

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

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

DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS

Reference No:	2024/62/91476/E
Site Address:	Clough Farm, Long Lane, Earlsheaton, Dewsbury, WF12 8LQ
Description:	Erection of 24 dwellings
Recommending Officer:	William Simcock

DECISION – Section 106 Full Permission – 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.

Nicholas Hirst

AUTHORISED OFFICER

Date: 29/04/2025

Application: 2024/91476

Site: Clough Farm, Long Lane, Earlsheaton, Dewsbury, WF12 8LQ

Proposal: Erection of 24 dwellings

Site Description

The application site is 0.65 hectares in size, has previously been in agricultural use, and is located to the east of Long Lane, Earlsheaton. To the south of the site is a modern farm complex known as Mitchell Laithes Farm, hosting farmhouse (bungalow) and barns. To the northwest are the dwellings Clough Farm and Clough House, which both originate in the late 19th century. To the northeast are mid-late 20th century semi-detached properties associated with Woodburn Avenue. The site's eastern boundary is defined by Chickenley Beck, which runs north to south, and woodland. To the west of the site, across, Long Lane are agricultural fields.

The application site generally slopes downhill towards Chickenley Beck, from its north-western corner at 55m Above Ordnance Datum (AOD) to its south-eastern corner at 45m AOD. Surrounding properties to the north-west occupy higher ground, whilst Mitchell Laithes Farm occupies lower ground at approximately.

The site is now overgrown grassland with mature trees found towards the east, on or near the riverbank. The site's southern boundary consists of mature trees and hedgerows. The site's boundary with Long Lane consists of a drystone wall and wooden gate, with hedgerows and trees set behind. The site's southern boundary with Mitchell Farm consists of mature hedgerows and trees. There is also a steel farm gate at the site's south-eastern corner. The site's north-western boundary with Clough Farm consists of picket fences and mature vegetation. The site's north-eastern boundary consists of typical residential boundary fencing.

The site benefits from an extant planning permission – see “Relevant Planning History”.

Description of Proposal

The proposal is for the erection of 24 dwellings and associated works. The dwellings would consist of the following housing types:

- E1 x 2 – three bed
- E2 x 1 – three bed
- C1 x 17 – three bed
- B1 x 2 – one bed
- B2 x 2 – one bed

This equates to 4 (16.7%) one bed units, and 20 (83.3%) three bed. It is proposed that all units would be affordable. Plots 1-9 are proposed to be shared ownership, while plots 10-24 would be affordable rented.

A new access to the adopted highway, via a priority junction, would be formed and an estate road laid out in an approximately east-west orientation with a spur to the north midway along its length, and a turning head at the end. The proposed dwellings would be in the form of semi-detached houses and townhouses, all of which would be two-storey with the exception of types B1 and B2, which would be bungalows. The two pairs of bungalows would be situated near the south-western corner of the site. The two-storey dwellings (types C1, E2 and E2) would be arranged twelve north of the access road and eight to the south. All dwellings would have their main elevation facing on to the access road and not on to Long Lane.

The eastern extent of the developed area would be formed by a retaining wall of approximately 2m in height. Significant alterations to ground levels would be implemented across the site, with net increases in ground level in the central-southern, south-eastern and north-eastern parts of the site and net reductions in ground level in the north-western and central northern parts.

Besides the greater density of development, and the affordable housing, one of the most notable differences between the scheme now proposed and previous approvals are that no public open space would be provided within the development.

History of negotiations/amendments received

- Early discussions (8-10 July) – Officers raised concerns about parking provision and some aspects of layout.
- 31-Jul-2024 – Amended plans were submitted which provided a footway along the southern edge of the access road, increased the amount of visitor parking, reduced the number of units by two and replaced some flats with bungalows.
- August 2024 – Further amendments / clarifications requested for highway issues.
- February 2025 – Further small amendments to internal layout for highway visibility purposes and provision of dropped crossing. Levels / boundaries. Submission of updated PEA with formal BNG metric
- March 2025 – Amended sections, amended elevation for house types E. Amended and additional information on Biodiversity Net Gain.

The 31-Jul-2024 plans were subjected to limited new publicity (see section on Representations, below). Subsequent amended and additional plans and

documents were not subjected to new publicity since they did not make any significant changes to layout or to the scale or quantum of development and were therefore not considered to raise significant new issues.

Relevant Planning History

2019/93423 - Erection of 16 dwellings and associated works. Conditional full permission subject to S106 Agreement covering contribution to public open space provision on and off site, contribution to footpath improvements on Long Lane, sustainable travel fund, affordable housing, off-site contribution to biodiversity net gain, management company for land not within curtilage and for drainage infrastructure. 23-Oct-2020.

2021/94364 - Erection of 16 dwellings, access, landscaping and associated infrastructure. Conditional full permission (29-Sep-2022) subject to deed of variation to the S106 agreement which removed the original affordable housing requirement. Decision issued 28-Sep-2022.

Representations

Final publicity date expires: 22-Jul-2024 (Publicity by site and press notice in addition to neighbour notification letter since the proposal is classed as Major Development, thereby complying with the requirements of the Development Management Procedure Order and the Kirklees Development Management Charter).

Eight representations were received as a result of initial publicity. The following is a summary of concerns raised:

Amenity issues

- Loss of amenity and out of character with area
- Over-intensive use of the site.
- Overlooking
- Blocking of sunlight
- Loss of view

Highway and transport issues

- Increased traffic on a road which is narrow, lacks footways and is unsuitable for large vehicles. The popularity of the Greenway has led to more walkers in our area, most of whom end up walking in the road due to the narrowness of pavement.
- There is only a 5-meter stretch of pavement being provided outside of the development, immediately bordered by a stretch of Long Lane with no pavement for over 30 meters. The same supporting document also incorrectly shows a pavement bordering on the property of Clough House, in fact a privately owned gravel strip. Large sections of the lane

lack any footway and therefore fall below the minimum standards to receive development.

- No EV Charging Points.
- The lack of pavements and restricted width of pavements on Long Lane will also preclude any disabled/mobility impaired access to the properties without significant risk and conflict with road traffic.
- Poor public transport accessibility and few amenities or services within walking distance of the site or within Earlsheaton.
- Please also see the comments on the rejection of a proposed planning application for 3 dwellings directly next to the proposed development (planning application 87/62/04777/a2) – “The site does not have a satisfactory link with the adopted highway systems....it would also create difficulties for service and emergency vehicles.”
- Impact on local wildlife such as the bats that fly across the field, the woodpecker and other birds nesting in the trees. There are hedgehogs, foxes, deer and many other small wildlife also that use the area as a sanctuary.
- There is a significant lack of local amenities for families of the new development. For example, the only public Park is a long distance from the development. This contains the only children’s play area and public area in Earlsheaton.
- Biodiversity statement shows there is nothing of note there. But it also states clearly that the developers arrived on site a week before they were due to survey the site and cleared it using a tractor and industrial clearing machines. This also had the added benefit of knocking down all the Himalayan Balsam and Japanese knotweed that was identified on previous surveys, so is absent from the current survey. For avoidance of doubt, there are both in this field.
- There are no school places available locally
- Impact on medical facilities.
- They would be building in a flood zone.
- It clearly states there is no contamination on site in the application. This is incorrect. The geo-environmental survey provided by Lithos as part of this application states that “Existing Topsoil is not considered suitable for re-use due to elevated concentrations of arsenic, lead and zinc. Elevated concentrations of inorganic & organic contaminants

have been identified in the Ash & Clinker which is also considered potentially combustible” Therefore the coverage of this contamination will not only incur considerable heavy haulage down an unsuitable highway, but disturb possible contaminants into Chickenley Beck and move said contaminants to other locations putting the local wildlife at risk.

- The property bordering the site is an active farm and does have livestock therefore development will damage the business and cause undue harm to the livestock, and therefore the noise survey is incorrect and factually wrong. The application is also missing an odour report
- No mention is made in the utility report of the septic tank outflow and soakaway field on the north and east part of the site. This is a shared septic tank system owned and used by both Clough Farm and Clough House. The title deeds for Clough House show that this is shared ownership and no developer has approached the owner of the property in relation to permissions to removing the soakaway field and how they would connect both properties to mains sewerage. Previously the planning officer advised this was a civil matter and not for the planning team. However after receiving legal advice it is “a material factor that must be resolved to the satisfaction of the title deeds holder before any planning can be considered” and it is not a civil matter. Just for clarity as the owner of Clough House, I do not consent to the developer removing my legal entitlement to continuing to use a septic tank system and the existing drainage / soakaway field. Therefore until this matter is resolved to the owners satisfaction, no planning permission may be granted in breach of those title deeds.
- Also the land itself is of high quality grade 3 agricultural land and has been farmed under Mitchel Laithe's ownership and Mr Hardys ownership for many years.

The three Ward Members were notified of the application but chose not to comment.

A further round of publicity was undertaken (end date **16-Aug-2024**) by neighbour letter only, and notifying only one property (that to the south of the site, Mitchell Laithe Farm) since it resulted in a small de-intensification of the site, and it was considered that only this property's occupants would be materially affected by the changes.

No further representations were made as a result of the changes.

Consultation Responses

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

Internal

K.C. Highways Development Management – Acceptable subject to conditions.

K.C. Waste Strategy – Acceptable subject to conditions.

K.C. Education – Based on the original submission for 26 units, advised that an education contribution would be required. However, following a revision to the proposal which reduced the number of units to 24, no contribution is required.

K.C. Lead Local Flood Authority – Acceptable subject to conditions.

K.C. Ecology – Acceptable subject to conditions.

K.C. Arboricultural Officer – No objection subject to an AMS and tree protection plan being submitted.

K.C. Landscape – Revisions recommended and the proposal would require an off-site contribution to Public Open Space improvement.

K.C. Strategic Housing – Support in principle but a different housing mix preferred.

K.C. Environmental Health – Acceptable subject to conditions.

External

Environment Agency – Acceptable subject to conditions.

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 27th February 2019).

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

The application site is allocated for housing in the Kirklees Local Plan proposals map, reference HS45. The allocation has an indicative capacity of 15 dwellings.

Within the allocation box the following constraints are identified:

- The provision of a pedestrian footway is required across the site frontage

- Part of the site is within flood zone 3
- A combined sewer crosses this site
- Culverted watercourse in vicinity
- Potentially contaminated land
- Part of this site lies within a UK BAP priority habitat
- Part of site is within a coal referral area

Not all of the above constraints are accurate or up to date – see relevant sections on Drainage and on Contaminated and Unstable Land.

The relevant Local Plan policies are:

- **LP 1:** Presumption in favour of sustainable development
- **LP 7:** Efficient and effective use of land and buildings
- **LP11:** Housing mix and affordable housing
- **LP 20:** Sustainable transport
- **LP 21:** Highway safety and access
- **LP 22:** Parking
- **LP 24:** Design
- **LP 27:** Flood risk
- **LP 28:** Drainage
- **LP 30:** Biodiversity and geodiversity
- **LP 33:** Trees
- **LP 52:** Protection and improvement of environmental quality
- **LP 53:** Contaminated and unstable land
- **LP 63:** New open space
- **LP65:** Housing allocations

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)
- Highways Design Guide SPD (2019)
- Housebuilders Design Guide SPD (2021)
- Open Space SPD (2021)

Guidance documents

- Kirklees Interim Housing Position Statement to Boost Supply (2023)
- Kirklees First Homes Position Statement (2021)
- Providing for Education Needs Generated by New Housing (2012)
- Biodiversity Net Gain Technical Advice Note (2021)
- Planning Applications Climate Change Guidance (2021)

- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Waste Management Design Guide for New Developments (2020)
- Green Streets Principles for the West Yorkshire Transport Fund

National Policies and Guidance

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) 2024 and the Planning Practice Guidance suite (PPG), 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.

