

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

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

CERTIFICATE OF APPROPRIATE ALTERNATIVE DEVELOPMENT

Reference no.: 2024/73/91897/E

Site: land at Ravensthorpe Road, Thornhill Lees,
Dewsbury, WF12 9EG

Description: Application for certificate of appropriate alternative
development

Case Officer: Victor Grayson

**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.**

David Shepherd

AUTHORISED OFFICER

Date 14/04/2025

Application number: 2024/91897

Location: Land at Ravensthorpe Road, Thornhill Lees, Dewsbury, WF12 9EG

Applicant: Dewsbury Riverside Limited

Proposal: Application for a Certificate of Appropriate Alternative Development for a residential development of 169 dwellings

1.0 Purpose of this report

- 1.1 Dewsbury Riverside Limited have applied for a Certificate of Appropriate Alternative Development (CAAD) under Section 17 of Part III of the Land Compensation Act 1961 (as amended) in respect of the above site, defined by location plan 11151 SK04.
- 1.2 This CAAD application has been submitted to assist in the assessment of the open market value of the site in light of Network Rail's compulsory acquisition to facilitate Transpennine Route Upgrade (TRU) works permitted by the Huddersfield to Westtown (Dewsbury) Transport and Works Act Order (TWAO).
- 1.3 This report considers whether, at the Relevant Valuation Date (RVD) of 22/05/2024, approval of planning permission (for the proposed development) could reasonably have been expected in the circumstances known to the market at that time. The submitted Planning Statement clarifies that 22/05/2024 is the date when permanent possession of part of the site took place.
- 1.4 Of note, a CAAD application is not a planning application. The purpose of the CAAD procedure is to identify alternative development which may be considered acceptable and which may have been likely to obtain planning permission (had a submission been made) in order to assist in the valuation of the land in question for the purposes of the compulsory purchase procedure. The permissions or use indicated in a CAAD can briefly be described as those for which an owner might reasonably have expected to sell the land in the open market if it had not been the subject of compulsory acquisition.

2.0 Relevant legislation and guidance (summary of key points)

- 2.1 Section 17 of Part III of the Land Compensation Act 1961 (as amended) allows for a party with an interest in a site to submit a CAAD application to the local planning authority where an interest in that site is proposed to be acquired by an authority possessing compulsory purchase powers. The acquiring authority may also submit such an application.

- 2.2 The applicant may request a CAAD containing either a positive or a negative statement in respect of appropriate alternative development of the site in question.
- 2.3 Where an applicant seeks a positive statement in respects of appropriate alternative development, Section 17 requires the applicant to specify (i) each description of development that (in the applicant's opinion) is appropriate alternative development in relation to the acquisition, and (ii) the applicant's reasons for holding that opinion.
- 2.4 If a CAAD containing a positive statement is issued by the local planning authority, it must identify every description of development (whether specified in the application or not) that in the local planning authority's opinion is appropriate alternative development in relation to the acquisition concerned. It must also give a "general indication":
- (i) of any conditions to which planning permission for the development could reasonably have been expected to be subject,*
 - (ii) of when the permission could reasonably have been expected to be granted if it is one that could reasonably have been expected to be granted only at a time after the relevant valuation date, and*
 - (iii) of any pre-condition for granting the permission (for example, entry into an obligation) that could reasonably have been expected to have to be met.*
- 2.5 Section 14 of Part III of the Land Compensation Act 1961 (as amended) is also relevant. It sets out how actual or prospective planning permissions may be taken into account when assessing the value of land for the purpose of assessing compensation in respect of a compulsory acquisition of an interest in land. Subsection 2 confirms that account may be taken of a planning permission in force on the RVD, and of the prospect of a planning permission that could have been granted (subject to assumptions).
- 2.6 Section 23 of the recent Guidance on the Compulsory Purchase Process (Ministry of Housing, Communities and Local Government, January 2025) concerns CAAD. Paragraph 286.3 confirms that a CAAD application may be made at any time (with exceptions). Paragraph 287.2 states that, if a local planning authority issues a certificate for development which is less extensive than the description of development given in the application, is contrary to representations made by the party directly concerned, or if it rejects the application, it must include a statement of the authority's reasons and of the right of appeal (and the time within which an appeal may be made under Section 18 of Part III of the Land Compensation Act 1961 (as amended)). This appeal would be to be Upper Tribunal.

- 2.7 Paragraph 288.2 of the guidance states that a CAAD application must specify the description of development that the applicant considers planning permission would have been granted for, and must set out the applicant's reasons for holding that opinion. It adds: "The onus is therefore on the applicant to substantiate the reasons why they consider that there is development that is appropriate alternative development". Paragraph 288.3 clarifies that an applicant needs to specify the type and form of the proposed development, and that this will need a degree of precision.
- 2.8 Paragraphs 288.5 and 290.5 of the guidance emphasise that a CAAD application is not a planning application, and that applicants do not need to provide the detailed information which would normally be submitted with a planning application (although applicants should provide a specific description of development). Paragraph 288.6 suggests what could usefully be included in an applicant's submission, and paragraph 288.7 confirms that detailed plans are not required (although drawings or other illustrative material may be of assistance).
- 2.9 As set out at paragraph 290.1 of the guidance, a local planning authority is required to respond to a CAAD application by:
- a) issuing a certificate stating that a certain description of development (given in the application) is appropriate alternative development;
 - b) issuing a certificate stating that a certain description of development less extensive than, but otherwise falling within, the description of development given in the application is appropriate alternative development; or
 - c) rejecting the application.
- 2.10 Paragraph 290.2 states that, when deciding whether a certain description of development is "appropriate alternative development", the exercise the local planning authority will undertake is whether (had a planning application for the development been determined on the relevant planning date) the authority would have been more likely than not to grant it planning permission in the "no-scheme world".
- 2.11 Paragraph 290.4 states that a local planning authority may issue a CAAD for either:
- a) the description of development identified in the application; or
 - b) a description of development that is within the same description identified in the application but is less extensive (for example, a certificate issued for a four-storey residential block with 15 units instead of the five-storey residential block with 20 units that had originally been applied for).
- 2.12 When issuing a certificate to the applicant, the local planning authority

must serve a copy of the certificate on the other party concerned with the compulsory acquisition.

- 2.13 Paragraph 290.5 of the guidance states that, as the development described in the CAAD is not intended to be built, the local planning authority does not need to concern itself with whether or not the granting of a certificate would create any precedent for the determination of future planning applications.

3.0 Proposed development

- 3.1 The applicant has requested that a CAAD be issued, containing a positive statement confirming that a development would have been appropriate for this site, if it were not subject to compulsory acquisition. The applicant has described the proposed development as:

Residential development (use class C3) for 169 homes, with associated green infrastructure, public open space, play space and highways and drainage infrastructure.

- 3.2 Documents submitted with the application provide further details of the proposed development, including the following:

- Vehicular access from a realigned Ravensthorpe Road.
- Buildings located away from the northern part of the site.
- Building heights of one to three storeys.
- 35 affordable homes (20.7% provision).
- Unit size mix to include 63x 1- and 2-bedroom dwellings, 61x 3-bedroom dwellings and 45x 4-bedroom dwellings.
- 1.06 hectares of public open space.
- Two Local Areas for Play and a Local Equipped Area for Play.
- At least one car parking space and one cycle parking space per unit.
- Four attenuation basins.

