KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

LAND AND COMPENSATION ACT 1961,
as amended by Part 9 of the Localism Act 2011

CERTIFICATE OF APPROPRIATE ALTERNATIVE DEVELOPMENT

DELEGATED DECISION FOR APPLICATION FOR CERTIFICATE OF LAWFUL DEVELOPMENT

Reference no: 2024/90811

Site: Land North of, Lindley Moor Road, west of Kew Hill, Birchencliffe, Huddersfield, HD3 3TB

Description: Application for certificate of appropriate alternative development

Case Officer**: Land North of, Lindley Moor Road, west of Kew Hill, Birchencliffe, Huddersfield, HD3 3TB**

Decision Reference: 2024/90811

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

David Wordsworth

AUTHORISED OFFICER

Date 21.05.24

Application Number: 2024/90811

Location: Land North of, Lindley Moor Road, west of Kew Hill, Birchencliffe, Huddersfield, HD3 3TB

Applicant: Mark Ferguson Ltd

Proposal: **Application for a S17 Certificate for Appropriate Alternative Development.**

1.0 Purpose of Report

1.1 National Grid plc has approached the landowners, C I Drake, to acquire rights to cross land for apparatus. The land is shown within a red line boundary in the submitted documents. The apparatus is high voltage electricity lines and pylons. From the letter accompanying this submission 22 February 2024 it was stated that the acquisition of rights over the property are – up to the present time – by negotiation, but as an attached email for National Grid's agent dated 24th February 2022 referred to, such rights could be acquired by way of Compulsory Purchase (CPO). A reverse CPO could be instigated by the Landowner following service of a Notice to remove National Grid's apparatus, which would cause a Necessary Wayleave hearing and purchase cost being set by the Lands Tribunal if the parties could not agree themselves. The application submission states that negotiations have been ongoing for some time between the parties in respect of this matter.

1.2 The landowner has made an Application for a Certificate of Appropriate Alternative Development (CAAD) under Section 17(1)(a) of Part III of the Land Compensation Act 1961, (as amended) in respect of the aforementioned land.

1.3 An application for a CAAD is not a planning application. The purpose of the CAAD procedure is to identify alternative development which may be considered acceptable and likely to obtain planning permission were a submission made in order to assist in the valuation of the land in question for the purposes of the compulsory purchase procedure. The permissions or use indicated in a certificate of appropriate alternative development can briefly be described as those which an owner might reasonably have expected to sell his land in the open market if it had not been the subject of CPO.

1.4 The role of the Local Planning Authority (LPA) in this matter is to consider any

land use for which planning permission would have been granted *"in respect of the land in question, if it were not proposed to be acquired by an authority possessing compulsory purchase powers".*

2.0 Relevant Legislation

2.1 Section 17 of Part III of the Land and Compensation Act, 1961 (as amended) provides that an application for a CAAD may only be made by persons owning land which is proposed to be acquired by an authority possessing compulsory purchase powers or that authority and sets out the content of a certificate. The application may be for a positive or negative statement in respect of appropriate alternative development of the land in question.

17 (1) Where an interest in land is proposed to be acquired by an authority possessing compulsory purchase powers, either of the parties directly concerned may (subject to subsection (2)) apply to the local planning authority for a certificate containing whichever of the following statements is the applicable statement

(a) *That in the local planning authority's opinion there is development that for the purposes of section 14, is appropriate alternative development in relation to the acquisition*

(b) *That in the local planning authority's opinion there is no development that for the purpose of section 14, is appropriate alternative development in relation to the acquisition*

2.2 (5)... If a certificate under this section contains a statement under subsection (1) (a) it must also—

(a) identify every description of development (whether specified in application or not) that in the local planning authority's opinion is, for the purposes of section 14 appropriate alternative development in relation to the acquisition concerned, and

(b) give a general indication—

(i) of any conditions to which planning permission for the development could reasonably have been expected to be subject,

(ii) of when permission could reasonably have been expected to be granted if it is one that could reasonably have been

expected to be granted only at a time after the relevant valuation date, and

(iii) of any pre-condition for granting the permission (for example, entry into an obligation) that could reasonably have been expected to have to be met.

