
Report of the Head of Planning and Development**STRATEGIC PLANNING COMMITTEE****Date: 05-Dec-2024****Subject: Planning Application 2023/91116 Erection of 77 dwellings, with access from Darley Road and associated works Land off, Primrose Lane, Hightown, Liversedge, WF15****APPLICANT**Jones Homes (Yorkshire)
Ltd**DATE VALID**

02-Feb-2024

TARGET DATE

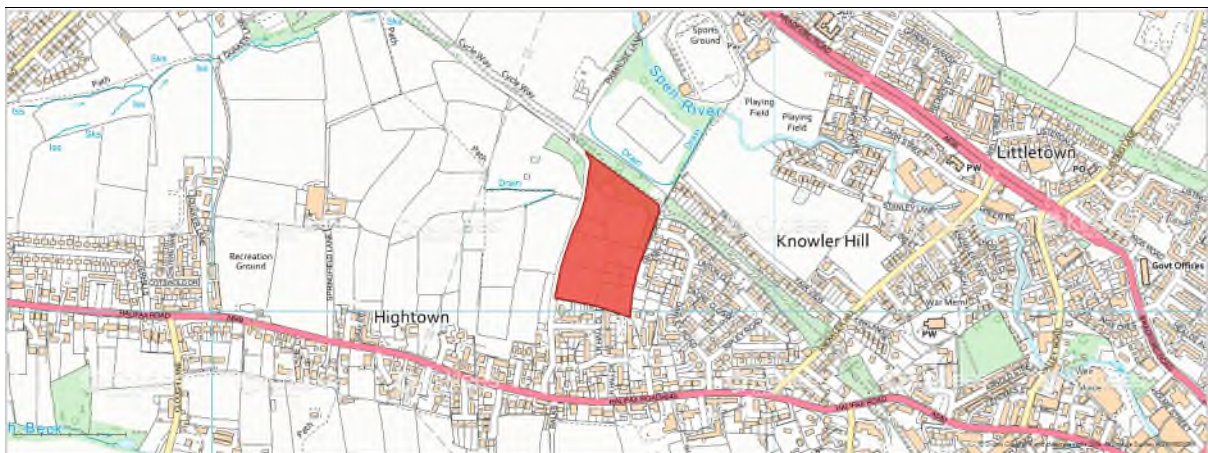
03-May-2024

EXTENSION EXPIRY DATE

07-Sep-2024

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: Liversedge and Gomersal

Ward Councillors consulted: Yes

Public or private: Public

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development:

1. Complete the list of conditions including those contained within this report and to secure a Section 106 agreement to cover the following matters:

Affordable Housing: 15 units (20%) to consist of 8 Affordable Rent (55%) and 7 Intermediate Dwellings (45%), including 5 First Homes (25%).

Ecological Net Gain (to secure 10% net gain off-site): £14,467 towards off-site ecological habitat enhancement.

Public Open space: Delivery of the on-site Public Open Space, a £1,000 inspection fee, and an off-site contribution to local Public Open space of £118,220.

Education: £118,791 towards education requirements arising from the development.

Highways: £10,000 towards promoting a Traffic Regulation Order along Darley Road and Ripley Road, including at the Ripley Road / Halifax Road junction.

Sustainable travel: £69,385.50 towards Sustainable Travel measures (including £39,385.50 for sustainable travel fund (such as Metrocards), £20,000 towards bus stop improvements (on Meltham Road) and £10,000 towards travel plan monitoring).

Management and maintenance: Management and maintenance of on-site Public Open Space in perpetuity, drainage features in perpetuity (unless adopted by Yorkshire Water), and Biodiversity Net Gain measures for a minimum of 30 years.

2. Await the receipt of an Intrusive Ground Investigation Report with regard to legacy Coal Mining and contaminated, then re-consult with the Coal Authority and K.C. Environmental Health. Thereafter proceed as follows:

- a) In the scenario where the report concludes there is no conflict with plots 06, 07, and / or 10, determine the application as set out in 1. above.
- b) In the scenario where the report concludes that there is a conflict with plots 06, 07, and / or 10, which cannot be remediated to the satisfaction of the Local Planning Authority (advised by the Coal Authority and/or K.C. Environmental Health), amend the proposal to remove the plot(s) in conflict. Thereafter, complete the list of conditions including those contained within this report and to secure a Section 106 agreement (with the contributions as set out in 1. to be recalculated, pro-rata, to account for the reduced housing provision)

In the circumstances where the Section 106 agreement has not been completed within three months of the date of the Committee's resolution then the Head of Planning and Development shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Planning and Development is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

1.0 INTRODUCTION

- 1.1 This is an application for full planning permission for the erection of 77 dwellings with associated works.
- 1.2 This application is brought to the Strategic Planning Committee, in accordance with the Delegation Agreement, due to a significant number of public representations being received contrary to the officer's recommendation.

2.0 SITE AND SURROUNDINGS

- 2.1 The site is within Liversedge, approximately 1.2km to the southeast and 1.7km to the northwest of Cleckheaton and Heckmondwike centres respectively. Residential properties are located to the east and south of the site, with sport pitches to the north. The land to the north and west is Green Belt.
- 2.2 The Spen Valley Green Way runs along the site's north boundary. Primrose Lane, a single-track lane that hosts PROW bridleway SPE/111/120, runs along the west boundary. PROW footpath SPE/110/20 runs along the east boundary and PROW footpath SPE/116/20 runs along the south. Darley Road terminates near, but not adjoining, the site's northeast boundary. It is separated from the site by private land which hosts the aforementioned PROW SPE/110/20.
- 2.3 The site itself is roughly rectangular in shape and has an area of circa 2.95ha. It has historically been used for agricultural purposes. The site is allocated for housing within the Kirklees Local Plan (site reference: HS117). The topography of the site and area falls downhill from south to north. A mixture of wire fencing, vegetation and low drystone walls defined the site's east, south and west boundaries. Trees are located along the west boundary, while an area of woodland resides within the north and northeast of the site. The woodland continues outside of the site to cover sections of the Spen Valley Green Way.
- 2.4 A Yorkshire Water pipe runs between the southwest and northeast corners of the site, bisecting it roughly diagonally.

3.0 PROPOSAL

- 3.1 The application seeks full permission for the erection of 77 dwellings. The proposal would have six house types, with the following size mix:

- 2-bed: 12
- 3-bed: 22
- 4-bed: 37
- 5-bed: 6

The dwellinghouses would be predominantly detached and semi-detached. The 2-bed units would be located in two apartment buildings.

- 3.2 All dwellinghouses are proposed to be two storeys, with the two apartment buildings being three storeys. The development would be prominently faced in artificial stone, with render as a secondary material on some plots. Grey artificial slate tiles are proposed for the roofs, which would vary between gabled and hipped in style. Each dwellinghouse would have a rear garden, enclosed by 1.8m close boarded timber fencing. Boundaries which face onto the public realm would be brick with timber panels.

- 3.3 All units would host dedicated off-road parking, including the two apartment blocks. A low portion of units would benefit from detached (single) garages. An electrical sub-station building would be located to the immediate north of the point of access.
- 3.4 A single new vehicle access would be formed to serve the development, connecting from Darley Road. The access road would initially head into the centre of the site, with one branching section, before forming a loop in the southern section. Dwellings would front onto the new road in a traditional fashion. The road would accommodate 19 dedicated visitor parking bays.
- 3.5 The point of access requires unregistered third-party land, the owner of which has not been identified by the applicant. No land register information exists for the parcel. The applicant has gone through due process to attempt to notify the landowner, ultimately signing certificate C to declare that all reasonable attempts have been made to find the landowner. This is adequate for planning purposes (considered further within paragraph 10.72 – 10.75), although for the avoidance of doubt it remains a private legal matter for the applicant to resolve, should planning permission be granted.
- 3.6 Several connection points would be provided to the PROWs to the east and west of the site. Those onto the western Primrose Lane, hosting bridleway SPE/111/120, would be 3m wide multimodal links. Those onto the east footway PROW footway SPE/110/20 would be 2m wide footpaths, with the PROW to be widened to 2m wide. No direct connections would be provided onto the southern PROW footpath SPE/116/20, but it is proposed to be widened to 2m utilising land within the site.
- 3.7 Groundworks are proposed across the site to enable suitable road gradients to be achieved, and to create developable plateaus and level plots. This would involve some areas being excavated, others raised, and the construction of retaining walls. Retaining walls are proposed throughout the site, including along the southern boundary, behind plots 48 – 60, which would incorporate retaining walls of circa 2m in height atop batters of circa 1.5m. The rear gardens of the rows containing plots 27 – 36 and 37 – 47 would likewise be regraded using batters.
- 3.8 Approximately 63 trees within the site, of varying ages and sizes but primarily within the northern woodland, are proposed to be felled to enable the development. This includes circa 24 to be removed to enable the access, road and houses, and 39 to enable the re-routing of a water pipe to outside of the developable area. These numbers are approximate due to the density of the vegetation. The landscaping proposals include the planting of 58 trees across the site and wildflower planting atop the re-routed pipe, as trees cannot be planted within its easement. No new trees are proposed within the adoptable highway; however, most units would have a front garden tree along with trees being planted within landscaped areas adjacent to the highway. The woodland to the north is proposed to be enhanced and used as part amenity grassland, part natural /semi-natural public open space.

4.0 RELEVANT PLANNING HISTORY (including enforcement history)

4.1 Application Site

None.

4.2 Surrounding Area

Primrose Farm, Primrose Lane

2019/90082: Conversion of existing derelict building to one dwelling with linked annex and holiday let, erection of detached stable block and change of use of land to extend domestic garden to include detached garage and log store and external alterations – Granted

4.3 Enforcement History

None.

5.0 HISTORY OF NEGOTIATIONS

5.1 A pre-application enquiry for the site was submitted in October 2019 under reference 2019/20398. This was submitted by one of the site's owners and sought feedback from officers on a proposal for 94 dwellings, with 33 dwellings to be served from Lower Hall Close and 61 from Darley Road. Officers provided advice and feedback on various material planning considerations. In summary officers concluded the principle of development to be acceptable. No fundamental constraints to development were identified, however feedback was provided on matters such as design and amenity along with setting out expectations on technical requirements including highways, drainage, and ecology.

5.2 A second pre-application submission was received in September 2021, referenced 2021/20992. This was submitted on behalf of Jones Homes, the current applicant. The proposal was for a 75-unit scheme, with a different layout arrangement but again with a point of access from both Lower Hall Close and Darley Road, however this time with a through-route. Officers' position on the principle of development remained the same, although a more critical commentary on the indicative design was provided. The need for a thorough investigation into the suitability of the Lower Hall Drive / Halifax Road junction (which leads onto Lower Hall Close) to accommodate the development, particularly if a through-route was proposed, was raised due to concerns this would be the primary route for future residents. Similar advice to that set out previously regarding technical matters (i.e., drainage and ecology) was provided.

