
Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 22-Feb-2024

Subject: Planning Application 2021/94280 Erection of 65 dwellings with associated works land at, Lady Ann Road, Soothill, Batley, WF17 0PY

APPLICANT

C Noble, D Noble Ltd

DATE VALID

11-Nov-2021

TARGET DATE

10-Feb-2022

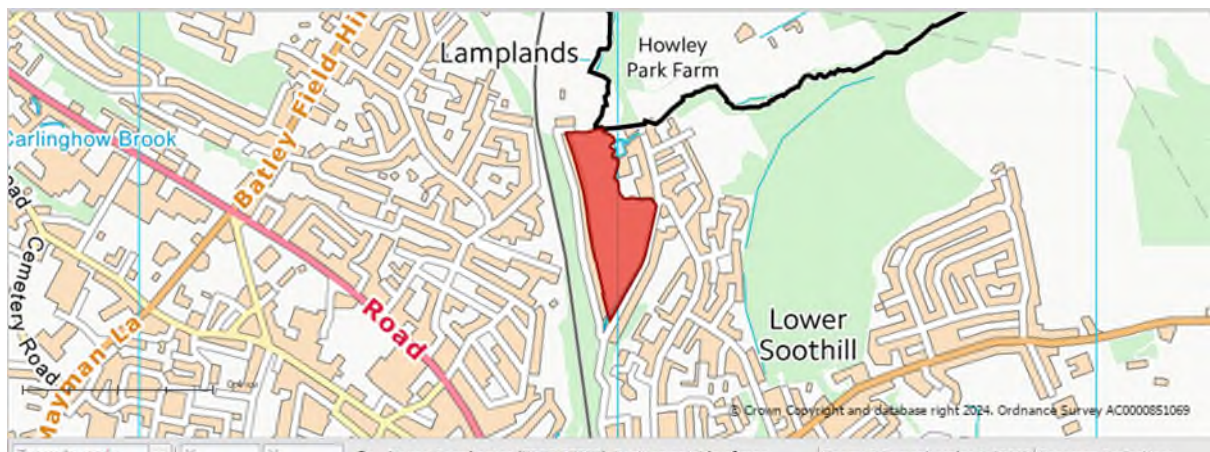
EXTENSION EXPIRY DATE

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: Batley East Ward

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:** 5 (7.7% of units) first homes (3xB3T1 and 2x B3T2)
- b) **Education:** £71,848
- c) **Public Open Space (off-site):** £62,058
- d) **Net Gain (to secure 10% net gain off-site):** £180,780
- e) **Sustainable Travel (Bus Pass):** £33,248
- f) **Sustainable Travel (Bus stop improvement):** £10,500
- g) **Sustainable Travel (PROW Improvement):** £10,000
- h) **Travel Plan monitoring:** £10,000
- i) **Management and maintenance:** POS, drainage (including culverts), and ecological features.
- j) **Viability Review Mechanism:** An updated viability report to be provided to the LPA at (TBD%) occupation, with additional Section 106 obligation to be provided if 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 application seeks full planning permission for the erection of 65 dwellings with associated works including new access off Lady Ann Road, regrading works and landscaping.

- 1.2 This application is brought to Strategic Planning Committee in accordance with the Delegation Agreement, (as revised November 2023) as the proposal has received a significant number of representations (120 in total).
- 1.3 The site has had several planning applications previously. These include two refusals (2017/91851 and 2019/92462) and one withdrawn application (2020/93071), which was intended to be refused prior to it being withdrawn. The previous applications included several reasons for refusal, which the applicant has sought to overcome via this subsequent application. Section 4.1 of this report provides details of the previous application.

2.0 SITE AND SURROUNDINGS

- 2.1 The site covers an area of approximately 3.5 hectares and is located approximately 3km north of the centre of Dewsbury.
- 2.2 The site is undeveloped, greenfield land situated between Lady Ann Road to the east and south, and Primrose Hill to the west. The topography slopes downwards from west to the south/east, with Howley Beck running along the east boundary. The site host mature trees, bushes and other vegetation. This includes a copse of trees located roughly centrally within the site which benefit from a group Tree Preservation Order (TPO).
- 2.3 The site is an irregular shape, with its northern site boundary marked by a 1m high wooden fence and bushes. To the north-west is Howley Street, which leads onto PROW BAT/20/20. The western site boundary is defined by the back gardens and rear fences of the terraced houses on Primrose Hill. Further to the west, beyond Primrose Hill and out of sight (from the application site) lies a railway line. The north-eastern site boundary is marked mainly by dense bushes and trees, which then lead into Lady Ann Business Park. The business park, a historic woollen mill, hosts several buildings including the primary red-brick mill building.
- 2.4 The properties around the site, on both Lady Ann Road and Primrose Hill, are faced in stone with brick as a secondary material. The dwellings date back to the late 19th/early 20th century.

3.0 PROPOSAL

- 3.1 The application seeks full permission for the erection of 65 dwellings. The proposal would have eight house types, with the following size mix:

- 3-bed: 31
- 4-bed: 30
- 5-bed: 4

Dwellings would be predominantly semi-detached with one terrace row. Seven units would be two-storeys in height, with the remaining being split level 2.5 storeys in height (rooms in the roof space).

- 3.2 A single new access would be formed to serve the development, from Lady Ann Road. It would be sited approximately opposite numbers 106 and 108 Lady Ann Road and would cross over Howley Beck via a bridge. The access road would branch into three separate shared surface road, which the proposed dwellings would front onto. The primary route of the road would

initially head westward in the site, raising up against the natural contours, before turning north, following the natural land level more closely and running approximately parallel to Primrose Hill road.

- 3.3 With the exception of the terrace row, all dwellings would be split level, having a two-storey and 2.5 storey elevation, i.e., rooms in the roof space utilising dormer windows, with asymmetrical roof forms used to keep eaves as low as feasible. Elevations facing west / uphill towards Primrose Hill would be two storeys. These would be a mixture of front and rear elevations, depending on the unit's position within the site. The 2.5 storey elevations would be those facing east / downhill towards Lady Ann Road.
- 3.4 All semi-detached units would have either two or three off-road parking spaces. Certain dwelling types would benefit from integral garages. The seven terrace units would rely on on-street parking. A total of 13 visitor parking spaces would be spread through the site.
- 3.5 Dwellings are proposed to be faced in artificial stone to the front, with red-brick to the rear and side elevations, with the exemption of the terrace row's side elevations facing west (downhill), which shall be stone. Artificial slate tiles in grey are proposed for the roofs. Each dwelling would have a rear garden, enclosed by 1.5m close boarded timber fencing.
- 3.6 Retaining walls would be required through the site, however by virtue of the stepped house designs would be kept to a minimal, with heights typically varying between 0.2 – 0.6m.
- 3.7 Public open space across the site would total 12,776sqm. This would include natural / semi-natural areas around Howley Beck, a, equipped children's play area and orchard to the site's south-east, and amenity greenspace spread throughout.

4.0 RELEVANT PLANNING HISTORY (including enforcement history)

4.1 Application Site

2017/91851: Erection of 84 dwellings – Refused, for the following reasons:

1. The proposal would entail residential development on a greenfield site which would significantly overwhelm the character and appearance of part of Lady Ann Road by virtue of the scale, massing and location of the proposed development. The prominent location in this case is emphasised by poor design, inconsistent roof designs and a lack of cohesion between the development and the existing urban grain. The development would represent a stand-alone design of inappropriate scale and appearance that would cause significant harm to the character and appearance of the area whilst failing to enhance the townscape. Accordingly, the proposal constitutes poor design and is considered unacceptable in terms of visual amenity, contrary to paragraph 13 of the National Planning Policy Framework, policies BE1 and BE2 of the Kirklees Unitary Development Plan and Kirklees Publication Draft Policy PLP24.

2. The application potentially impacts on water voles which are a species of Principal Importance. There is insufficient information concerning the existing population of water voles, nor has it been demonstrated that the proposed development would contribute to, and enhance the natural environment having regard to the impact on the known water vole population. The proposal is therefore contrary to UDP policies NE5, BE2 (iv) of the Kirklees Unitary Development Plan and policy PLP30(i) (ii) of the Kirklees Publication Draft Local Plan and paragraph 175(a) of the National Planning Policy Framework.

3. There is insufficient information to demonstrate that the proposed development would direct development away from the areas of flooding, contrary to policy PLP27 of the Kirklees Publication Draft Local Plan and paragraph 155 of the National Planning Policy Framework.

4. Insufficient information has been submitted to demonstrate that the proposed development would not result in unacceptable highway impacts as required by policy PLP32 of the Kirklees Publication Draft Local Plan and paragraph 109 of the National Planning Policy Framework.

5. There is insufficient information contained with the application to understand the potential impact of the proposed development on heritage assets, namely archaeology, based on the potential for the site to support historical findings, contrary to paragraph 199 of the National Planning Policy Framework.

6. There is no information supporting the application relating to requirements to support local infrastructure. A S106 agreement is required to ensure contributions towards affordable housing, education, Public Open Space and play equipment. The proposed development, therefore, fails to achieve the requirements of policy PLP4 of the Kirklees Publication Draft Local Plan.

7. The application would result in a significant impact on trees within the site which are subject to a Tree Preservation Order (TPO – 72/91). The proposal includes a retaining wall feature which would be positioned in between the protected trees potentially resulting in their loss. In addition, the proximity of proposed dwellings in close proximity of the protected trees would put undue pressure on the trees to be removed in future due to the impact the trees would have on the amenity of future occupiers of the properties. The application conflicts with policy NE9 of the Kirklees Unitary Development Plan and PLP33 of the Kirklees Publication Draft Local Plan

2019/92462: Erection of 71 dwellings with associated works including new access off Lady Ann Road, regrading works and landscaping – Refused, for the following reasons:

1. There is insufficient information supporting the application relating to requirements to support local infrastructure. A Section 106 agreement is required to ensure contributions towards affordable housing education and public open space and play equipment. The proposed development therefore fails to achieve the requirements of policies LP4; LP11; LP49 and LP63 of the Kirklees Local Plan.

2. The proposal fails to provide sufficient information to enable a meaningful assessment of the scheme in terms of ecological mitigation, impact on trees and landscape proposals. As such the scheme is contrary to policies LP30; LP32 and LP33 of the Kirklees Local Plan.

3. There is insufficient information to demonstrate that the proposed development would direct development away from areas of flooding, contrary to policy LP27 of the Kirklees Local Plan and paragraph 155 of the National Planning Policy Framework.

4. Insufficient information has been submitted to demonstrate that the proposed development would not result in unacceptable highway impacts contrary to policy LP32 of the Kirklees Local Plan and paragraph 109 of the National Planning Policy Framework.

