
Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 06-Mar-2025

Subject: Planning Application 2024/92394 Development of an attenuation basin and associated access relating to planning permission 2021/92801 Land at, Merchant Fields Farm, off Hunsworth Lane, Cleckheaton

APPLICANT

Harron Homes

DATE VALID

28-Nov-2024

TARGET DATE

27-Feb-2025

EXTENSION EXPIRY DATE

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

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Cleckheaton

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report.

1.0 INTRODUCTION:

- 1.1 This is an application for full planning permission for the development of an attenuation basin, and the provision of an associated access. The basin would be associated with the 291-dwelling residential development previously approved to the west of the current application site.
- 1.2 This application is brought to the Strategic Planning Committee for determination under the terms of the Delegation Agreement following a request from Ward Councillor Kath Pinnock. Cllr Kath Pinnock's grounds for requesting a committee decision are as follows:

Given that permission was given for an attenuation tank and that there are issues of public safety that should be aired in a public forum, I am asking for this application to be decided at committee, please.

- 1.3 Cllr Kath Pinnock's request has been accepted by the Chair of the Strategic Planning Committee.

2.0 SITE AND SURROUNDINGS:

- 2.1 The main part of the application site is approximately 1 hectare in size. It comprises grassed land that has been in agricultural use, and the west bank of Nann Hall Beck, as well as a short section of that watercourse.
- 2.2 The application site red line boundary also includes the route of an access between the proposed basin location and Hunsworth Lane.
- 2.3 The main part of the application site is bounded by trees, hedgerows and other shrubs, as well as post and wire fencing. The site is relatively flat, with a slight downhill slope eastwards.
- 2.4 The rear gardens of 79, 81, 83, 85, 87 and 89 Brookfield View meet the southern edge of the main part of the application site, as does the side garden of 77 Brookfield View.
- 2.5 To the west of the main part of the application site is site HS96, which is allocated for residential development in the Local Plan. Also to the west is an area of mostly Green Belt land that is not allocated for development, and includes a group of buildings at Merchant Fields Farm. The main part of the application site itself is within the Green Belt, as is land to the east.

- 2.6 Public footpath SPE/44/30 runs north-south along the western edge of the main part of the main part of the application site.
- 2.7 The application site is not within a conservation area, and does not form part of the setting of a listed building.
- 2.8 The application site is not located within an Air Quality Management Area.
- 2.9 The majority of the application site is located within Flood Zone 1 and is therefore generally at low risk of flooding. Parts of the site (namely, the banks of Nann Hall Beck) are within Flood Zones 2 and 3.
- 2.10 In relation to minerals, 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 (now the Mining Remediation Authority).

3.0 PROPOSAL:

- 3.1 The application is for the development of an attenuation basin, and the provision of an associated access. This would involve the excavation of the site to form the basin, and the creation of sloped edges which would typically have a gradient of 1:3. A track (surfaced with Grasscrete) would be formed around the edge of the basin, to provide access for maintenance. Levels would be raised along the east side of the basin, and the track would run along the top of this new raised bank.
- 3.2 Water would enter the basin via a pipe connected to the surface water drainage system of the residential development to the west. Water would leave the basin at an attenuated rate via a pipe at the northeast edge of the basin. This water would discharge into Nann Hall Beck.
- 3.3 Tree, hedgerow and shrub planting is proposed around the basin.
- 3.4 Vehicular access to the basin would be provided via a new section of track between an estate road of the approved residential development to the west and the southwest corner of the basin.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

Application site (main part)

- 4.1 None relevant.

Adjacent site allocation (HS96)

- 4.2 2019/93303 – Planning permission refused 21/05/2021 for the erection of 267 dwellings with associated works and access from Hunsworth Lane and Kilroy Drive. The reason for refusal was as follows:

The proposed layout does not deliver a sufficient mix of housing suitable for different household types because it is overly dominated by four bedroom detached dwellings. Furthermore, the double hedgerow within the site, which is classed as 'important' under the Hedgerow Regulations 1997, would not be retained in situ and it has not been adequately demonstrated that this hedgerow can be translocated without unduly prejudicing its ability to survive. As such, the proposal results in a poor quality layout and the application is contrary to Policies LP11, LP24 and LP65 of the Kirklees Local Plan and guidance in chapter 5 and chapter 12 of the National Planning Policy Framework.

4.3 2021/92801 – Planning permission granted 14/06/2022 for the erection of 291 dwellings with associated works and access from Hunsworth Lane and Kilroy Drive.

4.4 2022/92151 – Permission refused 23/09/2022 for variation of condition 2 of permission ref: 2021/92801. The reason for refusal was as follows:

The proposed amendments would result in a development that is materially and substantially different to the one which has been approved, that would not deliver an appropriate mix of housing suitable for a range of household types, and that would provide inadequate amenity for existing and future residents. Furthermore, it has not been demonstrated that sufficient off-street parking would be provided. The proposal is therefore contrary to Policies LP11, LP22 and LP24 of the Kirklees Local Plan and the National Planning Policy Framework.

4.5 2022/92229 – Permission refused 29/09/2022 for variation of condition 4 of permission ref: 2021/92801. The reason for refusal was as follows:

The proposal would result in prolonged and unacceptable impacts during the construction phase in relation to residential amenity, highway safety and the movement of traffic. Sufficient justification for the proposal has not been provided. The proposal is therefore contrary to Policies LP21, LP24 and LP52 of the Kirklees Local Plan and the National Planning Policy Framework.

