

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning 1990 (as amended) – SECTION 70

DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS

Reference No: 2023/61/93714/E

Site Address: Land off, Cumberworth Lane, Denby Dale,
Huddersfield, HD8 8RU

Description: Reserved Matters application (including the consideration of access, appearance, landscaping, layout, and scale) for the erection of 10 dwellings pursuant to outline permission 2019/93906 for erection of residential development up to 10 dwellings, and discharge of condition 20 (waste arrangements)

Recommending Officer: William Simcock

DECISION – Reserved Matters – Approve

I hereby authorise the approval of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

Victor Grayson

AUTHORISED OFFICER

Date: 13/03/2025

Officer Report – 2023/93714

Cumberworth Lane

Reserved Matters

Site Description

The application site comprises a roughly rectangular-shaped parcel of undeveloped land measuring just under 0.5ha situated east of Cumberworth Lane, to/from which access is gained by an unsurfaced track. Land levels within the application site generally slope downhill from north to south, and this is also true of land levels within the wider area. The land in the eastern section of the application site slopes particularly steeply down in an easterly direction towards the existing properties off Wakefield Road.

The site itself is undeveloped grassland forming one part of the wider housing allocation (HS144) which extends to the north of the application site. At present, this land to the north remains undeveloped grassland. To the south of the application site, and at a lower level, are the residential properties off Wakefield Road. To the west are the residential properties of Chapel Court, with Cruck Cottage and 5 and 6 Chapel Court being the closest properties in this direction. An area of land to the north-east of the site benefits from a planning approval for six dwellings, and these have been built.

Within the site are a number of outbuildings which line part of the northern boundary. The boundary treatment that encloses the site takes the form of drystone walling, fencing and vegetation. Within the site there is a post and rail fence which appears to separate the flatter section of land from the steeply sloping area. There is a drystone wall positioned centrally running north to south. There are a number of trees and hedges within and around the site, none of which are protected.

Description of Proposal

The proposal is for Reserved Matters approval pursuant to outline permission 2019/93906 for erection of ten dwellings, including the consideration of access, appearance, landscaping, layout, and scale. The applicant also seeks discharge of outline condition 20 (waste arrangements).

The proposed ten dwellings would be in the form of five pairs of semi-detached houses. An access road would be formed, continuing the line of the existing unadopted track that leads into the site off Cumberworth Lane. Six dwellings would be served off the main west-east stretch of the access road: four (house type 02) to the north with their main elevations facing south across the road, and a further two (house type 01) to the south of the road, and facing west. A further four (house type 03) would be served by the hammerhead that would terminate the access road.

House types 01 and 03 are designed to accommodate themselves to the topography, house type 01 being three-storey at the front and two-storey at the rear, the opposite being the case for house type 03. House type 02 is two-

storey throughout but would be built on a platform supported by a retaining wall.

The four houses to the north of the access road would be built by cut and fill, with a net reduction in ground levels, whereas for plots 01 and 02 there would be a net increase in ground levels of up to 2.5m, and up to 3.5m for plots 9 and 10.

House type 1 and 3 would be two-bedroom, house type 2 would be three-bedroom. Parking would be external only for dwellings 1 and 2 (two spaces each); all others would have a single external parking space and a single integral garage. The layout would provide 2 no. visitor parking spaces. Each dwelling would have its own rear garden but about one-third of the application site would be retained as semi-natural or landscaped space and not form part of any residential curtilage.

All units are to be constructed in artificial stone and artificial blue slate.

History of negotiations/amendments received

May 2024 – Amended site plan and house types submitted.

August 2024 – Further amended site plan submitted.

October 2024 – Change to layout moving units 9 and 10 further to the east.

February 2025 – Minor amendments to landscaping and clarifications.

None of the above amendments was readvertised as they did not make changes to the scale of the dwellings, and the changes were considered to result in an improved layout in safety and amenity terms.

Relevant Planning History

The current application site:

- 2018/93309 – Outline permission for residential development on this site – appealed on the grounds of non-determination following concerns raised from the LPA. Appeal dismissed, but on the grounds that a higher density should be achieved. Inspector also found that the appellant's failure to have collaboratively engaged in drawing up a masterplan did not in this instance constitute a breach of Local Plan policy LP5.
- 2019/93906 for erection of ten dwellings. Approved 07/01/2021. Outline permission with all matters reserved. The following matters were the subject of conditions:
 - Provision of affordable housing;

- Provision of public open space or Local Area of Play to serve the development;
- Provision of educational facilities;
- Details of drainage, including temporary, and maintenance thereof;
- Electric vehicle charging points;
- Phase 2 intrusive investigation (contaminated land);
- Construction Environmental Management Plan;
- Ecological Design Strategy;
- No removal of trees or shrubs within bird breeding season;
- Bin storage and collection points to be submitted as part of RM.

Neighbouring land:

- 2017/93798 – Erection of six dwellings on land to the east of the application site – approved. Subsequent discharge of condition applications received on the site. Now built out at Springhead Gardens.
- 2023/92191 – Erection of residential development for 62 dwellings including grouting remedial works for ground stabilisation to facilitate construction of dwellings with associated hard and soft landscaping. Refused. Reasons for refusal were that the ground works, removal of coal, and remediation associated with the proposed development would result in an unacceptable number of vehicle movements and unacceptable environmental impacts. In addition, due to unknown conditions beneath the site, there is a lack of information that prevents it being fully ascertained what the environmental impacts of the aforementioned works would be.

Representations

Final publicity date expired: 12/04/2024. Publicity was carried out via neighbour notification letter, site notice and press advertisement as the proposal constitutes Major Development.

11 representations made as a result of publicity:

Visual and residential amenity:

- The size and style of the proposed new houses is not in keeping with the adjacent single storey traditional stone-built Cruck Cottage.
- The finish material of the buildings is not given.
- The eaves and ridge height to 291 Cumberworth Lane not shown. New build would tower over this property and affect privacy.
- There is a terrace which would directly overlook the garden, lounge and conservatory being higher than the fence and the windows on the side of the house would directly look into Cruck Cottage.
- The proposed house next to Crook Cottage is three-storey. The height of this new property will block out the light to the garden, at the side,

and conservatory. There are steps leading to a side entrance, and this door is higher than hedge. This is surely an intrusion of their privacy as the owners will have a straight view, up the steps, and from this doorway into their garden and conservatory. Terrace height at 175.6 m which is a little above the highest point of the neighbouring garden and it is only 1.7 m.

- The proposed layout and scale breaches the normal rules of thumb with regard to overshadowing, i.e. the 25 degree rule (for new development directly facing existing windows) and the 45 degree rule (at the boundary). See BRE Site layout planning for daylight and sunlight (3rd edition 2022).
- We believe the development should be set into the hillside rather than built out as this would integrate it better into the landscape and be less intrusive to the properties below. An additional section (between C-C and D-D) would be useful.
- The Detailed Landscape Proposals show planting directly adjacent to the properties to the south-east of the development which would be too near to these properties blocking light from windows. Can these trees be moved north to break up the view of the retaining walls of the road and properties to the east of the development. We would be happy to discuss our concerns. There appears to be no means of access to maintain the proposed wildflower planting. Who would this be maintained by and how would it be done given the lack of access?

