
Report of the Head of Planning and Development**STRATEGIC PLANNING COMMITTEE****Date: 15-May-2025****Subject: Planning Application 2023/91564 Erection of 30 residential dwellings, access, landscaping and associated works (full application) Land off, Barnsley Road, Denby Dale, Huddersfield, HD8****APPLICANT**

Katie Milnes, Strata

DATE VALID

26-May-2023

TARGET DATE

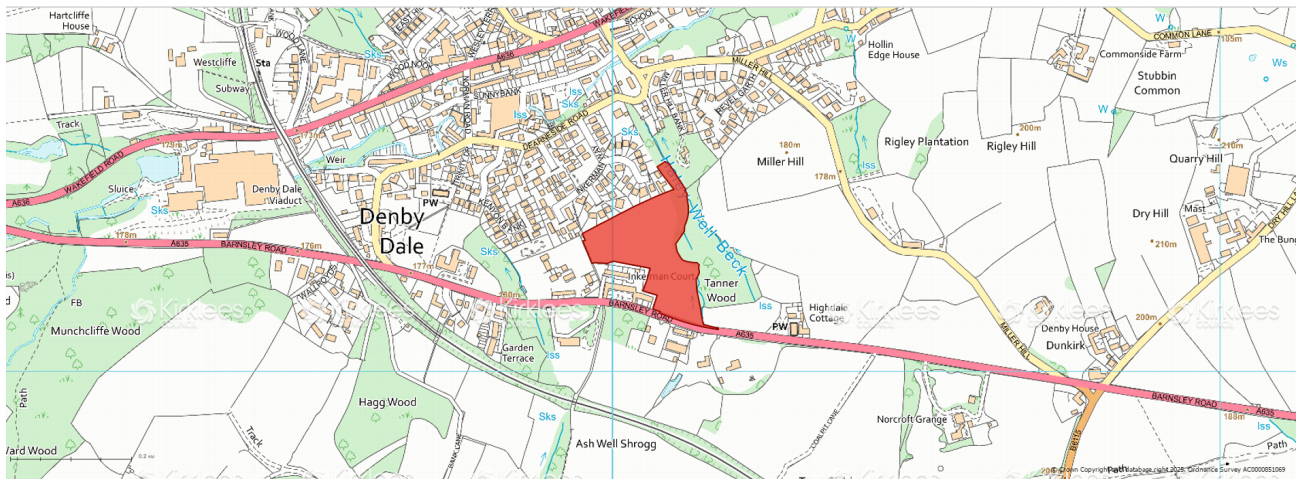
25-Aug-2023

EXTENSION EXPIRY DATE

28-Feb-2025

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: Denby Dale

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development to 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: 2x First Homes, 3x Social/Affordable Rent and 1x other intermediate (such as Shared Ownership/Discounted Market Sale)

Public Open Space: Delivery of the on-site Public Open Space, and an off-site contribution to local Public Open space of £43,692

Education: £75,849 towards local schools/colleges

Sustainable Travel: £15,600 contribution towards sustainable travel provisions (such as a Metro card scheme)

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

In the circumstances where the Section 106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Planning and Development shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Planning and Development is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

1.0 INTRODUCTION

- 1.1 This application seeks full planning permission of a residential development of 30 dwellings. The application site includes land allocated for housing in the Local Plan (allocation HS136) and a portion of Green Belt land.
- 1.2 The 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 located in Denby Dale on Barnsley Road, approximately 1.2 miles away from Denby Dale District Centre. Residential properties are located to the north, south and west, with Tanner Wood (designated Ancient Semi Natural Woodland) running along the eastern boundary.

- 2.2 The site itself is irregular in shape and has an area of circa 2.35ha. The majority of the site is allocated for housing within the Kirklees Local Plan (site reference: HS136). The topography of the site and area slopes slightly downhill from south to north, with the site being bounded by a mixture of dry-stone walling and planting. Public Right of Way DEN/66/40 runs along the western boundary of the site.
- 2.3 It is also important to note that directly adjacent to the site (to the west), development is well underway for the erection of 34 dwellings which were approved under application 2019/91836, and form part of Housing Allocation HS141.

3.0 PROPOSAL

- 3.1 The application seeks planning permission for the erection of 30 residential dwellings, access, landscaping and associated works. The application site includes land allocated for housing in the Local Plan (allocation HS136) and a portion of Green Belt land.
- 3.2 The proposals comprise:
- 21x 5-bedroomed properties
 - 3x 4-bedroomed properties
 - 3x 3-bedroomed affordable properties
 - 3x 2-bedroomed affordable properties
- 3.3 Units would be a mixture of detached (total of 24) and terraced (total of 6) properties. There would be seven house types across the site.
- 3.4 Six of the proposed dwellings would be affordable, provided as a mix of affordable/social rent homes, First Homes and other intermediate homes. These are proposed at plots 11, 12, 13, 20, 21 and 22.
- 3.5 The dwellinghouses would be predominantly detached in nature, although two rows of terraced properties are proposed within the site. All dwellinghouses are proposed to be 2-storeys in height with some properties providing additional living accommodation within the roof spaces.
- 3.6 The development would be predominantly faced in reconstituted stone, albeit plots 1 and 3 which front onto Barnsley Road would consist of natural stone. Roof materials would consist of grey concrete roof tile, with roof designs varying between hipped and pitched designs.
- 3.7 Each dwelling is to include private rear/side amenity space, with all properties excluding the row of terraced properties, also including front amenity spaces. Properties would be bounded by 1.8m high close boarded timber fences, apart from adjacent to the substation, and plots 1, 3, 17, 22, 25 & 26 which also include the use of 1.8m high screen walling. Plots 1 and 3 also benefit from 900mm dry stone wall to the front, to match the existing wall at the site.
- 3.8 All units would host dedicated off-street parking through either dedicated driveways or garaging. Those properties that do not benefit from either integral or detached garaging have been provided with a shed in the rear garden. 7 visitor parking spaces would be provided within the site. An electrical substation building is also to be located along the north-western boundary of the site adjacent to Plot 18.

- 3.9 The site's surface water attenuation tank is to be located towards the northern boundary of the site, adjacent Tanner Wood. A pumping station is also proposed to the south of the attenuation tank of which a turning head is proposed to be provided for access.
- 3.10 A single new vehicle access would be formed to serve the development, connecting from Barnsley Road. The access road would run along the buffer zone provided for Tanner Wood, with branching sections taking the road to the west and further north towards the pumping station. Dwellings would front onto the new road in a traditional fashion.
- 3.11 During the course of this application, a small portion of third-party land was included within the red line boundary of the site, this was to allow for better visibility when accessing the site. Notice has been served on the landowner and therefore this is deemed to be adequate for planning purposes. Although for the avoidance of doubt it remains a private legal matter for the applicant to resolve, should planning permission be granted.
- 3.12 Public Right of Way DEN/66/40 runs along the western boundary of the site. Pedestrian access to the PROW is to be provided from the north-western corner of the site, opposite to the proposed substation.
- 3.13 Groundworks are proposed across the site to enable a suitable access and road gradients, alongside the need to create developable plateaus and level plots. This would involve some areas being raised, and the provision of some low-level retaining walls. Retaining walls are proposed throughout the site, typically within the rear gardens of properties. Batters would be used along the eastern side of the main access (adjacent to Tanner Wood), and to the north of plots 23 and 30, and to the south of plots 16 and 17.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

2022/90821 – Advertisement Consent for erection of non-illuminated signs and flags. Granted 09/05/2022.

2021/94552 – Erection of 53 dwellings and associated works. Withdrawn 05/12/2022.

Enforcement

COMP/09/0233 – Display of advertisement. NFA breach regularised.

Adjacent Site – Land Adj, Inkerman Court

2023/92838 – Non-material amendment to previous approval (ref: 2023/90066) of variation of conditions 2 (plans) and 6 (highway layout) of previous permission 2019/91836 for erection of 34 dwellings. Approved 01/11/2023.

2023/92772 – Non material amendment to previous approval (ref: 2023/90066) of variation of conditions 2 (plans) and 6 (highway layout) of previous permission 2019/91836 for erection of 34 dwellings. Approved 30/10/2023.

2023/90066 – Variation of conditions 2 (plans) and 6 (highway layout) of previous permission 2019/91836 for erection of 34 dwellings – variations to allow deletion of right-turn pocket and footway built-out. Approved 23/05/2023.

2022/90955 – Non material amendment to previous permission 2019/91836 for erection of 34 dwellings. Approved 11/05/2022.

2019/91836 – Erection of 34 dwellings. Approved 06/10/2021.

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

- 5.1 Prior to the submission of this application, application 2021/94552 for the erection of 53 dwellings and associated works, was submitted and subsequently withdrawn 05/12/2022. This was following the designation of Tanner Wood (located adjacent to the site), as Ancient Semi Natural Woodland. This designation led to a significant portion of the site being undevelopable as a 15m buffer zone was then required to be provided between the proposed development and Tanner Wood.
- 5.2 The current application was submitted in May 2023. The proposal was initially for 27 dwellings, whereby a Viability Assessment was undertaken to demonstrate that affordable housing on site could not be achieved. However, the viability response from Aspinall Verdi demonstrated that affordable housing could be provided. The number of units was then increased to 30, to provide 6 affordable units on site (20%).
- 5.3 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 extensive negotiations to attempt to resolve the various outstanding matters. Negotiations have included various meetings and other methods of correspondence. The concerns related mostly to density, drainage, materials, impact on Tanner Wood, housing mix/affordable units, highways and access matters.
- 5.4 Based on the negotiations undertaken and the amendments made, along with the 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)

- 6.2 The application site is allocated as a Housing Allocation (HS136) within the Kirklees Local Plan. The site is also located within a Bat Alert Area and the Strategic Green Infrastructure Network. A portion of the site is also located within the Green Belt, Ancient Woodland, Wildlife Habitat Network and a High Coal Risk Area. It is also important to note that Public Right of Way (PROW) DEN/66/40 runs along the western boundary of the site.