4.6 2022/93305 – Application for variation of condition 2 of permission ref: 2021/92801 withdrawn.

4.7 2024/91260 – Variation of conditions 2 (plans and specifications) and 35 (removal of permitted development rights) of previous permission 2021/92801 – revisions to house types, unit size mix and layout. Approved 11/11/2024.

4.8 2022/92560 – Discharge of Conditions application currently under consideration.

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

Pre-application stage

- 5.1 On 17/05/2024, in email exchanges regarding application 2024/91260, the case officer queried an unexplained, unannotated shape that had appeared outside the application site on some drawings. Some of the applicant's drawings also showed a new lane off Brookfield View, passing through the proposed residential development's community orchard, with an annotation stating "potential access to attenuation basin". In a meeting held on 14/06/2024, the applicant team explained that they were exploring the possibility of providing an attenuation basin to the north of Brookfield View. This would replace the attenuation tank approved in the northeast part of the residential development site. The case officer advised that this proposal could potentially be considered favourably (subject to relevant planning considerations being addressed), but that the proposal would need to be deleted from the drawings being considered under application 2024/91260, and would need to be the subject of a separate application. The applicant amended the drawings (of application 2024/91260) accordingly.

Application stage

- 5.2 During the life of the current application, the applicant submitted drawings and documents in response to consultee comments regarding site contamination matters. Information was also provided to address Member concerns.
- 5.3 The submissions made during the life of the current application did not necessitate public reconsultation.

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 The main part of the application site is within the Green Belt. The application site red line boundary also includes the route of an access between the proposed basin location and Hunsworth Lane – most of this route is within site HS96, which is allocated for residential development.
- 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
- LP5 – Masterplanning sites
- LP7 – Efficient and effective use of land and buildings
- LP20 – Sustainable travel
- LP21 – Highways and access
- LP23 – Core walking and cycling network
- LP24 – Design
- LP27 – Flood risk
- LP28 – Drainage

- LP30 – Biodiversity and geodiversity
- LP32 – Landscape
- LP33 – Trees
- LP34 – Conserving and enhancing the water environment
- LP38 – Minerals safeguarding
- LP47 – Healthy, active and safe lifestyles
- LP51 – Protection and improvement of local air quality
- LP52 – Protection and improvement of environmental quality
- LP53 – Contaminated and unstable land
- LP65 – Housing allocations

Supplementary Planning Guidance / Documents and other documents:

6.4 Relevant guidance and documents:

- Kirklees Joint Health and Wellbeing Strategy and Kirklees Health and Wellbeing Plan (2018)
- Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
- Public Rights of Way Improvement Plan (2010)
- Biodiversity Net Gain Technical Advice Note (2021)
- Kirklees Climate Change Action Plan (2022)
- Planning Applications Climate Change Guidance (2021)
- Highway Design Guide SPD (2019)

Climate change

6.5 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.

6.6 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. In December 2022 the council launched the Kirklees Climate Change Action Plan.

National Planning Policy and Guidance:

6.7 The National Planning Policy Framework (December 2024, corrected February 2025) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal. Relevant 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 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 13 – Protecting Green Belt land
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 17 – Facilitating the sustainable use of minerals

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

6.9 Relevant national guidance:

- Green Infrastructure Planning and Design Guide (2023)

6.10 Since 12/02/2024, the provision of a Biodiversity Net Gain (BNG) of 10% has been a mandatory requirement for developments in England under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021).

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been advertised as a major development and as development which affects a public right of way (public footpath SPE/44/30). Three site notices were posted on 10/12/2024, a press notice was published on 12/12/2024, and notification letters were sent to neighbouring properties. This was in line with the council's then-applicable Statement of Community Involvement. The end date for publicity was 06/01/2025.

7.2 Nine representations were received in response to the council's consultation.

7.3 Cllr Kath Pinnock (ward Member for Cleckheaton) – *I have no concerns in principle with the change. However, there is nothing I can see that particularly addresses safety. There is a track that leads to the pond and the pond is 1.65m deep in places. Children are inevitably drawn to water. What safety features are designed to address this? The other concern I have is in relation to maintenance. Although there will be occasions when water is pumped into the beck, generally, the water there will not flow. In these circumstances water weeds can quickly take over and clog the pond. Unused canals suffered from this sometimes spectacularly so. Will the developers be required to produce a maintenance plan?*

7.4 Other comments included in representations are summarised as follows:

Principle of development

- Site is not allocated in Local Plan.
- Site is agricultural Green Belt, most recently used for sheep and horse grazing.
- Recent application to change from agricultural Green Belt was refused.
- Site is not Grey Belt.

