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

**STRATEGIC PLANNING COMMITTEE**

**Date: 01-Aug-2024**

**Subject: Planning Application 2022/93306 Erection of 11 dwellings, formation of new access road and associated landscaping and open space Land adj, 894, Huddersfield Road, Ravensthorpe, Dewsbury, WF14 9HS**

**APPLICANT**

Jalal Rana, Leyton  
Homes (Mirfield) Ltd

**DATE VALID**

10-Oct-2022

**TARGET DATE**

09-Jan-2023

**EXTENSION EXPIRY DATE**

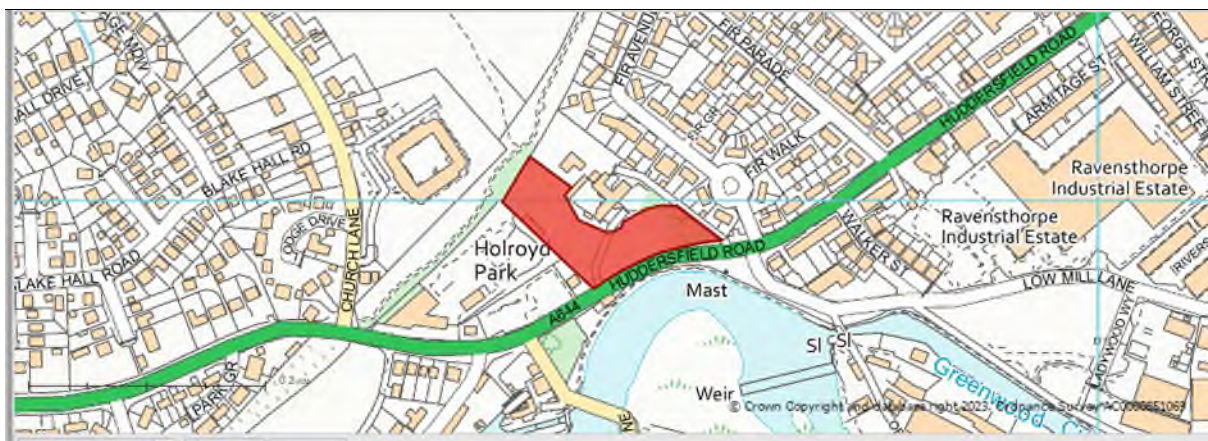
01-May-2023

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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: Dewsbury West**

**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 S106 agreement to cover the following matters:

- 1) Biodiversity: An off-site contribution of £15,870.
- 2) Public Open Space: An off-site contribution of £9,161.
- 3) Management and maintenance: The establishment of a management company for the purpose of maintaining shared spaces, the private drive and drainage infrastructure serving the site.

All contributions are to be index-linked.

In the circumstances where the S106 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 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 is an application for full planning permission, for a residential development of 11 dwellings.
- 1.2 The application is presented to Strategic Planning Committee due to the development not providing all of the planning contributions required in line with local and national planning policy.
- 1.3 A viability appraisal has been submitted as part of the application process and externally assessed. More detail of this can be found within paragraphs 10.84 – 10.89 of the report.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site comprises most of site allocation HS63 (allocated for housing) and additional land. The site is 0.75 hectares in size and is of an irregular shape.
- 2.2 The site appears to be grassed area (not previously developed) albeit there is an outbuilding to the western edge of the site. The land is slightly elevated from Huddersfield Road and is currently accessed via an existing driveway that serves 894 Huddersfield Road. The site is bordered by a number of mature trees, some of which are subject to a preservation order.

2.3 Surrounding the site is a mixture of residential properties to the east, northeast and northwest and a commercial yard to the west. The River Calder also runs to the south of the site. To the northwest of the site, is Green Belt Land. The southeastern edge of the site also lies within the Flood Zone 2.

2.4 The site is not within a conservation area or adjacent to any listed buildings.

### **3.0 PROPOSAL:**

3.1 The applicant seeks full planning permission for the erection of 11 dwellings.

3.2 A new access is proposed from the site onto Huddersfield Road. Internally, a new estate road would be provided.

3.3 Dwellings would be arranged along the new estate road, provided as six detached properties and a row of five terraced properties, of which five would be 3-bed and six would be 4-bed. Three house types have been proposed: A, B and C. Materials include artificial stone to the walls with blue slate tiles to the roofs.

3.4 All the dwellings would have off-street car parking.

### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

#### 4.1 At the application site:

2017/92947 Reserved matters application pursuant to outline permission 2013/93196 for outline application for erection of 11 dwellings – Approved.

2015/90863 Outline application for erection of 2 no. dwellings – Approved.

2013/93196 Outline application for 11 dwellings – Approved.

#### 4.2 Surrounding the application site:

A number of planning applications have been submitted at The Swan Service Station including discharge and variation of condition applications, signage applications and tree works applications.

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

5.1 Amendments and additional information have been received regarding the provision of appropriate on site public open space, whilst protecting and retaining as many trees as possible. A viability appraisal has also been submitted with this application.

### **6.0 PLANNING POLICY:**

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

### Kirklees Local Plan (2019):

6.2 Site allocation HS63 relates to 0.51 hectares (gross and net) and sets out an indicative capacity of 11 dwellings. The site allocation identifies the following constraints:

- Potentially contaminated land
- Noise source near site - Noise from road traffic
- Air quality issues
- Part/all of the site is within a High Risk Coal Referral Area

6.3 Relevant Local Plan policies are:

- LP1 – Presumption in favour of sustainable development
- LP2 – Place Shaping
- LP3 – Location of new development
- LP4 – Providing infrastructure
- LP7 – Efficient and effective use of land and buildings
- LP9 – Supporting skilled and flexible communities and workforce
- LP11 – Housing Mix and Affordable Housing
- LP20 – Sustainable travel
- LP21 – Highways and access
- LP22 – Parking
- LP24 – Design
- LP26 – Renewable and low carbon energy
- LP27 – Flood risk
- LP28 – Drainage
- LP30 – Biodiversity & Geodiversity
- LP31 – Strategic Green Infrastructure Network
- LP32 – Landscape
- LP33 – Trees
- LP34 – Conserving and enhancing the water environment
- LP47 – Healthy, active and safe lifestyles
- LP49 – Educational and health care needs
- LP51 – Protection and improvement of local air quality
- LP52 – Protection and improvements of environmental quality
- LP53 – Contaminated and unstable land
- LP63 – New open space
- LP65 – Housing allocations

6.4 Supplementary Planning Guidance / Documents:

- Highway Design Guide SPD (2019)
- Housebuilders Design Guide SPD (2021)
- Open Space SPD (2021)
- Affordable Housing and Housing Mix SPD (2023)