6.3 Relevant Local Plan Policies are:

- **LP1 – Achieving 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**
- **LP23 – Core Walking and Cycling Network**
- **LP24 – Design**
- **LP26 – Renewable and Low Carbon Energy**
- **LP27 – Flood Risk**
- **LP28 – Drainage**
- **LP30 – Biodiversity and Geodiversity**
- **LP31 – Strategic Green Infrastructure Network**
- **LP32 – Landscape**
- **LP33 – Trees**
- **LP35 – Historic Environment**
- **LP38 – Minerals Safeguarding**
- **LP47 – Healthy, Active and Safe Lifestyles**
- **LP49 – Education and Health Care Needs**
- **LP51 – Protection and Improvement of Local Air Quality**
- **LP52 – Protection and Improvement of Environmental Quality**
- **LP53 – Contaminated and Unstable Land**
- **LP63 – New Open Space**
- **LP65 – Housing Allocations**

6.4 The following are relevant Supplementary Planning Documents (SPD) or other guidance documents published by, or with, Kirklees Council:

Supplementary Planning Documents

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

Guidance Documents

- Biodiversity Net Gain in Kirklees Technical Advice Note (2021)
- Waste Management Design Guide for New Developments (Version 5, October 2020)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Planning Applications Climate Change Guidance (2021)
- First Homes Position Statement (2021)

National Planning Guidance

6.5 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published in December 2024 (updated February 2025) 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 efficient use of land
- **Chapter 12** – Achieving well-designed and beautiful places
- **Chapter 13** – Protecting Green Belt land
- **Chapter 14** – Meeting the challenge of climate change, flooding and coastal change
- **Chapter 15** – Conserving and enhancing the natural environment
- **Chapter 16** – Conserving and enhancing the historic environment
- **Chapter 17** – Facilitating the sustainable use of minerals

6.6 Other relevant national guidance and documents:

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

Climate Change

6.7 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.

6.8 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:

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

7.2 The application was amended during its lifetime and a period of re-consultation, via neighbour letters, and site notice was undertaken. These were sent to all neighbouring residents, as well as to those who provided comments to the original period of representation.

7.3 The end date for public comments was 07/03/2025. In total 161 public comments were received, although it is noted that several of these comments were from the same 37 objectors. The following is a summary of the comments made:

Principle

- The site is located within the Green Belt.
- Housing Mix justification statement not acceptable.
- The village needs more affordable houses for young families and older people – not yet more 4/5-bedroom houses that a lot of people cannot afford.
- Development sites should not be judged in isolation, they should be looked at as a whole and Denby Dale has had more than its fair share of developments in recent years.
- There are enough brownfield sites to build on without encroaching further into green space.
- An updated SHMA is soon to be available, a decision on this development would be best made once the revised SHMA is available.

Officer note: Noted. The above is discussed in more detail within the principle of development section of this report.

Design

- The dwellings are out of keeping with surrounding properties.
- The properties appear to be built higher than any other properties in the area.
- The perimeter of the pumping station should be a 1.8m brick wall.
- The planting indicated around the pumping station will be deciduous and the metal fence will be visible for approximately half of the year.
- The pumping station perimeter fence has been omitted.
- The pumping station has not been indicated as stone to reflect the building materials and environment it is in. Plus, by building in stone it will assist in the restriction of the noise of the pump.
- The use of high close boarded wooden fencing is not acceptable and does not conform to the Council's Net Zero Carbon and Green Policies.
- On the new master plan datums for the new housing layout is omitted. Plans should not be approved without datums of each plot.
- The dwellings should not be finished with brick and should match those properties on Inkerman Court.

Officer note: Noted. The above is discussed in more detail within the urban design section of this report.

Residential Amenity

- We are rapidly running out of green spaces to enjoy spending our time in or to simply admire from a distance.
- Concerns in regard to the recommended separation distances of 21m (as outlined within the Housebuilders Design Guide SPD) not being met.

- Concerns in regard to overlooking and the loss of privacy.
- Loss of views.
- The fencing proposed is ineffective at blocking intrusive sightlines except possibly views at ground floor levels.
- Rear gardens appear to be very small for 5 bedroomed houses, garden size does not comply with KMC planning policies.
- Some rear garden levels are reliant on a circa 1m high retaining wall built tight up against the boundary. This will not be achievable as access to the land for construction will not be granted.
- Evergreens should be planted along the hedge of Broomhouse Close at a suitable height in the interests of privacy.
- The proposed dwellings will appear overbearing.
- Loss of sunlight into neighbouring gardens.
- Concerns in regard to noise pollution.
- A condition should be imposed to ensure that no petrol hand tools are used.
- Concerns in regard to vibration during development.

Officer note: Noted. This is discussed in more detail within the residential amenity section of this report.

Ecology/Trees

- The local wildlife will be affected by the reduction of rural areas to live and feed, with a higher risk of death and injury on busier roads.
- Wildlife and plants are seriously impacted by artificial lighting.
- The submitted Arboricultural Method Statement and Arboricultural Report and impact assessment should provide absolute guidelines and a defined procedure/method statement with approvals protocol.
- Question why the site has to be re-engineered so extensively.
- Building a retaining wall on or close to the boundary will risk damaging the mature trees at the boundary of the Inkerman Way gardens.
- Neighbours object to any trees being planted within 20m of their properties.
- No fires should be allowed to protect Tanner Wood.
- Non-compliance with Natural England standing advice on buffer zones for developments potentially affecting Ancient Woodland.
- The pump station, attenuation tank and outflow structures are still in the Tanner Wood buffer zone.
- There is potential for long term deterioration of ancient woodland resulting from the development.
- No detailed lighting assessment has been submitted for the development.
- Trees are to be planted too close to pumped drain. No details of specific tree type.
- Evergreen hedgerow not specified for around pump station.
- The bat surveys carried out in 2021 are no longer valid and new surveys should be carried out.
- Wild birds are afforded no significance in the Preliminary Ecological Appraisal submitted.
- A significant number of trees to the rear of the pavement along Barnsley Road would need to be removed to achieve suitable sightlines.

- Concerns over the removal of the large spruce tree adjacent to Inkerman Way.
- Object against the inclusion of on/over roof tiling solar panels because there is a large flock of pigeons in and around the site and there are long term issues that occur on preventing nesting of these birds.
- How will TPO trees be protected during engineering works.

Officer note: Noted. The above is discussed in more detail within the ecology and trees sections of this report. Both the Council's Ecologist and Trees Officers have also been consulted.

Highways

- The entrance to the estate is on a very dangerous part of Barnsley Road. Serious traffic accidents are bound to happen when cars are entering and exiting this area.
- Parking areas are limited for houses of this size.
- The proposed visibility splays do not comply with the required design standard.
- Is there any intention of providing visitor or utility vehicle parking off the A635 for houses 195-201?
- The modelling used in the Transport Assessment uses unrepresentative data and filters giving inaccurate and unreliable results.
- The proposed ghost land may mean that residents may not have the ability to park outside their property on Barnsley Road.
- There are few parking spaces for visitors and so they will end up parking on a busy road where the sight lines are already poor.
- There will be four entrances close together on Barnsley Road making turning in and out difficult.
- The red line boundary is wrong and needs amending to gain suitable sight lines.
- The proposed garages are too small in size for a modern car.
- Driveways appear too narrow.
- Techwill Ltd has been granted outline planning 2022/91024 and it appears that the proposed entrance on Barnsley Road may compromise the already approved highway access.
- The entrance is opposite a property and piece of land that has outline planning permission for 3 houses.
- Parking in the village is already a serious problem.
- Traffic through the villages of Denby Dale, Scissett and Clayton West is at record level and allowing more developments adds to pollution, noise delays, standing traffic, lack of parking facilities etc.
- A long-term solution is needed for the Sovereign Junction as well as a more widespread speed reduction interventions on Barnsley Road, Cumberworth Road, Carr Hill Road and Cumberworth Lane.
- The increase of heavy machinery and Quarry lorries in the area is an accident waiting to happen.
- No details are provided on the number of lorry journeys to/from the site nor the number of daily contractors.
- The proposed development appears to completely landlock Jones Tool SSAS land to the rear of Inkerman Court which is the only way to access this land either by vehicle or foot.
- There is a bus stop in the middle of the proposed intersection.
- What bollards are in place to prevent access by motor vehicles to the grassed areas and the tanker access for flow control.

Officer note: Noted. This is discussed in more detail within the highway safety section of this report. The Council's Highways Development Management team have also been consulted, their comments can be found within the consultation responses section of this report.