Drainage and flood risk

- No justification for removal of second approved attenuation basin.
- Removal of second attenuation would increase flood risk.
- Unclear if basin would replace one of the approved attenuation tanks.
- No explanation for basin provided, when three tanks previously approved. Query if this means previous proposals were incorrect.
- Calculations needed for basin, to demonstrate suitability and adequate size.
- Unclear how basin would function.
- Nann Hall Beck is too narrow to carry volume of water that falls during heavy rain.
- Nann Hall Beck drops significantly along its course. Downward force is considerable.
- Basin would be inundated by water from Nann Hall Beck. Basin would fail to achieve its stated aim of attenuation of surface water run-off from the proposed development as it would be overwhelmed by a flooding problem that exists now.
- If basin is already inundated with water from river, water entering it would contribute to an existing major flooding problem.
- Lead Local Flood Authority have requested an assessment of exceedance events. Assessment of 1 in 100 year storm event (with climate change allowance) has been requested, but given eight major weather events since 2007 there is currently a 1 in 2 year situation.
- Two previous applications at this site have been refused on flooding grounds.
- Previously-approved tanks would not have been sufficient, as explained by Lead Local Flood Authority objection to Discharge of Conditions application 2022/92560. Current proposal is no better.
- Inflow (into basin) would exceed outflow (into Nann Hall Beck).
- No evidence that Yorkshire Water would adopt basin.
- Query what consideration given to aquifer flooding of basin, given nearby mine entries.
- Large area of impermeable surfaces proposed, preventing water from being absorbed into the ground.
- Run-off will overwhelm local drainage system.
- Increased flood risk, including to nearby properties and the proposed dwellings.
- Fields currently serve as a natural flood plain, reducing risk downstream.
- Proposed drainage solutions need to be adequate.
- Increased flood risk will prevent homeowners from obtaining affordable insurance, will prevent remortgaging, and will devalue area. Unclear how 200+ homes are exempt from flood protection in relation to mortgaging.
- Flooding has occurred at Brookfield View.
- Watercourse cannot cope at Balme Road bridge. This infrastructure needs upgrading.

Biodiversity, trees and landscaping

- Adverse impact on, and displacement of, barn owls, tawny owls, red kites, kestrels, deer, rabbits, hares, foxes, bats, herons, badgers and other species.
- Harm to habitats. Loss of feeding, nesting and breeding grounds.
- Loss of biodiversity.
- Construction process would be harmful to wildlife.
- Wildlife protections needed.
- Loss of trees and bushes.
- Increased carbon dioxide due to loss of vegetation.
- All hedges and trees were cut down and burnt in 2019.
- Planting more trees would not help local health and wellbeing.

Amenity

- Disruption, inconvenience, noise and stress during construction.
- Diminished quality of life and peace of mind.
- Older generations live next to site.

Safety

- 1.65m water depth is a safety hazard. Risk to children.

Associated residential development

- Objection to principle of residential development. Development should not be going ahead.
- Inadequate local infrastructure to support development. Schools are over-subscribed. Insufficient doctor surgeries.
- Increased congestion, journey times and safety hazards.
- Increased traffic.
- No traffic assessments submitted.
- No assessment of queueing on Kilroyd Drive.
- Cost of increased traffic to resource-lacking council.
- Site is on an old mine. Potential structural instability.
- Risk of dwellings not meeting standard for sustainable and high-quality housing.
- Light pollution would scare off wildlife.
- Many houses already built in local area in recent years.
- Unclear how long development will take to complete.

Other matters

- Back door attempt to increase approved development by 15%.
- Phase I Environmental Assessment refers to Merchant Paddocks and 42 dwellings. These additional homes have not been proposed under any application to date. Misleading. Needs to be corrected.
- Reference to 42 dwellings indicates what can be expected next.
- 42 additional dwellings would increase flood risk, and larger basin would be needed.
- Unclear why document (mentioning 42 dwellings) is superseded.

- Proposal for 46 dwellings hidden within application for an attenuation tank. Misleading. Proposals should be fully disclosed.
- Objection to 46 dwellings in Green Belt.
- Precedent for further Green Belt encroachment.
- Lack of infrastructure to support 46 homes.
- Lack of need for 46 homes. 200 homes already approved should sufficiently address local demand.
- Proposal involves transporting excavated material through residential area and dumping it in landfill.
- Attenuation basin in Green Belt is cheaper than building and maintaining buried attenuation tanks.
- Applicant has continually attempted to change and water down proposals.
- Applicant should organise meeting with local residents.
- Application should be considered at committee.

8.0 CONSULTATION RESPONSES:

- 8.1 KC Lead Local Flood Authority – No objection. Condition recommended regarding detailed design of basin, and a maintenance management regime. Section 106 agreement required to establish management company responsible for maintenance and management of basin until adopted by Yorkshire Water or New Appointments and Variations company. Advice provided regarding design of basin.
- 8.2 Environment Agency – No objection or comments. Site includes small area of Flood Zone 2/3, however EA are satisfied that the attenuation basin and associated access are in Flood Zone 1 and therefore have no objection or comments. Sustainable Drainage Systems (SuDs) should always be carefully considered in discussions with the Lead Local Flood Authority, however, any drainage system must not pose a risk to groundwater quality and must not be constructed in ground affected by contamination.
- 8.3 Mining Remediation Authority (formerly the Coal Authority) – Objection. Proposals do not address risks relating to mine shafts 418426-008, 419426-001, 419426-002 and 419426-005, and the access track that would lead to the proposed basin.
- 8.4 KC Ecology – Further information required. Application site red line boundary in location plan differs to that of the submitted Biodiversity Impact Assessment, Preliminary Ecological Appraisal Report and report regarding a protected species, therefore parts of site have not been factored into Biodiversity Net Gain calculations or ecological appraisal. Concern regarding proposed layout significantly overlapping with native hedgerow on western boundary, resulting in loss of large parts of hedgerow or significant damage to roots. Hedgerows are a Habitat of Principal Importance and a Conservation Priority for Kirklees, and this impact has not been accounted for fully in the submission. The design should be amended to safeguard this hedgerow.
- 8.5 KC Environmental Health – Conditions recommended. Submission does not account for former landfill and inorganic contaminants associated with made ground at adjacent site. Submission does not consider possible agricultural supplies storage or machinery, and no site walkover has been undertaken. No detailed information regarding end use of soils. Conceptual site model and

