

**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:	<b>2024/62/91760/E</b>
Site Address:	Land adj Healey Junior Infants and Nursery School, Healey Lane, Healey, Batley, WF17 8BN
Description:	Erection of 19 dwellinghouses with associated car parking, landscaping and boundary treatment and other associated works
Recommending Officer:	William Simcock

**DECISION – S106 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:** 17/03/2025

**Application:** 2024/91760

**Site:** Land adj Healey Junior Infants and Nursery School, Healey Lane, Healey, Batley, WF17 8BN

**Proposal:** Erection of 19 dwellinghouses with associated car parking, landscaping and boundary treatment and other associated works

### **Site Description**

The application site is a plot of vacant land bounded by Healey Lane to the north-west, West Park Road to the south, the Healey Junior Infants and Nursery School to the north-east, and a single dwelling to the west (228-230 Healey Lane), situated on the junction of Healey Lane and West Park Road. It is largely overgrown with long grass, weeds and scrub; there are three rectangular areas of hardstanding near the Healey Lane frontage which can be seen clearly on aerial photographs from 2006 and previous years, but which are gradually being taken over by grass and other vegetation. There is a downward slope from north to south and on the West Park Road boundary, where there is some banking and metal railings mark the boundary. Land also rises to meet the north-eastern boundary of the site.

The land west of the site falls within the curtilage of a dwellinghouse, 228-230 Healey Lane, whose north-eastern outer wall forms the site boundary; this is at a lower level to the site, the change in levels being far more evident at the southern end of the site where a retaining wall separates the two plots. The northern boundary is marked by a stone wall with an access point near to its western end. The wider surroundings of the site are residential on all sides.

### **Description of Proposal**

The proposal is a full application for the erection of 19 dwellinghouses with associated car parking, landscaping and boundary treatment and other associated works.

A new access would be formed near the middle of the Healey Lane frontage with an access road laid out along a north-west to south-east axis. This, with its turning head, is intended to be adopted, but some of the dwellings are to gain access to the highway by unadopted spurs off the main access road.

The dwellings would be arranged in blocks of between two and three houses. All would be of simple design with flat front and rear elevations and symmetrical double-pitched roofs. They would consist of 8 x two-bedroom units, and 11 x three-bedroom units.

The sections show only minor changes to existing ground level would take place.

Most of the landscaping would be within private gardens but there will be small areas within the site that will be planted with native shrubs or sown with

wildflower mix. These will comprise two strips on the margins close to the western corner of the site and a smaller, approximately square area in the east of the site. 11 no. large trees are to be planted on the Healey Lane frontage, with other medium-sized trees planted within gardens.

A full schedule of boundary treatments has been submitted. A low stone wall is to be constructed at the site entrance, matching the existing walling. Fences between adjoining back gardens are to be 1.5m high but visually permeable above 900mm. To the boundaries of back gardens with the access road there would be a low-level brick wall surmounted by a timber fence.

### **History of negotiations/amendments received**

19-Aug-2024: Waste strategy, visualisation and amended house types submitted.

13-Sep-2024: Amended site plan and geoenvironmental appraisal submitted.

05/06-Dec-2024: Further amended site plan and highways, landscaping and biodiversity documents received.

None of the above were subject to new publicity since they did not change the overall layout and were not deemed to result in any increased impacts on neighbouring properties or land.

10-Jan-2025: Two blocks of three were switched. Other plans updated to match.

05-11 Feb 2025: Other plans and reports updated to match the modified layout.

The Jan/Feb amendments were not subject to new publicity because (i) it resulted in a lesser impact on the one residential property that shares a boundary with the site; (ii) the balance of house types and overall layout were both unchanged. It was therefore considered that it was not necessary to give third parties an additional opportunity to comment.

### **Relevant Planning History**

#### Application site

2014/92328 – Outline application for residential development (15 dwellings): Granted 29-Oct-2015.

2017/94229 – Reserved matters pursuant to outline application 2014/92328: Refused. Not appealed. Reasons for refusal:

- 1. The proposed development, due to its layout, design and proposed access arrangements, would fail to sufficiently engage with West Park Road, would present an inactive site edge and unrelieved massing of a*

*poor appearance to the most important highway and public realm abutting the site, and would fail to achieve a satisfactory standard of design. The proposed development is therefore contrary to Policy LP24 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.*

*2. In the absence of supporting information relating to flood risk, drainage, ground stability and the site's coal mining legacy, it has not been demonstrated that those material considerations have appropriately informed the proposed layout, nor that the proposed development does not pose unacceptable risks to public safety. The proposed development is therefore contrary to Policies LP27, LP28 and LP53 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.*

2022/93499 – Outline application for erection of 15 dwellings with new highway access and parking. All matters except means of access were reserved: Granted 10-Aug-2023, subject to Section 106 Agreement covering:

- i. On-site affordable housing;
- ii. Traffic regulation order contributions;
- iii. Traffic calming contributions;
- iv. Open Space contribution;
- v. SUDS Management and Maintenance Plan.

#### Adjacent land

None

#### **Representations**

Final publicity date expired: 30-Aug-2024. Publicity by neighbour notification letter, site notice and press advertisement as the proposal constitutes Major Development.

A single representation was made, which is an objection. The following is a summary of comments made:

- The proximity of House 15 in Block G, situated a mere 3.5 to 4.5 meters from an existing dwelling coupled with its extensive height, will significantly overshadow and cause right to light infringement.
- I note that Dudley's Drainage proposes a ditch I seek assurance that this will effectively address the changed water table conditions resulting from the removal of trees in preparation for the development. Currently, during rainfall, a stream running down, creating a muddy quagmire towards West Park Road.
- I kindly ask what provisions or easements that will be put in place to allow

maintain the damp-proof element in adjacent property.

- Regarding Appendix 5 of the Tree Constraint Plan, I have concerns about trees T14 and T13, categorized as Category C Trees that could be retained.

I suggest the possible removal of these trees might prevent further damage.

I request that the short section of heavy breeze block wall, which has been cracked and pushed over due to the aforementioned tree removals and land easement, be repaired as part of the development process.

- In conclusion, while I otherwise welcome the development, the current proposal significantly impacts safety and enjoyment.

Ward Councillors were notified of the application but did not offer any comments.

### **Consultation Responses**

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

- Strategic Housing - Support subject to further justification for housing mix.
- Environmental Health - Support subject to conditions.
- Lead Local Flood Authority - Support subject to conditions.
- Highways Structures - Support subject to conditions.
- Waste Strategy - Support subject to swept path for refuse collection vehicle and adoptability of layout being confirmed by Highways Development Management.
- Highways Development Management – Support subject to conditions.
- KC Designing Out Crime Officer - Support subject to condition.
- Yorkshire Water – Support subject to conditions.
- The Mining Remediation Authority – Support subject to conditions.

### **Planning Policy**

Kirklees Local Plan (LP)

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

The site consists of land without designation within the Local Plan proposals map. The land immediately adjacent (to the east) is urban green space.

Other designations and constraints applicable to this site are:

- Part of the site lie within a Coal Referral Area
- Lies within 250m of an historic landfill site

The following Local Plan policies are considered relevant to the proposal:

- **LP 1:** Presumption in favour of sustainable development
- **LP 2:** Place shaping
- **LP 3:** Location of new development
- **LP 5:** Masterplanning sites
- **LP 7:** Efficient and effective use of land and buildings
- **LP 11:** Housing mix and affordable housing
- **LP 21:** Highways and access
- **LP 22:** Parking
- **LP 24:** Design
- **LP 27:** Flood risk
- **LP 28:** Drainage
- **LP 30:** Biodiversity and geodiversity
- **LP 32:** Landscape
- **LP 33:** Trees
- **LP 47:** Healthy, safe and active lifestyles
- **LP 52:** Protection & improvement of environmental quality
- **LP 53:** Contaminated and unstable land
- **LP 63:** New open space

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)

These documents can also be viewed at:  
<https://www.kirklees.gov.uk/beta/planning-policy/adopted-supplementary-planning-documents.aspx>

## *Guidance documents*

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

These documents can also be viewed at:  
<https://www.kirklees.gov.uk/beta/planning-applications/guidance-and-advice-notes.aspx>

## National Policies and Guidance

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF), the Planning Practice Guidance Suite (PPGS), together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

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

## **Assessment**

The following matters are considered in the assessment below:

- 1) Principle of development
- 1) Impact on visual amenity (including any heritage considerations)
- 2) Impact on residential amenity
- 3) Highway and transport issues
- 4) Ecology and trees
- 5) Drainage
- 6) Planning Obligations
- 7) Other matters
- 8) Representations
- 9) Conclusion

### 1 – Principle of development

Paragraph 47 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.

### *Land allocation, 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-date<sup>8</sup>, 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.

#### *Housing issues; quantum of development*

Since the site does not fall within a housing allocation, it has no “indicative capacity” assigned to it in the Local Plan. The default position however, as set out in LP7(a), is that a net density of at least 35 units per hectare should be aimed for.