Flooding/Drainage

- Water from the field already causes minor flooding to the gardens of properties located on Broomhouse Close both from run-off and hydrostatic pressure through the soil due to the height difference.
- The existing drainage and sewerage infrastructure is not sufficient to accommodate the increase in runoff water and sewerage output from the houses, currently the Denby Dale village floods with runoff water and sewerage in a heavy rainstorm.
- A French drain should be provided between the new development and the existing properties.
- Not one property is planned to use gravity discharge.
- The proposal increases the operating costs for Yorkshire Water for the pumping station and service load on the pumping station and total noise it generates.
- The plans for surface water drainage are unclear.
- Tarmac to the drives should be water absorbing to reduce the impact on flooding.
- There should be a planning condition imposed which states that no properties shall be occupied until there is a permanent power supply to the pumping station.
- The developer should have a planning condition to have a detailed construction plan that provides for the prevention of potential flood water running into adjacent properties and/or Haley Well Beck whilst the construction is underway.
- The flood water design is not adequate and needs to be revised.
- Concerns that drainage is to be shared with Inkerman Court as these are old and empty into an old system in the village.
- There is not enough detail on barriers or preventive measures to ensure that there is no potential contamination of Haley Well Beck.
- The proposed drain crosses a gas main which runs through the site.
- Concerns over the pump for sewage as this will be reliant on electricity.

Officer note: Noted. The above is discussed in more detail within the flooding and drainage section of this report. Both the Council's LLFA team and Yorkshire Water were consulted on the proposals.

Infrastructure

- Due to many recent developments in the area in a small village it will impact on local infrastructure such as roads, schools, transport services and doctors.

Officer note: Noted. The above is discussed in more detail within the contributions and sustainable development and climate change sections of this report.

Other

- There is no indication as to whether storage batteries are to be used in conjunction with the proposed solar panels, where will these be stored?

Officer note: Noted. However, this is not a material planning concern.

- Increased light pollution.

Officer note: Noted. In terms of light pollution during construction works, a CEMP would be conditioned should planning permission be granted. In regard to light pollution arising from the scheme itself, as this is a residential development, any light pollution arising from the site is not considered to detrimentally harm the amenity of adjacent neighbouring properties.

- The health assessment submitted is misleading.

Officer note: Noted. The submitted health assessment is provided for information purposes only. A full assessment of the scheme has been undertaken by officers within this report.

- Plans have not been updated to reflect the new layout.

Officer note: Plans have now been reflected to show the most up to date site layout plan.

- Many of the houses are unsuitable for disabled or mobility impaired people and families with young children.

Officer note: Noted.

- The submitted plans do not reflect the true building outlines of adjacent properties.

Officer note: Amended plans were received which sought to reflect the changes in the area.

- No information on the height of the silos, these should not be within 21m of any property and should have bunds to prevent contamination to Haley Well Beck.

Officer note: Noted. However, this would fall outside the remit of this planning application. In terms of drainage during the construction phase, a scheme shall be conditioned should planning permission be granted.

- No information is provided on the size of the welfare facilities, these should not be two storeys in size.

Officer note: Noted. However, this would fall outside the remit of this planning application.

- Denby Dale attracts walkers and tourism due to its history and rural environment which is at risk of reducing and affecting the local economy.

Officer note: Noted. However, the existing PROW to the west would be retained, with a pedestrian link provided from the development. The provision of residential dwellings in the area would also likely add to the local economy.

- The village is becoming a commuter village for wealthy people.

Officer note: Noted. However, this is not a material planning concern.

- Suitable public consultation has not been provided on amended plans.

Officer note: Whilst it is acknowledged that some amended reports/additional information has been received since the last period of consultation, these changes typically relate to updating existing plans with the revised site layout plan, whereby the actual content and assessment has not significantly changed.

- Concerns over the reliability and validity of the viability report submitted.

Officer note: Noted. The viability report has been independently assessed, and it was concluded that contributions towards affordable homes could be provided by the developer.

- Who are the management company who are to manage the pumping station and when do they become responsible for it.

Officer note: Management and maintenance arrangements would be secured via a Section 106 agreement should planning permission be granted.

7.4 Parish/Town Council

Denby Dale Parish Council – Comments received 28/06/2023 and 29/01/2025.

Objection due to: the Woodland Trust information provided, drainage issues, possibility of pollution, high density of housing and inappropriate design, lack of affordable housing, effect on infrastructure and inadequate access for emergency vehicles (only one point of access).

7.5 Local Ward Members

The site is within the Denby Dale ward where members are:

- Cllr Timothy Bamford
- Cllr Hannah McKerchar
- Cllr Will Simpson

Councillor McKerchar provided the below concerns:

- Lack of affordable homes on the site.
- Questions whether there is a secured discharge route for retained flood water.
- Ground source heating and cooling has been dismissed as not viable on this scale of development. The sustainability and climate change statement should be challenged.

- Concerns surrounding access and parking, Waste Collection Services have objected regarding visibility and turning room.
- The building design is not in keeping with the architectural heritage of the area and will feel very overpowering due to the height of the buildings and pitch of the roofs.

Councillor Bamford provided the below comments:

- Raises concerns over cumulative infrastructure demand and the long-term sustainability of our community's essential services.
- The development is expected to increase surface runoff, which the existing drainage system may not be able to accommodate, thereby elevating the risk of localized flooding. Upgrading the drainage infrastructure is critical to manage the increased runoff and prevent potential damage to properties and public spaces.
- The additional demand from the proposed development is likely to stress the current sewage system beyond its capacity, posing risks to public health and the environment. Without substantial improvements and proper planning for expansion, the sewage network may become a bottleneck, leading to service failures and additional maintenance challenges.
- LP11 clearly outlines the need for a housing mix that caters to the local community's requirements, including more 1, 2, and 3-bedroom homes. The current proposal predominantly offers 4 and 5-bedroom properties. This type of housing generally attracts affluent buyers from outside the area, which could displace local residents and transform the local character of the neighbourhood.
- The developer must reposition the attenuation tank and associated works outside the protected buffer zone. No construction, excavation, or clearance should take place within the buffer zone under any circumstances.
- Ancient woodlands are irreplaceable habitats, and buffer zones are essential to their protection. Government guidance (Natural England and Forestry Commission's Standing Advice) recommends a minimum 15-meter buffer zone to safeguard woodland from development impacts. Any work within this zone is unacceptable. Construction within the buffer zone risks soil disturbance, root damage, and disruption to wildlife habitats. Heavy machinery, excavation, and installation of infrastructure such as the attenuation tank could cause long-term ecological damage.
- Ancient woodlands rely on stable groundwater conditions. Installing an attenuation tank nearby could alter water flow, drainage patterns, and soil moisture, potentially harming the health of the woodland.
- No attenuation tank exceedance flow should enter Tanner Wood as this could be a source of pollution from weedkiller, car washing etc.
- There is also a sewage pumping station in the site which Cllr Bamford was lead to believe was against Yorkshire Water policy. Any breakdown will cause a major environmental issue.
- Barnsley Road is very heavily used especially by HGV traffic working from Naylor Clayware in Cawthorne and many firms working the local quarries amongst many others. Residents report many incidences of speeding along this stretch of road.
- With vehicles attempting to turn into both the development and existing properties opposite, there is a high likelihood of conflict between entering and exiting vehicles, potentially leading to accidents. This is particularly

dangerous if sightlines are restricted or if the road is already busy. Measures should be taken to ensure that land is made available for sightlines and that this land will remain free from any type of development.

- The applicant has cited abnormal costs associated with the development, yet there is a lack of clear, independently verified evidence to justify these claims. Without transparent and detailed financial assessments, there is no basis for allowing deviations from planning requirements, such as affordable housing contributions or infrastructure funding.

Officer note: The above concerns have been addressed within this committee report.

8.0 CONSULTATION RESPONSES

The Mining Remediation Authority: No objections subject to conditions.

KC Highways Development Management: No objections subject to conditions.

Natural England: No objections.

Yorkshire Water: No objections subject to conditions.

KC Lead Local Flood Authority: No objections subject to conditions.

KC Designing out Crime Officer: No objections, advice provided.

West Yorkshire Archaeology Advisory Service: No objections.

KC Conservation & Design: No objections however, it was noted that the main elevation materials should be natural stone opposed to composite, and concerns were raised in regard to the use of concrete interlocking roof tiles, although the judgement of this is deferred to Officers.

KC Environmental Health: No objections subject to conditions and informatives relating to details to be submitted for an acoustic barrier, implementation of agreed noise mitigation measures, imported materials, reporting of unexpected contamination, electric vehicle charging points, Construction Environmental Management Plan, and restricted construction hours.

KC Highway Structures: No objections subject to conditions.

KC Highways Waste: The revised plan supplied addresses the concerns Officers originally raised. However, if properties are to be occupied before the site construction is complete, provision must be made for temporary waste collection, as refuse vehicles will not enter a construction site. As such, a temporary waste collection condition is required.

KC Education: The proposal for 30 dwellings would necessitate an education contribution of £75,849.

KC Trees: No objection subject to conditions.

KC Strategic Housing: Provide advice on policy compliant Affordable Housing provision. This would be 6 units in total, consisting of 2 First Homes, 3 social/affordable rent and 1 other intermediate dwelling. Unit sizes should be in accordance with the Affordable Housing and Housing Supplementary Planning Document (SPD).

KC Ecology: No objection subject to conditions.

