings – Pending determination.



## *Springhead Gardens*

2017/93798 – Erection of six detached dwellings – Approved 06/06/2018.

2020/91506 – Variation of condition 2 (plans and specification) of previous permission 2017/93798 – Approved 20/11/2020.

### **6.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme)**

6.1 Amendments were made to the applicant's proposals following the previous refusal of planning permission (ref: 2022/91911). With regard to the council's seven reasons for refusal, the key amendments were:

- 1) Further information submitted regarding site contamination.
- 2) Extensive mineral extraction is no longer proposed.
- 3) The number of dwellings proposed has been increased from 48 to 62.
- 4) The proposed dwellings have been moved away from 2 and 3 Springhead Gardens.
- 5) A revised internal road layout is proposed.
- 6) The proposed dwellings have been moved away from Cruck Cottage.
- 7) The applicant is willing to enter into a Section 106 agreement which would secure contributions and measures intended to mitigate the development's impacts and secure its benefits.

6.2 Further amendments were made during the life of the current application, including to the proposed road layout, the unit size mix, and the materials to be used on dwellings close to the site entrance.

6.3 Regarding the development's financial viability, Aspinall Verdi were commissioned by the council to review the applicant's information. They concluded that the proposed development could in fact provide the required 12 affordable housing units, as well as Section 106 contributions. On 18/04/2024 the applicant accepted these findings.

6.4 Most recently, the development's affordable housing unit size mix and locations were confirmed by applicant.

### **7.0 PLANNING POLICY**

7.1 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):

7.2 The application site comprises the largest part of site HS144, which is allocated for residential development in the Local Plan. For the entirety of the site allocation, the Local Plan sets out an indicative housing capacity of 113 dwellings within the 3.24 hectares of allocated land.

7.3 Site allocation HS144 identifies the following constraints relevant to the site:

- Third party land required to achieve sufficient visibility splays
- The provision of a pedestrian footway is required across the site frontage at Leak Hall Lane
- Public right of way crosses the site
- Site is close to listed buildings
- Site is close to an archaeological site
- Part/all of the site is within a High Risk Coal Referral Area

7.4 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
- 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
- LP31 – Green infrastructure network
- LP32 – Landscape
- LP33 – Trees
- LP34 – Conserving and enhancing the water environment
- LP35 – Historic environment
- 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
- LP65 – Housing allocations

Supplementary Planning Guidance / Documents and other documents:

7.5 Relevant guidance and documents are:

- Highway Design Guide SPD (2019)
- Housebuilders Design Guide SPD (2021)
- Affordable Housing and Housing Mix SPD (2023)
- Open Space SPD (2021)
- Biodiversity Net Gain Technical Advice Note (2021)
- Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
- Planning Applications Climate Change Guidance (2021)
- Viability Guidance Note (2020)
- Kirklees Interim Housing Position Statement to Boost Supply (2023)
- Kirklees Strategic Housing Market Assessment (2016)
- Kirklees Housing Strategy (2018)
- 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)
- Public Rights of Way Improvement Plan (2010)
- Waste Management Design Guide for New Developments (2020, updated 2021)
- Green Street Principles (2017)
- Social Value Policy (2022)

Climate change

- 7.6 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 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.
- 7.7 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:

7.8 The National Planning Policy Framework (2023) 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 proposals. Relevant paragraphs/chapters are:

- 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
- Chapter 17 – Facilitating the sustainable use of minerals

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

7.10 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)
- Securing developer contributions for education (2019)

## **8.0 PUBLIC/LOCAL RESPONSE**

8.1 The applicant's Statement of Community Involvement details the public consultation that was carried out prior to the submission of the previous application (ref: 2022/91911), but notes that no further consultation was carried out following the refusal of that application and the submission of the current application.

8.2 The current application was advertised by the council as a major development, and as development affecting a public right of way and the setting of a listed building.

8.3 The application was advertised by the council via four site notices posted on 07/09/2023, a press notice on 15/09/2023, and letters delivered to addresses close to the application site. This was in line with the council's adopted Statement of Community Involvement. The end date for publicity was 05/10/2023.

8.4 54 representations were received in response to the council's consultation. These were posted online, and include representations submitted by the Upper Dearne Valley Environmental Trust (UDVET) and comments relayed by ward Members. The following is a summary of the comments made:

- Objection to principle of development.
- Previous reasons for refusal not addressed.
- Application should not be considered.
- Decision should not be made until Local Plan is reviewed.
- Local Plan was based on incorrect population predictions.
- Site should be redesignated as safeguarded land.
- Site was designated as Urban Green Space in the Unitary Development Plan.
- Site should be used for biodiversity net gains not being achieved on-site by other developments. Rewilding may be possible.
- Area lacks allotments.
- No need to build on this land.
- Alternative, sustainable development options should be developed.
- Applicant incorrectly refers to Denby Dale as an urban location.
- NPPF sets out a presumption against development in the green belt.
- Loss of green space.
- Applicant's information is contradictory.
- Site is incorrectly referred to as vacant.
- Unsustainable development.
- Objection to number of dwellings. Proposal represents overdevelopment.
- NPPF chapter 12 (design) should be complied with. Previous poor designs should not justify further mistakes.
- Three-storey houses inappropriate. Surrounding area is mostly two-storey or bungalows.
- Surrounding short terraces and staggered roof ridges are not reflected in the proposals.
- Flat dormers and timber porches are inappropriate.
- Dwellings should have chimneys to reflect surrounding development.
- Development would be visually prominent.
- Materials should reflect original village's character. Stone recently used on Barnsley Road should be used. Artificial stone and roof tiles are inappropriate here.
- Tall, close-boarded fencing is inappropriate here. Harmful to public footpath.
- Gabion baskets for retention are visually inappropriate, and short-lived.
- Query what foundations are needed for retaining walls, and how these would be maintained.
- Street scene would be dominated by parking.
- Housebuilder Design Guide SPD not complied with.
- Harm to character of Denby Dale.
- Lack of useable green space in proposals. No new opportunities for sport and recreation. Green space should be centrally located within the site, and not at its periphery.
- Inappropriate landscaping. Lack of native hedge planting.
- Overlooking of adjacent properties. Applicant admits that one dwelling wouldn't provide required separation distance.

- Lack of affordable housing. Unclear whether any dwellings would be affordable. Applicant's proposals are contradictory.
- Dwellings would not be accessible to people with disabilities.
- Bungalows should be provided.
- Many empty properties demonstrate a lack of need for new housing. Development elsewhere in Denby Dale has stalled. No evidence of more housing being needed in Denby Dale.
- Congestion to surrounding roads. Traffic generated by adjacent site to south.
- Transport Assessment wrongly asserts that Cumberworth Lane is lightly trafficked.
- Applicant's trip generation data understates the development's impact.
- Errors in applicant's junction modelling.
- Concern regarding cumulative impact (including impacts from other developments).
- Officers should confirm whether proposals are safe.
- Applicant's accident data is unreliable.
- Concerns regarding visibility at site entrance. Officers have applied the wrong visibility standard. Longer visibility splays are required. Cumberworth Lane is busy, large vehicles use it, and traffic is fast. Road narrows at this point. Vehicles are parked on the road, affecting visibility, progress of traffic and access. Guidance in Manual for Streets should not be applied in this situation, and instead guidance from the Design Manual for Roads and Bridges should be applied. The road cannot be made safer here.
- Road Safety Audit is flawed.
- Access should be provided off Leak Hall Lane, as agreed by officers and Inspector at Local Plan hearings.
- Application site does not reach Cumberworth Lane, therefore applicant can't provide the required 2m wide footway. Lack of a pedestrian crossing at site entrance. Wheelchair and pushchair users not taken into account. Risk to pedestrians.
- Highway safety risk at Cumberworth Lane / Wakefield Road junction. Junction should be re-aligned and improved.
- Internal road layout unacceptable. Circular layout required.
- Applicant incorrectly states there is a local cycle network.
- Public footpath should not be used by extraction or construction traffic. Risk to pedestrians (including school children) using the footpath.
- Lack of detail regarding construction traffic.
- Cumberworth Lane has already been damaged by HGVs accessing the application site.
- Inadequate measures to enable new residents to access village facilities on foot.
- Public footpath is unlit, and pedestrian connections to it would put residents at risk.
- Objection to loss of or alteration to public footpath. Objection to loss of safe walking route to school.
- Inadequate parking proposed, including visitor parking. Proposed garages are too small.
- Increased flood risk. Adjacent land already floods. River Dearne floods. Existing drains cannot cope. Grouting would make site non-permeable. Adverse impact on existing watercourses. Existing culvert is in a poor condition.

- Developments already under way in Denby Dale will use any spare sewer capacity.
- Separate surface water and foul water drainage systems are needed.
- Rainfall data has been collected at Birchencliffe, when data from Emley is available.
- Risk of water pollution.
- Damage to local soil quality.
- Unclear why gas boilers are proposed.
- Objection to coal extraction. Open cast coal mining still proposed. Applicant's coal mining proposals are unclear. Burning the extracted coal would release emissions. Contrary to green energy objectives. Lack of clarity as to how coal would be extracted. Disruption, noise, vibration, dust and pollution affecting health and amenity during extraction. Methane would be released. Risk of subsidence to adjacent properties. Investigation work has already caused subsidence. Coal extraction risks water pollution. Lack of information regarding grouting. Lack of details of maintenance, management and aftercare. No community benefit to coal extraction. If development here requires extraction, site is not fit for development.
- Gardens would not be grouted or remediated, risking the safety of new residents.
- Any remediation should be proposed under a separate application.
- Any remediation should be allowed to settle before the land is developed.
- Harm to local quality of life.
- Residents will no longer want to live in Denby Dale.
- Damage to neighbouring properties. Risk of subsidence.
- Impact on property values.
- Waste from Springhead Gardens development has been dumped on the site.
- Lack of detail as to how affected neighbours would be compensated.
- Owls, other birds, bats, deer, foxes, hedgehogs, toads and other wildlife are present and would be adversely affected. Site has been illegally cleared. Applicant's ecological information is unreliable.
- Proposed private gardens would impact upon watercourse wildlife corridor.
- Risk of rat infestation.
- Existing TPO-protected tree has been damaged during site investigation. Further risk of damage and pressure to prune. Development would affect roots.
- Schools are over-subscribed. Several developments will worsen situation. Children will not be educated locally. Surprise regarding KC Education advice and no primary school contribution being sought.
- Pressure on local surgeries.
- Loss of only location where air ambulance could land in an emergency.
- Council debts mean services would not be provided for new residents.
- Lack of publicity regarding the application. Some residents may not be aware of the proposals.
- Residents should have been reconsulted following deferral.

8.5 Cllr Tim Bamford submitted the following comments:

*I have several comments I wish to make on this application. I am a transport manager and have many years of experience in heavy transport, many of them driving.*

*Site access.*

*The proposed access goes against the Planning Inspector's concerns about the safety of the site access being on Cumberworth Lane and the planning department's confirmation that the frontage would be on Leak Hall Road, which provided a much safer junction with Wakefield Road and avoided the centre of Denby Dale. The Planning Inspector, Katie Child, accepted this site into the Local Plan on this basis.*

*Cumberworth Lane, at the proposed site entrance is very busy and quite narrow, especially by the Methodist Chapel where two HGV's or buses cannot pass. This is also exacerbated by parked cars.*

*There is a haulage company approximately one mile away, on Coal Pit Lane with a licence to operate fifteen HGV's and thirty trailers. This company regularly use this route operating 44t trucks. Cumberworth Lane is also the designated route for 32t clay trucks from Peace Wood Quarry to Naylor Clayware at Cawthorne, Barnsley. This is run on a campaign basis and can add hundreds of journeys per week over the campaign duration.*

*Trucks of these weights need a longer stopping distance, especially in the wet, approaching the site from Lower Cumberworth, as it is a steep downhill section of road. I also have concerns around the issue of getting an articulated vehicle into, and out of the site without driving on the pavements. The first of these vehicles will be very large, carrying plant and machinery to site.*

*There are several sites in the area that aren't built out yet, the traffic from these developments will add yet more traffic to Cumberworth Lane.*

*Accessing the site from Cumberworth Lane will be detrimental to the health and safety of Denby Dale residents.*

*Coal mining.*

*It is noted that there will be around 4150 m<sup>3</sup> of coal extracted from site which equates to two Olympic size swimming pools.*

*The developer says describes this as waste but it is still coal extraction and should be licensed by the Coal Authority who have substantive concern about the site.*

*If the coal is classed as waste will it be disposed of at landfill and recorded with waste transfer documents?*

*How does this release of carbon fit with the Kirklees Climate Emergency declaration?*

*This is not environmentally acceptable as required by para 223 of the NPPF.*



*The developer doesn't seem to know how much material will be removed at this stage, maybe a detailed site investigation report would remove this doubt. This could easily turn into the full scale opencast operation that was refused previously.*

*Without the Intrusive Site Survey how can the developer know how much grouting is required? This isn't a cheap exercise and could lead the developer into an untenable position financially.*

*In conclusion I am very worried that this supposedly detailed planning application has come forward with 42 conditions attached.*

*I am particularly worried that the remediation strategy and the intrusive site survey, amongst many others, are secured by condition. They should have been presented in this application.*

*This development has the potential to cause an environmental disaster for Denby Dale by destabilising the site and releasing contamination and posing a flood risk.*

*This site is extremely challenging and, in my opinion, not suitable for development and planning permission should be refused.*

8.6 Cllr Will Simpson (also speaking on behalf of Cllr Hannah McKerchar) made representations at the Strategic Planning Committee meeting of 16/05/2024.

8.7 Denby Dale Parish Council – Objection. The following is a summary of the comments made:

- No further public consultation carried out since previous application was refused.
- Errors in applicant's submissions.
- Controversial developments should be paused until Local Plan is reviewed.
- Mining still proposed. Unregulated open cast mine proposed.
- Site is incorrectly referred to as vacant.
- Increased flood risk. Existing sewers do not have capacity to cope with proposed development. Library car park floods.
- No strategy for existing springs, sinks and watercourse.
- Damage to biodiversity and protected species. Applicant's ecological information is lacking. Site accommodates birds (including owls), bats, frogs, newts, common toads and insects.
- Risk to trees.
- Remediation would cause noise, vibration, air and water pollution, and additional traffic (more than the many lorry movements associated with the Springhead Gardens development).
- Transport Assessment wrongly asserts that Cumberworth Lane is lightly trafficked. Disagree with assertions regarding vehicle movements, and construction traffic. Increased commuter traffic.
- Development is contrary to NPPF paragraph 111.
- Risk of subsidence.
- Risk of land contamination.