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

Other relevant national guidance and documents:

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

Assessment

The following matters are considered in the assessment below:

- 1) Principle of development
- 1) Planning obligations
- 2) Urban design and visual amenity
- 3) Impact on residential amenity
- 4) Highway and transport issues
- 5) Drainage
- 6) Land contamination and stability issues
- 7) Biodiversity
- 8) Other issues
- 9) Representations

10) Conclusion

1 – Principle of development

Paragraph 48 of the National Planning Policy Framework (the Framework), which is a material consideration in planning decisions, confirms that planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. This approach is confirmed within Policy LP1 of the Kirklees Local Plan, which states that when considering development proposals, the Council would take a positive approach that reflects the presumption in favour of sustainable development contained within the Framework. Policy LP1 also clarifies that proposals that accord with the policies in the Kirklees Local Plan would be approved without delay, unless material considerations indicate otherwise.

Spatial strategy

Policy LP1 of the Kirklees Local Plan sets out the Local Planning Authority's approach to the presumption in favour of sustainable development, as laid out in NPPF (Chapter 2), particularly paragraph 11(c). Policy LP1 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 National Planning Policy Framework'.

Policy LP2 requires that 'proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan, in order to protect and enhance the qualities which contribute to the character of these places'.

In considering the abovementioned requirements of Policies LP1 and LP2, proposals are also required to reflect a settlement's size and function, place shaping strengths and opportunities/challenges for growth, spatial priorities for urban renaissance and regeneration, and the need to provide new homes and jobs.

Housing need and delivery

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 12th December 2024 demonstrated that housing delivery for Kirklees for the past 3 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, where relevant.

Quantum and Density:

The site falls within a housing allocation, reference HS45, within the Kirklees Local Plan Allocations and Designations document (2019). Therefore, Policy LP65 is applicable and states:

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

The site box for HS45 identifies an indicative capacity of 15 dwellings for the allocation.

Both the Local Plan and National Planning Policy Framework set out expectations to ensure proposals represent the effective and efficient development of land, including policies LP7 and LP11.

To ensure efficient use of land, Local Plan policy LP7 requires developments to achieve a net density of at least 35 dwellings per hectare, where appropriate, and having regard to the character of the area and the design of the scheme. Lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or to secure

particular house types to meet local housing needs. Higher densities may, by the same argument, be appropriate in some circumstances.

Kirklees has a finite supply of land for the delivery of the 31,140 new homes required during the Local Plan period, and there is a need to ensure land is efficiently and sustainably used (having regard to all relevant planning considerations) which will help ensure the borough's housing delivery targets are met. Under-use of scarce, allocated development land could potentially contribute towards development pressure elsewhere, at less appropriate sites, including at sites where sustainable development is harder to achieve.

Some of the land near the eastern site boundary was formerly designated as falling within a Flood Risk Zone. Therefore, for the allocation box, the former flood zone reduced the net area of the site down from 0.66ha, to 0.45ha. Following the EAs periodic review of flood zones, the extent of the site within a flood zone has been dramatically reduced, reducing it as a constraint to development within the site. Therefore, the Local Plan's indicative capacity of the site of 15 is out of date. For indicative purposes, if utilising the site's whole area of 0.66ha (momentarily disregarding the nominal amount of flood zone remaining), 35dph would equate to 23 dwellings.

The proposal's net density, when the land east of the proposed retaining wall adjacent to Chickenley Beck is excluded from the site as being not part of the developable area, would amount to 39 dwellings per hectare. While greater than 35dph, the increase is not so dramatic to raise in-principle concerns, although consideration of whether this density raises any other implications (i.e., design or residential impacts) will be considered where relevant elsewhere within this report.

The proposal would clearly not be under-development of the site and would represent an efficient use of land (as set out in LP4 and LP7 and paragraphs 128-129 of the NPPF). The developer's wish to develop the site to a much higher quantum of development than the indicative capacity, and at a higher net density, may raise other challenges, including in developing a scheme that meets good design principles and delivers an acceptable highway layout, which will be assessed in detail in the sections below.

Housing mix and affordable housing

Regarding housing mix and tenure, LP11 seeks for proposals to provide a representative mix of house types for local needs. This is expanded upon and detailed within the council's Affordable Housing and Housing Mix SPD (March 2023).

The site falls within Dewsbury East Ward and therefore within Dewsbury and Mirfield sub-area, per the SPD. The following is the SPD expectation for the Dewsbury and Mirfield sub-area:

	Market Housing	Affordable Rent	Affordable Intermediate
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1 and 2 bed	30 – 60%	20 – 59%	0 – 39%
3 bed	25 – 45	0 – 19%	40 – 59%
4+ bed	10 – 30%	20 – 39%	40 – 59%

The following is the proposal's market and affordable housing mix:

	Market Housing	Affordable Rent	Affordable Intermediate
1 and 2 bed	0	4 (27%)	0
3 bed	0	11 (73%)	9 (100%)
4+ bed	0	0	0

As noted, the application is for 100% affordable units, with no market housing proposed. Therefore, the SPD's expectations are not considered directly relevant to the proposal (although should be noted for context). For the proposed affordable units, strictly applying the percentages set out within the 'affordable rent' and 'affordable intermediate' is also not considered necessary or reasonable, and may limit the ability for 100% affordable schemes to be brought forward.

Regarding the mixture of units proposed, the relatively limited mix of housing types might not be judged acceptable on a market-led scheme or one with a much larger number of units. Kirklees Strategic Housing have requested that consideration be given to providing some houses of four bedrooms or more. The applicant has not provided justification for the mix of housing types chosen. The inclusion of some four-bedroom houses would ideally have been preferred so as to ensure that the development would make a contribution to the supply of homes suitable for larger family units.

Notwithstanding the above, in this case, it is considered that;

- There would be wider benefits of providing 24 affordable homes which makes a significant contribution to overall affordable housing supply,
- The extant permission on site (2021/94364) did not include any affordable housing contribution, following a viability exercise.
- That proposed does provide a more diverse mix than the extant permission (which is three-bedroom only)

Weighing the above factors, and the smaller scale of the proposal, it is considered on balance that the proposed mixture and absence of four-bedroom houses is not a serious shortcoming which warrants refusal.

In terms of tenure, the council's SPD advises that affordable housing on a market-led scheme should provide 55% social or affordable rented and 45% intermediate. As proposed, it would be a 62.5% / 38% split. The deviation is minimal and, again, greater flexibility can reasonably be shown for a 100% affordable scheme. Therefore, the tenure mixture is accepted.

To summarise, the site is a housing allocation in the Local Plan, with the proposal considered to represent an effective and efficient use of the allocated site, in accordance with relevant planning policy. The proposal would aid in the delivery of housing to meet the council's targets at a time of need. Therefore, the principle of development is therefore found to be acceptable, in accordance with policies LP7 and LP11.

Climate change mitigation

A Climate Change Statement has been submitted. This contains, in brief, the following proposed measures:

- Solar PV equipment to be installed on each dwelling;
- Electric central heating to be provided via air source heat pumps;
- Stone from local quarries to be used.

The last point appears to contradict the schedule of materials set out in the application form (artificial stone), but since materials can be conditioned in any case, this is not considered to be cause for concern. The elevations do not show a solar array, so for the avoidance of doubt, details of the size and location of the solar array on each property, and of any other microgeneration measures to be installed, should be conditioned.

The site is within the urban envelope, albeit on the edge, within a location considered sustainable for residential development. It is accessible, lying within an existing established settlement and close to various local amenities and facilities. At least some, if not all, of the daily, economic, social and community needs of residents of the proposed development can be met within the area surrounding the application site, which further indicates that residential development at this site can be regarded as sustainable.

Regarding the social infrastructure currently provided and available in the area (which is relevant to the sustainability of the proposed development), it is noted that local GP provision is limited, and this has been raised as a concern in many representations made by local residents. Although health impacts are a material consideration relevant to planning, there is no policy or supplementary planning guidance requiring a proposed development to contribute specifically to local health services. Furthermore, it is noted that funding for GP provision is based on the number of patients registered at a particular practice and is also weighted based on levels of deprivation and ageing population. Direct funding is provided by the NHS for GP practices and health centres based on an increase in registrations. Local education needs are addressed later in this report in relation to planning obligations.

2 – Urban design and visual amenity

The proposal will be considered having regard to the need to ensure that development conserves or enhances the quality of the townscape and

landscape as set out in LP24(a), and the need to secure the creation of high quality, beautiful and sustainable buildings and places as set out in the NPPF.

The aims of the adopted House Builders' Design Guide SPD also fall to be considered. The principles listed below are considered to be particularly relevant:

- 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. The layout of the development should enable important views to be maintained to provide a sense of place.
- Principle 8 – Transition to open land to be carefully considered.
- 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.

The proposal would make more intensive use of the site than was the case in the approved 2021 application, which comprised only 16 houses and left more undeveloped land at the eastern end of the site. The net density of development, as previously noted, is 39 units per hectare, which is higher than the 35 per hectare treated as a desirable minimum in Policy LP7. The development would be seen in the context of largely undeveloped land to the east, south, and across the road to the west. It would however appear in the context of moderately dense development immediately to the north (on Woodburn Avenue), and it is noted there are pockets of much denser development a short distance further north off Long Lane, notably along Walker Street.

In conclusion, whilst the site's setting could be described as semi-rural, and certainly not intensively built up, the site gives the impression of being visually self-contained and would not be seen as a jarring intrusion of high-density urban development into an unspoilt rural area. The density of development would not seem out of character with established development in the local area.

It is noted that land levels would be raised on parts of the site. The "proposed earthworks" drawing submitted as part of the application (but treated as indicative only) shows that the raising of ground levels would be especially pronounced within the eastern and southern parts of the site, with finished floor and rear garden ground levels being raised in places by between 2.0 – 2.5m, or more, above existing ground levels for Plots 13 – 22. Land levels on Plots 11 – 12 and at the final turning head would be raised approximately 1.5m – 2.0m above existing ground level. The same drawing indicates that

there would be considerable lowering of ground levels, however, within the north-western part of the site.

Whilst it is generally desirable to avoid radical changes to ground levels, the raising of floor levels above natural ground level (as well as excavation in places) has been determined by the need to produce a road layout with safe gradients and accessibility for all. It is acknowledged that it would have an impact on the landform of the site, especially for an observer looking across the site from its north-western corner on Long Lane, to the south-eastern corner where land levels are presently lowest. It is noted however that such views would be seen against a backdrop of rising land on the eastern side of the Chickenley Beck corridor and mature trees within the river corridor, so the impact of the development would be softened and would not stand out against the skyline.

The site plan and indicative levels drawing do not clearly show the height or position of any retaining walls that would be required as part of the development. The earthworks drawing and levels drawing (treated as indicative only as they relate to a now superseded layout) indicated significant land raising to the rear of Plots 13 – 18, continuing all the way to the southern boundary with only slight grading of land, implying that retaining walls of over 2m would be required in places. The architect has however produced indicative sections through Plots 22 and 17 which show the rear garden stepped (and in three tiers in the case of Plot 17) and graded, with no individual retaining wall being more than 1m in height. The height of the boundary retaining wall would be variable because of the amount of land raising varies between plots. However, the indicative section confirms that the developer is willing to step or terrace rear gardens where appropriate so that very high retaining walls would not be needed. It is noted that the belt of trees that exists close to on the southern boundary would be retained and this would serve to soften the impact of the retaining wall. Large boundary retaining walls are generally not a feature of the built environment in Earlsheaton, and high retaining walls at the boundary of new development with open countryside should be avoided if possible as they may appear as visually jarring. It is considered that since the indicative sections indicate that the height of boundary retaining walls would be minimised, and as the plots affected (plots 13 – 22) are set back a considerable distance from Long Lane, thus reducing their prominence, the retaining walls would not form a visually intrusive feature in open countryside and would ensure that a suitable transition from built development to open land is achieved. Plots 23-24, which are closest to the public highway, would not need any significant retaining work as they are not to be raised substantially above ground level.

The location and height of retaining walls near the northern boundary of the site is, again, not explicitly shown on the site plan, but the submitted information suggests substantial reductions in ground level to the rear of Plots 2-8, requiring retaining walls to be built. In terms of visual amenity this is however less of a concern than the ground level changes near the southern boundary, since being at the back of the new houses, they would have

minimal visibility from Long Lane or from the new access road. It is considered their impact on the wider landscape would be negligible.