KC Landscape: No objection subject to S106 agreement for the delivery of the on-site Public Open Space, and an off-site contribution to local Public Open space of £43,692

The Woodland Trust: Object to the proposals on the basis of the deterioration of Tanner Wood, designated as Ancient Semi Natural Woodland. Woodland Trust welcome the commitment to provide a 20m buffer to the ancient woodland for the majority of the boundary, they are concerned that works are proposed within the 15m buffer zone, which includes the construction of the drainage channel to connect the attenuation tank to the outflow, in addition to the embankment. They also note that there is potential for root encroachment of ancient woodland trees adjacent to the site boundary, and that additional requirements for managing the woodland canopy where it overhangs the channel and hydrological impacts from construction of the earthworks.

9.0 MAIN ISSUES

- Principle of Development
- Urban Design and Historic Environment
- Residential Amenity
- Highway Safety
- Drainage and Flood Risk
- Ecology and Trees
- Planning Obligations
- Other Matters

10.0 APPRAISAL

Principle of development

- 10.1 Planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions. Chapter 5 of the NPPF notes the Government's objective of significantly boosting the supply of homes. Applications for residential development should be considered in the context of the presumption in favour of sustainable development.

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 19th December 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 which 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 (NPPF Footnote 8), granting permission unless:

(i) the application of policies in this Framework that protect areas or assets of particular importance (NPPF Footnote 7) provides a strong 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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination (NPPF Footnote 9).”

- 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 but this has to be balanced against any adverse impacts of granting the proposal. The judgement in this case is set out in the officer's assessment.
- 10.5 The site falls within a housing allocation, reference HS136, 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.

- 10.6 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

- 10.7 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).

- 10.8 First considering density, allocation HS136 has an indicative capacity of 72 dwellings, calculated at the net site area delivering 35 dwellings dph. However, since the allocation of this land it has become known that this level of density would be difficult to achieve due to local constraints which include the sloping topography of the site, and its awkward shape, but most specifically the requirement of a buffer to the adjacent ancient woodland Tanner Wood, thus resulting in the removal of a large portion of the developable area of the site, from 2.07 hectares to circa 1.49 hectares. The proposal therefore represents a development density of 20 dph within the allocation's identified developable area. Whilst this is not close to the Local Plan's expectation for 35 dph, given the above constraints 30 dwellinghouses is deemed to be reasonable for the site on this occasion.
- 10.9 Moving on to housing mix, 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 Kirklees Rural East area:

Kirklees Rural East	Market Housing	Affordable Rent	Affordable Intermediate
1 and 2 beds	30-60%	60+%	40-79%
3 beds	25-45%	20-39%	40-59%
4+ beds	5-25%	0-19%	0-19%

The following sets out the proposal's offer:

	Market Housing	Affordable Rent	Affordable Intermediate
1 and 2 beds	0%	66%	33%
3 beds	0%	33%	66%
4+ beds	100%	0%	0%
Total	24	3	3

- 10.10 The proposal's affordable housing contribution is considered in full within paragraphs 10.101-10.113 of this report. In summary, the affordable housing's mixture element of the proposal is deemed acceptable.
- 10.11 The proposal's market housing mixture does however 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.
- 10.12 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:
- Amending the mix to provide smaller dwellings reduces floorspace and gross development profit. Of which margins on this site are reported to be tight, and the developer is at a point where further floorspace reductions would make the project unviable.

- The fixed costs of delivering the site (roads, drainage, ecological mitigation etc.) are better offset by larger homes. The fixed infrastructure costs make smaller unit delivery less viable.
- Research has been undertaken to research the shift in housing aspirations following the coronavirus pandemic, of which there is a rise in the demand of dwellings consisting of 4+ bedrooms given the home office working dynamic which has undoubtedly shifted for the foreseeable future.
- Strata have commenced early soft marketing and all early enquiries on this site are seeking family homes.
- LP11 of the Kirklees Local Plan was established having regard to the evidence base which is the 2016 Strategic Housing Market Assessment (SHMA) which is now almost 10 years out-of-date, as well as significantly being based on pre-pandemic data.
- The 2023 Affordable Housing and Housing Mix SPD still directs the reader back to the 2016 SHMA data.
- It is widely accepted that the Council is unable to demonstrate a 5-year supply of housing such that the NPPF paragraph 11 'tilted balance' is in play.
- In December 2024, the Government revised the Council's Housing Target through the standard method, increasing it from 1730 to 1840 dwellings per annum. There is no current Kirklees Housing Needs assessment to reflect this new higher target. There is however a new Government Statement that seeks to significantly increase housing delivery of all types.
- The character of dwellings proposed are in keeping with the existing mix and tenure of the Denby Dale area.
- The site is not only constrained by the woodland buffer but also the contour of the land which drops from the point of access. This fall in level when combined with the need to create a rural edge to respect the woodland automatically creates a series of detached dwellings with minor retaining walls between each thus avoiding larger blocks of development (semi-detached and terrace) that would reduce the gaps and require greater unnatural retaining features and a less natural design edge.

10.13 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 10.2-10.6, 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'*.

10.14 Notwithstanding the applicant's comments, the proposed housing mixture is considered a negative of the proposal, failing to deliver a diverse selection of house sizes and types, contrary to the aims of the SPD. Nevertheless, the proposal would provide dwellings of a reasonable density, given the local constraints of the site, at a time of housing need. As will be detailed throughout this report, the proposal is considered to be of a suitably high quality and is considered to comply with all policy requirements. Furthermore, it would provide all required contributions and obligations via Section 106. In this

context, the proposals departure from the SPD's housing mix target is considered a negative, albeit of limited harm on the planning balance. Also giving some weight to the arguments put forward by the applicant, is not deemed to be reasonable grounds for refusal.

- 10.15 In light of the above, the site is a housing allocation in the Local Plan, with the proposal considered to represent an effective and efficient use of the allocation 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.

Green Belt

- 10.16 A small section of the proposed access into the site from Barnsley Road is to consist of land which is allocated as Green Belt. For the avoidance of doubt, no dwellings are proposed within the Green Belt.
- 10.17 The NPPF identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. All proposals for development in the Green Belt should be treated as inappropriate unless they fall within one of the categories set out in paragraph 154 of the NPPF, and as built upon within the Local Plan.
- 10.18 Criterion h) of paragraph 154 of the NPPF states that certain forms of development are not inappropriate in the Green Belt provided that they preserve its openness and do not conflict with the purposes of including land within it. Criterion h) specifies what types of development can be considered in this way, and the prescriptive list includes engineering operations. The widening of the footway to provide suitable visibility splays to the left onto Barnsley Road are accepted to be engineering operations. Therefore, an assessment must be made on the proposal's impact upon openness and the impact upon purpose of the Green Belt.
- 10.19 Considering impact on openness, the existing footway is to be widened to approximately 5m in width. Whilst this would result in the land being raised and grassland being replaced with hardstanding, the area to be widened is small in size and would be viewed against the existing footpath which runs along Barnsley Road. The impact on openness of the Green Belt would be negligible in this instance, and whilst there will be a minimal degree of movement on this amended footway, this is not expected to result in a material intensification of activity within the Green Belt. Therefore, there is expected to be no material harm to openness through the proposed works.
- 10.20 Progressing to the proposal's impact upon the purpose of the Green Belt, Paragraph 143 of the NPPF identifies five purposes of the Green Belt. These are:
- A) To check the unrestricted sprawl of large built-up areas;
 - B) To prevent neighbouring towns merging into one another;
 - C) To assist in safeguarding the countryside from encroachment;
 - D) To preserve the setting and special character of historic towns; and
 - E) To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

The proposed widening of the footway and regrading of the land is not considered to contradict any of the above.

- 10.21 Concluding on the above, whilst works are proposed within the Green Belt, they are deemed to be appropriate development within the Green Belt by virtue of Paragraph 154 h) of the NPPF. The works within the Green Belt are engineering operations that would neither harm the openness of the Green Belt, nor contradict the purpose of including land within it.

Sustainable Development and Climate Change

- 10.22 The site is located on the edge of an existing established settlement, 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 could be met within the area surrounding the application site, which further indicates that residential development at this site can be regarded as sustainable.

- 10.23 Specific to the development, the applicant has submitted a Sustainability & Climate Change Statement, which details the following design approach:

- It is proposed to install renewable technology in the form of Photovoltaic panels and appropriate Wastewater Heat Recovery Systems where feasible.
- Consideration has been given to the orientation and layout of the buildings to help maximise energy efficiency as part of the development.
- Strata are dedicated to taking pro-active measures to address issues surrounding the specification of building materials and the environmental impact of materials and responsible sourcing. They commit to obtaining responsible sourcing certification for at least 90% of the building elements of each dwelling.
- Robust procedures are in place to share materials such as soil and aggregate between sites and to sort waste on and off site to divert waste from landfill.
- All construction activities will be carried out to minimise dust, fumes, discharges and any other form of pollution on site, in line with best practice policies.
- Eco-sanitary ware and restricted flow rates are to be introduced into the design of each development to obtain the appropriate level of water efficiency.

- 10.24 Regarding the social infrastructure currently provided and available in Denby Dale (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.

- 10.25 Regarding climate change, measures would be necessary to encourage the use of sustainable modes of transport. Adequate provision for cyclists (including cycle storage and space for cyclists), electric vehicle charging points, and other measures have been proposed or would be secured via condition (referenced where relevant within this assessment). A development at this site which is entirely reliant on residents travelling by private car is unlikely to be considered sustainable. Drainage and flood risk minimisation measures would need to account for climate change. These factors will be considered where relevant within this assessment.