- Local housing need would not be met. Inappropriate housing sizes. Four-bedroom (and larger) dwellings are not needed for young couples or older people wishing to downsize.
- No housing would be affordable.
- Local Plan was based on incorrect population predictions.
- Many empty properties demonstrate a lack of need for new housing.
- 3-storey “type C” houses would overlook neighbouring residents.
- Proposed development would do nothing to aid the economy, locally or nationally. There are no opportunities for local employment.
- Pressure on local schools and surgeries.
- Destruction of rural community. Urbanisation of Denby Dale.
- No community benefits would be secured. There is no mention of a Section 106 agreement.

8.8 Responses to the above comments are set out later in this report, where necessary.

8.9 Submissions made by the applicant after the council consulted on the application did not necessitate public consultation.

## 9.0 CONSULTATION RESPONSES

### 9.1 Statutory:

9.2 Coal Authority – Objection withdrawn on 13/05/2024, subject to conditions, and on the basis that the proposed layout shows all built development avoiding the zones of influence of recorded mine entries. Further advice provided regarding Coal Authority permits, mine gas and drainage. Two conditions recommended.

9.3 Lead Local Flood Authority – Support proposals. A connection to watercourse can now be sanctioned as downstream improvements have been carried out. A proposed future connection at five litres per second is agreed in principle. A new headwall and trash screen, intention of improvement and formal design of drainage design can be conditioned. Provision of safety fences for open sections of the site’s culvert adjacent to parking areas will be required at detailed design stage. Watercourse improvements should be conditioned for detailed design stage. The watercourse/drainage ditch and associated ancillary structures will need to be maintained by a management company (secured via a Section 106 agreement) with an agreed maintenance plan. This is to ensure risk is reduced on- and off-site by formalising arrangements. A box culvert would be used in one section to provide access to the northernmost plots – this was agreed in a site visit. Separately from the watercourse, all surface water drainage should have a risk assessment and method statement applied concerning maintenance and management. This should be carried out by a management company until such a time as this infrastructure is adopted by the statutory undertaker, Yorkshire Water, or equivalent NAV. The management company should be required to maintain the watercourse for the lifetime of the site. Mine capping can cause less infiltration of water, particularly in the construction phase – measures should be taken to reduce related risk. Construction-phase drainage can be conditioned. Perimeter land drainage will need to be considered as part of an assessment to ensure that this development will not increase flood risk elsewhere. Safe flood routing is shown on submitted plans. Conditions recommended.

9.4 **Non-statutory:**

9.5 KC Ecology – Applicant’s ecological information should be updated. Particular regard should be paid to the Biodiversity Net Gain assessment which should update the baseline and post-development habitat units, in line with the updated proposals.

9.6 KC Education – £97,444 towards secondary provision required.

9.7 KC Environmental Health – Applicant’s findings regarding site contamination and ground gas are accepted, although further gas monitoring is required. All remaining coal is required to be isolated beneath a minimum 1m thickness of inert material, and inert service trenches are required. Application site is not within an Air Quality Management Area (AQMA) or near to roads of concern. Proposed development does not require a construction dust risk assessment or an emissions damage cost calculation. Officers accept applicant’s assertions that increases in traffic flows on local roads (caused by the proposed development) will not generate any significant emissions and concentrations of NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> are predicted to be below the national air quality objectives. Applicant’s air quality methodology is accepted, and no further mitigation measures are required for this development. Adequate dust management plan has been submitted for the site remediation phase, however details regarding dust are required for the wider construction activities. Construction Environmental Management Plan required (this can be conditioned). Regarding noise, works would be restricted to appropriate hours, and proposed construction methodology is acceptable, however temporary acoustic screens would be required. Further conditions recommended regarding noise, electric vehicle charging and site contamination (remediation).

9.8 KC Highways Development Management – The applicant has now satisfactorily addressed all of the outstanding issues, and KC HDM have no objection to the proposals, subject to conditions and Section 106 obligations being secured. Design of site entrance and site layout have been amended and are acceptable. Works to Cumberworth Lane represent an improvement on current situation. Conditions and Section 106 obligations recommended.

9.9 KC Highways Structures – Conditions recommended.

9.10 KC Landscape – Details of typologies and measured areas for all proposed open spaces required. In the absence of this information, and given some areas (such as the green space between units 14 and 29) shouldn’t be counted towards on-site provision until their details are provided, a contribution of £120,305 towards off-site open space is required. Inclusion of green space on-site is welcomed. Green spaces need to be designed to meet the needs of the widest possible range of users. Purpose of open space above attenuation tank is queried. Management and maintenance details required for green spaces. Extensive areas of hard surfacing are proposed. More soft landscaping (including street trees) is required. Proposals for trees are tokenistic. Details of root protection/barriers and soil volumes required. Potentially invasive species should be avoided. Landscape management and maintenance plan required. Images in Design and Access Statement do not correspond with drawings. Curtilages of units 39 to 42 (and the adjacent open spaces) should be better defined with defensible space. Locally Equipped Area for Play (LEAP) required. Four existing play spaces are within 720m of

(and a 15 minute walk from) the application site – the children and young people's element of the open space contribution could be spent in those locations, subject to local consultation (including with Members). Retention of TPO-protected tree is welcomed, although there are concerns regarding its root protection area. Footpath connections required. Conditions and Section 106 obligations recommended.

- 9.11 KC Strategic Housing – 20% affordable housing provision required, and on-site provision preferred. Proposed 12 affordable units, and affordable unit size mix (3x 1-bedroom units, 7x 2-bedroom units and 2x 3-bedroom units) are acceptable. Given council's 55% social/affordable rent / 45% intermediate (including First Homes) preference, provision should comprise seven social/affordable rent homes, three First Homes and two other intermediate homes. The affordable homes' build quality and other relevant aspects should be indistinguishable from the market housing in the development.
- 9.12 KC Strategic Waste – There is one closed landfill site within 250m of the application site.
- 9.13 KC Trees – No objection in principle to site being developed. Location of dwelling in relation to TPO-protected tree may result in pressure to prune, however council would have control over an application to do so. A "no dig" cellular confinement system needs to be shown on plans and implemented for the footpath near to the tree. Conditions recommended requiring a final Arboricultural Method Statement and Tree Protection Plan.
- 9.14 KC Waste Strategy – Details of bin collection points acceptable. Looped layout preferred.
- 9.15 Northern Gas Networks – No objection. Generic advice provided.
- 9.16 West Yorkshire Archaeology Advisory Service – Condition recommended, securing a programme of archaeological recording.
- 9.17 West Yorkshire Police Designing Out Crime Officer – Detailed comments provided regarding external lighting, soft landscaping, rear access to properties and parking.
- 9.18 Yorkshire Water – A water supply can be made available under the provisions of the Water Industry Act 1991. Condition recommended regarding foul water connection. Flood Risk Assessment and Drainage Strategy is generally acceptable.

## 10.0 SUMMARY OF MAIN ISSUES

- Land use and principle of development
- Masterplanning
- Quantum and density
- Sustainability and climate change
- Urban design matters, heritage and landscape impacts
- Residential quality and amenity
- Affordable housing
- Highway and transportation issues
- Flood risk and drainage issues

- Environmental health considerations
- Site contamination and stability
- Ecological considerations
- Trees
- Open space
- Other planning considerations
- Planning obligations and financial viability

## 11.0 MAIN ISSUES – ASSESSMENT

### Land use and principle of development

- 11.1 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. 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.

### *Housing need and delivery*

- 11.2 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.
- 11.3 The 2023 update of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land, and the 2022 Housing Delivery Test (HDT) measurement which was published on 19/12/2023 demonstrated that Kirklees had achieved a 67% measurement against the required level of housing delivery over a rolling three-year period (the "pass" threshold is 75%).
- 11.4 As the council is currently unable to demonstrate a five-year supply of deliverable housing sites, and delivery of housing has fallen below the 75% HDT requirement, 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. For decision making, this means:

*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.*

- 11.5 The council's inability to demonstrate a five-year supply of housing land, or pass the Housing Delivery Test, weighs in favour of housing development, however this has to be balanced against any adverse impacts of granting permission for a proposal.

- 11.6 In the absence of a five-year housing land supply, the most relevant policies are deemed out of date. In these circumstances, substantial weight should be given to the presumption in favour of sustainable development (applying the ‘tilted balance’) unless there are any adverse impacts that would significantly and demonstrably outweigh the benefits. In all circumstances, careful consideration should be given to the relevant planning considerations, Development Plan policies and appropriate national planning policies.
- 11.7 A residential development of 62 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.
- 11.8 Full weight can be given to site allocation HS144, which allocates the majority of the application site for residential development. Allocation of this and other greenfield sites was based on a rigorous borough-wide assessment of housing and other need, as well as analysis of 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 greenfield land and reliance on windfall sites was also demonstrated to be necessary in order to meet development needs. Regarding this particular site (which was previously allocated as Provisional Open Land in the Unitary Development Plan), in her report of 30/01/2019 the Local Plan Inspector stated:

*The site is contained by dwellings on three sides and is well related to the core of the village. At the hearing the council indicated that access may be facilitated via Leak Hall Lane, and this should be clarified. No fundamental constraints relating to heritage and other matters have been identified and, subject to the above modification, the allocation is soundly based.*

#### *Minerals*

- 11.9 The application site is within a wider mineral safeguarding area relating to surface coal resource (SCR) with sandstone and/or clay and shale. Local Plan policy LP38 therefore applies. This states that surface development at the application site will only be permitted where it has been demonstrated that certain criteria apply. Criterion 1c of policy LP38 is relevant, and allows for approval of residential development here, as there is an overriding need (in this case, housing needs, having regard to Local Plan delivery targets) for it.
- 11.10 Paragraph 223 of the NPPF is also relevant, and states:

*Planning permission should not be granted for the extraction of coal unless: a) the proposal is environmentally acceptable, or can be made so by planning conditions or obligations; or b) if it is not environmentally acceptable, then it provides national, local or community benefits which clearly outweigh its likely impacts (taking all relevant matters into account, including any residual environmental impacts).*

- 11.11 As explored under the previous application ref: 2022/91911 (and reflected in the second reason for refusal), extensive coal extraction from the application site would risk significant impacts, largely due to the proximity of existing residents. The council's previous reason for refusal regarding this matter also noted that there were no overriding community benefits which would have made coal extraction from this site acceptable. This remains the case, and the applicant's intention to not carry out such extraction is considered appropriate.
- 11.12 Regarding the related matter of site stability, further commentary is set out later in this report.
- 11.13 Given the above assessment, the principle of residential development at the application site is considered acceptable, subject to the further discussion of other relevant matters later in this report.

### Masterplanning

- 11.14 Careful masterplanning of development sites 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.
- 11.15 Ideally, the wider HS144 allocated site would have been the subject of a masterplan drawn up jointly by all interested parties. Such a masterplan would have then informed subsequent applications for the development of the various separately-owned parcels of land within the wider HS144 site.
- 11.16 However, as illustrated by the planning history detailed above, development proposals for the various parcels came forward at different times. Furthermore, the applicant for the current application was unable to secure the final parcel of land (to the north of Leak Hall Crescent) for inclusion in the scheme currently proposed. It is also noted that the Inspector determining an appeal relating to application ref: 2018/93309 concluded (in his decision dated 25/11/2019) that a masterplan was not needed for the HS144 site.
- 11.17 Although this means development proposals for the HS144 site have been piecemeal (and possibly not optimal in terms of efficient use of land), it is noted that the topography of the wider site may have limited opportunities for internal connections and consolidated open space or drainage attenuation in any case, such that – even with a masterplan – layouts may have been similar to those proposed to date under the approved and proposed applications. No land within HS144 would be sterilised if the current application were to be approved (of note, the final parcel of land to the north of Leak Hall Crescent could potentially be accessed from Leak Hall Lane). The council could not reasonably withhold planning permission on the grounds that the final (northernmost) parcel of land (and a vehicular connection through it, to Leak Hall Lane) has not been included in the scheme currently proposed. Finally, it is noted that the previous application relating to the current application site (ref: 2022/91911) was not refused on masterplanning grounds.

- 11.18 The current applicant has proposed useful pedestrian connections to the adjacent public footpath, such that movement through the application site would be enabled despite the final (northernmost) parcel not being included in the proposed development, and despite there being no HS144-wide masterplan informing proposals for enabling movement beyond the red line boundary of the current application.
- 11.19 Regarding apportionment of obligations across the HS144 site, this is not a concern in relation to the current application, as the size of the proposed development (at 62 dwellings) means all relevant thresholds are triggered in any case, and no further obligations would be triggered by the total amount of development (namely these 62 dwellings, plus the six already built at Springhead Gardens, the 10 approved at land to the south of the application site, and the dwellings that may in time be proposed at the final parcel of land to the north of Leak Hall Crescent) that may be delivered across the HS144 site (although development at land to the north of Leak Hall Crescent is likely to trigger its own obligations). It is also noted that no major cross-HS144 infrastructure (that may disproportionately affect one of the parcels, and which should be fairly shouldered by all developers of the HS144 site) is needed.

#### Quantum and density

- 11.20 As noted above, site allocation HS144 sets out an indicative housing capacity of 113 dwellings within the 3.24 hectares of allocated land.
- 11.21 To ensure efficient use of land, Local Plan policy LP7 requires developments to achieve a net density of at least 35 dwellings per hectare, where appropriate, and having regard to the character of the area and the design of the scheme. Lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or to secure particular house types to meet local housing needs. Kirklees has a finite supply of land for the delivery of the 31,140 new homes required during the Local Plan period, and there is a need to ensure land is efficiently and sustainably used (having regard to all relevant planning considerations) which will help ensure the borough's housing delivery targets are met. Under-use of scarce, allocated development land could potentially contribute towards development pressure elsewhere, at less appropriate sites, including at sites where sustainable development is harder to achieve. Any proposal at application sites capable of accommodating major development would be expected to make a significant contribution towards the quanta set out in the Local Plan.
- 11.22 It is noted that the previous application relating to the current application site (ref: 2022/91911) was refused partly due to its unacceptably low density (as set out in the council's third reason for refusal).
- 11.23 With 62 units now proposed in 1.9 hectares, a density of 32.6 dwellings per hectare would be achieved by the proposed development. This falls short of the 35 dwellings per hectare figure set out in Local Plan policy LP7 and which already takes into account likely on-site open space needs.