Highway issues

- Around the entrance to the land on Cumberworth Lane there is usually many parked cars, the vision at the junction would be compromised for vehicles leaving and entering the land.
- No footways are to be provided.
- Residents in Denby Dale already use this unadopted road for parking when they can find no other space and there is limited parking for current residents who live in the older properties without driveways. Volume of traffic is increased by people living outside Denby Dale who come to shop and who are usually trying to find somewhere to park (usually on Cumberworth Lane).
- Construction vehicles and machinery will cause chaos to this area already under pressure.
- Once completed, additional traffic from new residents will only add to an already congested area.
- If the new estate road is not adopted, who would be responsible for maintenance of the road and how would this be managed?
- Maintenance of the existing private drive (un-adopted road) is currently the responsibility of the residents of the adjoining properties. This seems reasonable when there is minimal vehicular use (access to two properties plus a separate garage, and parking for visitors and other residents). The existing private drive (un-adopted road) is not accessed by the refuse collection vehicle. It would be entirely unreasonable for this responsibility to continue if the lane is used firstly by construction

traffic and then by a relatively large number of cars, delivery vans, the refuse collection vehicle and other vehicles associated with the new properties.

- Vehicular and pedestrian access to the private drive of Cruck Cottage is not shown on 2023-93714_Proposed Site Block Layout_1031055. As shown, it would be necessary to drive across the grass verge. The gateway to this property does however appear on 2023-93714_Plan General_1031058 Detailed Landscape Proposals.
- Access to/from the private drive of Cruck Cottage needs to be tied into the new roadway. If the 0.6 m wide hardstanding is to be provided only on the south side, pedestrian crossing points, suitable for the elderly, those with reduced mobility and for families with young children, should be provided to/from properties on the north side. On the same drawings, vehicular access to 6 Chapel Court and to the separate garage on the south side of the lane appears to be either directly from Cumberworth Lane on part of the existing unmade road, to the right-hand side of beds of shrubs, or by driving across these shrubs. Who would be responsible for maintaining the new grass verges and the shrubs? How would this be managed?
- Also, please confirm (and provide evidence) that the residents of the proposed new properties and the developer's construction vehicles for that matter, will have a right of way from Cumberworth Lane via the existing private drive (un-adopted road). For existing residents of the adjoining properties, this right of way is defined in the title deeds to the properties.
- No information on street lighting, services or utilities.
- How will parking for visitors (including carers, family members, friends, delivery vans and workmen) and residents of the properties adjoining the existing private drive continue to be provided as existing, during and after construction of the new development, whilst retaining sufficient width for access?
- There may not be enough parking, since garages are not always used for parking and visitor spaces may end up being used by residents.
- Currently residents at 6 Chapel Court, 285 Cumberworth Lane and Cruck Cottage have to take their waste disposal bins to the roadside pavement of Cumberworth Lane due to the road being unadopted and not suitable for the RCV. If the development were to go ahead surely the narrowness of the road especially where it narrows significantly towards Cruck Cottage and rear access to 285 Cumberworth Lane would this not be unsuitable for the council RCV entering the development and also cause problems for vehicles exiting the development at the same time?

Other issues

- The south facing edge of Cruck Cottage garden is sloping. We are concerned with building work and traffic that this will potentially collapse, especially given the substantial depth of excavations.
- Once this field is developed to the extent proposed, I fear land drainage will get worse.

- Water pressure is extremely poor in this area already and further stress on the system will exacerbate this problem.
- Who would be responsible in maintaining the land between the plots and the boundary of the land?
- The land has historically been mined – how would the land be stabilised to support the properties on the land? The boundary wall to 291 Cumberworth Lane is a single skin drystone wall, with no modern support i.e. concrete/cement, that holds back the weight of the land behind it.
- Query regarding bungalows and contingency for the elderly and infirm.

Denby Dale Parish Council – Defer to Kirklees officers.

Consultation Responses

The following is a brief summary of consultee advice (more details are contained in the assessment section of the report, where appropriate):

- KC Highways Development Management – No objection subject to condition.
- KC Waste Management – Concerns regarding collection from an unadopted road but do not object to discharge of condition.
- KC Ecology – Object because no ecological information submitted.
- KC Trees – No objection subject to condition regarding arboricultural method statement and landscaping.
- West Yorkshire Police Designing Out Crime Officer – No objection subject to condition.

The following additional services and external consultees were previously consulted in connection with the outline application, and issued the following responses:

- KC Environmental Health – No objection subject to conditions
- Coal Authority – No objection subject to conditions
- West Yorkshire Police Designing Out Crime Officer – Comments provided.
- Lead Local Flood Authority – No objection subject to condition.
- Yorkshire Water – No objection subject to conditions.
- KC Ecology – No objection subject to conditions.
- KC Trees – No objections to the previous application and stance unchanged.
- Environment Agency – No comments received.
- West Yorkshire Archaeology Advisory Service – Do not consider that any archaeological fieldwork is necessary.

Policy

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).

The site forms part of a Housing Allocation (HS144) in the Local Plan proposals map: land at Cliff Hill, Leak Hall Crescent, Denby Dale, Huddersfield. Site area 3.24ha, indicative capacity 113 dwellings. The following constraints are noted:

- Third party land required to achieve sufficient visibility splays;
- The provision of a pedestrian footway is required across the site frontage at Leak Hall Lane;
- Public right of way crosses the site;
- Site is close to listed buildings;
- Site is close to an archaeological site; and
- Part/all of the site is within a High-Risk Coal Referral Area.

Other designations and constraints:

- The site is also within land forming part of the Strategic Green Infrastructure Network on the Kirklees Local Plan.
- Biodiversity: Swift nesting, twice buffer, bat alert. It is just outside the Wildlife Habitat Network (which lies to the north).
- The site does not fall within an area deemed to be at medium or high risk of flooding according to either the Kirklees Strategic Flood Risk Assessment or the Environment Agency.

Kirklees Local Plan (LP):

- **LP 1:** Presumption in favour of sustainable development
- **LP 7:** Efficient and effective use of land and buildings
- **LP 11:** Housing mix and affordable housing
- **LP 21:** Highways and access
- **LP 22:** Parking
- **LP 24:** Design
- **LP 28:** Drainage
- **LP 30:** Biodiversity and geodiversity
- **LP 33:** Trees
- **LP 53:** Contaminated and unstable land

Supplementary Planning Documents:

- KC Highway Design Guide SPD
- Housebuilders Design Guide SPD
- Open Space SPD
- Biodiversity Net Gain Technical Advice Note
- Climate Change Guidance for Planning Applications

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published December 2024 and updated February 2025, 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 5 – Delivering a sufficient supply of homes
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flood risk and coastal change
- Chapter 15 – Conserving and enhancing the natural environment.

Assessment

The following matters are considered in the assessment below:

- Principle of development
- Masterplanning and policy LP5
- Housing issues
- Impact on visual amenity (including heritage considerations)
- Impact on residential amenity
- Impact on highway safety
- Ecology and trees
- Other matters
- Representations
- Conclusion

Principle of development:

Policy LP1 of the Local Plan states that when considering development proposals, the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. LP1 goes on further to stating that:

“The council will always work pro-actively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.”

The 2023 update of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land, and the 2023 Housing Delivery Test (HDT) measurement which was published on 12/12/2024 demonstrated that

housing delivery for Kirklees for the past three years has fallen below the 75% pass threshold.

As the council is currently unable to demonstrate a five-year supply of deliverable housing sites and delivery of housing has fallen below the 75% HDT requirement it is necessary to consider planning applications for housing development in the context of NPPF paragraph 11. This paragraph triggers a presumption in favour of sustainable development. For decision making this means:

“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁸, granting permission unless:

- 1. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or*
- 2. 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.”*

Footnote 8 of the NPPF clarifies that for applications involving the provision of housing, the presumption applies to situations whereby the local planning authority cannot demonstrate a five year supply of deliverable housing sites; or where the Housing Delivery Test has fallen below the 75% pass threshold.

