

CONSULTATION RESPONSE:

Application No. 2022/62/91911/E – 47 Houses, Cliffe Hill, Denby Dale

Overview of Our Position on this Matter

- We wish to make the **STRONGEST POSSIBLE OBJECTION** to these proposals on four main counts:
 - ‘Preparation’ of the site via opencast coal mining strategy prior to any development
 - Access from Cumberworth Lane
 - Drainage and Flood Risks
 - Failure to fulfil local housing need

- **Site Preparation:**

This consists of a highly inadequately specified ‘Remediation Strategy’ which is in reality an **Open Cast Coaling Mining proposal**. This contravenes both local Kirklees local planning policies and Paragraph 217 of the National Planning Policy Framework (NPPF) and is totally unacceptable. We believe such an activity will have a **Severe Negative Impact** on the village of Denby Dale threatening existing property, infrastructure and the health and safety of residents and all road users.

It also appears to us that the authors of many of the submitted ‘Supporting Reports’ (eg. Design & Access Statement, Planning Statement, Flood Risk & Drainage Strategy, Air Quality, Environmental Survey, Tree Survey, Noise Assessment and Transport Strategy) were unaware or ignored the coal mining ‘precursor’ to any development. We would like to believe in the name of professional integrity and competence of the sub-contractors employed by the developer, that the former is the case. Lack of consideration of the impact of the above renders these reports, data, claims and their conclusions incomplete, inaccurate and inadmissible. **We also trust that the LPA has also made all Statutory Consultees aware of this mining factor prior to development.**

Additionally, this steeply, sloping site containing 3 shafts, numerous mining entry points and underground voids has been officially assessed as a ‘**High Risk Geotechnical Area**’ subject to instability and ground/gas contamination and clearly unsuitable for housing development.

On the above basis alone, this application should be **REFUSED** immediately. It fails not only NPPF Para 217 but Paras 8(c), 174, 183, and 185 at a minimum. It puts the community at real risk and the harm far outweighs any benefit. Given recent decisions in another part of Denby Dale, we trust the Coal Authority will also be supportive of refusal.

- **Access:**

The proposed access off Cumberworth Lane is also totally unacceptable and unsafe. It fails to meet NPPF Para 110 and LP21.

Neither the Transport Assessment or Road Safety Assessment (*see further points below*) appears take into account the proposed open cast mining operation which further negates its credibility and reliability.

The modelling used in the Transport Assessment uses unrepresentative data and filters giving inaccurate and unreliable results. Kirklees Highways should not accept these results and demand a separate truly independent, professional assessment. (*See Transport Assessment comments below*).

The proposed access is at a particularly constricted part of Cumberworth Lane with very limited visibility splays. As the largely unconvincing Transport Assessment shows, the **average speed** of traffic is nearly 5mph above the speed limit, requiring a stopping distance of around 29.16M – far greater than the left hand 22m visibility splay from the proposed site entrance. (*See further comments on the Transport Assessment below*).

As part of the Local Planning process each suggested housing allocation was primarily assessed by the Planning Department. This assessment at the time noted '*Cumberworth Lane offers limited site frontage and a significant amount of third-party land would be required to achieve visibility splays and a footway. Access from Leak Hall Crescent is constrained by their junction with Wakefield Road and parked cars. The change in levels from both of these roads to the site may be an issue. Leak Hall Lane would need bringing up to an adoptable standard but could potentially be better than the other options.*'

The LPA is respectfully reminded that at the Stage 4 (Allocations, Matter 41) Local Plan Hearings in March 2018, the presiding Inspector, Mrs. Katie Childs raised questions, stemming from her own concerns, about this allocation (then known as H690, latter reassigned as HS144 in the Final Local Plan) and particularly about the proposed access. Members of UDVET actively participated around the table on that day. Mrs. Childs asked the two Highways (Planning) representatives called to the table, to confirm exactly where the access to this site was to be taken. After some embarrassing fumbling and delay, they confirmed that the **access should be from Leak Hall Lane** as this offered clearer and safer visibility splays and turning at its junction with the A636 Wakefield Road and kept site traffic away from the centre of Denby Dale.

