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**Report of the Head of Development and Master Planning****STRATEGIC PLANNING COMMITTEE****Date: 20-Jun-2019****Subject: Planning Application 2019/90527 Outline application for the erection of up to 127 dwellings, with details of access Land at, Blue Hills Farm, Whitehall Road West, Birkenshaw, BD11 2DU****APPLICANT**

Mr Ives

**DATE VALID**

28-Feb-2019

**TARGET DATE**

30-May-2019

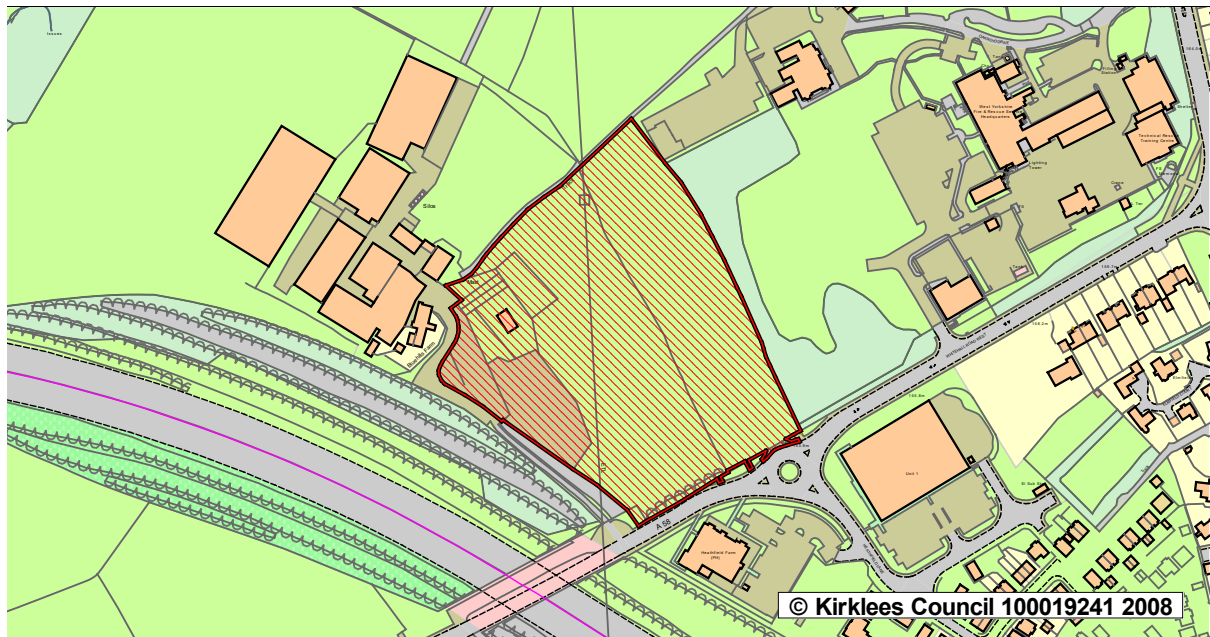
**EXTENSION EXPIRY DATE**

25-Jun-2019

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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.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

**LOCATION PLAN**

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

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**Electoral Wards Affected:    Birstall and Birkenshaw**

Yes

Ward Members consulted

**RECOMMENDATION:**

DELEGATE approval of the application to the Head of Development and Master Planning in order to:

.Comply with Highways England holding order to resolve outstanding drainage connection matters

.Complete the list of conditions including those contained within this report and Issue the decision notice.

**1.0    INTRODUCTION:**

- 1.1    This is an application for outline planning permission, with all matters reserved (other than access), for residential development.
- 1.2    The application is presented to the Strategic Planning Committee as the proposed development is likely to involve more than 60 residential units. This is in accordance with the Council's Scheme of Delegation.

**2.0    SITE AND SURROUNDINGS:**

- 2.1    The application site is 3.24 hectares in size and is allocated for housing in the Local Plan (site allocation ref: HS93).
- 2.2    To the northeast of the application site is the West Yorkshire Fire and Rescue Service headquarters – this large adjacent site is enclosed by stone walls, and includes the Grade II listed former Oakroyd Hall, several other buildings, trees protected under Tree Preservation Order 19/92/a1, and soft landscaped areas.
- 2.3    To the southeast the site is bounded by Whitehall Road West (the A58), beyond which is the Heathfield Farm PH/restaurant, a large employment unit, and the Emmet's Reach development. The southwest edge of the application site borders the access lane to Blue Hills Farm. The farm comprises several buildings (including a farm shop) close to the site's west corner. Further to the southwest is the M62 motorway and its embankment. Public footpath SPE/14/10 runs along the application site's northwest boundary, and runs across part of the site at its west corner. Further to the north, beyond the public footpath, are fields in agricultural use.

- 2.4 The application site slopes downhill from north to south. Its north corner is approximately 172m AOD, and its south corner is approximately 152m AOD. There are some variations in levels where earthworks and a hard surface exist close to the site's west corner and southwest boundary.
- 2.5 Most of the application site is greenfield and is grassed. No significant buildings exist within the site's boundaries, although there are some small and temporary structures and a hard surfaced area towards the site's west corner. Power lines on timber poles run east-west, and high-level overhead power lines run north-south, across the site.
- 2.6 The application site is not within or close to a conservation area. The site has some landscape sensitivity resulting from its location, surrounding topography and visibility from land to the south and from public footpaths.
- 2.7 Part of the application site is within a Development High Risk Area as defined by the Coal Authority

### **3.0 PROPOSAL:**

- 3.1 Outline planning permission (with details of access) is sought for residential development of the site. A single vehicular access is proposed from the existing roundabout on Whitehall Road West.
- 3.2 Other matters (namely appearance, landscaping, layout and scale) are reserved.
- 3.3 The applicant's description of development refers to "up to 127" dwellings.
- 3.4 Although the applicant does not seek approval of a layout, an indicative layout plan has been submitted, showing 88 units (arranged as detached, semi-detached and terraced houses) and a block of apartments towards the centre of the site. Some dwellings would have garages. A new estate road would extend from the existing roundabout on Whitehall Road West, and would follow a serpentine route uphill into the site. Private drives would be provided off this estate road. The part of public footpath SPE/14/10 that cuts across part of the site towards its west corner would be diverted along the access lane to Blue Hills Farm. The lower power lines (on timber poles) would be removed and buried beneath this access lane, however the high-level overhead power lines would be retained. Much of the new estate road, and areas of public open space, a Locally Equipped Area for Play and a surface water attenuation pond, are proposed beneath these high-level power lines.

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

- 4.1 None relevant, although the red line application site boundaries for several applications relating to adjacent sites (Blue Hills Farm and Heathfield Farm) included parts of the current application site.

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

5.1 On 27/09/2018 the council issued an Environmental Impact Assessment (EIA) Screening Opinion (ref: 2018/20382), confirming that a proposed development of “up to 123 residential units” at this site would not necessitate EIA, and that an Environmental Statement would not be required to support a planning application for that development.