The council's inability to demonstrate a five-year supply of housing land or pass the Housing Delivery Test weighs in favour of housing development. Nonetheless, this must be balanced against any adverse impacts of granting the proposal. The judgement in this case is set out in the officers' assessment.

Masterplanning and Policy LP5:

In assessing the previous outline application, the case officer expressed concerns regarding the Inspector's conclusion in assessing the appeal against refusal of 2018/93309. The case officer expressed the view that the Inspector had failed to properly take into account the wording of paragraph 6.23 of the Local Plan:

“While it is noted that the wording of site allocation HS144 does not explicitly refer to masterplanning, it is also noted that the text of site allocations is not intended to be exhaustive. The Council does not accept that a masterplan (or a masterplanning approach) is not required for the application site.”

The case officer, however, went on to express the view that at the then-current outline stage, it was sufficient to consider masterplanning in relation to planning obligations, while other aspects of masterplanning (including in relation to connectivity with the rest of HS144, and co-ordinated design and character, for example) would be more appropriately considered at Reserved Matters stage.

The previous outline permission was for the principle of development with all matters reserved including access. The indicative plans did, however, show access being gained from Cumberworth Lane via the unsurfaced shared track. The principle of access by such means has therefore been implicitly accepted in the previous decisions by the council.

In assessing the current Reserved Matters application, it is appropriate to review the site and the development proposal in the context of the rest of the land within allocation HS144, including how it would help to achieve the aims set out in Local Plan policy LP5, and any implications it would have for the development of the other parts of the allocation.

It is noted that the site forms the southernmost portion of housing allocation HS144. The application site (if developed as proposed) would lack connectivity with the middle and upper (northern) parts of the site. However, to establish a suitable vehicular access connecting the site with land to the north would be difficult owing to the steep gradients, and pedestrian connections would probably need to be stepped. Furthermore, such connections between the current application site and allocated land to the north would have limited benefit (in terms of convenience for residents) when compared with what could be secured anyway as part of proposals for that adjacent land. A more beneficial connection would have been one routed east-west through the current application site and what is now Springhead Gardens, however given that Springhead Gardens has been completed (and its road is gated and unadopted), such a connection is no longer possible. Given these considerations, it is concluded that the lack of connectivity proposed under the current application is not a significant concern.

The current proposals would not compromise the developability of the remainder of the allocated site.

Whilst there would be benefits in adopting a masterplanned or design-coded approach so as to ensure co-ordinated design and character across the entire allocation, this is not considered essential in relation to the current application, since the present application site is small in the context of the allocation and is relatively self-contained (visually) owing to the rising ground levels to the north and being surrounded by development on three sides. In any case, the designs of the proposed dwellings have some similarities to what has been built at Springhead Gardens and to what would be likely to be approved at the adjacent sites to the north, and therefore a relatively coherent appearance across these sites would be achieved.

In conclusion, it is considered that the absence of a masterplan for the allocation (submitted under the current application) would not prejudice the delivery of high-quality development on the rest of the site and would not conflict with the aims of Local Plan policy LP5.

Housing issues: density, affordable housing and public open space etc:

The net area of the site (not including the access road and visitor parking spaces or space outside curtilages) would be approximately 2,100sqm. This would give a net density of approximately 47 units per hectare. However, if all of the application site was taken into account (approximately 0.5 hectares), a density of approximately 20 dwellings per hectare would be achieved.

It is accepted that an unusually large proportion of the application site would be taken up by the proposed access road extending to/from Cumberworth Lane, and that the steeply-sloped parts of the site would be difficult to develop. The full extent (approximately 0.5 hectares) of the application should therefore not be included in a density calculation, although most of the proposed access road should be included. With these exclusions and inclusions, a density figure closer to the expected 35 units per hectare (set out in Local Plan policy LP7) would be achieved. It is also noted that that the proposed density would appear similar to that previously accepted at what is now Springhead Gardens (although it should not be assumed that similar densities would also be appropriate in other parts of the allocated site).

The current proposal is considered to make suitably efficient use of the site, having regard to site constraints. The erection of ten units, in place of the eight originally applied for in the 2019 application, would be consistent with the appeal Inspector's decision which, assuming a net developable area of around 0.3ha, maintained that the site could accommodate around 10 units instead of the four units proposed at the time.

The site lies within Denby Dale ward, which places it within the Kirklees Rural East housing sub-market area. The recommended mix for market dwellings within this area is:

- 30-60% 1-2 bedroom;
- 25-45% 3-bedroom;
- 5-25% 4-bedroom.

The housing mix proposed, as set out on the latest plans, is:

- 60% 1-2 bedroom;
- 40% 3-bedroom.

Whilst this does not fully comply with the recommended housing mix (in that it fails to provide any four-bedroom houses), it would fall within the recommended parameters for the other two unit size categories. It is considered that for a development of only 10 market units, the breakdown of house types does not need to be applied rigidly. Furthermore, the provision of

one or more four-bedroom houses would be likely to lead to a trade-off in that larger houses would take up more space and would be likely to lead to a reduction in the number of units provided.

Notwithstanding the wording of conditions 5, 6 and 7 of the outline permission, the proposal now being considered does not attract eligibility for contributions to affordable housing or public open space (either on-site, or as a financial contribution), under the current adopted policy and SPDs, as the development involves fewer than 11 units, and falls significantly below the 25 units at which education contributions should be considered.

Impact on visual amenity:

The proposal will be considered having regard to the aims of Local Plan policy LP24a, and also those of the Housebuilders' Design Guide SPD, in particular:

- Principle 2 – New development should take cues from the character of the natural and built environment and complement the surrounding built form.
- Principle 5 – Buildings should be aligned and set-back to form a coherent building line and designed to front on to the street, including corner plots, to help create active frontages.
- Principle 13 – Materials should be appropriate to the site's context.
- Principle 14 – Design of windows and doors should relate well to the street frontage and other neighbouring properties.
- Principle 15 – The design of the roofline should relate well to the site context.

Scale, layout and external appearance of the development:

The site is steeply sloping and set in the context of rising land to the north and falling land to the south. One of the main challenges for a developer is to devise a layout and set of housing types that make efficient use of the land whilst providing a safe and conveniently usable internal estate road and ensuring that house designs do not dominate their surroundings.

The site is set mainly within existing development. Established development adjacent to the site is overwhelmingly two-storey, including a short row of townhouses to the north of the proposed access point and traditional vernacular houses, some built singly, others in pairs or short rows, to the south of the site. The exceptions are a detached, modern, split-level bungalow to the south of the site and an older single-storey dwelling, Cruck Cottage, to the west. Further afield, housing fronting Denby Lane close to the application site is mostly two-storey but comprises a mix of traditional terraced and modern townhouses, whilst on Leak Hall Lane a short distance to the east are to be found inter-war semi-detached houses and modern detached houses, with a modern development off Leak Hall Lane consisting of large houses which have at least one three-storey aspect.

Utilising a cut-and-fill process – that is, raising the land in parts of a site whilst lowering it in other areas in such a way that average ground level remains the

same or similar to what existing before development – is a commonly-used method of developing a steeply sloping site. This may not always be realistic, however, since any new access road will have to be laid out in such a way that it is easily accessible to all users, and that safety is not compromised by steep gradients.