2020/93071: Erection of 71 dwellings with associated works including new access off Lady Ann Road, regrading works and landscaping – Withdrawn, following officer's conclusion to recommend refusal to committee. A committee report was drafted, with the following reasons for refusal recommended:

1. Insufficient information has been submitted to demonstrate that the proposed development would sufficiently meet known housing need, would provide adequate, usable outdoor space and play space for its residents, and would not sufficiently mitigate its impacts including in relation to education. Insufficient financial viability evidence has been submitted to demonstrate that the proposed development cannot meet or partly meet these requirements, and the proposed development is therefore contrary to Policies LP4, LP11, LP49 and LP63 of the Kirklees Local Plan and guidance within the National Planning Policy Framework.

2. The application has failed to demonstrate that the proposal would not result in a significant loss or harm to local biodiversity or that the proposal would safeguard and enhance the function and connectivity of the Kirklees Wildlife Habitat Network. Furthermore, the application has failed to demonstrate that a correct and measurable net biodiversity gain can be achieved on site (or at a nearby site or via financial contribution). As such, the proposal fails to comply with Policy LP30 (i, ii and iii) of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

3. The proposed layout would result in a significant impact to and loss of trees of high amenity value within the site, which contribute to the character and setting of the area, and which are subject to a group Tree Preservation Order (TPO – 72/91). The applicant has failed to demonstrate sufficient arboricultural reasoning to justify the loss of the trees or propose an appropriate level of re-planting in mitigation. The application therefore fails to comply with Policies LP24(i) and LP33 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

4. Insufficient information has been submitted to demonstrate that the proposed development has been directed away from areas of flood risk and would not result in increased flood risk elsewhere, contrary to policy LP27 of the Kirklees Local Plan and paragraph 155 of the National Planning Policy Framework.

5. Insufficient information has been submitted to demonstrate that the proposed development would not result in unacceptable highway impacts, nor would the proposed development incorporate or encourage the use of methods of sustainable travel. The proposed development is therefore contrary to Policies LP20, LP21, LP23, LP24 and LP47 of the Kirklees Local Plan and paragraph 109 of the National Planning Policy Framework.

4.2 Surrounding Area

Land Off, Soothill Lane, Batley (circa 1km east of the application site)

2020/94202: Variation of Conditions 1, 9, 19 and 28 of the previous outline permission 2018/94189 (outline application for residential development of up to 366 dwellings with details of access points only) to allow for minor changes to the red line boundary plan and minor variations to the approved southern highways access point and approved remediation strategy specifications – Removal / Variation of Condition(s) Granted.

2021/91731: Reserved Matters application (layout, scale, appearance and landscaping) for the erection of 319 dwellings pursuant to previous permission 2020/94202 (Section 73) for Variation of Conditions 1, 9, 19 and 28 of the previous outline permission 2018/94189 for residential development of up to 366 dwellings with details of access points only to allow for minor changes to the red line boundary plan and minor variations to the approved southern highways access point and approved remediation strategy specification – Granted

Land between, Rutland Road, Howley Street, Primrose Hill, Batley

2021/93311: Erection of new footbridge, ramps and stairs (within a Conservation Area) – Granted

4.3 Enforcement (application site)

COMP/16/0240: Alleged Unauthorised Development – No evidence of breach.

5.0 HISTORY OF NEGOTIATIONS

5.1 This application is the fourth by the application on the site. The first was ref. 2017/91851, for 85 dwellings and was refused September 2018. The second was ref. 2019/92462, for 71 dwellings and was refused January 2020. The third was ref. 2020/93071, for 71 dwellings. This was withdrawn May 2021 following a committee report being published recommending refusal. The individual reasons for refusal per application are listed above.

5.2 This application was not subject to pre-application discussions prior to submission. Nonetheless, during the life of the submission this application has been through prolonged negotiations to attempt to resolve the various outstanding matters from the previous applications. These can be summarised as impact on trees, impact on local ecology, impact on local highways, addressing flood risk, and matters of viability. Originally the application was for 67 dwellings, but was reduced to 65. Negotiations have included various meetings and other methods of correspondence. Based on the corroboration undertaken and the amendments made, along with additional supporting documents provided, officers are now in a position to recommend approval.

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 encompasses land allocated for residential development in the Local Plan (site allocation ref: HS74). The site allocation HS74 refers to an indicative housing capacity of 97 dwellings.

6.3 Site allocation HS74 identifies the following constraints relevant to the site:

- Part of site falls within flood zones 2 and 3
- Surface water issues
- Noise source near site - Lady Anne Industrial Estate, Railway line
- Part of the site contains a Habitat of Principal Importance (Howley Beck a UK BAP priority habitat)
- Site is within the Wildlife Habitat Network
- Protected trees on site

6.4 Site allocation HS74 also lists other site-specific considerations as:

- No residential development to take place in flood zone 3

6.5 Relevant Local Plan policies are:

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP3** – Location of new development
- **LP4** – Providing infrastructure
- **LP7** – Efficient and effective use of land and buildings
- **LP11** – Housing mix and affordable housing
- **LP20** – Sustainable travel
- **LP21** – Highways and access
- **LP22** – Parking
- **LP23** – Core waling and cycling network
- **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
- **LP63** – New open space
- **LP65** – Housing 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), published 19th February 2019, 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
- **Chapter 17** – Facilitating the sustainable use of materials

6.8 Other relevant national guidance and documents:

- MHCLG: National Design Guide (2021)
- DCLG: Technical Housing Standards – Nationally Described Space Standard (2015)

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.

7.0 PUBLIC/LOCAL RESPONSE

The applicant’s statement of community involvement (SCI)

7.1 The application is not supported by a Statement of Community Involvement (SCI) and no pre-application public engagement was undertaken by the applicant, prior to the submission of this application.

Public representation

7.2 The application has been advertised as a major development via site notices and through neighbour letters to properties bordering the site, and was advertised in the local press This is in line with the Council’s adopted Statement of Community Involvement.

7.3 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.

7.4 The end date for public comments was the 27th of February 2023. In total, across the two public representation periods, 120 public comments were received across three public representation periods. The representations include comments from the Chairman of Soothill Residents Association. There are also three petitions against the proposal, the first with 110 signatures, the second with 285 signatures and the third with 101.

7.5 The following is a summary of the comments received via public representation, with a full record being available on the application's webpage:

General / other matters

- Question why the applicant has been permitted to amend their proposal so many times over a long period.
- The proposal will harm local house values.
- The proposal will harm local public services, such as GPs, dentists, and schools.
- The site should be removed from the Local Plan. The area is overcrowded which is causing litter, abusive behaviour and tensions.
- The development of the site has been refused several times. There is no real change in this application compared to previous refusals.
- The development will inevitably kill the trees within the centre of the site, either quickly or harm them in the long run. These have been anecdotally stated to have been planted as a first world war memorial garden.
- Advertisement of the application has taken place over Christmas twice. This puts undue stress on residents during the festive period.
- The site is not managed and is left to 'fend for itself'. If it was, it could be of more value to local residents.
- The council is committed to planting more trees and enhancing ecology, yet is allowing the developer to destroy a site with trees and ecological value.
- Development is bad for the planet, removing natural areas that provide cooling for the planet.
- The proposal does not meet policy expectations for affordable housing.
- Brownfield sites or vacant properties should be prioritised over developing greenfield land.
- Site notices have not been erected for the last period of publicity, with residents questioning why.
- Questions whether the concerns initially raised by the council's Police Architectural Liaison officer have been resolved.
- Concerns that the development's engineering works will undermine ground stability and foundations of nearby dwellings on Primrose Hill. Some of these units already suffer from subsidence.
- The pedestrian tunnel from the bottom of Primrose Hill to the mill complex is dirty, wet and unsafe.
- The site is subject to fly tipping and this will be exacerbated by more residents.

- Circa 20 years ago City Challenge designated Batley as an area in need of improvement and funded the planting of trees on Lady Ann Road to improve the quality of life for residents. The development will counter any benefit of the previous project.
- The various applications and submissions have affected the mental health of local residents. The site should be removed as a housing allocation.

Urban Design

- The use of artificial stone is out of character with the area. All other buildings in the area are face in natural stone.
- The proposal appears to be overdevelopment, with large units cramped together.
- Most of the surrounding areas of greenbelt and farmland have now been bought and built upon. The character of the area is being eroded and towns are merging into each other.
- The existing area is low density and semi-rural, with areas of greenery. The proposal is contrary to these characteristics.
- The development represents urban sprawl that leads to increased energy use, pollution, traffic, and community cohesiveness.
- Nearby dwellings are Edwardian and/or Victorian in style. Those proposed would not reflect this and will appear unattractive in the area.
- Three storey development is not appropriate within this area.

Amenity

- The proposal will harm the outlook of local residents.
- The proposed development will cause overbearing, overlooking, and overshadowing on local residents on both Lady Ann Road and Primrose Hill.
- The development will cause noise pollution from residents' vehicle movements, use of their property, and the use of the play area
- The development will cause air pollution and harmful vibrations.
- The development will cause light pollution into nearby residents' houses.
- The proposal will increase crime within the area. Currently dwellings on Primrose Hill are protected by a natural barrier into the site which would be removed and development placed adjacent to it.
- The site is tranquil and an 'oasis on nature'. Its loss will affect the quality of life of all residents nearby. It is also used by children to play, walkers and has health benefits.
- The development will cause overshadowing upon the rear of dwellings on Primrose Hill. This is their only sunlight, as the front elevations face the banking for the railway.
- The addition of 1.8m – 2m fencing to the rear of properties on Primrose Hill will harm resident's amenity.
- Concerns over damage to trees on the site boundary and impacts their removal may have on the amenity of residents.

Ecology

- The site is a wildlife sanctuary and home to various species including water voles, bats, newts, and owls. Some of these are protected species. The site is a water meadow and water voles are particularly rare and only known in two places in Kirklees.
- The applicant's ecological report was commissioned by them and is therefore biased / unreliable.
- Anecdotal commentary that water voles are present on the site. Furthermore, survey work undertaken in the past did find evidence of their presence. However, the latest survey says there are none; this is spurious.
- Concerns that the open spaces and habitats post development will be left unmanaged after the developer quits the site.
- The development will cause pollution into Howley Beck.
- The site is also home to several wild planet species in recent years.
- The beck will be disturbed to enable the bridge to be built, harming local species.
- The development is contradictory to the government's pledge that 'We will halt the decline in our biodiversity so we can achieve thriving plants and wildlife.'
- Questions whether the concerns initially raised by K.C. Ecology have been resolved.

