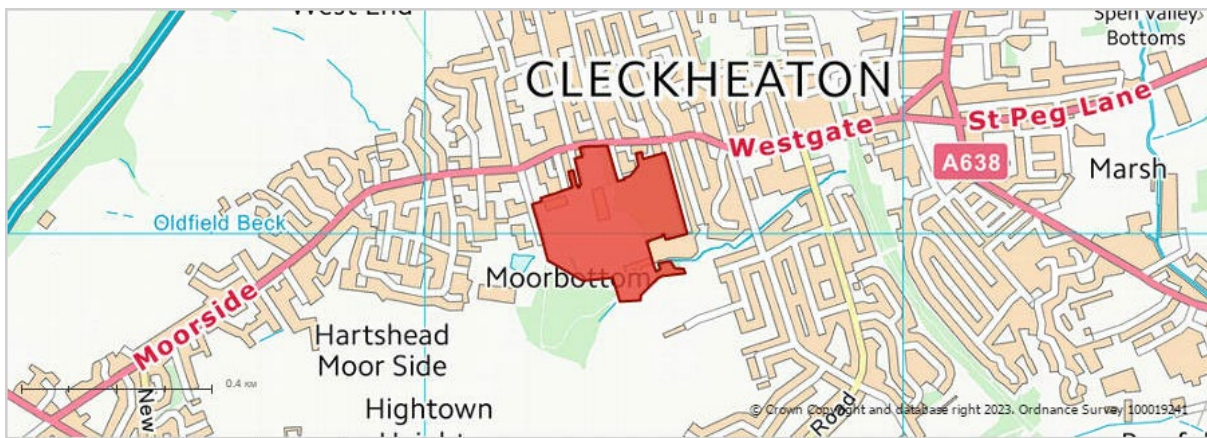

Report of the Head of Planning and Development**STRATEGIC PLANNING COMMITTEE****Date: 06-Apr-2023****Subject: Planning Application 2021/93567 Erection of 180 dwellings with associated works Land off, Westgate, Cleckheaton, BD19 5DR****APPLICANT****Strata Homes Ltd****DATE VALID****08-Sep-2021****TARGET DATE****08-Dec-2021****EXTENSION EXPIRY DATE****31-Jan-2023**

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 and to secure a Section 106 agreement to cover the following matters:

- a) **Affordable Housing:** 9 First Homes and 3 Affordable Homes (6.6% of total units).
- b) **Open space off-site contribution:** £59,770.28.
- c) **Metro enhancements:** £33,000 towards bus stop improvements.
- d) **Sustainable Travel:** £10,000 towards travel plan monitoring.
- e) **Biodiversity:** £199,916 towards off-site measures to achieve biodiversity net gain, with alternative option to provide on-site or nearby provision if suitable scheme identified.
- f) **Management and maintenance:** POS, drainage (including culverts), and ecological features.
- g) **Viability Review Mechanism:** An updated viability report to be provided to the LPA at 50% occupation, with additional Section 106 obligation to be provided in the event that a higher-than-expected profit is achieved.

In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Planning and Development shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Planning and Development is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

1.0 INTRODUCTION

- 1.1 This is an application for full planning permission, for a residential development of 180 dwellings.
- 1.2 This application is brought to Strategic Planning Sub-Committee in accordance with the Delegation Agreement as the proposal relates to a residential development of over 60 units.

2.0 SITE AND SURROUNDINGS

- 2.1 The site is within Cleckheaton. The site is accessed via Westgate, which runs along to the north of the site. The unadopted Iron Street, Stone Street, and Lime Street, run into the site from Westgate. Each of these roads have poor quality surfacing of varying states. Roberts Street and Quarry Road run along the east boundaries, Brick Street to the west. The application site has an area of 6.47ha. The topography is sloped, falling downhill from north to south.

- 2.2 Most of the site is brownfield land, hosting one operational employment unit (Stables Garages) and several defunct units, in poor states of repair, spread around the site. Several other units on the site were demolished between 2000 and 2010. A surfaced area to the north has recently been used as a car park. Many parts of the site have become overgrown since the demolition although several open areas of hardstanding remain.
- 2.3 A mixture of commercial and residential units surrounds the site, including commercial units on the north-east, north-west, and south-east boundaries. There is a terrace row to the north-east also, accessed from Taylor Street but backing onto Iron Street. More generally however, there is residential to the north and east, commercial to the west, and open land to the south.
- 2.4 Blackup Beck runs along much of the site's south boundary, separating it from an expanse of open land (allocated as Urban Green Space in the Local Plan) however at one point it culverts and runs into / under the application site red-line boundary. As noted above, the site has semi-naturalised with self-seeded young trees are evident throughout. Of note, along the west boundary (adjacent Quarry Road) is a group of Black Hybrid Poplar trees that are protected by a group Tree Preservation Order. However, the trees have been severely pollarded and as a result have little value either as species or as an amenity screen.

3.0 PROPOSAL

- 3.1 The proposal seeks full planning permission for the erection of 180 dwellings. This would consist of:
- 2-bed: 52 (28%)
 - 3-bed: 86 (48%)
 - 4-bed: 42 (23%)
- 3.2 There would be five house types. Units would be a mix of detached, semi-detached, and terraced. Most unit types would be two storeys, with the exemption of 'Bungalow' housetype (one storey) and 'AH5' housetype (2.5 storeys, habitable rooms in roofspace). Facing materials are proposed as a mix of stone, red brick, and buff brick. Roofing materials are proposed as grey concrete tiles and red concrete tiles.
- 3.3 The site's access is to be formed over / incorporate the (unadopted) Stone Street. From this, a new estate road would extend through the site, before branching into a wide loop with several small off-shooting roads / private shared drives. The 2-bed and 3-bed units would have two off-road parking spaces per unit, with the 4-bed units have three. There would be 29 dedicated visitor parking bays.
- 3.4 A small area of Public Open Space is proposed in the centre of the site, principally providing a pedestrian / cycle through-route. The main Public Open Space is provided to the south of the site, partly boarding Blackup Beck. Retaining walls are to feature throughout the site, typically ranging between 0.2 to 2.0m, although in the south-east corner these would go up to 4.0m (adjacent to the southern commercial development).

4.0 RELEVANT PLANNING HISTORY (including enforcement history)

4.1 Application Site

2010/91431: Outline application for erection of mixed-use development comprising of residential and business use and change of use of Paragon Works to business use (B1) – Conditional Outline Permission.

2017/91640: Variation of conditions 7, 11, 12, 14, 17, 18 on previous permission 2010/91431 for outline application for erection of mixed-use development comprising of residential and business use and change of use of Paragon Works to business use (B1) – Invalidated.

4.2 Surrounding Area

Land at, Brookside Works, Cleckheaton

2021/90886: Outline application for erection of Class E (B1c/B2/B8) with access from Brick Street, associated yard space, car parking, storage units and landscaping – Withdrawn.

2021/92661: Outline application for erection of Class E(g), B2, and B8 units and the formation of associated infrastructure, with access from Brick Street – Withdrawn.

Unit 1 & 2, Taylor Street

2017/92869: Erection of extension to existing factory – Conditional Full Permission.

Cleckheaton Hand Car Wash, 75, Westgate

2017/92483: Change of use of car sales to mixed use including car wash and tyre fitting.

2018/93329: Erection of 6 dwellings – Conditional Full Permission.

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme)

5.1 A pre-application enquiry was submitted in March 2020 on the site. This sought feedback from officers on a proposal for 197 units. Officers outlined their consideration of the proposal, which in summary was welcoming however further details were required to support a detailed application. This included clarification on the impacts of a primarily residential development on a mixed-use allocation and seeking further details to determine whether the proposal represented an effective and efficient use of the site. Officers also outlined various matters that any subsequent application would have to address.

5.2 The current application was submitted December 2021, seeking permission for 194 units. Officers, with advice from consultees, expressed various concerns on the proposal included, but not limited to: design, housing mixture, highways, ecological impacts, drainage, and the provision of planning contributions.