It is noted that the dwellings in the southern half of the site would be considerably higher than the nearest residential properties outside the site boundary, and that there would be a significant net increase in ground levels in some places, with the creation of retaining walls. It would, however, be seen in the context of rising land to the rear. It is considered on balance that the proposed development would not dominate its surroundings and that the use of partly three-storey houses would not appear out of place given the variety of house types and styles that exist in the local area. Three-storey dwellings have been built relatively recently at Springhead Gardens. The developer has made the best possible use of the topography of the site in accordance with the aims of Principle 2 of the Housebuilders' Design Guide. The submitted plans and sectional drawings provide a full scheme of finished ground and floor levels. It is considered that the development would not adversely affect long-distance views or the quality and character of the wider landscape.

It is considered that the development would form a coherent building line. Unit 6 would have side-facing windows which would face the highway and would therefore assist in creating an active frontage. Unit 1 would have a blank gable end facing the road but it is considered that, for a single unit in a development of this size, this can be accepted.

The design of the houses is considered to be contemporary-traditional, in that it references or incorporates elements of the local vernacular architecture. Roof and eaves treatments would in some respects not be traditional, in that the dwellings would have bargeboards and fascias to support the gutters, however pitches have been kept to approximately 30 degrees which is typical of the area. The proportions of the windows (in the more prominent elevations) would to an extent resemble those of weavers' cottages, with glazed doors and full-height windows in the rear elevations. The built form would be of simple and symmetrical design.

According to the submitted Design and Access Statement, the development is to be constructed in artificial stone with artificial blue slates. Natural stone is by far the predominant material in the vicinity of the site. The development would, however, appear relatively self-contained and would not appear as a highly prominent feature when viewed from the existing adopted highway, including Cumberworth Lane and Denby Lane. It is therefore considered that whilst natural stone would have been preferable, the use of artificial stone can be accepted as it would not result in a jarring or non-conforming appearance within the wider townscape.

Bin storage areas are situated to the front of the proposed dwellings. In general it is preferred that these be located at the rear so that impact on the

street scene is minimised. The site plan, however, shows that the bins would be enclosed on three sides by a louvred fence of 1.3m in height, which – it is considered – would prevent them having a negative visual impact and can be the subject of a prescriptive condition.

The landscaping of the site:

The NPPF states that new streets should be tree-lined unless there are demonstrable reasons why they should not be. In this case the development lacks footways, so the incorporation of street trees would not be practicable unless the quantum of development were to be reduced. However, existing trees, mainly near the north-eastern site boundary, are to be retained. New tree planting would take place mostly in the southern part of the site and two new lengths of hedgerow would be created at the northern boundary. Other areas that are outside the future domestic curtilages would be maintained in a semi-natural state and would be enhanced by the sowing of wildflower mix.

It is considered that opportunities have been taken to incorporate a satisfactory amount of high-quality landscaping into the development.

It is recommended that approval of Reserved Matters be subject to a prescriptive condition that the landscaping scheme is implemented in the first sowing or planting season following the substantial completion of development. It is considered that a requirement for a long-term maintenance and management plan does not need to be incorporated into the condition, since as previously noted the requirement for an Ecological Design Strategy was already conditioned at the outline stage, and any details submitted as part of an application to discharge this condition would need to include aftercare and maintenance.

Heritage assets:

There are no designated heritage assets within or immediately adjacent to the application site, however the Wesleyan Methodist Church to the west is Grade II listed. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is therefore relevant to this application.

The listed building derives some of its historic interest from its context, although this mainly relates to its commanding location on the village's northern hillside, its prominence on Cumberworth Lane, and its relationship with the village of Denby Dale below. It derives little of its historic interest from its relationship with the application site's undeveloped, grassed appearance (which is not readily appreciated from Cumberworth Lane). Development at the current application site would not be readily visible in most street-level views that also take in the listed building. It is therefore concluded that the proposed development would not cause harm to the settings, appreciation or significance of designated heritage assets.

Impact on visual amenity: conclusion:

Subject to conditions, the proposed development would be suitably respectful of the quality and character of the townscape and landscape and would accord with the aims of Local Plan policy LP24a in addition to the relevant parts of the NPPF and SPD guidance.

Impact on residential amenity:

The following principles within the Housebuilders Design Guide SPD are of particular importance:

Principle 6 – Residential layouts must ensure privacy and avoid negative impacts on light. The following typical minimum separation distances are advised:

- 21 metres between facing windows of habitable rooms at the backs of dwellings;
- 12 metres between windows of habitable rooms that face onto windows of a non-habitable room;
- 10.5 metres between a habitable room window and the boundary of adjacent undeveloped land; and
- for a new dwelling located in a regular street pattern that is two storeys or above, there should normally be a minimum of a 2 metres distance from the side wall of the new dwelling to a shared boundary.

Principle 16 – all new dwellings to have sufficient floor space to meet basic lifestyle needs, having regard to the Nationally Described Space Standards. The council recognises the nationally described space standards as best practice to ensure that new homes are able to meet basic lifestyle needs and provide high standards of amenity for future occupiers. These are not currently adopted in the Kirklees Local Plan. The council will seek to adopt such a policy in the future in accordance with evidence and in the meantime will seek to ensure high quality living environments through the application of Local Plan policy LP24 (Design).

Principle 17 – All new houses should have adequate access to private outdoor amenity space that is functional and proportionate to the size of the dwelling and the character and context of the site.

Privacy and space about buildings:

The proposed design and layout would ensure that the outlook from primary habitable room windows would in almost every case be more than 21m from the nearest facing habitable room window of an existing dwelling. The one exception would be at plots 1 and 2, in which the shortest distance from a west-facing habitable room window to the nearest north-facing window in 289 Cumberworth Lane would be 14m. This would, however, be at an angle of about 45 degrees. As such it is considered it would not give rise to the perception of overlooking.

Units 3 to 6 would have their rear-facing habitable room windows only 6m from the northern boundary of the site, which is part of the same housing allocation and therefore has development potential. However, the principle of developing the site for 10 units has been accepted, and given the constraints it would be very difficult to configure the development in such a way that no units have habitable room windows close to the rear boundary, without substantially reducing the number of units.

Cruck Cottage contains two windows in its south-eastern elevation, facing towards the site. The finished floor level in Unit 2 would be 172.9m Above Ordnance Datum (AOD). The rear garden height is shown to be 175.4m, as against 175.3m at the nearest point within Cruck Cottage's garden. The ground floor level in Cruck Cottage is unknown however the eaves height is specified at 177.6m which would imply a ground floor level of roughly 175m AOD. The proposed dwelling would be two storeys higher than Cruck Cottage and it is considered reasonable to maintain a greater separation distance than the recommended minimum, so as to avoid excessive impact on this property's light and outlook. The distance from these two windows would be 14m to the north-eastern corner of Unit 3 and 15m to the mid-point of the new side wall, which is further away than they would have been under the first, now superseded, version of the site plan. It is considered that notwithstanding the greater height and bulk of the new dwelling (compared to that of Cruck Cottage), the relationship between the two properties would not give rise to an overbearing impact on the latter, or unacceptably compromise its light or outlook.

It is noted existing properties beyond the southern boundary of the site are already at a lower level than the application site, and furthermore that land levels are to be raised in places. It is considered, however, that the relationship between new and existing development would not give rise to an overbearing impact. The distance from the southern side wall of unit 1-2 to the north-western wall of 281 Cumberworth Lane would be only 11.5m, however this existing wall does not have windows. The distance between the raised turning head and 366-368 Denby Lane would be approximately 13m. This is considered sufficient to avoid an overbearing impact notwithstanding the height relationship.