This amendment is noted in the Local Plan Inspector's Final Report, dated 30 January, 2019, Page 61 – Point 309, Amendment ref: SD2-MM220. Subsequently, the Council's own schedule of modifications agreed as a result of the LP Hearings, 'Allocations and Designations Main Modifications', Section 4, Page 107, notes that on Page 122 of the Local Plan Allocations under 'Constraints' for this allocation that a new piece of text is to be inserted, viz '*The provision of a pedestrian footway is required across the site frontage at Leak Hall Lane*'. The site frontage is, therefore, designated as on Leak Hall Lane, NOT Cumberworth Lane.

It was on the above basis that the Inspector accepted this allocation as part of the Local Plan and given the Council's own assessment of the nearby roads and agreement to make this access amendment, we expect it to be upheld by Highways and the LPA. If it cannot be

achieved, development should NOT be allowed, neither should splitting the original allocation.

- **Drainage and Flood Risk**

We certainly agree with and support the concerns and comments already submitted by the Local Flood Authority. We wonder, however, if the LLFA's personnel are aware of the Opencast mining proposal which will seemingly destroy the watercourse/spring running at the north end of the site and create contaminated 'runoff' from the various spoil heaps shown on the 'Remediation Plans'? It is not mentioned in the LLFA's Consultation Response to date. There also appears to be a risk of disturbing underground aquifers. A Risk Analysis is woefully lacking.

Yorkshire Water have made it perfectly clear in their letter to the Developer dated 22 September, 2022 that the combined sewer through Denby Dale cannot accept any surface water, yet the plans describe 'exceedance' flows draining down the new site access onto Cumberworth Lane and into the existing drains. The fiasco surrounding the flooding problems generated by Wood Nook should not be repeated here.

Likewise, the capacity of the existing sewers to accept foul water appears to be in question in the same letter from Yorkshire Water. Access to the sewer is now on a 'first come, first served' basis. 34 houses are currently under construction off Barnsley Road, with another 53 in the detailed planning stage. These 87 houses will also be requiring sewer access at some point in the system in Denby Dale and would appear to be 'ahead' of this application. It seems new 'off site' provision will be required. The developer appears to be ignoring this real possibility.

Culvert and flooding issues are known to exist at present around the bottom of Leak Hall Road in the area of the old school and library.

Why have rainfall statistics been taken from Birchencliffe around 11 miles away when there's a National Weather Station at Emley? The latter will be far more representative of the rainfall in Denby Dale. Subsequently, it is likely the surface water volumes calculations will be understated.

We object to the proposal to create a vast open, attenuation pond at the south eastern side of the site. This is directly behind existing housing, it's unclear how exceedance/overtopping will be handled and the deep water is likely to pose a danger to children. Soakaways are a known unworkable drainage option in the Dearne Valley owing to geological factors.

Given the drainage and flooding problems currently experienced throughout the Dearne Valley, is it not time the Council, LLFA and Yorkshire Water start to demand the construction of totally new surface and foul water drainage systems both ON and OFF development sites? The existing old, creaking infra-structure was never designed to cope with what is now being demanded of it.

- **Failure to Fulfil Local Housing Needs**

This application fails to deliver the identified housing needs of the area required by LP11 – i.e. affordable homes/social housing and suitable single storey housing for older people, allowing them to downsize thereby making larger homes available to families.

It delivers exactly what we **don't need** – 64% of the houses (30 out of 47) are large, expensive 4 or 5 bedroomed detached of which there is already an oversupply in the area. According to Kirklees policies, at least 9 homes (20%) on a site of this size should be affordable.

This site offers no social benefit at all. It would merely create yet another 'commuter dormitory' for people with high earning employment outside Kirklees.

This proposal creates far more harm than benefit to the community. In fact, it is difficult to see any benefits at all.

We would also like to add that this section of the site HS144 is not needed. A 'windfall, brownfield site' in Skelmanthorpe at Greenside Mills has become available since the Local Plan exercise. This is now in an advanced planning stage and very likely to go ahead shortly. This will deliver 46 houses of better type and tenure.

Just because a piece of land is designated an 'allocation' in the Local Plan does not mean that it should automatically be accepted for development. Our legal advice has pointed out that it is for the detailed planning application process to demonstrate that it is suitable and safe for development and complies with both national and local planning policies. Clearly, this piece of land does not! (See Comments on Planning Statement below).