5.2 The applicant requested pre-application advice from the council in September 2018. Written pre-application advice (ref: 2018/20391) was issued by the council on 04/12/2018, the main points of which are summarised as follows:

- Given proposed allocation of site for housing in the Local Plan, subject to highways, design, residential amenity and other matters being appropriately addressed, residential development at this site is acceptable in principle.
- Subject to details, residential development at this site is considered to be sustainable development.
- The proposed quantum and density of development was appropriate (129 units were shown on an indicative layout).
- Acknowledged that proposed layout had been informed by the site's topography, site's vehicular entrance and high-level overhead power lines. Developer should work with existing topography, public open space should be designed and located to be useable, dwellings should face the public realm, and open spaces should not be surrounded by side elevations or rear garden fencing. Family-sized dwellings could surround open spaces, and natural surveillance of public realm should be provided. Two dwellings at the far north corner would not have adequate amenity.
- Public footpath SPE/14/10 hadn't been accounted for in the proposed layout. Gated connection to the footpath at the north of the site would be appropriate.
- Proposed short terraces, detached and semi-detached dwellings are appropriate.
- Two-storey dwellings would be appropriate.
- Three-storey apartment block at centre of site is acceptable in principle, subject to sections, other drawings, and assessment of its relationship with other dwellings, the public realm and the site's topography.
- High quality materials (including brick and natural local stone) would be appropriate.
- Car parking should be accessible, usable and overlooked, and should not dominate the street.
- Early consideration of landscaping, boundary treatments and lighting would be appropriate.
- Measures to prevent crime and anti-social behaviour should be proposed.
- Proposed development is considered unlikely to harm heritage assets, however this would be assessed further in light of detailed drawings and a Heritage Impact Assessment.
- Site is of archaeological interest, and a Pre-Determination Archaeological Evaluation will be necessary.
- Proposed residential units should provide adequate outlook, privacy and natural light. Applicant is encouraged to follow the Government's Nationally Described Space Standard.

- Unit size and tenure mix should reflect known housing need and accommodate a wide variety of household formats.
- 20% affordable housing required with a 54% Social or Affordable Rent / 46% Intermediate tenure split, Affordable housing should be pepper-potted around site and designed to not be distinguishable from private accommodation.
- Transport Assessment required, and its scope should be agreed with officers. Travel Plan, Road Safety Audit and Construction Management Plan required.
- Detailed advice provided regarding parking, cycle storage, design of roads proposed for adoption, waste storage, and highways retaining structures.
- Site-specific Flood Risk Assessment, Surface Water Drainage Report, drainage maintenance plan, and temporary drainage (during construction) plan required. Infiltration may be possible at this site.
- Adjacent TPO-protected trees should be regarded as constraints. Tree Survey and Arboricultural Impact Assessment required.
- Public open space should include a Locally Equipped Area for Play.
- Preliminary Ecological Appraisal required. This may identify a need for an Ecological Impact Assessment.
- Phase I and II Contaminated Land Reports required.
- Site is adjacent to a source of air pollution (the M62) and an Air Quality Management Order covers areas to the east. Air Quality Impact Assessment required. Electric vehicle charging facilities required.
- Odour Assessment required, as the site may be subject to elevated levels of odour from nearby farms.
- Noise Assessment required, given adjacent source of noise (the M62).
- Health Impact Assessment required.
- Part of site is within a Development High Risk Area as defined by the Coal Authority. Coal Mining Risk Assessment required.
- Section 106 planning obligations likely to relate to affordable housing, education, highways, public open space and drainage.
- Pre-application public and Member consultation is encouraged.

5.3 No significant amendments to the proposed development were made during the life of the application, however minor changes were made to the indicative proposed layout in response to comments of the council's Arboricultural Officer. A utilities report, a complete Transport Assessment, accident data, amended site access drawing 1811701 rev C, and a technical note relating to highways matters were also submitted during the life of the 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 The site is allocated for housing in the Local Plan (site allocation ref: HS93).

6.3 Relevant 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  
LP11 – Housing mix and affordable housing  
LP20 – Sustainable travel  
LP21 – Highway safety and access  
LP22 – Parking  
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  
LP35 – Historic environment  
LP47 – Healthy, active and safe lifestyles  
LP48 – Community facilities and services  
LP49 – Educational and health care needs  
LP50 – Sport and physical activity  
LP51 – Protection and improvement of local air quality  
LP52 – Protection and improvement of environmental quality  
LP53 – Contaminated and unstable land  
LP63 – New open space

Supplementary Planning Guidance / Documents:

6.4 Relevant guidance and documents are:

- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Kirklees Strategic Housing Market Assessment (2016)

National Planning Policy and Guidance:

6.5 The National Planning Policy Framework (2019) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal. Relevant paragraphs/chapters are:

- Chapter 2 – Achieving sustainable development
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment

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

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

7.1 The application has been advertised via four site notices, a press notice, and letters delivered to addresses abutting the application site. This is in line with the council's adopted Statement of Community Involvement. The end date for publicity was 05/04/2019. The application was advertised as a major development, a development affecting a Public Right of Way and a development affecting the setting of a listed building.

7.2 47 representations were received in response to the council's consultation. Redacted versions of these have been posted online. All representations raised objections to the proposed development. The following is a summary of the points raised:

- Green belt should not be built on. Site should not have been reallocated. Query evidence used to demonstrate that other options for meeting housing need had been fully examined.
- Loss of green and natural space.
- Farm land will be needed for food, due to growing population.
- Brownfield, sterile greenfield or derelict sites should be developed instead.
- Site provides natural demarcation between Birkenshaw and Hunsworth, and proposed development would cause villages to begin to merge into one.
- Steeply sloped site should not be built on.
- Area is becoming extremely built-up.
- Development inappropriate beneath power lines.
- Area cannot cope with more homes. Many houses have been, are being, built at nearby sites. Those developments should be completed, and their impacts assessed, before further permission is granted.
- Air quality objections. Increase air pollution. Development would be close to an existing Air Quality Management Area. Health risk to new residents living close to M62.
- Traffic and congestion objections. Whitehall Road and Bradford Road are already at capacity. Whitehall Road West is only single lane. Chain Bar roundabout is congested. Chaos will be caused on roads. Proposed development would be disastrous for commuters.
- Birkenshaw only has a poor bus service to Dewsbury or Cleckheaton.
- Proposed development include no changes to highways infrastructure.
- Highways safety would be adversely affected. Children will have to cross busy roads. Walking to school would become more dangerous. 30mph speed limit on Whitehall Road West is regularly exceeded. Increased risk of pedestrians being hit by vehicles.
- Mini roundabout is not a suitable access point.
- Local roads are poorly maintained.
- Local schools cannot accommodate additional children. Schools are already full and turn children away. Nurseries are at capacity. Forthcoming development at Drighlington will mean Birkenshaw children will no longer be able to attend school there.

- Local doctors, dentists and health centre are already inadequate and cannot cope with additional demand.
- Local chemist provision is inadequate.
- If application is to be approved, funding for expansion of doctors, schools and road infrastructure is needed.
- Noise and disturbance.
- Adverse health impacts.
- Increased stress to residents.
- Proposal would harm character of area. Together with M62, proposed development would make the area an unpleasant place to live. Birkenshaw has become a dormitory town, and is losing its village status.
- Proposed density is too high. Proposed development is oversized.
- Huge impact on landscape.
- Objection to three-storey apartment block.
- Adverse impact on Birkenshaw, and on Gomersal and Cleckheaton. Impact on Birkenshaw's community.
- Too many houses proposed. Area is already overcrowded.
- Proposed homes are unnecessary.
- Proposed development brings nothing positive to Birkenshaw.
- Adverse impact on adjacent public footpath. Footpaths in Birkenshaw have disappeared.
- Adverse impact on bats roosting in nearby trees.
- Increased crime risk, and safety risks.
- Adverse impact on house prices.

7.3 Responses to these comments are set out later in this report.

7.4 Additional information submitted by the applicant during the life of the application did not necessitate public reconsultation.

## 8.0 CONSULTATION RESPONSES:

### 8.1 Statutory:

Coal Authority – No objection, subject to pre-commencement condition. Site is within the defined Development High Risk Area, therefore within the site and surrounding area there are coal mining features and hazards which need to be considered. Applicant's report identifies that the site has been subject to past coal mining related activities, and identifies a risk posed by shallow workings beneath the application site. Applicant's report recommends intrusive site investigations to determine the exact ground conditions of the application site, and the risk posed to the proposed development – the Coal Authority concurs with this. The exact form and extent of intrusive site investigations need to be agreed with the Coal Authority, and the findings should be used to inform an appropriate scheme of remedial measures if necessary. Mine gas risk should also be considered.