Drainage and Flooding

- The site is a floodplain for Howley Beck and building on it is an issue. This will affect new dwellings, but also make flooding worse for existing residents. Howley Beck has historically flooded onto Lady Ann Road.
- The children's play area will be within the flood zone, putting them at risk.
- There is a natural spring within the site that has not been considered.
- The development will require culverting of the beck and force water downstream to Bradford, causing flooding issues there.
- Developing the site will result in water entering Howley Beck at a faster rate. The beck flows into a culvert which will be overwhelmed and lead to more flooding.
- The new dwellings will not be mortgageable and uninsurable due to being in a flood zone.
- The land is graded as 3 / 4 by the Council in regards to flooding.

Highways

- The local highway network is at capacity with excessive queuing out of Lady Ann Road and connecting roads at peak times. The additional vehicle movements of the proposal will exacerbate this. This will also affect busses, making them less desirable.
- Concerns over the cumulative impacts of this development and others within the Soothill area.

- Lady Ann Road is narrow and single lane in places due to existing residents needing to park on the road. This is a particular concern at the point of the access into the new site, which will displace more parking and turning into/out of the site would be difficult. Busses, emergency vehicles, refuse and local business deliveries struggle to operate in the area due to traffic parked on the roads. This will be exacerbated by the proposal.
- Lady Ann Road is used as a bypass to Soothill Lane and has an issue with speeding drivers.
- The site has a public footpath running through it that needs to be retained. It provides health benefits and amenity for residents.
- Concerns over how construction traffic will access the site, particularly in the first instance given the need to bridge the river.
- The traffic survey undertaken was inadequate, undertaken outside of rush hour and during wet weather.
- Concerns over potential impacts upon PROW Bat 20/20 to the north of the site.
- Traffic surveys undertaken during COVID should not be accepted.

7.6 Responses to the above comments are set out later in this report. Each of the local ward Councillors have expressed objections to the proposal, with their comments summarised below:

Cllr H Zaman

- The use of artificial stone is unacceptable and the dwellings are too cramped, resulting in an unactive overdevelopment.
- There is a public footpath crossing the site that needs to be retained.
- The land is flood plan and is graded 3/4 by the Council.
- The proposal will add additional traffic onto roads that are already overprescribed. Lady Ann Road is used as a bypass to Soothill while also suffering from speeding drivers.
- Lady Ann Road is narrow and is further narrowed by residents having to park on the road. Busses, service vehicles, and local business deliveries struggling to operate.
- This housing development will put further strain on the existing infrastructure i.e., schools, madrassahs, doctors, dentists etc which would be harmful to the quality of life currently enjoyed by the community.
- The land is home to various species, some protected. The new habitat would be inadequate. Also, the beck hosts protected water voles will have to be disturbed to build the access road onto the site.
- The area flood frequently, harming local residents and will harm future residents too. The development includes work in Flood Zone 3 and will exacerbate existing flooding if land levels are changed.
- A natural spring on site has not been adequately considered.
- Residents living on Primrose Hill only get sunlight on a morning from the rear of their properties facing the proposed development because of the railway banking to the front, yet the proposal is for 3 storey houses, and this will have a serious effect on their health and mental wellbeing.

- There are inconsistencies on the plans, some showing TPOs being kept and others showing them being removed.
- There have also been two accidents not mentioned in the report that have occurred on Lady Anne Road. More consideration is required regarding traffic management.

Cllr A Zaman

- The development is for multi-storey homes facing Lady Ann Road and Primrose Hill, leaving no privacy for residents on Primrose Hill.
- The development is out of character with the area, particularly the use of artificial stone.
- The development will accommodate up to 197 vehicles. This is putting more pressure on overprescribed roads that are 'mayhem at the best of times' and worse at peak times. This will make matters more difficult for emergency vehicles.
- Cllr Zaman disagrees with the traffic report, considering it to be bias and misleading. Not all accidents have been reported (including a fatality).
- Lady Ann Road is too narrow, partly single lane due to resident parking, to accommodate the proposal. Drivers either have to wait or reverse long distances. Impacts will also be caused on Broomsdale Road and Grace Leather Lane.
- The site is a flood zone. These houses will not be able to get insurance, as existing residents cannot. The developer will make profit and leave this issue with new residents.
- Yorkshire Water are objecting due to tree planting near their pipes.
- Building works on the Lady Ann Railway bridge has negatively impact all residents around Lady Ann, Primrose Hill, Soothill, Grace Leather Lane and onwards with large diggers and noisy work. The area is illuminated at all times of day and night with restrictions on access to their homes. Primrose Hill residents have been inconvenienced long term with all the works going on to the Railway in front of their homes. Cars have been damaged with the vehicles too big for the street, scraping cars and in some cases ripping wing mirrors off.
- Insufficient consideration has been given to the mental and emotional health of residents throughout the various applications hanging over them.

Cllr Dockrat

- **Flood risk area:** The site is a flood risk area and there are concerns over the effectiveness of the mitigation proposed. Question whether insurance companies have been consulted and if they'd insure houses in this location due to flooding issues.
- **Impact on traffic infrastructure:** It is not accepted that the proposal would not materially affect the junction of Lady Ann Road and Soothill Lane. These are busy roads and any additional traffic will be an issue. This will also affect bus routes and emergency vehicles, which already struggle to navigate the network.

- **Environmental impact:** The land in question has Water Voles, Bats, Great Crested Newts, Kestrels, and Owl populations. Some of these are protected species and although there is a "protected area" on the proposed site, not all the species habitats are in that area. The beck will have to be disturbed to build the access road onto the site.
- **Impact on existing Infrastructure and services:** This housing development will put further strain on the existing infrastructure including the roads, schools, madrassahs, doctors, dentists etc which would be harmful to the quality of life currently enjoyed by the community, whilst the developer may propose contributing to wider social facilities, these must be made explicit if the development was to be proceed.
- **Impact on the wellbeing of residents and the appearance of the locality:** The area is overpopulated and the development will exacerbate impacts. The impact on the mental and emotional health of residents around Lady Ann Road, Soothill and Primrose Hill has been consistently negatively impacted with the reoccurring threat of this development hanging over them year on year, creating ongoing fear, worry and stress. Residents have, campaigned, objected and petitioned multiple times why this parcel of land is so inappropriate for development.
- **Visual impacts:** The layout of the proposed scheme appears as an overdevelopment of the site with blocks of semi-detached dwellings, excessive utilisation of space.

8.0 CONSULTATION RESPONSES

8.1 Statutory

K.C. Highways (Development Management): K.C. Highways have been involved in prolonged discussions with the applicant. This includes assessment of potential traffic impacts of the development and ensuring an appropriate highway design. Based on final details, no objection subject to S106 contributions and conditions being imposed.

K.C. Lead Local Flood Authority: The LLFA requested further details specific to the proposed surface water attenuation strategy. This was provided to the satisfaction of the LLFA, who have now confirmed no objection to the proposal. This is subject to conditions being imposed along with clauses relating to management and maintenance of surface water within any S106 agreement.

Network Rail: No response received. On previous applications they offered no objection to the proposal, however given the site's proximity to the Lady Ann level crossing on Howley Street. They requested that level crossing safety details be provided to future residents, however they also accept that such a request is unlikely to be reasonable / necessary as a planning condition. Therefore, a note on the decision notice, if minded to approve, is requested.

The Environment Agency: Initial concerns were expressed by the EA due to proposed works in and around the flood zone. This includes the re-profiling of land that would affect a flood zone. Nonetheless, the applicant provided further details that addressed the initial concerns identified. As a result, subject to conditions, the EA offer no objection.

8.2 Non-statutory

K.C. Conservation and Design: Raised no concerns over potential impacts upon nearby heritage assets. However, expressed objection to the design of the initial proposal and concluded it to be unacceptable due to concerns it would neither function well nor add to the quality of the area in its current form. These concerns have been considered as part of the proposal moving forwarded and addressed via amendments.

K.C. Crime Prevention: Provide advice to officers and the applicant. This included avoided creating non-overlooked, lighting, and recessed gateways. Elements of the advice have been incorporated by the applicant where feasible with conditions proposed to address others.

K.C. Ecology: K.C. Ecology expressed initial concerns over the quality of the survey work undertaken and the assessment of impacts put forward. In particular, this related to identifying whether the site hosted water voles. The applicant undertook more extensive and up to date surveys and updated their impact assessment accordingly, to the satisfaction of K.C. Ecology, who are satisfied that the works have now been done in accordance with the relevant guidance and best practise. Therefore, K.C. Ecology offer no objection subject to the imposition of conditions and securing net gain provisions (including on-site management and maintenance, along with a contribution of £180,780) within the S106.

K.C. Education: K.C. Education identified that the proposal for 65 units would necessitate an education contribution of £71,848.

K.C. Environmental Health: K.C. Environmental Health have given due regard to various potential sources of pollution including ground condition, air pollution, noise, and lighting. No prohibitive issues have been identified. They conclude that they hold no objection to the proposal, subject to conditions.

K.C. Landscape: Provide advice to enhance landscaping and open space on site which has been incorporated where feasible. Regarding Public Open Space, confirmed a policy compliant expectation of onsite delivery and offsite contribution. The proposed on-site and off-site mixture is deemed acceptable.

K.C. Strategic Housing: Confirmed a policy compliant affordable housing mixture to consist of 13 units, with the following tenure mixture:

- First Homes: 3 units
- Registered Provider Intermediate Affordable Housing: 3 units
- Registered Provider Social Rent or Affordable Rent homes: 7 units

Note: K.C. Strategic Housing's comments and the application as a whole pre-date the adoption of the Affordable Housing SPD which includes house size expectations. This is considered further within the assessment section of this report.

K.C. Highways (Waste): Appropriate bin storage and collection locations are shown. Requested conditions requiring bin storage and collection be provided as shown as well as the submission of a strategy for waste collection during construction.

K.C. Highways (Structures): No objection subject to the imposition of conditions relating to the technical standard of new structures (e.g., bridge / retaining walls) on or near to the existing or proposed adopted highway.

K.C. Trees: The site has one protected group in the centre, ref TPO 72/91/G1 which is of high public amenity. While indicated to be retained from submission, K.C. Trees initially requested further on how the trees would be protected and retained. This detail was provided and K.C. Trees offer no objection, subject to condition.

Leeds City Council: No comments received.

West Yorkshire Archaeology Advisory Service: The applicant has been in past discussions with WYAAS regarding the site's archaeology value. The applicant has undertaken the previously advised archaeological geophysical survey. Based on these the WYAAS recommend that should planning permission be granted a pre-commencement archaeological evaluation should take place followed by any further archaeological works, with a recommended condition provided.