4.0 Site description

- 4.1 The site is approximately 7.3 hectares in size. It is located to the south of Ravensthorpe Road, Calder Road and the Huddersfield-Dewsbury/Wakefield railway line. It slopes uphill from north to south. Most of the site was in agricultural use until Network Rail began using the northern part of the site in connection with Transpennine Route Upgrade works. Overhead electricity cables (supported by pylons and poles) cross the site. A public right of way (bridleway DEW/3/10) runs along part of the site's north edge, and a bridleway has been claimed within the site, close to parts of the site's eastern and southern edges.

- 4.2 The majority of the site is land allocated for residential development in the Local Plan (site allocation HS61). A small part of the site (to the

rear and side of 143 to 153 Ravensthorpe Road) falls outside the allocation.

- 4.3 The site is within a wider minerals safeguarding area (surface coal resource with sandstone and/or clay and shale). Parts of the site are within the Development High Risk Area (as defined by the Coal Authority, now the Mining Remediation Authority), while others are within the Development Low Risk Area. The site is within a Biodiversity Opportunity Zone (Pennine Foothills). Land to the north and west forms part of the borough's Strategic Green Infrastructure Network. Land within the site (along the site's southern and eastern boundaries) forms part of the Wildlife Habitat Network, as does land to the north and west outside the site. Bats are known to present in the area. The site is within the Impact Risk Zone of the Denby Grange Colliery Ponds SSSI. There are TPO-protected trees nearby on the north side of Ravensthorpe Road. An ancient woodland (Lady Wood) exists to the west. The River Calder runs west to east, approximately 170m north of the site's northern boundary. The site (and others nearby) are historic landfill sites or are in the buffer zones of landfill sites. The site is potentially contaminated, as is adjacent land. Part of the Core Walking and Cycling Network runs along the bridleway to the north of the site. The site is within the TS5 Mirfield to Dewsbury to Leeds and North Kirklees Growth Zone. There are no designated heritage assets within or immediately adjacent to the site. A high-pressure gas pipeline runs north-south outside the site's eastern edge.

5.0 Planning policies (relevant at 22/05/2024)

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees (that was in force on 22/05/2024, and which remains in force) is the Local Plan (adopted 27/02/2019).
- 5.2 As noted above, the majority of the site is allocated for residential development in the Local Plan. The wider HS61 allocation covers an area of 161.37 hectares (gross), but identifies a net site area of 142.9 hectares which excludes an area of UK BAP Priority Habitat. The site allocation sets out an indicative housing capacity of 1,869 dwellings, with a further 2,131 dwellings to be delivered beyond the current Local Plan period.
- 5.3 The site allocation identifies the following constraints relevant to the site:
- Major impact on a priority junction.
 - Multiple access points required along with significant improvements to Sands Lane, the bridge over the railway line,

Steanard Lane and its junction with A644 and the upgrade of bridge over River Calder.

- Third party land may be required for access.
- Additional mitigation on the wider highway network may be required.
- Public right of way crosses the site.
- Potentially contaminated land
- Noise source near site – noise from rail and road and various industrial sources
- Part of the site lies within a UK BAP priority habitat
- Proximity to a Local Wildlife Site
- Parts of the site are within the Wildlife Habitat Network
- Part of the site is an area of archaeological interest
- Mine entrances present
- Site is affected by high pressure gas pipelines
- Part/all of the site is within a High Risk Coal Referral Area

5.4 Site allocation HS61 also identifies the following site-specific considerations:

- Replacement allotment provision of equivalent or better quantity and quality will be required in a suitable location as part of the development.
- Landscape character assessment has been undertaken for this site which should be considered in the development masterplan.
- Site requires a drainage masterplan
- Early Years and Childcare provision will be required relating to this allocation.
- The provision of one new two form entry primary school will be required during the plan period with further two form entry capacity required beyond the plan period.
- The provision of secondary school places will be monitored and delivered to meet demand as new housing is delivered during and beyond the plan period. The masterplan will safeguard land for future secondary school provision beyond the plan period should the need arise.
- Early Years and Childcare provision will be required relating to this allocation.
- Recreational and biodiversity – new areas of public open space, green infrastructure and habitats required.
- The site will play a key role in helping transform Dewsbury and Ravensthorpe. Proposals should indicate how the place shaping strengths, opportunities and challenges can be addressed through reference to policies in the Local Plan, the Dewsbury Strategic Framework and other regeneration and urban renaissance strategies and initiatives.
- This site requires the provision of multiple access points and will need to be carefully phased to ensure it complies with other policies in the Local Plan regarding transport.

- Proposals for this site should also contribute towards:
 - Improved rail, road, pedestrian and cycle connections.
 - Improvements to Ravensthorpe Station and surrounding area.
 - Delivery of landscape and environmental enhancements.
 - Services and infrastructure Mirfield Promenade Strategic Green Infrastructure proposals (SGI2110).
- Additional mitigation on the wider highway network will be required. Development of this site has the potential for a significant impact on the Strategic Road Network. Measures will be required to reduce and mitigate that impact. The transport assessment will need to demonstrate that any committed schemes are sufficient to deal with the additional demand generated by the site. Where committed schemes will not provide sufficient capacity or where Highways England does not have committed investment, development may need to contribute to additional schemes identified by Highways England and included in the Infrastructure Delivery Plan (IDP) or other appropriate schemes. If development is dependent upon construction of a committed scheme, then development will need to be phased to take place following scheme opening.
- In accordance with LP13 (part a, paragraph 4) the creation of a new local centre commensurate with the scale of growth proposed will be supported, subject to the sequential test and impact assessment.
- Proposals for this site will need to take account of TS5 Mirfield to Dewsbury to Leeds and North Kirklees Growth Zone.
- The council will monitor the implementation of the early phases of delivery to manage the options and need for strategic highways intervention in advance of the 2000th dwelling.
- A landscape buffer along the southern boundary of the site is required.
- A masterplan is required for this site to be prepared in accordance with policies in the Local Plan.

5.5 On 19/03/2019 the council's Cabinet endorsed a masterplan for the Dewsbury Riverside site. The relevant document, titled "Dewsbury Riverside Masterplan Framework" was prepared by Spawforths for Miller Homes and evolved through a series of collaborative workshops with Kirklees Council officers, assisted in the early stages by the Homes England ATLAS team. Public consultation also informed the masterplan.

5.6 Relevant Local Plan policies are:

- LP1 – Presumption in favour of sustainable development
- LP2 – Place shaping
- LP3 – Location of new development
- LP4 – Providing infrastructure
- LP5 – Masterplanning sites

LP7 – Efficient and effective use of land and buildings
LP9 – Supporting skilled and flexible communities and workforce
LP11 – Housing mix and affordable housing
LP19 – Strategic transport infrastructure
LP20 – Sustainable travel
LP21 – Highways and access
LP22 – Parking
LP23 – Core walking and cycling network
LP24 – Design
LP26 – Renewable and low carbon energy
LP27 – Flood risk
LP28 – Drainage
LP30 – Biodiversity and geodiversity
LP31 – Strategic Green Infrastructure Network
LP32 – Landscape
LP33 – Trees
LP34 – Conserving and enhancing the water environment
LP35 – Historic environment
LP38 – Minerals safeguarding
LP47 – Healthy, active and safe lifestyles
LP48 – Community facilities and services
LP49 – Educational and health care needs
LP50 – Sport and physical activity
LP51 – Protection and improvement of local air quality
LP52 – Protection and improvement of environmental quality
LP53 – Contaminated and unstable land
LP63 – New open space
LP65 – Housing allocations

