

KIRKLEES METROPOLITAN COUNCIL INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

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

DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS

Reference No:	2024/62/92281/E
Site Address:	Land adj, 17, Whitehall Road West, Birkenshaw, BD11 2LS
Description:	Erection of 23 dwellings
Recommending Officer:	William Simcock

DECISION – Section 106 Condition 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.

Nick Hirst

AUTHORISED OFFICER

Date: 24/07/2025

Application: 2024/92281

Site: Land adj, 17, Whitehall Road West, Birkenshaw, BD11 2LS

Proposal: Erection of 23 dwellings

Site Description

The application site lies on the southern side of Whitehall Road West / A58, within the settlement of Birkenshaw. It is approximately rectangular, measuring 126m in the north-west to south-east direction, its width varying from 45 to 69m. The site is undeveloped and was formerly covered with long grass and other semi-natural vegetation, but this was cleared between 2023 and 2024. Mature trees that formerly stood on the highway frontage and a belt of smaller trees within the site have been felled, but there remains a substantial belt of mature deciduous trees within 10m of the south-eastern boundary. The highway boundary is formed by a stone wall.

The site is elevated slightly above the level of the carriageway of Whitehall Road West, with land levels within the site rising slightly and then falling again from north-west to south-east. There is at present no formal means of vehicular access into the site.

To the north-east, the site is bounded by residential development, including a large bungalow, no. 17 Whitehall Road West (within the blue line), and two modern two-storey houses forming the end properties in a cul-de-sac, 3 and 4 Elmfield Close. To the south-east is a recently-completed housing development, and to the south-west, a large modern industrial building, with a line of semi-mature trees marking the boundary. On the opposite side of Whitehall Road West is the West Yorkshire Fire and Rescue Service headquarters and training centre, which is undergoing redevelopment.

Description of Proposal

The proposal is a full application for the erection of 23 dwellings consisting mainly of detached and semi-detached houses with two rows of three townhouses. The Rothbury, Cheltenham, and Gosford house types contain four bedrooms, the Edinburgh two bedrooms, all others three bedrooms. The distribution of house types by number of bedrooms would therefore be:

- 3 x two-bedroom,
- 15 x three-bedroom,
- 5 x four-bedroom.

All units would be faced in red brick with stone heads and cills. Units are predominantly two storeys, with the Wharfedale and Arundale having rooms within the roof space.

It is proposed that a common vehicular access be formed at the north-eastern corner of the site, connecting from Whitehall Road West. From the access, an

access road would be formed. Six dwellings would be served from private drives, the remainder from the new road which ends in a turning head (hammerhead). The new road would also provide access to the existing dwelling no. 17 Whitehall Road West.

All units would be served by private off-road parking. Some houses would have attached single garages, but the majority of parking provision would be external. Four dedicated visitor parking bays would be provided.

No public open space is proposed on site, although pockets of landscaping are proposed, including at the frontage to Whitehall Road West.

History of negotiations/amendments received

Sep-2024: Supporting drainage information submitted.

Nov-2024: An up-to-date Arboricultural Impact Assessment was submitted.

Dec-2024: Supporting highway information submitted.

Mar-2025: RSA Brief and Speed Survey submitted.

Mar-2025: Minor changes to site plan (one house type changed).

Apr-2025: Corrected BNG Metric and Habitat Conditions Assessment submitted.

May-2025: Amended drainage information supplied, and one amended house type.

June-2025: Further additional / amended drainage information submitted.

None of the above were re-publicised. It was considered that none of the revisions or supplementary reports, either individually or cumulatively, raised substantial new issues that would warrant the opportunity for public comment since they did not change the number of units, means of access or give rise to an increased impact on existing residential development.

Relevant Planning History

Northern half of site only

2010/90082 – Erection of 15 dwellings with garages and six apartments. Refused and appeal dismissed.

2020/92802 – Erection of 10 dwellings with associated infrastructure. Conditional full permission. 05-Sep-2022.