5.3 The application has gone through several revisions, with updated supporting information provided for review by technical consultees. Through this process, the proposal has reached a stage where officers are overall supportive. However, the applicant has submitted a viability assessment seeking to demonstrate that a policy-compliant set of planning obligations cannot be feasibly delivered as part of this application. Therefore, an independent viability process was undertaken. Based on the information provided by the Council's viability assessor, officers negotiated the following proposed reduced Section 106 package:

- **Affordable Housing:** 9 First Homes and 3 Affordable Homes (6.6% of total units).
- **Open space off-site contribution:** £59,770.28.
- **Metro enhancements:** £33,000 towards bus stop improvements.
- **Sustainable Travel:** £10,000 towards travel plan monitoring.
- **Biodiversity:** £199,916 towards off-site measures to achieve biodiversity net gain, with alternative option to provide on-site or nearby provision if suitable scheme identified.

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 27th February 2019).

Kirklees Local Plan (2019) and Supplementary Planning Guidance / Documents

6.2 The application site is mostly part of a Mixed-Use allocation (MXS9) in the Kirklees Local Plan. The allocation has an indicative housing capacity of 223 dwellings. For employment space, the indicative capacity is given as 'Retention of existing floorspace and is already occupied'. Retail is also noted as a possible use of the site, however the allocation notes that 'additional retail and/or leisure beyond that already on site would be subject to Policy LP13'.

6.3 The allocation has a gross area of 6.93ha, while this application occupies 6.35ha of MXS9. The red-line incorporates 0.12ha of Urban Green Space (ref. IG315) to the south.

6.4 Site allocation MXS9 identifies the following constraints relevant to the site:

- No residential development to take place within flood zone 3.
- The flood risk vulnerability of proposed uses will be considered and an exception test may still be required as part of a planning application as set out in national planning policy.
- Prevention and mitigation to reflect Water Framework Directive requirement.

6.5 Relevant Local Plan policies are:

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP3** – Location of new development
- **LP7** – Efficient and effective use of land and buildings
- **LP11** – Housing mix and affordable housing
- **LP20** – Sustainable travel
- **LP21** – Highways and access
- **LP22** – Parking
- **LP24** – Design
- **LP27** – Flood risk
- **LP28** – Drainage
- **LP29** – Management of water bodies
- **LP30** – Biodiversity and geodiversity
- **LP32** – Landscape
- **LP33** – Trees
- **LP35** – Historic environment
- **LP38** – Minerals safeguarding
- **LP51** – Protection and improvement of local air quality
- **LP52** – Protection and improvement of environmental quality
- **LP53** – Contaminated and unstable land
- **LP61** – Urban Green Space
- **LP63** – New open space
- **LP67** – Mixed use allocations

6.6 The following are relevant Supplementary Planning Documents or other guidance documents published by, or with, Kirklees Council;

Supplementary Planning Documents

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

Guidance documents

- Kirklees Interim Affordable Housing Policy (2020)
- Biodiversity Net Gain Technical Advice Note (2021)
- Planning Applications Climate Change Guidance (2021)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Waste Management Design Guide for New Developments (2020)
- Green Streets® Principles for the West Yorkshire Transport Fund

National Planning Guidance

- 6.7 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) 2021, published 20th July 2021, and the Planning Practice Guidance Suite (PPGS), first launched 6th March 2014, together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.
- **Chapter 2** – Achieving sustainable development
 - **Chapter 4** – Decision-making
 - **Chapter 5** – Delivering a sufficient supply of homes
 - **Chapter 8** – Promoting healthy and safe communities
 - **Chapter 9** – Promoting sustainable transport
 - **Chapter 11** – Making effective use of land
 - **Chapter 12** – Achieving well-designed places
 - **Chapter 14** – Meeting the challenge of climate change, flooding and coastal change
 - **Chapter 15** – Conserving and enhancing the natural environment
 - **Chapter 16** – Conserving and enhancing the historic environment
- 6.8 Other relevant national guidance and documents:
- MHCLG: National Design Guide (2021)
 - National Model Design Code (2021)
 - DCLG: Technical housing standards – nationally described space standard (2015)
 - Cycle Infrastructure Design – Local Transport Note 1/20 (2020)
 - Green Infrastructure Planning and Design Guide (2023)

Climate change

- 6.9 The Council approved Climate Emergency measures at its meeting of full Council on the 16th of January 2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.
- 6.10 On the 12th of November 2019 the Council adopted a target for achieving ‘net zero’ carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target; however, it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the council would use the relevant Local Plan policies and guidance documents to embed the climate change agenda. 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.

7.0 PUBLIC/LOCAL RESPONSE

The applicant's statement of community involvement (SCI)

- 7.1 The application is supported by a statement of community involvement which outlines the public engagement the applicant undertook prior to the submission of the planning application. The applicant posted a leaflet to neighbouring properties (circa 250 addresses). The leaflet included details of the proposed application and site plan and directed residents towards a website where plans were available and where comments could be submitted. The consultation was undertaken December 2020, with the applicant stating:

Due to the scale of the proposals, and social distancing restrictions in place due to the coronavirus (COVID-19) pandemic, it was deemed the most appropriate method of engagement would be via a consultation leaflet drop to local residents

- 7.2 An article in the local newspaper was also used to raise awareness of the pre-application engagement.

- 7.3 In response to the engagement processes nine comments were received on the website forum. The SCI summarises the comments as follows:

- the capacity of local facilities to support an increase in the local population.
- development increasing the risk of flooding in the area.
- highway safety on already congested Westgate Road and sufficient parking provision on site.
- the development blends well with surrounding environment and is sympathetically designed. The removal of the disused brownfield sight is welcomed.
- overlooking of proposed new dwellings onto the properties off Quarry Road.
- provision of affordable housing on-site.

Within the SCI the applicant considers each of these comments and outlines how they have been incorporated into the proposal. This included the originally advertised proposal, for 203 dwellings, being reduced to 194.

Public representation

- 7.4 The application has been advertised as a major development via site notices and through neighbour letters to properties bordering the site, along with being advertised within a local newspaper. This is in line with the Council's adopted Statement of Community Involvement.

- 7.5 The application was amended during its lifetime and a period of re-consultation, via neighbour letters, was undertaken. These were sent to all neighbouring residents, as well as to those who provided comments to the original period of representation. Final amendments were made after the last public representation period. These were considered minor in scope, and were improvements and/or direct responses to issues raised by the public or officers. As such, it was not considered necessary to readvertise the final amendments.

- 7.6 The end date for public comments was the 27th of February 2023. In total seven public comments were received. The following is a summary of the comments made:
- Welcoming the removal of the trees along Quarry Road side which leave residents with 'debris, leaves, breanches etc' as they have become overgrown.
 - Local schools and doctors' surgeries cannot accommodate additional students.
 - Local roads and drainage infrastructure is inadequate to accommodate additional dwellings.
 - The applicant's plan to remove trees on Quarry Road does not comply with K.C. Trees advise to include a 'similar line' of replacement trees and is unacceptable.
 - Concerns over difficulties with the applicant during development / construction at another site.
 - Concerns of impacts caused during the construction phase.
- 7.7 The site is within Cleckheaton ward. The local ward Councillors are Cllrs John Lawson, Andrew Pinnock, and Kath Pinnock. Councillors were notified of the proposal, with no substantive comments received.

8.0 CONSULTATION RESPONSES

8.1 Statutory

K.C. Highways: No objection subject to conditions and advise Section 106 requirements.

K.C. Lead Local Flood Authority: No objection subject to conditions and advise Section 106 requirements.

The Environment Agency: Object. Further details on compensatory storage (due to ground works in Flood Zone 2) are required, along with clarification of culvert maintenance. The applicant believes they have addressed these points and officers are awaiting updated comments from The Environment Agency which is expected to be reported in the update.

Yorkshire Water: Object. The plans propose trees within the exclusion zone of pipes and the amended plans don't record all pipes (which earlier versions did). The applicant believes they have addressed these points and officers are awaiting updated comments from Yorkshire Water which is expected to be reported in the update.

8.2 Non-statutory

K.C. Conservation and Design: The site is circa 200m north of a Grade 2 Listed farmhouse (1 to 3 Lower Blacup). The proposal would improve a largely derelict brownfield site and is therefore welcomed, having either a neutral of positive affect on the listed building.

K.C. Crime Prevention: No objection, subject to condition. Advice offered throughout the proposal and incorporated where feasible.

K.C. Ecology: The applicant has undertaken sufficient survey to determine the ecological value of the site, both in terms of habitat and impact on species. No objection to the proposal, subject to conditions and securing an Ecological Net Gain contribution of £199,916.

K.C. Education: Provided advice on policy compliant education provision. Based on 180 units, the proposal would be expected to provide £357,733 towards local schools (£91,783 to Heaton Avenue and £265,950 to Whitcliffe Mount).