5.3 The current application was submitted in April 2023. The proposal was initially for 66 units, with a portion of the allocation (circa 0.12ha in size) excluded from the application site red line boundary. This was due to the excluded land being in separate ownership. The second point of access, from Lower Hall Close, was also omitted.

- 5.4 On assessment, along with details provided via the formal consultation process and public representation, it was evident certain concerns and technical matters were yet to be addressed. During the life of the application the applicant and officers have engaged in prolonged negotiations to attempt to resolve the various outstanding matters. Negotiations have included various meetings and other methods of correspondence. The concerns raised mostly related to density, ground conditions, matters of design, and potential impacts on the local highway. The number of units was increased to 77 following an originally excluded portion of the allocation being incorporated into the application site.
- 5.5 Based on the negotiations 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 27/02/2019).

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

- 6.2 The application site comprises all of Housing Allocation HS117 within the Kirklees Local Plan. Allocation HS117 has an indicative housing capacity of 87 dwellings across a net site area of 2.48ha (with part of the allocation excluded from the developable area due to the woodland).
- 6.3 Site allocation HS117 identifies 'potentially contaminated land' as a specific constraint to the allocation.
- 6.4 Relevant Local Plan policies to the proposed development are:
- **LP1** – Presumption in favour of sustainable development
 - **LP2** – Place shaping
 - **LP3** – Location of new development
 - **LP7** – Efficient and effective use of land and buildings
 - **LP11** – Housing mix and affordable housing
 - **LP20** – Sustainable travel
 - **LP21** – Highways and access
 - **LP22** – Parking
 - **LP24** – Design
 - **LP27** – Flood risk
 - **LP28** – Drainage
 - **LP30** – Biodiversity and geodiversity
 - **LP32** – Landscape
 - **LP33** – Trees
 - **LP35** – Historic environment
 - **LP38** – Minerals safeguarding
 - **LP47** – Healthy, active and safe styles
 - **LP51** – Protection and improvement of local air quality

- **LP52** – Protection and improvement of environmental quality
- **LP53** – Contaminated and unstable land
- **LP61** – Urban green space
- **LP63** – New open space
- **LP65** – Housing allocations

6.5 The following are relevant Supplementary Planning Documents (SPD) 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

- 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

6.6 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) 2023, published 19/12/2023 and the Planning Practice Guidance Suite (PPGS), first launched 06/03/2014, together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- **Chapter 2** – Achieving sustainable development
- **Chapter 4** – Decision-making
- **Chapter 5** – Delivering a sufficient supply of homes
- **Chapter 8** – Promoting healthy and safe communities
- **Chapter 9** – Promoting sustainable transport
- **Chapter 11** – Making effective use of land
- **Chapter 12** – Achieving well-designed places
- **Chapter 14** – Meeting the challenge of climate change, flooding and coastal change
- **Chapter 15** – Conserving and enhancing the natural environment
- **Chapter 16** – Conserving and enhancing the historic environment

6.7 Other relevant national guidance and documents:

- MHCLG: National Design Guide (2021)
- DCLG: Technical housing standards – nationally described space standard (2015)

Climate change

- 6.8 The council approved Climate Emergency measures at its meeting of full Council on 16/01/2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.
- 6.9 On 12/11/2019 the council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target; however, it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the council 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

- 7.1 The application is supported by a Statement of Community Involvement (SCI) which outlines the public engagement the applicant undertook prior to their submission to the LPA. In summary, an online consultation process was undertaken, with a website and virtual event being utilised. Letters were sent to circa 200 properties around the site.
- 7.2 The website included an online form where people could leave a response, as the primary method of contact, however the webpage and letter also included other means of communication (email, phone number, and postal address). In response a total of 56 comments were received to the proposal (a circa 29.2% response rate to the number of letters issued). The following is a summary of the concerns raised, and a summary of the applicant's response.

- Proposed vehicle access, vehicle congestion and road safety;

Summary of applicant's response: The concerns raised principally relate to children's safety in and around the area, but also the impact of additional parking, with Darley Road being heavily parked. The proposal's Transport Statement considers these issues in depth and concludes that the details are acceptable.

- Impacts on healthcare availability, including dentists, GP surgeries, and hospitals;

Summary of applicant's response: Residential-led development will to some extent naturally increase the local requirement for healthcare practices, and it is expected that local healthcare providers and NHS trusts would be consulted as part of the application determination. It is also noted that some of those who would be future residents of the development will already live in households within the local area and therefore do not create a need for additional resources.

- Loss of views of the open land from existing properties;

Summary of applicant's response: The proposal will result in a change on the character of the landscape, and therefore views from dwellings. However, the land is allocated for housing and such impacts must be accepted. Nonetheless the proposal has been carefully designed to be attractive, integrate well, and not prejudice nearby residents.

- Impacts of the proposal on the availability of places within schools;

Summary of applicant's response: This matter will be considered through the planning application process and, if a shortfall is identified, can be addressed via a reasonable Section 106 contribution.

- The impact on existing wildlife on the site.

Summary of applicant's response: The application is supported by an Ecological Impact Assessment which considers this matter and concluded it to be acceptable. This included securing a 10% Ecological Net Gain.

Council's consultation

- 7.3 The application has been advertised as a major development via site notices and through neighbour letters sent 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.
- 7.4 The application was amended during its lifetime. As the amendments included an increase in the number of units, a complete re-advertisement was undertaken including a second round of neighbour letters, site notices, and advertisement in the local press. The letters were sent to all neighbouring residents, as well as to those who provided comments to the original period of representation.
- 7.5 The final end date for public comments was 24/06/2024. In total 146 public comments were received. Two of the comments were in support, with the others raising concerns and/or directly objection to the proposal. The following is a summary of the comments made, with a full record being available on the application's webpage:

Support

- The proposal makes effective use of a housing allocation.
- Primrose Lane and the greenway will form effective buffers from the site to the Green Belt, and most of the site's trees and hedgerows will be retained.
- Parking for the new houses will be contained to the site, and not make worse the existing situation on Darley Road.
- There are strong public transport links in the area, and the proposal will reduce anti-social behaviour.
- The application is supported by technical reports which address various matters.

Design

- The development, both its layout and the design of the units, will appear out of keeping with the area, particularly when viewed from the greenway.
- The field is an attractive green space and its loss will detract from the character of the area.
- The inclusion of three storey apartment blocks will not fit into the landscape and built area.
- The development is contrary to the role and function of the green belt and narrows the gap which divides Liversedge and Cleckheaton. Local towns / villages are merging together and losing their identity and attractiveness.

Amenity

- The proposal will result in odour, light, air and noise pollution.
- The proposal will remove valuable green space from the community, used by walkers and promotes mental wellbeing.
- The proposal will result in a loss of a view for existing properties.
- The proposal will devalue local properties.
- The proposal will result in overlooking and overshadowing of existing properties.

Highways

- Darley Road is not suitable for an increase in traffic volume. It is already heavily trafficked. A further increase in vehicles will risk pedestrians who use the pavements and cross the road, including children. Young children often play on the local roads. Similar concerns for other roads, including Lower Hall Close.
- The internal road layout is not acceptable, being too narrow and having driveways facing each other.
- Concerns regarding Darley Road are made worse in winter, when snow and ice make traversing the steep road more difficult and result in people parking higher up the road.
- The Ripley Road and Halifax Road junction is difficult to use, due to parked cars on the radii, which the proposal will make worse.
- Concerns over the impact on local roads of construction traffic, particularly given the business and parking on the street. Claims construction traffic could simply not use the road, due to parked vehicles. Likewise, concerns over access for waste collection and emergency services.
- The local road network is in a poor state of repair, and the proposal will exacerbate this.
- Access should be via Lower Hall Close or Primrose Lane.
- Introducing yellow lines on Darley Road will simply move cars to other problem areas. Also, such features would not be enforced or controlled by the police.

- Public transport in the area is poor, with limited bus services, and no cycle facilities on roads.
- The development will result in too many vehicles using the Ripley Road and Halifax Road junction, up to as many as (an estimate of) 468, or circa 56% increase.
- The development will introduce 'boy racers' into the area, which will affect peoples' mental health.
- Concerns over the impact on Primrose Lane. It is a bridleway, but frequently used by cars which are damaging it. The proposal will cause this to happen more.

Ecology

- The proposal will harm local wildlife and the area's ecological value. It is used by various species, including foxes and birds, who reside within the woodland.
- The proposals ecological reports are out of date, being over 18 months old.
- The ecological report identifies 'no protected nature sites' within 2km, however the Jo Cox Community Woods is nearby.

Drainage

- The proposal will put strain on waste and water pipes, and there are already issues.
- There is a waterpipe through the land, which has not been considered.
- The proposal will result in a loss of trees, which are attractive and also help mitigate flooding.
- The proposal will result in the loss of natural drainage. Darley Road already has poor drainage and flooding, which the proposal will exacerbate. It will also lead to more water going into the River Spen, which will result in flooding downstream.

Other

- No new houses are needed within this area, there have been numerous developments nearby.
- The proposed houses are not to be affordable nor designed for the elderly, and therefore not fit for an aging population.
- The Local Plan was based on a forecasted 11% population increase between 2023 and 2024, however 2021 Census data shows this was actually circa 2.6% along with a fall in birthrates. Furthermore, data shows that the need for larger homes is expected to drop *'Therefore, the increases in population are going to be primarily driven by people living longer, and immigration – neither of which this proposal is relevant to'*. The government has removed the need for housing targets.
- Brownfield sites should be developed before greenfield.
- The proposal is dominated by 4-bed properties which are not needed within the area. Smaller units which are affordable for first time buyers and social properties are needed.

- The application has been increased from 67 to 77 properties, which shouldn't be allowed.
- There is inadequate social infrastructure, including school, dentists, and doctors' surgeries, in the area.
- The proposal will lead to an increase in crime in the wider area.
- The proposal will harm the Luddites Walk route, which goes past the site, to the detriment of local history. The route should be a non-designated heritage asset.
- The site hosts several mineshafts, which should not be built near to. Part of the site was a former colliery. Questions over who will insure properties near mineshafts?
- Objections have been raised by consultees, including the coal authority and drainage.
- Concerns of building the access over a PROW, and question whether permission from the owner has been granted.
- The proposal will put strain on communications infrastructure, including phone and internet provision. This may result in needing more masts and facilities.

7.6 The site is within Liversedge and Gomersal ward, where members are:

- Cllr David Hall
- Cllr Lisa Holmes
- Cllr Caroline Holt

7.7 Cllr David Hall asked to be updated on the proposal and queried officers on why no access into the site was proposed from Lower Hall Close, as had been considered in earlier draft proposals.

8.0 CONSULTATION RESPONSES

K.C. Ecology: Consideration has been given to the proposal's impact on local species and habitats. No objections subject to conditions and securing a contribution of £14,467 towards securing 10% net gain off-site, and ongoing management / maintenance of on-site net gain.