2.3 Section 14 of Part II of the Land and Compensation Act 1961 (as amended) Text below for information only.

2.4 Part II of the Land and Compensation Act 1961, as amended by Part 9 of the Localism Act 2011, (LCA) provides that compensation for the compulsory purchase of land is on a **market value basis**. In addition to existing planning permissions, section 14 of the LCA provides for certain assumptions as to what actual or prospective planning permissions might be taken into account in determining of market value of the land.

2.5 The planning assumptions are as follows:

2.5.1 Subsection (2): account may be taken of (a) any planning permission in force for the development on the relevant land or other land at the relevant valuation date; and (b) the prospect (on assumptions in subsection (5) but otherwise in the circumstances known to the market on the relevant valuation date) of planning permission being granted, other than for development for which planning permission is already in force or appropriate alternative development.

2.5.2 Subsection (3): it may also be assumed that planning permission for appropriate alternative development (as described in subsection (4)) is either in force at the relevant valuation date or it is certain that planning permission for that development would have been granted at a later date.

2.5.3 Subsection (4) defines appropriate alternative development as development, other than that for which planning permission is in force at the relevant valuation date, which would, on the assumptions set out in subsection (5) but otherwise in the circumstances known to the market at the relevant valuation date, reasonably have been expected to receive planning permission on that date or a later date. Appropriate alternative development may be on the relevant land alone or on the relevant land together with other land.

2.5.4 Subsection (5) contains the basic assumptions that:

(a) the scheme of development underlying the acquisition had been cancelled on the launch date;

(b) that no action has been taken by the acquiring authority for the purposes of the scheme;

(c) that there is no prospect of the same or similar scheme being carried out by the exercise of statutory power or by compulsory purchase; and

(d) that if the scheme is for the construction of a highway, no other highway would be constructed to meet the same or substantially the same need as the scheme highway would have been constructed to meet.

2.5.5 Subsection (6): defined the 'launch date' as (a) for a compulsory purchase order, the publication date of the notice required under section 11 of or paragraph 2 of schedule 1 to the Acquisition of Land Act 1981; (b) for any order (such as Transport Works Act 1992 or a development consent order under the Planning Act 2008) the date of first publication or service of the relevant notice required in connection with the acquisition under section 15, planning permission is also to be assumed for the acquiring authority's proposal.

3.0 **The Application**

3.1 The applicant has applied to the LPA for a CAAD on the basis that a positive statement should be given under Section 17(a) of Part III of the LCA in that:-

there is development that, for the purposes of Section 14 is appropriate alternative development.

3.2 The applicant sets out that C3 residential use is the possible class of development appropriate on the site, 'plus any other use that the authority considers appropriate'.

Site Description

4.1 The land in question relates to a gross site area of approximately 1.8 ha of agricultural land which is located off the A643 Lindley Moor Road, directly to the west of Kew Hill in Birchencliffe. The site is in close proximity to the administrative boundary between the districts of Kirklees and Calderdale. Directly to the north of the site is the M62 motorway and the site abuts the banking of the slip road of Junction 24 of the motorway. To the east of the site are residential properties located off the A643, to the south is the A643 Lindley Moor Road beyond which is land allocated for Mixed Use in the Local Plan (ref MXS3), and to the west is agricultural land. The whole of the land in question is within the Green Belt in the Kirklees Local Plan.

4.2 The land itself gently slopes downwards from south to north and is set to pasture. Along the boundary with the A643 Lindley Moor Road is a stone wall which continues along the western boundary where there is an existing field access off Kew Hill. The eastern boundary is defined by a hedgerow, and the northern boundary by post and rail fencing, beyond which is a tree screen on the adjacent banking of the M62 motorway.