## 6.5 Guidance Documents:

- Biodiversity Net Gain Technical Advice Note (2021)
- Planning Applications Climate Change Guidance (2021)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Waste Management Design Guide for New Developments (2020, updated 2021)
- Green Streets Principles for the West Yorkshire Transport Fund (2017)
- Kirklees Housing Strategy (2018)
- Kirklees Interim Housing Position Statement to Boost Supply (2023)
- Viability Guidance Note (2020)
- Kirklees Joint Health and Wellbeing Strategy and Kirklees Health and Wellbeing Plan (2018)

## National Planning Guidance:

6.6 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) 2023, and the Planning Practice Guidance Suite (PPGS), first launched 06/03/2014, together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- 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

## 6.7 Relevant National Guidance and Documents:

- National Design Guide (2019)
- Technical housing standards – nationally described space standard (2015, updated 2016)

## Climate change

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

6.9 On the 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 would use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

## **7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application has been advertised as major development.

7.2 The application has been advertised via site notices, within the press and letters delivered to neighbours adjacent to the application site. Final publicity expired on the 22/12/2022.

7.3 As a result of the above publicity, two representations have been received by local residents. The concerns raised are as follows:

### Visual amenity concerns:

- Overdevelopment of the site.
- Some of the houses do not face onto Huddersfield Road, like the existing development, including the new petrol station. Therefore, the development would look better if it faced onto Huddersfield Road.
- I appreciate there is previous outline approval on this site, however this has not been implemented and is not in date. Since the last approval we are now in a new regime of the Local Plan and an updated NPPF. Both of which have a significant focus on design.
- The proposal is not in keeping with surrounding development.
- I appreciate the topography of the area is not ideal and this makes it difficult for the applicant to achieve the maximum potential in particular for units 1 to 6. It's clear that the orientation of units 1 and 2 are facing north east not south like every single other property on Huddersfield Road, which you can appreciate is a very long road.
- The orientation of unit 3 to 6 are facing directly east, again this is not in line with the area.
- The proposal does not match the building line or roof ridge of the existing properties particularly 890-894 Huddersfield Road.
- Lack of soft landscape proposals has also resulted in dominance of hard surfaces and parking.

### Residential amenity concerns:

- Concerns regarding the distance between the new dwellings and the existing properties. If they are too close, they will impact on neighbours privacy. Please could the separation distances be confirmed, as even 21m seems a little less to me.
- Overlooking from existing properties into the new builds.

- The design of Unit 7 to 11 seem to be in line with the surrounding properties although the separation distance of unit 11 and the exiting property on the east needs to be considered as the developers agents suggests it's 10.6 metres which falls below the minimum requirement.
- Previous policy may have allowed for prescriptive separation distances, however current policy does not. There is a recommended minimum separation distance of 21 metres between inhabited windows, however the impact on neighbours is still based on site context.
- Unit 1 and 2 with inhabited windows, would have significant overbearing and overlooking harm on the occupants of the properties to the northeast.
- Plot 4 to 6 do not have a minimum separation distance of 21 meters (only 19 meters).
- Once all the above are factored in and the new rules are applied then the development would amount to overdevelopment of the site and the level of amenity space in particular for units 1-6 would not be enough for residents once the separation distances have been factored.

7.4 Responses to the above comments are addressed within this report.

Ward Members:

7.5 Ward Members have been notified of this application, however no formal comments have been received.

**8.0 CONSULTATION RESPONSES:**

**8.1 Statutory:**

The Environment Agency: The site partly falls within Flood Zone 2 and therefore an environmental permit would be required from the EA to undertake the development. The EA also defer to the LPA in relation to land contamination, biodiversity net gain, and landfill gas.

The Coal Authority: No objection subject to the imposition of a condition regarding the intrusive site investigation works prior to commencement to ensure that adequate information pertaining to ground conditions and coal mining legacy are available to enable appropriate remedial of mitigatory measures are identified and carried out before building works commence on site.

KC Lead Local Flood Authority: In support of the application, as a sequential approach has been adopted so that all properties are in the zone of the lowest flood risk. The submitted material suggests the use of an attenuation basin. However, other submissions show a pond with a permanent water level. As it has been demonstrated that space has been made for water, a detailed design can be secured by condition. This must adhere to the concept of improvement of water quality of surface water discharges to the local aquatic environment directly, or indirectly via public surface water sewer is available. This must be done by a gravity connection. As such, KC LLFA request conditions regarding full drainage details, surface water restriction and attenuation details and a temporary drainage plan. A S106 should also be sought to ensure the maintenance and management of surface water drainage for the lifetime of the development or until adoption.

## 8.2 **Non-statutory:**

KC Ecology: The submitted PEA determines that the habitats on site (trees, grassland and scrub) are assessed as being of value at site level only, with the coniferous woodland in the eastern section of the site to be retained as part of the proposals. The PEA details that the site provides opportunities for nesting birds and bats. The PEA makes a number of recommendations in order for ecological receptors to be mitigated as part of the proposals. In order to ensure that these measures are incorporated into the scheme, a condition for a CEMP: Biodiversity should be placed on any forthcoming consent. Following on from the recommendation of the PEA, a bat survey has been submitted, which concludes that a sycamore within the to the north west of the site contained a transient roost for common pipistrelle. As such, an appropriate mitigation licence will be required from Natural England. With regards to BNG n, the metric details that the proposed development will result in a net loss of -0.47 Habitat Units (equivalent to a loss of 21.91%) and a net gain of +0.08 Hedgerow Units (equivalent to a gain of 100%). Nonetheless in order to achieve a 10% net gain, an off-site contribution of £15,870 would be required.

KC Highways Development Management: In support of the application subject to conditions being attached to the decision notice. These will be detailed in the latter of the report.

KC Landscape: The information submitted in support of the on-site public open space has been considered acceptable, however, given that the play equipment has been removed from the plans, due to topography and the roots of the protected trees, an off-site contribution of £9,161.00 would be required.

KC Crime Prevention: No objection subject to a condition being attached to the decision notice requiring security measures to be submitted before development commences.

KC Environmental Health: No objection to the application, subject to the relevant conditions in relation to noise report and mitigation scheme, electric vehicle charging points, a construction environmental management plan and land contamination conditions being attached to the decision notice in the case of an approval.

KC Policy: Officers have acknowledged the sites allocation and have set out the required policy in which should be met as part of this application.

KC Conservation and Design: No comments to make on this application.