Given all the issues with this proposal, UDVET believes this portion of HS144 (if not all of it) should revert back to its original (and correct) UDP designation of Urban Green Space. It should then be enhanced with tree and shrub planting to increase its biodiversity value using 'fines' levied against the developments off Barnsley Road for failure to achieve a 'Biodiversity Net Gain' as required by local and national planning policies. We feel Kirklees Council and Denby Dale Parish Council should work with the landowner to direct and finance this work. It may be, given the changes to DFRA funding, that the landowner may also be able to claim payments for 'rewilding' – something which needs investigating further.

-0000-

We make further detailed comments and observations below: -

Design and Access Statement

- As stated above, we challenge the sustainability of this site and the assertions and claims made in this document. This development is planned on an area officially designated in both Geotechnical Reports as a '**High Risk Geotechnical Area**'.
- We believe the authors of this report were unaware or have ignored the open cast mining proposal prior to any housing development. Therefore, the statements, claims and conclusions are incomplete and inaccurate. Consequently, this document should not be accepted by the LPA.

- The scheme fails to deliver the type and tenure of housing needed in the area.
- We believe the road layout will not be acceptable as the LPA prefer a circular road layout so service vehicles (ie. refuse collection vehicles) do not have to make excessive reverse/3point turn movements.
- Why install gas boilers? Why not heat exchange/Solar provision now?
- Many of these house types are clearly UNSUITABLE for disabled or mobility impaired people and indeed families with young children being 2.5/3 storey and several appear to have 16/17 steps down the side of the property to the garden area below. In our view, this is a huge omission and, yet again, we see a lost opportunity. There is a considerable, unmet local need for bungalows/single storey homes for the elderly/mobility impaired. To see another green field and its trees and hedges disappear and an evident and urgent local housing need still not met, is unacceptable.
- There is excessive use of ugly, close boarded fencing both within and around the site boundary. Surely, in line with KMC's green and 'carbon zero' policies, hedgerows and 'green fencing' should be required to produce a more environmentally friendly and improved aesthetic appearance. Close boarded fencing has a limited life span and soon looks in a poor state of repair, especially after winter gales. As shown this summer, it is also a fire risk – acting like 'touch paper' providing a fire route between and linking properties.
- The public bridleway will be reduced to a boarded tunnel.
- Similarly, we view the use of 'gabion baskets' unacceptable. They have a limited life span depending on the quality of basket galvanising (maximum longevity 40 years we have been informed) and liable to slippage if not properly locked and stepped or built on unstable ground which this site clearly is.
- To state that this development will have negligible effect on local traffic volumes and flows is utterly misleading. It sends traffic directly into the centre of Denby Dale via a highly constricted lane to a junction with the A636 which has poor visibility, particularly from the rhs owing to the 'rise' in ground levels and roads congested and narrowed by parked cars. Any additional vehicles in Denby Dale will exacerbate the existing traffic movement and parking issues prevalent throughout the village. The accident 'status' of the A636 is also changing to reflect the increasing number of traffic incidents. Traffic heading for South Yorkshire is likely to increase traffic flows through Upper Denby and along High Flats to the Penistone Road.
- We have included conservative estimates of traffic movements, based on the number of parking spaces provided in this proposal below under 'Traffic Assessment'. We also question the validity and reliability of the research and conclusions reached in the latter.
- The scheme will not protect wildlife unless positive steps are taken to preserve and protect it prior to any development work commencing e.g., trapping hedgehogs. This should be a pre-start and monitored Condition for any permission related to this site.
- We note that the Ecology Report is only a draft and incomplete.