K.C. Education: The proposal for 77 units would necessitate an education contribution of £118,791.

K.C. Environmental Health: Consideration has been given to various sources of pollution. These have included noise, odour, and light pollution, which have been concluded to not pose a risk to the development. However, ground contamination has been raised as an issue, particularly within the northern area of the site where historic coal mining took place. K.C. Environmental Health requested that this be undertaken prior to determination, which the applicant has been unable to undertake.

K.C. Highways (Development Management): No objection subject to the imposition of conditions and securing obligations / contributions within the Section 106 agreement. Contributions include £10,000 towards TRO provision on Darley Road and at Ripley Road / Halifax Road, £20,000 towards bus stop improvements, £10,000 for Travel Plan monitoring, and £39,385.00 for sustainable travel funds.

K.C. Lead Local Flood Authority: No concerns over flood risk and surface water management, subject to conditions being imposed and management arrangements being included within the Section 106 agreement.

K.C. Strategic Housing: Identified the necessary affordable housing contributions, including tenure and unit size mixture.

K.C. Trees: Object to the proposal due to the loss of trees through the northern woodland.

Coal Authority: The site falls within the Development High Risk Area for coal legacy. Therefore, the application is supported by a Coal Mining Risk Assessment (CMRA), which has been reviewed by the Coal Authority. The CMRA identified five historic mine shafts within the site, one of which potentially conflicts with the proposed plots 6, 7, and 10. Therefore the Coal Authority initially objected to the proposal. This led the applicant to undertake further investigation work.

Based on the further details submitted, the Coal Authority are satisfied that the applicant has suitably demonstrated that this is not a fundamental issue prohibiting the determination of the planning application. They do not object to the proposal, on the basis of a planning condition being imposed requiring that the requested intrusive investigations, to be supported with details of any necessary remediation, take place prior to works commencing on plots 6, 7, and 10.

West Yorkshire Police Designing Out Crime Officer: Advice was provided at the time of the initial submission. The revised plans addressed many of the points raised resulting in no objection subject to conditions.

Yorkshire Water: No objection subject to conditions.

9.0 MAIN ISSUES

- Principle of development
- Urban design
- Residential amenity
- Highway
- Drainage and flood risk
- Planning obligations
- Other matters
- Representations

10.0 APPRAISAL

Principle of development

- 10.1 Paragraph 47 of the National Planning Policy 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 will 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 will be approved without delay, unless material considerations indicate otherwise.

The council's five-year housing land supply and the land allocation (housing allocation)

- 10.2 The 2023 update of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land, and the 2022 Housing Delivery Test (HDT) measurement which was published on 19/12/2023 demonstrated that Kirklees had achieved a 67% measurement against the required level of housing delivery over a rolling 3-year period (against a pass threshold of 75%).
- 10.3 As the council is currently unable to demonstrate a five-year supply of deliverable housing sites and delivery of housing has fallen below the 75% HDT requirement it is necessary to consider planning applications for housing development in the context of NPPF paragraph 11. This paragraph triggers a presumption in favour of sustainable development. For decision making this means:

"Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."*

- 10.4 The council's inability to demonstrate a five-year supply of housing land or pass the Housing Delivery Test weighs in favour of housing development. Nonetheless, this must be balanced against any adverse impacts of granting the proposal. The judgement in this case is set out in the officers' assessment.
- 10.5 The site falls within a housing allocation, reference HS117, within the Kirklees Local Plan Allocations and Designations document (2019). Therefore, Policy LP65 is applicable and states:

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

As a policy 'most important for determining the application', LP65 should be considered against paragraph 11 of the NPPF and, in light of the council's lack of a five-year housing land supply, is therefore deemed 'out of date'. Thus, the presumption in favour of sustainable development is activated in the consideration of this application.

The quantum of development

- 10.6 Both the Local Plan and National Planning Policy Framework set out expectations to ensure proposals represent the effective and efficient development of land. Policy LP7 requires development to achieve a net density of at least 35 dwellings per ha (dph), where appropriate. Local Plan

allocations have indicative capacity figures based on this net density figure. Policy LP11 of the Local Plan requires consideration of housing mixture. These requirements are built upon within the Council's Affordable Housing and Housing Mix SPD (March 2023).

10.7 First considering density, allocation HS117 has an indicative capacity of 87 dwellings, calculated at the net site area delivering 35 dwellings dph. The proposal represents a development density of 31dph within the allocation's identified developable area. This is close to the Local Plan's expectation for 35dph and is deemed appropriate for the site, having regard to its topography, proximity to the Green Belt, and being a new edge to the settlement of Liversedge.

10.8 Regarding the proposed housing mix, Policy LP11 seeks proposals to provide a representative mixture of house types for local needs. This is expanded upon and detailed within the council's Affordable Housing and Housing Mix SPD (March 2023). The following is the SPD expectation for the Batley and Spen area:

<i>Batley and Spen</i>	Market Housing	Affordable Rent	Affordable Intermediate
1- and 2-beds	30 – 60%	40 – 79%	60%+
3-beds	20 – 40%	0 – 19%	20 – 39%
4-beds +	15 – 35%	0 – 19%	0 – 19%

The following sets out the proposal's offer:

	Market Housing	Affordable Rent	Affordable Intermediate
1- and 2-beds	0	7 (87.5%)	5 (71.5%)
3-beds	19 (30%)	1 (12.5%)	2 (28.5%)
4-beds +	43 (70%)	0	0
Total	62	8	7

10.9 The proposal's affordable housing contribution is considered in full within paragraphs 10.110 – 10.117. In summary, the affordable housing's mixture element of the proposal is deemed acceptable.

10.10 The proposal's market housing mixture does not adhere to the expectations of the SPD, however it should be noted that the SPD is both a 'starting point' and is applied using a 'comply or justify approach', as opposed to being a mandatory requirement, if further details and/or local circumstances warrant a different approach.

10.11 The applicant has provided an assessment to justify their proposed mixture. This presents several arguments in favour for the proposed housing mixture, which are summarised as follows:

- The applicant notes the findings of the Kirklees Council Dwelling Mix Analysis (2020-2031) Technical Note, a document which partly informed the council's Affordable Housing and Housing Mix SPD. This document included a household survey that identified the district's dwelling types and sizes. This document identified that Batley and Spen currently hosts 15.5% 4-bed+ dwellinghouses, compared to a district average of 19.3%, whereas

1- and 2-bed units amount for 21.8%, compared to an average of 18.5%. The report also identified that there is a shortfall in 1- and 2-bed flats, which is relevant to the affordable housing. This information is corroborated by Census data on housing stock size, although this is noted to be 2011 data.

- The council's Strategic Housing Market Assessment (SHMA), which was a background document for the SPD, was partly informed by views from estate agents and developers, via questionnaires and interviews. Therefore, the applicant contends that the council must consider whether there have been significant changes since the data which informs the SPD was collected. The applicant (a developer) is of the view that the COVID-19 pandemic has changed home ownership aspirations and priorities, with people seeking larger dwellings with gardens to accommodate home-working. This is supported by local house sale data, which suggests a fall in the sale of smaller units and a rise in the sale of larger properties and further substantiated by the views and professional judgement of local estate agents and the applicant (as a private developer).
- The applicant contends that delivering an SPD-compliant mixture of house sizes is more achievable in viability terms on a larger site than one at the smaller end of the scale, such as this. Further, in their view, larger sites would appeal to a larger section of the market as a whole and the deviation from the SPD requirements would not be significant, nor would it prejudice the delivery of an appropriate mix of housing across the plan area as a whole. The applicant considers this perspective to be supported by a recent appeal decision (from outside Kirklees), where the inspector states:

"I also give weight to the evidence of the appellant who would need to be confident of selling these units at the end of the construction period with an overall viable scheme, and without which the affordable housing and other obligations may not be able to be delivered."

- The applicant notes two recent examples of applications approved by the council within the same Batley and Spen market area, where the housing mixture did not comply with the SPD. In each case, it the housing mixtures favoured larger (3- and 4-bed+) units. These are 2021/93567 at Westgate, Cleckheaton and 2022/91047 at Whitehall Road West, Birkenshaw. The applicant notes that these applications were submitted prior to the SPD being adopted, although were determined after it was adopted.

10.12 The weight officers would afford to each of the above arguments would vary in a case-by-case argument. Nevertheless, as also identified by the applicant, this application must be considered with the presumption in favour of sustainable development, as noted in paragraphs 10.2 – 10.5, due to the council's lack of a five-year housing land supply. This establishes that housing applications should only be refused (when outside of protected areas, such as this site) if *'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole'*.

10.13 Considered in this context, the proposal is for an appropriate density of dwellings on a housing allocation, at a time of housing need. As will be detailed throughout this report, the proposal is considered to be a suitably high quality and is considered to comply with all policy requirements, except Policy LP33 in relation to impacts on trees (as considered in paragraph 10.37 – 10.45).

Furthermore, it would provide all required contributions and obligations via Section 106. In this context, the proposal's modest departure from the SPD's housing mix target, also giving some weight to the arguments put forward by the applicant, is not deemed to be reasonable grounds for refusal.

- 10.14 In light of the above, in summary, 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 (albeit not in accordance with the relevant SPD). 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

- 10.15 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
- 10.16 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.
- 10.17 The application is supported by a Climate Change Statement, which notes the following aspects of the proposal:
- Confirmation that the development will adhere to the (mandatory) part L of Building Regulations, including the provision of air source heat pumps on new development and smart meter systems.
 - Environmentally considerate construction practices to be undertaken. This includes the proposed cut and fill, which is required to be designed to ensure as much material will be kept on site as possible, and off-site construction where feasible (i.e., roof trusses).
 - A site waste management plan to be implemented.
 - The site has been designed to maximise south-facing elevations and roof slopes (circa 85% of units). This promotes thermal gain through windows and promotes the potential future installation of solar panels.
 - Strong connectivity to be provided into nearby PROWs and the adjacent Spen Valley Greenway, to promote walking and cycling.
 - The proposal is to comply with various planning and Building Regulations requirements pursuant to climate change, including providing a biodiversity net gain, sustainable drainage, air quality measures, and a travel plan.
- 10.18 Regarding the social infrastructure currently provided and available in Liversedge (which is relevant to the sustainability of the proposed development), it is noted that residents have raised that local GP provision is limited. Although health impacts are a material consideration relevant to planning, there is no policy or supplementary planning guidance requiring a proposed development to contribute specifically to local health services.

Furthermore, it is noted that funding for GP provision is based on the number of patients registered at a particular practice and is also weighted based on levels of deprivation and ageing population. Direct funding is provided by the NHS for GP practices and health centres based on an increase in registrations. Local education needs are addressed later in this report in relation to planning obligations.