K.C. EV Health: No objection subject to conditions. Have assessed a variety of Environmental Health considerations, including: air quality, contaminated land, and noise pollution.

K.C. Landscape: No objection subject to condition. Have provided advise and feedback throughout the application process on landscape design. Based on the final proposals and 180 dwellings, discounting the Public Open Space to be delivered on site, an off-site provision of £202,174 remains. This would be spent on local facilities, potentially including (but not limited to): west End Park Moorside Verges, Lynfield Rec.

K.C. Public Right of Way (PROW): Informal discussions held. No objection subject to conditions relating to connecting to Public Rights of Way.

K.C. Public Health: Requested that a Rapid Health Impact Assessment (HIA) be undertaken, due to Cleckheaton Ward failing key health indicators. Expressed concerns over the applicant's HIA, with advice offered on how to progress.

K.C. Strat Housing: Provided advise on policy-compliant affordable housing provision. Based on 180 units, the expected delivery would be:

- Affordable or social rent: 20
- First Homes: 9
- Other intermediate: 7

K.C. Trees: No objection subject to conditions. While protected by a TPO, the trees on the east boundary proposed to be removed are of poor quality and their removal is not opposed. Adequate planting, including mitigation for the lost trees, is proposed throughout the site.

West Yorkshire Metro: To support sustainable travel, West Yorkshire Metro have calculated the following contributions for the proposal:

- Sustainable Travel Fund (i.e., bus passes): £90,070.
- Bus stop improvements: £33,000 (£13,000 for shelter at stop ID 14085, £10,000 for real time displays at stops 14085 and 14086).

9.0 MAIN ISSUES

- Principle of development
- Urban Design
- Residential Amenity
- Highway
- Drainage and flood risk
- Ecology
- Planning obligations
- Other Matters
- Representations

10.0 APPRAISAL

Principle of development

- 10.1 Paragraph 47 of the National Planning Policy Framework (the Framework), which is a material consideration in planning decisions, confirms that planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. This approach is confirmed within Policy LP1 of the Kirklees Local Plan, which states that when considering development proposals, the Council would take a positive approach that reflects the presumption in favour of sustainable development contained within the Framework. Policy LP1 also clarifies that proposals that accord with the policies in the Kirklees Local Plan would be approved without delay, unless material considerations indicate otherwise.

Land allocation (Mixed use) and residential development

- 10.2 The Local Plan identifies a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum. National planning policy requires local planning authorities to demonstrate five years supply of deliverable housing sites against their housing requirement. The latest published five-year housing land supply position for Kirklees, as set out in the Authority Monitoring Report (AMR), is 5.17 years. This includes consideration of sites with full planning permission as well as sites with outline permission or allocated in the Local Plan where there is clear evidence to justify their inclusion in the supply.
- 10.3 The Housing Delivery Test results are directly linked to part of the five-year housing land supply calculation. The 2022 Housing Delivery Test results have yet to be published and the government is currently consulting on changes to the approach to calculating housing land supply. Once there is further clarity on the approach to be taken, the council will seek to publish a revised five-year supply position. Chapter 5 of the NPPF clearly identifies that Local Authorities should seek to boost significantly the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development.

- 10.4 The site is allocated as Mixed Use, with potential uses given as residential, employment, and retail, within the Kirklees Local Plan Allocations and Designations document (2019), to which full weight can be given. Policy LP67 governs such applications and states:

The sites listed below are allocated for mixed use development in the Local Plan. Planning permission will be expected to be granted if proposals accord with the development principles set out in the relevant site boxes, relevant development plan policies and as shown on the Policies Map.

- 10.5 The proposal seeks residential development only, with no employment development, retail or other use sought.
- 10.6 However, the proposal only relates to part of the allocation. The excluded land within the allocation includes two dwellings, a retail unit (B and M Collins and Sons), a carwash (Cleckheaton Hand Car Wash), an office and warehouse building (Paragon Works), and storage space for the businesses to the north-east (Williams Automotive Engineering, Elite Systems, Advance Welding). These units would retain their commercial use.
- 10.7 At present there are four units remaining within the site: unit 3, units 11 and 12 (single building) and unit 19 (other numbered units previously demolished). Units 3, 11, and 19 are vacant and are largely derelict. Unit 12, attached to unit 11, while occupied is also in a poor state of repair. The existing tenant, Stables Garage, is a commercial garage. The retention of the existing occupied property is not desirable – the unit is in a poor state of repair, occupying a portion of a larger building, the rest of which is in a worse state. Having commercial garage accessed through the site would affect amenity and the visual design of the proposal. Therefore, officers do not oppose the removal of either the existing commercial units, or proposed.
- 10.8 In light of the above, while only residential units are proposed as part of this application, the ‘mixed use’ allocation would retain a mixed use. Therefore, principle of a residential-only proposal, on part (albeit most) of the allocated site is considered acceptable.

Quantum of development

- 10.9 Both the Local Plan and National Planning Policy Framework set out expectations to ensure proposals represent the effective and efficient development of land. LP7 requires development to achieve a net density of at least 35 dwellings per ha, where appropriate. Local Plan allocations have indicative capacity figures based on this net density figure. LP11 of the Local Plan requires consideration of housing mixture. These requirements are built upon within the Council’s Affordable Housing and Housing Mix SPD (March 2023).
- 10.10 First considering density, due regard must be given to the developable land. While the Local Plan included high level ‘net developable areas’, a further assessment is required at application stage. Excluding land within Flood Zones 2 and 3, the site has a developable area of 5.25ha. At 180 units, this equated to a development density of 34 dwellings per ha, which is reasonably close to the target density of 35 dwellings per ha.

- 10.11 Progressing to housing mixture, LP11 seeks for proposals to provide a representative mixture of house types for local needs. This is expanded upon and detailed within the Council's Affordable Housing and Housing Mix SPD (March 2023). However, as the Council's Affordable Housing and Housing Mix SPD (March 2023) was only adopted towards the end of this application, reasonable transitional arrangements are required and full adherence to the SPD is not expected.
- 10.12 The following is the SPD expectation, for information purposes, against that proposed:

	SPD Expected Mixture (Batley and Spen)	Proposed Mixture
1- and 2-beds	30 – 60%	52 (28%)
3-beds	20 – 40%	86 (48%)
4-beds +	15 – 35%	42 (23%)

As is evident, the proposal does not conform to the recently adopted SPD's expectations. However, negotiations between the applicant and officers on the housing mixture were predicated on the older Strategic Housing Market Assessment (SHMA). The proposal, as amended, was deemed to comply with the SHMA's expectations, prior to the new expectations of the SPD being adoption. Given this, and the minimal divergence between that previously negotiated and the SPD's target, officers do not consider the proposal contradictory to the aims of policy LP11 in terms of housing mixture.

- 10.13 Summarising on the above, the proposal would represent a good density of development and the housing mixture proposed is not unreasonable. Accordingly, the proposed is considered to represent an effective and efficient use of land, in compliance with policies LP7 and LP11, and the Council's Affordable Housing and Housing Mix SPD (March 2023).

Sustainable development and climate change

- 10.14 As set out at paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF goes on to provide commentary on the environmental, social and economic aspects of sustainable development, all of which are relevant to planning decisions
- 10.15 The site is within the urban envelope and is considered to be a location sustainable for residential development. It is accessible, lying within an existing established settlement and within circa 500m of the to various local amenities and facilities in Cleckheaton local centre where bus stops give reasonable access to the district centre of Dewsbury. At least some, if not all, of the daily, economic, social and community needs of residents of the proposed development can be met within the area surrounding the application site, which further indicates that residential development at this site can be regarded as sustainable.