Observations on Plans/Drawings

- Given the steep hillside location, 2.5/3 storey houses will have an ugly, overbearing and domineering effect on the village and surrounding properties. At the time of the Local Plan development, it was stated that the Council wished to avoid developments on steep hillsides.
- Natural stone should be required, not a cheap artificial substitute. 'Rendered' finishes also appear to be mentioned but it is unclear from the drawings which house types this refers to. Is this a copy over error?
- The house designs do not reflect traditional, Pennine architectural features. A current development in the area shows this far more effectively and perhaps this developer should take note.
- We believe the housing design does not meet LP24.
- There is inadequate visitor parking provision. According to our calculations at **least 12** spaces would be required to meet the current requirements in the KMC Highway Design Guide SPD, November 2019. We can only identify 6 spaces at present.
- Contrary to Principles 5, 11 and 12 of the KMC Housebuilders Design Guide, there is considerable 'front of house parking', ugly integral garages or no garages at all. The street scene will be utterly dominated by rows of parked cars.
- We query the size of garages as no dimensions are shown on the drawing found on the web site. The five most popular family cars last year were 5'11 in. wide and 14ft 1in long. Garage design allowances appear to have not kept up and width has remained at 6ft. 11in. Any driver needs more than 6in. to exit the side of a vehicle once inside the garage. A recent RAC Foundation Study found that 2/3 of people do not use their garage for the car, but for storage and this creates chaos on developments. Counting a garage as a 'parking' space appears to be totally over optimistic and doing so is likely to cause overspill onto estate roads/pavements. This is further exacerbated by the apparent lack of visitor parking. What happens when the 'work's van' comes home or a caravan/motorhome? **If garages are unusable, the developer cannot claim to have met the Authority's Highways Design Guide, Section 5.4 for parking spaces. The LPA should not be accepting inadequately sized garages as 'parking space'.**

Planning Statement

- Again, this document fails to take into account and assess the open cast mining pre-cursor to the entire development. It fails at the first planning hurdle by contravening Paras 183 and 217 of the NPPF and numerous local policies.
- As this document stands, it makes multiple claims of NPPF and LP compliance that are obviously not evidenced or accurate in reality. We list some examples below (we suspect many more will apply):-
- NPPF Paragraphs 65, 79,92,92, 93, 110, 111, 131, 167, 169,174, 183,185, 217

- Local Policies: LP3, LP11, LP20, LP21, LP22, LP27, LP28, LP30, LP32, LP33, LP52

Access Road Safety Audit

- Again, the Audit Team appear to be unaware of the coal extraction proposal and the serious safety implications of such a development have not been considered.
- It fails to assess the impact of the 16 consented dwellings given outline planning permission which will use an exit just below the one proposed – See Application No. 2019/60/93906/E
- Notwithstanding the above, serious issues have been rightly raised by the Audit Team which need resolution immediately.
- The proposals include a pedestrian crossing which would allow pedestrians to cross to avoid a section of Cumberworth Lane where there is no footway. The Road Safety Audit identifies the problem that there is limited visibility at the crossing point and pedestrians would be at risk when using the crossing. **The designer taken the view that at 43m there is sufficient visibility. This might possibly be appropriate within the development when applying the standards contained with the Manual for Streets. However, this section of Cumberworth Lane is outside the development and is part of the local road network linking local villages. A Stopping Sight Distance of 43m is well below the desirable minimum stopping distance for a road of this type.** The designer should demonstrate how he/she intends to accommodate the crossing at an appropriate location within the scheme layout with a more appropriate level of visibility (including the restrictions caused by car parking).
- The Safety Audit appears to consider only cars. Fully loaded earth moving wagons from Peace Wood Quarry use Cumberworth Lane en route to Naylor's at Cawthorne. These types of vehicles require a far longer stopping distance. Having to make an emergency stop could lead to these trucks 'jack knifing' with disastrous results.
- The Road Safety Audit team also raised concerns regarding a section of Cumberworth Lane where there is no footway. This would be on the pedestrian route between the development and village centre. They took the view that this might lead to pedestrians stepping into the carriageway and into the path of oncoming vehicles and that a continuous footway should be provided. The designer's surprising response (particular in view of the Travel Plan aims) was that there would be few pedestrians, there would be an alternative route and that the safety risk would be 'minimal' – totally inconsistent with the Travel Plan supplied!!
- The designer and developer should be required to revise the proposed layout and demonstrate how a continuous footway can be provided **before** any decision is made. It certainly should NOT be a matter to be dealt with after any approval is given.
- **As it is, the access, fails to meet Para 110 of the NPPF and LP21. It does not ensure the safety of all users.**