- 10.19 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

- 10.20 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'.
- 10.21 The site is not within or adjacent to a conservation area. Several listed buildings are located along Halifax Road to the south of the site, however none are in a location relative to the site such that they would be materially impacted upon. Therefore, it is considered that the proposal would not adversely affect the historic environment.
- 10.22 There is residential development to the south and east of the site. Dwelling appearances in the area are varied, however are predominantly terraced or semi-detached on the nearest Darley Road, Denby Close, and Lower Hall Mount. These properties are predominantly brick faced. Further afield, detached units are also evident, where stone is more common. To the north is woodland, which the Spen Valley Greenway runs through, before leading onto sport pitches further to the north. Primrose Lane runs along the western boundary, separating it from fields that are within the Green Belt. These elements work to visually contain the development site, being separate from the other open fields to the west.
- 10.23 With the urban environment along two boundaries, and woodland to the north, the development of the site would 'round off' the settlement, as opposed to appearing as a projecting rural extension (i.e., encroaching incongruously into open countryside). Nonetheless, the site is on the edge of the urban environment, where the built environment transitions into the open rural environment to the west / northwest. 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 the wider area. The development of the site would need to respect the topography and character of the area, without being overly dominant. It is considered that proposed development sufficiently achieves this.

- 10.24 The layout of the development is a logical response to the natural features and constraints of the site, notably including the topography. The route of the new estate road balances the need to follow the contours of the site to deliver a suitable gradient, while including a desirable (for highway purposes) loop, that also facilitates reasonable building plots that make the best use of the land. The proposed dwellings would be arranged around the road in a typical fashion.
- 10.25 As noted, Primrose Lane forms a strong defensible boundary between the site and the open Green Belt fields. To assist in this transition and further strengthen the boundary, wherever possible, dwellings have been designed to be set back from Primrose Lane and face out towards the Green Belt. This includes plots 08 to 14. Due to the need to include a loop and secure sufficient delivery, plots 26 and 48 would be close to Primrose Lane and present side boundaries to the Green Belt. Nevertheless, as noted Primrose Lane is a pre-existing strong boundary, and plots 26 and 48 have been amended to include side-facing windows, to present an active frontage towards the Green Belt (as opposed to solid, blank walling). Therefore, any harmful impact caused by these two plots would be minimal.
- 10.26 Overall, the layout of the proposed development would reflect the established urban grain of the wider area, while also transitioning well into the adjacent open Green Belt land.
- 10.27 Progressing to the specifics of the proposed dwellings, as is set out in detail in the table of paragraph 10.53, most of the proposed dwellinghouses are notably larger than the minimum standards set out in the Government's National-Described Space Standards. This in itself is not a cause for concern, as the standards are minimums, not maximums. However, it is evident that the proposed units would be larger in scale than those typical within the area. As identified previously, the surrounding area is defined by varied house types, although predominantly smaller than those proposed. Nonetheless, the established character allows for variance between streets and including larger units alongside those existing would not affect the development's ability to integrate into the established character.
- 10.28 The proposed dwellinghouses are two-storeys, the height predominant in the area, and are not so unduly large to appear incongruous. The proposal includes two three-storey apartment buildings. The building accommodating units 15 to 20 would be set well within the site, where as the building accommodating units 61 to 66 would be on the east edge (adjacent to Denby Close). The scale and height of these units would cause them to appear different to the scale of dwellinghouse both within the site and nearby. Nonetheless, they are clearly designed to be residential in appearance, and such apartment blocks within a residential setting are neither uncommon nor unusual. The inclusion of such apartments, to broaden the site's housing offer, and that of the wider area, is welcomed. Their inclusion, specifically due to their height and scale, is not considered to be of concern.
- 10.29 Regarding the appearance and architectural design of the units, the proposed development would inevitably differ in appearance to existing dwellings in the area, as they would be more contemporary. The design proposed is considered attractive, and in some respects reflects typical contemporary design commonly seen in Kirklees. Attractive features include the use of heads and cills, pitched roof canopies and bay-windows, and the fenestration pattern and sizes. Roof forms are varied between gabled and hipped, to add visual interest to the streetscene.

- 10.30 In terms of fitting into the character of the area, the appearance of housing stock in the area is varied and there is a strong degree of variety in the built forms. Therefore, the site has relative freedom in terms of the proposed dwelling's appearance, without resulting in appearing incongruous in the area. This is further helped by its limited prominence in street views. Given this, and the noted good design, the development's appearance is expected to harmonise well with the area.
- 10.31 Regarding facing materials, artificial stone is proposed as the predominant material with render as a secondary material on either whole or part of the frontage of certain plots spread through the site. In total 30 units (39%) of units would have some render, proposed as an off-white, on their frontage. Render is considered to be an inferior material that does not characterise Kirklees, and its use should be limited (as is proposed here). Materials in the area are highly varied and include natural and artificial stone, buff, red, and brown brick, and render of various colours. In this context of variety, officers consider the proposed materials to be acceptable. This is subject to conditions requiring samples of the proposed materials (including final render colour details), to ensure suitable end products are utilised.
- 10.32 Roofing materials are proposed as artificial slate in grey, which reflects what is prominent within the area. Subject to a suitable end product being used, securable via condition, artificial slates are considered acceptable.
- 10.33 A substation is to be located to the immediate north of the site's point of access from Darley Road, within the public open space. While not ideally located at the entrance into the site, alternative locations are limited. Such structures must be accessible from the highway and are often a necessary element of development, nowadays. Its inclusion is therefore considered acceptable.
- 10.34 Boundary treatments include 1.8m high timber fencing to rear gardens. This is typical in the urban environment and is considered acceptable. Elsewhere, 450mm timber knee rails are proposed to provide an open feel to outdoor spaces, whilst demarking a clear public / private divide. In key areas where rear gardens would face onto the public realm (i.e., onto the road), boundary treatments are proposed to be 'brick-wall and timber screen fencing'. Given the development is to be principally faced in stone, the use of brick is not welcome. This matter has not been clarified with the applicant at the time of writing, however it can be addressed via a condition for boundary treatment details to be submitted and approved.
- 10.35 The woodland to the north and an area to the north of the point of access is to form the Public Open Space for the site. This would consist of woodland and amenity greenspace that would contribute to the setting of the development. However, to enable the development the applicant proposes the felling of approximately 63 trees. This includes circa 24 trees to enable the access, road, and dwellings, and 39 trees in the woodland to the north to enable the re-routing of the pipe. The trees are of varied quality, health, age, and size.

10.36 Policy LP33 of the Kirklees Local Plan states:

The Council will not grant planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity.

Proposals should normally retain any valuable or important trees where they make a contribution to public amenity, the distinctiveness of a specific location or contribute to the environment, including the Wildlife Habitat Network and green infrastructure networks.

Proposals will need to comply with relevant national standards regarding the protection of trees in relation to design, demolition and construction. Where tree loss is deemed to be acceptable, developers will be required to submit a detailed mitigation scheme.

- 10.37 The ecological impacts of the tree loss, as an ecological habitat, is considered in paragraphs 10.103 – 10.106.
- 10.38 None of the trees in question are protected by Tree Preservation Orders (TPO). Some of the trees, either as individuals or groupings, are of amenity value and contribute to the attractiveness and character of the area. Therefore, their removal is a negative of the proposal and weighs against supporting the development. K.C. Trees object to the proposal on these grounds.
- 10.39 The harm identified must be noted, however planning decisions must be made on the balance of material planning considerations. As the council is unable to demonstrate a five-year housing land supply, this proposal for housing must be considered in the context of the presumption in favour of sustainable development, as set out in paragraphs 10.2 – 10.5, unless the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits.
- 10.40 Consideration is first given to the reason for the proposed felling of the trees. Given their location and the point of access from Denby Close, taking access to the site from Denby Close (and associated ground works) inevitably requires the felling of the trees located along this boundary. A second access from Lower Hall Close was considered at earlier stages of the proposal, but even then, it was never intended as the sole point of access to the development. This is because the road network along Lower Hall Close, Lower Hall Drive, and the Lower Hall Drive / Halifax Road junction is not considered suitable for the scale of the development due to their restrictive geometry and size, whereas Darley Road, Ripley Road, and the Ripley Road / Halifax Road are deemed suitable as set out in the highway section of this report.
- 10.41 Regarding the proposed felling through the northern woodland, this is to facilitate a re-routed water pipe. At present a water main pipe runs diagonally from the south-west to north-east corner of the site, bisecting it. The pipe is 700mm, and requires a 6m easement, taking up a notable portion of the site that is inconveniently located through the site's centre. The water main is at a relatively low depth below the surface and given the road gradients needed to be achieved, the road construction would clash with the water main when crossing over it, particularly at the point of access. It would constrain the ability to change the site's levels, which would be necessary to enable the

development of such a steeply sloping site. To try and build around the pipe as existing, even if technically feasible, would result in a compromised development (given the pipe's diagonal route across the contours) that would not reflect the layout or urban grain of the area and would represent an inefficient use of land.

- 10.42 In terms of other options, as a water main the pipe needs to be under high pressure, Yorkshire Water have confirmed that corners must be avoided wherever feasible. This precludes the pipe being re-routed under the proposed road given the road's various bends. As the water main must follow gravity and have broadly the same start and end points to re-connect to the wider network, officers are satisfied that there are no suitable alternative arrangements to what has been proposed.
- 10.43 As their asset, Yorkshire Water have been involved in discussions with the applicant on this matter and have confirmed no objection to the proposed rerouting.
- 10.44 In mitigation, the proposal includes a comprehensive landscaping strategy. This includes the provision of 58 new semi-mature trees to be planted across the site. While trees are not proposed within the adoptable highway, they are proposed in many front gardens. A clause within the Section 106 agreement is recommended to ensure that these are retained, managed and maintained in perpetuity (by the management company), to ensure future landowners do not remove them over time. Alongside this would be areas of low-level planting and, along the route of the pipe, woodland wildflowers as part of a woodland wide (within the site) improvement strategy. Overall, the proposed landscaping is considered to be of a high quality and would contribute to the attractiveness of both the site and wider area. A condition for a fully detailed landscaping strategy, to include timeframes for the delivery and management and maintenance arrangements, is recommended.
- 10.45 Summarising the above, the tree loss would be contradictory to Policy LP33 and detrimental to the appearance of the area, therefore weighing against the proposal. However, officers also acknowledge that to develop the allocation in an effective and efficient manner, the degree of tree loss proposed is an unfortunate necessity which has been justified. The impact of the tree loss would also be mitigated by a high standard landscaping strategy. Weighing these factors on the planning balance, in the context of the presumption in favour of sustainable development, the proposed tree loss and non-compliance with Policy LP33 is not concluded to be a sound reason for refusal. This aspect of the proposed development is considered acceptable, subject to conditions ensuring the landscaping as proposed be delivered and retained.
- 10.46 In summary, the proposed works would notably change the character and appearance of the site. Nonetheless, the proposed development is deemed to be designed to a high standard. The proposal would represent an attractive continuation of the urban environment, while appropriately transitioning to the rural landscape to the west. While there would be necessary tree loss to enable the proposal (which is a negative aspect of the application), this would be at least partly offset by the proposed replanting in the planning balance. 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.