- 10.16 Regarding the social infrastructure currently provided and available in Cleckheaton (which is relevant to the sustainability of the proposed development), it is noted that local GP provision is limited, and this has been raised as a concern in a representation made by a local resident. 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.
- 10.17 As well as a Sustainability Statement (within the Design and Access Statement) the applicant provides the following overview of sustainability credentials for the proposal:
- Sustainable and best practice construction techniques will be utilised, including measures such as the local sourcing of materials from manufacturers with certified environmental management systems.
 - Design of dwellings to ensure habitable rooms allow sufficient natural light into the room and all dwellings will have access to private garden and garden areas will be fully accessible for disabled occupants, where possible.
 - High levels of insulation across all thermal elements within the build and used of thermal block made from sustainable material with a high recycled content and excellent insulation and acoustic absorption properties.
 - Implementation of robust procedures to minimise construction waste including measures to share soil and aggregate waste and reduce dust, fumes, discharge and any other form of pollution on site in line with best practice.
 - Use of eco-sanitary ware to ensure water efficiency across the scheme.
 - Provision of onsite POS and pedestrian and cycle provision and links to ensure delivery of easily accessible and high-quality amenity areas and greenspace and promote health communities and active travel.
 - A Travel Plan to be adopted to promote sustainable modes of travel.
- 10.18 Regarding climate change, measures would be necessary to encourage the use of sustainable modes of transport. Adequate provision for cyclists (including cycle storage and space for cyclists), electric vehicle charging points, and other measures have been proposed or would be secured by condition (referenced where relevant within this assessment). A development at this site which was entirely reliant on residents travelling by private car is unlikely to be considered sustainable. Drainage and flood risk minimisation measures would need to account for climate change. These factors will be considered where relevant within this assessment.

Urban Design

- 10.19 Relevant design policies include LP2 and LP24 of the Local Plan and Chapter 12 of the National Planning Policy Framework. These policies seek for development to harmonise and respect the surrounding environment, with LP24(a) stating; 'Proposals should promote good design by ensuring: the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape'.
- 10.20 First considering the site as existing, it is brownfield land with various redundant modern commercial buildings. While it has naturalised in parts, this is around detritus and hard surface, limiting the attractiveness of the vegetation. Overall, the site is considered visually detrimental to the character of the wider area and its redevelopment is welcomed.
- 10.21 There is development to the north, east and west around the site, and the proposal would re-develop brownfield land. Therefore, the proposal would not appear as a rural intrusion (i.e., encroaching into open countryside). However, the land to the south does transition into the rural environment. The siting of the site's main Public Open Space and with a lower density of development as the site falls southward would ensure a reasonable transition between the urban and rural environments.
- 10.22 The proposed layout reflects a typical modern residential estate with a main estate road, with several branching private drives, that dwellings would front onto. Dwellings are well sited within their plots, giving suitable separation to the highway and appropriate side to side spacing. Some portions of the site have a higher concentration of front parking spaces, however, these are not unduly common and are suitably broken up by front landscaping.
- 10.23 The scale of the proposed dwellings is typical for modern dwellings and reflect sizes of units evident around the site. Most units are two-storeys in height, as is predominant in the area, with only a modest proportion of 2.5-storey units. Those 2.5-storey units would host a small front-facing dormer, which would appear unintrusive while keeping their evident height low, therefore not causing these greater height units to appear incongruous or overly dominant.
- 10.24 Architecturally the dwellings have a typical modern vernacular that is not unattractive. The architectural design of dwellings in the area is varied, resulting in no defined character or characteristics; in such a setting, the typical modern attractive vernacular of the proposed units would appear suitably harmonious.
- 10.25 Walling materials are to include a mixture of artificial stone, red brick, and buff brick. The red and buff brick will be predominant, with the artificial stone used at key points / lines of sight. Roofing would be a mixture of red and grey concrete tiles.
- 10.26 Examples of all these materials are evident in the area, and their inclusion would not cause the development to appear incongruous and there is no objection to their use. However, suitable quality materials must be used: a condition is recommended for samples for review by officers. Plots 1 – 4 and 179 – 180 fronts onto Westgate, a prominently natural stone street. In the interest of preserving the character of Westgate and securing a high-quality entrance design, it is considered reasonable and necessary to condition that these given plots be faced in natural stone.

- 10.27 Retaining walls are to feature throughout the site, typically ranging between 0.2 to 2.0m, although in the south-east corner these would rise up to 4.0m (adjacent to the southern commercial development). Their inclusion is necessitated by the varied and sloping ground level within the site. While they would be prominent in the development, more so than in the wider area, they would be kept to a minimal when viewed from the road / public vistas as they are typically between and to the rear of plots. As such, their inclusion would not be detrimental to visual amenity. However, facing materials for the retaining walls have not been provided: a condition for such details, to be approved by officers, to ensure those that are visible are built in a suitably attractive way, is proposed.
- 10.28 In terms of landscaping, it is noted that the proposal includes the removal of all trees within the site. This would include 65 individual trees and 35 tree groups (covering 8,950sqm). This includes 16 trees protected by a Tree Preservation Order. LP33 states that "*Proposals should normally retain any valuable or important trees where they make a contribution to public amenity, the distinctiveness of a specific location or contribute to the environment, including the Wildlife Habitat Network and green infrastructure networks*".
- 10.29 The site is in neither the Wildlife Habitat Network or green infrastructure networks. All trees within the site are category C (low / poor quality) or U (unsuitable for retention). Nearly all have grown self-seeded in the last 20 years following the extensive demolition of the previous commercial structures on the site. Given their density and sporadic placement on site it is difficult to envision any re-development of the site which would retain the trees. Given their poor quality and siting within an untidy brownfield site, they are considered to be of limited amenity value individually. Cumulatively they do have a moderate effect on the appearance of the site however. As such their loss is not considered to be a substantial concern, nor contrary to LP33, subject to appropriate mitigation achieving a suitable replacement planting strategy.
- 10.30 The above also applies to the TPO-protected trees on the boundary with Quarry Road too. These trees have been severely pollarded and are in a poor state of health. As a result, they too have little value either as species or as an amenity screen. As such K.C. Trees offer no objection to their removal.
- 10.31 Officers, including K.C. Landscape and K.C. Trees, consider the applicant's indicative landscaping strategy to be acceptable. It proposes 204 standard trees, which is welcomed. This would not, however, achieve a net gain in tree cover – such a requirement would be unfeasible or undesirable, due to it resulting in most of the allocated land being undevelopable. However, the proposed strategy includes re-planting which, while not equalling the tree loss, would result in an attractive and verdant setting. This includes the provision of street trees along the main road, planting within garden areas, and the Public Open Space. The provision of select, heavy and extra heavy standard trees in a range of species which would provide and maximise on food and nectar sources for birds and invertebrates would improve on the overall quality of provision across the application site.

- 10.32 Specific to the TPO trees to be removed, there would not be comparable replanting in that area / along Quarry Road. Only nine new trees are shown on this boundary and all are within the rear gardens of the new properties so the likelihood of these trees achieving maturity is limited. The layout does not leave enough space for a planting strip along Quarry Road and such a planting strip would need to be privately managed or removed from gardens and adopted by the Council. A reduction in garden sizes is not welcomed and repositioning plots would have unacceptable knock-on effects. While the reduction of tree cover on Quarry Road will change its character, given the overall level of re-planting and suitability of the landscaping, officers do not offer an objection.
- 10.33 Notwithstanding the above the landscape details are indicative and lack management and maintenance details. A condition for a fully-detailed strategy, to include management and maintenance details, is therefore proposed. A condition for specific details of street trees is also recommended.
- 10.34 In summary, the proposed works would notably change the character and appearance of the site and wider area. Nonetheless, the site is in a visually poor state and the proposed development is considered to be well designed to a high standard. The proposal would represent an attractive continuation of the residential environment, while appropriately transitioning to the rural landscape to the south. Accordingly, the proposal is deemed to comply with the aims and objectives of Policies LP2 and LP24 of the KLP, and Chapter 12 of the NPPF.

Historic environment

- 10.35 The site is not within a Conservation Area. The properties at 1, 2, 3 Lower Blackup (Grade 2 Listed) are located circa 100m south of the site (although due to the open space to the south, there would be over 150m between the Listed Building and proposed dwellings).
- 10.36 1, 2, 3 Lower Blackup are a historic farmhouse, hosting a section from circa C.17 and another from C.18. Its heritage value is considered to be its architectural form, historic use, and its setting in much of its original farmland.
- 10.37 The proposed development would not directly affect the fabric of the listed building but would be visible within its setting. However, there would be a reasonable separation distance between the development and the listed building. Furthermore, the site is brownfield and has been extensively developed in the past. The site is in a poor state and the development would raise its visual attractiveness. Given the proposal would re-develop brownfield land, would not encroach upon the existing fields around the farmhouse, officers are satisfied the proposal would have a neutral (potentially beneficial) impact upon 1, 2, 3 Lower Blackup as a heritage asset.
- 10.38 In light of the above, the proposal is deemed to comply with LP35 of the Kirklees Local Plan. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the council to have special regard to the desirability of preserving listed buildings, their settings and any features of special architectural or historic interest which they possess. The proposed development also complies with this.