Yorkshire Water: Object to the proposal due to the presence of a Yorkshire Water public sewer system located within the site. This pipe runs along Howley Street to the site's north before entering the site to the north-east and running roughly along its east edge before existing the site onto Lady Ann Road to the south. Concerns are expressed over landscaping on or near this pipe.

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 (Housing Allocation) and the quantum of 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.
- 10.3 A revised National Planning Policy Framework (NPPF) was published in December 2023 which removed a local authority's requirement to demonstrate a five-year housing land supply if it was within five years of the adoption of a Local Plan. As such, at the date of the committee meeting, Kirklees does not currently need to demonstrate a five-year supply until the Local Plan is five years old on 28/02/2024 and full weight may be attributed to its policies.
- 10.4 Prior to the December 2023 revision to the NPPF local authorities were required to review their supply of housing land annually. For information purposes, the last review undertaken by the local authority from December 2023 (undertaken prior to the NPPF revision coming into effect) identified the five-year housing land supply position for Kirklees as 3.96 years supply of housing land. A further / updated interim housing position statement is intended to be published 28/02/2024. For the avoidance of doubt this is for information purposes only and as of the date of the committee the provision of NPPF paragraph 11(d) do not apply and is not germane to this decision.
- 10.5 The site falls within part of a housing allocation, reference HS74, within the Kirklees Local Plan Allocations and Designations document (2019) to which full weight can be given. Therefore, residential development is welcomed within the site in accordance with LP65. However, both the Local Plan and National Planning Policy Framework set out expectations to ensure proposals represent the effective and efficient development of land.
- 10.6 Local Plan policy LP7 requires development to achieve a net density of at least 35 dwellings per hectare (dph), where appropriate. Local Plan allocations have indicative capacity figures based on this net density figure. Within the Local Plan, site HS74 is expected to deliver 97 dwellings, with the application proposing 65. It should also be noted that the application's red-line boundary exceeds that of site HS74 to the south by a minor amount, theoretically increasing the required quantum
- 10.7 Proposing 65 dwellings on the application site's identified net developable area (2.78ha), the proposal has a density of 23dph. However, officers consider the site to have constraints which make seeking the minimum target density of 35dph to be inappropriate. During preparation of the Local Plan, all land within flood zone 3 was removed from the net developable area. Even pre-excluding this land, there are constraints and restrictions on the site, and constraints that allow for sizable portions of the site to be considered undevelopable or restrictive to development. This includes the topography and the design of dwellings needed to address it, and distances from Lady Ann Business Park. Considering these factors cumulatively, on balance officers accept the proposed density to be appropriate for the site and its specific constraints. These factors will be considered more thoroughly where appropriate in this report.

10.8 Looking beyond density, policy LP11 of the Local Plan requires consideration of housing mixture. This is expanded upon within the Council's Affordable Housing and Housing Mixture SPD which sets out strict percentage-based expectations for mixtures of units. Nevertheless, given that this application and much of the negotiations undertaken on mixture and numbers predate the adoption of the SPD by a notable timeframe (adoption of the SPD was March 2023), it is not deemed reasonable to retroactively impose the newer standards.

10.9 The proposal seeks detached, semi-detached and terraced houses, with the following sizes proposed:

- 3bed: 31 (48%)
- 4bed: 30 (46%)
- 5bed: 4 (6%)

The lack of 1 and 2-bed units is noticed, but is not atypical of an application from before the adoption of the Affordable Housing and Housing Mixture SPD. Furthermore, there are noted to be an abundance of smaller existing units in the area, therefore is not considered to be a specific expectation for this site or a concern for the proposal. Overall, the proposed housing mixture is deemed reasonable and complies with the expectation of LP11. The mixture of detached, semi-detached and terrace units is welcomed.

10.10 The site is a housing allocation in the Local Plan, with the proposal considered to represent an effective and efficient use of the allocated site, in accordance with relevant planning policy. The proposal would aid in the delivery of housing to meet the Council's targets, and the principle of development is therefore found to be acceptable. Consideration must then be given to the proposal's local impacts, considered below.

Sustainable development and climate change

10.11 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

10.12 The site is within the urban envelope, within a location considered sustainable for residential development. It is accessible, lying within an existing established settlement and close to various local amenities and facilities. 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.

10.13 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) 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.

Urban Design

- 10.14 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'.
- 10.15 There is development to the south, east and west to the site, so the proposal would not appear as a rural extension (i.e., encroaching into open countryside). Nonetheless, the site is on the edge of the urban environment, where the environment is transitioning into the open rural environment to the north. The steep slope exacerbates the prominence of the site, and consequently the impact the new residential development would have on the character of the urban environment, specifically from Lady Ann Road to the east. Views to the site from the east are blocked by the continuous terrace rows on Primrose Hill. Lady Ann Road is defined by long terrace rows of early 20th century origin.
- 10.16 As a housing allocation, it is accepted that the development of the site would lead to a notable change in the character of both the site and wider area. Nonetheless, the proposal will need to be carefully considered so as to respect the topography and character of the area, without overly dominating the hill side when viewed from Lady Ann Road.
- 10.17 The layout of the development is a logical response to the natural features and constraints of the site. These include its topography, watercourse (Howley Beck), existing tree planting and irregular shape. While it is important to respect establish character and ensure developments harmonise into the existing built environment, the defining characteristics of Lady Ann Road (a continuous terrace row of early 20th century origin) cannot reasonably be replicated on this site. The low density proposed is considered a reasonable response and would help to achieve an appropriate layout which would blend into the established urban environment, while the separation provided by the open land to the east and Howley Beck would keep the site visually separate and distinct from properties on Lady Ann Road without appearing at odds. Nonetheless, to help the development integrate into the character of Lady Ann Road a terrace row would be sited near the access fronting onto Lady Ann Road, along with architectural elements of the dwellings reflecting aspects (considered further below). Furthermore, this low density and generous open space to the east would assist in the development retaining a sense of openness that is a characteristic of the site as existing.
- 10.18 The principal constraint of the site is the topography. The development's approach to levels has been carefully considered to achieve these aims. As originally submitted the proposal sought split level properties of two and three storeys, with the three storeys facing downhill towards Lady Ann Road. This was accompanied with extensive engineering works and was a cause of concern to officers. It was envisioned that such a development would overly dominate the site and wider area. To address these concerns amendments have been made to the proposal. Dwellings are still split level, but through using asymmetrical roof forms the development will present two storeys' units (some with dormers and habitable rooms in the roof space) down the hill (towards Lady Ann Road). Facing up hill (towards Primrose Hill) units would

be two storeys. Therefore, the apparent height of the units would reflect that common in the area. This revision has also reduced the site's reliance and maximum height of on retaining walls, although their reduced inclusion cannot be fully designed out: this is inevitable given the site's slope. By virtue of the proposal's layout and the site's orientation, along with the modest nature of the asymmetry, the asymmetrical roofs would not be overly prominent or unattractive. The dwellings on the highest points to the north and west, being at a lower level than those dwellings on Primrose Hill, would be well sited and ensure roofs rise the valley side as is typical for the district.

- 10.19 As is set out in detail in the table of paragraph 10.?, the proposed units are notably larger than the NDSS minimum standards. This in itself is not a cause for concern, as the standards are for minimums as opposed to maximums. However, it is evident that these units would be larger in scale than those typical within the area although this is not expected to cause them to appear incongruous. The units are not so unduly large to appear incongruous and is a result of being split level. The height of the units has been managed via being split level. Furthermore, the generous separation will prevent direct side to side comparisons between the new units and those on Lady Ann Road. By virtue of the built form on Primrose Hill, there would be limited public vistas of the existing and new units. Overall, the scale of the units is deemed acceptable.
- 10.20 Regarding the architectural design of the units, the proposed development will inevitably be divergent in appearance to existing dwellings in the area. Housing stock in the area is varied and there is a strong sense of variety in built form. Therefore, the site has more freedom in terms of appearance, without appearing incongruous in the area. Nonetheless, as noted previously, the development will be prominently seen alongside the units on Lady Ann Road. The front façades are designed to reflect the local context with aligning a window above the front door and the other ground and 1st floor windows align. Bathrooms or bedrooms at first floor level need smaller windows. A render panel is proposed to create the alignment with fenestration below. Subject to the render being a colour which suitably matches the facing material, this inclusion is not opposed and is deemed a reasonable approach. This may be secured via condition.
- 10.21 Dormers are not a characteristic of the area but are not an unusual addition to a modern development. They are kept to a minimum and would not be a defining feature of the development. Furthermore, by virtue of the asymmetrical roof, they are lower set that would be typical, reducing their prominence. Their inclusion is not opposed.
- 10.22 A small portion (two house types) include inset bin-stores within the dwelling that would have garage-like doors on the front elevation. This unusual design feature is to allow sheltered and hidden bin-storage: due to units being split level bins cannot easily be stored to the rear of most dwellings. This is considered an innovative response to avoid bins being stored to the front of most dwellings, either loose or in individual shelters, which could be dominant given the number of units and bins in this case.
- 10.23 Progressing to materials, stone frontages with red brick side / rear elevations are proposed. This is consistent with materials in the area and not opposed. However, artificial stone is intended whereas the stone on adjacent streets is natural. The use of artificial stone is a cause for concern; however, it is

accepted that the site has viability issues. Furthermore, the frontages of a fair portion of the units (plots 09 – 56) would only really be visible within the site. On balance the use of artifices stone, subject to a suitable end product, is deemed reasonable. Plots 01 – 08 and 57 – 65 face Lady Ann Road and would be prominently from outside the site. The use of an inferior material on these units is not deemed reasonable, and a condition requiring these units' frontages (only, with sides and rear being brick) is deemed necessary to ensure the development harmonises with the area. This, and samples of materials, may be secured via condition.