It is considered that all of the new dwellings would enjoy adequate light and outlook, despite the rear windows to units 3 to 6 experiencing some limitation on light owing to the rising land.

Private amenity space:

Plots 7 to 10 (house type 03) would each have a rear garden approximately 9.5m in length. Although small for a modern family home, this is on balance considered adequate for a two-bedroom house, albeit a large one. In the case of plots 3 to 6, the garden space immediately to the rear would be somewhat overshadowed, but this would be compensated for by additional garden space at the sides which would experience greater levels of natural light. It is

considered on balance that all new dwellings would benefit from outdoor amenity space that is adequate in both scale and quality.

Internal floorspace:

The house types would have the following amounts of floorspace:

- Type 01: 102sqm.
- Type 02: 145sqm.
- Type 03: 156sqm.

In all cases this would be in excess of the recommended minimum, having regard to the number of bedrooms.

Residential amenity – conclusion:

It is considered that the development has been designed to provide a high standard of amenity for future occupants whilst safeguarding the amenities of neighbouring properties, thereby according with the aims of Local Plan policy LP24(b).

Impact on highway safety:

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 will 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.

Paragraph 115 of the NPPF states that, in assessing applications for development, it should be ensured that sustainable transport modes are prioritised taking account of the vision for the site, the type of development and its location; 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 on highway safety, can be cost effectively mitigated to an acceptable degree through a vision-led approach.

Paragraph 116 of the NPPF adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.

Access to public highway network, internal layout and servicing:

The existing means of access to the public highway network is informal, consisting of a gravel track of variable width which also provides a means of vehicular access for Cruck Cottage. 6 Chapel Court and a further garage serving another residential property can also make use of the track, but they

lie on the southern side of the track, and the part of the track they would use is excluded from the red line boundary.

The extant outline approval was for the principle of development with all matters reserved, including means of access. However, the position and configuration of the site indicated that access would be gained by means of the track from Cumberworth Lane, as no safe or practical alternative means of access was apparent. It is therefore considered that, in granting outline approval, the council acting as Local Planning Authority implicitly accepted that the track would be an acceptable means of access to the public highway network. It was accepted by the appeal Inspector and subsequently by Kirklees officers in the assessment of the successful outline application that it might not be practicable to develop the site in such a way that the road layout would be laid out to adoptable standards.

The latest version of the site plan shows visibility splays of 2.4m x 43m (to the right) and 34m (to the left) of the junction, which do not cross private third-party land. These are considered to be acceptable for this road. The plans and supporting documents do not explicitly say how the access track and estate road are to be surfaced, but all are shown with the same colour shading (grey) implying that they are to be tarmac-surfaced, and the access track and estate road would have a continuous hard margin. The Road Safety Audit (stage one) and subsequent Designers' Response identified the following unresolved concerns:

- Lack of long- and crossfall gradients to show how the new road would be drained;
- Lack of clarity over how the junction would accommodate existing pedestrian movements;
- Intervisibility for users of third-party garage with access parallel to that of the new development;
- Possible visibility restriction for plots 1 and 2 as a result of the hedge line; and
- No information about street lighting.

KC Highways Development Management are, however, satisfied that the plans now contain sufficient detail to allow a determination to be made. The aforementioned matters can be addressed at the post-decision stage if suitably conditioned.

At the time the outline application was determined, it was envisaged that there might be a shared bin collection point close to the entrance to the estate. On the plans now being considered, each new house is now shown to have its own private bin storage and collection point which would be conveniently located. The existing unsurfaced track is at present not served by a refuse collection vehicle (RCV). RCVs pull up on Cumberworth Lane to collect bins that have been put out at the end of the track. Therefore, even if the option of a shared collection point had been chosen, it would still have required refuse collection vehicles to negotiate the track, which at present they do not.

KC Highways Development Management initially expressed concerns regarding the lack of clarity in the plans, the layout of parking spaces, the lack of a demonstrable turning head for a refuse collection vehicle (RCV), and other shortcomings. After several revisions, the layout now under consideration shows a turning head at the eastern end of the layout. This would allow a RCV to collect from each property individually and would be able to enter and leave the estate in forward gear.

The applicants have also provided a Designers' Response to the Safety Audit which is viewed as satisfactory by KC Highways Development Management, who therefore have no further objection to these proposals.

Previous comments by the council acting as Waste Collection Authority (WCA) relating to this development included the observation that operational staff would not take an RCV into private drives or roads that are not built to adoptable standards. Owing to the increasing prevalence of developers proposing new estate roads that are constructed to relevant standards but are not formally adopted, the WCA has amended its draft Service Level Agreements to reflect this reality. The WCA's current position is that for unadopted roads, Kirklees Council ("The Service") will not travel on roads which may cause damage to vehicles or create a health and safety concern whilst undertaking the collection. This does not rule out collecting from unadopted roads where it can be undertaken without risks to refuse collection crews or the general public.

The Waste Collection Authority accepts discharge of outline condition 20 in relation to site access on the basis that KC Highways Development Management have determined that highway / turning head dimensions and the proposed construction of highways can accommodate use by a Refuse Collection Vehicle.

It is therefore considered that the proposed means of access and internal road layout now proposed would ensure a safe and convenient means of access to the adopted highway network for future users whilst not giving rise to any increased risks or undue inconvenience for existing users. It would thereby comply with the aims of Local Plan policies LP20 to 22.

Parking:

Each dwelling would have two designated private parking spaces. For plots 1 and 2 these would both be external. For all other plots, there would be an internal garage which is greater than the standard minimum width, plus one external space. Two per dwelling is the standard number of spaces required for a two- or three-bedroom dwelling, and the proposed private provision is therefore deemed adequate.

The number of visitor parking spaces has been reduced to two. As a starting point, the inclusion of one space for every four new dwellings should be aimed for. Where the number of dwellings to be provided is a multiple of two, not four, it is generally accepted that the number can be rounded down, unless

specific concerns, such as the size of the dwelling or local highway safety issues, strongly indicate otherwise. In this instance, it is noted that the dwellings proposed are not particularly large, in that each has only three bedrooms, or two plus a home office. In the unlikely event of a visitor arriving and finding both visitor spaces occupied, there are other options. Parking on Cumberworth Lane is not something that the council would wish to encourage, however there is a stretch of road on the outside of the bend where up to two vehicles would be able to park without significantly affecting intervisibility or interrupting the flow of traffic. Aside from this, there are few opportunities to park safely on Cumberworth Lane, as the road narrows above Wesley Terrace and there is a bus lay-by on both sides.

There is, however, a free public car park in Denby Dale which is available for use at all times (with a maximum stay of 72 hours), located approximately 200m walk from the nearest dwelling in the new development. Furthermore, there is a lay-by on the southern side of Denby Lane extending (with some interruptions) from 5 Brookside / 370 Denby Lane in the east to Norman Croft in the west. Both, whilst heavily used, may present opportunities for visitor parking. It is therefore considered on balance that the lack of a third visitor parking space is not a planning concern in this instance and it would not be possible to substantiate a refusal on this basis.

The submitted site plan confirms that each dwelling is to be provided with an electric vehicle charge point. The provision of these charge points does not need to be conditioned since it is covered by a condition of the outline permission.