Transport Assessment

- Again, this document fails to consider the impact of the open cast mining proposal and explain how heavy open cast plant and earth moving waggons are to access the site without endangering existing road users and pedestrians.
- A Transport Assessment which on its front cover, shows photographs which are truly unrepresentative of the real day to day traffic conditions through Denby Dale, immediately casts doubt as to its reliability and credibility in the eyes of informed readers and local residents.
- Denby Dale and the Upper Dearne Valley is a car dependent area. The bus times shown do not represent a frequent bus service and journey times are often long. The bus routes are linear and interconnectivity is poor – fine if you happen to work along the route or in the terminus town centre. Apart from the Penistone Line which terminates in Sheffield City Centre (but only an hourly service), public transport does not serve the main areas of high value employment opportunities (eg. Leeds) which provide the salaries to support the expensive properties proposed. Car use is essential for most people of working age (and beyond).
- No 'Swept Path Analysis' has been provided to show that large construction vehicles and refuse vehicles can, in fact, safely turn right and left out of the proposed access road without causing a danger to oncoming traffic and pedestrians on the very narrow footway opposite the entrance.
- Given the width of Cumberworth Lane (5.5m) at the site access, we doubt two large vehicles would be able to safely pass. What happens when a bus meets a construction vehicle?
- We note that in order to create a new 2m footway up to the bridleway, excavation of the existing garden retaining wall surmounted by mature hedge is proposed. This may well affect the stability of the existing bungalow - the footprint of which is not clearly or accurately shown on various plans. Has this risk been assessed? It could well render this house uninhabitable and uninsurable.
- 'Crash Map' statistics have proved unreliable for this area for years and do not reflect local experience. Many incidents are not reported or data remains unrecorded. This was pointed out at Local Plan hearings when it became evident incidents known to residents were not shown. Only recently, a very serious accident occurred demanding the attendance of the Yorkshire Air Ambulance.
- Section 3.2.6 of this Assessment fails to mention that the A636 is the only main road through the Dearne Valley. There is just one road in and out, passing through Denby Dale village, Scissett and Clayton West. It suffers from width constriction and extensive on-road parking, especially through Denby Dale and Scissett. This is the main access road to M1 Junctions 38 (south) and Junction 39 (via Calder Grove for north bound) and is very busy. The A636 is also used by increasing volumes of traffic from the Holme Valley area, again, because of building activity there. We feel the travel route suggestions made by the Consultants deliberately detract from existing problems, suggesting routes unlikely to be used in practice e.g. residents are extremely unlikely to access the M1 south bound via the Barnsley Road to the Dodworth roundabout as the route through Baraugh Green is difficult and constricted.

- The trip generation rates emanating from this development seem inaccurate and inconsistent with the number of parking spaces provided for housing within the development. There appears to be parking provision for 124 vehicles.

Therefore, assuming a very conservative 2 return journeys (ie.4 movements per vehicle)

=124 x 4 = 496 movements per day

=496 x 7 = **3472 movements per week minimum**

This conservative figure is far from 'insignificant' and does not include visitor traffic and deliveries. People will be using their cars for shopping and dropping off children at school as well as travelling to work.

- The computer modelled TRICS Data Analysis to achieve the quoted trip generation rates contains bias and inaccuracies which render the results of this analysis unreliable and unrepresentative. Selection of data and filters can be used to manipulate the results to show a lesser impact on local roads as the algorithms within them make certain assumptions about the number of people likely to travel by car and public transport. Both the primary and secondary filters are unrepresentative of Denby Dale. Examples are:-

The selected data source locations from around the country are mainly from established suburban areas or edge of town locations likely to be serviced by regular and frequent bus and train services to places of employment. People in the selected areas are likely, therefore, to make more use of public transport. Because the algorithms within the programme will make this assumption, the outward/inward flow of vehicles at these selected locations will be less and, therefore, unrepresentative, irrelevant and inaccurate when applied to Denby Dale. Denby Dale is not a suburb of Huddersfield.

Selection of 'Edge of Town' and 'residential zone' filters when 'Freestanding' and 'village' are the accurate filters.

Using notoriously inaccurate 'manual count' data for 9 of the 11 data sets used.

Uneven 'selected survey days of the week' – why not an even distribution of data covering each day of the week.