- 10.24 No details of retaining wall facing have been proposed. While reduced from the initial proposal, they will still be evident. A condition requiring samples to be provided for assessment is deemed appropriate.
- 10.25 Roofing materials are proposed as artificial slate. Although natural slate is predominant in the area, given the separation distance of the new units to existing dwellings and that the site is on a higher ground level than Lady Ann Road, the prominence of the roofing material will be limited. Subject to a suitable product being used, securable via condition, artificial slates are not opposed.
- 10.26 The site is to have 12,776sqm of landscaped area. This is a higher than usual, by virtue of the site's undevelopable areas. This, with the proposed landscaping, would result in a verdant character for the site, particularly when viewed from the east. The indicative landscaping strategy has shown that the site may be attractively landscaped to a high quality, which is welcomed. This includes the planting of numerous trees including the streets being tree-lined (although these would be in either POS or front gardens, as opposed to being within the highway). A condition for a fully detailed landscaping strategy, to include management and maintenance details are recommended. The S106 will also include a clause to secure the perpetual management and maintenance arrangements of the communal landscaped areas.
- 10.27 The landscaping includes the retention of all trees within the group Tree Preservation Order (TPO) in the rough centre of the site. The applicant has provided Arboricultural Survey and Impact assessments which K.C. Trees are satisfied with. These demonstrate that the development would not unduly impact on the TPO, although a condition for an Arboricultural Method Statement is recommended to ensure appropriate process when working near trees is followed. Other trees within the site, particularly along the west boundary (adjacent dwellings on Primrose Hill) are to be removed but are all considered low quality and not of public amenity: their removal would be adequately mitigated via the proposals landscape strategy and new tree planting.
- 10.28 There is concluded to be no impact upon the historic environment. The Upper Batley Conservation Area is to the west of the site but is well severed from the site by the dwellings on Primrose Hill and the intervening railway and banking resulting in no impact. Likewise, the Station Road Batley Conservation Area to the south is too far with intervening structures to be impacted upon via the development. To the south is a Grade 2 Listed subway tunnel that provides a pedestrian connection to the Primrose Hill / Lady Ann Road to The Mill. By its nature of being subterranean it has a limited setting that would not be materially impacted upon via the development.

- 10.29 In summary, the proposed works would notably change the character and appearance of the site and wider area, while being visible from across the valley. Nonetheless, the proposed development is deemed to be 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 west. 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.
- 10.30 The above assessment has been based on the proposal as submitted. Given the topography of the site and the layout of the development, it is considered further development on the site, via extensions or outbuildings, could notably affect the quality of the design and be unduly prominent. It is therefore considered prudent to remove permitted development rights for outbuildings and extensions for all units within the site.

Residential Amenity

- 10.31 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.
- 10.32 To the east are dwellings on Lady Ann Road, all of which have their front elevations facing the site and are at a lower level than the proposed dwellings. To the west are dwellings on Primrose Hill, with their rear elevations facing the site. The dwellings on Primrose Hill are predominately on a higher level than the site. There is also a terrace row due north of the site, on Howley Street.
- 10.33 The proposed layout sets the new dwellings back a considerable distance from Lady Ann Road, with open space areas proposed between the new dwellings and the road. The minimum dwelling-to-dwelling separation distance would be circa 45m. While the level differences are noted, this distance is considered sufficient to prevent harmful impacts upon the amenity of residents on Lady Ann Road.
- 10.34 The dwellings on Primrose Hill would back onto plots 1 – 36, with a minimum separation distance of 21m. This accords with the council's Housebuilders Design Guide. Furthermore, as the new dwellings are to be set on a lower ground level and will present only two storeys to the properties on Primrose Hill, the arrangement proposed would be a betterment for existing residents through the new dwellings being lower and therefore less prominent. Thus there are no concerns over the amenity of existing residents on Primrose Hill.
- 10.35 No. 18 Howley Street will face the side elevation of plot 36 at a distance of circa 18m. This distance is considered sufficient to prevent overbearing or overshadowing concerns. The side elevation hosts a single window serving a non-habitable room. This can be obscure glazed via condition, which would prevent concerns of overlooking.
- 10.36 The landscaping strategy includes details of boundary treatment locations and heights. While the details available are broadly acceptable in principle, typical elevations of boundary treatments have not been provided. To ensure the boundary treatments proposed are adequately detailed and acceptable in all regards, to preserve the amenity of both existing and future residents, a condition for full boundary details is recommended.

- 10.37 Summarising the above, by virtue of the proposal's layout, scale of the units, and their separation distances to third party dwellings, there are no concerns that the development would cause material harm to the amenity of existing residents, in accordance with LP24 of the Kirklees Local Plan.
- 10.38 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.
- 10.39 Consideration must also be given to the amenity of future occupiers and the quality of the proposed units.
- 10.40 The sizes (in sqm) of the proposed residential units are a material planning consideration. Local Plan policy LP24 states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, and the provision of residential units of an adequate size can help to meet this objective. 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 draft Housebuilder Design Guide SPD.

House Type	Number of units	Proposed (GIA, m²)*	NDSS (GIA, m²)
B3T1 (terrace)	7	102.4	84
B3T2	16	105.7	90
B3T3	8	105.7	90
B4T1	8	122.9	103
B4T2	6	129.8	103
B4T3	10	126.1	103
B4T4	6	127.1	103
B5T1	2	146.6	116
B5T2	2	151.9	116

* These figures exclude garages, where proposed.

- 10.41 All units exceed the relevant NDSS recommended minimums. Garden sizes are considered commensurate to the scale of their host dwellings. All of the proposed houses would also benefit from being dual aspect, and would have satisfactory outlook, privacy and natural light. This is taking into consideration the separation distance between units within and existing dwellings outside of the site, with separation distances being adequate in each case.
- 10.42 A sizable area of Public Open Space would be provided on site and would contribute to the amenity of future and existing nearby residents. This proposed space includes 4,188sqm of accessible amenity grassland, to include an equipped play area and park spaces (details to be secured via condition) and 6,171 sqm of natural / semi-natural land. This is more open

space than on typical developments but is provided on this site by virtue of site-specific circumstances (topography, retaining land around protected trees, and avoiding flood zones). While this provision is noted, as set out in the council's Public Open Space SPD, public open space is divided into five typologies. The proposal overprovides on amenity grassland and natural / semi-natural, while underproviding other typologies: therefore, an off-site contribution of £43,020 to cover the typologies not fully provided on site, to be spent improving open space in the area, remains necessary.

- 10.43 Parts of the proposed development are near the Lady Ann Business Park. The applicant has provided a noise report, which has been reviewed by K.C. Environmental Health. The report is sufficient to demonstrate no fundamental issues relating to noise pollution, however, uses older data. Therefore, Environmental Health advise that an updated noise mitigation report is recommended via condition, to ensure adequate noise mitigation is secured. This is deemed reasonable to demonstrate compliance with LP24 and LP52.
- 10.44 To summarise, the proposed development is not considered 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.
- 10.45 The above assessment has been based on the proposal as submitted. Given the layout of the development and proximity to neighbouring properties it is considered further development on the site, via extensions or outbuildings, could affect the amenity of residents on Primrose Hill. It is therefore considered prudent to remove permitted development rights for outbuildings and extensions for all units within the site.

Highways

- 10.46 Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed effectively and safely by all users. The policy also states that new development would normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.
- 10.47 Paragraph 108 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 109 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.

10.48 First considering traffic generation, a proposal of 65 dwellings is expected to generate (using robust trip rate data) the following movements:

	Arrival	Departure	Two-way
AM Peak	13	33	46
PM Peak	33	13	46

10.49 The above trip rate information is acceptable and is considered to provide a robust assessment of development traffic impacts. The development would generate circa 46 additional two-way vehicle trips on to the local highway network during the AM and PM weekday peak periods respectively. In terms of distribution and junction impacts these additional movements would have, the applicant and K.C. Highways have considered the following off-site junctions:

- Lady Ann Road/ Soothill Lane priority T-Junction
- Grace Leather Lane/ Soothill Lane priority T-Junction

10.50 The junction capacity assessments at the two off-site junctions on Soothill Lane have confirmed that the development will not have a significant adverse impact on their operation. Based on the data gathered and comments received within the public representations it is accepted that these junctions are currently busy at peak times. However, paragraph 115 of the NPPF sets out the following test:

115. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

10.51 The proposal's 46 two-way movements (comprising 13 arrivals in one direction and 33 departures in another) would amount to an average of 0.6 additional vehicles a minute (or 1 additional vehicle every 2 minutes). This would not result in unacceptable harm to highway safety, nor would it be a severe impact. Accordingly, the proposal is deemed to pass the test of paragraph 115 and the traffic generation is considered acceptable.

10.52 Notwithstanding the above, whilst the traffic impact of the development is considered acceptable, junction visibility at the Lady Ann Road / Soothill Lane priority T-Junction has been identified as being sub-standard. Therefore, the applicant has agreed to provide an improvement scheme at this junction. A summary of the works that are proposed are as follows:

- Build-outs on both sides of the junction, to improve the junction radii and increase junction visibility to 2.4x43m in both directions.
- The build-out on the east side of the junction would formalise the on-street parking that occurs, and prevent drivers from parking too close to the junction. This would be reinforced by localised 'no waiting at any time' restrictions on either side of the junction.
- Pedestrian dropped crossings with tactile paving to be provided at the amended junction.

- The major road (Soothill Lane) carriageway would be narrowed to 6m (excluding the parking layby width), which is still sufficient to accommodate passing buses. The centreline and profile of the major road carriageway will be amended to accommodate the reduced running lane widths.
- 10.53 The above highway improvements have been subject to a Stage 1 Road Safety Audit, which has not identified any issues that cannot be addressed at the detailed design stage. Therefore, it is concluded that the junction improvement is acceptable, and should be secured to the development via planning condition and implemented via a Section 278 agreement. However, it is noted that the Councils Major Projects team have been investigating wider highway improvement works along Soothill Lane, which could change the highway layout in the vicinity of the Lady Ann Road/ Soothill Lane junction in future. As such, whilst these works are not currently a committed scheme, it will be necessary to ensure that any planning condition that is imposed on the development to secure the applicants junction improvement scheme is written such a way as to allow for any change in circumstances associated with changes to the local highway network.
- 10.54 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 while also securing safety improvements at the Lady Ann Road / Soothill Lane priority T-Junction.
- 10.55 Progressing to the development's proposed arrangements, the site's access would be newly formed and be a bridge over Howley Beck connecting the site to Lady Ann Road. This would take the form of a priority-controlled T-junction. The access' geometry has been designed to minimise impacts on existing parking on Lady Ann Road. Visibility splays are provided at the site access of 2.4x43m in both directions, in accordance with standards. To protect these sightlines the existing fencing to Lady Ann Road would need to be set back and the footway widened. To allow the boundary fences to be set back, new highway retaining features will be required adjacent to Howley Beck. To ensure errant vehicle cannot enter the water course elements of the design will need to be designed as a vehicle restraint system. A Stage 1 Road Safety Audit has been undertaken for the proposed site access, which has not identified any issues that cannot be addressed at the detailed design stage. Therefore, it is concluded that the site access junction is acceptable in principle, with the final details of the site access junction, bridge crossing, and vehicle restraint features to be secured by condition.
- 10.56 As the access would be a bridge that would connect onto a retained side of the highway, conditions are recommended requiring structural details, to demonstrate the new access structure would be built to an acceptable standard and would not prejudice the safety of the highway.
- 10.57 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.