The application has a site area of 0.5ha, thus having an expected delivery of 18 units (rounded), per LP7. As the proposal is for 19 units, it adheres to the aims and objectives of LP7, although consideration will be given elsewhere in this assessment to the potential impacts of the proposed density.

It is therefore considered that the development would support the aims of LP7 in making efficient use of land.

#### *Housing mixture and affordable housing*

Regarding housing mix, 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 following is the SPD’s expectation for the Batley and Spen ward:

<b>Batley &amp; Spen</b>	<b>Market Housing</b>	<b>Affordable Rent</b>	<b>Affordable Intermediate</b>
<b>1 and 2 bed</b>	30-60%	40-79%	60+%
<b>3 bed</b>	20-40%	0-19%	20-39%
<b>4+ bed</b>	15-35%	0-19%	0-19%

The mix of housing sizes proposed by this application:

- 1-2 bedroom: 42%
- 3 bedroom: 58%
- 4+ bedroom: 0%

However, it should be noted that the proposal is for 100% affordable units.

The Affordable Housing and Housing Mix SPD's housing mixture tables were not designed with 100% affordable housing unit proposals in mind. For such applications, a case-by-case assessment on the suitable housing mixture is required. The SPD also establishes a 'comply or justify' principle.

As a basis of the assessment, consideration is given to the SPD's Market Housing figures. The proposal would not comply with the recommended housing mix in terms of 4+ bedrooms, however, it complies with the 1-2bed expectation. The 3bed delivery is not a significant overprovision (18%) above the identified expected maximum. Furthermore, as a smaller 19-unit scheme, the expected 4bed delivery of 15 – 35% would represent only 3 – 7 units. Finally, when considering the affordable rent and affordable intermediate categories, there is evidently a greater demand for 1-2 bed and 3bed houses than any other type.

Weighing these considerations, and the limited scale of the development, the proposed housing mixture is considered acceptable. In this case, officers are satisfied that the benefits of providing 19 affordable housing units outweigh the failure to provide any 4bed units.

Considering tenure, policy expects that affordable units should normally be broken down by tenure type at 55% Social or Affordable rented and 45% Intermediate. The intermediate element will normally consist of discounted market sale housing and be expected to include 25% First Homes; the latter requirement is not however applied on 100% affordable schemes where the site is to be purchased by a Registered Provider, as is the case here.

The developer's original intention at the time of making the application was that the development would comprise affordable rented housing only. Since then, the developer has indicated that an element of shared ownership housing will be included within the proposal, and the final split between the

two tenure types is at present undetermined since this will depend partly on Government funding.

The completed Section 106 Agreement contains a provision that the dwellings be occupied as affordable housing and comprising solely the above two tenure types, and provides an adequate guarantee that they will be retained as such in perpetuity. If this were a market-led scheme, then it would be expected that at least two dwellings (i.e. 55% of 20% of the total number) would be Social or Affordable rented. Even if the Registered Provider ultimately decides not to provide any as Social or Affordable Rented, this would only mean the loss of two Social or Affordable Rented units compared to above hypothetical scenario. In view of the very substantial benefits of providing 100% affordable housing on this site, the lack of certainty about tenure balance is therefore not considered a significant shortcoming.

### *Climate change*

On 12<sup>th</sup> November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies including Policy LP24(iv).

The location, as previously set out, is considered moderately sustainable. An Energy Statement (which can be treated as equivalent to a Climate Change Statement) has been submitted. The executive summary makes the following recommendations:

*"To achieve this compliance, the development has been designed with a holistic low energy design concept involving a fabric first approach and utilising electric panel heating and an Air Source Heat Pump Hot Water Cylinder (ASHP HW) to satisfy the space heating and hot water requirements. The U-values, design air permeability and ventilation targets all aspire to achieve Part L 2022 standards along with the consideration and application of low zero carbon renewable technologies. Following the LZC feasibility assessment, it is proposed that the development will benefit from a 1.6 kWp PV array per dwelling that will be implemented on the main sloped roof areas for a total of 19 dwellings."*

Since details are not shown on the plans, it is recommended that it be the subject of a planning condition that details of the solar array be submitted for approval, and subsequently implemented, so as to ensure that the maximum opportunity is taken to incorporate microgeneration into the proposal.

Subject to this it is considered that the development would be compatible with the above carbon reduction aims.

## 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 – Development should form a coherent building line and active frontages.
- Principle 8 – Transition to open land to be carefully considered.
- Principle 12 – Parking should be well-integrated into the street scene and not dominate frontages.
- Principle 13 – Materials should be appropriate to the site's context.
- Principle 14 – Design of windows and doors should relate well to the street frontage and other neighbouring properties.
- Principle 15 – The design of the roofline should relate well to the site context.

A range of building styles and materials are to be found within the vicinity of the site. Adjacent to the site to the west is a short row of three vernacular-style terraced houses. On the northern side of Healey Lane is some low-density development (271-275 Healey Lane), with Healey Gardens dominated by modern, closely-spaced detached houses. There are Victorian terraced houses in the vicinity of the site, opposite the school grounds higher up Healey Lane. South of the site, on West Park Road, are a mix of semi-detached, detached and terraced houses. A range of materials are also to be found, with extensive use of brick on Healey Gardens, and both brick and render on West Park Road.

In conclusion, there is no single main point of reference for building density, layout, style or materials among development surrounding the site.

The proposed dwellings are of simple, contemporary-traditional design, each block having a rectangular footprint with a symmetrical double-pitched roof, and a regular window pattern. They would in these respects superficially resemble both the late 20<sup>th</sup> Century houses on the southern side of West Park Road and the newer development on Healey Gardens to the north of the site. The fenestration is of a contemporary type, the windows being approximately square.

It is considered that the layout would be supportive of the principle of creating or retaining active frontages. Blocks E and H, which have side elevations facing the estate road, would have windows in that elevation so as not to present a completely blank elevation.

All eight units located close to the Healey Lane frontage would have one of their main elevations facing towards Healey Lane, and in five out of eight (15-19) it would be the front elevation; they would face Healey Lane across the new private access driveway and would therefore not relate closely to it, but the arrangement would avoid the creation of a frontage that would appear completely dead or inactive.

The dwellings located towards the southern end of the site would all have side or rear elevations facing the West Park Road frontage (or both these elevations facing the road at an angle). None would have their front elevations facing West Park Road or gain vehicular or pedestrian access from it. They therefore fail to provide an active frontage to West Park Road, a perceived shortcoming that formed part of the reason for refusal of application 2017/94229. However, the subsequent permission 2022/93499 similarly failed to achieve an active frontage to West Park Road, and this was after the adoption of the Housebuilders' Design Guide SPD. Given the change in levels between the site and West Park Road, and the need to optimise the use of the site by providing a single vehicular point of access, it is considered that having Plots 8-14 fronting on to West Park Road would not be reasonably practicable. It would also necessitate the removal of the various mature trees along the street, with their retention being welcome. It is therefore considered that the layout adequately responds to both existing and proposed road frontages.

The proposed 2017 layout would have seemed monotonous and somewhat imposing from the point of view of West Park Road since it set out seven dwellings along the southern edge of the site with a continuous building line. The current application provides more variety in terms of distance between the rear elevation and the highway boundary and none would face West Park Road squarely, so it is judged to overcome the problem of "unrelieved massing" that was also referred to in the 2017 reason for refusal. Furthermore, the development would be on a site that is at present only gently sloping. Large scale excavation and land-raising are not required and finished floor levels would be close to existing ground levels. The treatment of ground levels, and the oblique orientation of new houses on that part of the site, would ensure that new development would not be perceived as towering above West Park Road.

The principal walling materials on the plans are described as brick, render and "light sandstone cladding". Given the range of materials used in the vicinity of the site, this palette of materials is judged acceptable, although a condition for samples to be approved is recommended, to ensure suitable end products are utilised.

Amendments to the plans have increased the amount of parking but it is noted that there would still be a substantial belt of planting on the south-western side of the estate road and further planting on the frontage and near the junction with the adopted highway. It is therefore considered that the layout avoids giving rise to frontages overly dominated by parking or other hard landscaping.

Retaining works are proposed across the site, varying in height between 1600mm to 2300mm. These would, however, be of limited prominence, set to rear gardens or screened by dwellings. Therefore, the height of the walls, is considered acceptable. However, certain retaining walls are to be faced in timber. Officers are not convinced of the attractiveness and suitability of this material, and consider it necessary to recommend conditions requiring further details of the retaining wall materials.

### *Landscaping*

A detailed landscaping scheme has been provided which includes the planting of small to medium trees, shrubs, native perennial plants and hedgerows. Flag paving is to be used for most pathways. Also included is a list of species and a schedule setting out tree planting methods, watering and so forth. Most aspects of the scheme are considered satisfactory. Officers however have concerns about the proposal to establish a belt of shrubs 600-800mm high in the area immediately adjacent to no. 230 Healey Lane. As noted, this property has windows facing the site and it would be desirable to avoid a planting scheme that gives rise to avoidable loss of light. The submission of an amended landscaping scheme should therefore be conditioned replacing this with lower-growing shrubs. The submitted documents do not include a scheme for long-term maintenance and management, which should therefore also form part of the condition.