5.7 Relevant guidance and documents include:

- Affordable Housing and Housing Mix SPD (2023)
- Highway Design Guide SPD (2019)
- Open Space SPD (2021)
- Planning Applications Climate Change Guidance (2021)
- Housebuilders Design Guide SPD (2021)
- Biodiversity Net Gain Technical Advice Note (2021)
- Kirklees Strategic Housing Market Assessment (2016)
- Kirklees Housing Strategy (2018)
- Kirklees First Homes Position Statement (2021)
- Kirklees Interim Housing Position Statement to Boost Supply (2023)
- Viability Guidance Note (2020)
- Kirklees Joint Health and Wellbeing Strategy and Kirklees Health and Wellbeing Plan (2018)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Negotiating Financial Contributions for Transport Improvements (2007)

- Providing for Education Needs Generated by New Housing (2012)
- Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
- Public Rights of Way Improvement Plan (2010)
- Social Value Policy (2022)
- Waste Management Design Guide for New Developments (2020, updated 2021)
- Green Street Principles (2017)

5.8 The National Planning Policy Framework (NPPF) is a material consideration relevant to this application. At 22/05/2024, the December 2023 version of the NPPF was applicable. Relevant chapters of the NPPF are:

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment
- Chapter 17 – Facilitating the sustainable use of materials

5.9 Since March 2014 Planning Practice Guidance for England has been published online.

5.10 Relevant national guidance and documents:

- National Design Guide (2019)
- National Model Design Code (2021)
- Technical housing standards – nationally described space standard (2015, updated 2016)
- Cycle Infrastructure Design – Local Transport Note 1/20 (2020)
- Fields in Trust Guidance for Outdoor Sport and Play (2015)
- Design Guidelines for Development Near Pylons and High Voltage Overhead Power Lines (2019)
- Securing developer contributions for education (2019)

5.11 Since 12/02/2024, the provision of a Biodiversity Net Gain (BNG) of 10% has been 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).

- 5.12 The council approved Climate Emergency measures at its meeting of full Council on 16/01/2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.
- 5.13 On 12/11/2019 the council adopted a target for achieving “net zero” carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target; however, it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda. In June 2021 the council approved a Planning Applications Climate Change Guidance document.

6.0 Planning history

- 6.1 The following applications are noted:

2016/94118 – Residential development. Outline planning permission granted 12/04/2017. Proposed by Miller Homes at land to the south of Ravensthorpe Road, within what is now allocated site HS61.

2021/93689 – Hybrid application approved 01/08/2023 for full planning permission for engineering works, drainage and utilities connection for the provision of site access from Forge Lane and Ravensthorpe Road and associated works; and for outline permission for erection of residential development and mixed use development (including community facilities) with associated works including the provision of internal estate roads and parking, landscape works (including provision of public open space, tree clearance/replacement/woodland management and ecological management) and sustainable urban drainage works drainage principles. Proposed by Kirklees Council on approximately a fifth of the HS61 allocated site.

- 6.2 2022/20857 – Pre-application advice issued 22/11/2022 in relation to a residential development of 170 dwellings. The proposed development had a different layout (to that now proposed), and the RVD had not been ascertained at that time.

7.0 Consultation

7.1 The following responses were received:

- Lead Local Flood Authority – No objection to the principle of a residential development on this site.
- KC Highways Development Management (verbal comment) – Proposals cannot be assessed due to the lack of information submitted.
- Network Rail – Proposed development should contribute towards public transport provision. Landscaping would have been provided as a buffer between the residential development and the railway and concrete batching plant opposite. Concern regarding attenuation basin high above but close to railway cutting, although relevant condition could be applied. TRU works will benefit site through provision of a new railway station and roundabout, and diversion of electricity pylons may allow an increase in the number of dwellings. No overriding objection to a CAAD being issued subject to conditions regarding drainage, landscaping and boundary treatments, and a Section 106 obligation regarding public transport improvements.

8.0 Assessment

Land use and principle of development

- 8.1 The principle of residential development (class C3) at the majority of this site has already been accepted through the adoption of the Local Plan which includes the allocation of site HS61. The council's approval of planning permissions for residential development in parts of HS61 (see planning history above) further confirms the acceptability of residential development here. A small part of the site (to the rear and side of 143 to 153 Ravensthorpe Road) falls outside site allocation HS61, however the inclusion of this land within the site, and its associated development, is considered acceptable in principle.
- 8.2 The associated land uses referred to in the applicant's development description (namely, green infrastructure, public open space, play space, highways and drainage infrastructure) would be regarded as forming part of the residential development (if proportionate to the primary residential use of the site), and would similarly be appropriate.
- 8.3 Although not referred to in the applicant's development description or shown on the submitted drawings, the following developments (that include alternative uses) could be regarded as appropriate at this site:
- C3-led development including non-residential uses (such as those typically found in a local centre) – As the north edge of the site would be close to the existing Ravensthorpe railway station,

there may be scope for certain non-residential uses at this part of the site. These, however, would need to be very limited in quantum (and as a proportion of floorspace, relative to the development's C3 floorspace) given the site is allocated for residential development, and given sequential testing and masterplanning considerations (there are more appropriate locations for non-residential uses elsewhere within HS61).

- C3-led development including class C2 accommodation (residential institutions such as residential care homes) – Such a use could be considered acceptable at this site, however this would also need to be limited in quantum (and as a proportion of floorspace, relative to the development's C3 floorspace).

8.4 It is also noted that continued agricultural use of the site would be lawful.

Sustainability and climate change

8.5 Policy LP1, the Strategic Objectives set out at paragraph 4.5, and other policies throughout the Local Plan set out a presumption in favour of sustainable development. Similar policy is set out throughout the NPPF. Local Plan policy LP24 states that proposals should promote good design by ensuring high levels of sustainability, and policy LP26 concerns renewable and low carbon energy.

8.6 Limited information has been submitted in relation to sustainability and climate change. It has not been demonstrated that the proposed development would achieve net gains in respect of all three sustainable development objectives (economic, social and environmental), nor is there an explanation as to how the proposed development responds positively to the net zero carbon emission targets referred to at section 5 of this report. However, it is considered that there are no insurmountable obstacles in relation to sustainability and climate change that would prevent the approval of a residential development of the quantum proposed by the applicant at this site, subject to detailed assessment, amendment (if required), conditions and Section 106 obligations.

Quantum and density

8.7 At the time of the RVD (22/05/2024), the council determined planning applications for residential development with reference to then-current housing targets and delivery information, including:

- The Local Plan's minimum housing requirement of 31,140 homes to be delivered between 2013 and 2031 to meet identified needs (this equates to 1,730 homes per annum).
- The 2023 update of the five-year housing land supply position for Kirklees, which showed 3.96 years supply of housing land.
- The 2022 Housing Delivery Test (HDT) measurement which was

published on 19/12/2023 and which demonstrated that Kirklees had achieved a 67% measurement against the required level of housing delivery over a rolling three-year period (falling short of the “pass” threshold of 75%).

- The “tilted balance” (as set out in NPPF paragraph 11) that applied (and still applies today) due to the housing land supply and housing delivery position for Kirklees.