Cycling provision:

Each dwelling is provided with a cycle storage facility within its curtilage, which is described in the key as being an “Asgard secure cycle store”. To ensure that the proposed facility is suitable, however, it is recommended that a condition be imposed to the effect that full details and specifications must be submitted and approved.

Construction management:

KC Highways Development Management have not requested a Construction Management Plan (CMP) for this proposal. However, it is considered that, as the requirement for a CMP is generally imposed on major residential schemes, it would be appropriate to impose it here, and can be considered to be reasonably related to the Reserved Matter of “scale”.

Highway issues – conclusion:

The proposed highway layout, whilst not to an adoptable standard, would ensure safe access to and from the public highway network could be gained both by private and service vehicles. Whilst it would not provide formal footways, the layout of the estate road would provide a sufficiently safe environment for pedestrians. The development would avoid any impact on the

free and safe use of the highway and accord with policies LP21 and LP22 of the Local Plan and Principle 12 of the Housebuilders Design Guide SPD.

KC Highways Development Management recommend the following condition:

No development shall take place until a scheme detailing the proposed internal road has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include full sections, drainage works, street lighting, lining and signing. Before any building is brought into use the scheme shall be completed in accordance with the scheme shown on approved plans and retained thereafter.

Reason: *To ensure that suitable access is available for the development.*

It is additionally recommended that the following matters be conditioned:

- All private parking spaces be provided and retained thereafter.
- All integral garages to be retained as such and not converted to living accommodation.
- All areas shown as being used for the storage and collection of wastes, including bin enclosures, shall be provided and thereafter retained.
- Details of facilities for cycle storage.

Ecology and trees:

At the time outline planning permission was granted, the requirement (established by the Environment Act 2021 and subsequent Planning Practice Guidance) that new development must formally demonstrate a 10% Biodiversity Net Gain was not in force, and that requirement cannot be retrospectively applied to this development.

However, Local Plan policy LP30 of the and chapter 15 of the NPPF, with guidance set out within Principle 9 of the Housebuilders' Design Guide SPD, state that the council will seek to protect and enhance the biodiversity of Kirklees. Development proposals should therefore result in no significant loss or harm to biodiversity and opportunities should be taken to provide enhancement to the local ecology. BNG is referred to in Local Plan policy LP30 (albeit not 10% BNG).

The outline condition requiring the submission of an Ecological Design Strategy remains in force. The layout of the proposed development, as anticipated in the assessment of the outline permission and in the Inspector's decision on the previous refusal, would retain a large amount of the existing semi-natural landscape. The landscaping plan shows that the land would be enhanced by the sowing of wildflower mix and the planting of trees (seven specimens in all, comprising Acer Campestre, Betula pendula and Sorbus aucuparia) mostly near the southern boundary. Meanwhile, a large area of trees and scrub in the east and north-east would be retained and unaffected

by the development, and small groups of trees elsewhere (again, mostly near the margins of the site) would be retained.

The landscaping proposals are considered to be compatible with the aims of enhancing the biodiversity of the site as set out in Local Plan policy LP30 and in the outline condition referred to above.

The Arboricultural Report (also submitted with the outline application) finds that most of the trees on site are in good condition with life expectancies of 20 or more years, but are deemed to be of low to moderate amenity value, the exception being the G9 group near the north-eastern boundary, which are deemed to be of high amenity value. KC Trees previously assessed these details and had no concerns. In subsequent discussions with the case officer, KC Trees expressed concerns about the location of some of the proposed new trees near the southern site boundary – being very close to residential curtilage boundaries they could give rise to perceived nuisance or fears of property damage over branch and debris fall. On the latest plan, the trees have been moved further away from site boundaries whilst still maintaining an adequate separation from the new development.

The development is therefore unlikely to cause conflict with the aims of retaining mature trees as set out in Local Plan policy LP33.

Other matters:

Climate Change:

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 pre-dates 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 will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

A Climate Change Statement was submitted with this application. This proposes the installation of solar panels, which are shown on the approved plans. Whilst climate change mitigation is not formally a Reserved Matter, it is considered that the solar array comes within the remit of "appearance" and therefore can be conditioned as part of this development. It is recommended it be conditioned that the solar array shown for each dwelling is installed and made operational before the dwelling to which it relates is occupied, and thereafter retained, in the interests of minimising carbon emissions associated with the development.

It would thereby comply with the aims of Local Plan policy LP30, Principle 9 of the Housebuilders Design Guide SPD, and NPPF Chapter 15.

Boundary treatments:

The submitted Design and Access Statement states that garden plots will be separated by timber fences. Height and design are not mentioned, however, and there is no mention of boundary treatments for the external boundaries of the site. Details should therefore be conditioned in the interests of privacy and visual amenity.

Drainage:

A Drainage Strategy was submitted and accepted under the outline application and the submission of a full drainage scheme was conditioned. Any future application to discharge this condition would have to submit scheme pertaining to the layout, scale and other details approved as part of this Reserved Matters application. The submission of a full drainage scheme and temporary drainage arrangements for the construction period (also conditioned on that application) are not matters that fall to be considered as part of this current application.

The conditions applied to outline application did not include a requirement for the submission of a flood routing plan, which is now a standard requirement for major new build housing applications. This should therefore be conditioned here as it relates to the Reserved Matters for which permission is being sought.

Land contamination and stability:

Coal mining legacy and possible contamination issues were assessed at the time of the outline application and conditions imposed. These issues do not need to be re-examined at the Reserved Matters stage.

Removal of permitted development rights:

Permitted development rights should only be removed where there are demonstrable reasons for concluding that unrestricted extensions or outbuildings would be liable to cause loss of visual or residential amenity due to perceived overdevelopment of the site, overbearing impact, or other planning-related factors. In this case it is considered that the erection of rear extensions to plots 3 to 6 would be highly undesirable as it would further reduce the already limited rear garden space these dwellings would benefit from and would also possibly further compromise the development of land to the north. It is therefore recommended that permitted development rights in classes A, B and E (extensions, roof extensions and outbuildings) be withdrawn.

Furthermore, all windows in the western side elevation of the house at plot 3 should be obscurely glazed and non-opening and there should be no

additional windows formed at ground floor level in this elevation. This is to ensure that no loss of privacy caused by window-to-window or window-to-garden overlooking occurs with respect to the neighbouring property to the west.

Conditions:

Draft conditions have been shared and agreed with the applicant, although minor changes to condition wordings were subsequently made.

A note is recommended (for inclusion in the council's decision letter), confirming that the submission requirements of condition 20 of outline permission 2019/93906 have been met, and that no further submission is necessary pursuant to that condition.

Representations:

Eleven representations were made. Concerns that have not been addressed in the main part of the report are summarised here with officer responses:

- The finish material of the buildings is not given.

Response: The materials are described as artificial stone and artificial stone slates. Details can be supplied by condition.

- The proposed layout and scale breaches the normal rules of thumb with regard to overshadowing, i.e. the 25 degree rule (for new development directly facing existing windows) and the 45 degree rule (at the boundary). See BRE Site layout planning for daylight and sunlight (3rd edition 2022).

Response: The 25-degree and 45-degree rules referred to do not form part of the adopted Housebuilders' Design Guide SPD. Natural light impacts have been assessed and found to be acceptable. No significant weight can therefore be placed on these assertions. Any claim that the development breaches "right to light" cannot be treated as a material planning consideration because this is an easement that can only be enforced as a private civil matter.

There appears to be no means of access to maintain the proposed wildflower planting. Who would this be maintained by and how would it be done given the lack of access?