- 11.24 It is noted, however, that constraints applicable to this site have a significant bearing on what development can be achieved. In particular, the site's topography, coal mining legacy (three mine entries exist within the site), TPO-protected tree, sewer easement, and the need for on-site surface water attenuation have reduced the site's developable area, and have informed the proposed development's layout and quantum.
- 11.25 It is also noted that, at other sites, excessive numbers of large, detached units have driven down densities to the extent that land is not efficiently used. This, however, is not proposed at the application site – of the 62 dwellings proposed, only four would be detached, and no 5-bedroom (or larger) units are proposed.
- 11.26 Given the above, it is considered that the proposed density – while below the figure set out in Local Plan policy LP7 – is acceptable. The development represents an efficient use of scarce allocated land.

#### Sustainability and climate change

- 11.27 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. 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.
- 11.28 The application site is considered to be a sustainable location for residential development, as it is on the edge of an existing, established settlement that is served by public transport and other (albeit limited) facilities. As noted above, Denby Dale has a number of shops, food and drink establishments, education and sports facilities, places of worship, a community hall, a community library, open spaces and other facilities. Denby Dale railway station is a 600m walk (approximately) from the entrance to the application site. The nearest bus stops are on Cumberworth Lane to the south of the application site, and other bus stops further to the south on Wakefield Road are served by several bus routes. Given these facilities, at least some of the daily, social and community needs of residents of the proposed development could be met locally (within walking distance), and combined trips could be made, which further indicates that residential development at this site can be regarded as sustainable.
- 11.29 A Climate Change Statement has been submitted with the application. This includes commitments regarding the use of air source heat pumps, the specification of energy-efficient electrical goods, the provision of instructions for residents, the implementation of a carbon reduction plan during construction, the orientation of dwellings to maximise solar gain (where possible), the implementation of measures to reduce flood risk, the implementation of water-saving measures, and the inclusion of appropriate landscaping incorporating biodiversity enhancements.
- 11.30 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 which was entirely reliant on residents travelling by private car is unlikely to be considered sustainable. Further consideration of these matters is set out later in this report, however it is noted that the proposed development includes (or would be required to include, in accordance with the recommended conditions):

- Pedestrian connections to the adjacent Public Rights of Way network;
  - Cycle storage;
  - Electric vehicle charging points;
  - A residential Travel Plan (to encourage the use of sustainable modes of transport) and related £10,000 monitoring fee; and
  - A Sustainable Travel Fund contribution of £49,335.88
- 11.31 Drainage and flood risk minimisation measures would need to account for climate change. This is addressed later in this report.
- 11.32 In relation to residential development, social sustainability largely 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, and other relevant matters are considered later in this report.
- 11.33 In relation to residential development, economic sustainability can concern employment and training opportunities during the construction phase. The provision of training and apprenticeships is strongly encouraged by Local Plan policy LP9, and as the proposed development meets the relevant threshold (housing developments which would deliver 60 dwellings or more), officers will be approaching the applicant team to discuss an appropriate Employment and Skills Agreement, to include provision of training and apprenticeship programmes. Such agreements are currently not being routinely secured through Section 106 agreements related to residential developments – instead, officers are working proactively with applicants to ensure training and apprenticeships are provided. 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.
- 11.34 Following completion of construction, opportunities for local employment are relevant to the consideration of the proposed development's economic sustainability. Of note, the application site is within walking distance of employment opportunities in Denby Dale. In addition, buses and trains serving Denby Dale provide access to employment opportunities further afield.
- 11.35 In light of the assessment set out above and later in this report, it is considered that the proposal can be regarded as sustainable development.

#### Urban design matters

- 11.36 Local Plan policies LP2, LP5, LP7, LP24 and LP35 are of particular relevance to this application in relation to design, as is the text of site allocation HS144 and the council's Housebuilders Design Guide SPD. Chapters 11, 12 and 16 of the NPPF and the National Design Guide are also relevant. In relation to the Grade II listed Wesleyan Methodist Church to the west, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is relevant.

### *Site context*

- 11.37 The application site is currently undeveloped, grassed agricultural land. It forms part of the northern edge of the village of Denby Dale. To the north of the application site are further areas of grassland and trees within the green belt. Land to the south is also grassed, but has planning permission for residential development, and most land to the east, south and west of the application site is residential in character. The application site slopes downhill from north to south. It has a narrow street frontage between existing buildings on Cumberworth Lane. Due to its hillside location and surrounding topography, the application site is visible from several vantagepoints to the south, including those on Barnsley Road (looking over the Churchfield open space, and the HS136 allocated site). The application site is also visible from trains passing over the railway viaduct to the west.
- 11.38 Existing development surrounding the application site is predominantly 2-storey, however there are several bungalows and chalet bungalows nearby, as well as 3-storey elevations on East Hill Way and Wakefield Road. Terraced, detached and semi-detached properties surround the application site. Most roofs are pitched, while roofs on Leak Hall Crescent are hipped.
- 11.39 Natural stone is the predominant material at the centre of Denby Dale and immediately adjacent to the application site's proposed entrance onto Cumberworth Lane, however other materials including brick, render, pebble dash and artificial stone have been used near to the application site.

### *Design assessment*

- 11.40 The proposed development would inevitably have a transformative effect on the appearance of the application site, as what is currently green space would be developed with new buildings and hard surfaces. This visual impact would, however, be softened by the implementation of soft landscaping and the inclusion of areas of open space. It is also noted the application site is largely surrounded on three sides by existing buildings, such that the proposed development would not read as a new, sprawling intrusion into the green space that surrounds Denby Dale. The impact of the proposed development on the character of Denby Dale (as defined by its appearance and layout) would not be significantly adverse.
- 11.41 The proposed development's internal layout is considered to be legible and logical. It appropriately responds to the site's topography (as far as is possible, given the need to achieve appropriate road gradients) and other constraints such as the TPO-protected tree. It is accepted that a looped road layout (which is normally preferred, as it reduces the need for refuse collection vehicles reversing, and can be more dementia-friendly) is not possible at this site due to its topography. The arrangement of dwellings around the proposed estate road would not appear regimented, and this would assist in helping the development reflect its surroundings (where existing development appears similarly unregimented).

- 11.42 The proposed typologies and house types are considered appropriate for this site. A welcomed mix of terraced, detached and semi-detached dwellings is proposed. This is reflective of the variety that surrounds the application site, and would ensure that a repetitive or monotonous street scene is not created. The proposed 2-storey height of the dwellings is suitably reflective of the majority of buildings nearby. The 3-storey elevations to the rear of eight units (at plots 39 to 46) are similarly considered to be suitably reflective of existing buildings nearby, as are those dwellings that would have rooms in their attic spaces. These taller elements would not appear unduly obtrusive in views from public vantagepoints (including in longer views from Barnsley Road).
- 11.43 The proposed elevations are considered acceptable for this location. The proposed pitched roofs and fenestration arrangements are suitably reflective of local vernacular, while other details (including the proposed forward-facing gables and timber entrance canopies) would add interest to the elevations and street scene.
- 11.44 Artificial stone is proposed for the majority of the dwellings. This material is considered acceptable in principle for this location, however it is recommended that a condition be applied, requiring the submission of details and samples of all external materials. This would ensure the council would have final control over the quality and appearance of the artificial stone. Natural stone is appropriately proposed for the four dwellings nearest to the application site's entrance on Cumberworth Lane, where most of the existing buildings are of natural stone. The other external materials proposed by the applicant (namely, concrete slate-effect tiles, grey UPVC and timber) are considered acceptable for this location, again subject to final approval at conditions stage.

#### *Heritage assets*

- 11.45 The Grade II listed Wesleyan Methodist Church to the west of the application site derives some of its historic interest from its context, although this mainly relates to its commanding location on the village's northern hillside, its prominence on Cumberworth Lane, and its relationship with the village of Denby Dale below. It derives little of its historic interest from its relationship with the application site's undeveloped, grassed appearance (which is not readily appreciated from Cumberworth Lane, due to a difference in levels and an existing retaining wall which limit views from the lane into the application site).
- 11.46 Longer views from the south take in both the church and the application site, and although the proposed development would change the heritage asset's context in these views, the effect would not be significant due to the proximity and extent of existing development which already crowds the church and occupies space between it and the open countryside that surrounds the village. The creation of a new vehicular entrance on Cumberworth Lane to the north of the church would also affect the heritage asset's context, however it is considered that the impact upon its historic interest would not be significant, provided that appropriate materials and landscaping (to be controlled by recommended conditions) is used. The setting back of the proposed dwellings away from the new site entrance would also help ensure the heritage asset is not crowded by new development, and the use of natural stone for those four nearest dwellings would be reflective of that part of the church's context. Given the above considerations, the proposed development would not cause demonstrable harm to the setting or appreciation of the listed building.

### *Crime prevention*

- 11.47 Regarding crime prevention, the proposed layout would generally provide good levels of natural surveillance of the public realm, and clear distinctions between spaces that are public and private. Most parking spaces would be overlooked by their users from their homes. Pedestrian access to the rear gardens of terraced dwellings can be secured with gates. Subject to landscaping and boundary treatment details (to be secured via recommended conditions), no parts of the proposed development would be particularly vulnerable to flytipping and other anti-social behaviour. Conditions regarding security measures and lighting are additionally recommended. Details submitted pursuant to those conditions would need to address the detailed comments of the West Yorkshire Police Designing Out Crime Officer.

### *Landscaping*

- 11.48 Soft landscaping is shown on the applicant's proposed site plan (rev P17). Street trees and hedges are proposed along the development's estate road where there are opportunities to provide them, having regard to the council's parking expectations and the site's topography which would necessitate retaining walls adjacent to the estate road in some places. In light of Green Streets principles, paragraph 136 of the NPPF (which requires new streets to be tree-lined), and concerns raised by KC Landscape, a condition requiring full details of soft landscaping is recommended, and in considering details submitted pursuant to that condition officers would require opportunities for further street tree planting (including within private curtilages, if necessary) to be explored.

### *Boundary treatments and retaining walls*

- 11.49 Details of proposed boundary treatments and retaining walls have been provided by the applicant in drawings 0205 rev P05 and 0210 rev P06. Boundary treatments proposed along the development's estate road are generally considered acceptable. Stone walls are proposed at the site entrance (these would need to be of natural stone), and metal railings (painted black) would separate front gardens. Away from the estate road, most rear gardens would be separated by 1.8m high timber fences. 1.8m timber fences are also proposed in places around the edges of the site, which may not be appropriate where the amenities of adjacent neighbours and the adjacent public footpath would be adversely affected, or where such boundary treatments would be prominent in views from outside the site (local residents have raised this concern in representations). For visual amenity and landscape impact reasons, the new green belt edge to Denby Dale (that would be established by the proposed development) should be lined with appropriate boundary treatments and soft landscaping.
- 11.50 Retaining walls are proposed in several locations, including between the termini of the two branches of the development's estate road, and along part of the application site's southern boundary. In these locations, the submitted drawing indicates that retaining walls of between 3m and 4m (in height) are proposed. This is significant, and risks causing harm in terms of visual and residential amenity (although it is noted that a retaining wall of a similar height has been constructed relatively recently nearby at East Hill Way). Given that the final heights of these retaining walls have not yet been determined by the

applicant, given the potential for harm to be caused, and given that there may be opportunities to reduce the height of these walls through adjustments to levels, it is recommended that a condition be applied, requiring the submission of full details and justification for all retaining walls. The same condition would also require details of the materials of the proposed retaining walls, and of adjacent soft landscaping which may help to soften their visual impact.

- 11.51 A further condition relating to boundary treatments is also recommended. Details submitted pursuant to this condition would additionally need to account for flood routing and the movement of hedgehogs.

#### Residential quality and amenity

- 11.52 Local Plan policy LP24 requires developments to provide a high standard of amenity for future and neighbouring occupiers, including by maintaining appropriate distances between buildings.

#### *Neighbour amenity*

- 11.53 The previous application relating to the current application site (ref: 2022/91911) was refused partly due to impacts upon the amenities of the occupants of existing neighbouring dwellings. The council's fourth and sixth reasons for refusal concerned the impact of the proposed development in relation to 2 and 3 Springhead Gardens and Cruck Cottage, which are residential properties located to the south of the application site.
- 11.54 The proposals were subsequently amended, and separation distances between the proposed dwellings and existing adjacent properties (as illustrated and annotated on drawing 0207 rev P04 and described in the submitted Planning Statement) would now be adequate to ensure no unacceptable loss of natural light, privacy or outlook would occur. Regarding Cruck Cottage, which is a bungalow located close to the application site boundary, the submitted Planning Statement notes that the rear elevations of the nearest proposed dwellings have been moved back by 2.3m. It goes on to note that while a 21m elevation-to-elevation distance would not be achieved (as is expected under the council's Housebuilders Design Guide SPD), there is an existing level difference, and "the possibility of looking into Cruck Cottage is considered to be entirely eliminated, with any overlooking from the proposed development being on the roof of Cruck Cottage and not into the dwelling or outside amenity space". This is accepted. Regarding 2 and 3 Springhead Gardens, in the current proposals 21m elevation-to-elevation distances (or slightly less) would be achieved by units 43 to 46. Where separation distances would fall slightly short of the SPD's expectation, this is considered acceptable due to the oblique angle at which the dwellings would be set in relation to the rear elevations of those existing neighbouring dwellings.
- 11.55 In terms of noise, although residential development would increase activity and movements to and from the site, given the quantum of development proposed, and the number and locations of new vehicular and pedestrian entrances that new residents would use to access the site, it is not considered that neighbouring residents would be significantly impacted. The proposed residential use is not inherently problematic in terms of noise, and is not considered incompatible with existing surrounding uses in relation to noise.

### *Construction management*

- 11.56 A condition requiring the submission and approval of a Construction (Environmental) Management Plan (C(E)MP) is recommended. The necessary discharge of conditions submission would need to sufficiently address the potential amenity impacts of construction work at this site, including cumulative amenity impacts should other nearby sites be developed at the same time. Details of dust suppression measures would need to be included in the C(E)MP.

### *Residential quality and amenity*

- 11.57 The quality and amenity of the proposed residential accommodation is also a material planning consideration.
- 11.58 All of the proposed dwellings would be dual aspect. This is welcomed, as dual aspect enables natural ventilation, and has amenity and outlook benefits.
- 11.59 All dwellings would have adequate privacy, outlook and access to natural light.
- 11.60 Dwellings would be provided with adequate private outdoor amenity space proportionate to the size of each dwelling and its number of residents.
- 11.61 Adequate distances would be provided within the proposed development between new dwellings.
- 11.62 The sizes of the proposed residential units are a material planning consideration. 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. Recent epidemic-related lockdowns and increased working from home have further demonstrated the need for adequate living space.
- 11.63 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 has become more widespread – for example, since April 2021, all permitted development residential conversions have been required to be NDSS-compliant.
- 11.64 All of the proposed units would be NDSS-compliant.
- 11.65 All new units would have ground floor WCs, making those units at least visitable by people with certain disabilities.