conclusion include contradictory information (all risk has been identified as very low, yet further intrusive investigation, including taking soil samples, is proposed). No detail provided regarding specific testing. Phase 1 report not accepted, and five contamination conditions recommended.

8.6 KC Highways Development Management – No objection subject to amendment. Alignment and design of proposed access track is acceptable and considered appropriate for the anticipated size and volume of vehicular use. Proposed access uses a section of the private drive serving plots 139 and 140 (of the approved residential development). Future maintenance of this section of private drive would be the responsibility of residents, yet maintenance access over it could cause excessive wear and damage by vehicles not expected to regularly use a private drive, increasing the residents' maintenance liability. Adopted highway should therefore be extended so that plots 139 and 140 and the attenuation basin can be independently accessed from the adopted highway.

8.7 Yorkshire Water – No comment.

9.0 MAIN ISSUES

- Land use and principle of development
- Amenity impacts
- Visual amenity, landscape impacts, trees and landscaping
- Biodiversity
- Highway and transportation issues
- Flood risk and drainage issues
- Site contamination and stability
- Safety
- Other matters
- Representations

10.0 APPRAISAL

Land use and principle of 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 main part of the application site has most recently been in agricultural use, and is within the Green Belt.

10.3 The loss of the application site's agricultural use would not be contrary to planning policies. Natural England maintain a publicly-accessible online resource where the Agricultural Land Classification grade of land can be ascertained, and this resource indicates that the application site is grade 3 land. Although this does not clarify if the site is grade 3a or 3b land, given the site's location, climate, past use and likely soil condition, it is not considered to be "best and most versatile" agricultural land. There is considered to be no conflict with paragraphs 187 and 188 of the NPPF (and the related footnote 65), nor with the commentary at page 35 (Strategy and Policies document) of the Kirklees Local Plan.

- 10.4 Paragraph 151 of the NPPF states that, once Green Belts have been defined, local planning authorities should plan positively to enhance their beneficial use, such as looking for opportunities to provide access, or to retain and enhance landscapes, visual amenity and biodiversity.
- 10.5 Paragraph 154 of the NPPF states that certain forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. The paragraph specifies what types of development can be considered in this way, and the prescriptive list includes mineral extraction, engineering operations and material changes in the use of land.
- 10.6 Much of the above restrictions on Green Belt development are reiterated in paragraphs 19.2 and 19.7 of the Local Plan.
- 10.7 The proposed basin is a form of drainage infrastructure, and can be regarded as development falling under paragraph 154 of the NPPF. The proposal would not involve new buildings in the Green Belt, and would not have an urbanising effect. The proposed reshaping of the land would not erode the openness of the Green Belt, nor would its use for attenuation (whether the basin is dry or filled with water). Similarly, the proposed access track and its boundary treatments would not erode openness if sensitively designed, landscaped and implemented in accordance with details to be submitted pursuant to a recommended condition. The proposals would not conflict with the purposes of including this land within the Green Belt.
- 10.8 The council has previously accepted drainage infrastructure in the Green Belt where associated with major residential development, including at:
- Bradley Villa Farm (application 2021/92086) – large attenuation basin approved adjacent to the M62.
 - Lingards Road, Slaithwaite (application 2020/93954) – buried attenuation tank (and associated reshaping of hill slope) approved to west of site.
 - Penistone Road, Fenay Bridge (application 2022/93154) – buried attenuation tank approved on opposite side of road.
- 10.9 Of note, the applicant has not argued that the application site could be regarded as Grey Belt land. Furthermore, it is considered that no such argument needs to be made, given that the proposal is regarded as development falling under paragraph 154 of the NPPF.
- 10.10 A resident has stated that a planning application to change “from agricultural Green Belt” at this site has been refused. This is incorrect.
- 10.11 Although the basin now proposed is associated with the approved 291-unit residential development to the west, there is no evidence to suggest that the proposed basin is essential to enable that development to proceed. The approved residential development included adequate on-site attenuation (in the form of two tanks), and that development has not been demonstrated to be financially unviable. Therefore, the now-proposed basin should not be regarded as crucial to the delivery of a major housing development.

- 10.12 Notwithstanding the above, it is noted that the provision of this basin (instead of a buried tank within the residential development site) could free up land within the site allocation, which – subject to relevant planning considerations being addressed under a further application – could potentially be used for more housing. However, for the avoidance of doubt, no such additional housing is currently proposed.
- 10.13 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. None of the listed criteria apply in this instance, however due to its size and location it is considered unlikely that mineral extraction from this site would prove attractive to any party involved in that sector. It is also noted that extraction would involve deeper excavation (than is currently proposed for the basin) and the removal of material by HGV, and that such extraction could not easily be carried out at this site without causing amenity impacts for the residents of neighbouring properties.