### *Public open space*

The site includes some landscaped areas which would make a positive contribution to visual amenity and the biodiversity of the area, but which are not large enough to function as useable public open space. A financial off-site contribution to Public Open Space will therefore be required to accord with the aims of LP63 and the Council's Open Space SPD. This has been calculated at £50,606 and includes a contribution to five of the six typologies (Amenity Green Space, Children and Young People, Parks and Recreation, Natural & Semi-Natural Green Space, Outdoor Sports, but not Allotments). The developer has agreed to this contribution which forms one of the provisions of the signed Section 106 Agreement.

### *Trees*

Policy LP33 states that planning permission will not be granted for developments which directly or indirectly threaten trees or woodland of significant amenity (regardless of any possible habitat value). Furthermore, proposals should normally retain any valuable or important trees where they make a contribution to public amenity, the distinctiveness of a specific location or contribute to the environment.

The row of mature trees on the West Park Road frontage is not protected by a Tree Preservation Order but is considered to have some amenity value to the wider area. The Arboricultural Report indicates that all but two are to be

retained. One is a dead Whitebeam. The other is a Silver Birch, twin-stemmed at 0.5m, crown roughly 70% dead.

KC Trees have been consulted on the application and accept the conclusions of the report.

The minor changes to layout made in January result in Block E being about 500mm closer to T11 than it would have been under the previous layout. It is still outside the root protection zone of T11 and this is therefore not judged a significant change. Accordingly, it was not considered necessary to re-consult KC Trees on this change.

It would therefore be compatible with the aims of Policy LP33, subject to a condition requiring that the development be undertaken in accordance with the Arboricultural Method Statement.

The NPPF (paragraph 136) states that streets should be tree-lined unless there are demonstrable reasons why this is not practicable. In this instance, the road layout lacks footways for most of its length and the opportunity to plant trees within the footway therefore does not arise. The proposed landscaping layout however shows tree planting within managed areas especially along the Healey Lane frontage. A development that incorporated a road layout of sufficient width to plant street trees would mean a greater proportion of the site would be taken up with road infrastructure and would result in fewer new homes being delivered. It is considered that given the need to increase the supply of housing at the present time, the benefits of making the most efficient use of the site possible outweigh the disadvantages of no street trees.

#### *Urban design and visual amenity – conclusion*

In conclusion, it is considered that the proposed development would assist in delivering the creation of high quality and sustainable buildings and places as set out in Chapter 12 of the NPPF in addition to those of LP24(a) and set out in the Housebuilders' Design Guide SPD.

Approval should however be subject to details of external materials being inspected and approved and an amended detailed landscaping and maintenance scheme being submitted for approval. For the avoidance of doubt, it is recommended it be conditioned that finished floor levels be in accordance with the latest version of the level strategy drawing, P04.

### 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. These aims are supported by the following principles within the Housebuilder Design Guide:

Principle 6 – Residential layouts must ensure privacy and avoid negative impacts on light. The following typical minimum separation distances, for two storey dwellings on level ground, are recommended:

- 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 6 – Residential layouts must ensure adequate privacy and maintain high standards of residential amenity, to avoid negative impacts on light, outlook and to avoid overlooking.

Principle 16 – All new homes should aim to be accessible and adaptable homes to meet the changing needs of occupants over time in accordance with Building Regulations. The provision of homes that meet these standards should be considered within the housing mix of the wider site in line with Local Plan policy LP11 (Housing Mix and Affordable Housing).

Nationally Described Space Standards (NDSS) 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.

*Relationship with existing residential development:*

One dwelling, 230 Healey Lane (which incorporates the former 228 Healey Lane), lies close to the site's boundary and has three windows facing directly into the site. Two of these windows, one ground and one first floor window, are located about two-thirds of the way along the north-eastern elevation (from north-west to south-east). The direct line of sight from the mid-point of these windows would be towards the side / front corner of Plot 15, circa 4.7m away. The third window is at ground floor and located further down the same elevation and would also be located approximately 5.7m from the side wall of the new dwelling. As a result, the identified windows of 230 Healey Lane would have a direct and close view of the side elevation of plot 15. Plot 15 has one window on its side elevation, serving a non-habitable room, facing towards 230 Healey Lane.

The submitted documents contain a scheme of finished floor levels (within the site plan as proposed) and a site topographical survey has been submitted showing existing ground levels, indicating that this dwelling would have a floor level slightly raised approximately 400mm from existing ground levels. Furthermore, the floor level of no. 230 is also stepped down from the application site. The section indicates that the difference in eaves height, and therefore presumably ground level, between the two dwellings would be roughly 1.2m (both are two-storey houses).

Principle 6 of the SPD recommends that, as a starting point, a minimum distance of 12m should normally be maintained between a habitable room window and a non-habitable room window. However, such as in this case, an existing property having primary habitable room windows on a boundary line with no intervening space is not a typical arrangement, and it is considered that, as a general principle, it would not be reasonable to allow the presence of such windows, facing directly into neighbouring land, to prevent or severely curtail development within the neighbouring land. It is noted also that there would be nothing – in terms of planning law – to stop the present or any future owner of the land from erecting a 2m fence a few centimetres from the boundary line, which would have a much greater effect on the ground floor windows than the proposed new building would. Looking at the level of amenity enjoyed by no. 230 more generally, the property also has several windows facing north-west, south-west and south-east, all of which potentially provide an undisturbed source of light and outlook.

During the application, officers have worked within the applicant to minimise the potential impacts upon no. 230. This included the latest amended version of the plans moving plot 15 approximately 2m further away from the facing elevation of 230 Healey Lane (to the above mentioned 4.7m and 5.7m). This is considered a significant improvement, over the originally proposed separation of 2.7m and 3.7m. Interruption to light and outlook, whilst they still could be noticeable, would, it is considered, be much less profound.

On the matter of overlooking and privacy, the immediate outlook from no. 230's existing windows would be over a landscaped belt, not onto private gardens, and the angle would not permit mutual overlooking between windows within the dwellings. An appropriate form of fencing would be erected at the border of Plot 15's curtilage to prevent any possibility of overlooking from their yard or passageway into these windows (see sub-section on boundary treatments below). Overlooking from the existing upper floor window to the front path providing the approach to the front door and bin storage area might be perceived as compromising privacy, but the future occupant of the new dwelling would be aware of this before moving in and it is considered the effect on privacy would be very minor. Plot 15's one side facing window serves a non-habitable room and is recommended to be obscure glazed via condition. Furthermore, a condition for the removal of PD rights for additional windows on this elevation is recommended.

Regarding light and overshadowing, the possible impact on light to the windows arising from the new development must also be considered. The

objection received has confirmed that the three windows in the north-eastern elevation of the existing dwelling, 230 Healey Lane, are to a lounge, music room and library respectively, and that in each case the window provides the sole source of light. The lounge, at least, would normally be classed as a habitable room.

Weighing the above, it is acknowledged that light availability to the three windows of 230 Healey Lane identified could all be compromised by the development, and their current open outlook interrupted by the proposed nearby building, resulting in a degree of overbearing. However, reasonable allowance must be given due to the windows being built onto the boundary, directly facing into 3<sup>rd</sup> party land. Furthermore, the proposed development would, in the case of the two ground floor windows, be less severe than that arising from the erection of a solid 2m fence which the occupants would be unable to challenge under planning legislation, and furthermore would leave the property with an undiminished outlook and light sources in other directions.

Consideration must also be given to the overall amenity standard of 230 Healey Lane. It is a sizable property, with numerous other windows on other elevations, some of which are presumed to serve additional habitable rooms, along with sizable associated curtilage and private amenity space. Officers therefore conclude, on balance, that the proposal would not result in material harm to the occupiers of the development. It is considered in the circumstances, taking a holistic view of the level of amenity that the property would enjoy as a whole, the impact would be acceptable, and it would not be possible to substantiate a refusal of permission on the grounds of loss of light or outlook.

Regarding other plots, plot 14 would be placed so that its rear habitable room windows would be only 9m from the common boundary with no. 230. In this case, since the line of sight would only be towards the south-eastern corner of no. 230's curtilage, which is an area that appears to be used principally for parking and access rather than amenity space, and the angle is slightly oblique, the relationship is on balance judged acceptable notwithstanding the height difference between plots and is not considered to give rise to any significant loss of privacy.

In conclusion, while it is acknowledged that the proposal would change how residents appreciate their property, on the planning balance it is considered that no part of the development would materially detract from the amenities of no. 230 by reason of mutual overlooking, subject to the windows referred to above being obscurely-glazed and non-opening, no additional ground floor windows being formed in that elevation, and subject to boundary treatments which will also be required for the privacy and security of future residents. This will be examined in detail under a separate heading.

With roads to the north and south, and the school grounds to the east, there are no other neighbouring properties in the vicinity that are determined to be impacted upon by the development.