KC Waste Strategy: Each dwelling has space to accommodate three wheeled bins (1x residual, 1x recycling and, as the properties have gardens, space to accommodate a garden waste bin) to ensure future waste segregation requirements can be met. However, bin collection points should be detailed and therefore a condition to request this information would be attached to the decision notice in the case of an approval. Given that the road is to remain private, bins will need to be transferred to a collection point close to the adopted highway but not left on the footway. If properties are to be occupied before the site construction is complete, provision must be made for temporary waste collection in consultation with the Council's waste teams to ensure that new residents can receive a collection service whilst construction work on the site is still live. RCVs will not enter a construction site.



KC Strategic Housing: Two affordable units are sought for this development. The application proposes a mix of 3- and 4-bed homes which are appropriate for this development. Dewsbury and Mirfield currently has a significant under-provision of 3- and 3+-bed affordable dwellings, which should be addressed by the affordable housing provision for this development. The tenure split should include one affordable or social rent and one first home.

KC Public Rights of Way: No comments received.

KC Minerals: No comments received.

KC Highways Structures: No objection subject to two conditions being attached to the decision notice regarding the implementation of any new retaining walls adjacent to the highway and details of any drainage under the highway footprint.

Yorkshire Water: In support subject to a condition being attached to the decision notice stating that the development shall be carried out in accordance with the Floor Risk Assessment and Drainage Strategy.

The Canal and River Trust: No comments to make.

## 9.0 MAIN ISSUES

- Land use and principle of development
- Sustainability and climate change
- Design
- Residential amenity
- Landscape issues
- Highway issues
- Drainage issues
- Other matters
- Representations
- Planning obligations and viability

## 10.0 APPRAISAL

### Land use and principle of development

#### *Residential development*

- 10.1 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.
- 10.2 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 3-year period (the “pass” threshold is 75%).

- 10.3 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. This means that for decision making *“Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (NPPF Footnote 8), granting permission unless: (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (NPPF Footnote 7); or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”*.
- 10.4 The council's inability to demonstrate a five-year supply of housing land weighs in favour of housing development but has to be balanced against any adverse impacts of granting the proposal. The judgement in this case is set out in the officers' assessment.
- 10.5 The site comprises most of site allocation HS63 (allocated for housing) to which full weight can be given. The site has also historically received outline permission for residential development under application 2013/93196, which was followed by a subsequent reserved matters approval under 2017/92947, which lapsed January 2021.
- 10.6 The 11 dwellings proposed would contribute towards meeting the housing delivery targets of the Local Plan, which carries positive weight in the balance of planning considerations. Substantial weight must also 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.
- 10.7 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. This is supported by policy 4 of the Housebuilders Design Guide SPD.
- 10.8 In this instance, the site area is 0.75 ha to include land to the south east of the site (outside of the housing allocation). Given the constraints of this land, which is a wooded area with a TPO order, this area is unable to form part of the net developable area. As such, the net developable area is considered to be the housing allocation itself at 0.51 ha.
- 10.9 Therefore 11 units proposed on 0.51 ha would provide a density of 22 dwellings per hectare. Whilst this is below the expected density, the housing allocation acknowledges the constraints on site. The 11 units meets the indicative capacity of the site allocation. The proposed development appropriately takes its cue (at least partly, in terms of quantum, density and layout) from existing adjacent development and it must again be noted that tree coverage is quintessential to the character of this area.

- 10.10 With these matters taken into consideration, although the density falls short of 35 dph (specified (and applicable “where appropriate”) in Local Plan policy LP7), it is recommended that the proposed quantum of development, and its density, be accepted.
- 10.11 Progressing to housing mix, Local Plan policy LP11 seeks for proposals to provide a representative mix of house types for local needs. This is expanded upon and detailed within the council’s Affordable Housing and Housing Mix SPD (March 2023). However, it must be noted that the council’s SPD was adopted after the housing density and mix was agreed with officers to allow for the viability discussions to take place. Therefore, a pragmatic approach has been undertaken and full adherence to the SPD is not expected.
- 10.12 As is evident, the proposal does not conform to the adopted SPD’s expectations. Instead, the proposal would provide 5x 3-beds and 6x 4-beds which would create a housing mix of 45% being 3-beds and 55% being 4-beds. To comply with the SPD, there would need to be a reduction in the number of 4-beds and the inclusion of 1- and 2-beds. However, given that this application was submitted before the SPD was adopted and provides an acceptable density, the housing mixture proposed on balance can be supported.

#### *Minerals*

- 10.13 The site is within a wider mineral safeguarding area relating to sandstone. 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 c of policy LP38 is relevant, and allows for approval of the proposed development, as there is an overriding need (in this case, housing need, having regard to Local Plan delivery targets) for it.

#### *Sustainability and climate change*

- 10.14 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. It is considered that residential development at this site can be regarded as sustainable, given the site’s location adjacent to an already-developed area.
- 10.15 The submitted planning statement also acknowledges that “the site is within walking distance to nearby bus stops, the local high street, local schools and Mirfield and Ravensthorpe railway station. Furthermore, the site is in a good location for people wishing to cycle. Within 5km of the site, there is a range of amenities and employment opportunities”.
- 10.16 Regarding the social infrastructure currently provided and available within Ravensthorpe (which is relevant to the sustainability of the proposed development), it is noted that there is a GP surgery, primary and secondary school, cafes and restaurants and local shops/convenience stores, leisure and other facilities nearby, such that many of the daily, social and community needs of residents of the proposed development can be met within the area surrounding the application site, which further indicates that residential development at this site can be regarded as sustainable.

- 10.17 Regarding climate change, measures would be necessary to encourage the use of sustainable modes of transport. Adequate provision for cyclists (including cycle storage for residents) and electric vehicle charging would be secured by condition, should planning permission be granted. A development at this site which was entirely reliant on residents travelling by private car is unlikely to be considered sustainable. Drainage and flood risk minimisation measures will need to account for climate change. These factors will be considered where relevant within this assessment.

### Urban Design issues

- 10.18 The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby Paragraph 131 provides a principal consideration concerning design which states:

*“The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”*

- 10.19 Kirklees Local Plan policies LP1, LP2 and significantly LP24 all also seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity.

- 10.20 Policy LP24 of the Kirklees Local Plan states that proposals should promote good design by ensuring: *“a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape...”*

- 10.21 Paragraph 129 of the NPPF sets out that design guides and codes carry weight in decision making. Of note, Paragraph 139 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.