Residential Amenity

- 10.39 Local Plan policy LP24 requires developments to provide a high standard of amenity for future and neighbouring occupiers, including by maintaining appropriate distances between buildings. There are numerous neighbouring properties to the north, east and west of the development arrayed around the site, notably the rear elevations of properties on Clare Road to the east, the rear of properties which front Taylor Street, and a flat above a commercial unit on Lime Street.
- 10.40 All proposed separation distances between existing and new dwellings comply with the minimums outlined within the Housebuilders Design Guide SPD. This is specifically 21m between facing habitable room windows and 12m between habitable room windows and a blank / side facing wall of original buildings (i.e., excluding extensions). As set out within the SPD, due regard must be given to whether topographical differences necessitate a greater distance than the minimum: while topography varies through the site, there are deemed to be no instances where topography would require greater than the minimum separation distances between existing and proposed dwellings.
- 10.41 It is noted that planning permission ref. 2018/93329 granted permission for six dwellings along the north-east boundary (on land currently addressed Cleckheaton Hand Car Wash, 75 Westgate). The permission expired January 2022 and officers have seen no evidence to suggest it was implemented, however for completeness due regard has been given to potential impacts between the previously approved dwellings and those proposed: in summary the respective layouts are compatible and would not result in poor amenity for prospective occupiers.
- 10.42 Retaining walls would feature throughout the site, typically ranging between 0.2 to 2.0m, although in the south-east corner these would rise up to 4.0m (adjacent to the southern commercial development). While somewhat substantial in sections, the tallest retaining walls would be on the south and would abut commercial properties, thereby not harming residential amenity. Retaining walls along the east boundary, onto the boundary with Quarry Road and therefore visible from the rear of properties on Clare Road, would be an acceptable distance away and not unduly large, to prevent harmful overbearing or overshadowing from the retaining walls.
- 10.43 A condition requiring the submission and approval of a Construction (Environmental) Management Plan (C(E)MP) is recommended. The necessary discharge of conditions submission would need to sufficiently address the potential amenity impacts of construction work at this site, including cumulative amenity impacts should other nearby sites be developed at the same time. Details of dust suppression measures would need to be included in the C(E)MP. An informative regarding hours of noisy construction work is recommended.
- 10.44 Given the adequate separation distances shown by the proposal to existing dwellings, officers are satisfied that there would be no harmful overshadowing, overbearing, or overlooking, nor other harm to 3rd party residents' amenity, caused by the development.
- 10.45 Consideration must also be given to the amenity of future occupiers.

- 10.46 The size of the proposed residential units is a material planning consideration. Local Plan policy LP24 states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, and the provision of residential units of an adequate size can help to meet this objective. The provision of adequate living space is also relevant to some of the council's other key objectives, including improved health and wellbeing, addressing inequality, and the creation of sustainable communities. Recent epidemic-related lockdowns and increased working from home have further demonstrated the need for adequate living space.
- 10.47 Although the Government's Nationally Described Space Standards (March 2015, updated 2016) (NDSS) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed, as set out in the council's Housebuilder Design Guide SPD. NDSS is the Government's clearest statement on what constitutes adequately-sized units, and its use as a standard is becoming more widespread – for example, since April 2021, all permitted development residential conversions have been required to be NDSS-compliant.

House Type	Number of units	Proposed (GIA, m ²)	NDSS (GIA, m ²)
205 Bungalow / 2-bed	3	64.66	61
T1 / 2-bed	49	74.88	70
T2 / 3-bed	75	85.75	84
CT-933 / 4-bed	11	86.68	84
AH5 / 4-bed	42	115.76	103

- 10.48 All units meet or exceed the NDSS standards. All would have well-proportioned habitable rooms that are served by good sized windows that provide a clear outlook and level of natural light. The Council does not hold policies relating to garden sizes: nonetheless, officers are satisfied that garden sizes are commensurate in scale to their respective host dwellings and overall, the proposed dwellings would offer a suitable standard of amenity for occupiers.
- 10.49 Public Open Space of 14,214.24sqm, consisting of amenity green space, natural / semi-natural green space, and a Local Equipped Area of Play (LEAP) (details of the LEAP and its implementation recommended to be secured by condition) would be provided on site and would contribute to the amenity of future residents, as well as those in the area. This is a sizable provision, although does not account for all required typologies (excluding allotments, parks and recreation, and outdoor sport). To offset the shortfall a contribution of £202,174 is required, to be spent in the local area. However, the applicant has provided a viability assessment relating to financial contributions, which is considered full in paragraphs 10.92 to 10.102.
- 10.50 There are commercial units to the north, east, and south of the proposed dwellings which represent possible noise pollutants. Development should seek to avoid new residential dwellings coming into conflict with existing businesses undertaking established reasonable operations (NPPF paragraph 187 is relevant here).

- 10.51 The application is supported by an Acoustic Report which has been reviewed by K.C. Environmental Health. The report identifies that noise pollution is an issue for the site. However, appropriate mitigation has been considered and demonstrated to effectively ensure dwellings would have adequate internal noise levels. A condition to ensure these mitigation measures (glazing specifications) are adhered to is recommended, alongside a condition for ventilation systems for units with mitigation: this is to ensure rooms may be ventilated without opening windows. The report also considers noise levels within external amenity areas (i.e., gardens): again, at baseline issues would be present, however adequate mitigation (acoustic fencing) has been demonstrated to be feasible. Comprehensive site wide details are not provided, therefore a condition requiring full details of where acoustic fencing, and to what specification is recommended. Subject to these conditions the proposed development would not suffer from undue noise levels from adjacent business, in accordance with Local Plan Policy LP52.
- 10.52 To conclude, the proposed development is considered not to be detrimental to the amenity of neighbouring residents. Furthermore, the proposal would secure an acceptable standard of amenity for future residents. Subject to the proposed conditions, the proposal is deemed to comply with Policies LP24 and LP52 of the Kirklees Local Plan.

Highways

- 10.53 Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed effectively and safely by all users. The policy also states that new development would normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.
- 10.54 Paragraph 110 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 111 of the NPPF adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.
- 10.55 First considering traffic generation, a proposal of 180 dwellings is expected to generate the following movements:

	Arrival	Departure	Two-way
AM Peak	21	93	114
PM Peak	68	27	95

Note that the above includes a reduction in the traffic from the site's existing commercial unit.

- 10.56 The above trip rate information is acceptable and is considered to provide a robust assessment of development traffic impact, and demonstrates that the development would generate circa 114 and 95 additional two-way vehicle trips on to the local highway network during the AM and PM weekday peak periods respectively. In terms of distribution, K.C. Highways accept the applicant's modelling, and offer the following summary of junction impacts:

Westgate site access / Westcliffe Road stagger priority junction: No capacity problems at the junction through additional traffic.

Parkside / A638 Dewsbury Road / St Peg Lane signalised crossroads: No capacity problems at the junction through additional traffic.

A638 Bradford Road / B6121 Hunsworth Lane / Whitechapel Road signalised crossroads: Predicted to be overcapacity due to traffic growth and committed development traffic, even before the proposal's traffic generation is included. As would be expected, when additional development traffic is added, the modelling indicates that junction capacity would be further exceeded. The development has been estimated to generate 56 and 47 two-way vehicle trips at the junction during weekday AM and PM network peak periods, which equates to less than 1 vehicle per minute. This would be less than a 3% increase during either peak period, which would be well within daily variations. As such, K.C. Highways concludes that there would be a negligible impact on the operation of the junction associated with the development and would not be regarded as severe in isolation. Consideration was given to whether any improvements could be made to the junction: due to the restricted nature of the adopted highway around the junction, no physical improvements could be undertaken and the junction currently uses the latest equipment. Therefore, no improvements are feasible.

- 10.57 Concluding on the traffic impact of the proposal, based on the junction modelling assessments that have been provided, it has been identified that development traffic can generally be accommodated on the local highway network without any significant capacity impacts. Notwithstanding this, additional development traffic would have an adverse impact on the operation of the A638 Bradford Road / B6121 Hunsworth Lane / Whitechapel Road signalised crossroads. However, the traffic impact from the development is not considered to represent a severe impact in accordance with the tests set out within at paragraph 111 of the NPPF.
- 10.58 As part of a previous approval at the site in 2010 there was a requirement to upgrade the existing Zebra crossing on Westgate, adjacent to Stone Street, to a signalised crossing. This was to promote walking and improve safety. Improvements remain necessary, however have been reviewed in light of modern standards. Under modern standards a Zebra crossing is considered preferable, however with upgrades to be undertaken (to include replacement High Friction Surfacing (HFS) on both approaches, and High Intensity LED beacon units): these have been shown by the applicant and their provision may be secured via condition.