Residential Amenity

- 10.47 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.
- 10.48 There are no neighbouring properties to the north or west of the site. To the east are properties on Darley Road and Denby Close. To the south are properties on Lower Hall Close, Lower Hall Mount, and Primrose Lane.
- 10.49 The proposal's separation distances to third party dwellings notably exceed the minimums outlined within the Housebuilders Design Guide SPD, namely 21m between facing rear habitable room windows and 12m between habitable room windows and a blank / side facing wall of original buildings (i.e., excluding extensions), with the one exception being plots 56 and 57 to 32 Lower Hall Close. In this case the rear elevations of plots 56 and 57 would be circa 10m away from the side elevation of 32 Lower Hall Close. However, the side of 32 Lower Hall Close is a single storey garage and plots 56 and 57 would be on a notably lower land level. This relationship would not materially prejudice the existing amenity standard of 32 Lower Hall Close's residents, nor create a poor level of amenity for plots 56 and 57. Therefore the arrangement is considered acceptable.
- 10.50 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.
- 10.51 Consideration must also be given to the amenity of future occupiers and the quality of the proposed units.
- 10.52 The sizes 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. The provision of adequate living space is also relevant to some of the council's other key objectives, including improved health and wellbeing, addressing inequality, and the creation of sustainable communities. Epidemic-related lockdowns and increased working from home have further demonstrated the need for adequate living space.
- 10.53 Although the Government's Nationally Described Space Standards (March 2015, updated 2016) (NDSS) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed, as set out in the council's Housebuilder Design Guide SPD. NDSS is the Government's clearest statement on what constitutes adequately-sized units.

House Type	Number of units	Proposed (GIA, m ²)	NDSS (GIA, m ²)
Apartment	12	60.5	61
Keswick	22	93.7	84
Banbury	12	125.8	97
Bentley	17	150.4	97
Buckley	3	136.8	97
Buckley corner turn	5	157.2	97
Latchford	6	168.2	110

- 10.54 All the proposed units exceed the NDSS minimums, bar the proposed apartments units which are a negligible 0.5m below standard. As noted above, the above, although the NDSS is guidance, it is not a policy requirement at Kirklees, and proposals are not required to strictly adhere to its requirements, particularly if all other aspects of a proposal which contribute to the amenity of future residents are acceptable. That is considered the case here, and given the limited nature of the shortfall, on balance officers are satisfied that future residents would have an acceptable standard of amenity.
- 10.55 All the dwellinghouses would have outdoor amenity space, including private gardens of a size commensurate to the host dwelling. The 2-bed apartments, plots 15 to 20, would not have dedicated private garden space, however this is not atypical for apartment units. Furthermore, the apartments are located close to the POS area to the north, with the site being within close distance to an area of open countryside with high amenity value.
- 10.56 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.
- 10.57 It is noted that the units along the southern boundary of the site would back onto a retaining wall of notable height (with a minimum distance of circa 8.1m). This would restrict their outlook but is not so close so as to prejudice the overall high amenity standard future occupiers could expect.
- 10.58 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 would total 5,700sqm of open space, including circa 860sqm of amenity grassland and 4,840sqm of natural / semi-natural space (i.e., the woodland). Specific to the woodland, as an existing feature (albeit not currently publicly accessible), to be accepted as POS it would need to be enhanced. This is indeed proposed, partly as part of the biodiversity net gain provision, the provision of which is securable via condition. No play equipment would be provided on site, however there are nearby play facilities including Royds Park Playground and King George Playing Fields within the accepted 15minute / 720m guidelines for proximity. This is considered acceptable, as officers seek to avoid each development having small and isolated pockets of equipment.
- 10.59 While the on-site provision is noted, as set out in the council's Public Open Space SPD, public open space is divided into six typologies. The proposal overprovides natural / semi-natural, while underproviding other typologies: therefore, an off-site contribution of £118,220 to cover the typologies not fully provided on site, to be spent improving open space in the area, remains necessary. This includes a contribution towards local play areas.

- 10.60 There are no known sources of environmental pollution, such as noise or odour, within the area which could prejudice future occupiers.
- 10.61 To conclude, the proposed development is considered not to be detrimental to the amenity of neighbouring residents. Furthermore, the proposal would secure an acceptable standard of amenity for future residents. Subject to the proposed conditions, the proposal is deemed to comply with Policies LP24 and LP52 of the Kirklees Local Plan.

Highways

- 10.62 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.
- 10.63 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. The NPPF continues that 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.

Traffic generation and the local network

- 10.64 First considering traffic generation, a proposal of 77 dwellings is expected to generate the following movements:

	Arrival	Departure	Two-way
AM Peak	11	31	42
PM Peak	29	13	42

- 10.65 The impact of these additional movements on the local network, including the Ripley Road and Halifax Road junction, has been considered. The proposal's 42 two-way movements would amount to an average of 0.7 additional vehicles a minute (or roughly one additional vehicle every two minutes). This would not result in unacceptable harm to highway safety, nor would it be a severe impact. K.C. Highways Development Management are satisfied that the local network and identified junction would continue to operate safely and within capacity following the introduction of the proposed development's traffic
- 10.66 A single vehicular access to the site is proposed via an extension to Darley Road, which in turns connect to Ripley Road and then Halifax Road, via a priority junction. The principle of providing a single point of vehicular access to the development is acceptable. Ripley Road currently serves circa 200 dwellings, and the proposal would increase this to circa 277 dwellings. Given a loop road is proposed within the site, no secondary emergency access is necessary in this instance, in accordance with the advice contained within the councils Highway Design Guide SPD.

- 10.67 Notwithstanding the above, as raised by representations and noted by K.C. Highways Development Management, a significant level of on-street parking currently occurs on Darley Road and Ripley Road. This could potentially impact on refuse and emergency vehicle access to the site. As such, two overnight parking surveys to determine the level and location of on-street parking have been undertaken. These surveys identified on-street parking currently takes place mainly on Darley Road, with between 32 and 34 vehicles recorded during the surveys. Of these parked vehicles, the majority were observed parking partially on footways. Parking was also observed at or close to the Linton Close junction, and to a lesser extent at the Dacre Close junction. Significant levels of double parking were also observed at the bend to the north of the Linton Road junction.
- 10.68 The applicant has proposed a suite of localised double yellow line parking restrictions to prevent obstructive parking. K.C. Highways (Development Management) have considered this with K.C. Highways (Safety) and consider it to be appropriate, although any parking restrictions proposed would be subject to a separate formal public consultation as part of the necessary Traffic Regulation Order (TRO). The desired TRO works would include:
- Restrictions on the inside of the bend north of Linton Close, and potentially at the Linton Close and Dacre Close junctions, to reduce the risk of obstructive parking in these areas.
 - Restrictions at the Ripley Road/Halifax Road junction, limited to within 10m of the junction to the east and 18.5m to the west (both measured from the nearside channel line of the minor road). These limited restrictions would ensure that obstructive parking does not occur close to the junction, but would still allow three on-street parking spaces to be available for residents living in the three bungalows that do not benefit from drives (parking for these dwellings is available in a parking court, to the east of the Ripley Road junction).
- 10.69 As noted, the above restrictions would be subject to a separate TRO process (including a public consultation period). Therefore, the final extents of any restrictions that may be proposed/approved cannot be determined at this stage. The council's cost to promote and implement the TRO would need to be funded by the development. Therefore, a £10,000 contribution is recommended to be secured by Section 106 agreement for this purpose.
- 10.70 Regarding traffic during the construction period, given the scale and nature of the development, officers recommend a Construction Management Plan (CEMP) be secured via condition. This is to ensure the development would 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 Development Management have also advised that a 'highway condition survey' be undertaken, to be secured via condition. This would include a review of the state of the local highway network before development commences (including the adjacent PROWs), 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 accordingly.

Point of access

- 10.71 The point of access, being a continuation of Darley Road, has been demonstrated to be technically feasible, although full technical design details are recommended to be secured via condition.
- 10.72 Notwithstanding the above, the point of access requires crossing third party land which is unregistered, and the owner is unknown, despite the applicant's attempts to find the owner. This unregistered land also hosts PROW SPE/110/20, and there are no public vehicular access rights over this footpath.
- 10.73 There are procedures available to developers in such circumstances, allowing them to acquire unregistered land to enable development to go ahead. However, unless the applicant is able to acquire the unregistered land in question, it would appear that they may not be in a position to dedicate vehicle access rights to future residents and would be unable to offer the estate roads for adoption via the usual Section 38 process. As such, the applicant will need to resolve these issues before development can commence.
- 10.74 The above is, however, a legal matter (separate to planning) for the applicant to resolve. Matters of land ownership are outside of the remit of the planning system. The sole requirement for planning purposes is that the applicant signs the correct Certificate of Ownership, which they have (in this case Certificate C, in which they declare that they do not own all the land in question and have been unable to identify the owner). The granting of planning permission would not override land ownership, and it would be the applicant's legal responsibility to ensure works they implement are lawful.
- 10.75 In this case, the issue relates to the single access into the site. It has been established that no other point of access could be brought forward and. The applicant must therefore resolve this issue to allow their development to lawfully go ahead, and it is therefore clearly in their (private, legal) interest to do so.

Internal highway layout and parking

- 10.76 Regarding the internal road arrangements, the submitted details and Stage 1 Road Safety Audit have been reviewed by K.C. Highways Development Management, who considered them to be acceptable in principle. While there are technical matters outstanding, there are no significant issues with the layout that cannot be adequately addressed at the detailed design stage, with full technical details of the new road to be sought via condition. With regard to adoption, there are considered to be no design-prohibitive reasons (bar the aforementioned point of access and ownership matter) preventing the road from being adopted, although this would be subject to a detailed assessment during the separate Section 38 process.
- 10.77 All dwellings would have a level of dedicated off-road parking in accordance with the council's Highway Design Guide SPD, including suitably sized garages (measuring 3m x 6m internally) the provision of which is recommended to be secured via condition. In terms of visitor parking, the Highways Design Guide SPD recommends one per four dwellings. This amounts to 19 dedicated spaces, which the proposal complies with. It is noted that these spaces are clustered to the south of the site, but given the site is not overly large, the maximum walking distance from a visitor parking bay to the furthest dwelling is not considered unreasonable.