Response: Condition (19) on the outline approval requires submission of an Ecological Design Strategy which is to include details of long-term maintenance, monitoring and remedial measures. No further consideration of the issue is therefore required at this stage.

- Around the entrance to the land on Cumberworth Lane there is usually many parked cars, the vision at the junction would be compromised for vehicles leaving and entering the land.

Response: This has not been raised as a concern either by KC Highways Development Management or by the road safety auditors.

- Residents in Denby Dale already use this unadopted road for parking when they can find no other space and there is limited parking for current residents who live in the older properties without driveways. Volume of traffic is increased by people living outside Denby Dale who come to shop and who are usually trying to find somewhere to park (usually on Cumberworth Lane).

Response: Whilst some displacement of parking may occur, it is considered that it would not be possible to substantiate a refusal on this basis, especially since the principle of residential development at this site with an access to/from Cumberworth Lane has already been accepted.

- Construction vehicles and machinery will cause chaos to this area already under pressure.

Response: Since the principle of residential development on this site has been accepted, it would not be possible to substantiate a refusal on these grounds.

- Maintenance of the existing private drive (un-adopted road) is currently the responsibility of the residents of the adjoining properties. This seems reasonable when there is minimal vehicular use (access to two properties plus a separate garage, and parking for visitors and other residents). The existing private drive (un-adopted road) is not accessed by the refuse collection vehicle. It would be entirely unreasonable for this responsibility to continue if the lane is used firstly by construction traffic and then by a relatively large number of cars, delivery vans, the refuse collection vehicle and other vehicles associated with the new properties.

Response: Maintenance of private roadways is generally treated as a private civil matter and will therefore not be the subject of a condition. Responsibility for future maintenance, and how this should be apportioned between existing and future residents, is considered to be a private civil matter.

- Access to/from the private drive of Cruck Cottage needs to be tied into the new roadway. If the 0.6 m wide hardstanding is to be provided only on the south side, pedestrian crossing points, suitable for the elderly, those with reduced mobility and for families with young children, should be provided to/from properties on the north side. On the same drawings, vehicular access to 6 Chapel Court and to the separate garage on the south side of the lane appears to be either directly from Cumberworth Lane on part of the existing unmade road, to the right-

hand side of beds of shrubs, or by driving across these shrubs. Who would be responsible for maintaining the new grass verges and the shrubs? How would this be managed?

Response: The latest version of the site plan acknowledged the existing private accesses, which are to remain unobstructed. Officers are satisfied that pedestrian provision would be adequate for a development of this scale.

- No information on street lighting, services or utilities.

Response: Street lighting along with other highway design details can be addressed under the remit of a future application for discharge of conditions. Service and utility connections (other than drainage) are usually not treated as planning matters but matters to be resolved by the relevant undertaker, and would certainly not fall within the remit of Reserved Matters.

- How will parking for visitors (including carers, family members, friends, delivery vans and workmen) and residents of the properties adjoining the existing private drive continue to be provided as existing, during and after construction of the new development, whilst retaining sufficient width for access?

Response: It is considered that temporary disruption to informal visitor parking provision is something that can be afforded at most very limited weight as a material planning consideration. As previously noted, there are other opportunities to park within the village.

- Currently residents at 6 Chapel Court, 285 Cumberworth Lane and Cruck Cottage have to take their waste disposal bins to the roadside pavement of Cumberworth Lane due to the road being unadopted and not suitable for the RCV. If the development were to go ahead surely the narrowness of the road especially where it narrows significantly towards Cruck Cottage and rear access to 285 Cumberworth Lane would this not be unsuitable for the council RCV entering the development and also cause problems for vehicles exiting the development at the same time?

Response: Waste bins being placed out on the footway when there is no formal bin collection point may result in a temporary hazard or inconvenience to other road users. If they obstruct the path of an RCV, however, they could be moved to allow it to pass.

- The south facing edge of Cruck Cottage garden is sloping. We are concerned with building work and traffic that this will potentially collapse, especially given the substantial depth of excavations.

Response: It is the developer's responsibility to ensure that development does not affect the stability of neighbouring land. It is considered that this concern is a private civil matter and not a material planning consideration.

- Water pressure is extremely poor in this area already and further stress on the system will exacerbate this problem.

Response: It is the responsibility of the Water Authority (in this case, Yorkshire Water) to ensure that an adequate household water supply is maintained.

- The land has historically been mined – how would the land be stabilised to support the properties on the land? The boundary wall to 291 Cumberworth Lane is a single skin dry stone wall, with no modern support i.e. concrete/cement, that holds back the weight of the land behind it.

Response: Again, responsibility for ensuring the safe occupation of land rests principally with the developer (as per paragraph 197 of the NPPF). The impact of coal mining legacy was, however, considered at the outline stage, and it is therefore considered that the council has fulfilled its obligations to assess whether a site is suitable for its proposed use as set out in paragraph 196.

- Query regarding bungalows and contingency for the elderly and infirm.

Response: The council's Affordable Housing and Housing Mix SPD does not state that bungalows should be incorporated into a new development as a matter of course. It is considered that this would not be advisable as it could mean a larger land-take in relation to the number units and floorspace, and therefore fewer dwellings could be built. On much larger housing schemes, it may be appropriate to seek an element to be built to Lifetime Homes standards or similar, but it is considered that this would be disproportionate in a development of only 10 units.

Conclusion:

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

It is considered that the submitted Reserved Matters details would result in a well-designed development that – subject to conditions – would enhance the appearance of the townscape, would provide and safeguard a high standard of amenity for existing and future residents, and would achieve sufficiently safe access to the adopted highway network.

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 the application is therefore recommended for approval.

Recommendation – GRANT APPROVAL OF RESERVED MATTERS

Decision Authorisation: Delegated Powers

Application Number: 2023/93714

Officer Recommendation: Grant approval of Reserved Matters

Conditions and Reasons

1. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP2, LP21, LP22, LP24, LP28 and LP30 of the Kirklees Local Plan and Principles 2, 5, 6, 8, 9, 12, 13, 14, 15, 17, 18, 19 of the Housebuilders' Design Guide SPD.

2. The landscaping scheme shown on the approved document 5061/1 Rev A shall be implemented within the first sowing or planting season following the commencement of development. Any tree or shrub dying or becoming diseased within five years shall be replaced by another of the same species and variety.

Reason: To ensure the provision and retention of a well-laid out scheme of soft landscaping within the site in the interests of visual amenity, and to accord with the aims of Policy LP24 of the Kirklees Local Plan.

3. Samples of all facing and roofing materials shall be left on site for the inspection of, and approved in writing by, the Local Planning Authority, before work on the superstructure of the new build commences and the development shall be implemented using the approved materials.

Reason: In the interests of visual amenity, and to accord with the aims of Policies LP24 and LP35 of the Kirklees Local Plan, Principle 13 of the Housebuilders' Design Guide SPD and Chapter 16 of the National Planning Policy Framework.

4. No development shall take place until a scheme detailing the proposed internal road has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include full sections, drainage works, street lighting, lining and signing. Before any building is brought into use the scheme shall be completed in accordance with the scheme shown on approved plans and retained thereafter.

Reason: To ensure that suitable access is available for the development in the interests of highway safety and the servicing of the site, and to accord with the aims of Policy LP21 of the Kirklees Local Plan.

This information is required pre-commencement to ensure that a suitably designed highway is incorporated into the scheme at an early stage in the development process.