Highways England – Recommend that planning permission not be granted until clarification is provided. Proposed connection to the highway drain is not acceptable. Clarification required regarding size of drainage pipe, and confirmation required that this is sufficient to carry water from the development. Reassurance needed that proposed attenuation pond (close to M62 cutting slope) is adequate to accommodate water from the site, and would not cause infiltration into the slope. Details of site grouting required.



Highways England have further advised that additional comments will be submitted once existing drains have been investigated, and flood risk modelling has been re-run.

Yorkshire Water – Conditions recommended regarding drainage for foul and surface water, and surface water outfall. A 160mm water main in the nearby roundabout may require protection or diversion at the developer's cost. Applicant's Flood Risk Assessment is acceptable. Foul water pumping to the foul water sewer in Whitehall Road West (to the east of the site) will be required.

KC Highways – Proposed development can be accommodated by the highway network and there are no highway capacity or safety reasons why this development should not be granted planning permission. Visibility splay needs to be adopted as part of the public highway (surface treatment can be determined at detailed design stage). Applicant's accident information is out of date. Footway to site frontage should be widened to 3m to provide a shared cycleway/footway. Development is proposed over existing car parks of Blue Hills Farm – parking should not be displaced onto Whitehall Road West or other streets as a consequence of this, and any further application would need to consider the impact of the loss of this parking. Travel Plan monitoring fee of £10,000 is required. Developer should contribute to sustainable travel incentives such as discounted MetroCards – details to be agreed, but a bus-only provision for this development would be £63,653.50. Conditions recommended regarding submission of details of works to roundabout, and Travel Plan.

Further comment – Outstanding highways matters have been addressed. Amended site access drawing 1811701 rev C shows that all of the land within the required visibility splay is to be part of the adopted highway.

KC Strategic Drainage (Lead Local Flood Authority) – Suggest further information be requested regarding the storage of the 1 in 100 (+30% climate change) event and the proposed layout against a known level for the receiving watercourse. The highway drain outside the site beneath Whitehall Road West includes a natural dry weather flow and is actually a piped watercourse, which is believed to have previously connected to a culvert on the other side of the M62 cutting.

Agree that, due to the site's topography, the use of soakaways is not appropriate. Connection to the highway drain in Whitehall Road West is approved. Drainage should be limited to 5 litres per second for the 1 in 100 (+30% climate change) critical storm event. Indicative flood routing plan looks achievable, but there is also open space and a PROW that could be utilised at the site's southwest corner, if needed. Historic flooding has occurred in the highway close to the site and at the opposite side of the bridge over the motorway, however the application site would not be affected, and risk would not be increased elsewhere.

Although applicant has illustrated SUDS features and potential tank locations, in all likelihood a tank (containing the 1 in 100 +30% climate change critical storm) will indeed be required, therefore applicant should demonstrate that this can be accommodated within the site with feasible gravity connections (to a measured level) to the receiving highway drain. Large structures of 1500mm or greater width should not be located beneath a highway to be considered for adoption. Applicant has referred to an alternative outfall – it would be prudent to examine flood routing and making space for water in this scenario. Plans should be marked indicative if the above information is not provided. A Section 106 agreement to set up a maintenance and management plan for sustainable drainage is required – the management company undertaking can cease to apply once the attenuation systems and flow controls are adopted by the statutory undertaker.

A temporary drainage plan can be conditioned.

## 8.2 **Non-statutory:**

Police Architectural Liaison Officer – No objection in principle. Proposed development should be built in accordance with the requirements for good crime prevention design. Concern regarding the existing PROW to the north of the application site – rear or side gardens should not be adjacent to this footpath in a way that would allow access to those gardens. Rear boundary treatments to a height of 1.8m, in masonry or close boarded timber fencing, are recommended. Rear gardens should be divided with close boarded fencing to a minimum 1.5m in height, and 1.8m in height for the first 2m from the rear of the building. Advice provided regarding gate locks. Front gardens should have a marked boundary hedge, low wall, fence or railings that clearly distinguishes the private space of the garden from the public space outside it. Public open space should be supervised from nearby dwellings, and should not immediately abut residential buildings or rear gardens. Advice provided regarding door and window specifications, and external lighting. Car parking should be in-curtilage or within view of the car owner's home. Rear parking court areas, hidden from view behind garden fencing, are unacceptable. Secure cycle storage required.

West Yorkshire Archaeology Advisory Service – Site is in an area of known archaeological potential from Roman to post-medieval periods, including a possible Roman road south of the site and significant remains relating to 18<sup>th</sup> century coal and ironstone mining. Activity at Blue Hills Farm may also be associated with the winning and transport of raw materials to an iron foundry along the small Emmett's canal. Site's potential has been identified in applicant's report, which recommends a programme of archaeological evaluation, however the significance of the early industrial activity should be emphasised, and the site's archaeological potential should be fully evaluated before the application is determined, as required by the NPPF. This should involve a geophysical survey and excavation of archaeological evaluation trenches.

KC Conservation and Design – No objection, as there would be no harm to the setting of the listed former Oakroyd Hall due to the topography and the existing screening.

KC Ecology – No objection – proposed development is unlikely to result in significant ecological harm, subject to conditions, to the measures proposed by the applicant being implemented, and to the adjacent off-site woodland being retained. The required biodiversity net gain can be secured through a recommended condition requiring an Ecological Design Strategy. Conditions recommended regarding potential impacts on bats, lighting, and removal of hedgerows, trees and shrubs.

KC Education – Education contribution of £538,997 required.

KC Environmental Health – Applicant's phase 1 contaminated land report is satisfactory, and its conclusions and recommendations are agreed. It identifies that the site was previously a colliery with a shaft, that this presents a moderate risk, that there are also possible risks from likely made ground on the site, and that there are naturally elevated levels of arsenic, chromium and lead, as well as refrigeration plant and telegraph poles stored on the site. Applicant recommends a phase 2 contaminated land report, with boreholing, ground water monitoring and chemical analysis of soil samples. Conditions recommended.

Applicant's air quality report meets medium-sized development requirements, and its conclusions are satisfactory. It considers the existing air quality from published data, and concludes that this does not conflict with a residential use of the site. It also assesses the impact of the proposed development on local air quality from the increased road traffic arising from the operational phase of the development, and concludes that there would be a slight but negligible adverse impact that requires no mitigation. Condition recommended regarding provision of electric vehicle charging points – applicant proposes charging points for each property and one charging point for every 10 visitor spaces (which is a satisfactory quantity), but proposed charging point model does not meet council's minimum requirements. Condition recommended regarding dust.

Applicant's odour report is a satisfactory assessment of odour impact, and its conclusions are agreed with. It concludes that significant odour impacts at sensitive locations would be unlikely to occur as a result of the operation of the existing farm. No conditions regarding odours are necessary.

Applicant's noise report makes a satisfactory assessment of the existing noise climate for the site, and its conclusions (that a variety of noise mitigation measures are required) are agreed with. It details measurements of noise at two locations, and identifies M62 and A58 road traffic as the main noise sources affecting the site. Using these measurements, applicant's noise model indicates that noise levels across much of the site would result in recommended outdoor noise levels being exceeded, and recommended indoors sound levels would be exceeded at all plots if windows are open. Indicative proposed layout is different to that recommended in the applicant's noise report. Noise mitigation will be a significant consideration when determining the development's final layout, in order to achieve the best sound levels at outdoor amenity areas. Acoustic glazing performance for all facades must also be provided based on the final agreed layout. Acoustic properties of parts of the building envelopes (other than windows), such as roofs, ceilings and walls, must be considered, particularly if these would not be of standard masonry construction – council will need to be satisfied that these parts of the structure would not compromise the proposed noise mitigation measures.

Alternative means of ventilation (above background ventilation) will be needed, as satisfactory indoor sound levels will not be achieved if windows are opened. Condition recommended regarding noise.