Urban Design and Historic Environment

- 10.26 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'.
- 10.27 The site is not within or adjacent to a Conservation Area, and there are no Listed Buildings located within close proximity to the site. However, the site is within the setting of what would be considered a non-designated heritage asset, of Inkerman Farm, now known as Inkerman Court.
- 10.28 Policy LP35 states that proposals which would remove, harm, or undermine, the significance of a non-designated heritage assets, or its contribution to the character of a place will be permitted only where benefits of the development outweigh the harm having regard to the scale of harm and the significance of the heritage asset. Proposals should also maintain and reinforce local distinctiveness and conserve the significance of designated and non-designated heritage assets. This is echoed by paragraph 216 of the NPPF.
- 10.29 Inkerman Court is located to the west of the application site, and whilst this is acknowledged, the application site is identified as a Housing Allocation, of which the above non-designated heritage asset was not identified as a constraint. Whilst the Council's Conservation & Design Officer has noted that the proposals would have a harmful impact on the setting of the non-designated asse, the harm is considered less than substantial. While its setting would be partly diminished, the heritage value of Inkerman Court would remain evident. The public benefits arising from the development of a Housing Allocation, at a time of housing need, is considered to outweigh the harm.
- 10.30 There is residential development to the north, south and west of the site, bounded to the east by Tanner Wood, thus the proposal would not appear as a rural extension (i.e., encroaching into open countryside), but would instead 'round off' the settlement. Nonetheless, the site is on the edge of the urban environment, where the built environment transitions into the open rural environment to the east (past Tanner Wood) and south (behind dwellings located to the south of Barnsley Road). 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.

- 10.31 As noted previously, the land to the east is Green Belt. Consideration of engineering operations within the Green Belt is discussed in paragraphs 10.16-10.21. In terms of the main residential development, the proposal does benefit from a strong defensible boundary to the Green Belt through the location of Tanner Wood. This provides a clear boundary of where development would end, and given its designation as ancient woodland, Tanner Wood does offer a significant level of protection for the future. Therefore, Officers are satisfied that the proposed residential development would not prejudice the openness of the Green Belt nor its purpose.
- 10.32 The layout of the development has largely been determined by the natural features of the site, regarding its topography and the ancient woodland to the east. To assist in the provision of a 15m buffer zone to Tanner Wood, the majority of the proposed dwellings are located on the western side of the application site, with the access road into the site providing a further buffer between the dwellings and the woodland. Plots 1 and 2 are however provided on to the front of the site in the south-eastern corner, this allows for a more active frontage upon entering the estate.
- 10.33 Overall, the layout of the proposed development would reflect the established urban grain of the wider area, whilst also protecting the adjacent ancient woodland.
- 10.34 Progressing to the specifics of the proposed dwellings, as is set out in detail in the table of paragraphs 10.52-10.53, 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. Notwithstanding this, the proposed dwellings are not considered to be significantly larger than properties located to the north on Inkerman Way and Broomhouse Close, or dwellings constructed to the west on Ash Well Grove. As the surrounding area is defined by varied house types, 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.
- 10.35 The site's existing ground level is set lower than the public highway (Barnsley Road) and adjacent neighbouring properties. However, to create a suitable access into the site, ground levels would be raised at the access point, with ground levels then filtered (with the use of retaining walls) down to the bottom of the site following the existing contours of the site. The proposed dwellinghouses are all to be two-storeys in height, with some dwellings providing additional living accommodation within the roof spaces. Dwellings are typically two-storey in height in the area, and therefore the proposed units are not considered to be so unduly large to appear incongruous when viewed within the context of the area.
- 10.36 Moving on to the design of the dwellings, architecturally they have a somewhat simple and contemporary vernacular. The architectural design of dwellings in the area is varied, however there is a strong element of 2-storey development, constructed in stone with a Pennine vernacular. Officers consider that the modern attractive vernacular of the proposed units would appear suitably harmonious. More generally, the character of the surrounding area largely comprises detached and terraced properties set within small/medium sized plots of a similar density. The proposal would accord to this.

- 10.37 Regarding facing materials, artificial stone is proposed as the predominant material throughout the site, with natural stone proposed to plots 1 & 3 which face onto Barnsley Road. This is considered a good compromise which will assist in harmonising the development with the surrounding area, however, it is imperative that the proposed materials are complimentary to the adjacent development at Ash Well Grove (to the west), and therefore this will be subject to an acceptable end product being used, and thus a condition shall be imposed, should planning permission be granted, which required samples of the materials to be provided to the Local Planning Authority prior to their use.
- 10.38 Roofing materials are proposed as grey concrete roof tiles. While Conservation and Design Officers would prefer to see the use of natural slate, it is considered in this instance that grey concrete tiles would be acceptable, subject to a suitable end product being used, again this should be complimentary to the adjacent development at Ash Well Grove, and will be securable via condition.
- 10.39 Retaining walls would feature throughout the site, ranging between 0.375-3m at the most extreme. Most of the walls are contained within rear gardens or within the site, and therefore less visible from wider public vistas. Officers are satisfied that the applicant has kept these to an operational minimum.
- 10.40 Regarding the retaining wall materiality, no details have been provided and therefore should planning permission be granted, these details would be conditioned.
- 10.41 A substation is to be located to the north-western corner of the site, adjacent to plot 18. The proposed location is considered suitable as it would be somewhat tucked away and wouldn't form a prominent feature of the housing estate. Nevertheless, it is considered reasonable, should planning permission be granted, to include a condition which requires further details on the design/materials of the substation to be submitted in the interests of visual amenity. Furthermore, such structures must be accessible from the highway and are often a necessary element of development, nowadays. Its inclusion is therefore considered acceptable.

Landscaping / Boundary Treatments

- 10.42 Boundary treatments include a mix of 1.8m high close boarded timber fencing, 1.8m high screen walling and 900mm dry stone walls. This is typical in the urban environment and is considered to be acceptable. However, 1.8m timber fencing would not be considered to be appropriate along the Barnsley Road frontage or public footpath DEN/66/40. Along the public footpath, if any boundary treatment is proposed, this should match the low dry-stone walling that is being provided at the adjacent development site (Ash Well Grove). Given the above, it is considered reasonable, should planning permission be granted, that details of the proposed boundary treatments to be used throughout the estate (including within the Public Open Space) be provided prior to their installation. This would also include boundary treatments proposed around the pumping station.
- 10.43 Moving on to proposed landscaping, the application is supported by a Landscape Masterplan of which soft landscaping is shown, with street trees planted throughout the estate. Natural & Semi Natural space is shown the east of the site and is to form the majority of the Public Open Space for the site.

This would consist of, but is not limited to, a native mix of hedgerow around retaining walls to Plots 1 and 2, bands of native scrub which will include hawthorn, holly and blackthorn, and a mix of larger and more mature sized trees on the eastern side of the spine road to provide an attractive street scene and value to wildlife. In addition to this, 347sqm of amenity green space is also proposed along the western boundary of the site. Both of the Public Open Spaces will contribute to the setting of the development.

- 10.44 In terms of hard landscaping, estate roads would consist of tarmacadam, and 450x450x50mm PCC buff paving slabs around the dwellinghouses themselves. These materials are considered to be suitable.

Design and conservation summary

- 10.45 In summary, the proposed works would notably change the character and appearance of the site and wider area, nonetheless, the proposed development is deemed to be designed to a high standard. The proposal would represent an attractive continuation of the residential environment, while appropriately transitioning to the rural landscape to the west. Accordingly, the proposal is deemed to comply with the aims and objectives of Policies LP2 and LP24 of the KLP, and Chapter 12 of the NPPF.

- 10.46 The above assessment has been based on the proposal as submitted. Given the topography of the site and the layout of the development, it is considered further development on the site, via extensions or outbuildings, could notably affect the quality of the design. It is therefore considered prudent to remove permitted development rights for outbuildings and extensions for all units within the site.

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 All separation distances to third party dwellings notably meet/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).
- 10.49 Whilst it is acknowledged that the site slopes from south to north and with the slight changes to ground levels to create developable plateaus and level plots, dwellings proposed towards the northern boundary of the site are set at a slightly higher ground level than those dwellings on Inkerman Way and Broomhouse Close. However, this arrangement is not uncommon within the area given the sloped topography of the area in general. Given that the recommended separation distances have been met/exceeded and the orientation of dwellings to adjacent residential properties, Officers consider that there are no significant concerns in respect to overlooking, overshadowing, or the proposals appearing overbearing in nature. However, it is considered reasonable and necessary to remove permitted development rights for extensions and outbuildings within the properties to avoid any loss of residential amenity in the future.

- 10.50 Furthermore, it has been raised in representations that these dwellings currently have a clear view over the site, which is currently greenfield. While note, there is no right to a view in planning and the loss of an attractive view is not a material consideration. The material consideration is the impact of their amenity, through matters such as overbearing, overshadowing, and overlooking, which has been discussed above.
- 10.51 In summary, subject to the recommended condition, Officers are satisfied that the development would not materially prejudice the amenity of existing neighbouring dwellings. Consideration must also be given to the amenity of future occupiers and the quality of the proposed units.
- 10.52 The size (in sqm) of the proposed residential units is a material planning consideration. Local Plan policy LP24 states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, and the provision of residential units of an adequate size can help to meet this objective. Although the Government's Nationally Described Space Standards (March 2015, updated 2016) (NDSS) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed, as set out in the council's Housebuilder Design Guide SPD. NDSS is the Government's clearest statement on what constitutes adequately-sized units, and its use as a standard is becoming more widespread – for example, since April 2021, all permitted development residential conversions have been required to be NDSS-compliant.