- 10.22 Principle 2 of the Kirklees Housebuilders Design Guide SPD states that: *“New residential development proposals would be expected to respect and enhance the local character of the area by:*

- Taking cues from the character of the built and natural environment within the locality.*
- Creating a positive and coherent identity, complementing the surrounding built form in terms of its height, shape, form and architectural details.*
- Illustrating how landscape opportunities have been used and promote a responsive, appropriate approach to the local context.”*

- 10.23 Principle 5 of this SPD states that: *“Buildings should be aligned and set-back to form a coherent building line and designed to front on to the street, including corner plots, to help create active frontages. The layout of the development should enable important views to be maintained to provide a sense of places and visual connections to surrounding areas and seek to enable interesting townscape and landscape features to be viewed at the end of streets, working with site topography.”*

- 10.24 Principle 15 states that the design of the roofline should relate well to site context. Further to this, Principle 13 states that applicants should consider the use of locally prevalent materials and finishing of buildings to reflect the character of the area, whilst Principle 14 notes that the design of openings is expected to relate well to the street frontage and neighbouring properties.
- 10.25 Firstly considering the site as existing, it is a greenfield site with a number of mature trees surrounding its perimeter. There appears to be a small building/outbuilding to the northwestern boundary, which will be demolished as part of this proposal. The proposed siting of small areas of Public Open Space would be adjacent to the Huddersfield Road, in order to retain some of the site's current character along with the well-established wooded area to the southeast.
- 10.26 The proposed layout reflects a typical modern residential estate with a main road, which turns into a turning head to the northern end of the site. The dwellings appear to be situated well within their plot, giving suitable separation from the highway and appropriate side to side spacing. Driveways are proposed to the side of dwellings where feasible and this would comply with Principle 12 of the Housebuilders Design Guide SPD, which states that car parking should "not dominate street frontages through parking arrangements that place cars at the front of all dwellings and with overly dominant integral garages at the front of dwellings". To the northern end of the site, parking to the front of the dwellings would be the only practical solution, given that a short row of five terraced properties are proposed. However, these are not unduly common and are suitably broken up by front landscaping where possible.
- 10.27 The proposed scale of the buildings are typical for modern dwellings and appear to be 2-storey in height, albeit the detached properties would have a bedroom within the roof space. Therefore, other than the relatively steep roof pitch for units 1 – 6 the dwellings would be 2-storey in height and would be in keeping with the size of units evident within the area. The overall height of the dwellings would be no greater than 8.8m from units 7 - 11 and 10.5m for units 1 - 6. Whilst officers have some slight concern regarding the size of the roof pitch for the detached dwellings, roof lights would be installed to the rear elevations in order to help break some of this massing up. Therefore, in order to provide the appropriate size of housing for the area, without proposing a 3-storey dwelling, this is considered to be an acceptable solution for the site. As such, on balance, the visual concerns associated with the steepness of the roof pitches of plots 1-6 can be supported.
- 10.28 Regarding architectural form, the proposed dwellings would have a typical modern vernacular, some of which would benefit from a front and rear gable, in order to add some variation to the house types. Dwellings in the area have a varied appearance but can predominantly be identified as the vernacular design of their period of construction, with simple aesthetics. In terms of openings, adequately sized windows are proposed, some of which are to be mullioned. To the rear elevations, the inclusion of larger areas of glazing are proposed. This would accord with Principle 14 of the Housebuilders Design Guide SPD which states that "innovation for energy efficiency is encouraged, particularly for maximising solar gain". All new window frames should be set back into the reveal by 100mm and this can be added as a condition to the decision notice. Roof forms in the area are predominantly gable and therefore the scheme has been designed to include gable roofs, to respond to the local character.

- 10.29 The dwellings would be faced in artificial stone to the walls with blue slate tiles to the roofs. Whilst officers would have preferred natural stone to keep in with the buildings immediately adjacent to the site, it has been noted that the surrounding area has a mix of brick and stone houses and therefore a high quality artificial stone could be accepted in this instance. Nonetheless, a condition would be requested requiring samples of the proposed stone work and roofing materials prior to their use. Window and door samples are also required prior to their installation.
- 10.30 Limited information on the proposed boundary treatments has been provided and therefore, the council would require full details of all boundary treatments, fences and walls at conditions stage, prior to the commencement of development. However, if the existing stone walls were to be retained to the perimeter, along with a fence with planting to all private gardens, this is likely to be considered acceptable.
- 10.31 In conclusion, it is considered that the details provided within this full planning application demonstrates that the development has been designed to sympathetically respond to the character of the area and would comply with the council's guidance documents for residential developments.

#### Residential Amenity

- 10.32 A core planning principle as set out in the NPPF is that development should result in a good standard of amenity for all existing and future occupiers of land and buildings. This is also reinforced within part (b) of policy LP24 of the Kirklees Local Plan. Principle 6 of the Housebuilders Design Guide SPD sets out that residential layouts must ensure adequate privacy and maintain high standards of residential amenity, to avoid negative impacts on light, outlook and to avoid overlooking. Specifically, it outlines that for two storey dwellings the following, typical minimum separation distances between existing and proposed dwellings, are advised:
- 21 metres between facing windows of habitable rooms at the back of dwellings.
  - 12 metres between windows of habitable windows that face onto windows of non-habitable room.
  - 10.5 metres between a habitable room window and the boundary of adjacent undeveloped land.
  - For a new dwelling located in a regular street pattern that is two storeys or above, there should normally be a minimum of a 2 metre distance from the side wall of the new dwelling to a shared boundary.
- 10.33 In addition to this, Paragraph 135 (f) of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.
- 10.34 Principle 17 of the council's adopted Housebuilders Design Guide SPD requires development to ensure an appropriately sized and useable area of private outdoor space is retained. Principle 16 of the Housebuilders Design Guide seeks to ensure the floorspace of dwellings provide a good standard of amenity for future residents and make reference to the 'Nationally Described Space Standards' document (March 2015).

10.35 The site is situated within a mixed use area, with the nearest residential properties being to the north east, known as 890, 892, 892A, 892B and 894 Huddersfield Road and Fir Cottage. The relationship between the application site and these properties, will be discussed in more detail below. To the west is a service station and commercial yard. To the south west of the site is the property known as 891 Huddersfield Road and given its separation distance and orientation, officers are satisfied that there would be no undue impact upon these neighbours amenity. To the north west are the flats at Marmaville Court, which would also not be unduly impacted by this proposal, given the dense tree covers between the sites.

*890, 892, 892A, 892B and 894 Huddersfield Road*

10.36 The nearest property to the application site is 894 Huddersfield Road. Even in this instance, the separation distances from plots 1 and 2 to the front elevation of these neighbours would be 20m. Their single storey garage with terrace above, would also retain 19m from these plots. As such, whilst this is marginally under the recommended 21m, it is noted that plots 1 and 2 would not have a direct relationship with the front elevation of 894 Huddersfield Road and therefore, there would be no undue overlooking, overbearing or overshadowing.