Amenity impacts

- 10.14 Local Plan policy LP24 requires developments to provide a high standard of amenity for future and neighbouring occupiers. Policy LP52 states that proposals which have the potential to increase pollution from noise, vibration, light, dust, odour, shadow flicker, chemicals and other forms of pollution or to increase pollution to soil or where environmentally-sensitive development would be subject to significant levels of pollution, must be accompanied by evidence to show that the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution, so as to ensure it does not reduce the quality of life and well-being of people to an unacceptable level or have unacceptable impacts on the environment. Such developments which cannot incorporate suitable and sustainable mitigation measures which reduce pollution levels to an acceptable level to protect the quality of life and well-being of people or protect the environment will not be permitted.
- 10.15 The application site's red line boundary meets the curtilages of existing residential properties at Brookfield View.
- 10.16 The proposed development raises no significant concerns in relation to neighbouring residential amenity. The basin, its raised banks and its access track would not be accessible to the public, and the foot of the southernmost slope would begin approximately 15m away from the rear fences of properties on Brookfield View. The proposed raised banks would typically rise less than 1m above the existing ground level. There are therefore no concerns regarding the proposal's impact upon neighbouring residential properties in relation to privacy, outlook and natural light.
- 10.17 Given the nature, scale, location and details of the proposal, there are no concerns regarding odour, noise or artificial lighting. The number of maintenance vehicle movements likely to be associated with the proposed development is not considered to be significant enough to harm residential amenity.

- 10.18 Construction-phase works have the potential to cause harm to neighbouring residential amenity. A condition securing the submission and implementation of a Construction Environmental Management Plan is recommended. This would secure measures to limit hours of works, noise, artificial lighting, dust and other matters during the construction phase.

Visual amenity, landscape impacts, trees and landscaping

- 10.19 Local Plan policies LP2, LP24, LP32 and LP33 are of relevance to this application, as are chapters 12, 13 and 15 of the NPPF.
- 10.20 The existing landscape surrounding the application site undulates, and there is evidence of human interventions that have reshaped the local topography. In this context, a human-made basin (with a raised bank to its east edge) would not appear alien. Furthermore, it is again noted that the openness of the Green Belt would not be harmed by the proposal.
- 10.21 The visual impact of the proposed access track would be limited. It would be surfaced with Grasscrete, and this would be effective in softening its visual impact – the track would appear predominantly grassed, rather than predominantly hard surfaced. The stretch of track further to the southwest would be short in length, and would read as an extension to the residential development's already-approved estate road network.
- 10.22 The application site is not within a conservation area, and does not form part of the setting of a listed building. No adverse impacts would occur in relation to any above-ground heritage assets as a result of the proposed development.
- 10.23 Archaeology was a consideration relevant to the adjacent allocated site to the west, however no archaeological designations apply to the current application site. Of note, at the adjacent site, a predetermination archaeological evaluation was carried out in 2019. The results of that work established that the site had very low archaeological potential and, in particular, the line of a Roman road was not located by archaeological trial trenching. In light of those findings, the West Yorkshire Archaeology Advisory Service did not consider that any further archaeological work was necessary at that site.
- 10.24 Regarding trees, Local Plan policy LP33 is relevant. There are no Tree Preservation Order applicable to trees within or close to the application site.
- 10.25 A loss of trees and shrubs would occur as part of the proposed development. This has triggered an objection from KC Ecology, who have identified this vegetation (along the western boundary of the main part of the application site) as a native hedgerow, which is a Habitat of Principal Importance and a Conservation Priority for Kirklees. This loss is indeed unfortunate, however given that this vegetation is not subject to protection (via a Tree Preservation Order or conservation area designation) and is not classed as "important" under the Hedgerow Regulations 1997 (unlike a double hedgerow to the southwest of Merchant Fields Farm, within the adjacent residential development site), and given that adequate replacement planting is proposed around the basin, it is not recommended that planning permission be refused on these grounds.

- 10.26 A section of the above-mentioned “important” hedgerow within the adjacent residential development site is, as part of that development, to be translocated to a new location along that site’s boundary, edging the approved community orchard. There is space between this translocated hedgerow (and its root protection area) and the curtilage of 89 Brookfield View for the proposed access track to pass through, however it is recommended that full details of this part of the site be considered pursuant to a relevant condition.
- 10.27 The soft landscaping proposed around the basin is considered acceptable. It includes native trees, and species that would introduce visual interest and would be attractive to pollinators and birds. Marsh-loving native species are proposed within the basin. A condition securing full details of a landscaping scheme (including maintenance commitments) is recommended.
- 10.28 No boundary treatment details were included in the applicant’s drawings, nor were details of a gate that would be needed at the site’s southwestern corner. Officers have advised the applicant that – in order to preserve the openness of the Green Belt – nothing more substantial than a 1.1m high post and rail timber fence would be appropriate at this site. A condition regarding boundary treatments is recommended.