- 8.8 The proposed provision of 169 dwellings would have made a welcome contribution towards the relevant Local Plan targets.
- 8.9 The applicant’s submission suggests a density of 35 dwellings per hectare would be achieved (meeting the expectation of Local Plan policy LP7), however it was not initially explained (at application stage) how this had been calculated.
- 8.10 169 dwellings in a site of approximately 7.3 hectares in size would achieve a density of only 23 dwellings per hectare. Such a low density raises concerns regarding under-use of scarce allocated land, which would have been of particular concern in light of the housing delivery position relevant at the time of the RVD (22/05/2024).
- 8.11 At pre-application stage, the applicant suggested that a density below 35 dwellings per hectare would be achieved, and that this was due to the proposed open space, land needed for highway works, and the need to avoid building beneath overhead electricity cables. This justification was only partly accepted, however, as on-site open space requirements have already been factored into the expectations of policy LP7, and greater density could be achieved through the use of a variety of typologies (possibly including flatted, car-free development close to Ravensthorpe railway station).
- 8.12 On 18/02/2025 the applicant explained that a developable area of 4.8 hectares was arrived at, having excluded most of the proposed open space, the four attenuation basins, land beneath and around the existing overhead electricity cables, and some of the proposed roads. Using this developable area figure, the applicant asserted that a density of 35 dwellings per hectare would be achieved. Again, this justification is only partly accepted, for the reasons set out in paragraph 8.11 above.
- 8.13 It is, however, accepted that site constraints and highway-related considerations significantly reduce the site’s developable area (albeit not to the extent claimed by the applicant). The applicant’s Design Process Document illustrates a clearance zone (beneath and either side of the overhead electricity cables that cross the site) that removes approximately 1.5 hectares from the site’s developable area, and it is accepted that – due to its topography and gateway location – this site would have to accommodate a greater proportion of highway and drainage infrastructure than some other parts of the allocated site

would have to, and that these would further reduce the amount of developable land within the site. The comment of Network Rail (that TRU works would benefit the site as they include the “diversion of electricity pylons” and that this may allow an increase in the number of dwellings) is noted, however it is understood that at the time of the RVD (22/05/2024) those diversion works had not been completed.

- 8.14 It is also noted that, within the 142.9 hectares (net) of allocated site HS61, 4,000 dwellings are expected to be delivered, and that this, too would fall short of the density expectation of Local Plan policy LP7 (28 dwellings would be achieved across the site allocation). This may, however, be partly due to other site constraints that may not be relevant to the current application site.
- 8.15 Furthermore, it cannot be ascertained without doubt that more than 169 dwellings could be accommodated within the site whilst still achieving an acceptable degree of compliance with the Local Plan. Site constraints may genuinely prevent a higher number being achieved, however the level of information provided with a CAAD application does not enable this possibility to be fully interrogated.
- 8.16 Given the above considerations, and although the possibility of providing more than 169 dwellings at this site has not been entirely ruled out, it is accepted that – on the basis of the information submitted and what is known about the site – it is likely that a residential development of 169 dwellings could have been approved, and a CAAD referring to this number of dwellings can be issued.
- 8.17 Of note with reference to paragraph 290.5 of the relevant Government guidance (see section 2 of this report), as the development described in the CAAD is not intended to be built, the council as local planning authority does not need to concern itself with whether or not the granting of a certificate would create any precedent for the determination of future planning applications. Future applicants interested in this site should not assume that a density of 23 dwellings per hectare would be granted planning permission by the council, nor should applicants interested in other parts of allocated site HS61 (or, indeed, other sites within Kirklees) assume the same.

Masterplanning

- 8.18 For larger allocated sites within Kirklees, and for certain other sites and groups of sites, a masterplanning approach is appropriate. Some site allocations (including HS61) specifically include a requirement for a masterplan. Such plans (and the council’s approach to masterplanning in general) are intended to ensure efficient use of land, high quality placemaking and properly co-ordinated development, appropriate location of facilities and infrastructure, prevention of development sterilising adjacent land, appropriate phasing to limit amenity and highway impacts, and fair apportionment of obligations among the

respective developers.

- 8.19 While it remains preferable for various landowners and developers to work together and bring forward their proposals jointly, in some instances individual applications (for parts of allocated sites) can be considered favorably if it can be demonstrated that the proposal would complement what is likely to be brought forward at adjacent or nearby land later, would not prejudice later development, and would shoulder a fair proportion of the mitigation of cumulative impacts.
- 8.20 In practice, this may mean indicative masterplans for larger areas being required, new roads being built (and offered for adoption) up to the site boundary with no ransom strips created, and a development contributing towards mitigating cumulative impacts when the development on its own would not create impacts that need mitigation.
- 8.21 The proposed development appropriately follows a masterplanned approach in the following key respects:
- The proposed site layout facilitates future road connections to other land within site allocation HS61.
 - The applicant has acknowledged that the following may be secured via a Section 106 agreement:
 - Formula-based contributions towards off-site highway works at affected junctions;
 - Participation in an HS61-wide drainage working group; and
 - Agreement to enable adjacent development, and to not create and/or exploit ransom scenarios.
 - The applicant has asserted that the proposed development would comply with the Dewsbury Riverside Masterplan Framework endorsed by the council in 2019, including in relation to layout, connectivity, green streets and building heights.
- 8.22 There are matters relevant to masterplanning that the proposed development does not successfully address (or the submission does not include enough information to enable the council to assess whether those matters have been successfully addressed). The submission does not demonstrate that the proposed roads and junctions have been designed to accommodate the traffic of other development within the HS61 allocated site (in addition to the traffic of the 169 dwellings proposed). The possible need for pipework and attenuation (serving other development within the HS61 allocated site) to be located within the current application site has not been explored by the applicant. Routes to and from key attractors outside the application site red line boundary (such as Ravensthorpe railway station, and the community facilities to be provided elsewhere within HS61) appear to have been given insufficient thought. No obvious visual connections (through the use of landmarks, vistas etc, which could assist north-south movement across the wider site allocation) have been suggested. HS61-wide densities, and the possibility of higher densities in the northern part of

the site, have not been considered.

- 8.23 However, the above considerations could be subject to further discussion and some could potentially be addressed during the life of a planning application without requiring a significant change to the nature and scale of the proposed development. Crucially, officers are satisfied that, subject to Section 106 obligations, the proposed development would not prejudice the development of other land within site allocation HS61. It is considered that there are no insurmountable obstacles in relation to masterplanning that would prevent the approval of a residential development of the quantum proposed by the applicant at this site, subject to detailed assessment, amendment (if required), conditions and Section 106 obligations.

Design matters

- 8.24 The applicant's Design Process Document sets out the thinking behind key aspects of the proposed development's design, including developable areas, levels, highways, drainage, typologies and building heights. Some key considerations, however, appear to have been given insufficient thought (as noted in the commentary above regarding quantum and masterplanning), and certain matters are not sufficiently detailed to enable a full assessment to be made at this stage. No Landscape and Visual Impact Assessment has been submitted. There are also concerns regarding the potential squandering of an opportunity to include higher density development in the northern part of the site close to Ravensthorpe railway station (or a lack of explanation as to why this would not be possible), and regarding detailed concerns such as the proposed lining of the edges of some of the proposed open spaces with rear and side garden boundaries.
- 8.25 It is, however, accepted that constraints do indeed limit the site's developable areas, that the proposed development appears to work with the existing topography (and does not attempt to radically reshape it), and that a perimeter block approach to layout has been followed. Furthermore, it is recognised that several detailed design matters have been appropriately addressed – for example, street trees have been included in the proposed layout, car parking would be broken up and provided between dwellings (and not provided in lengthy uninterrupted runs of frontage parking), and appropriate building heights and a variety of typologies are proposed. These are positive aspects of the proposed development in relation to design considerations.
- 8.26 Design-related concerns could be subject to further discussion and some could potentially be addressed during the life of a planning application without requiring a significant change to the nature and scale of the proposed development. This could include discussions relating to landscaping and the suggestion made by Network Rail that a landscaped buffer would be appropriate along the northern edge of the site. Officers are satisfied that a design team with suitable problem-

solving skills and an innovative design approach could devise a scheme that addresses all outstanding concerns and that satisfactorily reconciles conflicting considerations. It is considered that there are no insurmountable obstacles in relation to design that would prevent the approval of a residential development of the quantum proposed by the applicant at this site, subject to detailed assessment, amendment (if required), conditions and Section 106 obligations. However, it is recommended that a CAAD containing a positive statement should specifically exclude the design of the proposed development.