Comprised 8 x 3-bed and 2 x 3-bed/4-bed variant

Subject to Section 106 Agreement – Secured the provision of on-site affordable housing comprising two Discounted Market Sale properties (no affordable rented); off-site financial contributions to sustainable travel, public open space and biodiversity.

Pre-application enquiries

2019/20391 – Pre-application enquiry for residential development.

Southern half of site, accessed off Heathfield Lane

2019/91534 – Erection of 13 dwellings and associated works – Conditional full permission 18-Aug-2021.

Subject to Section 106 Agreement – Secured the provision of on-site affordable housing comprising three Discounted Market Sale properties (no affordable rented); off-site financial contributions to public open space and biodiversity.

2023/90768: Discharge condition 18 (drainage) on previous permission 2019/91534 for erection of 13 dwellings and associated works – Granted.

2023/93234: Discharge of condition 3 (archaeological investigation) on previous permission 2019/91534. Granted.

2024/92512: Discharge of details reserved by conditions 5 (internal roads), 6 (right turn lane), 8 (materials), 13 (ecological enhancement), 14 (coal mining legacy), 17 (temporary drainage), 18 (temporary waste arrangements), 19 (noise assessment), 20 (phase I study), 25 (air quality) and 27 (Construction Environmental Management Plan) of previous permission 2020/92802 for erection of 10 dwellings with associated infrastructure. Undetermined.

Pre-application enquiries

2018/20258 – Pre-application enquiry for residential development. Comments made.

Representations

Final publicity date expires: 24-Oct-2024.

Publicity was undertaken by neighbour notification letter, site notice and press advertisement (in accordance with statutory requirements and the Kirklees Development Management Charter) as the proposal constitutes Major Development and would affect the setting of a Public Right of Way.

A total of ten representations were received throughout the publicity period.

The following is a summary of the comments received over the entire publicity period:

Design and appearance

- Spen Valley Civic Society comments as follows: 1. Positive that 2 small sites have been combined with one entrance/exit. 2. Positive to see 21% allocated for affordable dwellings. 3. Can a few more small tree species be included in design? 4. Filling in a last piece of space will complete development in this quarter of Birkenshaw.

Residential amenity

- Arundel is the wrong house type for Plot 1 because of the impact it will have on light to no. 3 Elmfield Close and the Gosford would be preferred.

Highway issues

- It would add to traffic congestion.
- Not enough information to demonstrate safe access and egress.
- The option of access from Heathfield would appear to be better.

Other

- General plan: shows the site boundary encroaching into the back garden of No 15. Proposed site/block layout: shows the site boundary encroaching into the driveway, garage & back garden of No 15.
- Impact on availability of school places.
- Impact on demand for doctors surgery.
- Impact on existing drainage network.
- Loss of habitat for wildlife, the site has already been cleared with scant regard for the wildlife.
- On the plans it appears that a tree which would seem to be over 100 years old is going to be removed. Surely this tree should be subject to a tree preservation order. Furthermore, this tree is up against our boundary wall and its removal will inevitably cause major damage to the wall. If the council allows removal of this tree then the developer should be made liable for the rebuilding of the wall using the original materials.
- According to the plans a new tree will be planted which will be adjacent to the semi-detached houses being built behind our property. The placement of this tree effectively forms a barrier to the afternoon sun

coming into our garden which will affect the growth of our plants and also significantly reduces our enjoyment of our garden amenity.

The three Ward Councillors for Birstall & Birkenshaw were notified of the application but did not comment.

Consultation Responses

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

Internal

- KC Highways Development Management – No objection subject to conditions.
- KC Landscape – Comments made about planting scheme, but do not object subject to off-site contribution and conditions.
- KC Lead Local Flood Authority – No objection subject to conditions.
- KC Environmental Health – Acceptable subject to conditions.
- KC Designing Out Crime Officer – No objections in principle but have some concerns about boundary treatments and other details.
- KC Arboricultural Officer – No objection subject to conditions.
- KC Waste Strategy – No objections in principle, collection points need to be shown.
- KC Strategic Housing – Five affordable units should be provided.