*Internal space:*

The house types would benefit from the following amount of internal space:

- Block A (3 / 2 bedroom), 85 / 72sqm
- Block B (3 bedroom), 85sqm
- Block C (2 / 3 bedroom), 72 / 85sqm
- Block D (3 bedroom), 85sqm
- Block E (3 bedroom), 85sqm
- Block F, (2 bedroom), 72sqm
- Block G, (2 bedroom), 72sqm
- Block H (3 bedroom), 85sqm

All meet or exceed the minimum figure in the NDSS for the relevant type of two-storey dwelling. It is therefore considered that the amount of internal floorspace is, in each case, satisfactory.

*Outlook, light and privacy for future occupants:*

The proposed dwellings have been sited and designed so as to maximise light and outlook, and to minimise mutual overlooking, within the constraints imposed by the site. The front windows in Plot 9 would face the rear windows of Plot 10 at a distance of only 13m but as this would be at a 45-degree angle it is considered it would not be intrusive. Plot 7's light and outlook would be slightly compromised by the side wall / corner of Plot 8, and the rear (including first-floor) windows in Plot 6 would be only 3.7m from the plot boundary with Plot 5 (although would only affect this plot's garden, not any habitable room windows). Future occupiers would of course be aware of this relationship and would accept it. With these exceptions, all the new dwellings would comply with the recommended minimum distances with respect to each other. It is considered on balance, given the benefits of securing an affordable housing development, that the shortfalls in the recommended standards highlighted above can be accepted, and that viewing the development as a whole it would deliver acceptable levels of privacy, light and outlook for future residents.

*Provision of private garden space:*

All new dwellings would be provided with a private rear garden. There is no standard dimension for a new garden in any adopted Kirklees document.

Some of the gardens would be quite small – notably those assigned to Plots 1 and 14. Furthermore the rear gardens belonging to 12 and 13 would be somewhat overshadowed by trees. Taking an overall view of the proposed development, provision is however considered acceptable in terms of scale, quality and useability.

*Noise*

The application is supported by a Noise Impact Assessment which has been reviewed by K.C. Environmental Health. The local noise climate was found to be dominated by traffic noise from West Park Road during the day and nighttime periods and less so from Healey Lane. To the east of site there were periods of noise from the playground associated with Healey Junior Infant and Nursery School. A glazing scheme is recommended based upon the relevant façade and a specification is given for relevant plots 6.

The report states this specification would ensure the internal requirements of BS8233 would be met as will the night-time Lmax criteria. Based on a partially open window, noise levels within bedrooms are predicted to exceed those within Approved Document O and as such, an alternative means of ventilation is recommended at all Plots except no. 4 and 5. Mechanical ventilation requirements are outside the remit of Environmental Health (and that of the Council acting as Local Planning Authority), being set out in BS8233, and therefore do not need to be conditioned.

The modelling assumes solid perimeter fencing is to be installed as per the specification in para 6.4. which would ensure the external amenity areas meet with BS8233.

The latest boundary treatment plan shows an acoustic barrier being erected to the southern boundary of the site and returning to the southernmost part of the eastern and western boundaries. Kirklees Environmental Health have viewed this plan and confirm that the extent of the barrier is acceptable and that the rest of the site perimeter does not need an acoustic barrier. The submission of details of the acoustic barrier will be required by condition, however, along with its subsequent erection and retention.

#### *Residential amenity – conclusion:*

It is considered that the development, as conditioned, would provide a good standard of living for future occupants in terms of privacy, outlook, internal floorspace, availability of outdoor space, and protection from noise, whilst avoiding giving rise to harm to the amenities of neighbouring properties, thereby according with the aims of LP24(b) and LP52.

#### 4 – Highway and transport issues

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.

#### *Means of access to highway and internal layout*

The level of traffic generation attributed to 19 dwellings is considered limited and would not have a material impact upon the local network, including nearby junctions.

This application would make use of a new access on to Healey Lane, a 30mph two-way single carriageway link road with footways on both sides and street lighting present. The site lies close to a school and there are “School Keep Clear” Traffic Regulation Order (TRO) markings to the northeast of the proposed site access and “No Waiting at any Time” TRO markings around the junction with Healey Gardens.

The site has an extant outline approval for 15 dwellings (application 2022/93499) however, reserved matters for this never came forward. The current application is for an increased number of dwellings – and a slightly changed layout. It is considered that there have been no changes to the local highway network or to the policy context that would rule out residential development in principle, and that the small increase in the quantum of development can be accommodated with the proposed means of access. As with the earlier permission, it is considered that an extension of traffic calming measures on Healey Lane and the laying out of No Waiting at Any Time TRO markings around the proposed access are necessary to ensure that the proposed development, by giving rise to increased vehicular journeys, does not give rise to any increased safety risks to highway users. The proposed estate road will not have footways for most of its length, but footways of standard width are proposed either side of the new junction to accommodate pedestrians, and this arrangement is judged acceptable by KC Highways.

The applicant has confirmed that they would be willing to fund the traffic calming and TRO measures and this is included within the signed s106 agreement. The current sketch proposals from the Kirklees Highway Safety team are for 3 round-topped humps between the school and the junction with West Park Road. The cost for this and the processing of the No Waiting at Any Time TRO markings around the access to the development site comes to £42,500 (this would be £35,000 for the safety scheme and £7,500 for the TRO); both payments, under the terms of the Section 106 Agreement, will be made before the commencement of development.

It is generally good practice for a Stage 1 Road Safety Audit (RSA) to be undertaken and approved before an application is determined. An RSA brief and auditor’s CVs have been sent to the Council and have been forwarded on to the Kirklees Highway Safety Team for approval. They are current at an

advanced stage of review, with no prohibitive issues identified. Highways Development Management do not consider that any major redesign of the site will be required with the auditor's report and any issues raised can be dealt with by the designer's response, so this can go ahead after approval of the planning application in this instance.

The Section 38 (road adoption) team have requested that further information be submitted before they would be happy to start the s38 process, comprising the provision of a long section drawing (with details of gradient, vertical curves and chainage). The latest version of the layout drawing 0005 Rev. P17 has however resolved all other concerns about adoptability raised earlier in the process. Highways Development Management are satisfied that a gradient of 1:20 maximum is achievable and this can be dealt with by condition.

A highways area plan identifying the areas to be offered for adoption has been provided as drawing 0012 Rev P01.

A swept path analysis showing that a 12m refuse wagon can safely access and turn within the site has been provided as drawing No 2403605. This incorporates the 10m radius kerbs on the junction and allows for parked cars opposite the junction on Healey Lane. The site plan demonstrates that the standard visibility splays of 2.4m x 43m are provided in each direction.

The means of access and highway layout is therefore considered to be satisfactory, with conditions for further technical details of the access and road, to be submitted and approved, recommended by K.C. Highways. Officers concur with this, and recommend they be included.

The case officer would additionally recommend that the standard conditions on (i) submission of a Construction Management Plan and (ii) details of temporary waste collection during construction be applied, in the interests of ensuring that safety hazards and inconveniences to other road users during construction are prevented or minimised, and that refuse can be safely collected in the event that some parts of the development are completed and brought into use whilst development is still ongoing. Construction management and temporary waste collection have not been highlighted as concerns by Highways Development Management, but are generally imposed on major residential developments and are therefore thought to be reasonable and proportionate in this instance.

### *Parking*

The proposal complies with the Council's Highways Design Guide SPD guidance of two parking spaces for 2 and 3bed dwellings, and one visitor parking space per four units. A condition is recommended for the private parking spaces shown on the layout to be provided, surfaced and drained before the dwelling they would serve is brought into use, and thereafter retained.

### *Cycle storage*

Each property would have its own secure cycle store, which is welcomed in the interests of promoting low-impact methods of transport and active lifestyles. Details of a lockable timber shed, 2m by 850mm, have been provided. This is considered satisfactory and can be the subject of a prescriptive condition.

#### *Refuse storage*

Bin storage facilities are shown serving each property, providing room to store three waste containers. Details of bin enclosures (consisting of a brick wall topped by a timber fence) are supplied and are considered acceptable. Shared bin presentation points are shown throughout the estate. These would be a maximum of 28m from the curtilage boundary of the property they serve, which is marginally more than the recommended 25m set out in Kirklees guidelines, but is considered to be the best achievable. The layout of the estate road would allow a refuse collection vehicle of standard dimensions to collect from within the site.

In conclusion, it is considered that arrangements for the storage, separation and collection of waste are satisfactory. Their provision and subsequent retention can be the subject of a prescriptive condition.

#### *Highway and transport issues – conclusion*

In conclusion, it is considered that the development demonstrates both safe access to the existing highway network and a safe and satisfactory internal access and parking for future users, and would be compatible with the aims of promoting sustainable means of transport and the user hierarchy set out in LP20.

Subject to the above conditions, it would avoid any adverse impact on the free and safe use of the highway and accord with Policies LP20-22 of the Local Plan and Principle 12 of the Housebuilder Design Guide SPD.