- 10.59 In addition to the above improvements, similar improvements are sought to the Zebra crossing on Westgate located to the east of the Hightown Road junction (circa 450m from the site). This is to help to mitigate the impact of additional development traffic on Westgate and to help address two rear shunt type collisions that have occurred within the vicinity of the crossing (including a rear shunt incident that resulted in a pedestrian collision). These improvements may likewise be secured by a planning condition.
- 10.60 The site's access would be formed over / would incorporate the (unadopted) Stone Street, via a priority-controlled T-junction. The design has been subject to detailed input from K.C. Highways DM. It is noted that the proposed junction arrangements include a junction stagger distance with Westcliffe Road of only 17.2m, which is below that recommended junction stagger distance contained in the Kirklees Highway Design Guide (between 22.5 to 45m is recommended, depending on road type). However, this matter has been addressed by the provision of swept path analysis, which has confirmed that right turning vehicles from each junction can safely pass. This matter has also been specifically identified to the Stage 1 Road Safety Audit (RSA) Team as part of the agreed RSA Brief, and the subsequent Stage 1 RSA has not raised any concerns with the proposed junction spacing, or any other significant issues that cannot be adequately addressed at the detailed design stage. Therefore, the proposed access arrangements are considered acceptable.
- 10.61 Progressing to the internal road arrangements, the submitted road layout details and Stage 1 Road Safety Audit have been reviewed by K.C. Highways, who considered there to be no prohibitive reason preventing a scheme for adoption being brought forward at Section 38 stage. It is deemed to comply with the standards of the Highway Design Guide SPD. Full technical details of the new access road, to an adoptable standard, are to be sought via condition.
- 10.62 All dwellings would have a level of dedicated off-road parking in accordance with the Highways Design Guide SPD. In terms of visitor parking, the Highway Design Guide recommends one per four dwellings, or 45 for the proposal. To demonstrate this, the applicant has provided swept path analysis to confirm that the 45 visitor cars, consisting of 29 dedicated spaces and 16 on-street, can safely park within the site without causing obstruction to the Councils refuse vehicle. The provision of the dwelling and dedicated visitor parking bays may be secured via condition.
- 10.63 Swept path analysis has been provided which demonstrates acceptable turning arrangements for refuse vehicles through the site. Several shared private drives are proposed. Each of these would be served by a waste collection area, allowing for effective collection by refuse services. The provision of these waste collection areas may be secured by conditions. Given the scale of the development, which will likely be phased, a condition is to be imposed for a waste collection strategy during the construction phase. This is because refuse services will not access roads prior to adoption (or while construction work is continuing) therefore appropriate arrangements must be considered and implemented.

- 10.64 Given the scale and nature of the development officers recommend a Construction Management Plan (CMP) be secured via condition. This is to ensure the development does not cause harm to local highway safety and efficiency. This would be required pre-commencement, given the need to ensure appropriate measures from the start of works. K.C. Highways DM have also advised that a 'highway condition survey' be undertaken, via condition. This would include a review of the state of the local highway network before development commences and a post completion review, with a scheme of remediation works to address any damage attributed to construction traffic. This request is considered reasonable and a condition is recommended by planning officers.

Sustainable Travel

- 10.65 Policy LP20 of the Kirklees Local Plan states *'The council will support development proposals that can be served by alternative modes of transport such as public transport, cycling and walking and in the case of new residential development is located close to local facilities or incorporates opportunities for day-to-day activities on site and will accept that variations in opportunity for this will vary between larger and smaller settlements in the area.'*
- 10.66 The application is supported by a Framework Travel Plan which provides initial review and proposals relating to promoting sustainable travel methods.
- 10.67 The site is within walking and cycling distance of various amenities and services. This includes the local centre of Cleckheaton, the centre of which is circa 800m away from the site. Within a 2km walking catchment are various facilities, including Cleckheaton Centre, including its bus station, shops, various shops and recreational facilities. Continuous footways are present along the Westgate carriageway and there are number of Public Rights of Way in the area supporting pedestrian movements. Extending to a 5km cycle catchment includes the centres of Gomersal, Liversedge, and Scholes and the facilities they provided.
- 10.68 PROW SPE/93/20 runs along Brick Street, to the west of the site. This continues southwards, into the open space. While development would back onto it, the amenity and function of the PROW would not be materially impacted upon by the proposal. The proposal includes a connection onto the PROW which is welcomed. A condition requiring details of the PROW connection path, and securing its delivery, is recommended. A similar condition is recommended for the footpath onto Quarry Road, in the north-east of the site, to promote pedestrian movements.
- 10.69 Considering public transport, the A643 Westgate is a bus route, with stops available within easy walking distance of the site (less than 400m), with the eastbound stop accessible via the existing zebra crossing located to the west of the site access. The stops cater for the 200, 254, 259, 263 and AL1 services that provide frequent bus services (circa 4 per hour during weekdays, plus weekend and evening services) to Heckmondwike, Brighouse, Dewsbury, Bradford and Leeds, and interchange opportunities at Cleckheaton Bus station.

- 10.70 West Yorkshire Metro advised that improvements to the existing bus stop facilities should be provided, including Real Time Display at the eastbound stop (ref: 14086) at a cost of £10,000.00 and a new shelter with Real Time display at the westbound stop (ref: 14085) at a cost of £23,000.00. The total cost would be £33,000.00 and should be secured via a Section 106 agreement. West Yorkshire Metro also advised that a contribution of £40,920 be secured towards sustainable travel incentives to encourage the use of sustainable modes of transport. The fund can be used to purchase a range of sustainable travel measures including discounted MetroCards (Residential MetroCard Scheme) for all or part of the site. This has been discussed and agreed with the applicant, to be secured via S106. However, viability considerations are outlined in paragraphs 10.92 to 10.102.
- 10.71 With regard to other methods of travel, opportunities for cycle improvement in the area are limited. Nonetheless, the provision of cycle storage facilities and electric vehicle charging points (EVCP), one per dwelling, are also recommended to be secured via condition. This is to promote alternative, low emission, methods of travel.
- 10.72 The site is considered to be within a sustainable location. Furthermore, the proposal includes highway improvements that will promote walking towards local facilities as well as a contribution towards public bus infrastructure. Other conditions relating to cycle storage and EVCP are proposed. As such, the development is deemed to comply with the aims of policy LP20.
- 10.73 Overall, it is concluded that the proposal is acceptable with regard to the matter of access and highway impact. Subject to relevant conditions it has been demonstrated that the proposed development can accommodate sustainable modes of transport and be accessed effectively and safely by all users and that any significant impacts from the development on the transport network can be viably and appropriately mitigated. It is concluded that the development would not result in a severe cumulative highway impact given the proposed mitigation. It would therefore comply with Policies LP20 and LP21 of the Kirklees Local Plan and guidance within the National Planning Policy Framework.

Drainage and flood risk

- 10.74 The application is supported by a Flood Risk Assessment that includes a surface water drainage strategy which has been reviewed by K.C. Lead Local Flood Authority. Comments have also been received from Yorkshire Water and the Environment Agency.
- 10.75 First considering flood risk, the principal source of flooding near the site is Blacup Beck, to the south. The beck runs along part of the south boundary, before entering the site as a culvert. As a result, part of the site is within Flood Zones 2 and 3 generated by the beck. In allocating the site, the Local Plan allocation states that there should be 'no residential development within flood zone 3'. This has been adhered to, with no residential development proposed within flood zone 3. The front driveways of plots 64 – 69 are shown to be within flood zone 2, with the houses themselves in Flood Zone 1. This would not be contrary to policy.