### *Unit size mix*

11.66 The following unit size mix is proposed:

- 3x 1-bedroom units
- 12x 2-bedroom units
- 24x 3-bedroom units
- 23x 4-bedroom units

11.67 Within the above, 50 units would form the development's private (market) element, provided as 5x 2-bedroom units, 22x 3-bedroom units and 23x 4-bedroom units. This unit size mix is considered against the expectations (for the Kirklees Rural East sub-area) set out in the council's Affordable Housing and Housing Mix SPD as follows:

	SPD expectation	Proposed
1- and 2-bedroom	30-60%	10% (five units)
3-bedroom	25-45%	44% (22 units)
4+-bedroom	5-25%	46% (23 units)

11.68 The proposed mix for the development's private element does not fully accord with the expectations of the guidance set out in the SPD, in that a shortfall of smaller units and an overprovision of larger units is proposed. While this weighs negatively in the balance of planning considerations, it is not recommended that permission be refused on these grounds.

### Affordable housing

11.69 Local Plan policy LP11 requires 20% of units in market housing sites to be affordable. A 55% social or affordable rent / 45% intermediate tenure split is expected.

11.70 First Homes, launched by the Government in 2021, are a specific kind of discounted market sale housing (and a form of affordable housing) which:

- must be discounted by a minimum of 30% against the market value;
- are sold to a person or persons meeting the First Homes eligibility criteria;
- on their first sale, will have a restriction registered on the title at HM Land Registry to ensure this discount (as a percentage of current market value) and certain other restrictions are passed on at each subsequent title transfer; and
- after the discount has been applied, the first sale must be at a price no higher than £250,000.

11.71 First Homes are the Government's preferred discounted market tenure and should account for at least 25% of all affordable housing units delivered by developers through planning obligations. In response to this Government initiative, in December 2021 the council published a First Homes Position Statement, explaining how this tenure will be secured in Kirklees. Of particular note, the 25% requirement for First Homes will be expected to form part of the normally-required 45% intermediate element of a development's affordable housing provision.



11.72 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.

11.73 20% of 62 dwellings is 12.4, therefore 12 affordable units would be required at this application site, in the form of:

- seven social/affordable rent units;
- three First Homes; and
- two other intermediate units.

11.74 The applicant initially proposed no affordable units, arguing that the development's financial viability prevented any such provision. However, in light of the council's consultant's findings (that the development could indeed provide the required 12 affordable housing units), and following further discussion with officers regarding the expectations of the council's Affordable Housing and Housing Mix SPD, the applicant agreed to provide the following:

Affordable Rent:

- 5x 2-bedroom units
- 2x 3-bedroom units

First Homes:

- 1x 1-bedroom units
- 2x 2-bedroom units

Other intermediate:

- 2x 1-bedroom units

11.75 These affordable homes would be provided at plots 8, 9, 10, 11, 12, 13, 34, 35, 36, 60, 61 and 62.

11.76 The proposed affordable housing unit size mix is considered against the expectations (for the Kirklees Rural East sub-area) set out in the council's Affordable Housing and Housing Mix SPD as follows:

	Affordable rent SPD expectation	Affordable rent proposed	Intermediate SPD expectation	Intermediate proposed (as First Homes and other intermediate)
1- and 2-bedroom	60+%	71% (five units)	40-79%	100% (five units)
3-bedroom	20-39%	29% (two units)	40-59%	0%
4+-bedroom	0-19%	0%	0-19%	0%

11.77 Crucially, the proposed affordable rent element is SPD-compliant. The proposed intermediate element is not SPD-compliant (in that all units would have one or two bedrooms, and no 3-bedroom units are proposed), however this has not attracted an objection from KC Strategic Housing (officers of the relevant team in fact suggested the affordable housing unit size mix now proposed), and it is not recommended that permission be refused on the grounds that part of the affordable housing offer does not fully meet the expectations of the guidance set out in the SPD.

- 11.78 The proposed locations of the affordable housing units (at the termini of the two branches of the development's estate road, and at the site entrance) are considered acceptable. The development's affordable housing element would be well spread and provided in locations with good levels of amenity, and would not be clustered or isolated in an inferior or distinguishable part of the application site.
- 11.79 The design of the proposed affordable housing would also ensure it would not be visually distinguishable from the development's private element. Of the three house types proposed in the affordable element, two would also be used in the private element. The same materials would be used across the tenures (including at the west end of the application site, where natural stone would be used on private and affordable units at plots 1, 60, 61 and 62), and elevational detailing would be similar across the application site.

#### Highway and transportation issues

- 11.80 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.
- 11.81 Paragraph 114 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 115 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.

#### *Existing conditions*

- 11.82 Existing highway conditions must be noted. The application site has no existing vehicular access points, other than via a field gate off the track to the north of the application site, adjacent to 275 Cumberworth Lane. The western end of the application site meets Cumberworth Lane, which slopes downhill from north to south, and lacks a footway on the application site side of the road (a footway exists on the opposite side of the carriageway). No parking restrictions apply along this part of the road. The posted speed limit on Cumberworth Lane in the vicinity of the application site is 30mph, which changes to the national speed limit (60mph) approximately 100m to the northwest. Further to the south, Cumberworth Lane bends as it approaches the junction with Wakefield Road. Bus stops exist on either side of the road at this bend.
- 11.83 Regarding public transport accessibility, Denby Dale railway station is a 600m walk (approximately) from the entrance to the proposed application site. Besides the above-mentioned bus stops on Cumberworth Lane (which are served by the D2 and X1 bus routes), bus stops on Wakefield Road are served

by several bus routes. Buses serving these stops provide a combined service frequency of at least three buses per hour to Huddersfield, an hourly service to Holmfirth and Wakefield, and limited services to Barnsley and Penistone.

- 11.84 A public footpath (DEN/61/10) runs along the application site's northern boundary. This forms part of the borough's existing Core Walking and Cycling Network, as defined in the Local Plan.

*Traffic impact and network assessment*

- 11.85 The scope of the submitted Transport Assessment (TA) was agreed between officers and the applicant during pre-application discussions, and is based on current guidance and industry standard methodology.
- 11.86 The TRICS database has been used to determine trip rates, for the AM and PM peak hours of 08:00 - 09:00hrs and 17:00 - 18:00hrs respectively. Traffic growth has been based on TEMPro growth rates with a future design year of 2028. In terms of traffic generation, this equates to 37 and 36 two-way vehicle trips respectively in the AM and PM peak periods (25 AM and 26 PM two-way trips would travel to/from the village centre to the southeast).
- 11.87 Traffic has been distributed on the highway network using origin and destination data from the 2011 Census' method of travel to work data set for the middle super output area (MSOA) in which the site is located. This shows that beyond the site access junction, traffic generated by the development would be less than 30 two-way peak hour vehicle trips in either direction, and the TA concludes that:

*Beyond the site access junction the traffic generated by the site is well within the normal daily fluctuations in traffic flows that could be expected on Cumberworth Lane. The impact of the traffic generated by the site is therefore considered to be negligible at the Cumberworth Lane / A636 Wakefield Road junction. This is further supported by the MCC results for the junction (Appendix D) which show that this is not a busy junction. As such, junction modelling has only been undertaken for the proposed site access junction.*

- 11.88 KC HDM officers generally agree with the above conclusions, and agree that the development is not anticipated to have any significant effect beyond the site access junction. To put this into context, development traffic would represent a maximum increase of 6.7% in vehicular traffic on Cumberworth Lane to the southeast of the access to/from the village centre (26 new vehicle trips compared to 371 existing PCUs in the 2028 PM peak baseline data).
- 11.89 The site access junction has been modelled using the PICADY function within the Junctions 9 software. This assessment demonstrates that the proposed site access junction would operate comfortably within practical capacity in the future design of 2028 and is therefore considered suitable to serve the proposed development.

- 11.90 It is considered that the impact of the traffic generated by the development would have no material or severe impact on the operation or safety of the local highway network.

### *Site access*

- 11.91 Much discussion with the applicant during the life of the application has concerned the design, adequacy and safety of the proposed site access on Cumberworth Lane.
- 11.92 The proposed site access takes the form of a simple priority T-junction, with a minor road carriageway width of 5.5m and 2m wide footways on both sides. 10m radii are proposed at the site access to accommodate the turning movements of the council's design refuse vehicle (11.85m long) to/from the site access, which has been demonstrated on the applicant's swept path drawings.
- 11.93 A 2m wide footway is proposed along the site frontage, which would connect the site access to the private access track that carries public footpath DEN/61/10 to the north of the site. To the south of the site frontage, the proposals include a new 1.5m wide section of footway that would front 1 Chapel Court and would connect to the existing footway network to the south. These footway improvements would provide a direct link to the wider footway network to the south from the development site, and would also provide improved provision for existing pedestrians walking between public footpath DEN/61/10 and the village centre. It is noted that the 1.5m wide section of footway is below the preferred minimum width of 2m, which cannot be provided in this location due to land constraints. However, this width is sufficient to allow two pedestrians to pass and also for guided pedestrians (e.g. parents with children) in accordance with guidance contained in the DfT's Inclusive Mobility document. Dropped crossing points are proposed at the site access junction, and on either side of the junction to assist pedestrians crossing Cumberworth Lane. These would be suitably located where there would be adequate pedestrian/vehicle inter-visibility. The proposed footway improvements at the site access and on Cumberworth Lane are considered acceptable and would provide a welcome improvement for existing and proposed highway users. It is also noted that the new footway would also have consequential benefits to junction visibility for properties accessed from the private track that carries public footpath DEN/61/10 (as the existing retaining wall that blocks visibility will be set back).
- 11.94 Notwithstanding the posted speed limit on this part of Cumberworth Lane, as on-site observations suggested that southbound approach speeds to the proposed site access junction were in excess of 30mph, the applicant provided speed survey data in their Transport Assessment (Appendix D) to determine the required junction visibility splay for approaching southeast-bound traffic. The speed survey was undertaken at a point approximately 100m north of the proposed site access (e.g. at the speed limit change), and identified 85th percentile southeast bound speeds of 34.8mph.
- 11.95 Based on the guidance contained in Manual for Streets Parts 1 & 2 (MfS), and taking into account the recorded approach speeds and gradient of Cumberworth Lane, a 2.4m x 59m visibility splay is required looking northwest from the proposed site access. This has been demonstrated on the proposed site access drawing 2111502-Rev I, with the splay measured to the nearside wheel track in accordance with MfS guidance. Given the proximity of the site access to the Wakefield Road junction and the built-up nature and geometry of the southern end of Cumberworth Lane, vehicles are observed to be

generally travelling within the posted 30mph speed limit in the northbound direction. Accordingly, a visibility splay of 43m commensurate with a 30mph speed limit is considered appropriate to the southeast of the site access, which has again been demonstrated on the proposed site access drawing.

- 11.96 Local residents have raised concerns regarding the proposed site entrance junction visibility and have suggested that the guidance in MfS should not be applied in this situation, and instead that guidance from the Design Manual for Roads and Bridges should be applied to Cumberworth Lane. However, Section 1 and 10 of MfS (Part 2) states that stopping sight distances (SSD) for roads where speeds are below 37mph (60kph) should apply the MfS guidance. Further guidance on this matter is also provided in the Kirklees Highway Design Guide SPD, which states: "For routes that carry over 10,000 vehicles per day and/or have vehicle speeds greater than 37mph, the visibility guidelines within the Design Manual for Roads and Bridges (DMRB) should be followed". As the recorded speeds are below 37mph and the two-way flow of traffic on Cumberworth Lane is well below 10,000 vehicles per day (based on the traffic data contained at Appendix D of the TA, the average weekday two-way flow was recorded at 3,507 vehicle per day), it is clear that the MfS guidance is applicable in this situation.
- 11.97 As vehicles speeds above 30mph have been recorded to the northwest of the site access at the entrance to the 30mph speed limit, the applicant has agreed to provide improved speed limit terminal signage on yellow backing boards on both sides of the carriageway (on offset brackets on the east side to avoid carriageway overhang), together with a 30mph speed limit roundel road marking on the carriageway, to highlight the speed limit change and encourage better compliance with the speed limit. These works would be implemented as part of the site access proposals, and it is recommended that they be secured by planning condition.
- 11.98 Local residents have also raised concerns about the narrow carriageway width on Cumberworth Lane within the vicinity of the proposed site access, suggesting that it is not wide enough to allow vehicles to pass. KC HDM officers have noted that the running carriageway width is circa 5.5m within the vicinity of the site access. As confirmed in MfS, this width is sufficient to allow two vehicles to pass, including HGVs passing light vehicles (cars/vans) or cyclists. Therefore, as the proposals maintain the running carriageway width of 5.5m past the site access, the development would not impact on passing traffic at the site access, and as previously mentioned, swept path analysis has been provided to confirm that the council's design refuse vehicle (the largest fleet vehicle) can safely turn to/from the access.
- 11.99 The proposed site access, footway and signing/road marking proposals on Cumberworth Lane have been subject to a Stage 1 Road Safety Audit. This did not raise any significant issues that cannot be addressed at the detailed design stage. The only issue of note that was raised was the location of one of the dropped pedestrian crossing points on Cumberworth Lane that has now been relocated to ensure that adequate pedestrian/vehicle inter-visibility would be provided.
- 11.100 In light of the above, the site access proposals and associated works on Cumberworth Lane are considered acceptable, and would provide an improvement over the current arrangements.

### *Road safety*

- 11.101 A review of personal injury collisions for the preceding five-year period, (January 2017 to December 2021) has been undertaken in the applicant's Transport Assessment, the findings of which indicate that there have been no collisions resulting in injury in the vicinity of the site access on Cumberworth Lane. The TA concludes that:

*This shows that in the study period, there have been no collisions resulting in injury in the vicinity of the site frontage on Cumberworth Lane or at the [Cumberworth Lane / A636 Wakefield Road junction]. It is therefore considered there are no safety concerns nor any problematic safety trends on this section of the local highway network in the vicinity of the proposed development.*

- 11.102 KC HDM officers generally agree with the above finding. It is also noted that some local objections have suggested that the Crashmap data included in the TA is incorrect, as there have been other incidents in the area that have not been identified. This is likely to be due to the collision data only including reported incidents that resulted in person injury, as these are the only incidents that are recorded in the DfT data used in Crashmap. As such, KC HDM officers have reviewed the more detailed personal injury collision data available to the council, which confirms that there have been no reported personal injury collisions on Cumberworth Lane within the vicinity of the site or its junction with Wakefield Road within the last five years of available data (noting that there is a time lag on the available data, so it may not include any very recent incidents).