Biodiversity

- 10.29 Local Plan policy LP30, the council’s Biodiversity Net Gain Technical Advice Note, and chapter 15 of the NPPF are relevant. Parts of the application site are within a Biodiversity Opportunity Zone (Pennine Foothills for the majority of the site, Flood Plains for the eastern edge of the site). Bats are known to be present in the area. The Nann Hall Beck corridor forms part of the Kirklees Wildlife Habitat Network.
- 10.30 The provision of a Biodiversity Net Gain (BNG) of 10% is now a mandatory requirement for developments in England under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). This is subject to limited exceptions. Unless exempt, every planning permission granted pursuant to an application submitted after 12/02/2024 is deemed to have been granted subject to a pre-commencement condition requiring a Biodiversity Gain Plan to be submitted to and approved by the local planning authority prior to commencement of the development. The applicant has not put forward a case that the development is exempt from the mandatory BNG requirement, nor do officers consider exemption applicable in this case.
- 10.31 A biodiversity metric calculation has been undertaken by the applicant. The headline results of this calculation are appended to the submitted Biodiversity Impact Assessment. The application site’s existing (baseline, or pre-development) and proposed (post-development) biodiversity values are set out as follows:

	Existing (baseline)	Proposed (post-development)	Change
Habitat units	4.15	5.68	+36.72%
Hedgerow units	2.97	1.50	-49.30%
Watercourse units	0.00	0.00	0%

- 10.32 The applicant's Biodiversity Impact Assessment states that no works are proposed within 10m of Nann Hall Beck, and therefore watercourse units do not need to be assessed. Although the foot of the basin's raised bank and a pipe that would discharge water northeastwards are within 10m of the beck, the applicant's approach is accepted, given the scale and nature of these works.
- 10.33 KC Ecology have noted that the application site red line boundary in the submitted location plan differs to that of the submitted Biodiversity Impact Assessment, Preliminary Ecological Appraisal Report and a report regarding a protected species. There is therefore a concern that parts of the application site have not been factored into BNG calculations or ecological appraisal. This discrepancy is noted, however the part of the application site red line boundary that includes the route of an access between the proposed basin location and Hunsworth Lane also falls within the red line boundary of application 2021/92801, and ecological surveys and a BNG assessment were previously carried out for that land under that application.
- 10.34 The proposed achievement of over 10% BNG (in respect of habitat units) is welcomed. The reduction in hedgerow units is unfortunate, however the applicant has stated that, due to the limited space within the application site, the lost hedgerow cannot be replaced in the same location. The applicant therefore proposes to compensate for this loss (and achieve the required 10% net gain) through the planting of an additional hedgerow to the north, within the adjacent residential development site. This would, according to the applicant, deliver 2.32 hedgerow units, resulting in a net gain of 28.87%. When considering these proposals at conditions stage (details will need to be submitted pursuant to the Biodiversity Gain Plan general planning condition imposed by legislation), the applicant will need to demonstrate that these 2.32 units are genuinely additional to those that were to be provided in any case within the residential development site.
- 10.35 The features that would achieve the required BNG would need to be maintained and monitored for a period of at least 30 years. The post-development biodiversity value of the site and adjacent land (as proposed by the applicant) would total close to 10 units across two unit types. Other criteria that can make on-site BNG fall within the definition of "significant" may also be applicable in this instance. It is therefore concluded that – for this application – there is a need to secure maintenance, management and monitoring measures in relation to the BNG required of the proposed development. Government guidance states that this can be secured either via a Section 106 agreement or a condition, and in this instance a condition is accordingly recommended.
- 10.36 The submitted Biodiversity Impact Assessment refers to the proposal as a "dry basin" seeded with a grass meadow mixture for wetlands. The submitted planting plan includes two areas where a "marginals mix" is proposed – these would include native species such as marsh marigold, water mint, purple loosestrife and common rush suitable for wet conditions. The proposal would diversify the species and habitats that currently exist at the application site.
- 10.37 The submitted Preliminary Ecological Appraisal Report details the findings of an ecological survey carried out on 27/06/2024. A desktop study was also undertaken. No protected species were observed on site, however the report author noted that parts of the application site offer suitable habitat for bats, great crested newts and other species. The author further noted that – where these parts of the site would be developed – appropriate replacement habitat would be provided as part of the proposal.

- 10.38 A separate report relating to a specific protected species was submitted, and it is noted that a relevant license from Natural England would be required in relation to that species.

Highway and transportation issues

- 10.39 Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed effectively and safely by all users. The policy also states that new development will normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.
- 10.40 Paragraph 115 of the NPPF states that, in assessing applications for development, it should be ensured that 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 through a vision-led approach. Paragraph 116 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, following mitigation, would be severe.
- 10.41 Following construction of the basin, visits by maintenance crews are likely to be infrequent. Crews would visit the site using motorised vehicles, however the impact of these movements on the local highway network would be negligible.
- 10.42 The route of an access between the proposed basin location and Hunsworth Lane is shown on the submitted drawings. This route corresponds with the estate road layout approved under application 2021/92801. For the current application, it has been included to illustrate how access would be taken to/from the basin, however there are no proposals (such as a detailed road design) for that route under this current application. Vehicular access to the basin site would only be delivered as part of the residential development, therefore there is no need to consider this route further at this stage.
- 10.43 The access track around the basin would be connected to the residential development's estate road network via a short section of additional track and via the private drive serving plots 139 and 140. Future maintenance of this section of private drive would have been the responsibility of residents, yet maintenance access over it could cause excessive wear and damage by vehicles not expected to regularly use a private drive. This could increase the residents' maintenance liability. It is therefore necessary to extend the adopted (or adoptable) highway of the residential development so that plots 139 and 140 and the attenuation basin can be independently accessed from the adopted highway. This has been put to the applicant, however an appropriate condition is recommended in any case.