- 10.76 Due regard has also been given to the impacts of climate change on the flood zones. Notwithstanding all dwellings being within Flood Zone 1, standing advice is that finished floor levels are set 600mm above the water level. Due to the site's level and the proposed regrading, the lowest finished floor level is proposed at 96.150m, therefore having 1.45m clearance. Nonetheless, a condition requiring that development be done in accordance with the mitigation measures, for reassurance, is proposed.
- 10.77 The Environment Agency (EA) have reviewed the proposal and have objected on two grounds. The first, due to the proposal including re-grading works within Flood Zone 2, the EA require compensatory storage (for flood water) to be provided. The applicant provided details of this, which the EA queried. Secondly, the EA seek clarification on methods to prevent the culvert being blocked. The applicant has responded to these points: officers are awaiting the response from the EA, and this will be provided within the update to members. Nonetheless, given the nature of these concerns, officers are satisfied that they do not amount to fundamental issues preventing approval of planning permission.
- 10.78 Regarding Blacup Beck, it is partly culverted through the site. Local Plan policy LP27 seeks for culverts to be opened as part of applications, where feasible, which was originally proposed by the applicant. This is to promote natural drainage. However, following discussions between officers, the EA, and the applicant, it was concluded this was not desirable. The culvert, at present, holds back water and acts as a throttle. To remove the culvert would lead to flood risk being moved downstream. The downstream watercourse is already prone to flooding. Therefore, it is not considered appropriate to de-culvert. A condition for survey work and undertaking any works to the culverted section is proposed.
- 10.79 Progressing to surface water management, a surface water drainage strategy has been submitted by the applicant. The applicant has followed the drainage hierarchy in proposed to discharge surface water in Blacup Beck. This would be at a discharge rate of 26.5l/s, which is appropriate for a brownfield site. Calculations have been provided to demonstrate adequate attenuation requirements, including climate change allowances. The LLFA accepts the details provided, however advise that a condition for full technical details of the drainage strategy be secured via condition. This is deemed reasonable.
- 10.80 On exceedance event flood routing, concerns raised by the LLFA have been discussed with the applicant. Via the latest plans, these concerns have been adequately addressed and demonstrate no prohibitive issues relating to flood water routing. Nonetheless, it is recommended that a condition be imposed requiring full updated details to be provided and implemented.
- 10.81 The maintenance and management of the approved surface water drainage system (until formally adopted by the statutory undertaker) would need to be secured via a Section 106 agreement. This is to extend to the Blacup Beck crossing the site, in accordance with LP29.
- 10.82 Details of temporary surface water drainage arrangements, during construction, are proposed to be secured via a condition.

- 10.83 Yorkshire Water have objected to the proposal on two main grounds. There are various Yorkshire Water pipes under the site they seek to protect. The first is due to the landscaping strategy showing trees within the exclusion zone of several of the pipes. This has been addressed by the applicant via an updated indicative landscape strategy. This could also effectively be controlled via the proposed full technical details on landscaping. The second reason is that, following amendments to the proposal, previously shown pipes and notes relating to their diversion have been omitted / changed. The applicant has responded directing Yorkshire Water to where the information is, and have updated their plans to make it clear.
- 10.84 Notwithstanding Yorkshire Water's objection, officers are satisfied that recently-submitted details from the applicant address the concerns. Alternatively, the concerns could be adequately addressed via condition. However, Yorkshire Water have not yet responded to either the applicant or officer's consultation request. An update on the matter may be provided within the update to Members.
- 10.85 Considering the above, subject to the proposed conditions and securing management and maintenance arrangements via the Section 106 agreement, the proposal is considered by officers and the LLFA to comply with the aims and objectives of policies LP28 and LP29 of the KLP and Chapter 14 of the NPPF.

Ecology

- 10.86 Policy LP30 of the KLP states that the Council would seek to protect and enhance the biodiversity of Kirklees. Development proposals are therefore required to result in no significant loss or harm to biodiversity and to provide net biodiversity gains where opportunities exist.
- 10.87 The application is supported by an Ecological Impact Assessment (EclA) which has been reviewed by K.C. Ecology. Overall, the site is determined to support a modest range of habitats. However, from the suite of protected species surveys undertaken at the site to support the application, the proposed development is predicted to have no significant impacts on any ecological receptors, subject to suitable mitigation measures, which can be delivered through appropriately-worded planning conditions.
- 10.88 The application's Biodiversity Net Gain metric calculates that post-development, the development will result in a 32.37% net loss (loss of 6.64habitat units), whilst 3.2 hedgerow units will be created at the site, resulting in a net gain of 172%. It is considered that all options to maximise the availability of habitat units within the site and the wider area have been exhausted. As such, off-setting will be required in order for the development to achieve a biodiversity net gain. In order for the development to achieve a net gain, 8.69 habitat units will need to be delivered. Commuted sums are calculated on the basis of £20,000 per habitat unit (national average taken from DEFRA's latest BNG impact assessment) plus a 15% admin fee (as detailed in the BNG technical advice note). Therefore, a commuted sum of £199,916 would be required in order for the development to achieve a 10% biodiversity net gain. This would be used for ecological enhancements within the area by the Council.

- 10.89 Notwithstanding the off-site contribution, the proposal would deliver some habitat units on site. A condition for an Ecological Design Strategy, to detail their delivery, is proposed along with their management and maintenance being secured within the Section 106 agreement, for a minimum of 30 years. A condition for a Construction Environmental Management Plan: Biodiversity is also recommended, to ensure construction activity is managed in a considerate way.
- 10.90 Invasive non-native species (Giant Hogweed, Himalayan Balsam, Japanese Rose) were found on the site. Therefore, a condition for an invasive species management plan is recommended, to avoid spreading invasive species.
- 10.91 Subject to the given conditions and securing the off-site ecological contribution, the proposal is considered to comply with the aims and objectives of LP30 of the Kirklees Local Plan.

Planning obligations

- 10.92 Paragraph 56 of the NPPF confirms that planning obligations must only be sought where they meet all of the following: (i) necessary to make the development acceptable in planning terms, (ii) directly related to the development and (iii) fairly and reasonably related in scale and kind to the development.
- 10.93 The following represents a policy-compliant set of Section 106 financial obligations for the proposal:
- Affordable Housing: 36 units (20%), consisting of 20 (55%) as affordable rent and 16 (45%) as intermediate, to include 9 (25%) first homes.
 - Public Open Site (off-site contribution): £202,174
 - Education: £357,733
 - Ecological Net Gain (10%): £199,916
 - Sustainable Travel: £135,070 (£33,000 shelter and real time improvements, £92,070 Mcards, £10,000 Travel Plan monitoring).
- 10.94 Section 106 obligations that would be required regardless of the financial contributions include the provision of the site's on-site Public Open Space and management / maintenance arrangements for the drainage (prior to adoption), management for the culvert, open space, and ecological features.
- 10.95 The applicant has provided a Viability Assessment seeking to demonstrate that the proposal would not be viable if a full suite of Section 106 financial planning obligations were imposed upon them. The Government's planning practice guidance provides the following overview of the Viability Assessment process, for context:

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

Any viability assessment should be supported by appropriate available evidence informed by engagement with developers, landowners, and

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

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

- 10.96 The applicant's viability assessment has been reviewed by an independent viability assessor (Align) appointed by the Council, to advise officers on this specialist subject. The key matters of dispute identified by Align are as follows;

Adopted House Prices: The applicant claims units will sell for £240 per square foot. This would achieve a revenue of £41,616,480 for the developer based on the units proposed. Align believe local circumstances dictate a higher price of £245 per square foot could be achieved. This would achieve a total revenue of £42,483,490.

Abnormal Costs: The applicant calculates all abnormal costs associated with developing the site to come to £7,902,606, with a contingency of 5%. Align have disputed the cost for Piling and Ring Beam, reducing the total abnormal costs to £7,422,606, and considering a contingency of 3% more appropriate.

Benchmark Land Value: The applicant proposed that the Benchmark Land Value is £2,937,355. Due to the poor state of most of the buildings, along with other differing views of the land's value, Align have identified a Benchmark Land Value of £1,486,271.

- 10.97 Planning Practice Guidance indicates that a profit level of 15-20% of gross development value is generally considered to be a suitable return to developers. There are a number factors that determine what a reasonable level of profit might be, including the availability of development finance, the state of the market and the consequent risk in proceeding with schemes, as well as development values and demand. In determining the appropriate level for an individual development, regard is had to the individual characteristics of that scheme.
- 10.98 Using their calculated figures, Align have reached the following conclusion on viability, using a surplus above percentage profit value, provided at different profit levels as guidance:

Profit Level	Surplus Value
15% profit on GDV	Surplus of £2,798,835.
17.5% profit on GDV	Surplus of £1,929,188.
20% profit on GDV	Surplus of £1,050,335.