10.37 Plots 3 and 4 would have a front to side relationship with 894 Huddersfield Road whereby a separation distance of at least 22m would be retained. This is considered acceptable, in order to protect these neighbours' future amenity.

10.38 There would be 39m from the nearest elevation at 392A Huddersfield Road to plot 5 and therefore there would be no detrimental impact upon these neighbours.

*Fir Cottage*

10.39 Fir Cottage is annotated as The Bungalow on the proposed site plan. It has been noted that this property does not currently benefit from any side openings within its projecting south western gable. There is also a dense hedge row that would restrict any directly relationship between this property and plot 11. Therefore, whilst plot 11 would be a 2-storey property, officers are satisfied that given its relationship with Fir Cottage (i.e., set back further into the site), the separation distance of 10.7m including the property being set in from the boundary by 3.4m, would not result in undue overbearing, overshadowing or overlooking.

10.40 Consideration must also be given to internal separation distances and the amenity of the future occupiers. Internal separation distances meet or exceed the minimums set out within the Housebuilders Design Guide SPD and therefore the proposed layout, for residential amenity purposes, is considered acceptable and complies with guidance contained within the Housebuilders Design Guide SPD and the aims and objectives of policy LP24 of the Kirklees Local Plan.

10.41 The quality of the proposed residential accommodation is also a material consideration and therefore the 11 units would comprise of six detached properties and a row of five terraced properties. Each unit would meet or exceed the Government's Nationally Described Space Standards and would provide a dual aspect for all residents, in regard to outlook, privacy and light.

### Landscaping

- 10.42 The proposed private gardens are considered commensurate in scale to their host dwellings. They offer good separation and space about dwellings, whilst offering private amenity space for residents, securing a high standard of visual and residential amenity.
- 10.43 A landscaping plan has been submitted as part of this application, detailing three parcels of public open space adjacent to Huddersfield Road. This is considered acceptable and is welcomed by KC Landscape. Nonetheless, further details would be required by the type of soft and hard landscaping and a management and maintenance plan for the open space. This can be secured via condition.
- 10.44 As the proposed development is for 11 dwellings, the scheme triggers the need for open space to accord with policy LP63 of the Kirklees Local Plan. As identified above, there is adequate open space being provided on site, however, when compared to the different typologies, given that no outdoor sport can be facilitated (i.e., children's play) due to the impact the equipment could have on the roosts of the existing trees, this cannot be provided on site. As such, a financial contribution of £9,161 would be required.

### Highway issues

- 10.45 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.
- 10.46 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 would normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.
- 10.47 KC Highways Development Management have been formally consulted as part of the application process. The officer acknowledges in their response that outline permission and reserved matters approval has already been given for residential use at this site. This application shows the same point of access onto Huddersfield Road as previously approved with the existing access to be closed.
- 10.48 The proposed site plan shows a gated traditional estate with a footway to one side. Whilst officers would wish for this site to be open, rather than gated, in order to provide an inclusive development, should this road be gated then it cannot be considered for adoption and the maintenance of this would be at the future residents' expense. The applicants would therefore need to make their own arrangements for the future maintenance of this road and this can be done via a private maintenance company.



- 10.49 Notwithstanding the above, the proposed site plan shows the gates to be set back 20m to allow a vehicle to pull off the highway in front of the gates.
- 10.50 Plots 1 to 6 which are 4-bed dwellings are all shown to have three off-street parking spaces, plots 7 to 11 which are 3-bed dwellings are all shown to have two off-street parking spaces, and three visitor parking spaces are proposed. These parking standards are in accordance with recommended standards.
- 10.51 Acceptable forward visibility is shown across the two bends into the proposed road. Sight lines at the site entrance of 2.4m x 70m have also been demonstrated.
- 10.52 Swept paths are shown which demonstrate that a 16.5m refuse vehicle can enter, exit, and turn within the site. Whilst this is acceptable, if the road is to remain private, the council's waste collection vehicle would not enter the site and therefore private arrangements for waste collection would need to be made.
- 10.53 A revised site plan 21/6320/11 rev C has been sought to show the extended footway, sight lines and existing access closed. The right hand turn lane on Huddersfield Road has also been accepted and will be conditioned as per the 2013/93196 outline application (condition 18).
- 10.54 Lastly, the gradients shown on plan ref 21/6320/12 Rev A are acceptable at 1 in 40 at the junction and 1 in 20 throughout the site.
- 10.55 As such, KC Highways Development Management consider the scheme to be acceptable, subject to conditions being attached to the decision notice regarding the internal estate roads, the closure of the existing access onto Huddersfield Road and details of bin collection and temporary arrangements. This is to accord with policy LP21 of the Kirklees Local Plan and the aims of the Highway Design Guide SPD and National Planning Policy Framework.
- 10.56 KC Highways Structures have also reviewed this planning application, raising no objection subject to conditions being applied regarding any new retaining walls adjacent to the highway and details of any drainage within the adopted highway. Should the site not be adopted as per the details above, then there may not be a trigger for this condition.

#### Flood risk and drainage issues

- 10.57 Chapter 14 of the NPPF and policy LP27 of the Kirklees Local Plan state inappropriate development in areas of flood risk should be avoided by directing development away from areas at highest risk through application of a sequential test.
- 10.58 The application has been submitted Flood Risk Assessment and Drainage Strategy which has been reviewed by the Lead Local Flood Authority (LLFA). Those officers have confirmed that attenuation would be at the lowest point of the site and lower than all properties and therefore exceedance events will not pose a risk to the proposed properties.

- 10.59 With regards to surface water disposal, a connection into a watercourse by directly or indirectly via a public sewer is available. This must be done, however, by a gravity connection. As such, officers do not envisage that a connection to a public combined sewer is required.
- 10.60 The submitted flood risk assessment shows a provisional 2.5l/s discharge rate achieved using a 75mm opening on a flow control device. Whereas Kirklees drainage guidance lists 75mm as an absolute minimum, an opening of close to 100mm is desirable. To achieve this, and given the size of the development, a 3.5l/s discharge restriction can apply for this site.
- 10.61 With regard to attenuation, the submitted information suggests the use of an attenuation basin. However, other submissions show a pond with a permanent water level. As it has been demonstrated that space has been made for water, a detailed design of this attenuation facility can be secured by condition. This must adhere to the concept of improvement of water quality of surface water discharges to the local aquatic environment.
- 10.62 The construction phase of any development can increase flood risk post site strip and that of sedimentation of the local drainage network. Construction activities also present a risk of pollution. The LLFA expect a risk assessment to be carried out to protect names receptors from various activities carried out in the phasing of the construction of this project. This will involve prior to and after any attenuation facility is constructed, so method statements demonstrating an itinerary and schedule of methods and inspections by a nominated person(s) to mitigate risk. Officers expect a development of this size to consider the effects of a 1 in 1 year storm or similar timeline to the build programme. As such, a condition to this effect is recommended.