External

- The Coal Authority – No objection subject to conditions.
- Highways England – No objection subject to conditions.
- Yorkshire Water – No objection subject to conditions.

Policy

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

Kirklees Local Plan (LP)

Most of the site falls within housing allocation HS85. A small part near the north-eastern corner is without designation. The Local Plan's allocation box for HS85 identifies an indicative capacity of 24 dwellings, and includes the following details about the site:

Constraints

- Noise source near site - industry noise
- Potentially contaminated land
- Site is close to archaeological site
- Part/all of the site is within a High-Risk Coal Referral Area

Other designations and constraints

- Air Quality Impact Assessment
- Noise assessment
- Contamination report (Phase 1 and 2)
- Pre-determination archaeological evaluation
- Coal Mining Risk Assessment

Other site specific considerations

- A buffer zone may be required on part of the site to protect development from adjacent industry.
- Site would benefit from a drainage masterplan

The following Local Plan policies are considered most relevant to the proposed development:

- **LP 1:** Presumption in favour of sustainable development
- **LP 2:** Place shaping
- **LP 3:** Location of new development
- **LP 7:** Efficient and effective use of land and buildings
- **LP 11:** Housing mix and affordable housing
- **LP 21:** Highways and access
- **LP 22:** Parking
- **LP 24:** Design
- **LP 28:** Drainage
- **LP 30:** Biodiversity and geodiversity
- **LP 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
- **LP 65:** Housing allocations

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

Supplementary Planning Documents

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

Guidance documents

- Kirklees Interim Housing Position Statement to Boost Supply February 2024
- Biodiversity Net Gain Technical Advice Note (2021)
- Planning Applications Climate Change Guidance (2021)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Waste Management Design Guide for New Developments (2020)
- Green Streets Principles for the West Yorkshire Transport Fund

National Policies and Guidance

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF), 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 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, flood risk and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic 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.

Since the site is a housing allocation, the development of the site for housing is appropriate in principle. Appropriate weight may also be placed upon the two recent permissions for the site. The permission for residential development for the northern part of the site (2020/92802) is extant as of the time of writing (due to expire September 2025). The permission that applies to the southern half of the site (2019/91534) was extant in the week the application was submitted but is now longer live as it has now passed the 3-year period for commencement. Site clearance and earthworks have taken place since that date, and these might, in some circumstances, constitute a commencement of development, if it could be demonstrated that they were carried out pursuant to the implementation of the existing permission. However, no application has been made to discharge any of the pre-commencement conditions. In the absence of evidence to the contrary, permission 2019/91534 will therefore be treated as expired. The degree of weight that may be placed on a recently expired permission is a matter of judgement for the decision-maker, who should take account of all relevant factors, including any changes in the policy context that may have taken place since the time of the decision. This will be considered in detail in the appropriate sections of the report.

Spatial strategy

Policy LP1 of the Kirklees Local Plan sets out the Local Planning Authority's approach to the presumption in favour of sustainable development, as laid out in NPPF (Chapter 2), particularly paragraph 11(c). Policy LP1 states that 'when considering development proposals, the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework'.

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

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

Housing need and delivery

The 2023 update of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land, and the 2023 Housing Delivery Test (HDT) measurement which was published on 12th December 2024 demonstrated that housing delivery for Kirklees for the past 3 years has fallen below the 75% pass threshold.

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

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

- 1. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or*
- 2. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.”*

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

The council's inability to demonstrate a five-year supply of housing land or pass the Housing Delivery Test weighs in favour of housing development.

Nonetheless, this must be balanced against any adverse impacts of granting the proposal. The judgement in this case is set out in the officers' assessment, where relevant.