#### *Retaining structures*

The sections indicate that no new retaining structures are to be created on the existing adopted highway frontages as part of the development, the land being gently graded down towards West Park Road. However, a retaining wall (King post structure varying from 1600mm to 2300m, with timber cladding) is shown along most of the length of the north-eastern boundary adjacent to the school, returning along a line parallel to the north-western boundary and 3.6m in from it in front of plots 1 and 2. There is an existing retaining wall separating the site from the curtilage of no. 230 Healey Lane (no. 230 being lower)

The Highway Structures Team have been consulted, who have recommended the application of the standard condition about drainage infrastructure within the public highway, which the case officer agrees should be imposed, but have not requested any conditions on retaining walls. It is therefore

considered that existing or proposed retaining structures do not present any risks to the stability of highway land. Any implications for the stability of private land are, in general, treated as a private civil matter and it is considered that the scale of the works are not such as would justify imposing conditions on retaining walls within the site.

## 5 – Ecology

Policy LP30 requires biodiversity losses to be minimised, and compensated for, with enhancement delivered on-site as far as is practicable. More stringent requirements have been introduced by the Environment Act (see below).

A Preliminary Ecological Appraisal has been submitted to support the application. These find that there are no features on site suitable as bat roosts (except one tree on the southern site boundary which is not to be directly affected by the development) and that the site has low value to commuting and foraging bats. The probability of reptiles or amphibians being on site is low to none, while hedgehogs are assumed to be occasionally present. The site is likely to offer moderate value to common and widespread bird species.

In the Arboricultural Report recommendations, it is noted that PRF-I suitability tree (T10) on Site requires an aerial assessment to determine its potential and status for roosting bats, as an assessment was only made from ground level. Should the assessment determine the tree as maintaining PRF-I status, a nighttime survey may be required before removal, or a Roost Resource Approach may be taken, ensuring appropriate PRF-I compensation in advance of removal (i.e. bat boxes installed) and a Precautionary Working Method Statement for all works be in place and followed. For the avoidance of doubt, it is recommended that that these matters be conditioned. It should further be conditioned that the recommendations in Section 6.6 be followed.

### *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.

The baseline value and predicted losses are set out using the current version of the BNG Metric. The submitted reports calculate the value of the baseline habitat as 1.07, and total habitat units post-development 0.66 without any enhancement. The available area for uplifting on-site is small. The landscaping plan shows numerous habitat boxes established throughout the site. The current losses could be addressed, or made smaller, by increased tree planting and planting mixed native scrub, but it is recognised it may not be possible to fully compensate for them. It is therefore anticipated that biodiversity loss will be compensated for, and the required 10% biodiversity net gain delivered, at least partly off-site.

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.

Under Government guidance, significant enhancements must be secured with a legal agreement (planning obligation or conservation covenant) or planning condition for 30 years. Significant enhancements are areas of habitat enhancement which contribute significantly to the proposed development's BNG, relative to the biodiversity value before development. What counts as a significant enhancement will vary depending on the scale of development and existing habitat, but these would normally be:

- habitats of medium or higher distinctiveness in the biodiversity metric
- habitats of low distinctiveness which create a large number of biodiversity units relative to the biodiversity value of the site before development
- habitat creation or enhancement where distinctiveness is increased relative to the distinctiveness of the habitat before development
- areas of habitat creation or enhancement which are significant in area relative to the size of the development
- enhancements to habitat condition, for example from poor or moderate to good

In this case, it is considered that the habitat to be created would not be significant. There would be a net increase in habitats of medium distinctiveness of site (modified grassland and urban tree), but these would still be of small scale, amounting to 0.23 habitat units, and the total habitat units delivered on site would be less than 1. It is therefore considered that a legal agreement or planning condition to secure the enhancements for 30 years is not required in this instance.

## 6 – 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.

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).

A foul and surface water drainage strategy was submitted. This confirms that:

- a.) Foul water will discharge to public combined water sewer
- b.) Sub-soil conditions do not support the use of soakaways
- c.) A watercourse is remote from the site
- d.) Surface water will discharge to public combined water sewer via storage (two separate attenuation tanks, one of which is expected to be adopted, the other to remain private) with restricted discharge 3.5 litres/second.

The Lead Local Flood Authority confirms acceptance of the flood exceedance routing, the 3.5 l/s allowable surface water discharge rate and the proposed outfall into the public combined sewer in West Park Road (subject to Yorkshire Water approval). Yorkshire Water confirm that they have no objections to the means of foul or surface water disposal subject to a condition that development be carried out in accordance with the drainage strategy.

The LLFA have reservations on the guaranteed design life of geocell type tanks and therefore these may need replacing after 25 to 30 years. While this is noted by planning officers, subject to acceptable management and maintenance details, securable via condition, along with a S106 agreement commitment for long-term management and maintenance arrangements (unless adopted), the use of geocells is considered acceptable. The S106 has been completed and includes this provision.

A condition for temporary drainage provisions during the construction phase has also been advised by the LLFA, which officers concur with and recommend.

Subject to the identified conditions, it is considered that the development would be drained in a safe and sustainable manner and that neither future occupants nor third parties would be subjected to risk of flooding, in accordance with Policies LP27 and LP28.

## 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.

For the reasons detailed elsewhere within this report, the following matters are covered by a Section 106 Agreement which has now been signed and executed:

1. Provision of managed areas on site and payment of inspection fee for same;
2. Plan for future management and maintenance of managed areas and sustainable drainage scheme to be submitted;
3. Provision of 100% affordable housing and its retention as such, with tenure limited to affordable or social rented and shared ownership;
4. Off-site financial contribution to Public Open Space £50,606;
5. Financial contribution to Traffic Regulation measures £7,500;
6. Off-site financial contribution to Traffic Calming Measures Contribution £35,000.

## 8 – Other matters

### *Contamination*

In accordance with Policy LP53, as a major residential development consideration of ground contamination is required. Furthermore, council records indicate the site as being potentially contaminated due to its proximity to a historic landfill. The application is supported by Phase 1 (desktop) and Phase 2 (site investigation) Contaminated Land reports which have been reviewed by K.C. Environmental Health.

The Phase 1 report's conclusion has been accepted; however, the Phase 2 report is too out of date for K.C. Environmental Health to support the conclusion. Accordingly, K.C. Environmental Health recommend conditions relating to further ground investigations and the submission of an updated Phase 2 report. Subject to the imposition of these conditions, officers are satisfied that the proposal complies with the aims and objectives of Policy LP53.

### *Coal legacy*

The application site partly falls within the defined Development High Risk Area, where there are underground coal mining features and hazards that may pose a risk to development. The application is supported by a Coal Mining Risk Assessment which has been reviewed by the Mining Remediation Authority (MRA).

Whilst it is acknowledged that the layout being considered as part of this planning application differs to that of the Coal Mining Risk Assessment, no buildings are proposed within the area likely to be affected by the mine entry.

The Coal Mining Risk Assessment concludes that the mine entry (if present within the site) would not affect any buildings within the southeastern part of the site, and the applicant has afforded due consideration to the current layout to ensure adequate separation has been incorporated. The MRA recommend that approval can be granted subject to conditions relating to further investigation, remediation, and validation (as required).

In line with the MRA's conclusion, officers recommend that the requested conditions be imposed. Subject to this, the proposal is considered to be compliant with Local Plan policy LP53

### *Air quality*

An Air Quality Assessment by Redmore Environmental (Ref: 7921r1) (dated: 10th June 2024) has been submitted in support of the application. The proposed residential development site is not within an Air Quality Management Area(AQMA) or near to any roads of concern.

The report details the impact that the development will have on existing air quality, and how this will impact existing and future sensitive receptors during the construction and operational phases. It uses techniques detailed in national and local guidance, such as Local Air Quality Management Technical Guidance, the Institute of Air Quality Management (IAQM) Technical Guidance and The West Yorkshire Low Emission Strategy (WYLES) – Technical Planning Guidance.

For the construction phase a qualitative assessment of fugitive dust emissions was undertaken in accordance with the Institute of Air Quality Management (IAQM) Guidance. This involved a risk assessment to identify all potential sources of dust during the construction phase. The report concludes that the Site is classified as “medium risk” in relation to dust and can be controlled by the implementation of good practice dust control mitigation. These are outlined in Table 14 of the report titled Fugitive Dust Emission Mitigation Measures.

A screening assessment was undertaken using the criteria contained within the IAQM 'Land-Use Planning & Development Control: Planning for Air Quality'10 guidance to determine the potential for trips generated by the development to affect local air quality. The report concludes that pollutant concentrations because of the development are not predicted to exceed the national air quality objectives.

In line with the West Yorkshire Low Emissions (WYLES) -Technical Planning Guidance the report concludes the proposal was classified as minor. The report goes on to recommend mitigation measures to assist in reducing any potential impacts in relation to air quality.

KC Environmental Health agree with the overall methodology and approach of the air quality assessment and concur with the conclusions of the report but would expect any future CEMP to clearly identify the link with the fugitive dust controls within the accepted air quality assessment. This would form part of the CEMP and does not require a separate condition.