Residential amenity, quality and sizes

- 8.27 There are few existing residential properties close to the site. Adequate distances would be maintained between proposed and existing dwellings. Existing homes are located far enough away from the site so as not to be adversely affected by the proposed development in terms of natural light, privacy and outlook.
- 8.28 Although the level of detail provided with the application is not sufficient to enable a full assessment of the amenities of the proposed dwellings, there is nothing in the applicant’s submission that suggests that they would be provided with a poor level of amenity in relation to natural light, privacy and outlook. Adequate separation distances would be achievable between the proposed dwellings. All dwellings could be provided with sufficient private or communal outdoor amenity space. The applicant has confirmed that all dwellings would be compliant with the Government’s Nationally Described Space Standard (NDSS). Floorspace figures for each house type were provided on 18/02/205, however it is unclear whether these are GIA figures, therefore a full assessment against NDSS is not possible.
- 8.29 Should detailed information reveal shortfalls in relation to residential amenity or quality, these could be subject to further discussion and some could potentially be addressed during the life of a planning application without requiring a significant change to the nature and scale of the proposed development. It is considered that there are no insurmountable obstacles in relation to residential amenity and quality that would prevent the approval of a residential development of the quantum proposed by the applicant at this site, subject to detailed assessment, amendment (if required), conditions and Section 106 obligations.
- 8.30 The applicant has proposed 63x 1- and 2-bedroom dwellings, 61x 3-bedroom dwellings and 45x 4-bedroom dwellings. This is broken down into the proposed development’s market and affordable elements in the table below, which also compares the proposals with the expectations of the council’s Affordable Housing and Housing Mix SPD for the Dewsbury and Mirfield sub-area.

Unit	Proposed	SPD	Proposed	SPD expectation
------	----------	-----	----------	-----------------

size	(market)	expectation	(affordable)	Affordable rent	Intermediate
1- and 2-bed	38 (28%)	30-60%	25 (71%)	20-59%	0-39%
3-bed	51 (38%)	25-45%	10 (29%)	0-19%	30-59%
4+-bed	45 (34%)	10-30%	0	20-39%	40-59%

- 8.31 The proposed development's market element would under-provide 1- and 2-bedroom dwellings, and would over-provide 4+-bedroom dwellings. The proposed development's affordable housing element cannot be fully compared with the relevant expectations of the council's SPD, as the applicant has not specified tenures or a tenure split, however it is noted that a high proportion of 1- and 2-bedroom dwellings are proposed within the development's affordable element, and no 4+-bedroom affordable dwellings are proposed (contrary to the SPD's expectations).
- 8.32 Paragraph 7.3 of the submitted Planning Statement indicates that the proposed unit size mix is based on the mix "agreed" under application 2021/91759. However, that application was not approved (it was withdrawn), and reference should instead be made to the size mix expectations set out in the council's Affordable Housing and Housing Mix SPD.
- 8.33 Given the shortcomings of the proposed unit size mix, it is recommended that this aspect of the proposed development should not be referred to in a CAAD containing a positive statement. However, the unacceptable unit size mix (which has been described by the applicant as "illustrative") does not prevent a positive CAAD being issued by the council. It is likely that the development's unit size mix could be subject to further discussion and could potentially be improved during the life of a planning application without requiring a significant change to the nature and scale of the proposed development. It is considered that there are no insurmountable obstacles in relation to unit size mix that would prevent the approval of a residential development of the quantum proposed by the applicant at this site, subject to detailed assessment, amendment (if required), conditions and Section 106 obligations.

Affordable housing

- 8.34 Local Plan policy LP11 would normally require 20% of the proposed dwellings to be affordable. The applicant has proposed 35 affordable dwellings, which complies with the 20% requirement.
- 8.35 The applicant has not confirmed the proposed tenures or tenure split. This is of concern. However, as no unacceptable tenures or tenure split have been proposed by the applicant, the council is able to issue a positive CAAD in relation to the proposed development, referring only to the acceptable headline provision of 35 affordable dwellings.

Highway and transportation issues

- 8.36 A “Transport Matters” document has been submitted by the applicant. This is not a Transport Assessment. It includes basic vehicular trip rate generation figures, however these have not been agreed with officers for this site and this development. No trip rates for other modes of transport have been included. No junction assessments have been provided, nor have design details (such as sight lines and gradients) of the proposed roads and junctions. Road Safety Audits have not been submitted for any part of the proposed development. No proposals for enabling and encouraging walking and cycling within the site have been set out. The applicant’s submission includes no wider assessment regarding movement to, from and through the HS61 allocated site (and the current application site’s role in facilitating this movement). No proposals or commentary relating to the existing and claimed public rights of way (detailed in paragraph 4.1 above) have been submitted. The applicant has not submitted convincing evidence to justify the potentially low level of on-site parking proposed.
- 8.37 The applicant’s highways and transportation information does not enable the council to fully assess these aspects of the proposed development. Furthermore, this lack of information means that the council is unable to confirm (through a CAAD) that the proposed layout could be (or would have been) approved. A proper assessment of the proposed development (based on adequate information supplied by the applicant) may reveal that a very different layout would need to be devised. It is therefore recommended that a CAAD containing a positive statement should specifically exclude the proposed layout and other highway-related aspects of the proposed development.
- 8.38 Highway-related obligations and conditions were listed in the applicant’s submission. It is recommended that these be referred to in the CAAD to be issued by the council. These include reference to a Construction (Environmental) Management Plan that would need to address construction traffic management issues. They also include a public transport improvement contribution, which would address one of the suggestions made by Network Rail in their comments relating to this CAAD application.

Open space

- 8.39 The applicant has stated that 1.06 hectares of open space are proposed. The applicant has stated (at paragraph 7.13 of the submitted Planning Statement) that this exceeds the 14.58sqm-per-dwelling requirement for amenity greenspace set out in the council’s Open Space SPD. While this is not incorrect, the applicant appears to have disregarded the sqm-per-dwelling requirements that relate to other open space typologies. In addition to the 14.58sqm of amenity greenspace that would need to be provided for each of the proposed 169 dwellings, 19.44sqm of parks and recreation open space would

need to be provided for each of those dwellings, for example. Taking all typologies into account, a total open space provision of around 1.7 hectares would be necessary for the proposed development. The proposed 1.06 hectares fall short of this requirement, however the applicant appears to have acknowledged this by noting that an off-site open space contribution (to address shortfalls in specific open space typologies) would need to be secured via a Section 106 agreement.

- 8.40 Little information has been provided regarding the proposed on-site open space, therefore the council is unable to ascertain which typology each space would fall under, and whether they would be of a suitably high quality. Of potential concern, the proposed location of a playspace beneath or close to overhead electricity cables may limit its use for play. It is also unclear whether appropriate stand-off distances (from dwellings) have been proposed for the on-site Local Areas for Play and Local Equipped Area for Play, and this means that the acceptability of the proposed site layout cannot be confirmed. However, the limited information regarding on-site open space does not prevent a positive CAAD being issued by the council. It is likely that the development's open space provision could be subject to further discussion and could potentially be improved during the life of a planning application without requiring a significant change to the nature and scale of the proposed development. Furthermore, noting again that the applicant has acknowledged that an off-site open space contribution (to address shortfalls in specific open space typologies) would be necessary, it is considered that there are no insurmountable obstacles in relation to open space that would prevent the approval of a residential development of the quantum proposed by the applicant at this site, subject to detailed assessment, amendment (if required), conditions and Section 106 obligations.