Finally, it is noted that to implement the current permission would almost certainly require changes in ground level of similar magnitude because of the need to create a safe and convenient highway layout and to ensure it would be accessible by all future residents. At the time, very little information was provided concerning plot and land levels, but the highway section indicated that the estate road would be raised above existing ground levels at the eastern end of the site.

The raising of the parking space to Plot 1 is considered acceptable as it would be the only way to ensure safe access to the highway and is considered to have only modest visual impact.

Full technical details of the final proposed finished ground and floor levels is recommended to be the subject of a pre-commencement condition.

The proposal has been amended during the application process. As originally submitted, it would have involved the formation of a continuous row of 10 parking spaces on the southern side of the access road, which would have resulted in an urban appearance, when viewed in passing from Long Lane, that would not be in keeping with its semi-rural surroundings. The latest version of the plans shows two sets of semi-detached bungalows in this area which results in an appearance more in keeping with the locality. The remaining house types would be in the form of semi-detached houses and short rows of townhouses, some of which would be stepped rather than linear. This would help to avoid the creation of a layout that appears too rigid or formal. It is considered that the development would respond both to its immediate surroundings and the higher-density terraced development further to the north.

It is noted that most private parking would be in the form of double-width parking spaces or driveways placed on the highway frontage. This would result in substantial parts of the layout being dominated by hard surfacing, which the Housebuilders' Design Guide cites as something that should normally be avoided. However, the layout would allow the inclusion of significant amounts of soft landscaping – both private gardens and landscaping – on parts of the road frontage. This would predominantly be towards the western and central parts of the site. Towards the eastern end of the layout, there would generally be less soft landscaping on or close to the road frontage. In the case of Plots 13-20, however, small areas of ornamental planting have been included in blocks to the rear of the parking spaces. Plot 8-12, which would have no landscaping at the front, is a row of five dwellings only and therefore would not appear very monotonous or imposing in the street scene, and there is a small area of landscaping shown adjacent to no. 8. Furthermore, the overall effect would be softened by these dwellings (8-20) being seen in the context of the woodland looking down the estate road towards the river corridor. Whilst development towards the eastern end of the development would, viewed in isolation, present a somewhat hard edge to the

estate road, it is considered on balance that the ratio of parking or hard landscaping to soft landscaping on the frontages, and in the development generally would be acceptable. Landscaping is considered in more detail in the sub-heading below.

The mainly east-west orientation of the development is considered to represent the optimum layout given the constraints imposed by the topography.

None of the new dwellings would exceed two storeys in height, thereby ensuring that the roofline would relate well to the site context (which is also dominated by two-storey houses). The two-storey houses would have a roof pitching at 35 degrees which is commensurate with typical roof pitches in the wider area. All of the above house types would have a window style and positioning that would reflect older development in the vicinity of the site, and would also have roofs supported by corbels. Design of individual houses is judged to be contemporary-traditional in character and would respect the appearance of the existing 20th century built development on Woodburn Avenue.

House types E1 and E2, which have side-facing as well as front-facing windows, has been used to as to avoid the creation of blank or dead frontages on corners.

The application form states that artificial stone and rendering are the intended facing materials, with artificial slates as the roof covering. These are considered acceptable as the site is quite self-contained and given the range of materials in the wider area, which include extensive use of brick and artificial stone on Woodburn Avenue. It is recommended that detailed materials would need to be submitted and approved by condition, and details of boundary treatments will also need to be conditioned as was the case in the 2021 permission.

Most properties have bin storage facilities indicated by a grey rectangle on the plans with space for three bins. These are not explicitly shown for Plots 21-24 but there is plenty of room within the curtilage to store bins round the back or the side of the property. The Housebuilders' Design Guide SPD advises that bin storage locations should be as unobtrusive as possible and, if placed so as to be visible from the highway, it is advisable that they are screened. It is therefore recommended that a condition on detailed design of bin storage facilities be imposed as was done in the previous application.

Landscaping

A detailed landscaping scheme was submitted, which is to include scrub, meadow, flowering lawn, hedge and individual trees – and the species mix.

KC Landscape, in commenting on the original version of the scheme, made the following observations:

- i. Residential curtilages should be better-defined;
- i. Opportunities for the planting of street trees should be taken;
- ii. All new tree planting within 5m of the adoptable highway to include adequate root barrier, clearly identified on the proposed landscape plans.
- iii. Details should be submitted for proposed tree planting in front gardens and highways verges demonstrating adequate soil volumes and tree pit details.
- iv. Landscape proposals, particularly frontline tree planting and planting to landscape areas, should identify all proposed root protection/barriers, drainage, suds and attenuation or soakaways and all easements to ensure trees are accommodated satisfactorily.
- v. The scheme should demonstrate habitat areas, planting native species, and creating ecological corridors to facilitate the movement of wildlife.
- vi. *Cornus Alba* is an invasive species and should be substituted for another.
- vii. A long-term management plan is required.

Regarding the second comment by KC Landscape, paragraph 136 of the NPPF states that streets should be “tree-lined” unless there are demonstrable reasons to the contrary. In this instance the layout has been designed with a footway on its southern side only, and with a width of only 2m. To introduce trees within the footway would create pinch-points, reducing its safety and useability for pedestrians, and to incorporate wider footways, would reduce the capacity of the site or result in many dwellings having very limited amenity space. Whilst there are no “street” trees in the sense of trees located within the public footway, the layout incorporates trees other than in private gardens. Given these constraints and the scale of the proposal, the lack of formal street trees is not considered fatal. It is considered that the proposal incorporates a satisfactory element of soft landscaping for its size and whilst making efficient use of the site.

Points (iii-iv and vi-vii) can, it is considered, be addressed under the remit of a condition and do not have to be addressed at pre-decision. The Council Ecologist has raised no concerns about the use of *Cornus Alba* (Siberian dogwood) as this is not a plant on Schedule 9 of the Wildlife and Countryside Act. Point (v) – possible conflict between tree planting and drainage infrastructure – may present challenges in some schemes especially where an attenuation tank is to be used, but here, no attenuation tank is intended to be installed as part of the drainage scheme and the drainage infrastructure is almost entirely within the proposed highway.

It is recommended that the submitted landscaping scheme is suitable for indicative purposes, however, approval should be subject to a full landscaping scheme (with minor revision to species as mentioned earlier) including a more detailed schedule for implementation and a maintenance plan. The latter has also been incorporated into the signed S106 Agreement.

A separate plan has been submitted (for Section 106 purposes) showing the distinction between private curtilages and managed areas.

All residential properties would have fencing, shown on the landscaping scheme – further or amended details of this can be sought by condition if appropriate (see section on Residential Amenity below).

Existing trees

Under LP33, trees that are valuable to amenity should normally be retained as part of a development and measures taken to ensure their protection and long-term viability. No trees within or adjacent to the site are covered by a Tree Preservation Order but this does not preclude value to biodiversity or to the general amenity of the area. The tree survey identifies a large number of individual trees and tree groups. These include mature sycamore trees forming a belt either side of Chickenley Beck. Other neighbouring tree belts include the cypress and fir trees running along the south-western portion of the Site boundary, a line of young-mature spruce and ash trees running along the south-east of the site boundary, located on the adjacent property, and a line of Leylandii trees that run parallel to part of the northern boundary. Individual trees and tree groups have been designated either category B (moderate value) or C (low value).

The Arboricultural Impact Assessment indicates that most trees on or near site boundaries would be retained as they do not present a constraint to development, with isolated tree removal.

Some of the construction to the eastern part of the site would be entering the Root protection Area's (RPAs) of G5 (adjacent to the river bank), which fall within category B, as the AIA acknowledges, and therefore it is recommended that an Arboricultural Method Statement (AMS) should be conditioned.

Finally, there appears a possibility for long-term conflict between the protection of the tree belt adjacent to Plots 23-24 and these dwellings' residential amenity since the trees would limit light penetration at the rear. This row of trees is on third party land but could potentially be challenged under high hedge legislation. In the event of these trees (Leylandii) being subsequently felled or topped, it is considered that this would not be a significant loss to the amenity of the area. It is considered that other trees near the site boundaries are unlikely to provide a potential for conflict.

Conclusion

In conclusion, it is acknowledged that the proposal represents a high-density form of development in a semi-rural location, and that significant changes in ground level will be necessary to accommodate it. It is considered however that the layout, scale and design shows sensitivity to its context. Subject to conditions as set out above, including further clarification of finished ground levels, would conserve visual amenity, local character and sense of place and thereby accord with the aims of Policy LP7, LP24(a), and NPPF Chapter 12.

3 – Impact on residential amenity

Under Policy LP24(b), new development must provide a high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings.

The following principles within the Housebuilder Design Guide are of particular importance to the assessment of residential amenity:

- Principle 6 – sets out the typical minimum separation between new and existing dwellings in the interests of avoiding a negative impact on privacy or light. These are:
 - 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.

3a) Level of amenity for occupants of proposed dwellings:

The house types meet or exceed the relevant Nationally Describe Space Standards.

Garden size would be variable throughout the development. Most would have a rear garden of 10m or more depth, and be commensurate in scale to the dwellings they would serve. Plots 23 and 24 would have proportionally smaller gardens compared to other units, but as these are single-bedroom dwellings, a smaller garden is not unusual.

Separation distances between facing habitable rooms within the development would vary between 15m and 23m. The recommended separation distances in Principle 6 set a distance of 21m to be maintained where they face each other at the rear. Where they face each other across the street, the appropriate distance must be decided on a case-by-case basis. On the whole, it is considered that the proposed layout would not result in any future residents feeling overlooked at close quarters or suffering overbearing impact from the bulk or proximity of development.

Notwithstanding the above, plots 23 and 24 would benefit from a somewhat limited outlook. To their front, plots 23 and 24 outlook would be across the street and towards the front parking and gardens of the dwellings opposite, whilst to the rear it would only be across a narrow strip of amenity space to the boundary: the site boundary lies only 2.5m from their rear elevation. However, house type B1 (plot 24) would however have their living room served by a side-facing window which would face south-west, helping to alleviate any sense of limited outlook. House type B2 (plot 23) would have open plan living area which would benefit from windows both to the north and the south, therefore reducing the reliance upon a single window. Despite this, it must be acknowledged that the outlook would be limited. Nevertheless, given that the dwellings otherwise provide a good standard of amenity, on balance the impact of the limited outlook would not be so severe to reasonably warrant refusal of the proposal.

The location of the proposed development means that future occupants would be unlikely to be subjected other amenity problems as there are no sources of noise or odours (other than farming, which is to be expected in a rural area) within the vicinity of the site.

In conclusion it is considered on balance that the level of amenity achieved for future residents, taking into account outlook, privacy, internal floorspace and outdoor amenity space, would on balance be satisfactory.

3b) Impact on amenity for existing dwellings adjacent or close to the site:

A condition requiring the submission and approval of a Construction (Environmental) Management Plan (C(E)MP) is recommended. The necessary discharge of conditions submission would need to sufficiently address the potential amenity impacts of construction work at this site, including cumulative amenity impacts should other nearby sites be developed

at the same time. Details of dust suppression measures would need to be included in the C(E)MP. An informative note regarding hours of noisy construction work is recommended.

Clough Farm – to north

The nearest property to the northern site boundary is Clough Farm. This property's west and east elevations are considered the building's principal elevations, as they contain the main approach and entrance, as well as most of the windows including the dormer windows; the south elevation that faces nearest proposed units within the site, plots 04 – 07, is therefore a side elevation. There are however two large windows in the southern elevation, one near the centre of the elevation and one near its western end, and one smaller one set lower in the elevation near its eastern end. The approved plans for the conversion of the building to a residential use (application 2000/92932) show that the small window is a secondary window to a bedroom, whilst the two larger windows are to a lounge, which also has a front-facing window. They also indicate it is split-level, with floor levels at the rear being approximately 800mm lower than at the front.

The 21m recommended minimum distance in the SPD above refers to "habitable room windows at the backs of dwellings" and it is therefore not clear that it should be strictly applied where the facing elevations are, respectively, a rear and a side elevation. In the officer's report for the 2021 application, the case officer noted that the rear windows to Plot 4 would directly face the southern elevation of Clough Farm, but that they would meet the minimum 12m standard set out under the Housebuilders SPD. The 21m standard was therefore not applied on that occasion. It is also accepted, as a general principle, that the presence of existing habitable room windows that are set very close to a plot boundary should not normally be allowed to prevent or severely curtail development on neighbouring land. However, any possible impact on privacy arising from mutual overlooking must be given consideration.