- 10.78 All dwellinghouses are shown to have adequate space for the storage of three waste bins in their rear gardens, which is welcomed. The apartment buildings are each shown to include a bin store, although K.C. Waste Strategy have questioned the size of the storage areas. A condition securing final details is therefore recommended.
- 10.79 For waste collection, swept path analysis has been provided which demonstrates acceptable turning arrangements for refuse vehicles. Several shared private drives are proposed – most of these would be served by a waste collection area, allowing for effective collection by refuse services. Plots 01 to 03 would be on a private drive without a refuse collection point, due to the limited space available to dedicate such an area. However, at 4.5m wide, the private drive could comfortably accommodate three bins awaiting collection without the need to place them on the highway. The provision of the other waste collection areas, or alternative arrangements should the road not be adopted, are recommended to be secured by conditions.
- 10.80 Given the scale of the development, which would likely be phased, a condition is to be imposed for a waste collection strategy during the construction phase. This is because refuse collection services would not access roads prior to adoption or while construction work continues, therefore appropriate arrangements must be considered and implemented.

Sustainable Travel

- 10.81 Policy LP20 of the Kirklees Local Plan states *'The council would 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 would accept that variations in opportunity for this would vary between larger and smaller settlements in the area.'*
- 10.82 The site is allocated in the Local Plan for residential development. The accessibility of the site was assessed as part of this process and is considered a sustainable location, being on the edge of an existing settlement. The supporting Transport Assessment includes a review of the facilities that are within walking and cycling distance of the site – this confirms that there is a range of local facilities that are accessible by foot and by cycle.
- 10.83 There are a number of PROWs within the vicinity of the site, including footpaths SPE/110/20 and SPE/116/20 that runs along the eastern and southern site boundaries respectively, and Public Bridleway SPE/111/120 on Primrose Lane along the western site boundary. The Spen Valley Greenway also runs along the northern site boundary, which forms part of National Cycle Network Route 66. The application incorporates a number of improvements to the PROW network within the vicinity of the site, which includes the following:
- A 3m wide active travel link has been proposed from the proposed estate road to the Spen Valley Greenway to the north. This link is proposed at 3m wide and with a maximum gradient of 1:12. This link is welcomed and is considered acceptable in principle. However, the detailed design of the link would need to be secured by condition, which would need to include the provision of adequate junction visibility at the connection with the greenway (this point has also been identified as an issue in the Stage 1 RSA).

- Two active travel links are proposed along the western site boundary, which would connect the site to Public Bridleway SPE/111/120 on Primrose Lane. Both links are proposed at 3m wide, with maximum gradient of 1:20. These links are welcome and are acceptable in principle. However, it is noted that the annotation on the Proposed Site Layout drawing 3416-1-0014 rev QQ appears to be incorrect, with the northern link being shown as a footpath link and the southern link being shown as a multi-modal use, when in fact these should be the opposite way around (as the southern link may only be adequate for pedestrians, due to the adjacent parking layby preventing access for cyclists). Therefore, the detail design of these active travel links would need to be secured by condition, which would also need to include the provision of adequate junction visibility at the connection with the greenway (this point has again been identified as an issue in the Stage 1 RSA).
- Two footpath links are proposed along the eastern site boundary, which connect the site to Public Footpath SPE/110/20. These links are welcomed and are considered acceptable in principle, with technical details to be provided via condition.
- The applicant has agreed to improve footpaths SPE/110/20 and SPE/116/20 that run along the eastern and southern site boundaries respectively, which includes widening the footpaths from circa 1.2m to 2m, and to providing a crushed limestone surface to both widened footpaths. These improvements are welcomed and are considered acceptable in principle.
- A speed table is proposed on the initial section of site access road, where footpath SPE/110/20 crosses the access, to ensure that traffic speeds are low at the crossing point, and to provide a level surface route for pedestrians.

10.84 Based on the active travel links and improvements set out above, it is considered that the development would adequately connect to the wider PROW network, and would facilitate active travel trips to/from the site for development users. The development would enable new routes to be created through the site for the benefit of existing users. Therefore, the principles of these arrangement are acceptable. However, the final detail of these active travel links, including the design (including junction visibility requirements), layout, specification, delivery and on-going maintenance is recommended to be secured by planning condition.

10.85 As noted, the site is well positioned to make use of the Spen Valley Greenway. A condition securing cycle storage facilities, per unit (including apartments), is recommended to promote cycling as a viable alternative method of travel.

10.86 Regarding public transport, the site is within walking distance of bus stops on Halifax Road, which are accessible via continuous footways of adequate width. A pedestrian refuse island is also provided on Halifax Road, circa 90m east of the Ripley Road junction, which would enable residents to access the westbound stops. There are frequent bus services on Halifax Road, which provide bi-hourly services between Heckmondwike and Leeds, and hourly services between Huddersfield and Cleckheaton (via Heckmondwike).

- 10.87 To promote bus usage, a financial contribution of £20,000 is considered appropriate, to provide Realtime Information Displays at the nearest stops on Halifax Road (stop IDs 15037 and 15038). It is recommended that this be secured within a Section 106 agreement.
- 10.88 The applicant has submitted a draft travel plan to support the application. This identifies possible measures to influence behaviour towards more sustainable methods of travel. These include providing up-to-date information on measures such as bus timetables, advising where to access up-to-date real time bus times, promoting local car share schemes, and highlighting the potential impact of working from home opportunities. These core principles are welcomed, and demonstrate that sustainable travel measures may be implemented at the site. However, a more detailed final travel plan would be required via a recommended condition.
- 10.89 To enable the travel plan to be effective, a Sustainable Travel Fund (STF) would be required. Based on the 77 dwellings that are proposed, the STF would be £39,385.50, which is based on the current cost of a WY Metro Residential Bus Only MCard cost of £511.50 per plot. It is noted that the STF may be used for a variety of travel plan measures that can be agreed in the final travel plan, although given the good quality bus services that are available, the MCard scheme may be appropriate for this site and should form part of the travel plan offer.
- 10.90 A travel plan monitoring fee of £10,000 (£2,000 per annum, for five years) would be necessary, to ensure its effective implementation. This would be secured via a Section 106 as part of this application.

Highway, conclusion

- 10.91 Overall, it is concluded that the proposal is acceptable with regard to the matter of access and highway impact. Subject to relevant conditions and the planning obligations specified above, 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 appropriately mitigated. The development would not result in a severe cumulative highway impact given the proposed mitigation. It would therefore comply with Policies LP20 and LP21 of the Kirklees Local Plan and guidance within the National Planning Policy Framework.

Drainage and flood risk

- 10.92 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.
- 10.93 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.

- 10.94 First considering flood risk from fluvial sources, the site is wholly within Flood Zone 1. The River Spen is located circa 180m to the north of the site, with there being several minor tributaries between the site and river, but due to their minor scale, separation distance, and the topography of the area, the risk of flooding to the site due to these watercourses is negligible.
- 10.95 Considering surface water arrangements, the applicant has provided an indicative strategy which has followed best practice and the drainage hierarchy in reaching their proposed discharge point. Due to ground conditions and topography, infiltration has been ruled out. The aforementioned topographical and level differences prohibit discharging to the northern watercourses (the River Spen and its tributaries) – a culvert within the site heading towards said watercourses was initially considered an option, however following CCTV survey it was found to be in too poor of a state to be used. It is therefore intended to discharge, via gravity, to the combined sewer beneath Darley Road.
- 10.96 Attenuation is to be provided via a subterranean tank, with the capacity and features designed for up to the 1 in 100-year event plus climate change. The applicant has proposed a discharge rate of 3.5l/s, although because of concerns of potential pipe blockage the LLFA advised 3.8l/s would be more appropriate. While nominally higher than greenfield discharge rate, as the lowest feasible discharge rate that would not be at risk of blockage, this rate is considered acceptable. A condition for full and final technical details of the drainage strategy is, however, recommended.
- 10.97 Based on the submitted layout and topography, the Lead Local Flood Authority hold no in-principal concerns regarding exceedance event flood-routing (i.e., in an unexpected event where the drainage system fails) at the site. In such events, water is expected to be directed away from dwelling houses and avoiding their domestic curtilages wherever possible. As the site falls northwards, with no third-party dwellings to the north, no flood water would be directed towards third party dwellings. Nonetheless, a condition for a detailed exceedance event flood routing strategy being submitted and implemented is recommended.
- 10.98 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. Details of temporary surface water drainage arrangements during construction are proposed to be secured via a condition.
- 10.99 Foul water from the proposed development would discharge via gravity to the existing combined sewer beneath Darley Road. This proposal has not attracted an objection from Yorkshire Water, and is considered acceptable.
- 10.100 Considering the above, subject to the proposed conditions and securing management and maintenance arrangements via the Section 106 agreement, the proposal is considered by officers and the LLFA to comply with the aims and objectives of Policies LP28 and LP29 of the Kirklees Local Plan.

Ecology

- 10.101 Policy LP30 of the Kirklees Local Plan states that the council will 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 (EcIA) 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 proposal's direct and indirect impact on local species.
- 10.102 First considering local species, the submitted EcIA and Bat Survey report provides a detailed assessment of the site and its suitability for protected species. Overall, the site is considered to provide some potential for bats, breeding birds and hedgehogs however there are no significant negative impacts anticipated as a result of the development proposals. The residual impacts of the development are either of moderate benefit, minor benefit or of negligible impact. The EcIA lays out a number of recommendations with regard to protected species mitigation and enhancement measures that can be secured through appropriately worded conditions for an Ecological Design Strategy.
- 10.103 Regarding habitat, the site is dominated by species-poor modified grassland, with an area of broadleaved woodland in the northern section of the site, which is designated as part of the Kirklees Wildlife Habitat Network that is protected by Policy LP30 of the Local Plan. Policy LP30 states that developments must aim to safeguard and enhance the function and connectivity of the Kirklees Wildlife Habitat Network at a local and wider landscape-scale unless the loss of the site and its functional role within the network can be fully maintained or compensated for in the long term. The proposals are likely to result in a minor negative impact on woodland habitat, as an area of broadleaved plantation woodland (dominated by sycamore *Acer pseudoplatanus*) would be lost to provide access from Darley Road and to enable a water pipe to be installed through the woodland along an existing desire line used by the general public.
- 10.104 While the above harm is noted, it would not amount to a complete loss and the remaining woodland (circa 0.593ha) would be enhanced by improving its structural diversity and sub-canopy. The removal would not prejudice the function and role of the woodland as part of the Wildlife Habitat Network, due to the limited removal proposed, the mitigatory works, and given that the section of woodland is on the edge and would not bisect the main route. It is considered that this small removal of woodland is acceptable, as the scheme would enhance the remaining woodland, making it better quality, throughout.
- 10.105 A Biodiversity Net Gain calculation has been undertaken using the DEFRA Metric. This sets out that that the development would result in a 2.25% net gain in habitats and a 143.91% net gain in hedgerows post-development. In order for the proposals to come forward in line with national and local policies and guidance, to achieve a 10% net gain, a further 0.63 habitat units would need to be delivered. Officers are satisfied that options for further on-site delivery have been sufficiently explored and discounted. Therefore, a commuted sum of £14,467 would be required in order for the development to achieve a 10% biodiversity net gain, unless the applicant is able to find an alternative site in the vicinity where this could be delivered. It is recommended that this be secured within the Section 106.