Flood risk and drainage issues

- 10.44 Local Plan policies LP24, LP27, LP28 and LP34 are relevant to flood risk and drainage, as is chapter 14 of the NPPF.

- 10.45 The majority of the application site is located within Flood Zone 1 and is therefore generally at low risk of flooding. Parts of the site (namely, the banks of Nann Hall Beck) are within Flood Zones 2 and 3.
- 10.46 In the approved residential development to the west, drainage attenuation tanks were proposed beneath the open spaces close to the southwestern edge and northeast corner of that site. From these, surface water was to discharge to Nann Hall Beck to the east, and to Hunsworth Beck / the River Spen via an existing Yorkshire Water overflow drain under Hunsworth Lane.
- 10.47 The attenuation basin now proposed would replace one of those tanks (the tank close to the northeast corner of that site, which was to discharge to Nann Hall Beck). The proposed basin would move that attenuation southwards, and would move the discharge point downstream. Water would enter the basin via a pipe connected to the surface water drainage system of the residential development to the west, and water would leave the basin at an attenuated rate via a pipe at the northeast edge of the basin.
- 10.48 Condition 16 of permission 2021/92801 restricted discharge from the previously-approved tank to Nann Hall Beck to a rate of 17.5 litres per second. The same discharge rate is now proposed for the basin. The discharge rate would be restricted through the use of a hydrobrake.
- 10.49 The previously-approved tank was to have a capacity of 1,123 cubic metres. The basin now proposed would have a capacity of 2,949 cubic metres.
- 10.50 The Lead Local Flood Authority (LLFA) raised no specific flood risk concerns in relation to the proposed development, nor did the Environment Agency or Yorkshire Water.
- 10.51 Concerns expressed by a resident regarding the risk of the basin being inundated by water from a flooded Nann Hall Beck are not shared by officers. The raised bank and surrounding higher land would serve as a barrier to water entering the basin from the watercourse.
- 10.52 A resident has raised concerns regarding potential aquifer flooding of the basin, however the proposed basin's clay lining would prevent water from entering in this way.
- 10.53 Cllr Kath Pinnock raised concerns regarding the maintenance of the basin, including regarding weed growth (given that water would not normally flow through the basin). The LLFA advised that maintenance and management arrangements for the basin needed to be secured via a Section 106 agreement, however, given that there would be a single party responsible for the application site, and given that no other Section 106 obligations need to be secured, it is considered appropriate in this instance to secure management and maintenance arrangements via a condition. The submission made pursuant to that condition could take the form of an undertaking to extend the responsibilities of the management company of the adjacent residential development to the current application site. Ultimately, the basin could be adopted by Yorkshire Water or a New Appointments and Variations company. The condition-stage submission would also need to include:

- Maintenance schedules;
- Details of the frequency of all actions and routine maintenance activities, the timing of all inspections (including annual inspections) and the timing of management works arising from inspections;
- A detailed schedule and methodology for litter and debris removal, landscape and grass cutting, weeding and sediment removal;
- Clarity regarding which persons would be responsible for maintenance duties; and
- Details of to whom problems would be reportable.

10.54 Given the earthworks involved in the creation of the proposed basin, a condition relating to temporary (construction phase) drainage is recommended.

10.55 Foul water disposal arrangements (for the residential development to the west) would be unaffected. Foul water would still discharge to existing sewers beneath that site and Hunsworth Lane.

Site contamination and stability

10.56 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 Mining Remediation Authority (MRA, formerly the Coal Authority). The MRA have objected to the proposal, stating that the applicant's submission does not address risks relating to mine shafts 418426-008, 419426-001, 419426-002 and 419426-005, and the access track that would lead to the proposed basin. However, officers note that these risks were previously considered under application 2021/92801, and – specifically – in the applicant's Geoenvironmental Appraisal submitted with that application, the Coal Authority's comments of 15/10/2021 (in which no objection was raised, subject to conditions being imposed), and condition 23 of that permission (which required appropriate remedial treatment works to be carried out). Although condition 23 of permission 2021/92801 will need to be complied with in any case as part of the adjacent residential development, for the avoidance of doubt it is recommended that the same condition also be imposed in relation to the basin now proposed.

10.57 Regarding site contamination, council records suggest there is potentially contaminated land to the east, and the applicant has submitted a Phase 1 Environmental Assessment. This desktop study recommends further intrusive investigation at the application site.

10.58 KC Environmental Health have reviewed the applicant's submission, and noted that it does not account for former landfill and inorganic contaminants associated with made ground at the adjacent site, and does not consider possible contamination associated with agricultural supplies storage or machinery. No site walkover has been undertaken. No detailed information has been submitted regarding the end use of soils. The applicant's conceptual site model and conclusion include contradictory information (all risk has been identified as very low, yet further intrusive investigation, including taking soil samples, is proposed). No detail has been provided regarding specific testing.

10.59 Given the shortcomings of the applicant's submission, five contamination conditions have been recommended by KC Environmental Health.