5. All areas shown to be used for the parking of vehicles within the site, including garages, as shown on the approved site plan, plans and elevations, shall be provided and laid out with a hardened and drained surface before the dwelling to which those spaces relate are first occupied, or in the case of visitor parking spaces, before any dwelling is first occupied. These shall be thereafter retained as such, free of all obstructions to their use for the parking of vehicles.

Reason: To ensure that satisfactory resident and visitor parking is achieved in the interests of highway safety and the satisfactory servicing of the site, and to accord with the aims of Policies LP21 and LP22 of the Kirklees Local Plan, Principle 12 of the Housebuilders' Design Guide SPD and Chapter 14 of the National Planning Policy Framework.

6. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification), the integral garages shall be retained as such and shall not be converted to living accommodation.

Reason: To ensure that satisfactory resident and visitor parking is retained at all times in the interests of highway safety and the satisfactory servicing of the site, and to accord with the aims of Policies LP21 and LP22 of the Kirklees Local Plan, Principle 12 of the Housebuilders' Design Guide SPD and Chapter 14 of the National Planning Policy Framework.

7. The areas indicated to be used on the proposed site plan for the storage and collection of wastes shall be laid out with a hard surface, the bin enclosures erected in accordance with the details shown on the approved site plan, and made available for use before the dwelling to which they relate is first occupied. The facilities for the storage and collection of wastes shall thereafter be retained as such, free from obstructions to the storage and collection of wastes.

Reason: To ensure that satisfactory facilities are provided and retained within the site for the separation, storage and disposal of wastes in a way that does not compromise highway safety and efficiency, in accordance with the aims of Policies LP21 and LP24(d) of the Kirklees Local Plan and Principle 19 of the Housebuilders' Design Guide SPD.

8. The proposed secure cycle storage facilities as shown on the approved site plan shall be provided in accordance with the approved details and prior to the first occupation of the dwelling it would serve and shall be thereafter retained as such.

Reason: To comply with the council's sustainability objectives by encouraging the use of low-impact modes of travel, the promotion of healthy, safe and active lifestyles, and protection against crime and the fear of crime, in accordance with the aims of Policies LP20, LP24 and LP47 of the Kirklees Local Plan, the Highways Design Guide Supplementary Planning Document, and Chapter 8 of the National Planning Policy Framework.

9. A full scheme of boundary treatments showing the position, height and design of all new or retained walls, fences and other boundary treatments,

shall be submitted to and approved in writing by the Local Planning Authority before any new dwelling is first occupied. The approved boundary treatments shall be erected or constructed before any dwelling is first occupied, and these shall be thereafter retained.

Reason: In the interests of visual amenity and to protect the privacy of existing and future residents, and to accord with the aims of Policy LP24(a and b) of the Kirklees Local Plan.

10. Before any new dwelling is first brought into use, the roof-mounted solar panel array on each dwelling, as shown on the approved site plan and elevational drawing, shall be installed and made operational, and thereafter retained as such.

Reason: To ensure that the development contributes to reducing the causes of climate change in accordance with the aims of Policy LP24(d) of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

11. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification including paragraph A.1(ea)), no development falling within Classes A, B or E of Part 1, Schedule 2 of the General Permitted Development Order shall be undertaken within the curtilages of Plots 3 to 6 as shown on the approved site plan without full planning permission having been first obtained from the Local Planning Authority.

Reason: So as to retain adequate planning control over the site in the interests of ensuring that these plots retain an adequate amount of private amenity space and that the development potential of land to the north, which forms part of a housing allocation, is not compromised, and to accord with the aims of Policies LP7 and LP24(b) of the Kirklees Local Plan.

12. All windows in the western side elevation of the proposed dwelling on Plot 3 shall be non-opening and shall be fitted with obscure glazing to give a grade 5 degree of obscurity before the dwelling is first occupied. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification) windows of this type shall be retained thereafter.

Reason: To ensure that harm to residential amenity arising from loss of privacy to existing or future residents does not occur and to accord with the aims of Policy LP24(b) of the Kirklees Local Plan.

13. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification) no new door or window openings

other than those expressly authorised by this permission shall be constructed at ground floor level in the western side elevation of Plot 3 at any time.

Reason: To ensure that harm to residential amenity arising from loss of privacy to existing or future residents does not occur and to accord with the aims of Policy LP24(b) of the Kirklees Local Plan.

14. Development shall not commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The CMP shall include the point of access for construction traffic, details of the times of use of the access, the routing of construction traffic to and from the site, construction workers' parking facilities, the provision, use and retention of adequate wheel washing facilities within the site, and pre-development road condition surveys. All construction works shall be carried out in accordance with the approved CMP throughout the period of construction.

Reason: In the interests of protecting amenity and highway safety during the construction phase, and to accord with Policies LP21, LP24 and LP52 of the Kirklees Local Plan, as well as Chapters 9 and 12 of the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure appropriate measures to protect amenity and maintain highways safety are agreed before development commences.

15. Prior to the commencement of development an assessment of the effects of 1 in 100 year storm events (with an additional allowance for climate change, blockage scenarios and exceedance events) on drainage infrastructure and surface water run-off pre- and post-development between the development and the surrounding area, in both directions, shall be submitted to and approved in writing by the Local Planning Authority. No part of the development hereby approved shall be brought into use (dwellings shall not be occupied) until the works comprising the approved scheme have been completed. The approved scheme shall be retained thereafter.

Reason: To ensure the effective disposal of water from the development so as to avoid an increase in flood risk and so as to accord with Policies LP27 and LP28 of the Kirklees Local Plan and chapter 14 of the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure that details of drainage are agreed at an appropriate stage of the development process.

Note – outline condition 20

It is hereby confirmed that the submission requirements of condition 20 of outline permission 2019/93906 have been met, and no further submission is necessary pursuant to that condition.

Note – works within the highway

The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the council as

Highway Authority is required. You are required to consult the Design Engineer (Kirklees Street Scene: 01484 221000) regarding obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution.

Note – Management and Maintenance of Private Estate Streets

The applicant is advised that it is their responsibility to inform the potential purchasers of the properties served by any unadopted streets that the streets will remain unadopted and provide details of the ongoing management and maintenance requirements and their obligations. The potential purchasers must also be advised by the developer of the potential implications of the streets remaining private, which are described in DfT Advice Note 'Highway Adoption' at Annex C 'A Guide for Home Buyers': [Highways Adoption \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk)

The applicant is advised to consult with the Local Highway Authority guidance document on 'Private Streets and the Advance Payments Code': [Highways guidance note: Private Streets and the Advance Payments Code \(kirklees.gov.uk\)](https://www.kirklees.gov.uk)

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Application form			18/12/2023
Existing site and location plan	23-058-01	A	29/02/2024
Proposed site plan	23-058-10	G	18/02/2025
Proposed landscaping plan	5061/1	A	07/02/2025
Existing sections	23-058-11	A	29/02/2024
Proposed sections	23-058-11	D	29/02/2024
House types 1 and 2 plans and elevations	20-058-11	A	20/05/2024
House type 3 plans and elevations	20-058-12	A	20/05/2024
Arboricultural Report	14057/ME		29/02/2024
Arboricultural Impact Assessment	14057a/ME		29/02/2024
Climate Change Statement			29/02/2024
Road Safety Audit			08/01/2025
Road Safety Audit Designers' Response			18/02/2025
Design and Access Statement			29/08/2024

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. The case officer requested changes to design and additional information during the application process in the interests of visual amenity and highway safety.

Report Dated:

13/03/2025