Waste storage and collection

- 8.41 Local Plan policies LP24 part d(vi) and LP43 are relevant to waste storage and collection, as are the council's Highway Design Guide SPD and the council's Waste Management Design Guide for New Developments.
- 8.42 No details of waste storage and collection arrangements (including interim arrangements should some dwellings become occupied before construction work is completed) have been submitted. However, this does not prevent a positive CAAD being issued by the council. It is likely that these matters could be subject to further discussion and could potentially be improved during the life of a planning application without requiring a significant change to the nature and scale of the proposed development. Furthermore, the applicant has acknowledged the need for relevant conditions. It is considered that there are no insurmountable obstacles in relation to waste storage and collection that would prevent the approval of a residential development of the quantum proposed by the applicant at this site, subject to detailed

assessment, amendment (if required), conditions and Section 106 obligations.

Drainage and flood risk

- 8.43 The site is within Flood Zone 1, and is larger than 1 hectare in size.
- 8.44 Instead of a site-specific Flood Risk Assessment (FRA), the applicant has submitted a short Technical Note – Drainage Strategy, which in turn refers to drawing 23599-RLL-23-XX-DR-C-1030 (which has not been submitted). Drainage is briefly considered in the submitted Planning Statement and at Section 13 of the Design Process Document (which includes a drainage plan).
- 8.45 Residential development at this site is considered acceptable in principle, having regard to existing flood risk, the vulnerability of the proposed use, and the fact that the site is within Flood Zone 1.
- 8.46 The applicant has ruled out infiltration as a means of surface water disposal, has asserted that there are no watercourses within or near to the site, and has proposed disposal of surface water to an existing Yorkshire Water sewer beneath Ravensthorpe Road.
- 8.47 It is noted, however, that the River Calder is approximately 170m north of the site's northern boundary, and that – as proposed under hybrid application 2021/93689 – development at adjacent land (which is located further away from the river) is to be drained via existing drainage infrastructure which ultimately discharges into the River Calder. The applicant has not explained why a similar approach to surface water drainage could not be adopted for the current application site. The applicant's approach to the drainage hierarchy, and the proposed discharge to an existing sewer, is therefore not accepted (although it is possible that convincing justification for this approach and proposal could be set out in a more detailed submission).
- 8.48 The applicant has stated that the proposed development's impermeable areas would total 2.96 hectares, and a proposed discharge rate and on-site attenuation capacity have been calculated on this basis. It is noted, however, that this impermeable area figure is based on a proposed layout which, as noted above, has not been accompanied by supporting evidence to demonstrate that it is workable, sufficiently safe, and adequately addresses all design concerns. The applicant's impermeable area figure, discharge rate and on-site attenuation capacity figures are therefore not accepted.
- 8.49 Four on-site attenuation basins are proposed. This form of attenuation is considered acceptable in principle, and the applicant has correctly noted that such basins can deliver additional amenity and biodiversity benefits. The number of basins (be it four, or more/fewer) is not a critical matter – their locations, capacity and design (and, therefore,

their effectiveness, which cannot be fully assessed given the limited information provided) are considered more important. Furthermore, as noted earlier in this report, there may be an opportunity to include higher density development in the northern part of the site close to Ravensthorpe railway station (where two of the basins are currently proposed) and this may mean an alternative attenuation strategy may be appropriate. Therefore, although the principle of providing attenuation basins at this site is accepted, the proposed strategy is not accepted.

- 8.50 The Lead Local Flood Authority have raised no objection to the principle of residential development at this site, but have provided no further comment due to the limited information submitted.
- 8.51 The above concerns are significant, and it is recommended that a CAAD containing a positive statement should specifically exclude the proposed drainage strategy. However, it is considered that there are no insurmountable obstacles in relation to drainage and flood risk that would prevent the approval of a residential development of the quantum proposed by the applicant at this site, subject to detailed assessment, amendment (if required), conditions and Section 106 obligations.

Public and environmental health

- 8.52 Limited information has been submitted regarding the public health implications of the proposed development, however there are considered to be no insurmountable obstacles (related to public health) that would prevent the approval of a residential development of the quantum proposed by the applicant at this site, subject to detailed assessment, amendment (if required), conditions and Section 106 obligations.
- 8.53 There are existing potential sources of noise and dust relatively close to the site. The proposed roads and playspaces may introduce new sources of noise. Odour sources may affect the site. The traffic of the proposed development has the potential to affect local air quality. A residential development at this site would introduce new sensitive receptors, and may introduce new sources of pollution that could affect existing sensitive receptors. Little information has been submitted regarding these matters, however there are no insurmountable obstacles (related to environmental health considerations) that would prevent the approval of a residential development of the quantum proposed by the applicant at this site, subject to detailed assessment, amendment (if required), conditions and Section 106 obligations.
- 8.54 The proposed development's construction phase could potentially impact upon neighbouring residents in relation to noise, vibration, dust, artificial lighting and other matters. A condition securing the submission, approval and implementation of a Construction

(Environmental) Management Plan would be imposed on a planning permission for any major residential development at this site.

- 8.55 Other conditions related to environmental health matters were listed in the applicant's submission. These include a condition related to air quality, which is considered more appropriate than an air quality damage cost contribution secured via a Section 106 agreement, as a developer of this site is likely to be able to propose sufficient on-site or local mitigation measures related to air quality. Details submitted pursuant to a condition regarding landscaping could address Network Rail's suggestion that a landscaped buffer (to protect amenity) be provided along the site's northern edge, although it is noted that soft landscaping is not particularly effective in providing screening from noise, and other considerations may demonstrate that such a buffer would not be appropriate here. It is recommended that these conditions be referred to in the CAAD to be issued by the council.

Site contamination and stability

- 8.56 Council records indicate that the site is potentially contaminated, given its previous uses and the uses of nearby land. The site (and others nearby) are historic landfill sites or are in the buffer zones of landfill sites. A high-pressure gas pipeline runs beneath the eastern edge of the site. Parts of the site are within the Development High Risk Area (as defined by the Coal Authority, now the Mining Remediation Authority), while others are within the Development Low Risk Area.
- 8.57 These considerations would need to be investigated and addressed (through mitigation, if necessary) as part of a development proposal at this site, however there are no insurmountable obstacles (related to these site contamination and stability matters) that would prevent the approval of a residential development of the quantum proposed by the applicant at this site, subject to detailed assessment, amendment (if required), conditions and Section 106 obligations.
- 8.58 The comments of Network Rail regarding land stability and the proximity of the proposed attenuation basins to the existing railway embankment are noted. These concerns could be addressed through submissions made pursuant to the conditions regarding drainage, coal mining legacy, highway structures and landscaping.

Ecological and tree considerations

- 8.59 As noted at paragraph 4.3 above, the site is subject to various biodiversity designations.
- 8.60 This CAAD application is not supported by the full suite of ecological surveys that would normally accompany an application for major development at such a site. It is noted that bats are present in the area, and that protected species can in some cases constitute constraints

that may limit or delay development. However, it is also noted that no protective designations (related to on-site habitats of specific species) apply to the site, and that ecological surveys submitted under the hybrid application 2021/93689 (which concerned the adjacent site) found no protected species that were entirely reliant on that site for habitation, foraging or breeding. Furthermore, even if protected species were present at the site, this does not necessarily prevent any and all development from going ahead – for example, in some cases, mitigation and/or relocation of species can be accepted (subject to licensing under other regulatory regimes), to enable development of sites.