Condition recommended regarding Construction (Environmental) Management Plan

KC Landscape – Birstall and Birkenshaw ward is deficient in natural and semi-natural greenspace and allotments. Opportunities for provision should be explored, to address these deficiencies.

127 dwellings triggers a requirement for open space, within which there should be a Local Equipped Area for Play (LEAP). A potential LEAP is indicated, for which the council will require full details and spacing from dwellings. Usability of some of the proposed open space should be clarified, given its location beneath power lines. Some spaces are adjacent to gable ends and/or behind rear gardens, which is not advisable due to potential nuisance and limited natural surveillance. Query whether open spaces would have benches, bins, accessible paths and planting, and what maintenance and management arrangements are proposed.

Development should include new tree planting and street trees in accordance with Green Streets principles. Soft landscaping should be proposed to hard surfacing and to break up built form and the vehicle-dominated street scene. Conditions regarding landscaping recommended.

Proposed layout necessitates reversing of refuse vehicles, which is a hazard and should be eliminated or at least minimised. Bin storage and collection locations need to be indicated. Each dwelling will require at least two 240 litre bins, and space should be allowed for three. Grit bin locations should be indicated.

KC Planning Policy – Site is allocated in the Local Plan (ref: HS93, previously H218), therefore the principle of residential development at this site has been established. Local Plan sets out a number of constraints and specific considerations. Indicative layout is for 127 dwellings, which represents a density of 36 units per hectare, in line with policy LP7. Policy LP11 applies, and requires 20% affordable housing (although a higher proportion is encouraged), and a mix (in terms of size and tenure) of housing suitable for different household types, which take into account the latest evidence (the 2016 Kirklees Strategic Housing Market Assessment). Policy LP21 applies, particularly parts b and e. Although the proposed development's detailed design and layout would be Reserved Matters, policy LP24 can still inform the outline proposal – parts a and g are particularly relevant. Policy LP63 requires new housing development to provide or contribute towards new open space.

KC Public Health – No comment, as proposed development falls outside the agreed screening criteria for the completion of a Health Impact Assessment.

KC Public Rights of Way – No objection, as no issues of access (other than the site access from Whitehall Road West) and layout are to be considered. However, the submitted indicative layout and the access provisions for the site would be subject to objection from this team. Red line boundary should include any land proposed to be used for formal diversion of public footpaths. Diversion requires a separate process, application and cost.

KC Strategic Housing – The council seeks 20% affordable housing provision on sites where 11 units or more are proposed. On-site provision is preferred, however a financial contribution in lieu of on-site provision can be acceptable where appropriate. Within the Batley and Spen sub-area there is one of the highest levels of affordable housing need in Kirklees. 3+-bedroom affordable houses in particular are needed, as well as 1- and 2-bedroom affordable homes and 1- and 2-bedroom affordable homes specifically for older people. 20% affordable housing is required, provided as a mix of 1-, 2- and 3+-bedroom (especially) houses, with a 54% social or affordable rent / 46% intermediate tenure split (although this can be flexible). Affordable dwellings should be distributed across the site in clusters of two, three, four or five dwellings together, rather than all located in one part of the development. The applicant's proposal (20% affordable, spread across the site in a mix of house types) is acceptable.

KC Trees – No objection in principle to residential development, and details of access are acceptable, however proposed layout is of concern. Application site's eastern boundary has a row of protected mature and semi-mature trees. Applicant's report provides some discussion regarding potential impacts, but proposed layout does not give sufficient allowance for the adjacent trees and future growth. The trees overhang the site by 4m to 5m, with tree stems set back by less than 1m from the boundary in places. Applicant's tree survey may not include accurate information regarding canopies, and a more detailed assessment should be considered and used to inform the eventual layout, which should be designed to afford sufficient space between dwellings and protected trees.

### 8.3 **Other responses:**

Cllr Elizabeth Smaje – Too many dwellings being built in a small area. Proposed development would have environmental and highways impacts. A58 is already busy, and there are often long queues of traffic through Birkenshaw. Local highway network would be pushed to breaking point. Impacts of using same roundabout as forthcoming development opposite has not been considered. Site is close to an Air Quality Management Area, and proposed development would further impact on air quality. Impacts on health of residents of Birkenshaw have not been taken into account in the race to build properties. Impact on infrastructure such as schools and health centres has not been taken into account. Cumulative effect of proposed development should be considered, and proposal should not be considered in isolation. Proposed density is too high, with properties too close together. Proposed development does not take into account the character of the local area. Queried why so many homes are proposed beneath pylons. Application should be refused.

Cllr Mark Thompson – The Air Quality Management Area is one of the worst spots in the borough, and many homes are being built in the area. With many areas of sterile green belt and brownfield land in Kirklees there is no logic to building at this site, with its steep incline and power cables.

## 9.0 MAIN ISSUES

- Land use, sustainability and principle of development
- Design and conservation (including archaeology)
- Residential amenity and quality
- Unit sizes and tenures
- Highway issues
- Flood risk and drainage issues
- Public and environmental health
- Site contamination and stability
- Ecological considerations
- Trees
- Planning obligations and financial viability
- Representations

## 10.0 APPRAISAL

### Land use, sustainability and principle of development

- 10.1 Planning law requires that applications for planning permission must 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 Local Plan sets out a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum.
- 10.3 The application site was previously green belt land, but is allocated for housing in the Local Plan (site allocation ref: HS93 (previously H218), which relates to a slightly larger 3.53 hectare site). Full weight can be given to this site allocation, which identifies the following constraints relevant to the site:
- Additional mitigation on the wider highway network may be required.
  - Potentially contaminated land.
  - Noise source near site – M62 motorway.
  - Odour source near site – farms along Whitehall Road.
  - Site close to listed building.
  - Site of known archaeology
  - Part/all of the site is within a High Risk Coal Referral Area.
  - Public Right of Way (PROW) runs through the south western edge of the site.
- 10.4 An indicative capacity of 123 dwellings is noted in the supporting text of the site allocation.
- 10.5 A resident has questioned the evidence that supported the allocation of the site for residential development, and several residents have argued that brownfield and other land should be developed instead of this site. Allocation of this and other greenfield (and previously green belt) sites was based on a rigorous borough-wide assessment of housing and other need, as well as analysis available land and its suitability for housing, employment and other uses. The Local Plan, which was found to be an appropriate basis for the planning of the borough by the relevant Inspector, strongly encourages the use of the

borough's brownfield land, however some release of green belt land was also demonstrated to be necessary in order to meet development needs. This particular site, although constrained in some respects, can be accessed directly from the existing highway network, is adjacent to an existing settlement, can be developed without causing significant landscape harm, and was promoted for development by the landowner. The site was therefore considered appropriate for allocation.