- 10.58 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.
- 10.59 Considering car parking, most dwellings would have a level of dedicated off-road parking in accordance with the Highways Design Guide SPD, which is acceptable, however plots 57 – 63 would only have one space per unit (whereas two would typically be sought initially). This has been mitigated by providing an eight-visitor parking layby adjacent to these units, to accommodate any additional parking demand from these properties. Furthermore, this arrangement would replicate the parking situation typical in the wider area, as most of the housing stock are terrace units with no dedicated parking. For the avoidance of doubt, as a new development and new roads, there are no concerns of exacerbating any potential existing parking issues. In terms of visitor parking, the Highway Design Guide recommends one per four dwellings, or 16 for the proposal. The proposal exceeds this with 18 dedicated visitor bays along with opportunity for on-street visitor parking that does not affect vehicle turning also being apparent.
- 10.60 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

- 10.61 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.
- 10.62 As the site is allocated in the Local Plan for residential development, the potential accessibility of the site was assessed as part of the Local Plan adoption process. The site is within the urban environment, being within an acceptable walking distance of Batley centre (circa 360m direct, albeit requiring a route across the trainline) and within cycle distance of Dewsbury (2.4km). Each of these, and areas in between, offer various education, work, and amenity facilities. Lady Ann Road is a bus route, which is served by the

212-bus service that operates between Dewsbury and Wakefield at a 60-minute frequency during the day Monday-Sunday (every 2hrs on Sundays). As confirmed by WYCA, the bus availability for the site is acceptable. Accordingly, the site's location is deemed sustainable.

- 10.63 As the development includes over 50 dwellings, a Travel Plan is required. Whilst the applicant has submitted a draft Travel Plan, it is currently unacceptable to HDM. Therefore, it has been agreed with the applicant that the final Travel Plan can be secured by planning condition.
- 10.64 Representations have claimed that the site hosts various Public Right of Ways. There are no currently recorded Public Rights of Way on the Definitive Map through the site, nor are there any applications for a Definitive Map Modification Order (DMMO) to add to the Definitive Map. Therefore, there is no restriction regarding public rights on the site. Nonetheless, the development has been designed with connectivity in mind.
- 10.65 The provision of the new active travel connections to PROW BAT/20/20 through the site will also be of benefit to the wider public by improving local connectivity. As requested by the Councils PROW Team, the applicant has agreed to provide a 3m wide active travel link within the site, which will connect the end of the proposed estate road to the site boundary. This will then allow the PROW team to progress improvements beyond the site to complete the link to the adjacent public footpath BAT/20/20. The applicant has also agreed to provide a financial contribution of £10,000 via a Section 106 obligation to enable the Council to complete the off-site PROW improvements to PROW BAT/20/20 that are required to facilitate the link. A second path, alongside the waterfront, is also proposed. This is intended for pedestrian movements and details of its construction and implementation may also be secured via condition.
- 10.66 West Yorkshire Metro advise that a contribution of £43,748 be secured towards sustainable travel incentives to encourage the use of sustainable modes of transport. This consists of £33,247.50 towards a fund to purchase a range of sustainable travel measures including discounted MetroCards (Residential MetroCard Scheme) and £10,500 towards the installation of a Real Time Information battery at a nearby bus stop (stop ID: 16161).
- 10.67 Regarding other methods of travel, opportunities for cycle improvement in the area are limited. Nonetheless, the provision of cycle storage facilities per dwelling are recommended to be secured via condition. This is to promote alternative, low emission, methods of travel. Following the introduction of EVCP being mandatory for new dwellings under building regulations it is no longer considered reasonable or necessary to impose planning conditions for their delivery.
- 10.68 The site is 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.

- 10.69 Overall, it is concluded that the proposal is acceptable regarding 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.

Flood risk and drainage

- 10.70 The NPPF sets out the responsibilities of Local Planning Authorities determining planning applications, including securing appropriate drainage, flood risk assessments taking climate change into account, and the application of the sequential approach. Policies LP27 and LP28 of the Local Plan detail considerations for flood risk and drainage respectively.
- 10.71 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.
- 10.72 First considering flood risk, a Sequential Test is not required for this application on the grounds that the site was allocated for housing through the Local Plan process, for which a strategic flood risk assessment was undertaken (Technical Paper: Flood Risk – November 2016). This technical appraisal comprised a consideration of the site's potential flood risk issues. Through this process, the developable area of HS74 was reduced to exclude all of flood zone 3 and the site box for the allocation stipulates that no residential development should take place in flood zone 3.
- 10.73 Notwithstanding this, the proposal includes 11 dwellings and/or their gardens within flood zone 3 and 6 dwellings within flood zone 2 from Howley Beck, based on current Flood Zone data. However, it is the applicant's intention to re-grade the land to remove these units from Flood Zone 3.
- 10.74 Flood Zone 3, in so far as it relates to river flooding, are areas that are likely to flood with a 1% annual probability (a 1 in 100 chance each year). The applicant's submission provides a comprehensive explanation of the circumstances at the site:

The online Flood Map for Planning shows the extent of flooding associated with Howley Beck. It is evident from this map that overland flow progresses from the north and develops into two distinct streams when it crosses the northern boundary. The mainstream follows the course of Howley Beck, but a separate stream crosses the northern boundary further to the west and flows overland through the northern part of the site. This is caused by restricted capacity in the watercourse where it flows beneath the lane adjacent to the northern boundary of the site. Water levels upstream of the lane will rise when the flow rate exceeds the capacity under the bridge and there will be flooding which spills over into the lane and enters the site. Examination of the

topographical survey plan suggests that this occurs where the ground level is approximately 61.6m AOD.

This western flow path is prevented from immediately returning to the main channel of Howley Beck by a raised earth bund parallel to the beck, but this peters out further south, allowing the overland flow to return to the beck.

Removing the raised bund will restore the natural floodplain and will allow overland flow to follow its natural route to Howley Beck. It will also remove the obstacle to fluvial overspill at the north end of the site which currently prevents it from returning to the beck immediately downstream of the bridge at the northern boundary. The re-profiling of the site will create increased cross-sectional area, as shown in the cross sections in Appendix G and this will ensure there will be no adverse effect to Howley Beck or increase in flood risk elsewhere.

Following development, all plots will effectively be in flood zone 1, insofar as the annual probability of fluvial flooding will be reduced to less than 0.1%.

- 10.75 In summary, the area of Flood Zone 3 that the proposed units would be sited in is caused by a (presumed artificial) raised bund that splits / redirects flood water from Howley Beck into part of site. Should this bund be removed and parts of the site re-graded, it has been demonstrated that the units would no longer be within Flood Zone 3 and would have a flood risk percentage comparable to Flood Zone 1 (a less than 0.1% annual probability of flooding). The loss of displaced floodplain volume is mitigated by reducing ground levels between the development and Howley Beck (i.e., a designed new place for the displaced water to go, thereby not increasing flood risk elsewhere). The applicant proposes a net gain in floodplain volume of circa 50m³, thereby reducing flood risk in the wider area.
- 10.76 Considering this, the proposed works would result in no dwellings being within Flood Zone 3. The applicant's methodology to demonstrate this and their conclusion has been accepted by the Environment Agency and the LLFA. This is subject to conditions requiring the development be done in accordance with the strategy outlined in the submitted Flood Risk Assessment, specifically the regrading of the land and that certain plots have specific minimum finished floor levels.
- 10.77 Progressing to surface water management (i.e., rainfall flooding), an indicative surface water drainage strategy has been submitted by the applicant. Infiltration has been identified as potentially viable, subject to further study of the site's slope. Nonetheless a strategy for discharge into Howley Beck has also been considered and found to be acceptable. Via attenuation, this would discharge at an acceptable greenfield rate of 6.5l/s. 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.

- 10.78 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.
- 10.79 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 Howley Beck (within the bounds of the site) and a spring cross through the site, in accordance with LP29.
- 10.80 Details of temporary surface water drainage arrangements, during construction, are proposed to be secured via a condition.
- 10.81 Yorkshire Water's final formal position is an objection to the proposal. This is because trees are indicated to be planted within 5m of a sewer. Officers are satisfied that this could be effectively controlled via the proposed full technical details on landscaping, such as not planting a tree within the exclusion zone of the sewer. Therefore, notwithstanding Yorkshire Water's objection, officers are satisfied that the matter may be adequately addressed via condition.
- 10.82 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 LP27, LP28 and LP29 of the Kirklees Local Plan.

Ecology

- 10.83 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. The application is supported by an Ecological Impact Assessment (EclA) which has been reviewed by K.C. Ecology. This document, which is informed by on-site surveys, considers the site's value as habitat as well as the proposals direct and indirect impact on local species.
- 10.84 Considering local species, the survey work undertaken identifies the trees within the centre of the site to have moderate bat roosting potential: nonetheless, these are to be retained and therefore there are no concerns regarding impacts upon local bat populations. The submitted water vole report provides sufficient detail to determine that the species is now absent within the site, along Howley Beck, despite being historically present. The survey utilised advanced survey techniques to determine the absence of this species at the site and K.C. Ecology accept the conclusions of the report. Ecological enhancement measures aimed at enhancements for water voles are recommended within the submitted report; these measures, to be outlined in an Ecological Design Strategy (EDS), may be secured via condition to ensure that habitat remains available should water vole one day re-colonise the area.

- 10.85 Regarding the site's habitat value, the EclA details that the proposed development will result in the loss of a significant area of low value habitat, this is generally accepted as the main habitat that is to be lost to facilitate the proposed development is species poor grassland. Invasive non-native species (Himalayan Balsam) were found on the site. Therefore, a condition for an invasive species management plan is recommended, to manage and avoid spreading invasive species within and outside the site.
- 10.86 The proposal includes an indicative strategy for the improvement of the habitat on site. Nonetheless, by virtue of introducing built development over much of the site, the application's Biodiversity Net Gain metric calculates that post-development there will be an overall net loss of 6.11 habitat units at the site (35.0% net loss). Conversely, the proposal would deliver a net gain more than 10% for hedgerow units (1.77 units or 214.3% net gain demonstrated) and river units (0.61 units or 24.4 net gain demonstrated).
- 10.87 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 for the development to achieve a biodiversity net gain for habitat units. For the development to achieve 10% net gain 7.86 habitat units would need to be delivered. Therefore, a commuted sum of £180,780 would be required to be secured within the S106 in order for the development to achieve a 10% biodiversity net gain.
- 10.88 Notwithstanding the identified off-site contribution, as noted the proposal would deliver some habitat, hedgerow and water 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.
- 10.89 In summary the proposal would not unduly affect local habitats and, through contributions and on-site improvements, represent an ecological net gain. Furthermore, the proposal would have no significant impacts upon local species. 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.