Quantum and density

Most of the site lies within housing allocation HS85. This has an area of 0.69ha (gross and net) and an indicative capacity of 24 units. One factor in particular, the belt of mature trees near the south-eastern or rear boundary of the site, are likely to act as development constraints, although this should not necessarily preclude the trees becoming part of future garden plots. The present application site does however include unallocated land to the south-west and north-west of no. 17 Whitehall Road West. The development of the site for 23 units would therefore mean a net density of 31 units per hectare, pro-rata. The proposal falls slightly short of the indicative capacity (by one unit) and the recommended 35 dwellings per hectare.

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

The site would be seen in the context of two existing developments with either a slightly higher or markedly lower density, Lockgate Rise (34 units per hectare) and Elmfield Court (13 units per hectare). It is considered that given the constraints imposed by the layout of the site, with a pinch-point between the northern and southern halves, a reasonable attempt has been made to maximise its development potential whilst providing a development in keeping with local densities, and given the recent history of the site, with two extant or very recent permissions that would have delivered, in aggregate, 23 units, it would be unreasonable to seek a higher density or quantum.

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 housing market sub-area (of which Birstall and Birkenshaw Ward forms a part):

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

Table 7 Batley & Spen dwelling requirement (%) by number of bedrooms for Market Housing, Affordable Rent, and Affordable Intermediate tenure types

The following is the proposed housing mixture:

	Market	Affordable Rent	Intermediate
1 and 2bed	0	0	3 (60%)
3bed	13 (72%)	0	2 (40%)
4bed	5 (28%)	0	0
Total	18	0	5

The proposed affordable housing, and other planning contributions, shall be considered elsewhere within this report.

The provision of 2-bedroom houses falls short of the recommended level (to reach the recommended 30% threshold, seven units would need to be provided) and there would be an over-provision of 3-bedroom houses. The provision of 4-bedroom houses falls within the recommended parameters, however.

The two recent permissions – 2019/91534 and 2020/92802, for 13 and 10 dwellings respectively – would, if implemented, have delivered in aggregate 21 x 3-bedroom, 2 x 4-bedroom units, with no 2-bedroom houses being provided (market or otherwise). They were granted permission before the Affordable Housing and Housing Mix SPD was adopted. As previously noted, the permission for the southern half of the site is deemed expired. A hypothetical new application for 13 dwellings on the southern part of the site would be assessed in the light of the Affordable Housing and Housing Mix SPD and any such application would normally be expected to provide 4 no. 1-2 bedroom units (30% of 13 dwellings) as a minimum. The scheme for the northern part of the site could however still be implemented.

The current proposal, whilst failing to meet the recommended parameters for the three housing types by numbers of bedrooms, provides overall a more diverse mix than the two approved schemes, as well as a small improvement in the provision of affordable housing (see below). Giving appropriate weight to these factors, it is considered that the mix of housing types, whilst not ideal, can be accepted in this instance as making a positive contribution to the need for a variety of housing types in the locality.

To summarise, the site is a housing allocation in the Local Plan, with the proposal is considered to represent an effective and efficient use of the allocated site, in accordance with relevant planning policy. The proposal would aid in the delivery of housing to meet the Council's targets at a time of need. Therefore, the principle of development is therefore found to be acceptable. Consideration must then be given to the proposal's local impacts, considered below.

Climate Change

On 12th 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).

Birkenshaw does not benefit from a designated local shopping centre in the Local Plan. The site lies approximately 850m from a large convenience store (the Co-operative Store, to the north on Bradford Road), 600m from the nearest secondary school and 1.3km from Birkenshaw CE Primary School. There are additionally eastbound and westbound bus stops within 100m of the site on Whitehall Road West, and other stops offering a greater range of bus services northbound and southbound on Bradford Road. It is considered that the site is at least moderately sustainable and that its location will allow future residents to fulfil many of their daily and weekly needs without having to make lengthy car journeys.

The submitted Climate Change Statement states that homes will be equipped with solar PV equipment with an export-capable meter, and that local materials will be used where possible. It is considered that these measures are sufficient to make a positive contribution to carbon reduction in a way proportionate to the scale of the development. Full details of solar PV equipment and / or any other microgeneration proposed will however be required by condition.