- 10.6 Subject to highways, design, residential amenity, PROW, archaeology, residential quality and other matters being appropriately addressed, it is considered that residential development at this site is acceptable in principle, and would make a significant and welcome contribution towards meeting housing need in Kirklees.
- 10.7 Furthermore, and subject to further details that would be submitted at Reserved Matters stage, it is considered that residential development at this site can be regarded as sustainable, given the site's location adjacent to an accessible, already-developed area, its proximity to public transport and other facilities, and the measures related to transport that can be put in place by developers.
- 10.8 Birkenshaw and the application site are not isolated and inaccessible. Although there is no railway station within walking distance, bus services to Gomersal, Dewsbury, Cleckheaton, Brighouse, Bradford, Leeds and other destinations are available from Whitehall Road West and Bradford Road. Footways and public footpaths provide connections for pedestrians, and cycling to nearby settlements is possible via the area's main roads, although it is noted that cycle paths are not provided along Whitehall Road West and Bradford Road, and local traffic, topography and roundabouts may deter some residents of the proposed development from cycling. A major residential development in Birkenshaw that was entirely reliant on the private car is unlikely to be considered sustainable, therefore at Reserved Matters stage the applicant would need to submit an updated, further version of the submitted Travel Plan, setting out measures to discourage private car journeys, and promote the use of sustainable modes of transport. The council's proposals for the Core Walking, Cycling and Riding Network (which extends to routes to the south, on the other side of the M62) would need to be referred to in the Travel Plan.
- 10.9 Regarding the social infrastructure currently provided and available in Birkenshaw (which is relevant to the sustainability of the proposed development), it is noted that local GP provision has been raised as a concern in many representations made by local residents. Although health impacts are a material consideration relevant to planning, there is no policy or supplementary planning guidance requiring a proposed development to contribute specifically to local health services. Furthermore, it is noted that funding for GP provision is based on the number of patients registered at a particular practice, and is also weighted based on levels of deprivation and aging population. Direct funding is provided by the NHS for GP practices and health centres based on an increase in registrations. Local education needs are addressed later in this report in relation to planning obligations. Birkenshaw currently has a small number of shops, pubs, churches, eating establishments and other facilities, such that at least some of the daily, social and community needs of residents of the proposed development can be met within Birkenshaw, which further indicates that residential development at this site can be regarded as sustainable.

- 10.10 Officers' recommendation to accept the principle of residential development at this greenfield site, however, is not given lightly. If this site is to be released for development, the development's impacts would need to be mitigated, and a high quality development will be expected. These matters are addressed later in this report, and would require further consideration at Reserved Matters stage.

Design and conservation (including archaeology)

- 10.11 Relevant design policies include chapters 12 and 16 of the NPPF, and Local Plan policies LP2, LP24 and LP35.
- 10.12 The application site is located between the largely developed grounds of the West Yorkshire Fire and Rescue Service headquarters (which itself lie at the edge of an existing, well-established settlement), the M62, the Emmet's Reach development, and the buildings of Blue Hills Farm. The proposed development would sit comfortably within this context without appearing as a sprawling, inappropriate enlargement to Birkenshaw. Although the proposed development would be visible from several public vantagepoints, it would not cause significant landscape visual impact in the context of the surrounding development. The extensive areas of green belt land to the south and west would continue to provide green framing around the enlarged settlement, and these areas, together with the M62 embankment, would ensure that the villages of Birkenshaw and Hunsworth would not appear to merge. Sufficient undeveloped green space would be maintained between built-up areas.
- 10.13 The proposed site layout shown in drawing 10575 L03 rev C must be regarded as indicative, given that the applicant does not seek approval of appearance, landscaping, layout and scale. As this and other drawings are currently before the council, however, it is appropriate to comment on them, to inform future design work.
- 10.14 The proposed layout has been influenced by the site's topography, the high-level overhead power lines and pylon to be retained, the most appropriate location for a vehicular entrance, and other factors. The applicant has attempted to address many of the design concerns raised by officers at pre-application stage, and the submitted Design and Access Statement sets out the applicant's well-considered and genuinely iterative design process (illustrated with early and rejected layouts), which is encouraging to see. The resultant layout is considered largely acceptable, however there are outstanding concerns that would need to be addressed at Reserved Matters stage, including in relation to the orientation of dwellings, access to (and natural surveillance and activation of) the access lane and public right of way that edge the site, and the design of the proposed apartment block. As approval of this indicative layout is not sought by the applicant at this stage, however, no layout-related reasons for refusal are recommended.
- 10.15 The proposed layout is suburban in character. The mix of short terraces, detached and semi-detached dwellings proposed by the applicant would assist the efficient use of the site, and would be sufficiently reflective of patterns of existing development in Birkenshaw. The potential for an alternative layout that eliminated or minimised the need for refuse collection vehicles to reverse has been considered, however due to the topography of the site, and its limited options for more than one vehicular access point, it is accepted that a layout that necessitates some reversing is unavoidable.



- 10.16 The applicant's Design and Access Statement and other supporting documentation illustrates dwellings and an apartment block of one, two and three storeys, with most of the second floor accommodation provided in roof spaces. These proposed heights are considered appropriate, given the predominant heights that exist in Birkenshaw, and the heights of the Emmet's Reach development to the southeast.
- 10.17 With 127 units proposed in a 3.24 hectare site, a density of approximately 39 units per hectare would be achieved, although the applicant has suggested that, with the land beneath the high-level overhead power lines discounted, a density of 36 units per hectare would be achieved. This is close to the 35 units per hectare density specified (and applicable "where appropriate") in Local Plan policy LP7 and it is noted that site allocation HS93 refers to an indicative capacity of 123 units, albeit for a 3.53 hectare site. The proposed quantum and density of development provides some leeway to address layout and other concerns at Reserved Matters stage, whilst ensuring the site is efficiently used.
- 10.18 It is not anticipated that the proposed development would adversely affect the significance of nearby heritage assets, and this assessment is supported by the applicant's Heritage Statement, which asserts that the proposed development would sustain the significance of nearby heritage assets. The Grade II listed former Oakroyd Hall is the nearest designated heritage asset to the site, and as that building is some distance away from its boundary shared with the application site, and as there are intervening mature trees and a stone boundary wall, as well as topography which generally falls southwards, it is considered that the setting of this listed building would not be adversely affected by the proposed development. This matter would, however, need to be considered in detail at Reserved Matters stage when detailed designs and a revised layout are before the council.
- 10.19 Site allocation ref: HS93 notes that the site has known archaeology, and the applicant submitted a Historic Environment Desk Based Assessment. This noted that the earthworks within the application site are more than likely related to ironstone and coal mining activity dating back to at least the 18<sup>th</sup> and 19<sup>th</sup> centuries. Given the nearby evidence of a blast furnace and foundry and the short Emmet's canal (which is believed to have run along Navigation Bank to the north of the application site), there is a possibility that ironstone mined from (or close to) the application site was processed locally, and that the remains and evidence of mines, transport and foundry facilities in the area could provide valuable information on small-scale ironworking in the late 18<sup>th</sup> and early 19<sup>th</sup> century. There is also some scope for Roman remains to survive at the application site.
- 10.20 The applicant's report recommended that a geophysical survey be carried out to determine whether any archaeological remains survive below ground, suggested that an earthwork survey be carried out, and noted that it may be appropriate to carry out trial trenching and further archaeological works. The West Yorkshire Archaeology Advisory Service have advised that this further investigation should be carried out prior to the determination of the current planning application, however this is not considered necessary, as no layout or number of units would be fixed at this outline application stage. Approval of outline planning permission would not prevent the necessary site investigation, however a relevant condition is recommended, requiring the archaeological work to be carried out before further design work is done, and for the findings

of the site investigation (and details of how they have influenced further design work) to be submitted at Reserved Matters stage. Any future applicant or developer will need to be aware that these findings may affect site layout and the number of dwellings that can ultimately be accommodated at this site.

- 10.21 Details of elevations, house types, materials, boundary treatments, landscaping and other more detailed aspects of design would be considered at Reserved Matters stage. Full details of any levelling and regrading works, and of any necessary retaining walls and structures, would also need to be provided at Reserved Matters stage.
- 10.22 The comments of the West Yorkshire Police Architectural Liaison Officer regarding the proposed indicative layout would need to be addressed, crime prevention measures would need to be incorporated, and a revised layout would need to be secured at Reserved Matters stage.