### *Public rights of way*

- 11.103 The proposed new footway along the Cumberworth Lane application site frontage would connect to public footpath DEN/61/10, which runs along the northwest boundary of the site from Cumberworth Lane to Leak Hall Lane. This connects to public footpath DEN/61/20, which continues in a northeasterly direction to Gilthwaites Lane, where Denby Dale First School is located. The existing public footpath network offers a dedicated and virtually traffic-free route between the application site and the local school providing the potential for future residents to undertake journeys on foot. The internal site layout provides two new pedestrian links to DEN/61/10. In response to previous comments from KC HDM officers, the applicant has improved the alignment of the proposed new footpath link in the northern corner of the site. This link would connect the estate road to DEN/61/10 via a 2m wide footpath, with a maximum gradient of 1:20.
- 11.104 The new footpath connections to public footpath DEN/61/10 would be a benefit to the proposed development and to existing and future users of the public footpath, and are welcomed. As noted earlier in this report, movement through the application site would be enabled despite the final (northernmost) parcel of the allocated site HS144 not being included in the proposed development, and despite there being no HS144-wide masterplan informing proposals for enabling movement beyond the red line boundary of the current application. These aspects of the proposed development would help it to integrate with its surroundings, enabling sustainable and active travel. Final details of the footpath links (including drainage, construction specification and surfacing) and their delivery would need to be secured by condition, with public access rights secured via a Section 106 obligation.

### *Site layout*

- 11.105 The proposed site layout comprises a combination of traditional estate roads with footways on both sides, shared surface streets with hard margins and private drives. The overall layout takes the form of a series of cul-de-sacs terminating in service vehicle turning heads.
- 11.106 In response to previous comments provided by KC HDM officers, the site layout has been amended, it is now acceptable in principle, and it is considered to be suitable for adoption (subject to Section 38 team approval at the detailed design stage). The site layout has also been subject to a Stage 1 Road Safety Audit that has not raised any significant issues that cannot be addressed at the detailed design stage.
- 11.107 All junction and forward visibility requirements have been met. These are proposed to be contained within the adoptable highway extents. This includes adequate forward visibility at the bend adjacent to the TPO-protected tree in the northern corner of the site, which is to be protected with a highway verge and marker posts, rather than a footway or hard margin to minimise impact on the tree's root protection area. The site access and internal streets would all have gradients less than 1:20. This includes at the site access junction with Cumberworth Lane, which would have an initial gradient of 1:25 for the first 10m. Therefore, it has been demonstrated that suitable gradients can be provided, in accordance with local guidance.
- 11.108 The site layout proposals are considered acceptable, with final details secured by condition. Officers are satisfied that the council's fifth reason for refusal (under previous application ref: 2022/91911) has been sufficiently addressed.

### *Servicing*

- 11.109 The applicant has provided a full package of swept path analysis to confirm that the council's design refuse vehicle would be able to turn and circulate within the site. To achieve this, localised carriageway widening has been incorporated at bends to ensure that the refuse vehicle could pass parked cars. The comments of KC Waste Strategy (regarding looped layouts, and advising that the council's refuse collection vehicles currently reverse the length of both Leak Hall Lane and Leak Hall Crescent to undertake collections due to insufficient turning heads in those highways) are noted, however it is accepted that a looped layout is not possible at this site, and development at the application site does not provide an opportunity to remedy the existing problems experienced on Leak Hall Lane and Leak Hall Crescent.
- 11.110 Bin presentation points have been identified on the applicant's drawings, to confirm that bins can be presented adjacent to the highway on collection day, without causing obstructions.

### *Parking*

- 11.111 Parking provision across the site must reflect anticipated need (balanced against aesthetic, street scene, safety and sustainability considerations), having regard to likely vehicle ownership. The council has not set prescriptive parking standards for residential development. However, it is expected that development will provide parking in line with the recommended levels set in

the council's Highway Design Guide SPD, which requires two spaces for 2- and 3-bedroom dwellings, and three spaces for 4-bedroom (or larger) dwellings. Should garages be proposed, they must have an internal dimension of 3m x 6m to be taken into account as available off-street parking.

- 11.112 KC HDM officers previously raised concerns that some of the 4-bedroom dwellings were only proposed to have two parking spaces, and that some of car parking spaces were of insufficient length to accommodate large cars. The layout has therefore been amended to ensure that all car parking spaces are of an adequate size, and for all of the 4-bedroom dwellings that would only have two off-street parking spaces (this applies to 15 of the 23 4-bedroom dwellings), these do not include garages spaces (as these are often not used). For the remaining dwellings, the proposed off-street car parking provision is in accordance with the council's Highway Design Guide SPD recommendations, including suitably-sized garages (proposed for the remaining eight 4-bedroom dwellings).
- 11.113 16 visitor parking spaces have been shown within the proposed adoptable highway, in the form of dedicated laybys and other informal locations that do not block drives, bends or turning heads. This provision is considered to be adequate and is in accordance with the council's Highway Design Guide SPD, which recommends one visitor space per four dwellings.
- 11.114 Sufficient spaces are proposed to reduce the risk of new residents parking on nearby streets or in other inappropriate locations. Where possible, unbroken rows of parking spaces have been avoided, for visual amenity reasons.
- 11.115 Cycle parking is proposed for all dwellings in cycle sheds within secure garden areas that are accessible via external routes. These proposals are acceptable in principle, with the final details to be secured by a recommended planning condition, which would require secure cycle parking that can accommodate a range of cycle types to ensure that it is inclusive.

#### *Sustainable transport*

- 11.116 It is recommended that a Sustainable Travel Fund contribution of £49,335.88 be secured via the necessary Section 106 agreement. Although the calculation of this sum is based on 62 units multiplied by the cost of a bus-only MCard, the contribution would be secured flexibly, so that it could be put towards a range of measures intended to encourage the use of sustainable modes of transport.

#### *Travel planning*

- 11.117 Comprehensive and effective travel planning is required in connection with the proposed development, in compliance with Local Plan policies LP20 and LP51. As the development involves the provision of over 50 dwellings, a Travel Plan is required.
- 11.118 A Framework Travel Plan has been submitted with the planning application, which would need to be developed further prior to occupation, and would need to include reference to the Sustainable Travel Fund and associated measures to be agreed. As such, it is recommended that the details of the final Travel Plan be secured via the required Section 106 agreement, and that the Travel Plan be implemented upon first occupation. It is noted that the baseline Travel Plan Target should be to reduce single occupancy car trips by 10%, rather than 5% as suggested in the current Framework Travel Plan.



11.119 A Travel Plan Monitoring Fee would need to be secured as part of the Section 106 agreement. For a development of this scale (classed as a “small scale major residential development”) the fee would be £10,000.00 (£2,000 per year for five years).

#### *Construction management*

11.120 As well as for residential amenity and environmental health reasons, management plans relating to the proposed groundworks and the construction phase would be required in connection with highway considerations. These would need to secure the provision of wheel washing facilities, among other measures.

11.121 A further condition requiring highway condition surveys (carried out before after construction, and including public footpath DEN/61/10) is recommended.

11.122 Limited details were provided in relation to construction access, although the applicant had referred to the potential removal of material from the application site (approximately 4,150 cubic metres to be extracted over eight weeks, which would equates to around 10 loads per day based on 5.5 working days per week and 10 cubic metre loads). This information has recently been updated, and there have also been discussions with the applicant regarding HGV routing. For this element of the development process, it has been indicated that this would take place via the new access on to Cumberworth Lane. Therefore, further details of the construction access arrangements would need to be provided as part of the CMP. This would need to include adequate junction visibility and geometry (to be confirmed by swept path analysis), and measures to ensure the safety of pedestrians walking past the site access (the new footway would need to be provided along the site frontage, at least in a temporary form).

11.123 Local residents have expressed concern that construction access may take place via the private track that carries public footpath DEN/61/10 along the application site’s northwest boundary. However, this would not be acceptable, and construction access would only be acceptable via a suitably-constructed construction access on to Cumberworth Lane. An appropriate condition related to this is recommended.

#### Flood risk and drainage issues

11.124 In relation to flood risk and drainage, the requirements of chapter 14 of the NPPF, and Local Plan policies LP27, LP28 and LP29, must be addressed. Drainage and flood risk (including provisions for flood routing) should be a key influence on any layout proposed for the application site.

11.125 The allocated site is located within Flood Zone 1 and is therefore generally at low risk of flooding. A watercourse runs along the application site’s northeastern boundary (to the rear of existing dwellings on Leak Hall Crescent). Yorkshire Water sewers exist beneath Cumberworth Lane and other nearby streets.

11.126 The application site is larger than 1 hectare in size, therefore a site-specific Flood Risk Assessment (FRA) and a full site-wide drainage strategy is required. These have been submitted.

- 11.127 It is accepted that surface water cannot be disposed of via soakaways at this site. The proposed surface water drainage system incorporates on-site attenuation in the form of an underground tank at the east end of the application site. Surface water run-off leaving the application site would be restricted to a run-off rate of 5 litres per second before it reaches the east corner of the application site and flows into the existing watercourse that runs along the application site's northeast boundary. The proposed surface water drainage strategy accounts for predicted rainfall events including an appropriate allowance for climate change. The applicant proposes to offer the development's main drainage to Yorkshire Water for adoption.
- 11.128 Flood routing (i.e., surface water flow during exceedance events) has been considered by the applicant. Water would be routed along internal roads to either Cumberworth Lane or towards the proposed attenuation basin and the east corner of the application site.
- 11.129 The applicant proposes to dispose of foul water via the public sewer in Leak Hall Crescent and an existing connection through the neighbouring residential development. The applicant intends to offer the main foul drainage system for adoption by Yorkshire Water.
- 11.130 The Lead Local Flood Authority (the LLFA) support the application, confirming that the proposed connection to watercourse can now be sanctioned as downstream improvements have been carried out. The LLFA have recommended conditions and Section 106 obligations relating to drainage, and these are included in the case officer's recommendation.
- 11.131 Yorkshire Water have not objected to the proposals.
- 11.132 A condition is recommended regarding temporary drainage during the construction phase.

#### Environmental health considerations

- 11.133 The application site is not within an Air Quality Management Area (AQMA) and is not near to roads of concern in relation to air quality. KC Environmental Health have advised that the proposed development does not require an emissions damage cost calculation. Officers in that team have accepted the applicant's assertions that increases in traffic flows on local roads (caused by the proposed development) will not generate any significant emissions and concentrations of NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub>, and these are predicted to be below the national air quality objectives. The applicant's air quality methodology is considered by KC Environmental Health to be acceptable, and no further mitigation measures are required for this development.
- 11.134 For air quality reasons, a condition requiring the provision of electric vehicle charging points for all dwellings is recommended. This condition would require the charging points to be made operational and to be retained thereafter (and, therefore, goes further than the relevant current requirements of the Building Regulations).
- 11.135 Regarding dust, KC Environmental Health have advised that the proposed development does not require a construction dust risk assessment. An adequate dust management plan has been submitted for the site remediation phase, however details regarding dust are required for the wider construction activities. An appropriate condition is therefore recommended.

- 11.136 Regarding noise during the remediation and construction phase, works would be restricted to appropriate hours, and the applicant's proposed construction methodology (to the extent it has been detailed to date) is considered acceptable, however temporary acoustic screens would be required.
- 11.137 Cumberworth Lane is a source of traffic noise, and the applicant's acoustic consultant advised that acoustic screening would be required to protect residents of the nearest new dwellings (at the west end of the application site) from that noise. KC Environmental Health subsequently supported the erection of acoustic screening. However, it is considered that such screening would be visually harmful (at a location close to the site entrance), and in any case the applicant has more recently stated that – since those dwellings were moved away from west end of the site – no such screening is in fact required. A condition requiring the erection of such screening is therefore not recommended. Other dwellings within the proposed development are not considered to be at risk of amenity harm in relation to noise.
- 11.138 Notwithstanding the above commentary regarding dust and noise, it is noted that many residents remain concerned regarding the amenity impacts of the proposed site remediation, particularly in relation to the potential removal of approximately 4,150 cubic metres (pre-update figure) of material from the application site. These concerns are understandable.
- 11.139 To address these concerns, conditions are recommended requiring the submission of management plans for both the extraction and construction phases of development. Both plans would need to specify hours of working, and control noise and vibration, dust and artificial lighting to minimise impacts upon neighbouring residents.

#### Site contamination and stability

- 11.140 The application site is affected by previous coal mining activities. The applicant's Phase 2 Geo-Environmental Report details intrusive investigations carried out via boreholes at the application site, and describes ground conditions. Three areas of coal were discovered at the application site, together with related voided strata. These seams and voids range from 0.4m to 2.5m in thickness. The applicant has stated that these areas pose a risk to stability as there is insufficient thickness of competent rock cover above the workings to mitigate the risk of instability impacting the surface. Three mine entries also exist at the application site – one towards the southwestern corner of the site (where plot 58 is now proposed), and two towards the application site's northeastern boundary.
- 11.141 There is one closed landfill site within 250m of the application site.
- 11.142 Paragraph 189 of the NPPF states that planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination (this includes risks arising from former activities such as mining). Paragraph 190 states that, where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

11.143 Local Plan Policy LP53 states that development on land that is unstable, currently contaminated or suspected of being contaminated due to its previous history or geology, or that would potentially become contaminated as a result of the development, will require the submission of an appropriate contamination assessment and/or land instability risk assessment. For developments identified as being at risk of instability, or where there is evidence of contamination, measures should be incorporated to remediate the land and/or incorporate other measures to ensure that the contamination/instability does not have the potential to cause harm to people or the environment. Such developments which cannot incorporate suitable and sustainable mitigation measures which protect the well-being of residents or protect the environment will not be permitted.