4.3 The site is crossed by three electricity lines, with three pylons supporting the lines.

4.4 The site is located within the Green Belt. On the Council's Mapping System other 'constraints' are:

- Bat Alert Layer
- LB Airport Consult
- ETS _T18139 Buffer

5.0 Relevant Planning Policies

5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

5.2 The site is within the green belt in the Kirklees Local Plan.

5.3 Relevant Local Plan policies are:

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP3** – Location of new development
- **LP7** – Efficient and effective use of land and buildings
- **LP11** – Housing mix and affordable housing
- **LP19** – Strategic transport infrastructure
- **LP20** – Sustainable travel
- **LP21** – Highways and access
- **LP22** – Parking
- **LP23** – Core walking and cycling network
- **LP24** – Design

- **LP27** – Flood risk
- **LP28** – Drainage
- **LP30** – Biodiversity and geodiversity
- **LP32** – Landscape
- **LP33** – Trees
- **LP35** – Historic environment
- **LP38** – Minerals safeguarding
- **LP47** – Healthy, active and safe lifestyles
- **LP51** – Protection and improvement of local air quality
- **LP52** – Protection and improvement of environmental quality
- **LP53** – Contaminated and unstable land
- **LP63** – New open space

5.4 The following are relevant Supplementary Planning Documents or other guidance documents published by, or with, Kirklees Council:

Supplementary Planning Documents

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

Guidance documents

- Biodiversity Net Gain Technical Advice Note (2021)
- Planning Applications Climate Change Guidance (2021)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Waste Management Design Guide for New Developments (2020)

National Planning Guidance

5.5 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF), published 5th September 2023, and the Planning Practice Guidance Suite (PPGS), first launched 6th March 2014, together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

Chapter 2 – Achieving sustainable development
Chapter 4 – Decision-making
Chapter 5 – Delivering a sufficient supply of homes
Chapter 8 – Promoting healthy and safe communities
Chapter 9 – Promoting sustainable transport
Chapter 11 – Making effective use of land
Chapter 12 – Achieving well-designed places
Chapter 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

6.0 Planning Considerations

6.1 Section 2 of the report above sets out the assumptions in Section 14 (5) of Part II of the LCA.

6.2 In having regard to this it is my opinion that on the valuation date (Date of receipt) the hypothetical submission is that if National Grid's apparatus did not cross the site, it would not be suitable for alternative development: specifically, Class C3, or any other use deemed 'appropriate' by the LPA.

6.3 The proposed hypothetical development, following the assumptions set out above, is on land which is allocated as Green Belt within the adopted Local Plan.

6.4 The following assessment is based on the hypothetical potential for Class C3 development at the site. The starting point is that the Local Plan identifies a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum. National planning policy requires local planning authorities to demonstrate five years supply of deliverable housing sites against their housing requirement.

6.5 The 2023 update of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land. As the Council is currently unable to demonstrate a five-year supply of deliverable housing sites, 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. This means that for decision making "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 provides a clear reason for refusing the development proposed (NPPF Footnote 7); 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."

6.6 In respect of point (i) above, Footnote 7 of the NPPF clarifies the policies referred to are those in the Framework and which includes land designated as Green Belt. In the hypothetical consideration of the principle of a C3 development, paragraph 152 of the NPPF states "Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances". Paragraph 153 states "When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. In accordance with the policies in the NPPF, a hypothetical C3 housing development, or any other form of built development which is not otherwise listed in paragraph 155 (list of exemptions), would be inappropriate development in the Green Belt which should not be approved except in very special circumstances.

6.7 On of the purposes of the green belt is to prevent the merger of towns and this parcel of green belt represents an open area adjacent to the administrative border with Calderdale. The site is separated from a small residential development in Calderdale only by the old route of Weather Hill Road now severed by the motorway. Any development would therefore appear contiguous with Calderdale and would cause significant harm to the openness of the green belt.

6.8 No 'Very Special Circumstances' have been presented in this submission which would clearly outweigh the harm which would be caused by inappropriate development and other harm to the purposes of including land within the green belt. The principle of a C3 development, or another form of development on this Green Belt site (not otherwise listed in paragraph 155 of the NPPF) would conflict with the policy in the framework.

6.9 The site has previously been rejected as both a Housing site (ref H624) and Employment site (ref E1854) for the Kirklees Local Plan. Below are relevant extracts taken from the Kirklees Local Plan Submission Document 'Rejected Site Options Report July 2017'.