House Type	No. of Beds	No. of units	Proposed (GIA,m ²)	NDSS (GIA m ²)
Copenhagen	4	3	124.30sqm	106sqm
Florence	5	3	166.17sqm	119sqm
Valencia	5	2	217.22sqm	128sqm
Naples	5	11	218.09sqm	128sqm
Siena	5	5	210.94sqm	128sqm
T1	3	3	70.06sqm	70sqm
T2	3	3	85.50sqm	84sqm

- 10.53 All of the proposed units meet/exceed the NDSS minimums, which is welcomed. All units would have well-proportioned habitable rooms that are served by good sized windows.
- 10.54 The internal spacing and separation distances between the units are acceptable and will not result in overbearing, overshadowing, or overlooking between the new units.
- 10.55 All of the dwellinghouses would have outdoor amenity space, including private gardens of a size commensurate to the host dwelling. However, by virtue of the site's sloped topography, retaining walls would be in many unit's gardens. This does mean that in some instances gardens are subdivided reducing their effective size. Nevertheless, tiered gardens are not unusual across Kirklees, nor in Denby Dale itself, due to the steep topography typical for parts of the region. Officers consider that the majority of the retaining walls are proposed to be in rear gardens or within the centre of the estate and therefore would not result in material harm to the amenity of future occupiers. Of note, representations have been received which state that in some instances 1m high retaining walls which are built tight up against the boundary will not be achievable as access to the land for construction will not be granted. This is acknowledged and would be a civil matter that would need to be agreed outside of this planning application.

- 10.56 Policy LP47 of the KLP refers to healthy, active, and safe lifestyles and recognises that these will be enabled by a number of criteria including (a) access to a range of high quality, well maintained and accessible open spaces and (b) increasing access to green spaces and green infrastructure to promote health and mental well-being.
- 10.57 Sizeable areas of Public Open Space would be provided on site and would contribute to the amenity of future and existing nearby residents. This would include 8,533sqm of on-site Public Open Space. Of this, 8,186sqm is proposed to be of natural & semi natural space and would be located along the eastern boundary of the site, with 347sqm of amenity green space, located along the western boundary of the site adjacent to the PROW. An off-site contribution of £43,692 is also to be provided towards existing facilities in the vicinity of the development, potentially including Sunnybank Rec or other public open space typologies in the vicinity.
- 10.58 In terms of noise, although residential development would increase activity and movements to and from the site, given the quantum of development proposed, and the number and locations of new vehicular and pedestrian entrances that new residents would use to access the site, it is not considered that neighbouring residents would be significantly impacted. The proposed residential use is not inherently problematic in terms of noise and is not incompatible with existing surrounding uses.
- 10.59 Further to the above, the applicant has submitted a Noise Impact Assessment (NIA), this report concludes that the application was observed to be dominated by road traffic on the A635 Barnsley Road. No other significant noise sources were noted. The NIA recommends that plots 1 and 3 which front Barnsley Road are provided with a fully ducted mechanical ventilation system with heat recover. A specification is also given for the glazing and ventilation for the front facing rooms of these plots, along with a specification for a room in roof bedrooms. A further specification is given for the glazing and ventilation to all remaining plots across the site. External amenity areas will require mitigation to meet with external requirements of BS8233 and a specification is given for 1.8m high solid timber fencing to be installed. KC Environmental Health request that should planning permission be granted, mitigation measures recommended within the report shall be implemented and be retained thereafter.
- 10.60 A condition requiring the submission of and approval of a Construction Environmental Management Plan (CEMP) 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 being developed at the same time. Details in relation to temporary artificial lighting, noise and dust suppression and the locations of wheel washing, stockpiles, welfare cabins and the height and type of site fencing/dust screening would need to be included within the CEMP. An informative regarding hours of noisy construction work is recommended.
- 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.

Highway Safety

- 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 30 dwellings is expected to generate the following movements:

	Arrival	Departure	Two-way
AM Peak	7	16	23
PM Peak	15	10	25

- 10.65 This is deemed to be a reasonably low level of traffic, which would not have a detrimental impact upon the capacity of the local network or nearby junctions.
- 10.66 Reviewing collision records, the submitted Transport Statement highlights that Personal Injury Collision (PIC) data demonstrates that no slight collisions have occurred within the vicinity of the proposed development. The study area includes the proposed site access on Barnsley Road extending 400m to the east and west. The Transport Statement concludes that *'Given there have been no recorded PIC's; it is considered that there are no existing road safety issues within proximity to the sit[e] and no further analysis of collisions is required. Therefore, it is considered that additional collision data is not required to be requested from KC given there are no clusters or hotspots identified that require more in-depth analysis'*.

Point of access

- 10.67 Regarding access into the site, access is to be from the A635 Barnsley Road by a simple priority junction as shown on drawing no. AMA/21154/SK018 Rev P03. This includes a pedestrian refuge island to the east of the site access and the formation of a kerbed and surfaced footway adjacent to the informal crossing to the south side of A635 Barnsley Road, to be carried out within a S278 agreement. A visibility splay to the left of 120m is to be provided and shall remain unobstructed with the wall set behind the sightlines and the full splay offered for adoption within a S38 agreement, this is to be secured via condition. An independent Stage 1 RSA and designers' response has been provided regarding the access arrangements associated with the site, which have been considered and addressed accordingly.

- 10.68 It is also important to note that the speed limit on Barnsley Road has recently been reduced to 40mph following a TRO paid for by the developer of the adjacent site (Ash Well Grove).

Internal highway layout and parking

- 10.69 Regarding the internal road arrangements, the submitted details and Stage 1 Road Safety Audit have been reviewed by KC Highways Development Management, who considered there to be no prohibitive reason preventing a scheme for adoption being brought forward at S38 stage. It is deemed to comply with the standards of the Highways Design Guide SPD. However, for the avoidance of doubt, it is the applicant's prerogative as to whether they'll seek adoption of the road by the local Highway Authority as it is outside the remit of the Local Planning Authority to require adoption of roads.
- 10.70 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 6.1m internally). In terms of visitor parking, the Highways Design Guide SPD recommends one per four dwellings. This amounts to 7.5 dedicated spaces, of which the proposal falls slightly below, as just 7 spaces are proposed. Nevertheless, these spaces are shown to be spaced throughout the site and are deemed to be reasonably well located. KC Highways Officers have raised no objection to the visitor spaces but do note that 4 of the spaces would be within the adoptable highway, with the remaining 3 adjacent to plot 2 are at 90 degrees to the highway and therefore would require independent maintenance. Furthermore, the visitor parking spaces to the rear of the turning head adjacent to plots 17 and 18 should have a minimum of 1m footway running behind them to allow vehicle occupants to exit their vehicles on hardstanding, rather than a grass verge. This can be controlled via condition.
- 10.71 All dwellinghouses are shown to have adequate space for the storage of three waste bins in either their side or rear gardens, which is welcomed. KC Waste Strategy raise no objections to this.
- 10.72 Given the scale of the development, which is likely to be phased, a condition is to be imposed for a waste collection strategy during the construction phase. This is due to refuse collection facilities not accessing roads prior to adoption or while construction work continues, therefore appropriate arrangements must be considered and implemented.
- 10.73 Officers also recommend that a Construction Access Management Plan be secured via condition (this may be combined into the Construction Environmental Management Plan recommended in paragraph 10.60). this is to ensure that the development does not cause harm to the local highway safety and efficiency. This would be required pre-commencement, given the need to ensure appropriate measures from the start of works.

Sustainable Travel

- 10.74 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.*'

- 10.75 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 Statement 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.
- 10.76 PROW DEN/66/40 runs along the western boundary of the site. The application seeks to incorporate a link from the site onto the PROW via the north-western corner of the site, adjacent to the substation. It is proposed to link the site to the PROW with a footpath to allow for pedestrian access to and from the PROW. This connection would serve as a useful traffic-free route between the development and the centre of Denby Dale, which includes several shops, bus stops and the railway station, and would help reduce the need for car trips. The access could also form part of a walking-to-school route. The safety of this pedestrian access has been considered and would be well overlooked by the proposed new dwellings. The join between the proposed footway and the PROW is to be agreed by the Kirklees PROW team and no unauthorised changes to the width and surfacing of the PROW should take place.
- 10.77 Regarding public transport, the site is within walking distance to bus stops on Wakefield Road, circa 0.48km walk. The stops are served by D1, D2, D3, 94a, 99, and X1 services, which provide frequent services between Huddersfield and Holmfirth. A school bus stop is also located close to the site access on A635 Barnsley Road.
- 10.78 The site is below the threshold for the requirement of a Travel Plan however, sustainable travel should still be promoted at the site and therefore a S106 contribution for a Sustainable Travel Fund (STF) should be provided. Based on the 30 dwellings that are proposed, the STF would be £15,600. It should be noted that the developer would be responsible for the administration of the Residential Metro card Scheme, and this should be done at the point of occupation.
- 10.79 Overall, it is concluded that the proposal is acceptable with regard to the matters of access and highway impact. Subject to relevant conditions and the planning obligations specified, 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. It would therefore comply with Policies LP20 and LP21 of the Kirklees Local Plan and guidance contained within the National Planning Policy Framework.