- 10.106 Notwithstanding the identified off-site contribution, as noted above, the proposal would deliver some habitat and hedgerow units on site. A condition for an Ecological Design Strategy (EDS), to detail and secure this on-site delivery, is proposed. The management and maintenance of the on-site features would be secured within the recommended 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, along with a lighting strategy to ensure external lighting does not prejudice habitats on or adjacent to the site.
- 10.107 No invasive plant species within the site were identified within the survey work undertaken.
- 10.108 In summary the proposal would not unduly affect local habitats and, through contributions and on-site improvements, an appropriate biodiversity net gain would be achieved. Furthermore, the proposal would have no significant impacts upon important 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 Policy LP30 of the Kirklees Local Plan.

Planning obligations

- 10.109 Paragraph 56 of the NPPF confirms that planning obligations must only be sought where they meet all of the relevant test. They must be: (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. Should planning permission be granted, officers recommend that this permission should be subject to a Section 106 agreement to cover the following:

Affordable housing

- 10.110 Policy LP11 of the Local Plan and the council's Affordable Housing and Housing Mix SPD requires major developments (10+ dwellings) to contribute 20% of total units as affordable housing. For this site, a 20% contribution of 77 units would be 15 units.
- 10.111 The council seeks the tenure of affordable dwellings to be 55% affordable rent and 45% intermediate, or eight and seven units respectively in this case, which the applicant has offered. National policy also requires that at least 25% of affordable homes are First Homes (a type of immediate tenure), which would be four in this case. The applicant has offered five first homes. The number and tenure of the affordable homes is therefore acceptable.
- 10.112 Notwithstanding the above, the council's Affordable Housing and Housing Mix SPD sets our expectations for affordable housing unit size and mixture. Falling within the Batley and Spen sub-area, the SPD seeks the following mix of affordable units:

<i>Batley and Spen</i>	Affordable Rent	Affordable Intermediate
1- and 2-beds	40 – 79%	60%+
3-beds	0 – 19%	20 – 39%
4-beds +	0 – 19%	0 – 19%

The following sets out the proposal's offer:

	Affordable Rent	Affordable Intermediate
1- and 2-beds	7 (87.5%)	5 (71.5%)
3-beds	1 (12.5%)	2 (28.5%)
4-beds +	0	0
Total	8 (53%)	7 (47%)

- 10.113 While the above shows a slight over-provision in the proportion of 1- and 2-bed affordable rent units, it is a modest departure and not a cause for concern. Thus, the sizes of affordable units are accepted.
- 10.114 Policy seeks to ensure that the affordable units are indistinguishable from market homes. K.C. Strategic Housing have raised concerns that the offered 1- and 2-bed units are grouped across two apartment blocks (six units per block). No comparable market units are included within these blocks, or elsewhere within the site. While officers accept this would, to a degree, distinguish them from the market units and may be a negative of the proposals, officers are nonetheless satisfied that the quality of the buildings and accommodation would be to the same standard. Furthermore, officers have noted in paragraph 10.11 matters relating to the housing mixture of the site and the applicant's opposition to providing additional 1- and 2-bed units. There is also a clear need for small affordable units (as per the first table above, which identifies a need for 40 – 79% affordable rent and 60%+ intermediate 1- and 2-bed units). Therefore, while K.C. Strategic Housing's concerns are noted, on balance the proposed offer is considered the best outcome for the current proposal.
- 10.115 The other units (3-beds) would be the same as the market units within the site, and raise no concern with regard to whether they are indistinguishable.
- 10.116 Relevant planning policy also seeks to ensure affordable units are spread through the site. Officers consider this to be achieved in the proposed development. While the blocks would group the flats, the two apartments are well separated from each other.
- 10.117 Overall, on balance, the proposed affordable housing offer is considered acceptable and would meet the expectations of Policy LP11 and the council's Affordable Housing and Housing Mix SPD.

Public open space

- 10.118 In accordance with Policy LP63 of the Kirklees Local Plan new housing developments are required to provide public open space, or contribute towards the improvement of existing provision in the area.
- 10.119 The application proposes 5,700sqm of on-site Public Open Space (comprising 860sqm of amenity grassland and 4,840sqm of natural / semi-natural space), with an off-site contribution of £118,220 agreed, which is in accordance with the Public Open Space SPD. The contribution is recommended to be secured within the Section 106 agreement. This is considered appropriate to comply with Policy LP63 of the Kirklees Local Plan.

Education

- 10.120 K.C. Education has reviewed the capacity at nearby schools, namely Headlands CE and Spen Valley High School. A contribution of £118,791 towards education provision has been identified by K.C. Education and agreed with the applicant.
- 10.121 The provision of this contribution is considered to comply with the aims of Policy LP49 of the Local Plan.

Highways and sustainable travel

- 10.123 As detailed within the highway section of this report, it is recommended that the following contributions towards highways and sustainable travel be secured:
- TRO Contribution for 'No waiting' restrictions on Darley Road and at Ripley Road / Halifax Road junction - £10,000;
 - Provision of two Real Time Information displays (Stop ID's 15037 and 15038) - £20,000;
 - Sustainable Transport Fund (STF) £39,385.50 (based on 77 dwellings); and
 - Travel Plan Monitoring Fee - £10,000 (£2,000 x 5 years).
- 10.124 The provision of the above is considered to comply with the aims of Policy LP20 of the Local Plan.

Management and maintenance

- 10.125 Clauses are required to ensure appropriate arrangements are in place for the ongoing management and maintenance of certain features on the site. This includes the retention and management of front garden trees, arrangements for the management and maintenance of drainage infrastructure (prior to adoption by a statutory undertaker) and Public Open Space on site in perpetuity, and any on-site Ecological Net Gain features for a minimum of 30 years.

Other Matters

Air quality

- 10.126 The application is supported by an Air Quality Impact Assessment (AQIA). This has been reviewed by K.C. Environmental Health in accordance with West Yorkshire Low Emission Strategy (WYLES) Planning Guidance. The report details the impact that the development would have on existing air quality, and how this would impact existing and future sensitive receptors during the construction and operational phases.
- 10.127 The site is not within an Air Quality Management Area, nor near to any roads of concern. The report concludes that future pollutant concentrations at the proposed development site are predicted to be below the national air quality objectives. Notwithstanding this, in accordance with WYLES guidance, all developments are required to incorporate measures to mitigate air quality harm. Those proposed are:

- The provision of Electric Vehicle Charging Points (EVCP);
- Travel plan (to push for a modal shift away from private car usage) to be provided;
- Improved pedestrian links to bus stops, and enhanced local bus stops with a sustainable travel fund; and
- Pedestrian links through the site to promote walking in and around the area.

10.128 These mitigation measures are welcomed and are incorporated into the proposal, as is detailed elsewhere within this report, bar the provision of EVCP, the delivery and retention of which may be secured via condition.

10.129 Due regard has also been given to air pollution during the construction phase, principally regarding dust generated by construction. The report concluded that there is the potential for air quality impacts because of fugitive dust emissions from the site, from earthworks, construction and track-out. The report goes on to say that these impacts are considered to be temporary and short term and can be controlled by the implementation of good practice dust control mitigation during construction, the implementation of which may be secured via condition.

10.130 Subject to the recommended conditions, officers are satisfied that the proposal would not harm local air quality, nor would new residents suffer from existing poor air quality. The proposed development is therefore considered to be in accordance with Policy LP51 of the Kirklees Local Plan.

Coal mining legacy

10.131 The site falls within the Development High Risk Area zone for legacy coal workings. This means that there are records of coal mining related features at surface or shallow depths in and around the site. For context, a sizable portion of Kirklees falls within this zone. Due to being within the zone, the application is supported by a Coal Mining Risk Assessment (CMRA), which assesses the potential for conflict between the development proposal and legacy coal mining features. This has been reviewed by the Coal Authority (CA).

10.132 The CMRA has identified that five mine entries are present within the site. Three of these have been capped and are located within the site's northern woodland. Another is located just south of the woodland, around where plots 06 to 10 would be located. The final shaft is located to the south of the site, between where plots 54 and 55 would be. There is also the potential for shallow, unrecorded, mine workings in and around the site. The presence of these features on site led to the CA initially objecting to the proposal. While the CMRA identified the risk, it did not satisfactorily demonstrate said risk could be overcome.

10.133 In response, the applicant and their technical team has engaged directly with the CA to resolve the matter. It was concluded that the sole outstanding concern of the CA related to plots 6, 7, and the garage for plot 10. Therefore, the CA have confirmed their objection would be removed if a condition was imposed prohibiting the commencement on these plots (and plot 10's garage) until adequate investigation and remediation measures were provided. If such reports conclude the plots cannot be safely remediated and constructed, an alternative plan showing the land in question being subsumed into the gardens of 08, 09, and 10 has been provided.

10.134 Notwithstanding the CA's position, while the applicant and officers would be agreeable to such a condition (subject to suitable appropriate wording being settled), the preferred outcome for each party would be for the intrusive investigations be undertaken prior to final determination. This is in the interest of ensuring the decision, including the conditions and Section 106, are precise and accurate without the potential need for later amendments. However, such works are expensive and time consuming and therefore undertaking them is a risk to the applicant. Thus, they have requested that the application be presented to committee prior to the works being undertaken, to establish whether Members consider the development otherwise acceptable.

10.135 The council (as Local Planning Authority) is required to work proactively and reasonably with applicants. Given the understood small (but which cannot currently be discounted) likelihood of the northern coal mine shaft being both a substantial conflict with the siting of plots 06, 07, and/or plot 10's garage, and having no suitable remediation options, officers consider the applicant's proposed approach to be reasonable. Therefore, the officer's recommendation to approve the application is subject to delegation back to officers to receive the Intrusive Site Investigation Report, to re-consult with the CA, and thereafter proceed on the following basis:

a) In the scenario where the report concludes there is no conflict with plots 06, 07, and / or 10, determine the application as set out elsewhere in this report.

b) In the scenario where the report concludes that there is a conflict with plots 06, 07, and / or 10, which cannot be remediated to the satisfaction of the Local Planning Authority (advised by the CA), amend the proposal to remove the plot(s) in conflict. Thereafter, complete the list of conditions including those contained within this report and to secure a Section 106 agreement (with the contributions to be recalculated, pro-rata, to account for the reduced housing provision).

10.136 The two options present a robust approach to either scenario and are considered adequate to address the CA's original concerns. The options would ensure the development is safe for its lifetime. Accordingly, the proposal is deemed to comply with Policy LP53 of the Kirklees Local Plan.

Contaminated land

10.137 In accordance with Local Plan Policy LP53, as a major residential development consideration of ground contamination is required. Furthermore, council records indicate the site as being potentially contaminated due to historic use (coal mining). The application is supported by Phase 1 (desktop) Contaminated Land report which has been reviewed by K.C. Environmental Health.