E1854	Site is in Green belt	Y	Green/Brownfield	G	Settlement Position	E	Gross Area (Ha) 1.83
Land north of, Lindley Moor Road, Lindley					Employment Floorspace	6,404	Housing Capacity

Transport	Site access achievable via A643 Lindley Moor Road.
Public Health	The site is within a ward that does not have significant concerns relating to health indicators and land use planning
Education	N/A
Historic Env	Recommend pre-determination archaeological evaluation - based on vicinity of PRN3513 & PRN7325
Flood/drainage	No objections raised.
Env Protection	Noise assessment for B2 or B8 use. Odour assessment for B2 use.
Biodiversity	No objections raised.
Other constraints	Power lines cross the site.
Open space	N/A
Green belt	This narrow and confined parcel of land between the M62 and Lindley Moor Road has no association with the wider countryside being physically and visually separated from it by the line of the motorway. It is separated from a small isolated residential development in Calderdale only by the old route of Weather Hill Road now severed by the motorway. Any development would therefore appear contiguous with Calderdale unless a buffer was retained. The new development at Stirling Wood Close and existing development at Ainley Top, although separated from development in Calderdale by roads rather than a track, are little different in character and degree of separation than would be presented by any new development on this site.
Green belt edge	One of the purposes of the green belt is to prevent the merger of towns and this parcel of green belt represents an open area on the border with Calderdale. On its eastern edge it borders with built development in Calderdale so a buffer would be required to maintain the appearance of separation.

Exceptional Circumstances There are no exceptional circumstances to justify the removal of this site or any part of this site from the green belt.

Conclusion

The site is a rejected employment option. This narrow and confined parcel of land between the M62 and Lindley Moor Road has no association with the wider countryside being physically and visually separated from it by the line of the motorway. It is separated from a small isolated residential development in Calderdale only by the old route of Weather Hill Road now severed by the motorway. Any development would therefore appear contiguous with Calderdale unless a buffer was retained. The new development at Stirling Wood Close and existing development at Ainley Top, although separated from development in Calderdale by roads rather than a track, are little different in character and degree of separation than would be presented by any new development on this site.

Kirklees Publication Draft Local Plan - Rejected Sites: Housing						**Huddersfield**	
H624	Site is in Green belt	Y	Green/Brownfield	G	Settlement Position	E	Gross Area (Ha) 1.83
Land north of, Lindley Moor Road, Outlane					Employment Floorspace		Housing Capacity 50

Transport	Site access achievable from Lindley Moor Road.
Public Health	The site is within a ward that does not have significant concerns relating to health indicators and land use planning.
Education	There is a current need for extra primary places in the locality. There is no current need for secondary places.
Historic Env	line of Roman road to south & significant features excavated nearby (PRN7325) Pre-determination archaeological evaluation recommended.
Flood/drainage	No objections raised.
Env Protection	Air quality impact assessment required. (Introduction of new receptors). Noise Assessment required. Small site, between M62 and Lindley Moor Rd, all site subject to unacceptable levels of noise.
Biodiversity	No objections raised.
Other constraints	Powerlines cross the site.
Open space	N/A
Green belt	This narrow and confined parcel of land between the M62 and Lindley Moor Road has no association with the wider countryside being physically and visually separated from it by the line of the motorway. It is separated from a small isolated residential development in Calderdale only by the old route of Weather Hill Road now severed by the motorway. Any development would therefore appear contiguous with Calderdale unless a buffer was retained. The new development at Stirling Wood Close and existing development at Ainley Top, although separated from development in Calderdale by roads rather than a track, are little different in character and degree of separation than would be presented by any new development on this site.
Green belt edge	One of the purposes of the green belt is to prevent the merger of towns and this parcel of green belt represents an open area on the border with Calderdale. On its eastern edge it borders with built development in Calderdale so a buffer would be required to maintain the appearance of separation.

Exceptional Circumstances There are no exceptional circumstances to justify the removal of this site or any part of this site from the green belt.

Conclusion

The site is a rejected housing option. 0.396ha removed from the net developable area due to pylons on site. The site is site subject to unacceptable levels of noise due to its proximity to the M62.

6.10 As detailed above, it was concluded that there are no exceptional circumstances to justify the removal of this site from the green belt.