From utilising scaled measurements on the site plan, the closest distance between proposed new habitable room windows and the nearest existing window would vary between 15.9m (for Plot 5) and 14.3m (for Plot 6).

Existing ground levels within the site are already lower than those on Clough Farm's side, and are to be reduced further, so that the new dwellings would be approximately a full storey below Clough Farm. Floor levels are to be set at the lowest practicable level, to create a useable and adoptable road layout whilst keeping the new dwellings raised above highway level to prevent risk of flooding. In the absence of a full scheme of finished floor and ground levels, there is however no assurance that a standard 1.8m fence built on the boundary line would completely block the line of sight. But screening would at least mitigate any overlooking effect, which would also be mitigated by the two facing walls being angled from each other, and the facing windows being slightly offset.

Considering the relationship between Plots 5-6 and Clough Farm, the proposal could be considered finely-balanced owing to the mutual distance between habitable room windows falling significantly short of the 21m generally recommended and the lack of guarantees of effective boundary screening. But it should be noted that there is an extant permission, 2021/94364 in which a separation distance of between 14 and 15m between facing windows was accepted in the case of Plot 4, which also had rear-facing bedroom windows. It is considered that if the 2021 scheme were to be implemented, the resultant relationship between Plot 4 and Clough Farm would not be significantly different to the relationship between Plots 5-6 and Clough Farm in the layout now proposed. It is considered on balance that the effect would not result in a significant loss of amenity to Clough Farm and it would not be possible to substantiate a refusal on the grounds of reduced privacy.

Plot 7 would have the potential to introduce a new source of overlooking. It would be placed so that its rear elevation, containing one centrally-placed first-floor bedroom window, would be approximately 8m from the boundary with Clough Farm's curtilage. Its direct outlook would be towards Clough Farm's rear garden (with the view towards the dwellings being off-set). The updated section indicates that with a 1.8m fence built on the boundary, the line of sight for an observer in the first-floor bedroom of Plot 7 would be over the top of the fence, thereby potentially introducing a new source of overlooking into what is at present quite a secluded garden. The new bedroom window would also be 19m from a south-facing set of glazed doors in a small rear extension to Clough Farm, which should be treated as a habitable room window in the absence of evidence to the contrary. The line of sight would be somewhat oblique and offset, but it is considered that this alone would not be enough to justify a 2m shortfall in the recommended distance.

It is generally undesirable to require a primary habitable room window to be fitted with obscure glazing since this would deny future occupants an outlook and therefore detract from their level of amenity, and making the window high-level would not be an acceptable alternative because it would need to serve as an escape window to comply with the Building Regulations. Taking a pragmatic approach, it is considered that an alternative window design – a horizontal division with the lower part of the window obscurely-glazed and hinged at the top – would significantly limit overlooking. It is recommended that a condition be applied seeking details on how overlooking is to be mitigated. Whilst this might not completely block any line of sight, it would ensure that any perceived loss of privacy would be negligible and not enough to detract from either property's level of amenity.

Plots 3-4 would have their rear elevation approximately 10m from the common boundary. The area overlooked by Plot 3 would be the driveway; that overlooked by Plot 4 would be mainly a private area to the front of Clough Farm that appears to be used mainly as a parking and turning area rather than amenity space, and (obliquely and at a distance of 19m), the side window of a conservatory. It is considered that this would not give rise to any

material loss of privacy, and it is noted that similar relationship was accepted in the assessment of 2021/94364 in which Plot 3 was shown in a similar position but 700mm closer to the boundary.

Finally, Plots 1-2 would be positioned approximately 9.5m from the site boundary but would only overlook a driveway that also serves Clough House.

In conclusion, it is considered that taking into account all relevant factors as set out in this section including the extant permission, and subject to conditions, the relationship would be acceptable.

Impact on 30-36 Woodburn Avenue

Nos 30-36 Woodburn Avenue share a boundary with the application site, although 30 – 32 are off-set to the new properties with limited prospect of material impact from the proposal. Nos 34 and 36 are aligned more directly with the new development, so this section will focus upon these two properties.

The distance between the rear windows of the new dwellings on plots 8-10 would, with respect to the original rear elevation of 32-36, exceed the recommended 21m, being approximately 22m. When rear single-storey extensions to the existing properties are taken into account, the separation distance is reduced by about 3m in the case of no. 34 and 4m in the case of Plot 36. The guidance on minimum distances in the SPD quoted above does not explicitly state whether the distance should be maintained with respect to the original dwelling, or the original plus extensions, but as a starting point it is considered reasonable to treat rear extensions as if they were part of the original building, and maintain the recommended distances unless a shortfall is justified.

The 2021/94364 officers' report to Committee acknowledged the presence of these rear extensions and observed that ideally a greater separation distance would have been preferred. The officers' report concluded that the shortfall in distances (between new development and existing extensions) could be deemed acceptable because 32-36 Woodburn Avenue is at a higher level than the development site. This however appeared not to take into account the significant step in levels between nos. 34 and 36 (no. 36 being lower), and the fact that ground levels in this part of the site would need to be raised – apparent from the highway long section, which showed the new estate road being raised by approximately 1m towards the eastern end of the site. Whilst it is noted that the two facing elevations were not parallel but slightly angled from each other, this would only have been by about 5 degrees, which is not considered enough to have a significant mitigating effect, nor was this cited as a factor in the report at the time. The closest distances between proposed first-floor and existing ground floor habitable room windows (based on scaled measurements not annotations) would have been approximately 18m in the case of Plot 7-8 to no. 34, and 17m in the case of Plots 8 and 9 to no. 36.

Returning to the current application, it is considered that the relationship between Plots 8-9 and no. 34 would be similar. In the case of no. 36, the line of sight between new and existing windows scheme was very slightly offset on the 2021 plans, whereas on the current scheme the line of sight from the nearest bedroom window towards the nearest ground floor window in the extension would be more direct. But this effect would be mitigated by being the new development being set approximately 1m further away. It is therefore considered, on balance, that the relationship between existing and proposed would not be materially different to what would occur if the extant permission were implemented.

To conclude the assessment of potential privacy impacts on nos. 34-36 Woodburn Avenue, this would be a finely-balanced case in the absence of an extant or recent permission. But it is considered that given the extant permission, which was assessed according to the same adopted policies and guidance that are now in force, it would not be possible to substantiate a refusal on the basis of impact on privacy since it would not be possible to demonstrate that the effect would not be materially different to what would occur if the 2021 scheme were implemented.

Where overlooking distances fall short of the recommended minimum, opportunities should be taken to mitigate or prevent any overlooking that might occur. The opportunity exists to find ways of preventing or minimising overlooking between ground floor windows, although not between first-floor and ground-floor windows. The indicative levels drawing showed that the ground would fall away from both the existing and proposed dwellings to the boundary, so a standard boundary fence might not be effective at preventing a line of sight between ground floor windows. However, it is expected that a degree of terracing or stepping of the proposed rear gardens would take place so as to create amenity space that would be easily useable by future occupants, and the opportunity exists to install screening at the edge of any terraced or raised land. This can be incorporating into a general condition on boundary screening.

Being positioned to the south of the existing development, the new development still might have some impact on direct sunlight to windows and gardens, especially in mid-winter when solar angles are low, but considering the separation distances and what is expected to be only a modest difference in finished floor levels, it is considered that this would be minor and not enough to substantiate a refusal, notwithstanding that the density of development on this part of the site would be greater than before.

Impact on Mitchell Laites Farm

The proposed development would be closer to Mitchell Laites Farm than approved via 2021/94364.

As with many farm holdings, it is not immediately apparent where this property's domestic curtilage and amenity space ends, and where farmland begins. Nevertheless, the dwellinghouse rear elevation faces north, towards

the site. The farmhouse is also set at a lower level than the site and proposed units. The line of sight from plots 23 and 24 would be towards the rear elevation at a distance of 20m.

Whilst plots 21 and 22 are set further back from the boundary, compared to plots 23 and 24, they are also proposed to be more elevated compared to the natural ground levels. Plots 21 and 22 do not face towards the dwellinghouse, although do face towards land presumed to be garden space.

Mitchell Laithes Farm already has a somewhat limited outlook and restricted ability to receive light from the north, owing to the rising line and line of trees on the boundary. Because the new dwellings on these plots would be single-storey, it is considered that any impact upon the northern outlook for Mitchell Laithes Farm, or light received by it, would be negligible.

However, there would need to be measures to prevent overlooking (both of habitable room windows and garden) from the new dwellings, towards Mitchell Laithes Farm. At present, the trees may fulfil this function, but it is not possible to guarantee that they would be retained at all times in the future. Nos. 23 and 24 would appear to have a floor level similar to existing ground levels. There would therefore be no difficulty in screening the boundary with a fence of standard height. Nos 22 and 21 would be set further from the common boundary, approximately 5.5m and 8.0m, but would also be more elevated both in relation to existing ground levels and the land to the south. A further section has been provided showing the rear garden stepped and with a retaining wall of 1m in height on the boundary. This is to be treated as indicative only, but indicates that a 1.8m fence erected on top of the retaining wall would be effective at preventing a line of sight into private land below.

While the retaining wall (1m) and fencing (1.8m) would be adjacent and clearly evident from the garden space, they would be off-set from the outlook of the dwelling, and therefore are not considered to result in materially harmful overbearing.

In conclusion, it is considered that Mitchell Laithes Farm would not experience any material loss of amenity, subject to conditions.

Clough House

This is a single-aspect dwelling (windows in southern elevation) and as such might be considered more sensitive than a house that also has a rear or secondary outlook. However, a stand-off distance of 30m would be maintained between the southern elevation of this existing dwelling and the new two-storey houses on Plots 1 and 2, which would furthermore have a lower ground floor level owing to the topography of the land. From the proposed rear-facing bedroom windows in these houses, the distance to the nearest part of Clough House's curtilage (not including the driveway which at this point is shared, providing access also to Clough Farm) would be a minimum of 13.5m which is considered far enough away to avoid having an

impact on privacy. It is therefore considered that no adverse impact on this property would occur by reason of impact upon privacy, light or outlook.

Summary of the impact(s) on adjacent residents

Perceived loss of, or interruption to, a private view, highlighted as a concern in at least one representation, is not a material consideration.

Whilst it is recognised that in some parts of the site there would be shortfalls in recommended minimum distances with regard to existing properties, loss of amenity arising from reduced privacy could be prevented or suitably mitigated with a suitably-designed scheme of boundary treatments for the site, which can be the subject of a planning condition.

It is therefore concluded that, subject to conditions, the development would not give rise to any significant adverse effects on existing residential properties and would accord with the aims of LP24(b) and the relevant parts of the Housebuilders' Design Guide SPD.

4 – 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 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 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.

Long Lane is a single two-way 20mph carriageway with street lighting. There are no footways along this section of Long Lane. The nearest footway is 30m to the north. Pedestrian provisions between the site and the Headland Lane/Town Street junction in the centre of Earlsheaton is considered poor with narrow footway and roads and in some places no footway provisions.

To the south of the site, Long Lane provides access to three other dwellings and a waste water treatment works. Traffic volumes are therefore expected to be light.

The application site is situated within a 2km walking catchment of Earlsheaton local facilities including a primary school, health services, post office and convenience stores. Bus stops are located on Town Street, approximately 1km from the site, providing a combined frequency of one bus every 10 minutes on weekdays and Saturday and one bus every 20 minutes on Sundays. The site is therefore not ideally situated for access by non-car modes, but nor is it considered to be isolated, as existing or future residents will be able to fulfil many of their daily and weekly needs without making lengthy car journeys.

The level of traffic generation associated with the proposal is not considered significant and would not materially affect the local network. This is giving due regard to cumulative development within the area.

Plan reference AMA/20466/SK003, forming part of the highway statement, shows that sight lines of 2.4m by 43m can be provided in each direction.