11.144 To stabilise the application site, the applicant proposes the following:

- A drill and grout operation which would consist of drilling approximately 300 primary holes and 250 secondary holes which would then be injected with a grout mix to fill and strengthen the voids beneath the site.
- For the three mine entries within the application site, grouting (as described above) and capping with reinforced concrete that is twice the diameter of the entry.
- At the centre of the site, where ground levels would be lowered by up to 2.5m, excavation may be carried out to remove existing mineworkings or seams in full. The need for such excavation would be determined by final levels. Should such excavation be deemed necessary by the applicant, an extraction volume of approximately 4,150 cubic metres was anticipated (this has recently been revised to 4,400 cubic metres by the applicant). However, where this excavation is deemed impractical, the applicant proposes grouting as described above.

11.145 Further detail regarding these works is set out under section 4.0 of this committee report.

11.146 Of note, the above represents a reduced level of intervention in relation to ground works. Under the previous application (ref: 2022/91911), extensive excavation and backfill was proposed – the previous committee report noted that the applicant's submission referred to the extraction of 12,000 tonnes of coal (although in the most recent Planning Statement the applicant has said that 6,000 tonnes were to be extracted).

11.147 The ground works now proposed, including the potential extraction of approximately 4,150 or 4,400 cubic metres of material, are not unusual for a development of this size and nature, at a sloped site where there are existing voids and seams near to the proposed surface level, and where sub-surface space needs to be created for surface water attenuation. As noted in the comments of KC Environmental Health, coal remaining close to the surface of a development site is at risk of combustion, and its removal and covering with inert material may be necessary. At the volume suggested by the applicant, the potential extraction can be regarded as incidental to the residential development of the application site (accordingly, the applicant considers the material to be waste rather than a resource), and the development description did not need to refer to extraction. However, for sustainability and amenity reasons, the extraction of material from the application site should be minimised as far as is possible. It is also noted that the applicant previously

stated that it was not yet certain exactly how much – if any – material would be extracted. A condition is therefore recommended, requiring the submission of detailed information quantifying any such extraction, demonstrating the need for it (as opposed to re-use on site), explaining how it has been minimised, and explaining how its impacts would be mitigated.

- 11.148 The Coal Authority noted that the proposed grouting could be secured by condition. They additionally stated that one of the site's three mine entries (shaft 422408-015, located in front of where unit 39 to 42 are now proposed) would be remote from any built development and owing to past excavations is likely to have been removed in its entirety, therefore risks related to it would be low and do not warrant any further intervention.
- 11.149 However, in relation to the site's other two mine entries (422408-002 to the rear of where unit 58 is now proposed and 422408-016 towards the east end of the site where open space is now proposed), the Coal Authority raised concerns, noting that both require capping at rock head and grouting, and that the applicant's submission suggests that the proposed dwellings would avoid the entries, but not their zones of influence. Whilst the Coal Authority accepted that the remedial strategy proposed would effectively nullify the zones of influence, they were unclear as to how the mine entries, together with their treatments (i.e. the caps) would sit within the context of the development. Noting that building over the caps would be contrary to the Coal Authority's adopted policy, they requested amended information confirming the locations of the mine entries (and their treatments) in relation to the proposed development.
- 11.150 The applicant subsequently submitted drawings providing the requested information. This was forwarded to the Coal Authority by officers, and in response to the council's reconsultation, the Coal Authority withdrew their objection subject to recommended conditions being applied. It is considered that the submitted information adequately illustrates that built development is not proposed within the zones of influence of the site's mine entries.
- 11.151 It is recommended that other conditions relating to the remediation of the site's coal mining legacy be applied in accordance with the forthcoming further comments of the Coal Authority. Subject to appropriate details being submitted pursuant to these conditions, it is considered that the applicant's proposals would satisfactorily stabilise the site (in accordance with the NPPF and the Local Plan), rendering it able to accommodate residential development.
- 11.152 Regarding site contamination, KC Environmental Health have advised that the applicant's findings (including in relation to ground gas) are accepted, although further gas monitoring is required. Of note, KC Environmental Health have advised that all remaining coal is required to be isolated beneath a minimum 1m thickness of inert material, and inert service trenches are required. The site contamination conditions listed in KC Environmental Health's comments are included in the list of recommended conditions.

#### Ecological considerations

- 11.153 The application site is undeveloped, grassed agricultural land, and slopes downhill from north to south. A watercourse runs along the application site's northeastern boundary (to the rear of existing dwellings on Leak Hall Crescent).

- 11.154 As noted above, the Wildlife Habitat Network covers almost all of the application site. All of the application site is within the Impact Risk Zones of the Dark Peak and Denby Grange Colliery Ponds Sites of Special Scientific Interest. Bats, twites and swifts are present at and around the application site.
- 11.155 The applicant's Ecological Impact Assessment found that habitats within the application site were of varying ecological value. The majority of the site's grassland was assessed by the applicant to be modified grassland of low distinctiveness. A small area of other neutral grassland was present to the east of site which supports greater species diversity. Scrub habitats and trees on site were found to be of value to local wildlife including breeding birds, invertebrates and mammals such as bats and hedgehog. Sections of hedgerow remaining on site comprise native species and were found by the applicant to be representative of UKBAP priority habitat (where identified to be over 20m in length). One hedgerow (H1) has the potential to meet the ecological criteria for importance under the Hedgerow Regulations 1997, qualifying as species-rich. Ground flora was found to be dominated by coarse grass species and ruderal vegetation including undesirable species such as thistles and nettles. The plant communities at the site were found to be of widespread occurrence and characteristic of the habitats present in the wider area and common nationally. No rare or locally uncommon plant species or invasive species as listed under the Wildlife and Countryside Act 1981 (as amended) were detected by the applicant at the site. The Spanish bluebell hybrid (regarded as a non-native invasive species) was recorded to the northern boundary of site. Bird species observed by the applicant during a site walkover included greenfinch, house sparrow, woodpigeon, starling, wren, dunnock, swift and kestrel, as well as several species that are not of conservation concern.
- 11.156 Several local residents have stated that other species are present at the application site, including deer, toads and owls.
- 11.157 A condition requiring on-site biodiversity enhancements is recommended.
- 11.158 A 10% net biodiversity gain should be demonstrated in accordance with chapter 15 of the NPPF, Local Plan policy LP30, and the council's Biodiversity Net Gain Technical Advice Note. Achieving biodiversity net gain within an application site is the preferred option. If this cannot be achieved within an application site (i.e., where it can be demonstrated that on-site compensation methods have been exhausted), applicants are required to secure off-site compensation. In those situations, as set out in the council's Biodiversity Net Gain Technical Advice Note (paragraph 3.4.1 onwards), applicants will need to demonstrate that sufficient off-site habitat creation or enhancement has been secured to achieve a minimum 10% biodiversity net gain. Off-site compensation can be secured through one, or a combination, of the following:
- Management of land within the control of the developer;
  - Purchase of the required compensation value from a habitat bank;
  - Payment of a commuted sum to the Local Planning Authority; or
  - A combination of all or some of the above.

- 11.159 In accordance with the council's Technical Advice Note, applicants are encouraged firstly to source and bring forward appropriate sites on which their biodiversity offsetting can occur. These should be reasonably close to the development site and have the potential to establish or enhance in-kind habitats to those due to be lost. For applications submitted prior to biodiversity net gain becoming mandatory (on 12/02/2024), if an applicant is unable to secure a site where adequate biodiversity offsetting can occur then a financial payment to the council, for use to enhance biodiversity on council-managed land, will be required.
- 11.160 Taking into account site constraints and other demands on space, officers are satisfied that on-site compensation methods have been exhausted. The applicant does not control any further land within the vicinity of the application site where further provision would be deliverable.
- 11.161 The applicant has submitted a biodiversity metric calculation. This sets out the application site's existing values (i.e., its baseline), as well as the site's post-development values, and the changes (in units and percentages), as follows:

Unit type	Existing (baseline)	Proposed (post-development)	Change in units	Percentage change
Habitat	14.35	9.36	-4.99	-34.75%
Hedgerow	1.14	1.91	+0.77	+66.95%
River	0.14	0.24	+0.1	+68.27%

- 11.162 Although it is noted that the site's hedgerow and river unit baselines are low, the respective 66.95% and 68.27% increases (which would be achieved on-site) are nonetheless welcomed. A condition securing the delivery of these gains is recommended.
- 11.163 Regarding the development's impact upon habitat units, in order to compensate for the 34.75% loss, and to achieve a 10% gain, 6.425 habitat units would need to be provided off-site. This can be achieved via a financial contribution of £147,775 (based on a £20,000-per-unit cost, and a 15% administration fee). It is recommended that this be secured via a Section 106 agreement.
- 11.164 Subject to the biodiversity net gain contribution being secured, and conditions being applied in relation to ecological mitigation and landscaping, it is considered that the proposed development is acceptable in terms of its ecological impact.

### Trees

- 11.165 Local Plan policy LP33 is relevant. Tree Preservation Order TPO 17/21/t1 protects an oak tree within the application site. An area of open space is proposed around this tree, and the nearest new dwelling would be unit 39. The applicant's drawings note that earth has been piled up against this tree. Excess soil will need to be removed, and the applicant has stated that compaction damage within the tree's root protection area would be remediated.

- 11.166 Regarding the development proposed around the tree, the applicant proposes a root protection barrier as part of the creation of the new estate road adjacent to the tree. KC Trees have advised that a “no dig” cellular confinement system will need to be shown on plans and implemented. KC Trees have also expressed concern regarding the location of unit 39 in relation to the tree, and the potential pressure to prune that may follow. However, officers note that the council would have control over an application to carry out any such pruning.
- 11.167 The applicant has submitted Arboricultural Method Statement and Tree Protection Plan, however a condition is recommended requiring the submission of final (amended) versions of these documents.
- 11.168 As noted earlier in this report, in light of Green Streets principles, paragraph 136 of the NPPF (which requires new streets to be tree-lined), and concerns raised by KC Landscape, a condition requiring full details of soft landscaping is recommended, and in considering details submitted pursuant to that condition officers would require opportunities for further street tree planting (including within private curtilages, if necessary) to be explored.

#### Open space

- 11.169 Three areas of publicly-accessible open space are proposed on-site in appropriate locations (namely, around the TPO-protected tree, above the development’s attenuation tank (where buildings cannot be erected), and either side of the site proposed entrance). Other, smaller spaces have also been annotated as “POS” in the applicant’s drawings.
- 11.170 Limited information has been submitted regarding the purpose, character, equipment and soft landscaping of the on-site open spaces. Therefore, only a basic assessment of the proposals against the council’s Open Space SPD is possible at this stage. Open space of various typologies, and a Locally Equipped Area for Play (LEAP), would be required of a residential development of this scale. Until further details of the proposed open spaces are provided, and given that some areas (such as the green space between units 14 and 29) shouldn’t be counted towards on-site provision at this stage, a contribution of £120,055 towards off-site open space would be required. This has been calculated in accordance with Local Plan policy LP63, and the methodology set out in the adopted Open Space SPD, and takes into account deficiencies in the Denby Dale ward. Members should be aware, however, that – should the applicant provide further information that would enable more of the proposed open space to be counted towards on-site provision, and/or would clarify that the proposed open space would indeed be of specific typologies – this contribution could be significantly reduced.
- 11.171 Similarly, if acceptable details of an on-site LEAP were to be provided, this element of the contribution would no longer be required. If, however, a contribution towards off-site provision is to be collected, it is noted that four existing play spaces are within 720m of (and a 15 minute walk from) the application site – the children and young people’s element of the open space contribution could be spent in those locations, subject to local consultation (including with Members).



11.172 It is recommended that further details of the on-site open space (and the final contribution, as well as an inspection fee of £250) be secured via the necessary Section 106 agreement. Details of the management and maintenance of these spaces would also be secured via the Section 106 agreement.

#### Other planning considerations

11.173 Regarding archaeology, the applicant has submitted an Archaeological Desktop Assessment. The West Yorkshire Archaeology Advisory Service (WYAAS) have noted that the northern part of the application site coincides with part of the presumed extent of a medieval settlement located to the south of Leak Hall. Earthworks identified here were considered to be evidence of medieval buildings and ploughing. This evidence was located in a sub-square field to the south of Leak Hall which is bisected by a trackway.

11.174 WYAAS have further noted that the condition of these archaeological earthworks has been reassessed more recently (in 2012 and 2022). On both occasions the earthworks were not visible due to scrubby growth. The south-western part of the area of interest had been obscured and possibly destroyed by spoil and vehicle movements associated with the construction of new dwellings off Leak Hall Road in the recent past. WYAAS have noted the difficulty of carrying out predetermination geophysical surveys due to the present ground conditions. Geotechnical assessment has identified evidence of coal mining within the site, and this activity is likely to have damaged any evidence of earlier activity.

11.175 WYAAS have recommended a condition be applied, securing a programme of archaeological recording. This may include strip and record excavation, excavation of archaeological trial trenches, and observation of geotechnical and other ground reduction works.

11.176 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.

11.177 The impact of proposed developments upon the values of existing nearby properties is not a material planning consideration.

11.178 A resident has stated that the application site is the only location in Denby Dale where an air ambulance (helicopter) could land in an emergency. However, officers note that the site is not protected for this purpose via any current planning policies, and alternative landing sites appear to be available in Denby Dale.

## Planning obligations and financial viability

11.179 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) Affordable housing – 12 affordable dwellings (seven social/affordable rent, three First Homes, and two other intermediate) to be provided in perpetuity.
- 2) Open space – Off-site contribution of up to £120,055 to address shortfalls in specific open space typologies.
- 3) On-site open space inspection fee – £250.
- 4) Education – Contribution of £97,444 towards secondary provision.
- 5) Sustainable transport – Measures to encourage the use of sustainable modes of transport, including: i) a £49,335.88 contribution towards sustainable travel measures; ii) implementation of a Travel Plan; iii) £10,000 towards Travel Plan monitoring; and iv) provision of public access between the development's estate road and public footpath DEN/61/10 (and maintenance of links) in perpetuity.
- 6) Biodiversity – Contribution of £147,775 towards off-site measures to achieve biodiversity net gain.
- 7) Management and maintenance – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, of infrastructure (including surface water drainage until formally adopted by the statutory undertaker, and of the site's existing watercourse) and of street trees (if planted on land not adopted).

11.180 All contributions are to be index-linked.

11.181 Regarding the development's financial viability, the applicant submitted information in support of a claim that the development could not provide any affordable housing or Section 106 contributions. Aspinall Verdi were commissioned by the council to review the applicant's information. While many of the inputs and assumptions used by the applicant in their calculations were found to be reasonable, there was disagreement regarding some matters (particularly in relation to land value, where the applicant do not follow the "Existing Use Value plus premium" approach stipulated by the Government). Aspinall Verdi consequently concluded that the proposed development could in fact provide the required 12 affordable housing units, as well as Section 106 contributions. On 18/04/2024 the applicant accepted these findings.