### *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.

### *Boundary treatments and security*

A plan showing a full scheme of boundary treatments has been supplied. The low stone wall to Healey Lane is to be retained or rebuilt. To the West Park Road boundary, a new 1.8m acoustic fence is to be erected (continuing to adjacent parts of the south-western and north-eastern boundary), whilst to the school boundary, an existing steel palisade fence is to be retained and provided with a solid infill up to 1.5m height. Most boundaries between gardens are to be formed by fencing of 1.5m in height which is to be permeable above 900mm. This would not prevent all mutual overlooking, but as some garden plots are quite narrow, it would allow them to receive more light than if they were given 1.8m solid fences and would therefore result in a higher level of amenity overall. At the boundary of Plot 15's curtilage with no. 230 Healey Lane, a 1.8m hit and miss fence is to be erected, except at the southern end on the existing site boundary where it will be formed by a 1.8m fence, timber to 900mm with trellis above, which in both cases will effectively serve to prevent mutual overlooking.

A retaining wall, as previously noted, is to be formed along the boundary with the school campus.

The Designing Out Crime Officer, who was consulted on the development, raised the following concerns:

1. Type H boundary treatment - The boundary treatment for the perimeter of the development propose to use the existing 1.8m steel palisade fencing and attach a 1500mm opaque infill (reed screening). The developer must ensure that this screen cannot be removed or prised off in any way.

2. Type G boundary treatment – The developer must ensure that the batons of the fencing are not on the external side of the fence, as this can create a ladder effect and allow an offender to scale the fence.
3. Type I boundary treatment – The developer must ensure that the brick wall with timber fence topping has the wooden fence panels fitted on the external edge of the wall, so a step effect is not created, allowing an unwanted offender to scale it.
4. The proposed timber fence topped to 1.8m above existing boundary adjacent to plot 15, should be hit and miss fencing 1.8m above existing boundary, to allow for surveillance over the adjacent green space.
5. Please can the developer confirm that plots 1 and 2 do not share a rear access and that no unwanted access can be gained to the rear of plot 3?
6. Please can the developer advise on any proposed cycle storage and their security?

Regarding point (1), the developer's comments are that this has been successful on other schemes. The developer accepts points 2-3, has incorporated changes into the plans to meet the requirements of 4, and added a gate to the rear access to Plot 1-2. Cycle storage sheds, which will presumably be lockable, are already shown on a separate document and it is considered that this provides enough detail for a prescriptive condition, as previously noted.

#### *Removal of permitted development rights*

Permitted development rights should only be removed where there are demonstrable reasons for concluding that unrestricted extensions or outbuildings would be liable to cause loss of visual or residential amenity due to perceived overdevelopment of the site, overbearing impact, or other planning-related factors. In this case it is considered that it is not necessary for any dwelling forming part of this development. Whilst there would in principle be concerns about erection of a single-storey extension to the south-western side of Plot 15 because of the potential effect on the neighbouring dwelling to the south-west, this would not in fact be possible anyway because the curtilage of the new dwelling ends at the edge of the path, and any other land between the south-western wall of the house and the site boundary is designated landscaping and will not form part of any new property's private amenity space.

#### 9 – Representations

One representation was received. Concerns relating to residential amenity have been examined in depth in the main part of the report. Concerns that have not already been covered in this report are summarised below with issues raised and officer responses:

- I note that Dudley's Drainage proposes a ditch I seek assurance that this will effectively address the changed water table conditions resulting from the removal of trees in preparation for the development. Currently,

during rainfall, a stream running down, creating a muddy quagmire towards West Park Road.

**Response:** The developer will be required to submit full details of temporary drainage arrangements before construction commences in order to ensure that water is discharged from the site in a safe and appropriate manner before the final drainage arrangements are in place. The developer will also be required to submit a full surface water and land drainage scheme for the site. It is considered that drainage of the site will be satisfactorily addressed by the requirements of these two conditions being fulfilled.

- I kindly ask what provisions or easements that will be put in place to allow maintain the damp-proof element in adjacent property.

**Response:** There is no obvious reason to suspect that the development will negatively impact on the damp-proof course in the adjacent property, and this is in any case deemed to be a private civil matter.

- Regarding Appendix 5 of the Tree Constraint Plan, I have concerns about trees T14 and T13, categorized as Category C Trees that could be retained. I suggest the possible removal of these trees might prevent further damage. I request that the short section of heavy breeze block wall, which has been cracked and pushed over due to the aforementioned tree removals and land easement, be repaired as part of the development process.

**Response:** Any possible impact on a neighbouring wall arising from tree root incursion or from removal of said trees, is judged to a private civil matter and it would not be appropriate to seek to redress these matters under the planning system.

## 10 – 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. It would not result in the loss of high value habitat, and also subject to conditions 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 for approval.

**Recommendation:** CONDITIONAL FULL PERMISSION

**Report Dated:** 06-Mar-2025

**Decision Authorisation:** Delegated Powers  
**Application Number:** 2024/91760  
**Officer Recommendation:** Conditional full permission

### Conditions and Reasons

1. The development hereby permitted shall be begun within three years of the date of this permission.

**Reason:** Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.

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, 27, 30 and 52 of the Kirklees Local Plan.

3. No development shall commence until:

- a) further intrusive site investigations have been carried out within the site, as recommended by Patrick Parsons (Section 9.1 / 10.0 of the Phase 2 Geoenvironmental Appraisal) in order to conclusively discount the presence of recorded mine entry (CA shaft ref: 422423-005) , and;
- b) any remediation works and/or mitigation measures to address land instability arising from this feature, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed. This should include the submission of the approved site layout plan, to illustrate the exact location and grid co-ordinates of the mine entry (if found within the site) and the zone of influence of this feature.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

**Reason:** To ensure that the site is safe for occupation having regard to coal mining legacy and to accord with the aims of Policy LP53 of the Kirklees Local Plan and paragraph nos. 196 and 197 of the National Planning Policy Framework.

This information is required pre-commencement to ensure that any possible instability arising from coal mining legacy is addressed before groundworks begin.

4. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works

and/or mitigation necessary to address the risks posed by past coal mining activity.

**Reason:** To ensure that the site is safe for occupation having regard to coal mining legacy and to accord with the aims of Policy LP53 of the Kirklees Local Plan and paragraph nos. 196 and 197 of the National Planning Policy Framework.

5. Groundworks (other than those required for a site investigation report) shall not commence until a supplementary Phase II Intrusive Site Investigation Report by a suitably competent person has been 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. 196 and 197 of the National Planning Policy Framework. This information is required pre-commencement to ensure that any possible land contamination is identified and dealt with at an appropriate stage.

6. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition (5) further groundworks shall not commence until a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

**Reason:** To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 196 and 197 of the National Planning Policy Framework. This information is required pre-commencement to ensure that land contamination remedied at an appropriate stage.

7. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition (6). 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. 196 and 197 of the National Planning Policy Framework.

8. 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 part of the site shall be brought into use 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. 196 and 197 of the National Planning Policy Framework

9. Development shall not commence until a detailed design scheme detailing foul, surface water and land drainage, including agreed 3.5 l/s discharge rate 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 that a safe and sustainable system of drainage is put in place to serve the site and to accord with the aims of Policy LP28 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework. This information is required pre-commencement to ensure that satisfactory drainage infrastructure can be installed at an appropriate stage in the development process.

10. 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.
- ii. Include methods of preventing silt, debris and contaminants entering existing drainage systems and watercourses and how flooding of adjacent land is prevented.
- iii. The strategy shall include a plan showing the location of the attenuation storage and supporting calculations, which shall be based on the critical 1 in 2-year storm. It should be assumed that once the site has been stripped that the percentage run-off will be 100 %. The maximum allowable off-site discharge rate shall not exceed 2.5 litres per second per ha, unless a higher discharge rate is approved by the Local Planning Authority.

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 that the development process does not give rise to flood risk or pollution of the water environment and to accord with the aims of Policies LP27 and 28 of the Kirklees Local Plan. This information is required pre-commencement to ensure that suitable temporary drainage arrangements are in place before groundworks commence.

11. Prior to development commencing, a Construction (Environmental) Management Plan (C(E)MP) for that phase shall be submitted to and approved in writing by the Local Planning Authority. The C(E)MP shall include details of:

- . Any phasing of development and timetable of all works;
- a. Hours of works;
- b. Details of construction access arrangements;
- c. Construction vehicle sizes and routes;
- d. Numbers and times of construction vehicle movements;
- e. Locations of HGV waiting areas and details of their management;
- f. Parking for construction workers;
- g. Loading and unloading of plant and materials;
- h. Storage of plant and materials;
- i. Signage;
- j. Measures to be taken to minimise the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site, including the provision of adequate wheel washing facilities within the site;
- k. Street sweeping;
- l. Measures to control and monitor the emission of dust and dirt during construction;
- m. Site waste management, including details of recycling/disposing of waste resulting from construction works;
- n. Mitigation of noise and vibration arising from all construction-related activities, including restrictions on the hours of working on the site including times of deliveries;
- o. Artificial lighting used in connection with all construction-related activities and security of the construction site;
- p. Site manager and resident liaison officer contacts, including details of their remit and responsibilities;
- q. Means of engagement undertaken with local residents, occupants and/or their representatives, and means of continued engagement during the construction process; and
- r. Engagement with the developers of nearby sites to agree any additional measures required in relation to cumulative impacts (should construction be carried out at nearby sites during the same period).