#### *Sequential test*

- 10.63 Alongside the above, the site is partially located within flood zone 2, which would trigger the requirement of a sequential test. Paragraph 168 of the NPPF states that *'The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.'*
- 10.64 Paragraph 003 of the Planning Policy Guidance (Flood Risk Coastal Change) states that *'when applying the Sequential Test, a pragmatic approach on the availability of alternatives should be taken. For example, in considering planning applications for extensions to existing business premises it might be impractical to suggest that there are more suitable alternative locations for that development elsewhere.'*
- 10.65 The LLFA have reviewed the submitted Flood Risk Assessment and Drainage Strategy which sets out the sequential approach taken for this site. In this instance, all proposed properties are in the zone of the lowest flood risk (flood zone 1), and therefore a full sequential test is not required. Any record of flood incidents to the council refer to the opposite side of Huddersfield Road and therefore, the this will not affect the site or be affected by this development. As such, the LLFA are in support of the scheme.

## Other matters

### *Ecological considerations*

- 10.66 Chapter 15 of the NPPF relates to conserving and enhancing the Natural Environment. Paragraph 185 of the NPPF outlines that decisions should promote the protection and recovery of priority species and identify and pursue opportunities for securing net gains for biodiversity. Paragraph 186 goes on to note that if significant harm to biodiversity resulting from development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. This is echoed in policy LP30 of the Kirklees Local Plan.
- 10.67 Furthermore, policy LP30 of the Kirklees Local Plan outlines that development proposals should minimise impact on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist. Principle 9 of the Housebuilders Design Guide SPD echo the Local Plan in respect of biodiversity.
- 10.68 A Preliminary Ecological Appraisal (PEA), Bat Survey and Net Gain Assessment have been submitted with this planning application. The submitted PEA determines that the habitats on site (trees, grassland and scrub) are assessed as being at value at site level only, with coniferous woodland in the eastern section of the site to be retained as part of the proposals. The PEA details that the site provides opportunities for nesting birds and bats. The PEA makes a number of recommendations in order for ecological receptors to be mitigated as part of the proposals. In order to ensure that these measures are incorporated into the scheme, a condition for a CEMP: Biodiversity is recommended.
- 10.69 Following on from the recommendation of the PEA with regards to roosting bats, a bat survey report has been submitted with the application. The main conclusions from the report found that a sycamore to the north has a transient roost for a single common pipistrelle. No other roosting bats were found to be present on the site. The immediate and wider area provide good foraging and commuting habitat for all bat species within the local range. From the previously submitted landscaping plans, it is determined that the sycamore tree that contains the bat roost within the northern section of the site is to be removed. Given the above, an appropriate mitigation licence will be required from Natural England to permit otherwise unlawful activities such as damage/ destruction of a bat roost or disturbance to bats. The compensatory measures detailed in section 4.6.1.1 of the submitted bat survey report are sufficient to ensure that the favourable conservation status of roosting bats within the site are maintained.
- 10.70 A Biodiversity Net Gain Assessment has been submitted with this application. The metric details that the proposed development would result in a net loss of -0.47 Habitat Units (equivalent to a loss of 21.91%) and a net gain of +0.08 Hedgerow Units (equivalent to a gain of 100%). For the development to achieve a 10% net gain (meeting the council's aspiration as set out in its BNG technical advice note, and which this applicant has agreed to achieve), 0.69 habitat units would need to be delivered, via off-site compensation. This would require an off-site contribution of £15,870 which would be secured as part of the recommended Section 106 agreement. This provision attracts positive weight in the balance of planning considerations.

### *Trees*

- 10.71 Policy LP33 of the Kirklees Local Plan states that “the Council would not grant planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity...Proposals should normally retain any valuable or important trees where they make a contribution to public amenity, the distinctiveness of a specific location or contribute to the environment”. This is supported by Principle 7 of the Housebuilders SPD.
- 10.72 As identified above, a number of mature trees surround the edge of the application site. The previous planning permission granted on this site has established which trees were of value and there is no deviation from the previous approvals in this application. Trees officers have noted that tree T27, chestnut, was given consent to be felled and replaced under tree work application 2021/94448. This was due to its poor condition. The removal of T26 would also be required regardless of the proposal, however mitigation planning has been proposed. The removal of T10, is not ideal however there is no alternative in order to gain access to the high land at the rear of the site.
- 10.73 The details of tree protection measures in the Arboricultural Method Statement are considered satisfactory and would provide adequate protection of the retained trees. Therefore, provided that a condition of compliance is included, KC Trees raise no objection to the proposal.

### *Contaminated land*

- 10.74 This site has been identified on the council’s mapping system as potentially contaminated land due to it being adjacent a historic landfill site (site ref: 484/5). Contaminated land conditions are therefore considered necessary. A Phase I Geo-Environmental Report by JNP Group dated November 2022 (Reference: S11674-JNP-XX-XX-RP-G-0003) has been submitted in support of the application.
- 10.75 Environmental Health officers have reviewed the aforementioned documents, however, and have noted that the recommendations did not specify the proposed period and frequency of ground gas monitoring. As such, this is expected to be considered given the proximity to the historic landfill (adjacent to the site) and follow best practice guidance. Also, if any shallow coal is encountered, officers would expect the combustion risk from shallow coal to be assessed and quantified in any future Phase 2 report. Therefore, in the case of an approval an addendum to the existing phase 2 report would be required and therefore land contamination conditions are required. This is to comply with policy LP53 of the Kirklees Local Plan and the aims of Chapter 15 of the NPPF.

### *Noise*

- 10.76 The proposed site is adjacent to Huddersfield Road (A644). There are concerns that future occupiers at the development may be negatively impacted by noise from road traffic whilst inside and outside the property. As such, the applicant must demonstrate that acceptable sound levels can be achieved indoors and in outdoor amenity areas. This can be secured via a condition to comply with policies LP24 and LP52 of the Kirklees Local Plan.