#### Residential amenity and quality

- 10.23 The principle of residential development at this site is considered acceptable in relation to the amenities of neighbouring residential properties.
- 10.24 As noted above, the site layout shown in the applicant's drawings is indicative, however it is nonetheless appropriate to comment on it in relation to the amenities of existing neighbouring residents, to inform future design work.
- 10.25 Adequate distances would be maintained between the proposed dwellings and the farmhouse of Blue Hills Farm. Other residential properties (both existing and forthcoming) are located far enough away from the application site so as not to be adversely affected by the proposed development in terms of natural light, privacy and outlook.
- 10.26 In terms of noise, although residential development would introduce (or increase) activity and movements to and from the site, given the quantum of development proposed, it is not considered that neighbouring residents would be significantly impacted. The proposed residential use is not inherently problematic in terms of noise, and is not considered incompatible with existing surrounding uses.
- 10.27 A condition requiring the submission and approval of a Construction Management Plan is recommended. The necessary conditions-stage submission would need to sufficiently address the potential amenity impacts of construction work at this site, including cumulative amenity impacts should other nearby sites be developed at the same time.
- 10.28 The quality and amenities of the proposed residential accommodation are also a material planning consideration, although it is again noted that details of the proposed development's appearance, landscaping, layout and scale are reserved at this stage.
- 10.29 All houses shown on the applicant's indicative layout would benefit from dual aspect, and are capable of being provided with adequate outlook, privacy and natural light. The proposed houses could be provided with adequate outdoor private amenity space, and a redesign of the proposed apartment block could result in larger, more useful and attractive outdoor amenity spaces for the occupants of those units.

- 10.30 The applicant's Design and Access Statement indicates where eight wheelchair-accessible bungalows could be provided as part of the proposed development. At Reserved Matters stage, the applicant would be encouraged to provide bathrooms (and possibly bedrooms or adaptable rooms) at ground floor level in the larger units, providing flexible accommodation and ensuring that a household member with certain disabilities could live in this dwelling. Dwellings should have WCs at ground level, providing convenience for visitors with certain disabilities.

#### Unit sizes and tenures

- 10.31 Although the number of units, their sizes and tenures would not be fixed upon approval of outline planning permission, the applicant has nonetheless submitted relevant information, upon which it is appropriate to comment.
- 10.32 Of the 127 units indicatively proposed, 30 (23.6%) would be one-bedroom houses and flats, 23 (18.1%) would be two-bedroom houses and flats, 48 (37.8%) would be three-bedroom houses, and 26 (20.5%) would be four-bedroom houses. This is considered to be an appropriate mix that could accommodate a variety of household formats, to encourage the formation of a mixed and balanced community.
- 10.33 Within this provision, the applicant proposes 26 affordable housing units, comprising six one-bedroom houses and flats, five two-bedroom houses and flats, 10 three-bedroom houses and five four-bedroom houses. With an overall affordable housing provision of 20.4%, the proposed development would comply with Local Plan policy LP11's requirement for 20% of the proposed development's residential units to be provided as affordable housing, and the indicative mix of affordable unit sizes accords with advice from KC Strategic Housing officers.
- 10.34 At Reserved Matters stage, more detail of the proposed affordable housing provision would be required, in particular in relation to tenure and the locations of the dwellings. A 54% social or affordable rent / 46% intermediate tenure split would be required, although this can be flexible. Given the need to integrate affordable housing within developments, and to ensure dwellings of different tenures are not visually distinguishable from each other, affordable housing would need to be appropriately designed and pepper-potted around the proposed development.

#### Highway issues

- 10.35 Existing highways conditions around the application site must be noted. The application site is located on the northwest side of Whitehall Road West (the A58), which provides access between the Chain Bar roundabout on the M62 (junction 26) and Hunsworth, Birkenshaw, the Drighlington bypass (the A650), Drighlington and other settlements. The road is subject to a 30mph speed restriction, and to the south of the site it is carried by a wide bridge (named "Bluehills Bridge" on some drawings) over the M62. The road has informal pedestrian crossings, white carriageway markings for cyclists, a section of shared footway and cycleway, and triangular refuge islands at the three-arm roundabout at the east corner of the application site.

- 10.36 The access lane that runs along the southwest edge of the application site is unadopted. Public footpath SPE/14/10 runs along this lane, across part of the application site at its west corner, and along the site's northwest boundary.
- 10.37 The applicant's Transport Assessment predicts that, in 2024, a residential development of 130 units at this site would generate 115 vehicular trips in the morning peak hour (07:30 to 08:30) and 101 in the evening peak hour (16:30 to 17:30). Using these predictions, the applicant has asserted that the roundabout directly outside the application site would operate within capacity, that the operation of the Halfway House roundabout (the junction of the A58 and the A651) would remain acceptable, and that the signalised junction of the A58 and B6121 (Hunsworth Lane) would not experience increased traffic flows that are material or significant.
- 10.38 The cumulative impacts of the proposed development and those developments yet to be completed in the surrounding area (including those approved under applications 2016/92633 and 2017/94129) must be considered, and the applicant's Transport Assessment has duly accounted for "committed" development.
- 10.39 Having regard to the applicant's assessment, Highways Development Management officers have advised that the proposed development can be accommodated by the highway network, and that there are no highway capacity reasons why this development should not be granted planning permission.
- 10.40 The proposed development is also considered acceptable in terms of highway safety. Additional accident data was submitted by the applicant during the life of the current planning application, and in light of this and earlier submissions, Highways Development Management officers have raised no objection on highway safety grounds.
- 10.41 The existing roundabout at the east corner of the application site already has a dropped kerb (serving a blocked agricultural access point) where it meets the application site, and this is a suitable location for the provision of the site's vehicular entrance. The existing roundabout can accommodate a fourth arm, and an adequate visibility splay can be provided with all land within the visible splay to be part of the adopted highway.
- 10.42 Development is proposed over the existing car parks of Blue Hills Farm and its farm shop, although the number of parking spaces to be lost is unclear, as parking spaces are not currently marked out. The applicant has not clarified where replacement car parking would be provided. At Reserved Matters stage the applicant will be required to consider the loss of the existing parking spaces, and explain how vehicles would not be displaced onto Whitehall Road West or other streets as a consequence of this. If replacement parking is required within the application site, this will affect the proposed layout, and may affect the number of dwellings that can be accommodated.

- 10.43 At Reserved Matters stage, to comply with relevant planning policies that require provision for pedestrians and cyclists in connection with major residential developments, drawings will be required, showing the existing footway (to the site's frontage) widened to 3m to provide a shared cycleway/footway. Further improvements to the area's pedestrian environment, including routes that residents of the proposed development would use when accessing local schools, may also be required – the need for such measures and contributions would be assessed when the number of residential units is confirmed as part of a detailed design.
- 10.44 The applicant has submitted a Travel Plan. This is intended to encourage the use of sustainable modes of transport, and discourage the use of the private car, particularly for single occupancy journeys. As noted above, at Reserved Matters stage the applicant would need to submit an updated, further version of the submitted Travel Plan, and this would need to refer to the council's proposals for the Core Walking, Cycling and Riding Network. A Travel Plan monitoring fee of £10,000 (£2,000 per annum, for five years) would be necessary, and this would be secured via a Section 106 agreement at Reserved Matters stage.
- 10.45 Details of refuse storage and collection need not be considered at this outline application stage, however it should be noted that space for three bins per dwelling would need to be provided at Reserved Matters stage, and opportunities to minimise the need for reversing refuse collection vehicles should be explored (although, as noted above, it is accepted that reversing could not be eliminated in a development at this site).
- 10.46 No connection to public footpath SPE/14/10 is proposed in the indicative layout. This would isolate the development from the local Public Rights of Way network, would mean the development would not sufficiently improve neighbourhood connectivity or encourage walking, and is contrary to Local Plan policies LP20, LP24dii and LP47e. The applicant expressed concern at pre-application stage that a gated connection between the northernmost open space and footpath SPE/14/10 would make it too easy for residents of the development to carelessly let their dogs out onto the applicant's field to the north, and that livestock may be harassed and harmed as a result. It is also noted that the West Yorkshire Police Architectural Liaison Officer suggested at pre-application stage that perpetrators of crime would have easier access to the development from the north if a connection to the footpath was provided. There are, however, ways in which these potential problems can be mitigated – double gates, orientation of dwellings to provide natural surveillance, and other measures should be explored, and this matter would need to be revisited at Reserved Matters stage to ensure compliance with policies LP20, LP24dii and LP47e.
- 10.47 The applicant's indicative layout would necessitate a diversion of public footpath SPE/14/10 at the west corner of the application site, however approval of outline planning permission would not result in approval of such a diversion – this would require a separate process, application and cost. At Reserved Matters stage the application site red line boundary would need to include any land proposed to be used for diverted public footpaths.
- 10.48 Given that the submitted site layout plan is indicative, commentary on the detailed design of the internal estate roads is not necessary at this stage.