The development shall be carried out strictly in accordance with the C(E)MP so approved throughout the period of construction and no change therefrom shall take place without the prior written consent of the Local Planning Authority.

**Reason:** In the interests of amenity, to ensure the highway is not obstructed, in the interests of highway safety, to ensure harm to biodiversity is avoided, and to accord with Policies LP21, LP24, LP30 and LP52 of the Kirklees Local Plan. This pre-commencement condition is necessary to ensure measures to avoid obstruction to the wider highway network, to avoid increased risks to highway safety, and to prevent or minimise amenity are devised and agreed at an appropriate stage of the development process.

12. Prior to commencement of development, the following details associated with the proposed site access and estate streets, as shown on the preliminary site layout plan, ref. (557)2405-GWP-00-00-D-A-(PA)-0005 Rev. P17 Proposed Site Plan, shall be submitted to and approved in writing by the Local Planning Authority. The details shall include:

- i. Long Sections showing the vertical alignment of all estate streets;
- ii. Stage 1 Road Safety Audit (RSA) based on an Approved RSA Brief, Designers Responses and Agreed RSA Actions, covering all aspects of these works.

The details to be provided shall include a timeframe for the delivery of the works. Thereafter the site access and estate streets shall be implemented in accordance with the approved details and shall thereafter be retained.

**Reason:** To achieve a satisfactory layout in the interests of the safe and convenient use of the highway 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 internal adoptable roads and junctions are agreed at an appropriate stage of the development process.

13. 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.

14. Before development commences, details of 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 arrangements shall be implemented throughout the construction period.

**Reason:** To ensure safe and satisfactory provision for the storage and collection of wastes during the development process in the interests of visual amenity and highway safety, and to accord with the aims of Local Plan Policy LP24 part d(vi) of the Kirklees Local Plan. This is a pre-commencement condition to ensure appropriate measures to protect amenity and maintain highway safety are agreed before development commences.

15. Prior to the construction of any dwellings above foundation level, samples of all external materials and finishes to be used shall be submitted for the inspection of and approval in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

**Reason:** In the interests of visual amenity, to preserve and enhance the character of the townscape and to accord with Policy LP24(a) of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

16. Prior to construction work commencing on any new retaining walls within the site, details shall be submitted to and approved in writing by the Local Planning Authority of the facing materials for the retaining walls. All retaining walls within the site shall be constructed using the approved materials before any new dwelling is occupied, and thereafter retained as such.

**Reason:** In the interests of visual amenity, to preserve and enhance the character of the townscape and to accord with Policy LP24(a) of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

17. Notwithstanding the submitted details, prior to work commencing on the superstructure of any dwelling, details of all hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. These shall include:

- a) Details of existing and proposed levels, and regrading, and detailed landscape layout including, where applicable, maintenance of adequate visibility at new or existing junctions and private accesses;
- b) Species schedule, specification and planting plans, including layout, number, density and size of trees and plants and/or seed mixes and sowing rates, including extensive use of native species;
- c) Landscape Maintenance & Management Plan (LMMP) required with details of initial aftercare and long-term maintenance and management plan including details of the management company and a management and maintenance programme including full details for management of newly establishing trees including, but not limited to, a watering regime, monitoring of stakes and ties, formative pruning, replacement of failed or damaged trees and should also include any SuDS features, and existing trees and vegetation retained on site;

- e) Details of monitoring and remedial measures, including replacement of any trees, shrubs, hedge or planting that fails or becomes diseased within the first five years from completion;
- f) Details (including samples, if requested), of paving and other hard surface materials and boundary treatments, including means of enclosure to public open spaces.
- g) Notwithstanding the details on the submitted landscaping plan 101 Revision F, the Proposed Native Shrub Mix in the area between Plot 15 and the site boundary is not approved. The final approved scheme shall show a wildflower mix or other low-growing plants in this area.

All landscaping works shall be carried out in accordance with the approved details, approved implementation programme and British Standard BS 4428:1989 Code of Practice for General Landscape Operations. All approved landscaping shall be retained thereafter in accordance with the approved details and approved long-term maintenance, monitoring and remedial arrangements.

**Reason:** In the interests of local ecological value, visual and residential amenity and highway safety, to accord with Policies LP24, LP30, LP32, and LP33 of the Kirklees Local Plan, chapters 12 and 15 of the National Planning Policy Framework, and to ensure the provision and establishment of an acceptable finalised landscape scheme in broad accordance with the overall plan and schedule submitted with the application.

18. Before development above foundation level commences, details shall be submitted to and approved in writing by the Local Planning Authority of a solar array to be installed on the roofs of the new dwellings and/or any other on-site renewable energy generation. The approved solar array or other measures shall be installed before the dwelling to which they relate is first brought into use and thereafter retained as such.

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

19. All of the recommendations in Section 6.6 of the Preliminary Ecological Appraisal and Biodiversity Net Gain (BNG) Feasibility Report P062 V03 shall be followed throughout the development process.

**Reason:** To protect biodiversity during construction by avoiding direct impacts to protected species, and to accord with Kirklees Local Plan Policy LP30 and Chapter 15 of the National Planning Policy Framework. This information is required pre-commencement to ensure that biodiversity is safeguarded at all stages in the construction process.

20. The development shall be carried out in full accordance with the recommendations of the approved Arboricultural Method Statement at all times.

**Reason:** To ensure that mature trees are not harmed during construction and that their long-term health and viability are protected in accordance with the aims of Policy LP33 of the Kirklees Local Plan.

21. Notwithstanding the details within the submitted Arboricultural Method Statement, tree T10 shall not be removed until an aerial assessment to determine its potential and status for roosting bats has been undertaken by a competent person and the results submitted to and approved in writing by the Local Planning Authority. Should the assessment determine the tree as maintaining PRF-I status, the tree shall not be removed until details of compensatory provision of one or more artificial bat roost features and a Precautionary Working Method Statement for all works have been submitted to and approved in writing by the Local Planning Authority. All works shall be carried out in full accordance with the Precautionary Working Method Statement and the compensatory bat roost feature(s), if applicable, shall be installed before any new dwelling is occupied and thereafter retained.

**Reason:** To protect biodiversity during construction by avoiding direct impacts to protected species, to ensure that any harm to habitats is compensated for, and to accord with Kirklees Local Plan Policy LP30 and Chapter 15 of the National Planning Policy Framework.

22. Before the development is first brought into use all works which form part of the sound attenuation scheme as specified in the Noise Impact Assessment authored by PDA Acoustics dated June 2024 Ref J004896-7802-DH-02 shall be completed. Any changes to the approved noise mitigation measures must be submitted to and approved in writing by the Local Planning Authority.

**Reason:** To protect the amenity of occupiers of the proposed development from noise or disturbance from nearby sources of noise and to accord with the aims of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

23. Before the development is brought into use, notwithstanding the details set out in the submitted boundary treatments plan and the requirements of condition 20, details of an acoustic barrier to the outer boundaries of residential garden plots as recommended in the Noise Impact Assessment authored by PDA Acoustics dated June 2024 Ref J004896-7802-DH-02, shall be submitted to and approved in writing by the Local Planning Authority.

The details shall include:

- A plan showing the location of the barrier
- The minimum height of the barrier relative to the adjacent ground level
- The construction specification of the barrier including the barrier support structure, the barrier material, the minimum barrier thickness, the minimum density of the barrier material and the details where the barrier meets the ground.

No dwelling whose curtilage shares a boundary with the proposed acoustic barrier shall be occupied until the construction of the acoustic barrier has been completed in accordance with the approved details, and the barrier shall be retained thereafter.

**Reason:** To protect the amenity of occupiers of the proposed development from noise or disturbance from nearby sources of noise and to accord with the

aims of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

24. The scheme of boundary treatments (other than the acoustic barrier referred to above) as shown on the approved Boundary Treatment Plan and Elevations ref (557)2405-GWP-00-00-D-A-(PA)-0025 P09 and (557)2405-GWP-00-00-D-A-(PA)-0026 P07 shall be implemented in full before any dwelling to which they relate is first occupied, and shall thereafter be retained as such.

**Reason:** To ensure that existing and future occupiers have adequate protection from crime and the fear of crime, to ensure that the privacy of existing and future occupiers is protected, and to accord with the aims of Policy LP24(b) of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

25. All private and visitor parking spaces as shown on drawing (557)2405-GWP-00-00-D-A-(PA)-0005 P21 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 the visitor spaces, before any dwelling is first occupied) and thereafter retained free of all obstructions to their use by vehicles.