### *Electric vehicle charging points*

- 10.77 With regard to the West Yorkshire Low Emission Strategy, a condition is recommended, requiring the provision of an electric vehicle charging point for each dwelling. Technical details of the chargers to be submitted would be required at the discharge of condition stage. This is to ensure compliance with policies LP20, LP24 and LP47 of the Kirklees Local Plan and Chapters 2, 9 and 15 of the NPPF.

### *Construction activities*

- 10.78 The site is adjacent to existing residential properties. All reasonable steps must be taken to minimise and mitigate adverse effects from construction-related activities that may lead to a loss of amenity. As the submitted documents do not include a Construction Environmental Management Plan (CEMP), a condition to secure this is recommended.

### *Crime prevention*

- 10.79 The West Yorkshire Police's Designing Out Crime Officer has been formally consulted as part of this application. The officer has raised no objection to the proposed layout, but has requested that a condition requiring security measures be attached to the application in the case of an approval. This would include details of boundary treatments, lighting, window and glazing details, doors and locking systems, CCTV and alarms and cycle and motorcycle storage, in accordance with policy LP24 (e) of the Kirklees Local Plan.

### Representations

- 10.80 As a result of the above publicity, two representations have been received from local residents. Most of the matters raised have been addressed within the report above. However, officers have provided a brief response to the concerns below.

### *Visual amenity concerns:*

- Overdevelopment of the site.
- Some of the houses do not face onto Huddersfield Road, like the existing development, including the new petrol station. Therefore, the development would look better if it faced onto Huddersfield Road.
- I appreciate there is previous outline approval on this site, however this has not been implemented and is not in date. Since the last approval we are now in a new regime of the Local Plan and an updated NPPF. Both of which have a significant focus on design.
- The proposal is not in keeping with surrounding development.
- I appreciate the topography of the area is not ideal and this makes it difficult for the applicant to achieve the maximum potential in particular for units 1 to 6. It's clear that the orientation of units 1 and 2 are facing northeast not south like every single other property on Huddersfield Road, which you can appreciate is a very long road.
- The orientation of units 3 to 6 are facing directly east, again this is not in line with the area.
- The proposal does not match the building line or roof ridge of the existing properties particularly 890-894 Huddersfield Road.

- Lack of soft landscape proposals has also resulted in dominance of hard surfaces and parking.

**Comment:** *A full assessment of the impact on visual amenity has been undertaken within the committee report. It is considered that the development would represent an appropriate density and a design that would be in keeping with the surrounding area. In this case, it would not be feasible to require the development to line Huddersfield Road due to the existing tree cover on site (which should be retained) and flood risk.*

*Residential amenity concerns:*

- Concerns regarding the distance between the new dwellings and the existing properties. If they are too close they will impact on neighbours privacy. Please could the separation distances be confirmed, as even 21m seems a little less to me.
- Overlooking from existing properties into the new builds.
- The design of Unit 7 to 11 seems to be in line with the surrounding properties although the separation distance of unit 11 and the exiting property on the east needs to be considered as the developers agents suggests it's 10.6 metres which falls below the minimum requirement.
- Previous policy may have allowed for prescriptive separation distances, however current policy does not. There is a recommended minimum separation distance of 21 metres between inhabited windows, however the impact on neighbours is still based on site context.
- Units 1 and 2 with inhabited windows, would have significant overbearing and overlooking harm on the occupants of the properties to the northeast.
- Plots 4 to 6 do not have a minimum separation distance of 21 meters (only 19 meters).
- Once all the above are factored in and the new rules are applied then the development would amount to overdevelopment of the site and the level of amenity space in particular for unit 1-6 would not be enough for residents once the separation distances have been factored.

**Comment:** *Officers are satisfied that the development would not have any undue overbearing, overshadowing or overlooking upon any of the immediate neighbours to the site. Adequate separation distances are proposed.*

Financial contributions and planning obligations

10.81 Paragraph 56 of the NPPF confirms that planning obligations must only be sought where they meet all of the following: (i) necessary to make the development acceptable in planning terms, (ii) directly related to the development and (iii) fairly and reasonably related in scale and kind to the development.

10.82 The following represents a policy-compliant set of Section 106 obligations for the proposal:

- Affordable homes: Two units (1 x affordable/social rent and 1 x first home)
- Public Open Space (off-site contribution): £9,161.
- Biodiversity Net Gain (off-site contribution to achieve 10%): £15,870.

10.83 Section 106 obligations that would be required regardless of the financial contributions include the provision of the site's on-site public open space and management / maintenance arrangements for the drainage (prior to adoption) and the private road.

10.84 The applicant has provided a viability assessment seeking to demonstrate that the proposal would not be viable if a full suite of Section 106 financial planning obligations were imposed upon them. The Government's planning practice guidance provides the following overview of the viability assessment process, for context:

*Viability assessment is a process of assessing whether a site is financially viable, by looking at whether the value generated by a development is more than the cost of developing it. This includes looking at the key elements of gross development value, costs, land value, landowner premium, and developer return.*

*Any viability assessment should be supported by appropriate available evidence informed by engagement with developers, landowners, and infrastructure and affordable housing providers. Any viability assessment should follow the government's recommended approach to assessing viability as set out in this National Planning Guidance and be proportionate, simple, transparent and publicly available. Improving transparency of data associated with viability assessment will, over time, improve the data available for future assessment as well as provide more accountability regarding how viability informs decision making.*

*In plan making and decision making viability helps to strike a balance between the aspirations of developers and landowners, in terms of returns against risk, and the aims of the planning system to secure maximum benefits in the public interest through the granting of planning permission.*

10.85 The applicant's viability assessment has been reviewed by an independent viability assessor (Align) appointed by the council, to advise officers on this specialist subject.

10.86 A review of the original viability report submitted was undertaken and contested by the applicant. This was therefore followed up with a meeting and the final key matters of dispute are as follows:

**Build costs:** The applicants have provided a cost per square meter build cost at the time using BCIS utilising developments of a similar size and nature. This includes a build rate of £1,727/m<sup>2</sup> for the detached 2-storey dwellings and a rate of £1,287/m<sup>2</sup> for the terrace properties. Align has noted that a significant time has passed since the second reiteration of the report (12/12/2023) was undertaken and during this period, sales values, costs, market conditions, and finance rates have all changed. Therefore, without a new assessment of the site, their previous costs at the time of writing the report remain. These include a build rate of 1,290/m<sup>2</sup> for the 2-storey semi-detached units and a rate of £1,517/m<sup>2</sup> for the detached units. This is a lower rate than BCIS to account for the second floor being built into the eaves.