- 10.99 Based on the above surplus figures, even at the lower 15% profit level it is accepted that the scheme could not provide the full Section 106 financial contribution package. However, it is considered that a reduced Section 106 package may be sought without making the scheme wholly unviable. To determine the value of the reduced package, due regard must be given to what is a reasonable level of profit value for a specific proposal. This should be between the identified 15 to 20% margin, which is ultimately a decision for the decision maker. Furthermore, it must be acknowledged that viability assessment is partly a subjective process based on professional views on the costs of development and likely sales values.
- 10.100 Officers have negotiated with the applicant to reach an agreeable position on the contributions. In summary, officers and the applicant have agreed a figure of £1,239,272 as a reasonable and fair contribution. Officers advise that this be spent as follows, although again the final decision on this rests with the Committee as decision maker:
- **Affordable Housing:** 9 First Homes and 3 Affordable Homes (6.6% of total units) (valued at £936,585.72)
 - **Open space off-site contribution:** £59,770.28
 - **Metro enhancements:** £33,000 towards bus stop improvements
 - **Sustainable Travel:** £10,000 towards travel plan monitoring
 - **Biodiversity:** £199,916 towards off-site measures to achieve biodiversity net gain, with alternative option to provide on-site or nearby provision if suitable scheme identified;
- 10.101 It should be noted that, while the applicant has agreed to the above, they also require the agreement of the landowner which has not been confirmed at the time of writing. This will be reported in the update.
- 10.102 Notwithstanding the proposed arrangements, it is acknowledged that this viability process has been based on costs and assumptions that are subject to change. To ensure that any windfalls (such as higher sales values, or lower construction costs) do not result in unexpected profits without reasonable contributions being secured, a review mechanism is proposed for an additional viability assessment partway into the build process of the development. This is to ensure contributions may be secured on any windfall profits.

Other Matters

Air quality

- 10.103 An Air Quality Assessment has been submitted in support of the application. The proposed development site is not located within an Air Quality Management Area (AQMA) but is approximately 1.5 miles from Kirklees Councils (AQMA) 7 Liversedge, which incorporates Huddersfield Road (A62), Bradford Road (A638), Wakefield Road (A638), Wormald Street and Well Street, in Liversedge. This was declared due to exceedances of the annual mean air quality objective for nitrogen dioxide (NO₂). The site is located adjacent to the A643 Westgate where there is the potential to expose future sensitive receptors to elevated pollution concentrations due to increased road traffic emissions.

- 10.104 The proposed development has the potential to impact the existing air pollution levels at nearby sensitive receptor locations because of additional road vehicle exhaust emissions during the operational phase. This potential impact is considered at length within the applicant's AQIA, following the West Yorkshire Low Emissions Strategy (WYLES) – Technical Planning Guidance. The report concludes that pollutants attributed to the proposal would be negligible and not significant at all sensitive receptor locations within the vicinity of the site: the applicant's methodology and conclusion have been reviewed and supported by K.C. Environmental Health.
- 10.105 Notwithstanding the above, mitigation measures are proposed within the AQIA. This includes provision of EVCP (1 per dwelling) and promoting a Travel Plan to promote alternative methods of travel. The provision of 1 EVCP per dwelling may be secured via condition, and a travel plan has been provided and reviewed in paragraphs 10.66 to 10.73.
- 10.106 The main emissions during construction are dust and particulate matter. A qualitative assessment of construction phase impacts associated with fugitive dust emissions was undertaken. It found that, with no mitigation, dust and particulate could harm human health. However, the report identifies that these impacts can be reduced through the implementation of mitigation measures. A condition requiring the development to be done in accordance with the mitigation measures is recommended, to ensure the harm is reduced to being not significant.
- 10.107 Subject to the given conditions, officers are satisfied that the proposal would not harm local air quality, nor would new residents suffer from existing poor air quality, in accordance with policy LP51 of the Kirklees Local Plan.

Contamination

- 10.108 In accordance with LP53, as a major residential development consideration of ground contamination is required. Furthermore, Council records indicate the site as being potentially contaminated due to its proximity to historic collieries and brickworks. The application is supported by Phase 1 (desktop) and Phase 2 (site investigation) Contaminated Land reports which have been reviewed by K.C. Environmental Health.
- 10.109 The Phase 1 report's conclusion has been accepted, however, the Phase 2 report provides inadequate assessment relating to ground gas and other technical matters for Environmental Health to support the conclusion. Accordingly Environmental Health recommend conditions relating to further ground investigations and the re-submission of the Phase 2 report. Subject to the imposition of these conditions, officers are satisfied that the proposal complies with the aims and objectives of LP53.

Crime Mitigation

- 10.110 The West Yorkshire Police Liaison officer has made a number of comments and recommendations, particularly with regards to home security, rear access security and boundary treatments. All of the comments made are advisory and have been referred to the applicant, with many incorporated into the proposal during the amendments. A condition for a lighting strategy for private areas (i.e., shared driveways that won't benefit from street-lighting) is recommended. Subject to this, the proposal is considered to comply with policy LP24(e).

Minerals

- 10.111 The site is within wider mineral safeguarding area (Sandstone). Local Plan policy LP38 therefore applies. This states that surface development at the application site will only be permitted where it has been demonstrated that certain criteria apply. Criterion c of policy LP38 is relevant, and allows for approval of the proposed development, as there is an overriding need (in this case, housing and affordable housing need, having regard to Local Plan delivery targets) for it. The proposal is therefore not considered to conflict with policy LP38.

Representations

- 10.112 Officers consider all matters raised within the public representations to be addressed within the report.

11.0 CONCLUSION

- 11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.2 The proposal seeks the residential development of the majority of a Mixed-Use allocation. However, the excluded land would remain in commercial use. The proposed density and housing mix is considered acceptable and, overall, the re-development of this brownfield site is welcomed.
- 11.3 Site constraints including topography, neighbouring residential properties, trees and ecology, and various other material planning considerations. Nonetheless, the proposed development adequately addresses each. The design and appearance of the proposed development is considered acceptable. There would be no undue harm to the amenity of neighbouring residents or future occupiers. The proposed access and highway impacts have been assessed to be acceptable. Other planning issues, such as drainage, ecology, and protected trees, have been addressed through the proposal.
- 11.4 The proposal has been assessed considering material planning considerations and found to be acceptable. Viability issues have been demonstrated to prevent a fully policy compliant suite of Section 106 financial obligations, however a reduced contribution has been negotiated and agreed with the application which would assist in mitigating local impacts of the proposal.
- 11.5 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval, subject to conditions and planning obligations to be secured via a Section 106 agreement.

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

1. Three years to commence development.
2. Development to be carried out in accordance with the approved plans and specifications.
3. Material samples to be provided for approval.
4. Notwithstanding submitted details, plots 1 – 4 and 179 – 180 to be faced in natural stone.
5. Retaining wall materials to be submitted and approved.
6. Full technical landscaping strategy to be provided.
7. Technical details of street tree planting to be provided.
8. Construction Environmental Management Plan (C(E)MP).
9. Details of the Local Equipped Area of Play to be provided, approved, and implemented.
10. Acoustic Mitigation Measures to be implemented.
11. Details of Ventilation Systems, for units with acoustic mitigation, to be provided and implemented.
12. Parking spaces, both dwelling and visitor, to be provided.
13. Waste collection points for shared drives to be provided.
14. Details and implementation of improvements to x2 Zebra Crossings on Westgate.
15. Details of cycle storage, per unit, to be provided.
16. Phased delivery waste management strategy.
17. Construction Management Plan (CMP).
18. Development done in accordance with FRA climate change mitigation measures.
19. Watercourse assessment of Blacup Beck.
20. Drainage strategy details to be submitted and approved.
21. Flood routing details to be submitted and approved.
22. Temporary drainage arrangements during construction.
23. Potential Yorkshire Water conditions to address Yorkshire Water concerns (to be detailed in the update).
24. Detail and provision of connection points onto PROW SPE/93/20 (Brick Street) and Quarry Road.
25. 1 EVCP per dwelling.
26. Development done in accordance with Dust Mitigation Measures.
27. Details of acoustic fencing for gardens to be provided and implemented.
28. Contaminated Land Investigation (Phase 2, Remediation, Validation stages).
29. Ecological Design Strategy (EDS) to be provided.
30. Construction Management Plan: Ecology (CMP: Ecology).
31. Invasive Species Protocol.

Background Papers

Application and history files

Available at:

[Link to application details](#)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f93567>

Certificate of Ownership

Certificate B signed.