A footway is proposed along the side frontage in each direction. The Road Safety Audit recognises the problem of poor pedestrian provision in the local area. It advises to ensure that appropriate dropped crossing points are provided (shown on the latest version of the site plan) and that some form of road marking that would better tie the new development into the existing footway at Woodburn Avenue. It does not recommend the construction of a new length of footway beyond the site boundary.

The officer report on 2021/94364 recognises that footway provision in the local area is inadequate. It goes on to say that the developer had agreed to fund footway improvement works with the provision of dropped pedestrian crossing at the Woodburn Avenue junctions with Long Lane and edge of carriageway white lining between the northern end of the proposed footway along Long Lane and the existing footway 30m to the north of the site. A condition was imposed requiring full details of any footway improvement works and in addition a £4,000 contribution to off-site works was secured by Section 106 Agreement. It is unclear from the officer's report why both these provisions (condition and financial contribution) were considered necessary.

Regarding the present application, it was agreed following further discussion with Highways Development Management that the scope of works covered by this condition were too extensive and that a simpler condition requiring measures to improve pedestrian provision between the site entrance and Woodburn Avenue would suffice. There is insufficient room to provide a new footway, which would unacceptably narrow the carriageway, but road markings would be a practical improvement. Highways Development Management have confirmed that details would have to be supplied but that works of this nature would not require an independent safety audit.

In summary, it is considered that notwithstanding the increase in the number of dwellings from the last permission, these modest improvements in pedestrian provision would be proportionate to the increased pedestrian and vehicular traffic on this road.

The internal layout, following some modifications to ensure forward visibility at bends, is now considered satisfactory in terms of alignment, visibility and gradients. The central turning head would allow a standard-sized refuse vehicle to safely service the site. A footway is provided along the southern edge of the main estate road, and an additional footway to the northern spur to compensate for the relatively steep gradient.

Private parking is provided at the standard ratio set out in the Highway Design Guide of one space for a single-bedroom house, two spaces for a three-bedroom house. Visitor parking is provided at the standard ratio of one for every four houses (six in all) and distributed appropriately throughout the site to ensure maximum accessibility.

It is recommended that the following matters concerning site access, parking and servicing be covered by a condition:

- Completion of Estate Street Phasing;
- Provision and retention of sight lines;
- Details of measures to improve pedestrian provision;
- Provision and retention of the approved vehicle parking areas (the wording in the condition on the 2021 permission, provides that they be given permeable surfacing. This is no longer considered appropriate since the site as a whole is subject to a drainage scheme which identifies parking spaces as impermeable areas);
- Details of waste collection arrangements (including temporary waste collection arrangements for dwellings that are already completed and occupied, if development is to be phased);
- Construction Management Plan;
- Pre- and post-development road condition surveys;
- Details of retaining walls to be submitted as AIP;
- Details of drainage infrastructure within the public highway.

The wording of the refuse collection condition supplied by the Highway Officer amalgamates temporary and permanent waste collection arrangements. It is considered however that for the sake of clarity these should form two separate conditions.

Condition (14) on the previous permission required that details of any retaining walls adjacent to the existing or proposed adoptable highway be submitted before development commences. The plans do not explicitly indicate that there will be any retaining walls adjacent to the public highway. The drawing showing the extent of cut and fill indicates however that retaining walls are likely to be required at the northern end of the site boundary with Long Lane and at the northernmost extent of the adoptable access road. This condition is therefore deemed reasonable.

The now-standard condition on the surface water attenuation tanks/pipes/manholes within the highway footprint is also recommended (this

was not imposed on the 2021 permission but it is now generally applied to major housing schemes) in the interests of ensuring that there is no risk of damage to drainage infrastructure or subsidence of the highway land.

Condition (18) on the previous permission for the provision of grit bin facilities is non-standard and it is unclear why it was deemed necessary when it is not imposed as a matter of course even for much larger housing applications. It is therefore considered it does not need to be applied here. If the future management of the development believe that such facilities are necessary, they can take responsibility for providing them and decide on their location without any input from the Council acting as Local Planning Authority.

Finally, the submission of a full travel plan which was also imposed on 2021/94364 will not be applied, since it is not, at the present time, a standard requirement for developments of this scale.

Cycle storage provision is not acknowledged on the submitted site plan or other supporting documentation. Under the Highway Design Guide, storage for at least one cycle per dwelling should be provided. Details of secure storage should be conditioned in the interests of promotion of low-impact means of transport and of healthy and active lifestyles in accordance with Policies LP20 and LP47.

In conclusion, subject to the above conditions, it is considered that the development would provide a safe means of access to the public highway whilst delivering modest improvements to pedestrian provision in a way proportionate to the scale of the development, and would provide an internal layout that would be safe and convenient for future users. It would thereby support the aims of Policies LP20-22.

5 – Drainage

The site is not registered as being at risk of flooding in either the Kirklees Strategic Flood Risk Assessment or that undertaken by Kirklees Council, and therefore falls within Flood Zone 1. As noted earlier, previous iterations of the EA's Flood Maps For Planning extended further into the site, but have since been superseded by new versions with a negligible encroachment into the site.

Under Policy LP28, the expectation is that sustainable drainage systems will normally be used, to ensure that existing run-off rates are not exceeded (for greenfield sites) or a 30% reduction is achieved (for brownfield sites), whether drainage is ultimately to the mains or to a watercourse.

The following documents by eleven52 architects have been reviewed by the Lead Local Flood Authority (LLFA):

- Drawing Ref: 0389_LON_103, Proposed Site Plan, Rev C dated 28/02/2024.

Dart Engineers Ltd.

- Document Ref: 23590-FRA-001, Flood Risk Assessment, Rev A dated 30th January 2024.
- Document Ref: 23590-Long Lane Flow, Causeway Hydraulic Calculations, dated 15/02/24.

Discharge of surface water to the nearby watercourse (Chickenley Beck) is proposed, with flow attenuation before discharge by means of a hydrobrake system (i.e. in the form of pipes located within the highway rather than a tank). This is accepted in principle as being the most sustainable option. The Utilities Statement states that foul drainage is to be to the existing combined sewer which is located near to the site boundary. Yorkshire Water comments on 2021 application were that they accepted that foul water would discharge to the public combined sewer, surface water to Chickenley Beck, which is the same arrangement that is proposed here. Kirklees maps indicate that the public combined sewer is on the opposite side of Chickenley Beck and does not lie within the site; there will therefore be no need to secure re-routing of the sewer or an easement.

Kirklees Lead Local Flood Authority (LLFA) support the proposal subject to three drainage conditions (detailed drainage design scheme, overland flow routing, and details of temporary drainage arrangements), all of which are to be pre-commencement. It is recommended that these are applied to the permission.

The Flood Risk Assessment finds that the site lies entirely within Flood Zone 1 meaning that there is a low risk of flooding. It advises that the only flood protection measures needed are that building levels will be lifted 150mm to help mitigate the chance of flooding and there will be no flat spots around the any of the buildings to allow the runoff to pass by. It is considered that this does not need to be conditioned separately since its requirements would be covered by the standard conditions requiring full detail of levels and flood routing.

Subject to the above, the development would ensure the sustainable drainage of the site whilst ensuring that any risk of flood for future users would be prevented or minimised, in accordance with the aims of Policies LP27-28.

6: Contaminated or unstable land

Paragraph 196 of the NPPF states that planning policies and decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and that any risks arising from land instability and contamination are investigated. This approach is also supported by Policy LP53.

A Geoenvironmental Strategy and Remediation Strategy authored by Lithos dated May 2024 (ref: 2986/2A) has been received in support of the application. The reports include geo-technical information which is outside the remit of Environmental Health, who have commented only on the land contamination aspects of the report.

The report indicates that investigations found the natural and made ground topsoil, as well as the ash and clinker beneath the site, to be contaminated with various inorganic and organic substances, rendering them unsuitable for use in gardens or landscaped areas. Additionally, the ash and clinker were classified as potentially combustible. Remediation proposals have been provided.

K.C. Environmental Health are generally supportive of the proposals subject to the implementation of the approved remediation strategy and validation report being the subject of a prescriptive condition. KC Environmental Health do not support the re-use of subsoils at the site without additional testing, but the requirement to prove that soil is suitable for reuse, over a certain quantity, is covered by the provision of a Materials Management Plan (MMP) for waste regulations. The overlap is that before the validation sign off, the developer must demonstrate clean soils have been used.

A very small part of the site near the south-eastern corner (approximately 85sqm) lies within a Coal Referral Area. The Mining Remediation Authority concluded in the assessment of the previous application that since no build would take place within this area, that an intrusive survey would not be necessary. In the present application, a small part of three rear gardens would fall within this zone. The Mining Remediation Authority, commenting on the present application, highlight the presence of the Coal Referral Area as a "material consideration" and request an informative note be placed on the decision notice, but do not recommend any conditions or further survey work pre-determination. It is therefore considered that the risk of the development being affected by land instability arising from coal mining legacy is negligible. In this instance therefore no further survey work or conditions are needed in order to comply with LP53.

7 – Ecological implications

Under Policy LP30, development should avoid harm to the ecological value of a site as far as possible, with any losses of ecological value being compensated for either on-site, or off-site by means of a legal agreement, in such a way that a measurable net gain achieved.

The site forms part of the Kirklees Wildlife Habitat Network. This should not be taken to preclude development since the site is a housing allocation. The Site is within a Site of Special Scientific Interest (SSSI) risk zone; but the development type is not included within a risk category. Previous permissions for the site have had a less extensive developed area, with the current proposal extending further east, especially in the middle part of the site where the end of the access road extends about 1m past the bank top as identified on the survey.

The following documents have been submitted and have informed officers' assessment of the biodiversity value of the site and the impact of the development:

- Preliminary Ecological Appraisal, amended March 2024
- Biodiversity Net Gain Metric version 4, March 2025
- Biodiversity Net Gain Statement, version P04, March 2025
- Biodiversity Net Gain Plan, latest version March 2025.

Whilst the site survey was conducted outside the optimum time of year, it is considered that the PEA provides an assessment of the site's existing biodiversity value that is acceptable for planning purposes given the size of the site and scale of the development.

The PEA recognises that the site had been cleared of the majority of its vegetation prior to the site visit, and assessment of the scrub habitat which previously comprised the bulk of the site was therefore based on aerial assessment of backdated mapping and taking a precautionary approach. Therefore, descriptions of habitats on-site include those which have now been removed.

The PEA finds that the main habitat types on site are: Modified Grassland and Ruderal Herbs; Mixed Scrub; Lowland Mixed Deciduous Woodland; Hedgerow.

The PEA finds that there are no potential roosting features for bats on site (but that it might provide foraging grounds). There are some opportunities for foraging and breeding birds. It finds evidence of the presence of hedgehogs but not of riparian mammals. It finds generally limited suitability for amphibians, including Great Crested Newts as there are no desk study records of GCN located within 2km of the Site dated within the last ten years. Finally, it advises that a further survey for reptiles to assess their presence/absence is undertaken. Whilst it would have been desirable for this to have been undertaken during the summer of 2024, it can be conditioned that an updated reptile survey is conditioned, to be undertaken at a time of year when reptiles are active. Such a condition is recommended.

As a precautionary measure, it is recommended that permission be subject to the submission of a CEMP (Construction Environmental Management Plan): Biodiversity to guard against the possibility of harm to biodiversity during the construction period. This is considered reasonable since the presence of amphibians, reptiles, mammals and ground nesting birds on the site cannot be ruled out.

The PEA advises that an invasive species survey should be undertaken at the site including of the Chickenley Beck banks within the botanical growing season, to determine if Schedule 9 invasive non-native species are present. If invasive species are present, then an Invasive Species Management Plan and control of the invasive species will be required. This, it is recommended, should form part of the Construction Environmental Management Plan (Biodiversity).

The Environment Agency, following the submission of the updated PEA, BNG Metric and other supporting documents, do not object to the proposed development. They have however recommended the following conditions:

- No development shall take place until a scheme to protect retained habitats and species has been submitted to, and agreed in writing by, the local planning authority and implemented as approved. Thereafter, the development shall be implemented in accordance with the approved scheme.