6.11 In conclusion the hypothetical principle of a C3 development, or another form of development on this Green Belt site (not otherwise listed in paragraph 155 of the NPPF) would conflict with policy in the framework. Notwithstanding this hypothetical conclusion on the principle of development however, hypothetical consideration has been given to other matters below.

Highways

6.12 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.

6.13 Paragraph 110 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 111 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. LP20 of the Kirklees Local Plan states '*The council will support development proposals that can be served by alternative modes of transport such as public transport, cycling and walking and in the case of new residential development is located close to local facilities or incorporates opportunities for day-to-day activities on site and will accept that variations in opportunity for this will vary between larger and smaller settlements in the area*.'

6.14 The site has a linear frontage to the A643 Lindley Moor Road, and an existing field access off Kew Hill on the western boundary. In terms of highway safety matters it may be hypothetically possible to achieve access to the site from Lindley Moor Road to serve a proposed C3 use, however the acceptability of such, and the impact on the Strategic Highway Network, would have to be assessed at the detailed stage of a hypothetical submission. However, whether the proposal could provide safe access does form part of the assessment as to whether or not the principal of the development proposed would be acceptable.

Residential amenity and living standards

6.15 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.

6.16 In terms of noise generated by the development, although residential development would introduce (or increase) activity and movements to and

from the site there is unlikely to be anything that would significantly impact to neighbouring residents.

6.17 In respect of the amenity of future occupiers it is not evident if a development on this site could achieve acceptable living conditions, with particular regard to air quality and noise from the adjacent A62 Motorway. The site is not within an Air Quality Management Area, however it is located between the M62 motorway and a busy road. Whilst future development here might not in itself add to the existing poor air quality problems in that area, it may introduce vulnerable receptors to existing levels of poor air quality, exposing them to the risk of harm to health. The site would also be exposed to significant levels of traffic noise which could have an unacceptable impact on amenity.

6.18 It may well be possible to incorporate design measures into a scheme to mitigate some of the noise and air quality issues as a result of the proximity of the site to the M62. However, it is likely that future occupants would wish to open windows in their living rooms or bedrooms, particularly during the summer to benefit from additional fresh air and natural ventilation. Should this occur, then they would be exposed to the traffic noise and air quality issues associated with the nearby motorway. When using garden areas, options for mitigation measures to alleviate the effects of the motorway in order to provide acceptable living conditions for future occupants are limited. It is uncertain as to whether future occupants could use their garden areas without experiencing the unacceptable effects of noise or air quality issues on their living conditions. However, as above whether the proposal would provide acceptable living conditions for future occupants does form part of the assessment as to whether or not the principal of the development proposed would be acceptable.

Urban design

6.19 Chapters 11 and 12 of the NPPF, and Local Plan policies LP2, LP7 and LP24 are relevant to the proposed development in relation to design, as is the National Design Guide. The matters of layout, appearance, scale, and landscaping or access would be assessed at the detailed stage of a hypothetical submission.

Landscape

6.20 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. Policy LP63 advises that new housing developments will be required to provide or contribute towards new open space or the improvement of existing provision in the area, to be provided in accordance with the Council's local open space standards or national standards where relevant. Finally, Policy LP33 of the KLP advises, amongst other matters, that 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. Where

tree loss is deemed to be acceptable, developers will be required to submit a detailed mitigation scheme.

6.21 The landscaping of the site is not for consideration here but the detailed consideration of a proposal for residential development would be required to be in accordance with the Policies highlighted in the preceding paragraphs.

Heritage

6.22 Section 66 of Planning (Listed Buildings & Conservation Areas) Act 1990 introduces a general duty in respect of listed buildings. In considering whether to grant planning permission for development which affects a heritage asset, or its setting, the Local Planning Authority should have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. This requirement is mirrored by policy LP35 of the Local Plan. The site is in proximity to a class 2 Archaeological site and may have archaeological interest. Archaeological evaluation would therefore be required as part of a hypothetical submission.

Drainage

6.23 The site is within Flood Zone 1, and is larger than 1 hectare in size, therefore a site-specific Flood Risk Assessment (FRA) and Drainage Management Strategy would be required to be submitted with a theoretical planning application.