Safety

- 10.60 Cllr Kath Pinnock raised concerns regarding safety, noting that water depths within the basin could reach 1.65m, and that children are often drawn to water.
- 10.61 There are indeed risks associated with water. The National Water Safety Forum reported that, in 2023, there were 236 accidental drownings in the UK, with more dying at inland waters than at the coast. Several bodies (including Kirklees Council) conduct or participate in water safety and drowning prevention campaigns, often with an emphasis on warm summer months and school holidays.
- 10.62 The proposed basin would not introduce an especially high risk of drowning to a residential location. The applicant has confirmed that the basin, its raised banks and its access track would not be accessible to the public. The basin would not be full of water at all times – it is intended to temporarily store water and to attenuate flows into Nann Hall Beck, and is not intended to be a water feature. The banks of the basin would typically have slopes of 1:3, which would assist people wishing to exit the water should they accidentally fall in.
- 10.63 Local planning authorities are required by the Government to be consistent in their decision making in relation to planning applications, and it is noted that a previous application for a residential development that included an attenuation basin (in Linthwaite, under application 2021/91571) was not required to include water safety measures. However, for the application currently under consideration, it would not be unreasonable to require the installation of warning signage (similar to the “danger / deep water / no entry / no swimming” signs displayed at reservoirs) along the public footpath that runs along the west side of the main part of the application site, to deter unauthorised access to the basin and to make it clear that the public should not enter. Such signage, together with the fencing that would be needed between the public footpath and the basin, and the aspects of the basin described above, would sufficiently mitigate risks to the public.

Other matters

- 10.64 An earlier, since-superseded version of the applicant’s Phase 1 Environmental Assessment referred to a site named “Merchant Paddocks”, illustrated land to the west of the current application site, and described a residential development of 42 dwellings. This has triggered suspicion that the current application is a backdoor attempt to secure planning permission for dwellings in addition to the 291 already granted planning permission under application 2021/92801. However, for the avoidance of doubt, no additional dwellings are proposed under the current application.
- 10.65 The adjacent public right of way (public footpath SPE/44/30) would not be adversely affected by the proposed development. Users of the footpath are currently able to look eastwards towards open, farmed countryside which includes several trees, hedgerows and other shrubs. This view would partly be replaced with the new basin and its access track and banks, and existing vegetation would be removed. However, the basin and its banks would be soft landscaped, attractive native species would be introduced, and at times the basin would contain water. These elements are likely to diversify and improve the visual interest of the site and the setting of the public footpath, to the benefit of its users.

- 10.66 A condition requiring details of the point where the proposed access track crosses the public footpath is recommended.
- 10.67 There would not be concern in relation to planning if both the previously-approved attenuation tank and the now-proposed basin were provided. However, the applicant has confirmed that the basin would replace the tank. Drawings submitted with the current application do not show the tank in the northeast part of the residential development site (and instead show additional hedging around that land), however an associated amending application should be submitted for such changes at that site.

Representations

- 10.68 Most comments made in representations have been addressed in this report. Some of the other comments relate to the associated residential development which has previously been granted planning permission and which is not to be reconsidered under the current application.
- 10.69 A resident has stated that two previous applications at this site have been refused on flooding grounds. This is incorrect.
- 10.70 A resident has stated that the proposal involves transporting excavated material through a residential area and disposing of it as landfill. However, no such proposals have been described by the applicant, and the submitted sections indicate that material excavated from the site would be re-used on-site to create the basin's raised banks.
- 10.71 A resident has stated that the creation of an attenuation basin in the Green Belt is cheaper than building and maintaining buried attenuation tanks. This is understood to be correct, however it is not a reason for withholding planning permission.
- 10.72 The impact of the proposed development on property values is not a material planning consideration.

11.0 CONCLUSION

- 11.1 The main part of the application site is within the Green Belt, where restrictions on development apply. However, the proposed development would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it.
- 11.2 Other planning considerations have been satisfactorily addressed by the proposals, or would be addressed through further submissions pursuant to the recommended conditions.
- 11.3 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. It is considered that the proposal would constitute sustainable development and is therefore recommended for approval.

12.0 CONDITIONS (summary list – full wording of conditions including any amendments / additions to be delegated to the Head of Planning and Development)

- Three years to commence development.
- Development to be carried out in accordance with the approved plans and specifications.
- Submission of a Construction (Environmental) Management Plan, including details of engagement with local residents.
- Submission of temporary drainage scheme.
- Submission of maintenance, management and monitoring arrangements (including in relation to drainage infrastructure, Biodiversity Net Gain and public footpath crossing).
- Submission of a Phase I Report.
- Submission of an Intrusive Site Investigation Report (Phase II Report).
- Submission of Remediation Strategy.
- Implementation of Remediation Strategy.
- Submission of Validation Report.
- Implementation of mine shaft remediation (as per condition 23 of permission 2021/92801).
- Submission of a full landscaping scheme.
- Submission of details of access track (including adoptable connection to residential development's estate road network, materials, boundary treatments, gates, and public footpath crossing).
- Submission of boundary treatment details (including warning signage).

An informative, advising the applicant that the statutory pre-commencement condition (requiring a Biodiversity Gain Plan to be submitted to and approved by the local planning authority) is also recommended.

Background Papers

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2024%2f92394>

Certificate of Ownership – Certificate B signed.