**Preliminary costs:** Align considers the preliminary costs to be accounted for within the BCIS, to which the applicant originally disagreed. Upon review, the applicant notes that whilst there is an element of preliminary cost included within the BCIS, they do not agree that the costs should be omitted in full as there would be preliminary costs associated with external works which require an allowance. Therefore, the applicant has reduced the preliminary costs to 3.73%. Align have noted this amendment and concluded that this is reasonable.

**Site clearance:** The applicants in their final report have reduced the site clearance figure from £275k to £225k, however, Align have reviewed the Cut and Fill (calculating earthworks) spreadsheet and whilst the site area appears correct, the amount of topsoil suggests it is 1m deep, which seems inaccurate. One rate to challenge is bulk excavation, currently at £20/m<sup>3</sup>. Spons Price Book 2023 (page 209) lists excavation by machine not exceeding 1m deep at £2.66/m<sup>3</sup>. This would result in a reduction of £62,500, rather than the £50,000 reduction identified by the applicant.

**Insurance:** The applicant has included developer's insurance costs and building warranty costs in addition to the BCIS rates, as they consider these items to not be considered construction and therefore should be included. Align maintain that all-risk and public liability insurance should be classified as a prelim cost and therefore already included. Align would only expect £1,000 per plot for Building Warranty and £500 per plot for Building Regulations, resulting in a combined reduction of £133,500

**Contingency:** The applicant has adopted a 5% contingency figure. The risk profile of a developer or scheme can inherently affect the contingency level. In this instance, the applicant has produced a detailed breakdown of abnormal costs, which should help mitigate risks and maintain a low contingency. However, Align acknowledge that costs can increase as development progresses.

The issue of contingency levels remains a matter of professional opinion rather than fact, emphasising the importance of a thorough risk profile assessment. However, Align have adopted a 3% contingency fee.

**Purchasers' costs:** The applicant has revised their spreadsheet appendix G (including Section 106 contributions) and appendix H (excluding Section 106 contributions) which arrives at residual land value of minus £818,028, whereas without Section 106 contributions, the figure is at minus £586,243. This is set against the actual agreed EUV+ land value of between £160,000 and £300,000 (the applicant's figure) or £304,000 (Align's figure). This has been accepted by Align but does not change their final position which sets out the benchmark land value of £304,200.

**Profit:** Planning Practice Guidance indicates that a profit level of 15-20% of gross development value is generally considered to be a suitable return to developers. There are a number factors that determine what a reasonable level of profit might be, including the availability of development finance, the state of the market and the consequent risk in proceeding with schemes, as well as development values and demand. In determining the appropriate level for an individual development, regard is had to the individual characteristics of that scheme.



The applicant has adopted a 17.5% profit level in their amended calculations, which presents a scheme with a shortfall of £818,028 with the Section 106 contributions and £586,243 without them.

Using their calculated figures, Align have reached the following conclusion on viability:

- 15% profit on GDV would provide 20% affordable provision providing two First Homes equating to an almost break-even position.
- 16.75% profit on GDV would provide a 10% affordable provision providing one First Home.
- 16.18% profit on GDV would provide a 10% affordable provision providing one First Home and the off site BNG and POS contributions.

10.87 Based on the above profit levels, officers accept the applicants profit margin of 17.5%, given the small nature of the site, the risks involved in its development, and the small profit margins proposed. A profit level of 16.75% (or 16.18% including the BNG and POS contributions) is not considered reasonable for this site, given its coal mining legacy and the limited housing delivery that has taken place within Ravensthorpe. There is also a significant need to boost supply in this area. The construction of homes in this location would additionally provide more comparables to be drawn upon in order to provide evidence for future viability reviews.

10.88 Furthermore, the council's inability to demonstrate a five-year supply of housing land, coupled with the housing site allocation, is considered to weigh in favour of the development.

10.89 Nonetheless, despite the above, the applicant has confirmed agreement to pay the off-site BNG contribution of £15,870 to provide a 10% net gain and the off-site public open space contribution of £9,161 towards children's play in the area.

## **11.0 CONCLUSION**

11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

11.2 The site is allocated for residential development under site allocation HS63. Outline permission and reserved matters has been previously granted under applications 2013/93196 and 2017/92947 for 11 dwellings. Whilst this permission has now expired, it is a material consideration that establishes the principle of developing the site for housing.

11.3 Site constraints include topography, neighbouring residential properties, trees and ecology and various other material planning considerations. Nonetheless, the proposed development adequately addresses each. The design and appearance of the proposed development is considered acceptable. There would be no undue harm to the amenity of neighbouring residents or future occupiers. The proposed access and highway impacts have been assessed to be acceptable. Other planning issues, such as drainage, ecology, and protected trees, have been addressed through the proposal.

- 11.4 Viability issues have been demonstrated to prevent a fully policy compliant suite of Section 106 financial obligations, to which officers agree. However, the applicant has agreed to pay the off-site BNG and public open space contributions, to help mitigate local impacts of the proposal.
- 11.5 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval, subject to conditions and planning obligations to be secured via a Section 106 agreement.
- 12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)**

- 1) Three years to commence development.
- 2) Development to be carried out in accordance with the approved plans and documents.
- 3) Samples of facing materials.
- 4) Details/samples of windows and doors.
- 5) Window frames set back into the reveal by 100mm.
- 6) Proposed details of internal adoptable roads.
- 7) Closure of access onto Huddersfield Road.
- 8) A detailed scheme for the provision of a right turn lane from Huddersfield Road into the site and associated signing and white lining
- 9) Permeable surfacing to all vehicle parking areas.
- 10) Submission of a CEMP
- 11) Submission of an AIP for any new retaining walls/buildings adjacent to the adoptable highway
- 12) Details of any drainage in the highway.
- 13) Details of the private arrangement for waste collection.
- 14) Details of temporary waste storage and collection (during construction).
- 15) Submission of full drainage details.
- 16) Assessment of the effects of a 1 in 100 year storm event.
- 17) Submission of temporary drainage for surface water.
- 18) Details of boundary treatment.
- 19) Submission of all hard and soft landscape materials and their management and maintenance.
- 20) Submission of a CEMP (for biodiversity).
- 21) Tree protection measures in accordance with Arboricultural Method Statement.
- 22) Submission of a Phase 2.
- 23) Submission of a Remediation Strategy.
- 24) Implementation of Remediation Strategy.
- 25) Submission of Verification Report.
- 26) Submission of a Noise Assessment and Mitigation Scheme.
- 27) Details of EVCP's
- 28) Details of measures to deter crime and anti-social behaviour.
- 29) No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive.

**Background Papers:**

Application and history files

[Planning application details | Kirklees Council](#)

Certificate of Ownership – Certificate A signed