- 10.49 There is adequate space within the application site for policy-compliant provision of on-site parking and cycle parking for the indicative 127 (maximum) units, however details of this provision would be considered at Reserved Matters stage.

#### Flood risk and drainage issues

- 10.50 The site is within Flood Zone 1, and is larger than 1 hectare in size, therefore a site-specific Flood Risk Assessment (FRA) and Drainage Management Strategy was submitted by the applicant.
- 10.51 The applicant proposes to drain the site via an attenuation pond and a connection to an existing council-controlled highways drain that runs beneath Whitehall Road West. This drain has dry weather flow, and is therefore a piped watercourse to which the applicant has a riparian right to connect. The Lead Local Flood Authority do not object to the proposed connection. It is assumed that this drain once continued southwards to connect with other drainage on the opposite side of the M62, but was severed when the motorway cutting was dug. This drain now connects to M62 drainage.
- 10.52 Highways England have noted that this section of the M62 is already vulnerable to flooding, and have argued that an increase in water flowing through the motorway drains would increase flood risk here. In their objection to the proposed development, Highways England have advised that clarification regarding the size of drainage pipework, and confirmation that this is sufficient to carry water from the proposed development, is required. Highways England are currently in the process of carrying out on-site investigation of existing drains, and intend to re-run their flood modelling before providing further comments to the council.
- 10.53 Given the importance of the M62 as key transport infrastructure upon which Kirklees (and, indeed, much of the UK) depends, weight must be attached to the concerns of Highways England. Clearly, an acceptable drainage solution (which does not increase flood risk to the M62) must be devised, and Highways England are working with the applicant and the Lead Local Flood Authority to this end. The necessary site investigation and related work, however, is significant, and an acceptable drainage solution may not be devised and agreed in the near future. Rather than allow this matter to further delay the determination of the current planning application, it is recommended that appropriate conditions be applied, requiring the submission of a revised, comprehensive drainage strategy (devised in consultation with Highways England, and designed to ensure flood risk to the M62 would not be increased). Any future applicant or developer will need to be aware that an acceptable drainage solution may have significant cost implications, may involve off-site works, and may affect site layout and the number of dwellings that can ultimately be accommodated at this site.
- 10.54 Highways England have also sought reassurance that the proposed attenuation pond (which would be located close to the M62 embankment) is adequate to accommodate water from the site, and would not cause infiltration into the slope. The Lead Local Flood Authority agree that the use of soakaways is not appropriate at this site, and has not raised an objection to the attenuation pond, but have noted that a tank is more likely to be proposed at a later, more detailed design stage.

- 10.55 The revised drainage strategy (required by the recommended condition) will need to address the Lead Local Flood Authority's requests for more information regarding the storage of the 1 in 100 (+30% climate change) event, as well as more information regarding flood routing, and will need to confirm that flows into the highway drain would be limited to 5 litres per second for the 1 in 100 (+30% climate change) critical storm event.
- 10.56 Regarding the attenuation tank that is likely to be necessary, the applicant will need to demonstrate that this can be accommodated within the site with feasible gravity connections to the receiving highway drain, noting that large structures of 1500mm or greater width would preclude adoption of any highway directly above.
- 10.57 A drainage maintenance and management plan will be necessary. The management company undertaking (to be included in a later Section 106 agreement) can cease to apply once the attenuation systems and flow controls are adopted by the statutory undertaker.
- 10.58 Highways England have recalled that, due to the area's coal mining legacy, embankments along the M62 needed shoring up when motorway cuttings were dug. Highways England have sought reassurance that the M62 embankment adjacent to the application site is able to support the proposed attenuation pond or tank, and have additionally requested details of any site grouting and other stabilisation work that may be required to address the site's coal mining legacy. It is not yet known whether such work will be required (this would be established once site investigation has been carried out in accordance with the applicant's Coal Mining Risk Assessment), however it would be appropriate to consult with Highways England once proposals are submitted, and before any stabilisation work is approved.

#### Public and environmental health

- 10.59 The council's Public Health team have not commented on the proposed development, however the applicant's information regarding the health impact of the development must be considered nonetheless in accordance with Local Plan policy LP47 and chapter 8 of the NPPF. Subject to amendments and further information to be considered at Reserved Matters stage (as well as conditions and planning obligations) in relation to air quality, on-site and local outdoor activity, inclusive design, connections to the area's Public Rights of Way network, the shared cycleway/footway required outside the application site, and other matters relevant to planning and health, it is considered that the proposed development would assist in promoting healthy, active and safer lifestyles in accordance with relevant planning policies.
- 10.60 The applicant's Air Quality Assessment notes the site's proximity to an Air Quality Management Area to the east, considers existing air quality from published data, and concludes that existing conditions do not conflict with the proposed residential use of the site. It also assesses the impact of the proposed development on local air quality from the increased road traffic arising from the operational phase of the development, and concludes that there would be a slight but negligible adverse impact that requires no mitigation. This is accepted.

- 10.61 For air quality reasons and to encourage the use of low-emission modes of transport, electric/hybrid vehicle charging points would need to be provided in accordance with relevant guidance on air quality mitigation, Local Plan policies LP21, LP24 and LP51, the West Yorkshire Low Emissions Strategy (and its technical planning guidance), the NPPF, and Planning Practice Guidance. Charging points for every dwelling, and one for every 10 visitor parking spaces, would be required, and an appropriate condition is recommended. The submitted (and later, updated) Travel Plan would also assist in limiting air quality impacts by encouraging the use of sustainable and low-emission modes of transport. The provision of a moss tree at this site would be welcomed, but is not required.
- 10.62 Dust can be satisfactorily addressed in the Construction Management Plan required by the relevant recommended condition.
- 10.63 The applicant's Noise Impact Assessment assesses the application site's existing noise climate, identifies M62 and A58 road traffic as the main sources of noise affecting the site, details noise measurements and uses these in noise modelling before concluding that recommended outdoor noise levels would be exceeded across much of the site, and recommended indoors sound levels would be exceeded at all plots if windows are open. The applicant asserts that a variety of measures will be necessary to ensure suitable residential noise environments will be achieved – these will include appropriate glazing, alternative means of ventilation (to avoid residents having to open windows), and appropriate design of walls, roofs and ceilings. Noise mitigation will be a significant consideration when determining the development's final layout, in order to achieve the best sound levels at outdoor amenity areas. A condition regarding noise is recommended.
- 10.64 The applicant's Noise Impact Assessment does not recommend the use of acoustic fences or barriers. Of note, acoustic barriers were initially required for the nearby Emmet's Reach development (application ref: 2016/92633) however alternative noise mitigation measures were subsequently worked up and a later application (ref: 2018/92812) to remove the requirement for acoustic barriers was approved on 24/05/2019. Environmental Health officers did not object to this amendment. Also of note, the current application site is located higher up the M62 embankment, and its dwellings would be further away from the M62 noise source, compared with the Emmet's Reach development.
- 10.65 The applicant has submitted a Qualitative Odour Assessment which assesses the amenity impacts of odours from Blue Hills Farm upon the proposed development. It concludes that significant odour impacts at sensitive locations would be unlikely to occur as a result of the operation of the existing farm. This is accepted, and no conditions regarding odours are considered necessary.