Filters with a bias to higher levels of population (assumption built in about better availability and use of public transport).

Use of more data based on 1.1 to 1.5 car ownership within 5 miles. In reality, we believe it is closer to 1.6 to 2.0. On this development 64% of the houses will have 3 parking spaces!

- Likewise, the Junction Capacity Modelling Output contains notified system data errors linked to all its model runs because the road width is less than 6m and the user has not inputted a mix of vehicle types (only cars) which are clearly evident from the ATC Count. Even then the latter appears to exclude HGVs which regularly use Cumberworth Lane. Was the ATC set to exclude HGVs?
- UDVET have highlighted this type of computer modelling manipulation to the LPA/Highways (Planning) for a number of years. These reports should NOT be accepted. A truly independent contractor or the Highways Agency should be appointed to undertake genuine, accurate primary research and representative modelling where this is absolutely necessary.

Noise and Air Quality Assessments

- Again, the author of this document appears to be unaware of the proposed open cast mining part of this application – something which will cause much noise, vibration and air pollution in Denby Dale. These reports need rewriting and the effects of the ‘Remediation Strategy’ comprehensively and accurately assessed and documented.

Tree Survey/Ecology/ Biodiversity Reports

- Again, the authors of these reports appear unaware of the open cast mining proposal which will effectively sweep away all existing flora and fauna on the site, including, it appears, the TPO. Many other trees have a life expectancy of 20+ years. This ransacking of our environment and wildlife habitats is totally unacceptable.
- The plans do show ‘new’ trees. However, many of these appear to be within the gardens of proposed residential properties. We have been informed by a local tree expert that when trees are specified in this way, 90% of new residents refuse to allow them to be planted. KMC Guidance favours tree lined streets and greenery to avoid this problem.
- A number of trees have already been damaged owing to the activities of the builder of the 6 new houses off Leak Hall Crescent who, we believe, has excavated ground and refilled it with building waste from that lower site. We note this fill has been identified as ‘non-engineered fill’ in the Geotechnical Reports. This will need to be removed from site.
- Precautionary working methods to ensure species such as hedgehogs, badgers, birds, bats and other wildlife appear to be missing.
- The Ecology Report submitted is only a draft and the completed version is needed.
- A Biodiversity Net Gain Assessment and Social Impact Assessment appear to be missing from the web site at the time of writing.

Other Comments:

- In the light of the large number of developments under way in the Dearne Valley (See below), there is an urgent need for the Planners and Planning Committees to see the bigger picture. A total Impact Statement upon the Dearne Valley is desperately needed.
- We already have an education ‘progression block’ in the 3-tier system existing in the valley in that Scissett Middle School is absolutely full.

We challenge the school places figures stated by Kirklees Education Department. Our own recent research has revealed that Shelley College is oversubscribed in Years 9,10, and 11 i.e., every year of the main school. New applications are placed on a waiting list and might eventually be offered a place when a pupil leaves. However, experience shows that once a child has started examination courses, parents are unlikely to withdraw them. Years 12 and

13 have some availability, although popular courses are likely to be full and the full range of Advanced Level courses may not be available.

- To illustrate the scale of the demand on the local education provision in addition to this proposal, currently under construction at present, or at an advanced planning approval stage, are:

87 Houses on 2 sites around Inkerman Court, Barnsley Road, Denby Dale
189 Houses, Cumberworth Road, Skelmanthorpe
44 houses in total off Station Road, Skelmanthorpe
46 houses. Greenside Mills, Saville Road, Skelmanthorpe
200 houses, off Pilling Lane, Scissett (now on final phase)

- Asking developers to make no 'educational' payment makes no sense in view of the volume of housing downstream – newly built provision will be needed and should be planned now.
- Medical services are over-stretched and struggling to cope. In the case of Denby Dale, the doctors' surgery is a satellite practice operating from Skelmanthorpe Health Centre. To serve these communities, the Medical Centre has 4 FT doctors + 1 long standing vacancy, partly covered by Locums who tend to move on quickly. The Centre is already grossly over-subscribed and waiting times for an appointment are a source of continual complaint within the community.

Upper Dearne Valley Environmental Trust

Reg. Charity 1157514

September, 2022