10.138 The report identifies the historic colliery use to the north of the site as a potential source of pollution, and the report recommends that further on-site investigations be undertaken to inform an adequate remediation strategy.

10.139 K.C. Environmental Health have requested that this be investigated prior to determination, citing specific risks associated with gas and shallow coal, including potential combustion. The applicant initially objected to such works being undertaken prior to determination as the necessary investigations required include extensive works within the woodland (sited over the old colliery), raising the same issues detailed in paragraph 10.134. However, following the above detailed approach to addressing coal legacy investigations being agreed, it is considered that the investigations required by K.C. Environmental Health may be undertaken at the same time. Therefore, the same approach, as that detailed within paragraph 10.135 is recommended, to ensure the proposal complies with Policy LP53.

Crime Mitigation

10.140 The Designing Out Crime Officer has made a number of comments and recommendations, particularly with regard to home security, rear access security and boundary treatments. All of the comments made are advisory and have been referred to the applicant.

10.141 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

10.142 The site is within a wider mineral safeguarding area relating to shallow coal with sandstone and/or clay and shale. Local Plan Policy LP38 therefore applies. This states that surface development at the application site would only be permitted where it has been demonstrated that certain criteria apply. Criterion c of Policy LP38 is relevant, and allows for approval of the proposed development, as there is an overriding need (in this case, housing need, having regard to Local Plan delivery targets) for it.

Representations

10.143 Many matters raised via the representation period have been addressed elsewhere within this report. The following are matters not previously directly addressed.

Amenity

- The proposal will result in odour, light, air and noise pollution.

Response: Residential developments adjacent to one another are considered compatible, and not reasonably expected to lead to materially harmful odour, light, or noise pollution. Matters of air pollution are considered in paragraph 10.126 – 10.130.

- The proposal will remove valuable green space from the community, used by walkers and promotes mental wellbeing.

Response: The site is a private field. PROWs are adjacent to the field, which would not be materially impacted upon via the proposal and would be retained.

- The proposal will result in a loss of a view for existing properties.
- The proposal will devalue local properties.

Response: The above are not material planning considerations.

Highways

- Darley Road is not suitable for an increase in traffic volume. It is already heavily trafficked. A further increase in vehicles will risk pedestrians who use the pavements and cross the road, including children. Young children often play on the local roads. Similar concerns for other roads, including Lower Hall Close.
- Concerns regarding Darley Road are made worse in winter, when snow and ice make traversing the steep road more difficult and result in people parking higher up the road.
- The Ripley Road and Halifax Road junction is difficult to use, due to parked cars on the radii, which the proposal will make worse.
- The development will result in too many vehicles using the Ripley Road and Halifax Road junction, up to as many as (an estimate of) 468, or circa 56% increase.
- Concerns over the impact on local roads of construction traffic, particularly given the business and parking on the street. Claims construction traffic could simply not use the road, due to parked vehicles. Likewise, concerns over access for waste collection and emergency services.

Response: The above matters were raised within the vast majority of representations received, which is noted for information purposes. These matters have been considered in depth by K.C. Highways Development Management, as detailed in paragraphs 10.64 – 10.70 where it is concluded that the impacts would not be severe.

- The local road network is in a poor state of repair, and the proposal will exacerbate this.

Response: It is outside the remit of this application to address pre-existing issues such as this. A condition is recommended for a pre-commencement road condition survey, to ensure any damage caused by construction traffic may be identified and resolved.

- Access should be via Lower Hall Close or Primrose Lane.

Response: Primrose Lane is a narrow bridleway and not suitable for vehicular access into the site, where it adjoins the site.

Concerns were held over the suitability of the Lower Hall Drive / Halifax Road junction to accommodate the traffic of the development, due to its restricted sightlines, road and junction narrowness, and existing on-street parking. Also, the applicant expressed concerns over the necessary level for engineering to facilitate an access from Lower Hall Close, which as the steepest part of the

site would have necessitated notable engineering works that would have impeded on the effective use of the allocation. Because of these issues, the applicant proposed a single access from Darley Road, which highways officers have concluded to be acceptable.

- Introducing yellow lines on Darley Road will simply move cars to other problem areas. Also, such features would not be enforced or controlled by the police.

Response: A Traffic Regulation Order scheme including limited yellow lining, to limit such impacts, is sought, to address the greatest 'pinch' points. This would be separate to the separate TRO process, which includes public consultation processes.

- The development will introduce 'boy racers' into the area, which will affect peoples' mental health.

Response: The new road is not designed to have long, straight roads and officers do not share the concern it would contribute to anti-social driving.

- Concerns over the impact on Primrose Lane. It is a bridleway, but frequently used by cars which are damaging it. The proposal will cause this to happen more.

Response: Officers do not share the concern that this development, which would be directly accessible via Darley Road, would lead to a material increase in vehicle movements on Primrose Lane.

Ecology

- The proposals ecological reports are out of date, being over 18 months old.

Response: K.C. Ecology considered the reports to be adequate and fit for purpose to enable a sound and detailed assessment of the proposal.

- The ecological report identifies 'no protected nature sites' within 2km, however the Jo Cox Community Woods is nearby.

Response: This is noted, however, it is understood that the Jo Cox Community Woods holds no statutory protection status.

Drainage

- The proposal will put strain on waste and water pipes, and there are already issues.
- The proposal will result in the loss of natural drainage. Darley Road already has poor drainage and flooding, which the proposal will exacerbate. It will also lead to more water going into the River Spen, which will result in flooding downstream.

Response: As detailed in paragraphs 10.95 – 10.96 above, the site is to include a positive drainage system which would discharge surface water from the site at a greenfield rate, therefore not increasing flood risk elsewhere. It is beyond the remit of this application to address existing drainage issues on Darley Road.

Other

- No new houses are needed within this area, there have been numerous developments nearby.
- The proposed houses are not to be affordable nor designed for the elderly, and therefore not fit for an aging population.
- The Local Plan was based on a forecasted 11% population increase between 2023 and 2024, however 2021 Census data shows this was actually circa 2.6% along with a fall in birthrates. Furthermore, data shows that the need for larger homes is expected to drop *‘Therefore, the increases in population are going to be primarily driven by people living longer, and immigration – neither of which this proposal is relevant to’*. The government has removed the need for housing targets.
- The proposal is dominated by 4-bed properties which are not needed within the area. Smaller units which are affordable for first time buyers and social properties are needed.

Response: Applications must be assessed and determined in accordance with adopted local and national planning policy. Paragraphs 10.2 – 10.14 consider the local need for housing and consider the scale of dwellings proposed.

- Brownfield sites should be developed before greenfield.

Response: For allocated sites, local and national planning policies do not require brownfield sites to be developed before planning permission is granted for development on greenfield sites. In Kirklees, relevant planning policies encourage the development of brownfield sites, and several major developments on brownfield sites have been granted planning permission by the council.

- The application has been increased from 67 to 77 properties, which shouldn't be allowed.

Response: Such amendments are permitted within the planning process and were re-advertised.

- There is inadequate social infrastructure, including school, dentists, and doctors' surgeries, in the area.

Response: There is no planning 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 proposal will harm the Luddites Walk route, which goes past the site, to the detriment of local history. The route should be a non-designated heritage asset.

Response: The site is adjacent to part of the Luddites Walk route. However, presumably various developments will have taken place adjacent or near the walk's route, given it took place in 1812. Furthermore, the site would be adjacent to only a small percentage of the total walk, therefore limiting any impact on the overall walk. This does not warrant refusal of the proposal nor amount to material harm.

- The site hosts several mineshafts, which should not be built near to. Part of the site was a former colliery. Questions over who will insure properties near mineshafts?
- Objections have been raised by consultees, including the coal authority and drainage.

Response: The matter of the site's coal legacy has been addressed in paragraph 10.131 – 10.136. Matters of insurance are not a material planning consideration.

- The proposal will put strain on communications infrastructure, including phone and internet provision. This may result in needing more masts and facilities.

Response: No evidence has been provided to substantiate the claim and it would be a matter for the relevant utility providers to address.

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 site is allocated as a housing allocation within the Local Plan. The proposed density is considered to comply with the expectations of the Local Plan. The housing mixture (i.e., sizes) proposed departs from the expectations of the council's Affordable Housing and Housing Mix SPD, which is a negative of the proposal. However, the departure from expectations is not substantial and, along with the justification provided with the applicant, the harm caused is not considered to outweigh the presumption in favour of sustainable development, established by the council's lack of a five-year housing land supply. Accordingly, the principle of development is concluded to be acceptable.

- 11.3 Site constraints including topography, trees, and various other material planning considerations. Nonetheless, the proposed development adequately addresses each. During negotiations with the applicant, the design and appearance of the site has evolved to an acceptable position that would be attractive and would 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 A full policy-compliant Section 106 package has been agreed with the applicant.
- 11.5 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval, subject to conditions and planning obligations to be secured via a Section 106 agreement.
- 12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)**
- 1) Three years to commence development.
 - 2) Development to be carried out in accordance with the approved plans and specifications.
 - 3) Material samples to be submitted and approved.
 - 4) Details of boundary treatment, not to include 'brick', to be submitted and approved.
 - 5) Construction Environmental Management Plan (CEMP), to include dust mitigation, to be submitted, approved, and implemented.
 - 6) Road condition survey to be submitted and approved.
 - 7) Details of preliminary street design details to be submitted and approved.
 - 8) Completion of Estate Street Phasing Plan to be submitted and approved.
 - 9) Details of management of waste to be submitted and approved.
 - 10) Construction phase waste collection strategy.
 - 11) Vehicle and pedestrian spaces to be laid out.
 - 12) Details of footpaths and Active Travel Links to be submitted and approved.
 - 13) Details travel plan to be submitted and approved.
 - 14) Details of highway retaining walls and structures to be submitted and approved.
 - 15) Details of cycle storage facilities to be provided and approved.
 - 16) Full technical details of the drainage strategy to be provided, approved and implemented.
 - 17) Flood routing strategy to be provided, approved, and implemented.
 - 18) Details of temporary surface water drainage arrangements, during construction, to be provided and adhered to.
 - 19) CEMP: Biodiversity to be submitted, approved, and implemented.
 - 20) Ecological Design Strategy to secure habitat units on site plus ecological mitigation measures and improvement to woodland.
 - 21) No site clearance within the bird breeding season (unless appropriate survey undertaken).
 - 22) EVCP to be provided and retained.
 - 23) Dust mitigation measures to be implemented during construction.

- 24) Landscape strategy, to include management and maintenance arrangements, to be provided and implemented.
- 25) Coal legacy investigation and/or remediation to be undertaken (subject to review of further details).
- 26) Contamination investigation and/or remediation to be undertaken (subject to review of further details).

Background Papers

Application and history files

Available at:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023%2f91116>

Certificate of Ownership

Certificate C signed.