Viability and planning obligations

- 10.90 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.
- 10.91 In accordance with local policies and based on the submitted scheme, the proposed development would be expected to provide the following contributions:
- **Affordable Housing:** 13 units (consisting of seven affordable rent, three first homes and three intermediate affordable units. Plot sizes as per the Affordable Housing and Housing Mix SPD).

- **Education:** £71,848.
- **Public Open Space (off-site):** £62,058.
- **Net Gain (10%):** £180,780.
- **Sustainable Travel (Bus Pass):** £33,248.
- **Sustainable Travel (Bus stop improvement):** £10,500.
- **Sustainable Travel (PROW Improvement):** £10,000.
- **Travel Plan monitoring:** £10,000.

10.92 The total financial contribution, excluding affordable housing, amounts to £378,434. 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 watercourse through the site, open space, and ecological features.

10.93 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.

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

- **Gross Development Value:** Aspinall Verdi consider that the proposed units have been undervalued by the applicant. The applicant adopted a blended rate of £200psf however based on Aspinall Verdi's evidence they consider the blended rate to be £215psf.
- **Build Costs** - Aspinall Verdi consider the build costs to be appropriate except for the cost of the 'additional foundations' which has reduced the overall cost by £189,555.70.

- **Profit** – The applicant is seeking a 20% profit. Aspinall Verdi suggest 17.5% would be appropriate at this site. Notwithstanding this, it should be noted that the level of profit is a matter for the decision maker.
 - **Benchmark Land Value (BLV)**- Aspinall Verdi consider £475,000 to be an appropriate benchmark land value for this site given its topography, location and the abnormal costs associated with developing the site. The applicant's viability assessment included the BLV of £650,000.
- 10.95 Utilising the above variations in calculation to inform their conclusion, Aspinall Verdi accept that the scheme cannot provide a full policy compliant set of contributions. A reduction is therefore needed for the scheme to be viable.
- 10.96 Based on their professional assumptions, Aspinall Verdi advise that the scheme can fund all non-housing financial contributions and provide five affordable units, with a mixture of affordable rent and intermediate. The applicant disputed the professional assumptions and conclusion of Aspinall Verdi and therefore have confirmed they were unable to agree to these terms.
- 10.97 Notwithstanding Aspinall Verdi's advice, the final decision on this matter rests with the decision maker (i.e., committee in this case, with officers recommending). Due regard must be given to the planning balance when reaching a conclusion on viability. The PPG comments:
- The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and viability evidence underpinning the plan is up to date, and site circumstances including any changes since the plan was brought into force, and the transparency of assumptions behind evidence submitted as part of the viability assessment.*
- 10.98 Officers have proposed that the five affordable units be changed to first homes. This would have a lesser financial burden on the applicant than standard affordable rent or intermediate. On balance, giving due regard to the acknowledged risks of the site, this is deemed an acceptable position to officers. This package would therefore be:
- **Affordable Housing:** 5 first homes (3xB3T1 and 2x B3T2)
 - **Education:** £71,848.
 - **Public Open Space (off-site):** £62,058.
 - **Biodiversity Net Gain (BNG):** £180,780.
 - **Sustainable Travel (Bus Pass):** £33,248.
 - **Sustainable Travel (Bus stop improvement):** £10,500.
 - **Sustainable Travel (PROW Improvement):** £10,000.
 - **Travel Plan monitoring:** £10,000.
- 10.99 Based on Aspinall Verdi's calculations, which are disputed by the applicant, the above would result in the developer making a 19.53% profit. Planning Practice Guidance indicates that a profit level of 15-20% of gross development value is generally considered to be a suitable return to developers. There are several 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. Officers acknowledge the difficulties of developing this site include the topography and remedial works, the cost of which cannot be fully understood until invasive works commence, the watercourse and gaining access over it, works around protected trees, and that it is not within a strong market area. These factors must be considered when considering its viability and on balance officers consider the risks of the site warrant the identified profit level.

- 10.100 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.
- 10.101 The applicant has agreed to this principle although the wording and detailed terms would go into the S106 agreement to be worked up.

Other Matters

Air quality

- 10.102 The development is not in a location, nor of a large enough scale, to require an Air Quality Impact Assessment.
- 10.103 The provision of cycle storage facilities per dwelling are recommended to be secured via condition. This is to promote alternative, low emission, methods of travel. Following the introduction of EVCP being mandatory (for new dwellings) under building regulations, it is no longer considered reasonable or necessary to impose planning conditions for their delivery.
- 10.104 Considering the above, the proposal is considered to comply with LP51 of the Local Plan.

Archaeology

- 10.105 The site lies in an area dominated by 19th century industrial remains including mills, workers' housing, railways, and collieries. It also faces south-east with Howley Beck passing along its eastern boundary, features which would have made the site an attractive location for early communities to settle. Furthermore, there are known records of archaeological importance to the northeast of the site. Therefore, the proposed development could affect archaeological remains from the Prehistoric period to the English Civil War. This concern not being adequately addressed led to it being a reason for refusal on previous application 2017/91851.

10.106 Since that application, the applicant has worked with West Yorkshire Archaeology Advisory Service (WYAAS) and undertaken appropriate investigations. The investigations concluded that the site has a low potential for archaeological remains, which is accepted by WYAAS. Nonetheless, WYAAS have requested that a condition for further investigations and archaeological recording be undertaken, to ensure this issue is adequately addressed, should permission be granted. In accordance with policy LP35 of the Kirklees Local Plan, officers consider such a request to be acceptable.

Contamination

10.107 The application is supported by a phase 1 and phase 2 Geoenvironmental Risk Assessment. The reports identified some sources of contamination which require remediation, although nothing prohibitive to development. K.C. Environmental Health support the methodology and findings of the report. Subject to conditions for a remediation strategy and validation, officers are satisfied that the proposal complies with policy LP53 of the KLP.

Crime Mitigation

10.108 The Designing Out Crime Officer has made a number of comments and recommendations, particularly with regards to home security, rear access security and boundary treatments. All the comments made are advisory and have been referred to the applicant. It is therefore considered that the site can be satisfactorily developed whilst minimising the risk of crime through enhanced security and well-designed security features in accordance with Local Plan policy LP24(e).

Minerals

10.109 Mineral resources are finite, and their extraction can only take place where the minerals naturally occur. The application site falls within an area designed as a Mineral Safeguarded Area (Sandstone and/or Clay and Shale, with a small area of Sand and Gravel with Sandstone and SCR) in the Local Plan. This allocation indicates that there is the potential for these mineral resources to be underlying the site. Policy LP38 seeks to ensure the appropriate management of minerals and consider whether they may be extracted during development.

10.110 The applicant has made no commentary or assessment on this subject. However, officers note that policy LP38's requirement does not apply on site's 'there is an overriding need for the development'. As a housing allocation, this is the case for the site. Furthermore, it is not considered practical for this site to include mineral extraction, given the proximity of residential properties (with the site's narrow shape and steepness limiting the feasibility of appropriate separation distances and bunds) and concerns over access of HGVs to transport said material. Accordingly, it is considered that the proposal complies with the aims and objectives of policy LP38 regarding mineral safeguarding issues.

Representations

10.111 A total of 120 representations, plus three petitions, have been received in response to the application. Most matters raised have been addressed elsewhere within this report. The following are matters not previously directly addressed.

General / other matters

- Question why the applicant has been permitted to amend their proposal so many times over a long period.
- The development of the site has been refused several times. There is no real change in this application compared to previous refusals.
- The various applications and submissions have affected the mental health of residents. The site should be removed as a housing allocation.

Response: Material amendments and further details were made between submissions. Therefore, officers had no ground to not accept the application. While it is accepted that the application has been under consideration for some time and undertaken various amendments, in each case the amendments made meaningful process is addressing the concerns of officers and consultees. This progress, while not resulting in all concerns being resolved until recently, allowed negotiations to continue.

Officers sympathise with the residents and the impacts upon them; however, the LPA must undertake its statutory duties in assessing this and all other planning applications.

- The proposal will harm local house values.

Response: This is not a material planning consideration.

- The proposal will harm local public services, such as GPs, dentists, and schools.

Response: There is no Policy or supplementary planning guidance requiring a proposed development to contribute to local health services. However, Kirklees Local Plan Policy LP49 identifies that Educational and Health impacts are an important consideration and that the impact on health services is a material consideration. As part of the Local Plan Evidence base, a study into infrastructure has been undertaken (Kirklees Local Plan, Infrastructure Delivery Plan 2015). It acknowledges 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. Therefore, whether additional funding would be provided for health care is based on any increase in registrations at a practice. Regarding schools, an education financial contribution has been secured.

- The site should be removed from the Local Plan. The area is overcrowded which is causing litter, abusive behaviour, and tensions.

Response: It is outside the remit of this application to remove the site from the Local Plan. The Local Plan went through a rigorous process to identify applications, including several rounds of consultation on the allocations and finally an inquiry from the Planning Inspectorate. This concluded that the site was an acceptable allocation. It is likewise outside the remit of this application to address litter and anti-social behaviour.

- Advertisement of the application has taken place over Christmas twice. This puts undue stress on residents during the festive period.
- Site notices have not been erected for the last period of publicity, with residents questioning why.

Response: It is by coincidence that the application was ready for re-advertisement around the festive period several times. Officers had no reasonable grounds to delay publicity, however additional time was given during the public representation periods due to bank holidays. Site notices are only erected during the first period of publicity, alongside neighbour letters (to address adjacent to the site) and a notice in the paper. Subsequent publicity periods are advertised via letters to neighbouring properties and to address that have expressed an interest previously. This is in accordance with the council's Development Management charter.

- The site is not managed and is left to 'fend for itself'. If it was, it could be of more value to local residents.

Response: Officers may only consider the development before them and not hypotheticals.

- Circa 20 years ago City Challenge designated Batley as an area in need of improvement and funded the planting of trees on lady Ann Road to improve the quality of life for residents. The development will counter any benefit of the previous project.
- The council is committed to planting more trees and enhancing ecology yet is allowing the developer to destroy a site with trees and ecological value.
- Development is bad for the planet, removing natural areas that provide cooling for the planet.

Response: The proposals landscaping and impact on trees is considered within paragraph 10.26 – 10.27. officers, K.C. Landscape and K.C. Trees raise no concern. The valuable trees that are protected by a TPO are to be retained. The trees to be removed are of limited public amenity. The proposed re-planting would mitigate the impact of their lost.

- Brownfield sites or vacant properties should be prioritised over developing greenfield land.