Drainage/Flood Risk

- 10.80 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.
- 10.81 The application is supported by a Flood Risk Assessment which has been reviewed by KC Lead Local Flood Authority (LLFA). Comments have also been received from Yorkshire Water.

- 10.82 First considering flood risk from fluvial sources, the site is wholly within Flood Zone 1. Haley Well Beck is located along the eastern boundary of the site but would be circa 30m away from the nearest proposed residential dwellings. Given the minor scale of the Beck, separation distances, and the location of Tanner Wood, the risk of flooding to the site due to this watercourse is negligible.
- 10.83 Considering surface water arrangements, within the submitted Flood Risk Assessment it is noted that surface water run-off from the site is currently greenfield run-off which is discharging to Haley Well Beck. The applicant has also undertaken an assessment in accordance with Building Regulations H3 and the NPPF in regard to the disposal of surface water, following best practice and the drainage hierarchy when reaching their proposed discharge point. Due to the clay soils, it is not suitable for the disposal of surface water from the site via infiltration, therefore discharge to a watercourse is the preferred method of surface water disposal. Given the proximity of the existing watercourse (Haley Well Beck) and allowable discharge rate outfall to the watercourse this is the preferred method. However, due to the sensitivity of the adjacent woodland, detailed consideration of the outfall design is required.
- 10.84 Attenuation is to be provided via an attenuation tank, located within the green space north-east of the development site. The outfall to the beck is proposed to be via a headwall and stone filled channel through the woodland (Tanner Wood). The tank will have the capacity and features designed for up to the 1 in 100-year event plus climate change. The drainage design is to allow for 375 cubic metres of attenuation with a discharge of 9l/s to the watercourse. KC LLFA deem this to be acceptable. Initial flood routing shows the proposed properties to be safe from blockage scenarios and exceedance events. KC LLFA have noted that the design of the tank will need to be conditioned as will the maintenance and management thereof. LLFA recommend that crate storage is not used on housing estates unless it can be clearly demonstrated that Yorkshire Water or a NAV will give official technical approval to a stated manufacturers design. This is due to the management/maintenance and renewal of such products is more difficult than alternative designs coupled with the Local Planning Authorities obligation to ensure maintenance and management of attenuation features for the lifetime of the site. Furthermore, an assessment of the downstream trash screen is required as the development will produce more litter and debris, an upgrade can be decided via condition.
- 10.85 The maintenance and management of the approved SUDs/surface water infrastructure (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.
- 10.86 In regard to foul water drainage, foul drainage is to connect into new foul drains and the pumping station under Section 104 of the Water Industry Act. Flows will connect into the existing 255mm diameter combined sewer at the west of the development towards PROW DEN/66/40. This proposal has not attracted an objection from Yorkshire Water and is considered acceptable.
- 10.87 Considering the above, subject to the proposed conditions and securing the 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 and Trees

- 10.88 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.
- 10.89 The application is supported by an Ecological Impact Assessment which has been reviewed by KC Ecology. The habitats to be lost at the site are considered to be of minimal ecological value, comprising of poor modified grassland. Areas of woodland and more species diverse grassland on the eastern boundary of the site provide increased value for ecological receptors however, these areas would be retained and enhanced as part of the scheme. The submitted EclA and Bat Activity report detail that the proposed development is unlikely to have a significant impact on local bat population however, mitigation measures with regards to low impact lighting at the site have been outlined. KC Ecology deem these measures to be sufficient and that they should be adopted as part of the scheme.
- 10.90 Furthermore, a condition for a Construction Environmental Management Plan: Biodiversity (CEMP: Biodiversity) is recommended, to ensure construction activity is managed in an appropriate way that causes no undue harm to local habitat and species. Likewise, a condition for an external lighting strategy, to ensure no harm through lighting, particularly towards the ancient woodland, is recommended.
- 10.91 Whilst the application was submitted before the mandatory 10% Biodiversity Net Gain requirement in England under the Environmental Act 2021 came into force. A 10% net biodiversity gain was already required to be demonstrated in accordance with Chapter 15 of the NPPF, Local Plan Policy LP30, and the council's Biodiversity Technical Advice Note. The applicant has therefore submitted a Biodiversity Net Gain calculation, which has been undertaken using the DEFRA Metric. This sets out that the development would result in an overall gain of 5.62 Habitat Units (equivalent to a 62.13% increase), a net gain of 0.38 Hedgerow Units (equivalent to a 238.97% increase). The watercourse that runs along the eastern boundary of the site is to be retained and will be untouched during the development. As such, no change in ecological value is anticipated. The submitted information is considered to provide an exemplar scheme, where areas of greenspace within the site have been sufficiently utilised to achieve the required level of net gain.
- 10.92 In addition to the above, the landscape banking where the woodland buffer exists has been created to allow for a significant uplift in biodiversity value and long term, will allow a greater succession of habitats, along the eastern boundary of the site. The enhancement and management measures to secure the above-mentioned units at the site have been provided within a Biodiversity Management Plan (BMP) however, the BMP fails to adequately address the long term (over a 30-year period) management and maintenance of habitats at the site and therefore should planning permission be granted, this should be secured by a S106 agreement. It is also noted that following receipt of amended plans the Biodiversity Management Plan now contains superseded plans and therefore a condition requiring the re-submission of a revised BMP shall be imposed, should planning permission be granted.

- 10.93 Small amounts of *Crocsmia* (*montbretia*) which is an invasive plant, have been identified within the submitted Ecological Impact Assessment. It is noted that standard precautions would apply regarding the clearance of this vegetation.
- 10.94 In summary the proposal would not result in the loss or result in material deterioration of the adjacent Tanner Wood ancient woodland and subject to the given conditions and S106 agreement, the proposal is considered to comply with the aims and objectives of LP30 of the Kirklees Local Plan.
- 10.95 A small portion of the site includes and relates to Tanner Wood which is located along the eastern boundary of the site, and is identified as ancient woodland, comprising of several protected trees. Protected trees can also be found on the western boundary of the site and include 2 Ash Trees (05/22/T1 & 05/22/T2).
- 10.96 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.

- 10.97 Given the above, it is recommended that a protective 15m buffer zone be created between the edge of the ancient woodland and the proposed development to preserve this irreplaceable habitat.
- 10.98 Nevertheless, the proposed removal of G34, T35 and G43 (which are not within the Ancient Woodland) are deemed to be acceptable with the condition of 1:1 replacement planting within the site. These should be of similar species to the removed trees and be maintained for a minimum of 2 years to ensure their successful establishment. Further tree removals are also proposed to T29, T30, G31, T32 and T33, with access facilitation pruning/partial removal of G2 and G8. The Council's Trees Officers raised no objections to the above.
- 10.99 To the west of the proposed substation hardstanding is shown to be within the root protection area of T1, therefore a no-dig methodology for the construction of hardstanding around surrounding the structure should be imposed, and should be suitable to reduce tree impacts, as outlined within Section 5 of the submitted Arboricultural Method Statement. A water run-off channel is also proposed to be constructed through a portion of the ancient woodland buffer zone, excavation works are proposed to be carried out using hand tools and the project Arboriculturist is to advise on the precise course of the run-off to avoid felling trees with good long-term potential within G10. The excavation works shall also be superseded by the project arboriculturist and a written record kept. No trees within the ancient woodland would be removed or damaged in any way. Tree protective fencing shall be installed and remain in

place throughout the whole development and will only be temporarily breached to construct the outfall. The Council's Trees Officer considers the proposals to be acceptable subject to a condition requiring 1:1 tree replacement planting and its management/maintenance.

- 10.100 Regarding the risk of deterioration or indirect loss, the principal consideration is the increase in human habitation (brought about by the proposed development) close to the woodland. Greater habitation may mean more footfall and access into the woodland, with human interaction in the woodland being a potential concern. It is therefore considered reasonable if planning permission is granted, to impose a condition which requires details of boundary treatments to be submitted prior their installation, and this shall include, where appropriate, a perimeter fence along the eastern boundary of the site, adjacent to Tanner Wood, to help deter the public from entering the woodland.

Planning obligations

- 10.101 Paragraph 58 of the NPPF confirms that planning obligations must only be sought where they meet all the following:

- A) necessary to make the development acceptable in planning terms;
- B) directly related to the development; and
- C) fairly and reasonably related in scale and kind to the development.

- 10.102 Should planning permission be granted, Officers recommend that this permission should be subject to a Section 106 agreement. This has been formally agreed with the applicant and includes the following:

Affordable Housing

- 10.103 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 30 units would be 6 units.

- 10.104 It is noted that the applicant has provided a Viability Assessment seeking to demonstrate that a full 20% contribution towards affordable housing could not be provided, and that the scheme would not be viable should these obligations be imposed upon them. The Government's planning practice guidance provides the following overview of the Viability Assessment process for context:

'Viability assessment is a process of assessing whether a site is financially viable, by looking at whether the value generated by a development is more than the cost of developing it. This includes looking at the key elements of gross development value, costs, land value, landowner premium, and developer return. Any viability assessment should be supported by appropriate available evidence informed by engagement with developers, landowners, and infrastructure and affordable housing providers.'

Any viability assessment should follow the government's recommended approach to assessing viability as set out in this National Planning Guidance and be proportionate, simple, transparent and publicly available. Improving transparency of data associated with viability

assessment will, over time, improve the data available for future assessment as well as provide more accountability regarding how viability informs decision making.

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

10.105 The applicant's Viability Assessment has been reviewed by an independent viability assessor (Aspinall Verdi) appointed by the Council, to advise Officers on this specialist subject.