11.182 On 19/01/2021, in light of the Government's announcement that it will abolish CIL and replace it with a nationally-set infrastructure levy, Cabinet agreed to not adopt the CIL Charging Schedule in Kirklees at this stage.

## Conditions

11.183 Full wording of conditions are not normally set out in committee reports, however in response to Members' request (made at the Strategic Planning Committee meeting of 16/05/2024), a draft list of conditions is appended to this committee report.

- 11.184 A condition removing permitted development rights from some of the proposed dwellings is recommended. This is considered necessary for the dwellings proposed with smaller gardens, as extensions under permitted development allowances here could reduce the private outdoor amenity spaces to an unacceptable degree. Permitted development extensions could also affect longer views of the site from public vantagepoints.
- 11.185 Other conditions are standard, and/or are explained earlier in this report.
- 11.186 The applicant's confirmation that all pre-commencement conditions are agreed is awaited.
- 11.187 It is recommended that authority to amend and add to this draft conditions list be delegated to the Head of Planning and Development.

## **12.0 CONCLUSION**

- 12.1 The majority of the application site is allocated for residential development under site allocation HS144, and the principle of residential development at this site is considered acceptable.
- 12.2 The applicant has satisfactorily addressed the concerns set out in the previous reasons for refusal (ref: 2022/91911), and concerns raised during the life of this application.
- 12.3 The site has constraints in the form of adjacent residential development (and the amenities of these properties), access, topography, drainage, ecological considerations, heritage, and other matters relevant to planning. These constraints have been sufficiently addressed by the applicant, or would be addressed at conditions stage.
- 12.4 Given the above assessment and having particular regard to the 62 homes (including 12 affordable homes) that would be delivered by the proposed development, approval of full 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.

## **13.0 CONDITIONS**

- 13.1 The following conditions are recommended (subject to authority to amend and add to this list being delegated to the Head of Planning and Development):

1. The development hereby permitted shall be begun within three years of the date of this permission.

**Reason:** Pursuant to the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

**Reason:** For the avoidance of doubt as to what is being permitted and in the interests of visual amenity, residential amenity and other matters relevant to planning and to accord with the Kirklees Local Plan and the National Planning Policy Framework.

3. Prior to the commencement of development (including ground works), a Groundworks Management Plan (GMP) shall be submitted to and approved in writing by the Local Planning Authority. The GMP shall relate to the excavation, extraction, levelling and grouting works associated with the development hereby approved, and shall include the following details:

- Justification for all extraction, and details of how extraction has been minimised and how material would be re-used on site as far as is possible;
- A timetable of all works;
- Any phasing of development;
- Hours of works;
- Point of access for works traffic (as stipulated by condition 7);
- Confirmation that no works traffic shall use the track (which carries public footpath DEN/61/10) to the north of the site;
- Works vehicle sizes and routes;
- Numbers and times of construction vehicle movements;
- Locations of HGV waiting areas and details of their management;
- Parking for workers;
- Loading and unloading of plant and materials;
- Storage of plant and materials;
- Signage;
- Measures to be taken to minimise the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site, including the provision of adequate wheel washing facilities within the site;
- Street sweeping;
- Measures to control and monitor the emission of dust and dirt during works;
- Mitigation of noise and vibration arising from all works, including restrictions on the hours of working on the site including times of deliveries;
- Artificial lighting used in connection with all works and security of the site;
- Site manager and resident liaison officer contacts, including details of their remit and responsibilities;
- Engagement with local residents and occupants or their representatives; and
- Engagement with the developers of nearby sites to agree any additional measures required in relation to cumulative impacts (should construction or other works be carried out at nearby sites during the same period).

The development shall be carried out strictly in accordance with the GMP so approved throughout the period of works and no change therefrom shall take place without the prior written consent of the Local Planning Authority.

**Reason:** In the interests of amenity, to ensure the highway is not obstructed, in the interests of highway safety, to ensure harm to biodiversity is avoided, and to accord with Policies LP21, LP24, LP30 and LP52 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure measures to avoid obstruction to the wider highway network, to avoid increased risks to highway safety, and to prevent or minimise amenity and biodiversity impacts are devised and agreed at an appropriate stage of the development process.

4. Prior to the commencement of development (including ground works), a Construction (Environmental) Management Plan (C(E)MP) shall be submitted to and approved in writing by the Local Planning Authority. The C(E)MP shall relate to the construction phase of the development hereby approved, and shall include the following details:

- A timetable of all works;
- Any phasing of development;
- Hours of works;
- Point of access for construction traffic (as stipulated by condition 7);
- Confirmation that no construction traffic shall use the track (which carries public footpath DEN/61/10) to the north of the site;
- Construction vehicle sizes and routes;
- Numbers and times of construction vehicle movements;
- Locations of HGV waiting areas and details of their management;
- Parking for construction workers;
- Loading and unloading of plant and materials;
- Storage of plant and materials;
- Signage;
- Measures to be taken to minimise the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site, including the provision of adequate wheel washing facilities within the site;
- Street sweeping;
- Measures to control and monitor the emission of dust and dirt during construction;
- Site waste management, including details of recycling/disposing of waste resulting from construction works;
- Mitigation of noise and vibration arising from all construction-related activities, including restrictions on the hours of working on the site including times of deliveries;
- Artificial lighting used in connection with all construction-related activities and security of the construction site;
- Site manager and resident liaison officer contacts, including details of their remit and responsibilities;
- Engagement with local residents and occupants or their representatives; and
- Engagement with the developers of nearby sites to agree any additional measures required in relation to cumulative impacts (should construction be carried out at nearby sites during the same period).

The development shall be carried out strictly in accordance with the C(E)MP so approved throughout the period of construction and no change therefrom shall take place without the prior written consent of the Local Planning Authority.

**Reason:** In the interests of amenity, to ensure the highway is not obstructed, in the interests of highway safety, to ensure harm to biodiversity is avoided,

and to accord with Policies LP21, LP24, LP30 and LP52 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure measures to avoid obstruction to the wider highway network, to avoid increased risks to highway safety, and to prevent or minimise amenity and biodiversity impacts are devised and agreed at an appropriate stage of the development process.

5. Prior to the commencement of the development (including ground works), a survey (including photographic evidence) of the existing condition of the highway on Cumberworth Lane and Wakefield Road, and of public footpath DEN/61/10 (the extent of highway to be surveyed to be agreed in writing by the Local Planning Authority in advance) shall be carried out jointly with the Local Highway Authority and submitted to and approved in writing by the Local Planning Authority. The survey shall include carriageway and footway surfacing, verges, kerbs, edgings, street lighting, signing and white lining. The submission made pursuant to this condition shall also include a timetable of works and a commitment (with responsibilities assigned to named parties) to undertake remedial works (the details of which shall be submitted to and approved in writing by the Local Planning Authority) to maintain the highway during the entirety of the works and activities referred to in conditions 3 and 4 to the condition documented in the pre-commencement highway condition survey. The final highway remediation works so approved shall be completed prior to the occupation of the 52<sup>nd</sup> dwelling.

**Reason:** In the interests of highway safety, to ensure the effective maintenance of the highway and to accord with Policy LP21 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure highways surrounding the site are appropriately surveyed prior to works commencing, and to ensure responsibility for remedial works can be fairly assigned with reference to evidence.

6. Prior to the commencement of development (including vegetation clearance and ground works) a Construction Environmental Management Plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include the following.

- Risk assessment of potentially damaging construction activities that refers to the most up-to-date site-specific survey information and specifically to nesting birds, badgers and invasive plant species;
- Identification of “biodiversity protection zones” where appropriate;
- Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (these may be provided as a set of method statements);
- The location and timing of sensitive works to avoid harm to biodiversity features;
- The times during construction when specialist ecologists need to be present on site to oversee works where appropriate;
- Responsible persons and lines of communication; and
- Use of protective fences, exclusion barriers and warning signs, where appropriate.

The approved CEMP: Biodiversity shall be implemented and adhered to throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

**Reason.** To protect biodiversity during construction by avoiding impacts to protected species and preventing the spread of non-native plants, and to accord with Policy LP30 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure measures to prevent or minimise biodiversity impacts are devised and agreed at an appropriate stage of the development process.

7. Prior to the commencement of development (including ground works), a vehicular access into the site shall be created at Cumberworth Lane for use by works and construction traffic. Prior to being brought into use, visibility splays at this access shall be cleared of vegetation and boundary treatments and visibility splays shall be kept clear of all obstructions to visibility above 0.6m measured from the ground thereafter. This access shall be used by works and construction traffic for the duration of the works referred to in conditions 3 and 4, and no other access to or egress from the site for works or construction traffic shall be provided, enabled or used unless approved in writing by the Local Planning Authority.

**Reason:** In the interests of amenity, to ensure adequate intervisibility is provided and maintained, to ensure the highway is not obstructed, in the interests of highway safety, and to accord with Policies LP21, LP24 and LP52 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure measures to avoid obstruction to the wider highway network, to avoid increased risks to highway safety, and to prevent or minimise amenity impacts are devised and agreed at an appropriate stage of the development process, and to ensure that adequate visibility is provided to enable works vehicles to enter and exit the site.

8. Prior to the commencement of development (including ground works) a scheme detailing temporary surface water drainage for the construction phase (after soil and vegetation strip) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall:

- Detail phasing of the development and phasing of temporary drainage provision;
- Include methods of preventing silt, debris and contaminants entering existing drainage systems and watercourses and details of how flooding of adjacent land would be prevented; and
- Include methods of preventing contamination of watercourses once the new drainage has been installed.

The temporary works shall be implemented in accordance with the approved scheme and phasing. No phase of the development shall be commenced until the temporary works approved for that phase have been completed. The approved temporary drainage scheme shall be retained until the approved permanent surface water drainage system is in place and functioning in accordance with written notification to the Local Planning Authority.

**Reason:** To ensure the risk of flooding does not increase during the construction phase, to limit the siltation of any on- or off-site surface water features, and to accord with Policy LP27 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure measures to avoid increased flood risk are devised and agreed at an appropriate stage of the development process.

9. 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 be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of those residential units. The temporary arrangements so approved shall be implemented prior to the first occupation of those residential units, and shall be so retained thereafter for the duration of the construction works unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To ensure satisfactory arrangements are implemented in relation to waste during the works referred to in conditions 3 and 4, in the interests of visual and residential amenity and highway safety, to assist in achieving sustainable development, and to accord with Policies LP21 and LP24 of the Kirklees Local Plan.

10. Prior to the commencement of development (including ground works), a written scheme of archaeological investigation (WSI) shall be submitted to and approved in writing by the Local Planning Authority. For land that is included within the WSI, no development shall take place other than in accordance with the agreed WSI, which shall include:

- A statement of significance and research objectives;
- A programme and methodology of site investigation and recording and the nomination of (a) competent person(s) or organisation to undertake the agreed works; and
- A programme for post-investigation assessment and subsequent analysis, publication and dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

**Reason:** To ensure buried heritage assets are appropriately recorded and protected and to accord with policy LP35 of the Kirklees Local Plan and chapter 16 of the National Planning Policy Framework.

This pre-commencement condition is necessary as intrusive works on site have the potential to damage or disturb buried heritage assets.

11. Means of access to, from and within the site shall be consistent with the principles illustrated in the drawings hereby approved and shall be provided prior to first occupation of the development and thereafter retained and maintained for the lifetime of the development.

**Reason:** To ensure suitable access is provided, in the interests of highway safety and amenity, to achieve a satisfactory layout, and to accord with Policies LP20, LP21, LP24 and LP67 of the Kirklees Local Plan and the National Planning Policy Framework.

12. Prior to development commencing on the superstructure of any dwelling hereby approved, a scheme detailing the proposed pedestrian connections between the development's internal roads and public footpath DEN/61/10 shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of gradients, any steps, surface treatments (and subsurface build-up), any handrails, any boundary treatments and safety measures. No dwellings on the part of the internal road from which the relevant connection would be made shall be brought into use until that connection has been completed in accordance with the approved plans and details or unless otherwise agreed in writing by the Local Planning Authority.



**Reason:** In the interests of creating a walkable and well-connected neighbourhood, encouraging and enabling active travel and the use of sustainable modes of transport, and to achieve a satisfactory layout in accordance with Policies LP20, LP21 and LP47 of the Kirklees Local Plan.

13. Prior to the first occupation of any specified dwelling hereby approved, details of secure, covered and conveniently-located cycle parking for use by residents of that dwelling shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the details so approved and the cycle parking shall be retained thereafter unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** In the interests of visual amenity and encouraging the use of sustainable transport modes, and to accord with policies LP20, LP21, LP22 and LP24 of the Kirklees Local Plan.

14. Prior to development commencing on the superstructure of any dwelling hereby approved, a scheme detailing the dedicated facilities to be provided for charging electric vehicles and other ultra-low emission vehicles shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall meet at least the following minimum standard for numbers and power output:

- One Standard Electric Vehicle Charging point (of a minimum output of 16A/3.5kW) for each residential unit that has a dedicated parking space; and
- One Standard Electric Vehicle Charging Point (of a minimum output of 16A/3.5kW) for every 10 unallocated residential parking spaces.

Dwellings and parking spaces that are to be provided with charging points shall not be brought into use until the charging points are installed and operational. The charging points installed shall be retained thereafter.

**Reason:** To ensure residents of the development are encouraged to use lower-carbon and more sustainable forms of transport and to mitigate the air quality impacts of the development in accordance with policies LP20, LP24, LP47, LP51 and LP52 of the Kirklees Local Plan, chapters 9 and 15 of the National Planning Policy Framework, and the West Yorkshire Low Emissions Strategy.

15. Prior to the commencement of superstructure works, details of storage and access for collection of wastes from the residential units hereby approved, and details of management of waste collection points, shall be submitted to and approved in writing by the Local Planning Authority. The details shall confirm that waste collection points shall not obstruct access to private driveways, and shall include details of management measures (including measures to control odour and vermin) and measures to discourage flytipping. The works and arrangements comprising the approved details shall be implemented prior to first occupation and shall be so retained thereafter unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** In the interests of visual and residential amenity and highway safety, to assist in achieving sustainable development, and to accord with Policies LP21 and LP24 of the Kirklees Local Plan.