#### Site contamination and stability

- 10.66 The council has a record of potential contamination at part of the application site, and the applicant's phase 1 contaminated land report confirms that a colliery once existed at the application site, that this presents a moderate risk, that there are also possible risks from likely made ground on the site, and that there are naturally elevated levels of arsenic, chromium and lead, as well as refrigeration plant and telegraph poles stored on the site. The applicant recommends the preparation and submission of a phase 2 contaminated land report, with boreholing, ground water monitoring and chemical analysis of soil



samples, and conditions requiring this are recommended in accordance with Local Plan policy LP53.

- 10.67 The application site is within the Development High Risk Area as defined by the Coal Authority, therefore within the site and surrounding area there are coal mining features and hazards. This is, however, not a reason for refusal of outline planning permission. The applicant has submitted a Coal Mining Risk Assessment which notes the coal mining legacy of the site and the surrounding area, and recommends site investigation to determine ground conditions and any risk posed to the proposed development. A relevant pre-commencement condition is recommended in accordance with the advice of the Coal Authority.

#### Ecological considerations

- 10.68 The applicant has submitted an Extended Phase 1 Habitat Survey Report which concludes that the majority of habitats at the application site that would be lost are of limited ecological value. It also concludes that there is scope for enhancement of areas of retained habitat within the site, and recommends compensatory measures and measures to ensure that a biodiversity net gain is achieved.
- 10.69 The council's Biodiversity Officer has raised no objection to the proposed development, stating that it is unlikely to result in significant ecological harm, subject to conditions (including a condition requiring the submission and approval of an Ecological Design Strategy, and conditions regarding potential impacts on bats, lighting, and removal of hedgerows, trees and shrubs), to the measures proposed by the applicant being implemented, and to the adjacent off-site woodland being retained. It is possible to develop the site for residential use while providing the required biodiversity net gain, in accordance with relevant local and national policy, including Local Plan policy LP30 and chapter 15 of the NPPF.

#### Trees

- 10.70 Adjacent to the application site, within the grounds of the West Yorkshire Fire and Rescue Service headquarters, there are trees protected under Tree Preservation Order 19/92/a1. Some of these trees overhang the site by 4m to 5m, with tree stems set back by less than 1m from the boundary in places. These should be regarded as constraints at the application site. When a detailed layout is prepared prior to Reserved Matters stage, the applicant would need to provide a good level of separation between the proposed dwellings and these trees, and a full assessment of potential impacts upon these trees would need to be carried out. In an attempt to address these concerns prior to Reserved Matters stage, the applicant submitted amended drawings during the life of the current application, and should further comments be received from the council's Arboricultural Officer, these will be reported in the committee update. The council's Arboricultural Officer has raised no objection in principle to residential development at this site.

#### Planning obligations and financial viability

- 10.71 To accord with Local Plan policy LP11, 20% of the proposed development's residential units would need to be secured as affordable housing, and as noted above, the applicant proposes a 20.4% affordable housing provision.

- 10.72 The council's Education department were consulted and commented that a contribution of £538,997 would be required. This is based on the applicant's current indicative proposal for up to 127 residential units. Following further design work, however, the number of units proposed at Reserved Matters stage may trigger the need for a larger or smaller contribution.
- 10.73 Open space (including a 400sqm potential Local Equipped Area for Play) is shown on the applicant's indicative layout plan, and the applicant's Design and Access Statement explains that more than 50% of this outdoor space would not be beneath overhead power lines. As noted above, amendments to the proposed site layout will be necessary at Reserved Matters stage, and this may affect the on-site provision of open space and the need for contributions towards off-site provision to make up any shortfall.
- 10.74 In accordance with advice from the Lead Local Flood Authority, planning obligations related to the provision and maintenance of drainage systems will need to be secured at Reserved Matters stage.
- 10.75 Implementation of a Travel Plan would need to be secured along with a monitoring fee of £10,000.
- 10.76 Contributions intended to mitigate the highways impacts of the proposed development may need to be secured at Reserved Matters stage. The need for such contributions would be assessed once the proposed number of residential units has been confirmed. Highways Development Management officers have advised that a contribution towards sustainable travel incentives such as discounted MetroCards may be appropriate – details of this contribution would need to be agreed, however as an indication, officers have advised that a bus-only provision for this development would be £63,653.50.
- 10.77 At pre-application stage, Cllr Light suggested that, in connection with the proposed development, mitigative works to the local highway network (including a pelican crossing on Whitehall Road West between the roundabouts, and improvements to traffic flows through Birkenshaw), education contributions (to support extra places at Birkenshaw Primary School and BBG Academy) and air quality improvement measures (such as the provision of a moss tree on the site or nearby) would be required.
- 10.78 The above contributions are significant, and together with the costs associated with drainage (Highways England may require significant works to be undertaken to ensure flood risk to the M62 is not increased, while Yorkshire Water may require diversion of a water main, and there will be costs associated with foul water pumping) and with addressing the application site's topography, archaeological and coal mining legacies, they will need to be given careful consideration by the landowner prior to the sale of the site to a developer. These costs will need to be reflected in the application site's purchase price, to ensure that any future developer will not overpay for the site and then attempt to argue that these costs were unanticipated and that affordable housing or other necessary mitigation is not viable. The application site was promoted for allocation and development by the current landowner, and is allocated for residential development, and such development at this site can reasonably be assumed to be viable at this stage. Therefore, and given what is known regarding the application site's development costs, and having regard to consultee responses (which any developer should make themselves aware of before purchasing the site), the council is unlikely to entertain a future

argument that residential development at this site is unviable. Should any such argument be made in the future, the council can and will have regard to paragraph 57 of the NPPF, which states that the weight to be given to a viability assessment is a matter for the decision maker.

### Representations

10.79 The majority of concerns raised in representations are addressed earlier in this report. Other matters raised are addressed as follows:

- Construction impacts – To address construction noise, dust and other potential impacts, a condition requiring the submission and approval of a Construction Management Plan is recommended.
- Impact on house prices – This is not a material consideration relevant to this planning application.
- Increased crime risk – There is no evidence to suggest that residential development at this site would increase the risks of crime being committed elsewhere in Birkenhead.
- Adverse impact on bats – The applicant's Extended Phase 1 Habitat Survey Report found no evidence of roosting bats at the site, however there are many records of bats within 2km of the application site. The application site is grassed and is likely to be of limited value to foraging and commuting bats. Sensitive lighting of the proposed development can help limit impacts on bats, and appropriate landscaping can enhance the site's attraction to foraging bats – these aspects of the proposed development are to be considered at conditions and Reserved Matters stage.

## **11.0 CONCLUSION**

11.1 The application site is allocated for housing in the Local Plan, and the principle of residential development at this site is considered acceptable.

11.2 The site is constrained by overhead power lines, a PROW, an adjacent listed building, adjacent protected trees, ecological considerations, archaeology, topography, drainage and other matters relevant to planning. While these constraints would necessitate further, careful and detailed consideration at Reserved Matters stage, none are considered to be prohibitive to the principle of residential development at this site, therefore it is recommended that outline permission be granted.

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. Subject to conditions and further consideration at Reserved Matters stage, it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) and is therefore recommended for approval.

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

1. Standard OL condition (submission of Reserved Matters)
2. Standard OL condition (implementation of Reserved Matters)
3. Standard OL condition (Reserved Matters submission time limit)
4. Standard OL condition (Reserved Matters implementation time limit)
5. Development in accordance with plans and specifications
6. Affordable housing
7. Education
8. Open space
9. Highways impacts
  - Junction with existing roundabout
  - Detailed design
10. Travel plan
11. Drainage maintenance and management
12. Flood risk and drainage
13. Archaeology
14. Details of access and internal highways
15. Ecology
16. Landscaping
17. Construction management
18. Electric vehicle charging
19. Contaminated land
20. Coal mining legacy
21. Arboricultural impact

### **Background Papers:**

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f90527>

Certificate of Ownership – Certificate B signed