- 8.61 Given the above considerations, while ecological matters would need to be investigated and addressed (including through mitigation, if necessary) as part of a development proposal at this site, there are no known, relevant and insurmountable obstacles that would prevent the approval of a residential development of the quantum proposed by the applicant at this site, subject to detailed assessment, amendment (if required), conditions and Section 106 obligations.
- 8.62 Prior to the RVD (22/05/2024), the provision of a BNG of 10% became a mandatory requirement for developments in England. Unless exempt, every planning permission granted pursuant to an application submitted after 12/02/2024 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. The applicant has not put forward a case that the proposed development is exempt from the mandatory BNG requirement, nor do officers consider exemption applicable in this case. It is recommended that the applicant be reminded that the pre-commencement Biodiversity Gain Plan general planning condition (imposed by legislation) would apply.
- 8.63 It is also recommended that BNG maintenance and monitoring be included in the list of necessary Section 106 planning obligations. This maintenance and monitoring is likely to be necessary, given the biodiversity units that would need to be provided to achieve a 10% net gain. Maintenance and monitoring would need to be carried out for a period of at least 30 years.
- 8.64 There are TPO-protected trees nearby on the north side of Ravensthorpe Road. An ancient woodland (Lady Wood) exists to the west. There are no TPO-protected trees within the site, however non-protected trees and shrubs within the site may be worthy of retention – this would normally be established via a tree survey submitted with a planning application. It is noted that some vegetation has already been removed from the site as part of the TRU works that are currently under way.
- 8.65 It is recommended that conditions related to trees be referred to in the CAAD to be issued by the council.

8.66 There are no known insurmountable obstacles related to trees that would prevent the approval of a residential development of the quantum proposed by the applicant at this site, subject to detailed assessment, amendment (if required), conditions and Section 106 obligations.

Planning obligations

8.67 If planning permission had been granted for major residential development at the site, Section 106 Heads of Terms are likely to have included:

- 20% affordable housing, and details including tenure split, locations, designs, unit size mix and delivery.
- Off-site open space contribution to address shortfalls in specific open space typologies.
- Education and childcare contribution.
- Formula-based contributions towards off-site highway works at affected junctions.
- Sustainable Travel Fund contribution.
- Public transport improvement contribution.
- Travel Plan monitoring contribution.
- Biodiversity net gain contribution (if net gain is not achieved on-site).
- Drainage management and maintenance arrangements, and participation in a HS61-wide drainage working group.
- Agreement to enable adjacent development, and to not create and/or exploit ransom scenarios.
- Arrangements for the establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, including open space.

8.68 The above list was put to the applicant at pre-application stage, and was more recently included (verbatim) in the applicant's CAAD application submission documents.

8.69 It is recommended that the above list be included in the council's CAAD, subject to an additional reference to BNG maintenance and monitoring, an additional reference to employment and training measures (in compliance with Local Plan policy LP9), and a caveat stating that additional obligations may have proved necessary in light of the detailed assessment of a planning application.

8.70 In accordance with local and national policy, these obligations would be deemed necessary to make a hypothetical development acceptable in planning terms, directly related to, and fairly and reasonably related in scale and kind to the development.

Conditions

8.71 If planning permission had been granted for a residential development at the site, depending upon what had been submitted and subject to responses from consultees, conditions attached to that permission are likely to have included:

- Development to commence within three years.
- Development in accordance with plans and specifications.
- Construction (Environmental) Management Plan to be submitted.
- Temporary (construction phase) drainage measures to be submitted.
- Provision of site entrance and visibility splays prior to works commencing.
- Details of permanent site access to be submitted, and implementation of works.
- Details (including road safety audits and approval under Section 38) of internal highways to be submitted.
- Submission of details of any highway retaining structures.
- Details of interim waste storage and collection arrangements to be submitted.
- Cycle parking to be provided prior to occupation.
- Provision of electric vehicle charging points.
- Provision of waste storage and collection.
- Arboricultural Method Statement to be submitted.
- Tree protection measures to be implemented.
- Restriction on timing of removal of hedgerows, trees and shrubs.
- Details of landscaping to be submitted.
- Ecological mitigation and enhancement details (including an Ecological Design Strategy, and measures to address impacts on birds including ground-nesting farmland birds) to be submitted.
- Contaminated land conditions.
- Coal mining legacy – details of intrusive site investigation (and, where necessary, remediation) to be submitted.
- Archaeological site investigation.
- Submission of a fully-detailed drainage strategy.
- Submission of flood routing details.
- Site to be developed with separate systems of drainage for foul and surface water on and off site.
- Submission of details of parking surface treatments.
- Submission of a noise report specifying measures to be taken to protect future occupants of the development from noise, and details of ventilation.
- Submission of air quality assessment and details of mitigation measures.

- Submission of details of crime prevention measures.
- Submission of details of external materials.
- Submission of details of electricity substation(s).
- Submission of details of boundary treatments.
- Submission of details of air source heat pumps (appearance, noise and maintenance).
- Submission of details of external lighting.
- Removal of permitted development rights.
- Control of accretions to elevations fronting highways, open space and public rights of way.

8.72 The above list was put to the applicant at pre-application stage, and was more recently included (verbatim) in the applicant's CAAD application submission documents.

8.73 It is recommended that the above list be included in the council's CAAD, subject to a caveat stating that additional conditions may have proved necessary in light of the detailed assessment of a planning application. In addition, it is recommended that the applicant be reminded that the pre-commencement Biodiversity Gain Plan general planning condition (imposed by legislation) would apply.

8.74 The conditions recommended by Network Rail are included in the above list.

Other planning matters

8.75 In relation to the Community Infrastructure Levy (CIL), on 19/01/2021, in light of the Government's announcement that it will abolish CIL and replace it with a nationally-set infrastructure levy, Cabinet agreed to not adopt the CIL Charging Schedule in Kirklees at this stage. It is recommended that this be noted in the CAAD to be issued by the council.

9.0 Conclusion

9.1 The principle of residential development at this site is considered acceptable.

9.2 Regarding the development described by the applicant, some aspects are considered acceptable (and can be referred to in the CAAD to be issued by the council). Other aspects are not considered acceptable, and/or, in some respects, it has not been demonstrated that aspects of the proposed development are policy-compliant. The acceptable and unacceptable aspects of the proposed development will need to be clearly set out in the CAAD.

9.3 Of note, the council will not be issuing a CAAD for development which is less extensive than the description of development given in the application, nor will the council be rejecting the application or issuing a

CAAD that is contrary to representations made by a concerned party. Paragraph 287.2 of the recent Guidance on the Compulsory Purchase Process (Ministry of Housing, Communities and Local Government, January 2025) indicates that, in this scenario, the council's CAAD does not need to include a statement of the authority's reasons and of the right of appeal (which would be to the Upper Tribunal, in accordance with Section 18 of Part III of the Land Compensation Act 1961). However, Section 18 does not appear to rule out a right of appeal following the issuing of a CAAD containing a positive statement, therefore it is recommended that details of the right of appeal be included in the council's CAAD. The council's reasoning for approving and not approving specific aspects of the proposed development will, be placed in the public domain when this report is posted online.