The EA's reason for requesting this condition is that development that alters habitat within the flood plain, encroaches on Chickenley Beck and its riparian buffer, as well as impacts on wildlife may severely affect its ecological value and lead to breaches in legislation.

They also recommend a footnote advising the developer that a Construction Environmental Management Plan (CEMP) should be produced to ensure that there is no impact to the watercourse or the woodland. This should include but not be limited to, pollution prevention and suitable fencing and warning signs to avoid impacts on retained habitats, and should follow the recommendations in the PEA. A condition for a CEMP would normally be imposed on a development of this scale in any case; however, the wording of it can specifically mention the watercourse to ensure that its importance is highlighted.

Officers consider that the provision of a CEMP will suitably protect Chickenley Beck during construction. However, an amended version of the above requested condition is recommended, for long-term protection measures. This need not be pre-commencement, given it relates to post-development matters.

The EA also recommend a suitable lighting strategy is used that follows best practice guidelines outlined in Bats and Artificial Light at Night (2023) to maintain suitable foraging and commuting routes, namely Chickenley Beck and adjacent woodlands as part of the CEMP.

The PEA also recommends that habitat boxes comprising bat boxes on 10% of all completed buildings and also attached to mature trees, and bird boxes suitable for sparrows, swifts and house martins be provided, the exact number and location to be determined at a later date. The Council Ecologist has advised that this should be imposed as a separate condition. This is considered reasonable since the mandatory condition on submission of a Biodiversity Gain Plan (see subsection below) is principally concerned with gains in semi-natural habitat and not artificial enhancements.

To conclude this section, it is considered that the biodiversity value of the site does not justify preventing development or further limiting the developable area of the site, nor is it essential for any further surveys or reports to be undertaken pre-determination, since the submitted information provides a reasonable degree of certainty that harm to protected or notable species

would be unlikely to occur in accordance with the aims of Policy LP30 and Chapter 15 of the NPPF.

Ecological net gain

The provision of a Biodiversity Net Gain (BNG) of 10% is a mandatory requirement for developments in England under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) (hereafter the Act). This is subject to limited exceptions. Unless exempt, every planning permission granted pursuant to an application submitted after 12 February 2024 is deemed to have been granted subject to a pre-commencement condition requiring a Biodiversity Gain Plan to be submitted and approved by the local planning authority prior to commencement of the development.

The applicant has not put forward a case that the development is exempt from the 10% provision, nor do officers consider exemption applicable. In accordance with national guidance, the application is supported by an assessment confirming the pre-development biodiversity value of the on-site habitat, on the date of application, using the Metric 4.0.

The habitats provided a total of 4.22 habitat units, with a combination of low, medium and high distinctiveness habitats. The hedgerow was of low distinctiveness and provided 0.48 units. The watercourse was of high distinctiveness and provided 1.01 units. In order to provide the mandatory 10% net gain, it has been calculated that the following will be required:

- 4.64 habitat units;
- 0.53 hedgerow units; and
- 1.11 watercourse units.

Based on the current proposals, 0.52 Habitat Units will be created on site. The biodiversity net gain plan must be treated as indicative only since it is based on the superseded layout but indicates that this is likely to be achievable. The proposed development will therefore result in a -87.57% loss in habitat units, a 100% loss in hedgerow units, and no change in watercourse units. A total of 4.11 additional habitat units, 0.53 additional hedgerow units, and 0.10 additional watercourse units will therefore be required off-Site to achieve a 10% gain.

The delivery of these units, either on-site or off-site, would be secured via the statutory condition from The Act.

In accordance with The Act, due regard must be given to whether the proposed net gain (including enhanced areas of existing habitat) amounts to a significant enhancement. Significant enhancements are areas of habitat enhancement which contribute significantly to the proposed development's BNG, relative to the biodiversity value before development. The Act requires that the maintenance of these significant enhancements must be secured with a legal agreement, for a minimum of 30 years.

In this case, the habitat to be created is significant because the aggregate amount of net gain delivered comprising all types of units will be in excess of 0.5 units (consisting of a net gain of 0.41, 0.05 and 0.1 in habitat, hedgerow and watercourse units respectively). It is considered that given the scale of the site and the development, the requirement for a 30-year habitat management and monitoring plan does not need to form a separate condition on the decision notice but can be delivered through compliance with the statutory condition which is imposed on the decision notice as an informative.

7 – Planning obligations

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. Should planning permission be granted, Officers recommend that this application should be subject to a Section 106 agreement to cover the following:

Affordable Housing

Policy LP11 of the Local Plan and the council's Affordable Housing and Housing Mix SPD requires major developments (of 10+ dwellings) to contribute 20% of total units as affordable housing.

This matter has been considered elsewhere within this report. In summary, the proposed affordable housing offer is acceptable.

In the interest of ensuring the delivery of the affordable units, it is recommended that the S106 agreement secure the 100% delivery of the affordable units, as has been applied for and assessed.

Public open space

The plan shows some areas of landscape planting and meadow grass. These should be regarded as highways verges or as buffer and screen planting which will assist in meeting the requirements of biodiversity net gain but will make no effective contribution to open space for use by the public as per LP63.

This development would attract contributions towards amenity green space, children & young people, parks & recreation, outdoor sports (not allotments because this is only applicable for developments of over 50 units) which would have to be achieved by means of a financial contribution. There are existing facilities in the vicinity, within the recommended 720m for accessibility of the site, or Earlsheaton Park, a larger facility, just over the 720m. A financial contribution of £53,766 has been calculated as necessary to cover the shortfall.

Management and Maintenance

Clauses are required to ensure appropriate arrangements are in place for the ongoing management and maintenance of certain features on the site, and their inspection. This includes arrangements for the management and maintenance of drainage infrastructure (prior to adoption by a statutory undertaker) and Public Open Space on site in perpetuity.

8 – Other issues

Minerals

The application site is within a wider mineral safeguarding area relating to surface coal resource (SCR) with sandstone and/or clay and shale. Local Plan policy LP38 therefore applies. This states that surface development at the application site will only be permitted where it has been demonstrated that certain criteria apply. Criterion 1c of policy LP38 is relevant, and allows for approval of residential development here, as there is an overriding need (in this case, housing needs, having regard to Local Plan delivery targets) for it. Coal extraction is furthermore likely to prove impracticable owing to the necessity of maintaining the requisite stand-off distance between such workings and established residential development. The proposal is therefore not considered to conflict with policy LP38.

Crime and security

The Designing Out Crime Officer (West Yorkshire Police) do not raise any specific concerns about the development but advise that a condition seeking measures to minimise the development's vulnerability to crime should be imposed. This is considered reasonable and in accordance with current practice.

Permitted development rights

In the assessment of the 2021 application, officers raised concerns about plots 7, 8, 9 and 10 being able to build extensions owing to the risk that this would further compromise privacy and sunlight to existing properties in the future. A condition was thus imposed that removes permitted development rights.

It is recommended that a similar condition be imposed in respect of the equivalent plots for this scheme, 8-12, owing to their proximity to nos. 34-36 Woodburn Avenue, as already noted. It is recommended that this should also apply to Plots 23 and 24 because of their having very limited outdoor space which, in the interests of the amenity and well-being of future occupants, should not be reduced in size further.

Air quality

The site is not within an Air Quality Management Area, nor of a scale to warrant an Air Quality Impact Assessment. However, a condition requiring the provision of EVCPs and their retention thereafter is recommended, to promote alternative methods of travel and promote climate change measures.

10 – Representations

Several of the matter raised in the letters of representation have been addressed in the main body of the Assessment. Those not previously addressed are summarised below with officer responses.

- Please also see the comments on the rejection of a proposed planning application for 3 dwellings directly next to the proposed development (planning application 87/62/04777/a2) – “The site does not have a satisfactory link with the adopted highway systems.....it would also create difficulties for service and emergency vehicles.”

Response: Each application must be assessed on its own merits, against local and national policy relevant at the time of determination. This application is considered too old to be relevant as there have been several changes in the planning policy context since that time.

- There is a significant lack of local amenities for families of the new development. For example, the only public Park is a long distance from the development. This contains the only children’s play area and public area in Earlsheaton.

Response: As previously mentioned, a financial contribution by Section 106 has been secured which will be put towards the improvement of local facilities. The lack of children’s and young people’s provision on site is not considered a significant shortcoming as such provision is not generally expected in developments of this scale.

- There are no school places available locally.

Response: Whilst pressure on existing schools is an understandable concern, it is not Kirklees policy to seek a financial contribution to school places for developments of fewer than 25 units. It would therefore not be possible to treat this factor as a material planning consideration.

- Impact on medical facilities.

Response: There is no policy or supplementary planning guidance requiring a proposed development to contribute to local health services. However, Kirklees Local Plan Policy LP49 identifies that Educational and Health impacts are an important consideration and that the impact on health services is a material consideration. As part of the Local Plan Evidence base, a study into infrastructure has been undertaken (Kirklees Local Plan, Infrastructure Delivery Plan 2015). It acknowledges that funding for GP provision is based

on the number of patients registered at a particular practice and is also weighted based on levels of deprivation and aging population. Therefore, whether additional funding would be provided for health care is based on any increase in registrations at a practice.

- The coverage of on-site contamination will not only incur considerable heavy haulage down an unsuitable highway, but disturb possible contaminants into Chickenley Beck and move said contaminants to other locations putting the local wildlife at risk.

Response: KC Environmental Health are satisfied that approval can be granted subject to a scheme for the remediation of the site, which will be conditioned, as will temporary drainage.

- The property bordering the site is an active farm and does have livestock therefore development will damage the business and cause undue harm to the livestock, and therefore the noise survey is incorrect and factually wrong. The application is also missing an odour report.

Response: The claim that residential development will interfere with the continued use of the farm is unsubstantiated. There may be instances (for example, the proposed conversion of a building to a single dwelling in the middle of a working farm holding, or where the site lies adjacent to a large indoor livestock or poultry unit) where loss of amenity arising from noise and odours, and consequent complaints, would be likely to occur. But this is not considered to be a valid argument where the land merely lies adjacent to a working farm as it would not give rise to levels of noise and odour that are abnormal in a semi-rural location. KC Environmental Health have not raised this as a concern.

- No mention is made in the utility report of the septic tank outflow and soakaway field on the north and east part of the site. This is a shared septic tank system owned and used by both Clough Farm and Clough House. The title deeds for Clough House show that this is shared ownership and no developer has approached the owner of the property in relation to permissions to removing the soakaway field and how they would connect both properties to mains sewerage.

Response: Given the extant planning permission it would be difficult to justify refusing the application, or holding it up pending formal resolution, for this reason. The applicant has proposed that the outflow can be connected to mains drainage. This can be resolved as a civil matter between the parties concerned and does not need to be conditioned.

- Also the land itself is of high quality grade 3 agricultural land and has been farmed under Mitchel Laithes ownership and Mr Hardys ownership for many years.

Response: The land is classed as “good to moderate”. This is the third of the five main agricultural land grades, and moreover, since the site has already been allocated for housing through the plan-making process, it would be wholly unreasonable to seek to resist development on such grounds.

11 – 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.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development makes efficient use of land and that subject to conditions it would enhance the appearance of the townscape, conserve residential amenity, and guarantee safe access to the highway network and the future safety of other highway users as well as the sustainable drainage of the site. Subject to conditions it would ensure that future residents would not be subject to significant risks from pollution, ground contamination or instability.

It is considered that the development would constitute sustainable development and is therefore recommended that conditional outline approval can be granted.

Recommendation: Conditional Full Permission

Report Dated: 16/04/2025

Decision Authorisation: Delegated Powers
Application Number: 2024/91476
Officer Recommendation: Conditional Full Permission

Conditions and Reasons

1. The development hereby permitted shall be begun not later than three years from the date of this permission.

Reason: Pursuant to the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. 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, 2, 20, 21, 22, 24, 28, 30 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.

3. Development shall not commence until a scheme of details of finished floor levels of each dwelling, together with corresponding finished ground levels of land, including land within their curtilages, have been submitted to and approved in writing by the Local Planning Authority. These shall show the height of any retaining walls to the site boundaries. The development shall be carried out only in accordance with the details so approved and no dwelling shall be occupied until the works relating to that dwelling have been completed, and these works shall be so retained.