Response: Local and national planning policies does not prioritise brownfield over greenfield, or vice versa.

- Concerns that the development's engineering works will undermine ground stability and foundations of nearby dwellings on Primrose Hill. Some of these units already suffer from subsidence.

Response: The land is not so steep, nor any evidence to support this position provided, as to raise this as a material consider as part of a planning application.

- The pedestrian tunnel from the bottom of Primrose Hill to the mill complex is dirty, wet and unsafe.

Response: This matter is considered beyond the remit of this application to resolve and is not material.

- The site is subject to fly tipping, and this will be exacerbated by more residents.

Response: This is an anecdotal statement and speculation which does not form a material consideration of this application.

Urban Design

- The proposal appears to be overdevelopment, with large units cramped together.
- Most of the surrounding areas of greenbelt and farmland have now been bought and built upon. The character of the area is being eroded and towns are merging into each other.
- The existing area is low density and semi-rural, with areas of greenery. The proposal is contrary to these characteristics.
- Nearby dwellings are Edwardian and/or Victorian in style. Those proposed would not reflect this and will appear unattractive in the area.

Response: Officers are of the view that the proposed development is visually appropriate and would not harm the wider character of the area, as set out in paragraphs 10.14 – 10.30.

- The development represents urban sprawl that leads to increased energy use, pollution, traffic, and community cohesiveness.

Response: The development is within the urban envelope, with development to three sides, and will not encroach into the current open rural environment. Therefore, officers dispute it represents urban sprawl.

- Three storey development is not appropriate within this area.

Response: Following amendments no true three storey dwellings are proposed (i.e., having three distinct storeys when viewed externally). While some units will have three floors, by virtue of being split level, having asymmetrical roofs and/or dormers, the dwellings would only present two storey elevations.

Amenity

- The proposal will harm the outlook of local residents.
- The proposed development will cause overbearing, overlooking, and overshadowing on local residents on both Lady Ann Road and Primrose Hill.
- The development will cause overshadowing upon the rear of dwellings on Primrose Hill. This is their only sunlight, as the front elevations face the banking for the railway.

Response: The impact on neighbouring residents is considered within paragraphs 10.31 – 10.38. Specific to overshadowing, the separation distances meet or exceed the minimums set out in the Housebuilders Design Guide SPD while also being at a lower level, negating this concern for officers.

- The development will cause noise pollution from residents' vehicle movements, use of their property, and the use of the play area.
- The development will cause light pollution into nearby residents' houses.

Response: Residential development adjacent to each other is acceptable and causes no planning concerns in terms of lighting and noise. Any atypical / abnormal noise or lighting from future residents would be a matter for either the police or K.C. Environmental Health.

- The proposal will increase crime within the area. Currently dwellings on Primrose Hill are protected by a natural barrier into the site which would be removed, and development placed adjacent to it.

Response: Concerns regarding crime increasing is speculation. The current natural barrier will be replaced by a formal fenced barrier which is deemed acceptable.

- The site is tranquil and an 'oasis on nature'. Its loss will affect the quality of life of all residents nearby. It is also used by children to play, walkers and has health benefits.

Response: While this is noted, the site is private land with no formal designation as open space. Conversely, it is housing allocation.

Ecology

- The site is a wildlife sanctuary and home to various species including water voles, bats, newts, and owls. Some of these are protected species. The site is a water meadow and water voles are particularly rare and only known in two places in Kirklees.
- Anecdotal commentary that water voles are present on the site. Furthermore, survey work undertaken in the past did find evidence of their presence. However, the latest survey says there are none; this is spurious.
- The beck will be disturbed to enable the bridge to be build, harming local species.
- The site is also home to several wild planet species in recent years.

Response: The ecological impacts of the development are considered within paragraphs 10.83 – 10.89 and found to be acceptable. The survey work undertaken has been comprehensive in concluding no water voles are present and in identifying the fauna on site.

- The applicant's ecological report was commission by them and is therefore biased / unreliable.

Response: It is standard practise for an application to submit supporting information, commissioned by themselves, to support their application. This is however reviewed by the Council's own professionals to confirm it is acceptable. In this case concerns were raised by K.C. Ecology which led to further details being requested and provided.

- Concerns that the open spaces and habitats post development will be left unmanaged after the developer quits the site.

Response: A condition for a landscape management plan would be secured if minded to approve as well as the S106 including a clause for a management company.

- The development will cause pollution into Howley Beck.

Response: This matter will be addressed via the Construction Environmental Management Plan and/or the Temporary Surface Water Drainage Strategy, each to be secured via condition.

- The development is contradictory to the government's pledge that 'We will halt the decline in our biodiversity so we can achieve thriving plants and wildlife.'

Response: The proposed development has been assessed against local and national planning policy and found to be acceptable. A 10% net gain in habitat has been secured (partly on site and via financial contribution).

Drainage and Flooding

- The children's play area will be within the flood zone, putting them at risk.

Response: The play area is adjacent to the edge of Flood Zone 3, not within it. Regardless, this would not be an immediate cause for concern, as flooding would occur over a prolonged period of rainfall and not be an immediate tide of water, limiting potential for harm.

- The development will require culverting of the beck and force water downstream to Bradford, causing flooding issues there.
- Developing the site will result in water entering Howley Beck at a faster rate. The beck flows into a culvert which will be overwhelmed and lead to more flooding.

Response: The flow of the beck under the access bridge is not expected to be materially affected. A surface water drainage strategy is proposed that will limit discharge into Howley Beck to greenfield run-off rates.

- The new dwellings will not be mortgageable and uninsurable due to being in a flood zone.

Response: This is outside the remit of this application and does not form a material planning consideration which can be assessed as part of this application.

- The land is graded as 3 / 4 by the Council in regard to flooding.

Response: The Flood Zones are numbered 1, 2 and 3. It is unclear what 3 / 4 refers to in this case. The matter of part of the site being within Flood Zone 3 is addressed within paragraphs 10.73 – 10.77.

Highways

- Concerns over how construction traffic will access the site, particularly in the first instance given the need to bridge the river.

Response: Ultimately the site must be accessed and this cannot be a fundamental issue. A Construction Environmental Management Plan is recommended to ensure sufficient consideration and precaution is given to site access.

- The traffic survey undertaken was inadequate, undertaken outside of rush hour and during wet weather.
- Traffic surveys undertaken during COVID should not be accepted.

Response: The methodology of the traffic surveys has been reviewed and accepted by K.C. Highways, giving due regard to best practise.

- Concerns over potential impacts upon PROW Bat 20/20 to the north of the site.

Response: The PROW is to be retained and connected to as part of the proposal.

10.112 Officers consider that the points raised by members outlined in paragraph 7.6, with the following exception that each member raised:

- The area flood frequently, harming local residents and will harm future residents too. The development includes work in Flood Zone 3 and will exacerbate existing flooding if land levels are changed.

Response: It is beyond the remit of this application to resolve existing issues outside of the site's boundary. What must be considered is whether the development itself is safe and that any works will not exacerbate existing flooding issues / potential. As detailed within paragraphs 10.72 – 10.80 these matters have been considered and found to be acceptable. Conversely, additional flood storage will be delivered on site that will reduce flood risk elsewhere.

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 a housing allocation. While the density is below the typical target of 35 dwellings per ha, due to the site's constraints the proposed density is deemed reasonable, given the constraints on the site. Likewise, the housing mixture is deemed appropriate. Therefore, the principle of development is deemed appropriate.

11.3 Site constraints including topography, a watercourse, trees and ecology, and various other material planning considerations. Nonetheless, the proposed development adequately addresses each. Across the various applications and amendments, the design and appearance of the site has evolved to an acceptable position that would be attractive and harmonise well with the character of the area. There would be no undue harm to the amenity of neighbouring residents or future occupiers. The proposed access and highway impacts have been assessed to be acceptable. Other planning issues, such as drainage, ecology, and protected trees, have been addressed through the proposal.

11.4 Viability issues have been demonstrated to prevent a fully policy compliant suite of Section 106 financial obligations, however a reduced contribution has been negotiated and agreed with the application which would assist in mitigating local impacts of the proposal and officers consider this package of S106 obligations is justified for this scheme and site.

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. Walling and roofing material samples to be submitted and approved. To include plots 01 to 08 and 57 to 63 being faced in natural stone. Render colour to be matching to elevation.
4. Development to be done in accordance with level strategy.
5. Details of proposed retaining wall materials to be provided.
6. Detailed landscaping strategy to be provided and implemented, with management and maintenance details to be approved.
7. Full details of boundary treatments to be submitted and approved.
8. Arboricultural Method Statement to be submitted and approved. No unidentified tree-works to take place unless further Arboricultural Impact / Method Statement provided.
9. Plot 36's side facing windows to be obscured.
10. Remove PD rights for outbuildings and extensions (all units)
11. Updated noise report to be undertaken and necessary mitigation implemented.
12. Submission of Construction Environmental Management Plan (CMP) to be submitted, approved, and adhered to.
13. Detailed plan for the equipment and design of the Local Equipped Area of Play (LEAP) to be submitted, approved, and implemented.
14. Access sightlines to be implemented and secured.
15. Technical design strategy for Lady Ann Road / Soothill Lane improvements and implementation (with flexibility if wider improvement scheme implemented).
16. Full technical details of the internal road, access, and paths through POS areas, to adoptable standard to be provided, approved, and implemented.
17. Full technical details of new retaining walls to be provided, approved, and implemented.
18. Bin stores to be provided.
19. Highway condition survey to be undertaken.
20. Travel Plan to be provided and implemented.
21. Details of cycle storage per plot to be provided, approved, and implemented.
22. Construction phase waste collection strategy to be submitted, approved, and adhered to.
23. Contaminated land investigations to be undertaken and remediation / validation undertaken as required.
24. Development to be undertaken in accordance with flood routing strategy.
25. Development to be undertaken in accordance with Flood Risk Assessment, including regrading works and Finished Floor Levels.
26. Full technical details of the drainage strategy to be provided, approved, and implemented.
27. Details of temporary surface water drainage arrangements, during construction, to be provided and adhered to.

28. Ecological Design Strategy to achieve 11.34 habitat units and 10% gain of hedgerow and river unitson site plus ecological mitigation measures
29. CEMP: Biodiversity to be submitted, approved, and implemented.
30. Lighting strategy (amenity, ecology, and crime mitigation)
31. No site clearance within the bird breeding season (unless appropriate survey undertaken).

Notes

- Safety details for railway level crossings.

Background Papers

Application and history files

Available at: <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f94280>

[Planning application details | Kirklees Council](#)

Certificate of Ownership

Certificate B signed.