- 9.4 The council's CAAD will also need to set out planning obligations and conditions that would have been applied to a planning permission for a residential development at the site.
- 9.5 A draft CAAD was shared with the applicant on 19/02/2025. On 04/03/2025 the applicant responded, requesting amendments to the CAAD (including the insertion of specific amounts for the Section 106 contributions). In response, on 14/03/2025 the case officer advised that further detail could be added to some sections of the CAAD, but that most of the requested additions would necessitate the submission of more information by the applicant, as well as additional consultation and assessment far beyond the high-level degree of assessment that is appropriate under a CAAD application. On 25/03/2025 the applicant replied, accepting this position and requesting that the CAAD be issued.

10.0 RECOMMENDATION

- 10.1 It is recommended that authorisation be given by the Executive Director for Place, Growth and Regeneration, to issue a positive Certificate of Appropriate Alternative Development under section 17(1)(a) of Part III of the Land Compensation Act 1961 (as amended), confirming that it is the opinion of the Local Planning Authority that planning permission would have been granted for residential development within Class C3 use (subject to conditions and Section 106 obligations, and in a different layout to that illustrated) had the site not been acquired by the authority possessing compulsory purchase powers.

Report dated: 25/03/2025

AUTHORISATION:

Due to the nature of the application, under section 17(1)(a) of Part III of the Land Compensation Act 1961 (as amended) under the Scheme of Delegation for Place, Growth and Regeneration,

authorisation is required from the Executive Director.

Executive Director for Place, Growth and Regeneration:

David Shepherd

Date of authorisation of report and recommendation:

14/04/2025

Decision notice text

Land Compensation Act 1961 (as amended)

CERTIFICATE OF APPROPRIATE ALTERNATIVE DEVELOPMENT

Application number: 2024/91897

Location: Land at Ravensthorpe Road, Thornhill Lees, Dewsbury, WF12 9EG

Applicant: Dewsbury Riverside Limited

Proposal: Application for a Certificate of Appropriate Alternative Development for a residential development of 169 dwellings

On 05/07/2024 Kirklees Council received a valid application for a Certificate of Appropriate Alternative Development under section 17 of the Land Compensation Act 1961 (as amended) in relation to the land described above and defined by location plan 11151 SK04.

Kirklees Council, exercising its powers under section 17 of the Land Compensation Act 1961 (as amended), HEREBY CERTIFY THAT in its opinion if the land were not proposed to be acquired by an authority possessing compulsory purchase powers, planning permission would have been granted at the Relevant Valuation Date (RVD) of 22/05/2024 for development of one or more of the classes specified in Schedule 1 below, subject to the conditions listed in Schedule 2 below and the planning obligations listed in Schedule 3 below.

SCHEDULE 1 – DESCRIPTION OF DEVELOPMENT

Residential development under Use Class C3 (Dwellinghouses).

Residential development under Use Class C3 (Dwellinghouses) with a limited element of Use Class C2 (residential institutions).

Residential development under Use Class C3 (Dwellinghouses) with a limited element of local centre uses (those uses falling within the definition of “main town centre uses” in the glossary of the Kirklees Local Plan Strategy and Policies document and that provide for top-up shopping and local services particularly food and drink).

SCHEDULE 2 – CONDITIONS

- Development to commence within three years.
- Development in accordance with plans and specifications.
- Construction (Environmental) Management Plan to be

submitted.

- Temporary (construction phase) drainage measures to be submitted.
- Provision of site entrance and visibility splays prior to works commencing.
- Details of permanent site access to be submitted, and implementation of works.
- Details (including road safety audits and approval under Section 38) of internal highways to be submitted.
- Submission of details of any highway retaining structures.
- Details of interim waste storage and collection arrangements to be submitted.
- Cycle parking to be provided prior to occupation.
- Provision of electric vehicle charging points.
- Provision of waste storage and collection.
- Arboricultural Method Statement to be submitted.
- Tree protection measures to be implemented.
- Restriction on timing of removal of hedgerows, trees and shrubs.
- Details of landscaping to be submitted.
- Ecological mitigation and enhancement details (including an Ecological Design Strategy, and measures to address impacts on birds including ground-nesting farmland birds) to be submitted.
- Contaminated land conditions.
- Coal mining legacy – details of intrusive site investigation (and, where necessary, remediation) to be submitted.
- Archaeological site investigation.
- Submission of a fully-detailed drainage strategy.
- Submission of flood routing details.
- Site to be developed with separate systems of drainage for foul and surface water on and off site.
- Submission of details of parking surface treatments.
- Submission of a noise report specifying measures to be taken to protect future occupants of the development from noise, and details of ventilation.
- Submission of air quality assessment and details of mitigation measures.
- Submission of details of crime prevention measures.
- Submission of details of external materials.
- Submission of details of electricity substation(s).
- Submission of details of boundary treatments.
- Submission of details of air source heat pumps (appearance, noise and maintenance).
- Submission of details of external lighting.
- Removal of permitted development rights.
- Control of accretions to elevations fronting highways, open space and public rights of way.

The pre-commencement Biodiversity Gain Plan general planning condition (imposed by legislation) would have also applied.

SCHEDULE 3 – PLANNING OBLIGATIONS

- 20% affordable housing, and details including tenure split, locations, designs, unit size mix and delivery.
- Off-site open space contribution to address shortfalls in specific open space typologies.
- Education and childcare contribution.
- Employment and training measures.
- Formula-based contributions towards off-site highway works at affected junctions.
- Sustainable Travel Fund contribution.
- Public transport improvement contribution.
- Travel Plan monitoring contribution of £10,000 (£2,000 per year for five years).
- Biodiversity net gain contribution (if net gain is not achieved on-site), and biodiversity net gain maintenance and monitoring for a 30-year period.
- Drainage management and maintenance arrangements, and participation in a HS61-wide drainage working group.
- Agreement to enable adjacent development, and to not create and/or exploit ransom scenarios.
- Arrangements for the establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, including open space.

NOTES

1) For the avoidance of doubt, the following aspects of the development (described in Schedule 1 above) would have been considered acceptable, and would have formed part of the development approved. This Certificate of Appropriate Alternative Development is based on the following aspects of the development:

- 169 dwellings.
- 35 dwellings (of the 169) to be affordable (20.7% provision).
- Building heights of one to three storeys.
- On-site open space including playspaces.
- Attenuation basins.
- One cycle parking space per unit.

2) For the avoidance of doubt, the following aspects of the development (described in Schedule 1 above) would not have been considered acceptable, and would not have formed part of the development approved:

- Layout.

- Unit size mix.
- Drainage strategy.
- Highway design.
- Parking provision.

3) Regarding a C3-led development including class C2 accommodation (residential institutions such as residential care homes), such a use could have been considered acceptable at this site, if limited in quantum (and as a proportion of floorspace, relative to the development's C3 floorspace).

4) Regarding a C3-led development including non-residential uses (such as those typically found in a local centre), as the north edge of the site would be close to the existing Ravensthorpe railway station, there may have been scope for certain non-residential uses at this part of the site, if limited in quantum (and as a proportion of floorspace, relative to the development's C3 floorspace) given the site is allocated for residential development, and given sequential testing and masterplanning considerations (there are more appropriate locations for non-residential uses elsewhere within HS61).

5) Continued agricultural use of the site would have been lawful.

6) Further to Schedules 2 and 3 above, additional conditions and planning obligations may have proved necessary in light of the detailed assessment of a planning application.

7) Under section 18 of the Land Compensation Act 1961 (as amended) there is a right of appeal against a Certificate of Appropriate Alternative Development. This right is exercisable by both the acquiring authority and the person having an interest in the land who has applied for the certificate. Such appeal should be made to the Upper Tribunal.