10.106 Planning Practice Guidance indicates that a profit level of 15-20% of gross development value is generally considered to be a suitable return to developers. There are various factors that determine what a reasonable level of profit might be, including the availability of development finance, the state of the market and the consequent risk in proceeding with schemes, as well as development values and demand. In determining the appropriate level for an individual development, regard is had to the individual characteristics of that scheme.

10.107 Taking the above into account, Aspinall Verdi did conclude that the scheme is capable of supporting affordable housing at a policy compliant level, whilst still providing a suitable profit level for the developer. It was therefore agreed with the applicant that a 20% contribution of on-site affordable homes would be provided, resulting in 6 units.

10.108 The Council seeks the tenure of affordable dwellings to be 50% affordable rent and 50% intermediate, which the applicant has offered. Whilst national policy no longer requires that at least 25% of affordable homes are First Homes (a type of immediate tenure), Kirklees guidance does still refer to their provision, and in this case 2 units would be provided as First Homes. The number and tenure of the affordable homes is therefore acceptable.

10.109 Notwithstanding the above, the Council's Affordable Housing and Housing Mix SPD sets our expectation for affordable housing unit size and mixture. Falling within the Kirklees Rural East sub-area, the SPD seeks the following mix of affordable units:

Kirklees Rural East	Affordable Rent	Affordable Intermediate
1 and 2 beds	60+%	40-79%
3 beds	20-39%	40-59%
4+ beds	0-19%	0-19%

10.110 The following sets out the proposals offer:

	Affordable Rent	Affordable Intermediate
1 and 2 beds	66% (2 units)	33% (1 unit)

3 beds	33% (1 unit)	66% (2 units)
4+ beds	0%	0%
Total	3	3

10.111 Whilst the above shows a slight overprovision in the proportion of 3 bed affordable intermediate units and a slight under provision of 1 and 2 bed affordable intermediate units, it is a modest departure and not a cause of concern. Thus, the sizes of affordable units are accepted.

10.112 Policy seeks to ensure that the affordable units are indistinguishable from market homes. Whilst it is acknowledged that the affordable units would be visually distinguishable from the private market housing, as all the affordable homes would be grouped across two sets of terraced properties of which all the market homes would be detached units. Officers are satisfied that the quality of the buildings and accommodation, with the use of the same materials and elevational detailing as the market housing would assist in helping the properties blend in within the overall estate, and would be constructed to the same standard of the market homes. Furthermore, Officers have noted in paragraph 10.12 matters relating to the housing mixture of the site and the applicant's opposition to providing a mix of 1, 2 and 3 bed market homes. There is also a clear need for small affordable units (as per the first table above which identifies a need for 60% affordable rent and 40-79% affordable intermediate 1 and 2 bed units). It is therefore considered, that on balance the proposed offer is the best outcome for the current proposal.

10.113 Relevant planning policy also seeks to ensure affordable units are spread through the site. Officers consider that given the restricted nature of the site the terrace rows have been spread sufficiently within the site.

10.114 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

10.115 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.

10.116 The application proposes 8,533sqm of on-site Public Open Space (comprising of 8,186sqm of natural & semi natural space and 347sqm of amenity green space), with an off-site contribution of £43,692 towards existing facilities in the vicinity of the development, including but not limited to Sunnybank Rec or other public open space typologies in the vicinity. This 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

10.117 Applications proposing over 25 dwellings require consideration as to whether education contributions are required. The construction is determined in accordance with the Council's policy and guidance note on providing for education needs generated by new housing. This confirms that The Local

Authority's (LA) Planning School Places Policy (PSPS) provides the framework within which decisions relating to the supply and demand for school places are made. Constructions would only be sought where the new housing would generate a need which cannot be met by existing local facilities. This would be determined through examination of current and forecast school rolls of relevant primary and secondary schools, their accommodation capabilities and consideration of the type of housing to be provided. This provides a consistent approach to securing the education contribution within the planning application process.

10.118 KC Education have considered local primary provision (Denby Dale F & N School) and secondary provision (Scissett Middle and Shelley College) and concluded that no contribution was required towards Denby Dale F & N School, but that 2.10 and 2.178 additional places were required at Scissett Middle and Shelley College respectively, resulting in an overall contribution of £75,849.

10.119 The provision of this contribution is considered to comply with the aims of Policy LP49 of the Local Plan.

Highways and Sustainable Travel

10.120 As detailed within the highway section of this report, it is recommended that the following contributions towards highways and sustainable travel be secured:

- Sustainable Transport Fund (STF) £15,600 (based on 30 dwellings)

10.121 The provision of the above is considered to comply with the aims of Policy LP20 of the Kirklees Local Plan.

Management and Maintenance

10.122 Clauses are required to ensure appropriate arrangements are in place for the ongoing management and maintenance of certain features on site, such as the management and maintenance of drainage infrastructure (prior to its adoption by a statutory undertaker), the estate road (until it is adopted), Public Open space on site in perpetuity, and any on-site Ecological Net Gain features for a minimum of 30 years.

Other Matters

Coal Mining Legacy

10.123 Part of the application site (towards the northern boundary of 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 sizeable portion of Kirklees falls within this zone. Due to being within this 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.

10.124 In summary, the CMRA outlines that it would be prudent to inspect the surface following the Topsoil strip to check for any evidence of any mining related features, specifically beneath plots 17 to 27, including gardens and highways within the High-Risk Area.

10.125 The submitted CMRA has been reviewed by the Mining Remediation Authority, who advise that the coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on site. These investigation works would be secured via condition, should planning permission be granted.

Contaminated Land

10.126 In accordance with Local Plan Policy LP53, as a major residential development consideration of ground contamination is required.

10.127 The application is supported by a Geoenvironmental Appraisal by Lithos, dated August 2021 (ref: 4112/1B). The Phase 1 aspect of the report assesses the potential source pollutant linkages, and a preliminary conceptual site model is presented in drawing 4112/5 in Appendix B.

10.128 The site has been agricultural fields since 1851. Potential sources include those associated with agricultural activities. The site is not believed to be affected by sources of hazardous gas generation.

10.129 KC Environmental Health have reviewed the above document and whilst they accept the Geoenvironmental Appraisal, they do require additional clarification concerning the specification for any imported materials as this appears to be missing from the report and significant regrading is needed in the southern area of the site. KC Environmental Health therefore request that contaminated land conditions relating to any unexpected contamination that may be encountered during the groundworks and for any imported soil be imposed should planning permission be given.

10.130 The above recommended conditions are deemed to be sufficient mitigation, and to accord with LP53 of the Kirklees Local Plan.

Crime Mitigation

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

10.132 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

10.133 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.

10.134 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.

11 CONCLUSION

11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken constitute the Government's view of what sustainable development means in practice.

11.2 The proposal seeks the residential development of a housing allocation. The proposed density, whilst significantly lower than the recommended housing allocation density, given the constraints identified throughout the planning process, the proposed density of 30 dwellings is considered to comply with the expectations of the Local Plan on this occasion. 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 considered to have been justified by the applicant within the submitted Housing Mix Report, and 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 include topography, the adjacent ancient woodland, neighbouring residential properties and various other material planning considerations. Nonetheless, the proposed development adequately addresses each. The design and appearance of the proposed development is considered acceptable. There would be no undue harm to the amenity of neighbouring residents or future occupiers. The proposed access and highway impacts have been assessed to be acceptable. Other planning issues, such as drainage, ecology, and protected trees, have been addressed through the proposal.

11.4 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. External material samples to be submitted and approved
4. Boundary wall materials, sections and levels (including retaining walls) to be submitted and approved (including around POS)
5. Submission of details of an acoustic barrier

6. Works forming part of the sound attenuation scheme specified in the Noise Impact Assessment shall be completed and should demonstrate that specified noise levels have been achieved.
7. Details of imported soil
8. Unexpected land contamination
9. Provision of electric vehicle charging facilities
10. Submission of a Construction Environmental Management Plan (CEMP)
11. Submission of external lighting strategy (biodiversity)
12. Submission of a Construction Environmental Management Plan (biodiversity)
13. Details of cycle storage for all dwellings
14. Removal of pd rights for outbuildings and extensions on all dwellings
15. Replacement 1:1 tree planting
16. Temporary surface water drainage
17. Developed carried out in accordance with Flood Risk Assessment and Drainage Strategy
18. Submission of a scheme restricting the rate of surface water discharge
19. Temporary arrangements for the storage and collection of wastes
20. Coal legacy investigation and/or remediation to be undertaken
21. Submission of a signed statement/declaration that the site is, or has been made safe and stable
22. Location and cross-sectional information, design and construction details for all new retaining walls/building retaining walls adjacent to the existing/proposed adoptable highway
23. Submission of a structural dilapidation survey of the existing retaining wall supporting Barnsley Road
24. Location and cross-sectional information, design and construction for all new surface water attenuation tanks/pipes/manholes located within the highway footprint or influence zone of highway loading
25. Surfacing and drainage of approved vehicle parking areas and pedestrian spaces
26. Access to be in accordance with the preliminary access design shown
27. Submission of estate street phasing and completion plan
28. Submission of preliminary street design details
29. Off street highway works
30. Elevational accretions
31. Substation design
32. Submission of a Biodiversity Management Plan

Background Papers:

Application and history files

Available at:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023/91564>

Certificate of Ownership

Certificate B signed.