**Reason:** To ensure that satisfactory parking provision is provided at all times in the interests of highway safety and the efficient servicing of the site, and to accord with the aims of Policies LP21 and 22 of the Kirklees Local Plan.

26. Finished floor levels of the dwellings hereby approved shall be in accordance with the details shown on the approved drawing Levels Strategy, 24106-DCE-XX-XX-D-C-155 Rev P04.

**Reason:** For the avoidance of doubt, to ensure that the development harmonises with its surroundings, and in the interests of the amenity of existing and future residents, and to accord with the aims of Policy LP24(a&b) of the Kirklees Local Plan.

27. The facilities for the storage of wastes arising from the development shall be provided in the locations shown on the approved site plan (557)2405-GWP-00-00-D-A-(PA)-0005 P21 in accordance with the details shown on the boundary treatment elevations drawing (557)2405-GWP-00-00-D-A-(PA)-0026 P07 before any dwelling to which it relates is first occupied, and these shall thereafter be retained free from obstructions to their use for the storage of waste containers.

**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.

28. The secure cycle storage facilities shown on the approved site plan and supporting details shall be provided and made available for use prior to the first occupation of the dwelling to which it relates, in accordance with the details shown on the plan, 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.

29. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification), all windows in the side elevation of the dwelling on Plot 15 shall be non-opening and shall be fitted with obscure glazing to give a grade 5 degree of obscurity before the dwelling is first occupied. Windows of this type shall thereafter be retained.

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

30. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification), no windows other than those shown on the approved plans shall be formed within the side elevation of the dwelling on Plot 15 at ground floor level at any time.

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

31. One electric vehicle recharging point shall be installed within the dedicated parking area for each of the approved dwellings before the dwelling to which the recharging point relates is first occupied. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. The electric vehicle charging points so installed shall thereafter be retained.

**Reason:** In accordance with the aims of Policy LP24(d & v) of the Kirklees Local Plan and Chapter 14 of the NPPF, to promote infrastructure which encourages modes of transport with low carbon emissions.

#### **Note: Mandatory Net Gain Condition**

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
- b) 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;
- b) the pre-development biodiversity value of the onsite habitat;
- c) the post-development biodiversity value of the onsite habitat;
- d) any registered offsite biodiversity gain allocated to the development and the biodiversity and the biodiversity value of that gain in relation to the development;
- e) any biodiversity credits purchased for the development; and

any such other matters as the Secretary of State may by regulations specify

### **Notes – drainage infrastructure within the public highway**

All new storm water attenuation tanks/pipes/culverts with internal diameter/ spans

exceeding 0.9m must be located off the adoptable highway. Any decision to locate these facilities within the adoptable highway footprint must be accompanied with a full risk evaluation report with particular reference to their proposed inspection, structural assessment and maintenance regime in compliance with the CDM Regulations 2015 requirements.

See: <https://www.kirklees.gov.uk/beta/regeneration-anddevelopment/pdf/highways-structural-procedures.pdf>

The adopting authority (i.e. Yorkshire Water) will also be required to produce and submit a legally binding agreement to the Highway Authority explicitly stating that they will be fulfilling their obligations in relation to the systematic and cyclical inspection and structural assessment of any attenuation structure located within the highway footprint, in full compliance with CS450- Inspection of Highway structures.

### **Preliminary street design details – Informative**

The discharge of the above condition does not constitute Technical Approval of the estate street works under Section 38 or 278 (or other relevant section) of the Highways Act 1980, for which separate approval is required from the Local Highway Authority.

### **Note: construction times**

Noisy construction related activities should not take place outside the hours of

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- 07.30 to 18.30 hours Mondays to Fridays
- 08.00 to 13.00 hours, Saturdays

With no noisy activities on Sundays or Public Holidays. Institute of Air Quality Management document “Guidance on the assessment of dust from demolition and construction” Version 1.1 2014 provides detailed information regarding dust control.

Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists or is likely to occur or recur. Failure to comply with a notice served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited

#### **NOTE – Works within the highway**

The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer, Flint Street, Fartown, Huddersfield (Kirklees Street Care: 0800 7318765) with regard to obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Application form			21-Jun-2024
Site Location Plan	(557)2405-GWP-00-00-D-A-(PA) 0001	P02	21-Jun-2024
Topographical Survey	(557)2405-GWP-00-00-D-A-(PA) 0002	P02	21-Jun-2024
Existing Site Sections	(557)2405-GWP-00-00-D-A-(PA) 0004	04	21-Jun-2024
Proposed Site Plan	(557)2405-GWP-00-00-D-A-(PA) 0005	21	10-Feb-2025
Proposed Materiality (3D visualisation)	(557)2405-GWP-00-00-D-A-(PA) 0006	P03	19-Aug-2024
Waste Management Strategy	(557)2405-GWP-00-00-D-A-(PA) 0007	P07	10-Feb-2025
Proposed Site Sections	(557)2405-GWP-00-00-D-A-(PA) 0009	P07	10-Feb-2025
Proposed House – 2b3p	(557)2405-GWP-00-00-D-A-(PA) 0010	P03	21-Jun-2024

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Proposed House – 3b4p	(557)2405-GWP-00-00-D-A-(PA) 0011	P02	21-Jun-2024
Proposed House – 3b4p (turned)	(557)2405-GWP-00-00-D-A-(PA) 0012	P03	21-Jun-2024
Block A Architectural Drawings	(557)2405-GWP-00-00-D-A-(PA) 0015	P06	23-Jan-2025
Block B Architectural Drawings	(557)2405-GWP-00-00-D-A-(PA) 0016	P04	23-Jan-2025
Block C Architectural Drawings	(557)2405-GWP-00-00-D-A-(PA) 0017	P06	23-Jan-2025
Block D Architectural Drawings	(557)2405-GWP-00-00-D-A-(PA) 0018	P05	23-Jan-2025
Block E Architectural Drawings	(557)2405-GWP-00-00-D-A-(PA) 0019	P05	23-Jan-2025
Block F Architectural Drawings	(557)2405-GWP-00-00-D-A-(PA) 0020	P05	23-Jan-2025
Block G Architectural Drawings	(557)2405-GWP-00-00-D-A-(PA) 0021	P06	23-Jan-2025
Block H Architectural Drawings	(557)2405-GWP-00-00-D-A-(PA) 0022	P05	23-Jan-2025
Proposed boundary treatments	(557)2405-GWP-00-00-D-A-(PA) 0025	P09	11-Feb-2025
Proposed boundary treatment elevations	(557)2405-GWP-00-00-D-A-(PA) 0026	P07	11-Feb-2025
Proposed bike store	(557)2405-GWP-00-00-D-A-(PA)-002	P02	21-Jun-2024
Landscape layout	4622 101	F	23-Jan-2025
Planting plan 1 of 2	4622 201	C	23-Jan-2025
Planting plan 2 of 2	4622 202	C	23-Jan-2025
Flood Risk Assessment	24106	P01	21-Jun-2024
Drainage Strategy & Calculations	102	P03	05-Feb-2025
Proposed Impermeable Areas	103	P03	05-Feb-2025
Flood Exceedance Route	129	P04	05-Feb-2025
Noise Impact Assessment	J004896-7802-DH-02		21-Jun-2024
Air Quality Impact Assessment	7921r1		21-Jun-2024
Arboricultural Report	22019/AJB		21-Jun-2024
Arboricultural Method Statement	22019-A/AJB		21-Jun-2024
Highways Technical	24036	P01	22-Oct-2024

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Statement			
Highways Section 38 plan	138	P04	05-Feb-2025
Highway Longitudinal Sections	160	P01	10-Feb-2025
Levels Strategy	155	P04	20-Feb-2025
Visibility Splays	191	P01	24-Oct-2024
Adoptable highway plan	(557)2405-GWP-00-00-D-A-(SK)-0012		06-Dec-2024
Plan of managed landscaped areas	(557)2405-GWP-00-00-D-A-(SK)-0013		11-Feb-2025
Proposed lighting layout	WECE / HEALEY LANE / E / 001		21-Jun-2024
Energy & sustainability Statement	Watt	A	21-Jun-2024
Biodiversity net gain calculation tool			05-Dec-2024
Preliminary ecological assessment and feasibility report	P062	03	05-Dec-2024
Geoenvironmental appraisal			13-Sep-2024
Coal Mining Risk Assessment	H17075CMRA		13-Sep-2024
Phase 1 Contaminated Land Report	H17075DTS		21-Jun-2024
Phase 2 Contaminated Land Report	H17075		21-Jun-2024
Hazardous Gas Risk Assessment	ACV/JR/H17075GRA/2018.07.27		21-Jun-2024
Rotary Boreholes Log	H17075		21-Jun-2024
Trial Pit Log	H17075		21-Jun-2024
Drawing issue sheet			10-Feb-2025
Civils issue sheet			10-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 requested several amendments during the application process in the interests of highway safety and amenity, which informed the final decision.