Reason: To ensure the development is in character with its surroundings, to avoid adverse impacts to adjacent land/property, in accordance with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

This is a pre-commencement condition to ensure that the appropriate levels are ascertained at an appropriate stage of the development process.

4. Remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy authored by Lithos dated May 2024 (ref: 2986/2A). In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report is identified or encountered on site, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

5. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Verification Report by a suitably competent person shall be submitted to the Local Planning Authority. No dwelling shall be occupied until such time as the remediation measures have been completed for (that part of) the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Verification Report in respect of those remediation measures has been approved in writing by the Local Planning Authority. Where verification has been submitted and approved in stages for different areas of the whole site, a Final Verification Summary Report shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

6. Prior to development commencing, a Construction Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the Local Planning Authority. The plan shall describe in detail the actions that will be taken to minimise adverse impacts on occupiers of nearby properties by effectively controlling:

- i. Noise & vibration arising from all construction related activities. This should also include suitable restrictions on the hours of working on the site including times of deliveries.
- i. Dust arising from all construction related activities, which should include measures to monitor and record the emissions of dust during construction
- ii. Artificial lighting used in connection with all construction related activities and security of the construction site.
- iii. A communications plan detailing the responsible person, their contact details and how this will be communicated to residents and the Local Authority must be included.

The CEMP thus approved shall be adhered to throughout the construction of the development.

Reason: To safeguard the amenities of the occupiers of nearby properties in accordance with Part 15 of the NPPF and LP52 of the Local Plan. This is a pre-commencement condition to ensure that any impacts on amenity that may occur at any stage in the construction process are appropriately mitigated.

7. Prior to development commencing, a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority. This shall include the following:

- i. The point of access for construction traffic;

- i. Details of the times of use of the access;
- ii. The routing of construction traffic to and from the site;
- iii. Construction workers' parking facilities;
- iv. Details of arrangements for loading and unloading and the storage of materials;
- v. Measures to prevent mud and grit from being deposited on the public highway.

All construction arrangements 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 is a pre-commencement condition to ensure appropriate measures to protect amenity and maintain highways safety are agreed at an appropriate stage of the development process.

8. Before development commences, a survey of the existing condition of the highway on Long Lane shall be submitted to and approved in writing by the Local Planning Authority. The survey shall include carriageway and footway surfacing, verges, kerbs, edgings, street lighting, signing and white lining. Upon completion of the development and before any new building is occupied a highway condition survey identifying a scheme to reinstate any subsequent defects in the condition of the highway on Long Lane shall be submitted to and approved in writing by the Local Planning Authority. All of the identified works shall be implemented before any part of the development is first brought into use.

Reason: To ensure that any deterioration in the quality of the highway that may occur

during construction is remedied in the interests of the safety and convenience of

highway users, and to accord with the aims of Policies LP20-21 of the Kirklees Local

Plan. This information is required pre-commencement to ensure that an accurate record of the condition of the highway is obtained so that any defects arising from construction can be accurately identified and remediated.

9. Before development commences, a scheme detailing the location, design and construction details for all new retaining walls / building retaining walls adjacent to the existing and proposed adoptable highway, including cross sectional information shall be submitted to and approved in writing by the Local Planning Authority in the form of an Approval In Principle. The approved scheme shall be implemented, in accordance with a programme agreed with the Local Planning Authority and thereafter retained as such.

Reason: To ensure that the proposal does not endanger the stability of land that is within or adjacent to the public highway, in accordance with the aims of Policies LP20, LP21 and LP53 of the Kirklees Local Plan as well as Chapter 9 of the National Planning Policy Framework. This pre-commencement

condition is necessary to ensure that safe retaining walls are designed and approved at an appropriate stage of the development process.

10. Before development commences, a scheme detailing the location and cross-sectional information together with the proposed design and construction details for all new surface water attenuation tanks/pipes/manholes located within the proposed highway footprint shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the construction phase of the proposed development and thereafter retained as such.

Reason: In the interests of highway safety, and to achieve a satisfactory layout in accordance with Policies LP20 and LP21 of the Kirklees Local Plan, and Chapter 9 of the National Planning Policy Framework. This pre-commencement condition is necessary to ensure that details of the internal adoptable roads and their relationship to drainage infrastructure are agreed at an appropriate stage of the development process.

11. Development shall not commence until a detailed design scheme detailing foul, surface water and land drainage, including agreed discharge rates with the LLFA indirectly or directly to watercourse, attenuation for the critical 1 in 100 + climate change rainfall event, attenuation construction details/design, plans and longitudinal sections, hydraulic calculations and phasing of drainage provision has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a risk assessment and method statement, in accordance with CDM Regulations 2015, for access to and into the attenuation structure, and the scheme shall include a maintenance and management plan for surface water infrastructure. No part of the development shall be occupied until such approved drainage scheme has been provided on the site to serve the development or each agreed phasing of the development and retained thereafter.

Reason: To ensure the safe and sustainable drainage of the site in accordance with the aims of Policy LP28 of the Kirklees Local Plan and Chapter 14 of the NPPF. This is a pre-commencement condition to ensure that safe and sustainable drainage infrastructure is incorporated into the development at an appropriate stage.

12. Development shall not commence until 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 (both upstream and downstream of the development), has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be brought into use (dwellings shall not be occupied) until the works comprising the approved scheme have been completed and such approved scheme shall be retained thereafter.

Reason: To ensure the safe and sustainable drainage of the site and mitigation of flood risk in accordance with the aims of Policies LP27-28 of the Kirklees Local Plan and Chapter 14 of the NPPF. This is a pre-commencement condition to ensure that safe and sustainable drainage

infrastructure and flood routing are incorporated into the development at an appropriate stage.

13. Development shall not commence until a scheme detailing temporary surface water drainage for the construction phase (after soil and vegetation/site strip) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail:

- i. phasing of the development and phasing of temporary drainage provision;
- i. include methods of preventing silt, debris and contaminants entering existing drainage systems and watercourses and how flooding of adjacent land is prevented;
- ii. a plan showing the location of the attenuation storage and supporting calculations, which shall be based on the critical 1 in 5-year storm.

The temporary works shall be implemented in accordance with the approved scheme and phasing. No phase of the development shall be commenced until the temporary works approved for that phase have been completed. The approved temporary drainage scheme shall be retained until the approved permanent surface water drainage system is in place and functioning in accordance with written notification to the Local Planning Authority.

Reason: To ensure the safe and sustainable drainage of the site during construction and prevent pollution of the water environment in accordance with the aims of Policy LP28 of the Kirklees Local Plan and Chapter 14 of the NPPF. This is a pre-commencement condition to ensure that safe and sustainable arrangements for the disposal of surface water are in place throughout the construction period.

14. Notwithstanding the submitted ecological information, no development shall take place (including ground works and vegetation clearance) until a reptile survey has been undertaken by a competent person and the results submitted to the Local Planning Authority. The results shall be used to inform the Construction Environmental Management Plan – Biodiversity referred to in condition (15) below.

Reason: To ensure that harm to biodiversity does not occur as a result of development and to accord with the aims of Policy LP30 of the Kirklees Local Plan since the Preliminary Ecological Appraisal does not conclusively demonstrate the absence of reptiles. This information is required pre-commencement to ensure that if reptiles are present on site, they are not harmed at any stage in the development process.

15. No development shall take place (including ground works and vegetation clearance) until a Construction Environmental Management Plan - Biodiversity (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall incorporate the recommendations within part 5 of the Preliminary Ecological Appraisal, and shall include the following:

- i. Risk assessment of potentially damaging construction activities.

- i. Identification of “biodiversity protection zones”.
- ii. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- iii. The location and timing of sensitive works to avoid harm to biodiversity features, including those associated with Chickenley Beck.
- iv. A strategy for temporary lighting during construction (if required) that follows best practice guidelines outlined in Bats and Artificial Light at Night (2023) to maintain suitable foraging and commuting routes,
- v. An invasive species survey undertaken within the botanical growing season, to include all land within the red line as shown on the location plan, and blue line on the site plan, to determine if Schedule 9 invasive non-native species are present. If such species are present, then an Invasive Species Management Plan to be submitted as part of the CEMP: Biodiversity.
- vi. The times during construction when specialist ecologists need to be present on site to oversee works.
- vii. Responsible persons and lines of communication.
- viii. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- ix. Use of protective fences, exclusion barriers and warning signs.

The approved CEMP Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: To ensure avoidance of ecological and subsequent harm in accordance with Policy LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework. This is a pre-commencement condition to ensure appropriate measures are designed and agreed prior to any potentially damaging operations associated to the construction phase and that invasive species, if found to be present, are safely eliminated from the site.

16. Prior to development commencing, details shall be submitted to and approved in writing by the Local Planning Authority of measures to improve pedestrian provision between the proposed site access and Woodburn Avenue.

- (i) The location of the proposed footpath enhancement works;
- (ii) Details of footpath improvements, including white lining, taking into consideration the existing features found around Clough House;
- (ii) A timescale for its implementation.

The development shall then be carried out in accordance with this approved scheme in accordance with the approved timescales and thereafter retained.

Reason: To ensure that pedestrian provision is improved to compensate for the increased vehicular and pedestrian traffic flows on Long Lane in a way proportionate to the scale of the development, in the interests of highway safety and to facilitate sustainable means of transport in accordance with Policies LP20 and LP21 of the Kirklees Local Plan, as well as Chapter 9 of the

National Planning Policy Framework. This is a pre-commencement condition to ensure that details of works can be agreed at an early stage in the development process so that they can be implemented before the development is occupied.

17. Prior to their use, details and samples of all the external facing materials for the dwellings hereby approved, and any and all retaining walls, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed using the approved materials, prior to the hereby approved building being brought into use.

Reason: In the interests of the visual amenity and to accord with Policy LP24 of the **Kirklees** Local Plan and Chapter 12 of the National Planning Policy Framework.

18. No development shall take place within the root protection area of any trees to be retained on site, as shown on the approved Arboricultural Survey and Arboricultural Impact Assessment, until an Arboricultural Method Statement (AMS) has been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be undertaken in full accordance with the approved AMS.

Reason: To protect trees in the interests of visual amenity and to accord with the requirements of Policies LP24 and LP33 of the Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

19. Prior to the first occupation of any dwelling hereby approved, notwithstanding the submitted indicative landscape scheme, a scheme detailing the proposed boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. This shall include boundary treatments around the perimeter of the site, around/between the dwelling houses, and (in the case of Plots 8-10) measures to screen raised or terraced areas within the plot if it cannot be demonstrated that boundary screening alone would be effective at preventing or mitigating mutual overlooking between proposed and existing ground floor habitable room windows. Boundary treatments to the perimeter of the site shall demonstrate how the movement of hedgehogs across the site will be facilitated. All of the approved works shall be completed before any dwelling to which they relate is first occupied, and these shall thereafter be retained.

Reason: In the interests of visual amenity, to safeguard the privacy of existing and future residents, and to ensure that the screening does not cause harm to biodiversity in the site or its surroundings, in accordance with Policy LP24 and LP30 of the Kirklees Local Plan and Chapter 12 and 15 of the National Planning Policy Framework.

20. Before construction starts above foundation level on the dwelling on Plot 7, notwithstanding the details on the approved drawings, amended details of the north-facing first floor window demonstrating how overlooking of private amenity space and any south-facing habitable room windows within the adjacent dwelling will be prevented or mitigated. Any first-floor windows in the northern elevation of this dwelling shall be installed in full accordance with the approved details, and shall thereafter be retained as such.

Reason: To ensure that mutual overlooking between existing and proposed development is prevented or mitigated in the interests of residential amenity and to accord with the aims of Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

21. Notwithstanding the submitted details, development above foundation level shall not commence until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:

- a) Indications of all existing trees, shrubs and hedgerows on the land, and details of any to be retained, together with measures for their protection, in the course of development;
- a) Details of all hard landscaping, to include material as appropriate;
- b) Soft planting details to include species, planting density and size;
- c) Details of tree pits including soil volumes and root barriers;
- d) Measures to facilitate the movement of hedgehogs by means of gaps in boundary fencing;
- e) A schedule of implementation;
- f) Details of aftercare and long-term maintenance.