Contamination, including Coal Legacy

6.24 In accordance with policy LP53 of the KLP, consideration of ground contamination is required. A phase 1 (desktop) contaminated land report would be required to assess an application on this site.

Ecology

6.25 The site is greenfield land, predominantly consisting of grassland with rough grazing. There are no protected trees within the site, however the site does fall within the bat alert layer. An Ecological Assessment would be required.

6.26 Biodiversity net gain would be required. As a hypothetical outline submission, complete net gain calculations which show how a 10% improvement would be secured on site (or nearby) cannot be undertaken. However, this could be conditioned to demonstrate how a 10% ecological net gain would be secured on site, alongside the submission of an Ecological Design Strategy to demonstrate how on-site provisions will be provided. The net-gain requirement would also need to be secured within a S106, given that it may include a future financial element if full 10% on-site / site adjacent enhancements cannot be secured.

Other Matters

6.27 The site falls within the Leeds Bradford Airport consultation buffer and the ETS _T18139 Buffer (Wet Gas Pipeline) and would be subject to any applicable consultations.

Planning obligations

6.28 Paragraph 56 of the NPPF confirms that planning obligations must only be sought where they meet all of the following: (i) necessary to make the development acceptable in planning terms, (ii) directly related to the development and (iii) fairly and reasonably related in scale and kind to the development.

6.29 As an hypothetical outline application, with no details submitted, with no definitive numbers, definitive planning obligations (i.e., the exact financial value) that are depending upon final housing numbers could not be secured within a S106 at this time. However, parameters may be established within the S106, using adopted Policies within the Local Plan and adopted SPD are as follows:

Affordable Housing: 20% of units. Across the district Kirklees works on a split of 55% social or affordable rent to 45% intermediate housing (of which 25% shall be First Homes).

Education: Financial contribution to be calculated with reference to number of units proposed, unit sizes and projected pupil numbers.

Public Open Space: Financial contribution towards off-site provision, if not provided on site in accordance with Policy LP63 to be calculated.

Ecological Net Gain: Contribution towards off-site measures to achieve biodiversity net gain, to be calculated with reference to details proposed opportunities for on-site and near-site compensation.

Travel Plan monitoring: £10,000 (£2,000 x 5 years).

Management and maintenance: Arrangements for the management and maintenance of drainage infrastructure and Public Open Space on site in perpetuity, and any on-site Ecological Net Gain features for a minimum of 30 years.

6.30 In accordance with local and national policy, these contributions would be deemed necessary to make a hypothetical development acceptable in planning terms, directly related to, and fairly and reasonably related in scale and kind to the development. The contributions therefore conform to guidance within the Framework. This does not however form part of the assessment as to whether or not the principal of the development proposed would be acceptable.

7. Conclusion

7.1 Given the assumptions set out in the introductory elements of this report for when determining any appropriate alternative development, planning permission residential development (Class C3) on the site would not reasonably be expected to be granted. Furthermore, development within any other Use Class would not reasonably be expected to be granted.

7.2 A negative certificate under section 17(1) (b) of Part III of the LCA should be

issued on the basis that in the LPA's opinion there is no development (C3) or any other development that would be appropriate alternative development for this Green Belt site.

9.0 RECOMMENDATION:

9.1 (A) That a negative Certificate be issued under section 17(1)(b) of Part III of the Land and Compensation Act 1961, as amended by Part 9 of the Localism Act 2011, indicating that it is the opinion of the Local Planning Authority that planning permission would not have been granted for development comprising residential development within Class C3 use if it were not proposed to be acquired by the authority possessing compulsory purchase powers:

(B) That authorisation is given by the Strategic Director of Growth and Regeneration, to issue the Certificate of Appropriate Alternative Development.

AUTHORISATION:

Due to the nature of the application, under section 17(1)(b) of Part III of the Land and Compensation Act 1961, as amended by Part 9 of the Localism Act 2011, under the Scheme of Delegation for Growth and Regeneration, authorisation is required from the Strategic Director.

Strategic Director of Growth and Regeneration: *D Shepherd*

Date of authorisation of report and recommendation: 21.05.24