16. Where highway retaining structures are necessary, prior to development commencing on the superstructure of any dwelling hereby approved, the design and construction details of any such structures (and any temporary highway retaining structures that may be deemed necessary) shall be

submitted to and approved in writing by the Local Planning Authority. The details shall include a design statement, all necessary ground investigations on which design assumptions are based, method statements for both temporary and permanent works and removal of any bulk excavations, together with structural calculations and all associated safety measures for the protection of adjacent public highways, footpaths, culverts, adjoining land and areas of public access. The development shall be completed in accordance with the approved details before any of the dwellings are occupied and shall be retained as such thereafter.

**Reason:** To ensure that any new retaining structures do not compromise the stability of the highway in the interests of highway safety and to accord with Policy LP21 of the Kirklees Local Plan.

17. Prior to the commencement of development, all remediation works and/or mitigation measures to address the shallow mine workings and mine entries beneath the site shall be implemented on site in full in order to ensure that the site is safe and stable for the development hereby approved.

**Reason:** To minimise risk associated with the area's mining legacy in accordance with Policy LP53 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure that remedial and/or mitigatory measures related to the site's mining legacy are implemented at an appropriate stage of the development process.

18. Prior to any part of the development hereby approved being brought into first use, a validation statement/declaration related to mining legacy shall be submitted to and approved in writing by the Local Planning Authority. The statement/declaration shall be prepared and signed by a suitably competent person, shall confirm that the site is, or has been made, safe and stable for the development hereby approved, and shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past mining activity.

**Reason:** To minimise risk associated with the area's mining legacy in accordance with Policy LP53 of the Kirklees Local Plan.

19. Prior to the commencement of development, a drainage scheme restricting the rate of surface water discharge from the site to ordinary watercourse to a maximum of 5l/s shall be submitted to and approved in writing by Local Planning Authority. The drainage scheme shall be designed to attenuate flows generated by the critical 1 in 100-year storm events. The drainage scheme shall include a detailed design of the attenuation facility and a maintenance and management regime including the flow control device. There shall be no piped discharge of surface water from the development and no part of the development shall be brought into use until the flow restriction and attenuation works comprising the approved scheme have been completed. The approved maintenance and management scheme shall be implemented thereafter.

**Reason:** To ensure the effective disposal of water from the development so as to avoid an increase in flood risk and so as to accord with Policies LP27 and LP28 of the Kirklees Local Plan and chapter 14 of the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure that details of drainage are agreed at an appropriate stage of the development process.

20. Prior to the commencement of development, a scheme detailing the culverting of sections of the watercourse, general watercourse improvements, and land drainage connections to the watercourse within the site and the inclusion of a debris screen prior to exiting the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a detailed maintenance and management regime for the watercourse and debris screen for the lifetime of the development. No part of the development shall be brought into use until the watercourse enclosure works comprising the approved scheme have been completed. The maintenance and management regimes shall be implemented thereafter.

**Reason:** To ensure the effective disposal of water from the development so as to avoid an increase in flood risk and so as to accord with Policies LP27 and LP28 of the Kirklees Local Plan and chapter 14 of the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure that details of drainage are agreed at an appropriate stage of the development process.

21. Overland flow routing shall only be carried out in accordance with the Flood Risk Assessment and Drainage Strategy (Ward Cole Consulting Engineers, 10/5610 rev E, 11/07/2023) hereby approved, unless otherwise approved in writing by the Local Planning Authority.

**Reason:** To ensure the effective disposal of water from the development so as to avoid an increase in flood risk and so as to accord with Policies LP27 and LP28 of the Kirklees Local Plan and chapter 14 of the National Planning Policy Framework.

22. Prior to the first occupation of any specified dwelling hereby approved, unless otherwise agreed in writing by the Local Planning Authority the approved vehicle parking area(s) for that dwelling shall be surfaced and drained in accordance with "Guidance on the permeable surfacing of front gardens (parking areas)", 13/05/2009 (ISBN 9781409804864) as amended or superseded, and shall thereafter retained throughout the lifetime of the development.

**Reason:** In the interests of highway safety and to achieve a satisfactory layout in accordance with Policies LP20 and LP21 of the Kirklees Local Plan.

23. Prior to the commencement of development (including ground works, other than those required to inform a site investigation report) a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

**Reason:** To ensure unacceptable risks to human health and the environment are identified and removed, and to ensure that the development is safely completed in accordance with the requirements of Policy LP53 of the Kirklees Local Plan and the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure that contamination is identified and suitable remediation measures are agreed at an appropriate stage of the development process.

24. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 23. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered is identified or encountered on site, all works in the affected area (other than

site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within two working days. Unless otherwise agreed in writing with the Local Planning Authority, works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

**Reason:** To ensure unacceptable risks to human health and the environment are identified and removed, and to ensure that the development is safely completed in accordance with the requirements of Policy LP53 of the Kirklees Local Plan and the National Planning Policy Framework. This pre-commencement condition is necessary to ensure that contamination is identified and suitable remediation measures are agreed at an appropriate stage of the development process.

25. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy, a Verification Report shall be submitted to the Local Planning Authority. Unless otherwise agreed in writing with the Local Planning Authority, no part of the site shall be brought into use until such time as the remediation measures for the whole site have been completed in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Verification Report in respect of those remediation measures has been approved in writing by the Local Planning Authority. Where verification has been submitted and approved in stages for different areas of the whole site, a Final Verification Summary Report shall be submitted to and approved in writing by the Local Planning Authority.

**Reason:** To ensure unacceptable risks to human health and the environment are identified and removed, and to ensure that the development is safely completed in accordance with the requirements of Policy LP53 of the Kirklees Local Plan and the National Planning Policy Framework.

26. Prior to the first occupation of any dwelling hereby approved, all works (other than acoustic screens at units 1, 60, 61 and 62) which form part of the sound attenuation scheme as specified in the Noise Assessment (Noise Consultants, 13073B-20-R02-01, 27/06/2023) shall be completed and written evidence to demonstrate that the specified noise levels have been achieved shall be submitted to and approved in writing by the Local Planning Authority. If it cannot be demonstrated that the noise levels specified in the aforementioned Noise Report have been achieved, a further scheme shall be submitted to and approved in writing by the Local Planning Authority. This further scheme shall incorporate further measures to achieve those noise levels. All works comprised within those further measures shall be completed and written evidence to demonstrate that the aforementioned noise levels have been achieved shall be submitted to and approved in writing by the Local Planning Authority before the development is first brought into use. All such works shall thereafter be retained.

**Reason:** In the interests of amenity and to accord with Policies LP24 and LP52 of the Kirklees Local Plan and the National Planning Policy Framework.

27. Notwithstanding what is shown on the drawings hereby approved, prior to the commencement of superstructure works, details of all external materials to be used shall be submitted to the Local Planning Authority, and samples shall be left on site for the inspection and approval in writing of the

Local Planning Authority. No materials other than those approved in accordance with this condition shall be used.

**Reason:** In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and the National Planning Policy Framework.

28. Prior to the commencement of superstructure works, and notwithstanding what is shown on the drawings hereby approved, details of any electricity substations to be provided on-site in association with the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The details shall include plans, elevations and sections, and details of external materials and any boundary treatments. The substation(s) shall be constructed in accordance with the details so approved.

**Reason:** In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and the National Planning Policy Framework.

29. Prior to the commencement of superstructure works, and notwithstanding what is shown on the drawings hereby approved, details (including sections and details of levels) of all boundary treatments, and any retaining walls and gabions, shall be submitted to and approved in writing by the Local Planning Authority. The details shall correspond with measures relating to flood routing, shall be designed to prevent and deter crime and anti-social behaviour, and shall provide for the movement of hedgehogs. The development shall be implemented in accordance with the details so approved. The approved works shall be retained thereafter.

**Reason:** In the interests of visual amenity, highways safety and biodiversity, to minimise flood risk, to ensure the amenities of existing neighbouring residential units and the residential units hereby approved are protected, in the interests of creating a safer, more sustainable neighbourhood and reducing the risk of crime and anti-social behaviour, and to accord with Policies LP21, LP24, LP27, LP30 and LP47 of the Kirklees Local Plan and the National Planning Policy Framework.

30. Prior to the commencement of superstructure works, details of external air source heat pump units to be provided as part of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The details shall include plans and specifications, shall confirm locations of the units, shall include screening measures where necessary, and shall include noise and maintenance information. The units shall be installed in accordance with the details so approved and shall be maintained in accordance with the details so approved thereafter.

**Reason:** In the interests of visual and residential amenity, and to accord with Policies LP24 and LP52 of the Kirklees Local Plan and the National Planning Policy Framework.

31. Prior to the first occupation of any dwelling with external lighting (other than street lighting on streets to be adopted), details of the external lighting for that dwelling shall be submitted to and approved in writing by the Local Planning Authority. These details shall include a scheme detailing street lighting to all private (unadopted) roads/drives/courtyards and shall not include low-level or bollard street lighting. The external lighting shall be designed to avoid harm to residential amenity, increased highway safety risk, risk of creating opportunities for crime and anti-social behaviour, and disturbance to wildlife. All external lighting shall be installed in accordance with the details (including specifications and locations) so approved, and the

external lighting shall be maintained thereafter in accordance with the approved details. No dwellings accessed from a private (unadopted) road/drive/courtyard shall be brought into use until the street lighting so approved for that road/drive/courtyard has been installed and brought into use, and the street lighting shall be retained as such thereafter. Under no circumstances should any other external lighting be installed without prior written consent from the Local Planning Authority.

**Reason:** In the interests of residential amenity and highway safety, to prevent significant ecological harm, to safeguard habitat, in the interests of creating a safer, more sustainable neighbourhood and reducing the risk of crime and anti-social behaviour, and to accord with Policies LP21, LP24, LP30 and LP47 of the Kirklees Local Plan and the National Planning Policy Framework.

32. Prior to the commencement of superstructure works, details of all hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. These shall include:

- Details of existing and proposed levels, and regrading;
- Planting plans, including additional treeplanting notwithstanding what is shown in the drawings hereby approved;
- Details of tree pit sizes and soils;
- Species schedules;
- Details of initial aftercare and long-term maintenance;
- Details of monitoring and remedial measures, including replacement of any trees, shrubs or planting that fails or becomes diseased within the first five years from completion;
- Details (including samples, if requested), of paving and other hard surface materials;
- Details of all on-site open spaces (including details of their purpose(s) and management) and of any areas for designated, informal, incidental and/or doorstep play;
- Details of all on-site play spaces;
- Details of covenants (or other suitable arrangements) regarding street tree retention, management and maintenance where these trees are not within adopted highways;
- Details of how soft landscaping has been designed to prevent and deter crime and anti-social behaviour; and
- Details of natural surveillance and windows overlooking publicly-accessible areas (including open spaces, pedestrian connections and public footpaths).

No part or phase of the development hereby approved shall be occupied until all hard and soft landscaping for that part or phase has been implemented in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority. All approved landscaping shall be retained thereafter in accordance with the approved details and approved long-term maintenance, monitoring and remedial arrangements.

**Reason:** In the interests of local ecological value, visual amenity and highways safety, to ensure high quality open spaces are provided, to minimise flood risk, to ensure the amenities of existing neighbouring residential units and the residential units hereby approved are protected, in the interests of creating a safer, more sustainable neighbourhood and reducing the risk of crime and anti-social behaviour, and to accord with Policies LP21, LP24, LP27, LP30, LP32, LP33, LP47 and LP63 of the

Kirklees Local Plan, and chapters 8, 12 and 15 of the National Planning Policy Framework.

33. Prior to the commencement of superstructure works, a Biodiversity Enhancement and Management Plan (BEMP) shall be submitted to and approved in writing by the Local Planning Authority. The BEMP shall provide a minimum 66.95% net increase in hedgerow units on-site and a minimum 68.27% net increase in river units on-site post-development and shall include the following:

- Description and evaluation of features to be managed;
- Details of the extent and location/area of proposed enhancement works on appropriately-scaled maps and plans;
- Details corresponding with landscaping details to be submitted pursuant to condition 32;
- Details of ecological trends and constraints on site that might influence management;
- Aims and Objectives of management;
- Appropriate management actions for achieving Aims and Objectives;
- An annual work programme (to cover an initial five-year period capable of being rolled forward over a period of 30 years);
- Details of the management body or organisation responsible for implementation of the BEMP;
- Details of an ongoing monitoring programme and remedial measures; and
- Arrangements for the review and update of the BEMP every five years and its implementation for a minimum of 30 years.

The BEMP shall include details of the legal and funding mechanisms by which the long-term implementation of the BEMP will be secured by the developer through the management body responsible for its delivery. The BEMP shall also set out (where the results from the monitoring show that the Aims and Objectives of the BEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers conservation Aims and Objectives for the site. The development shall be implemented in accordance with the approved BEMP and all measures and features shall be retained in that manner thereafter.

**Reason:** To secure mitigation and compensation for the ecological effects resulting from loss of habitat and to secure a net biodiversity gain in line with policy LP30 of the Kirklees Local Plan and chapter 15 of the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure that measures to ensure adequate enhancement and a biodiversity net gain are agreed at an appropriate stage of the development process.

34. Prior to the commencement of development (including ground works), an Arboricultural Method Statement and a Tree Protection Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the documents so approved.

**Reason:** To protect trees in the interests of visual amenity and biodiversity and to accord with Policy LP33 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure that details of tree protection measures are agreed at an appropriate stage of the development process.

35. No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless authorised in writing by the Local Planning Authority in response to evidence to be submitted in writing to the Local Planning Authority demonstrating that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site.

**Reason:** To prevent significant ecological harm to birds, their eggs, nests and young and to accord with Policy LP30 of the Kirklees Local Plan and chapter 15 of the National Planning Policy Framework.

36. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking or re-enacting that Order with or without modification) no development included within Classes A, D and E of Part 1 and Class A of Part 2 of Schedule 2 to that Order shall be carried out at units 1, 2, 111 to 13, 28 and 47 to 62 without the prior written consent of the Local Planning Authority.

**Reason:** In the interests of visual amenity, and to ensure the amenities of existing neighbouring residential units and the residential units hereby approved are protected, in accordance with Policy LP24 of the Kirklees Local Plan and the National Planning Policy Framework.

37. Other than where indicated on the drawings hereby approved, and other than in relation to elevations not facing a highway, open space or green belt land, no cables, plumbing, foul pipes, vents, burglar alarm boxes, and/or CCTV cameras or related equipment and installations shall be located or fixed to any external elevation(s) of the development hereby approved. Should any such equipment or installations be considered necessary, details of these shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be completed in accordance with the details so approved.

**Reason:** In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and the National Planning Policy Framework.

### **Background Papers:**

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023%2f92191>

Certificate of Ownership – Certificate B signed.