2 – Urban design

The proposal will be considered having regard to the aims of LP24a, and also those of the House Builders' Design Guide, in particular:

- Principle 2 – New development should take cues from the character of the natural and built environment and complement the surrounding built form.
- Principle 5 – Development should form a coherent building line with active frontages, allowing important views to be maintained.
- 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.

Elements that are important in forming the character of the site and its location include the 1930's semi-detached houses east of the site, the more modern, predominantly brick, detached, houses lining Heathfield Mews, the large modern industrial building to the west, which is faced mainly in artificial cladding, and the West Yorkshire Fire and Rescue site (currently undergoing redevelopment) to the north.

The location of the proposed development is close to the edge of the built-up part of Birkenshaw. The character of the site's immediate setting is however

urban or suburban, not rural or semi-rural. The density and scale of the development is considered in keeping with the character of the area. The development would consist mainly of two-storey houses. The Arundel and Wharfedale house types would be located towards the south-western and south-eastern parts of the site where they would not be clearly visible from Whitehall Road and would not be in close proximity to the existing bungalow, no. 17. They would be in close proximity (although the line of site would be interrupted by retained trees) to houses on Heathfield Lane and Lockgate Rise which are also either two-storey or have steeply-pitching roofs with attic accommodation. It is therefore considered that the new houses would not dominate or overpower their surroundings.

The proposed houses could be described as contemporary-traditional. They would have a simple plan form with rectangular windows taller than they are wide. Gutters would be of modern type (fixed to a fascia, not supported by corbels or brackets) but windows and doors would have stone or artificial stone heads and cills. Roof pitch would in most cases be approximately 30 degrees which is commensurate with roof pitches of existing dwellings in the local area.

The exception would be the Arundel type which would have a roof pitch close to 45 degrees. As a result, the height of the roof is comparable to the frontage, appearing oddly proportioned to most local architecture. On an established road frontage, this would result in a very striking appearance that would be difficult to reconcile with local character. In discussions with the applicant, they have been unwilling to amend the housetype. Considering the impact, the Arundel houses (Plots 11-14) are set considerably back from Whitehall Road West and, whilst Plots 12 and 13 would be visible from Lockgate Rise, dwellings viewed from that street include three-storey houses and other houses with a similarly steep roof pitch and overall heights. In view of the variety of house styles that are to be found within the site's surroundings, and the secluded nature which will limit their potentially incongruous impact on the wider built environment, it is considered that the Arundel houses would not cause substantial material harm to urban design. Considering the wider planning balance, including that the proposal would deliver housing at a time of need, the limited harm caused by the inclusion of the Arundel would be outweighed by the positives of the scheme.

Modest changes to existing ground level would be required to facilitate the setting out of a suitable access road and a functioning drainage system (more detail is provided in the appropriate sections of the report). Significant increases above existing ground level would be to plots 20 and 21 and the area above and surrounding the attenuation tank. Finished floor level in these two houses would average 500mm above existing ground level but would be greater at the front. Similarly, ground levels above the attenuation tank would be approximately 500mm to 1m higher than existing ground level. The increase in ground level would be compensated for by banking sloping down to highway level with a slope of up to 1:2.5, the difference in height being approximately 800mm. Whilst this would introduce an engineered feature into the site, it is considered that the visual impact of this banking would be

somewhat softened by the retained stone wall and by the proposed native hedge and trees, and subject to suitable planting details would not detract from the appearance of the site. The two plots being raised above natural ground level would increase their prominence, but they would be seen in the context of rising land and a line of mature trees on the opposite side of Whitehall Road West. In this context it is considered that they would not be unacceptably prominent in the street scene.

The two plots prominently presenting side elevations into the site, plots 2 and 14, would be occupied by the Arundel and Edinburgh house types. The latter has two principal windows (a bathroom and kitchen) facing the access road; the former has two very small windows (a bathroom and WC) facing the access road. Neither would, therefore, present a completely blank frontage to the street.