All planted materials shall be maintained for a minimum of five years and any trees or plants removed, dying, being damaged or becoming diseased within that period shall be replaced in the next planting season with others of similar size and species to those originally required to be planted.

Reason: In the interests of the visual amenity and character of the surrounding area and to accord with Policies LP24 and LP32 of the Kirklees Local Plan and Chapter 12 and 15 of the National Planning Policy Framework.

22. Before any new dwelling is occupied, the sightlines shown on drawing AMA/20466/SK003 within the Highways Supporting Statement shall be cleared of all obstructions to visibility exceeding 1m in height above the adjacent carriageway and these shall thereafter be retained free of any such obstruction.

Reason: To ensure adequate visibility in the interests of highway safety in accordance with Policy LP21 of the Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework.

23. The construction of any new estate streets shall not commence until an Estate Street Phasing and Completion Plan has been submitted to and approved in writing by the local planning authority. The Estate Street Phasing and Completion Plan shall set out the development phases and the works that are to be completed for each phase of the development. No dwelling within each relevant phase shall be occupied until the estate street(s) that provide access to those dwelling(s) has been completed in accordance with the Estate Street Phasing and Completion Plan.

Reason: To ensure that the estate streets serving the development are completed to an acceptable standard and are available for use by the occupants and other users of the development, in the interest of highway

safety and to accord with the aims of Policies LP20 and LP21 of the Kirklees Local Plan.

24. All approved vehicle parking areas shown on the approved site plan shall be provided and laid out with a hardened and drained surface before the dwelling to which they relate is first occupied, or in the case of visitor parking spaces outside the adoptable highway, before any dwelling is first occupied. The parking areas shall thereafter be retained as such, free from obstructions to their use for the parking of vehicles.

Reason: In the interests of highway safety and to achieve a satisfactory layout in accordance with Policy LP21 of the Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework.

25. Before development commences, details of any temporary waste collection arrangements to serve occupants of completed dwellings whilst the remaining site is under construction shall be submitted to and approved by the Local Planning Authority. The approved details shall be provided before first occupation of the dwellings to which this applies and implemented throughout the construction process.

Reason: In the interests of amenity and highway safety, to comply with the Council's sustainability objectives, and to accord with Policies LP21 and LP24 of the Kirklees Local Plan as well as Chapter 9 and 12 of the National Planning Policy Framework.

This is a pre-commencement condition to ensure that the necessary waste storage and collection facilities are provided throughout the proposed development.

26. Before any new dwelling is first occupied, details of the design of enclosures for bin storage for the new dwellings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. All the approved bin enclosures shall be provided, and all of the areas shown on the approved site plan for the storage and collection of wastes including both private and communal bin presentation points, laid out with a hard surface and made available for use, before the dwelling(s) to which they relate are first occupied, and thereafter retained as such, free from all obstructions to their use.

Reason: In the interests of visual amenity and to ensure the provision of satisfactory facilities for the separation, storage and disposal of wastes, to meet the requirements set out in Policy LP24 part d(vi) of the Kirklees Local Plan.

27. No dwelling shall be occupied until details showing the provision of bicycle storage facilities to serve the residential properties have been submitted to and approved in writing by the local planning authority. These facilities shall be provided and made available for use prior to the first occupation of the dwelling to which it relates and 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, 24 and 47 of the Kirklees Local Plan, the Highways Design Guide Supplementary Planning Document, and Chapter 8 of the National Planning Policy Framework.

28. Prior to occupation of any new dwelling, a minimum of one electric vehicle charging point shall be provided within the parking space of that dwelling. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of a minimum of 16 Amps and a maximum demand of 32Amps. The charging points shall be retained thereafter.

Reason: To ensure residents of the development are encouraged to use low carbon and more sustainable forms of transport and to mitigate the air quality impacts of the development in accordance with policies LP20, LP24, LP47, LP51 and LP52 of the Kirklees Local Plan, Chapters 9 and 15 of the National Planning Policy Framework, and the West Yorkshire Low Emissions Strategy.

29. Plans and particulars relating to the Reserved Matters of landscaping, notwithstanding the submitted information, shall include a lighting design strategy. The strategy shall:

a) identify those areas / features on site that are particularly sensitive for local species and that are likely to cause disturbance in, or around their breeding sites and resting places, or along important routes used to access key areas of their territory, for example, for foraging; and

b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy.

Reason: To avoid indirect impacts to bats and other local species in the interest of ecological mitigation, to comply with Policy LP30 of the Kirklees Local Plan.

30. Prior to occupation of any new dwelling, a scheme to protect retained habitats and species shall be submitted to, and approved in writing by the local planning authority and implemented as approved. This shall include methods to ensure the long-term protection of Chickenley Beck and the habitats it offers. Thereafter, the development shall be implemented in accordance with the approved scheme.

Reason: To ensure avoidance of ecological and subsequent harm in accordance with Policy LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

31. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order with or without modification) no

development included within Classes A, B, C of E of Part 1 of Schedule 2 to that Order shall be made to Plots 8 to 12 and Plots 23 and 24, as shown on the approved site plan.

Reason: To ensure that extensions or outbuildings do not result in harmful overlooking or an overbearing impact upon occupants of neighbouring dwellings and that an adequate amount of private amenity space is retained for future residents, in accordance with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

32. Before work on any dwelling commences above foundation level, details of the proposed solar panel array and/or other on-site microgeneration measures to serve the new dwellings shall be submitted to and approved in writing by the Local Planning Authority. The scheme thus approved shall be implemented and made operational before any new dwelling to which it relates is first occupied and shall thereafter be retained as such.

Reason: To ensure that the development contributes to the Council's ambition to have net zero carbon emissions by 2038 and to accord with the aims of LP24(d), Principle 18 of the Housebuilders' Design Guide SPD and Policy 12 of the Holme Valley Neighbourhood Development Plan.

33. Before any new dwelling is first occupied, before the development is brought into use, details shall be submitted to and approved in writing by the Local Planning Authority of measures to protect future residents from crime and the fear of crime. The approved measures shall be implemented before any new dwelling is first brought into use and thereafter retained.

Reason: In the interests of minimising the risk of crime for the development and its users, and to accord with the aims of LP24(e) of the Local Plan.

34. Before any part of the development is occupied, details, including the location, of 4 no. bat and 4 no. bird boxes to be installed within the site shall be submitted to and approved in writing by the Local Planning Authority. These shall be made of woodcrete or another durable material. Each shall be installed before any part of the building to which it relates is first occupied, and thereafter retained.

Reason: To ensure that opportunities are taken to enhance the value of the site as a habitat for bats and birds, and meet the requirements of para. 180(d) of the National Planning Policy Framework (NPPF) and Policy LP30 of the Kirklees Local Plan.

Note: In accordance Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) **development may not be begun unless:**

a) a biodiversity gain plan has been submitted to the planning authority; and

a) The planning authority has approved the plan.

The biodiversity gain plan must include:

- a) information about the steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat;
- a) the pre-development biodiversity value of the onsite habitat;
- b) the post-development biodiversity value of the onsite habitat;
- c) any registered offsite biodiversity gain allocated to the development and the biodiversity and the biodiversity value of that gain in relation to the development;
- d) any biodiversity credits purchased for the development; and
- e) any such other matters as the Secretary of State may by regulations specify.

NOTE – Condition 3

Drawings 23590-DR-C-0600 and 23590-DR-C-0601 show a now superseded layout. Therefore, they are treated as indicative only and do not form part of the approved documents.

NOTE – Condition 18

It is recommended that the details submitted in respect of this condition should show that no part of the window that is less than 1.7m above internal first floor level is to be clear-glazed, and that all glazing below this level has a grade 5 degree of obscurity.

Management and Maintenance of Private Estate Streets – Informative

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)

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)

S38 Agreement – Informative

The applicant should be aware that the internal street layout will need to be built to adoptable standards if offered for adoption under Section 38 of the Highways Act 1980. The applicant is advised to make early contact with the Highways Section 38 team at Highways.Section38@kirklees.gov.uk to initiate the Section 38 process, technical approval and agreement. Further information is available on the council's website at: Highways Guidance Note - Section 38 Agreements for Highway Adoptions (kirklees.gov.uk)

Any future applications for adoption under S37 must demonstrate to the satisfaction of the Highway Authority that all of the roads applied for under S37 have been constructed to an adoptable standard in accordance with Highways Guidance Note - Section 38 Agreements for Highway Adoptions (kirklees.gov.uk)

Section 38 adoption arrangements

The developer is advised that as part of the section 38 adoption the area within the splay which is currently outside the proposed highway boundary will need to be dedicated as highway.

Environmental permit – advice to developer

Chickenley Beck is designated as a main river. The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in the floodplain of a main river if the activity could affect flood flow or storage and potential impacts are not controlled by a planning permission

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03708 506 506.

The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

Plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Application form			24-May-

Plan Type	Reference	Version	Date Received
			2024
Location plan	0389_EARL_101		24-May-2024
Site survey	0389_LON_102		24-May-2024
Proposed site plan	0389_EARL_102	N	06-Mar-2025
Adopted highway and managed areas plan	0389_LON_109		
House type C1 floorplans	0389_LON_0_HT003		24-May-2024
House type C1 elevations	0389_LON_0_HT003		24-May-2024
House type B1 floorplans	0389_LON_0_HT002		31-Jul-2024
House type B1 elevations	0389_LON_0_HT002		31-Jul-2024
House type B2 floorplans	0389_LON_0_HT004		31-Jul-2024
House type B2 elevations	0389_LON_0_HT004		31-Jul-2024
House type E1 floorplans	0389_LON_0_HT005		24-May-2024
House type E1 elevations	0067_LON_0_HT005	A	17-Mar-2025
House type E2 floorplans	0067_LON_0_HT010		06-Mar-2025
House type E2 elevations	0067_LON_0_HT010	A	06-Mar-2025
Proposed site sections A, B, C	0067_LON_105		31-Jul-2024
Proposed site sections D and E	0389_LON_106		18-Mar-2025
Outline Landscape Masterplan & Specification	PWP 368 002	03	06-Mar-2025
Design & Access Statement			24-May-2024
Highway Supporting Statement	Andrew Moseley Associates		19-Aug-2024
Pedestrian Infrastructure Audit	22229		04-Nov-2024
Road Safety Audit	Meraki Alliance	2	20-Dec-2024
Drainage Strategy	23590-DR-C-0101	P4	24-May-2024
Proposed	23590-DR-C-0101	P3	24-May-

Plan Type	Reference	Version	Date Received
Impermeable Areas			2024
Temporary Drainage	23590-DR-C-0102	P1	24-May-2024
Flood Risk Assessment	23590-FRA-001		24-May-2024
Flow Calculations	23590		24-May-2024
Geoenvironmental Appraisal	2986/1B		24-May-2024
Remediation Strategy	2986/2A		24-May-2024
Health Impact Assessment	ID Planning		24-May-2024
Utilities Statement	LLE-BWB-ZZ-XX-RP-U-0001-DD		24-May-2024
Noise note	LE/Environment/243830/L01		24-May-2024
Arboricultural survey	LLE-BWB-ZZ-XX-T-EE-0003 Arboricultural Survey		24-May-2024
Arboricultural impact assessment	LLE-BWB-ZZ-XX-T-EE-0004 AIA		24-May-2024
Preliminary Ecological Appraisal	LLE-BWB-ZZ-XX-RP-LE-0001_PEA		24-Nov-2024
BNG Metric	243830		07-Mar-2025
BNG Metric (watercourse units)	243830		26-Mar-2025
Biodiversity Net Gain Statement	LLE-BWB-ZZ-XX-T-EE-0002		26-Mar-2025
Biodiversity Net Gain plan	LLE-BWB-ZZ-XX-T-EE-0003		26-Mar-2025
Climate Change Statement			05-Feb-2025

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 undertook negotiation with the applicant to ensure that the proposal would harmonise with its surroundings, deliver safe access and servicing arrangements, and protect the amenities of existing and future residents.