Whilst some houses would have double parking spaces on the road frontage, and in some cases continuous blocks of five parking spaces would be laid out, across the site the design incorporates substantial areas of soft landscaping along the boundary of the estate road, both in the form of private front gardens and maintained public areas. It is considered that the development would not result in frontages being dominated by parking spaces or other hard landscaping.

The schedule of materials specifies that walling materials are to be brick (Carlton Wolds Autumn) and that roofing materials are to be Calderdale Edge terracotta roof tiles, which it is proposed would be a mix of red and rustic tiles. Whilst stone and render are the predominant facing materials on the Whitehall Road West frontage and on the neighbouring Elmfield Court, development on Heathfield Lane and Lockgate Rise is a mix of stone and red brick. In this context, the proposed walling material is of a type that is considered appropriate in principle, although insufficient detail (e.g. the supplier or samples) has been provided. The use of artificial roofing tiles is also considered appropriate. The rustic tile colour would not however harmonise with any of the surrounding buildings. Limited use of red tiles may be acceptable since there are instances of this on Whitehall Road West and Elmfield Court, but the use of red roof tiles throughout the development would not harmonise well with development on Heathfield Lane and Lockgate Rise which is entirely in grey roof tiles. The submitted schedule of materials is therefore considered unsatisfactory, and a condition will need to be added to the decision notice requiring a full schedule of materials to be submitted for approval.

The 2022 permission for the northern part of the site required, via condition 9, that windows shall be set in a reveal of 50mm or greater from the external face of the wall. No specific reason was given for this beyond ensuring that design quality accorded with the aims of Policy LP24. Whilst this is not a general expectation for developments that are not in Conservation Areas or would affect the setting of other heritage assets, it is considered that this design feature would improve the overall appearance of the development. The

architect has agreed to it being incorporated into the development. It is therefore recommended that it be added as a condition.

The schedule of boundary treatments consists principally of 1.8m timber fencing with the stone wall to the site frontage retained, except where partial demolition is required to create an access. Further detail is provided in section (7) of this report. The drawing showing the access works, 23/341/SK/003 Rev B, does not clearly indicate whether or not partial demolition and rebuilding of the existing stone wall would be required to form the visibility splays, but this is not considered to be problematic as long as the prescriptive condition on sight lines (see Section 4, Impact on highway safety) specifies that any rebuilding is undertaken using the existing stone.

It is considered that the proposed new boundary treatments, and the retention of the boundary wall, would contribute to the aim of a high-quality development that would harmonise with its surroundings.

For the avoidance of doubt, and as there are changes in levels throughout the site, the imposition of a condition requiring a full scheme of finished floor levels be supplied, is recommended.

Landscaping

The “Detailed Landscaping Proposals” Rev A submitted November 2024 must be treated as indicative since the house types differ from the that shown on the final site plan, although the overall layout is very similar.

It shows the location of the planting of trees, shrubs and hedgerows throughout the estate as well as areas of maintained grass. While indicative, it demonstrates that a high quality landscaping scheme may be achieved.

KC Landscape comments on the scheme are, in brief, that more effort should be made to enhance the Whitehall Road West frontage through planting, that there is inadequate tree planting (both street and garden trees), there are no linkages to the existing PROW or green infrastructure and that there is generally limited detail, especially concerning maintenance. KC Landscape do not support the scheme in its present form, and advise that if an improved scheme is not forthcoming during the application process, two separate conditions should be imposed requiring (a) a detailed landscaping scheme and (b) a landscape management and maintenance plan.

Case officer observations are that the indicative landscaping scheme shows a total of 11 specimens of *Acer campestre*, *Carpinus betulus* and *Prunus avium* planted on the Whitehall Road West frontage and in the small landscaped area to the east of the access. A further 8 trees are shown dispersed throughout the site, including *Amelanchier arborea*, *Sorbus aucuparia* and others. These are not actual “street” trees in the sense of being located within the public footway but are at the front of the proposed dwellings, either within private gardens or landscaped areas.

The Open Space SPD recommends that in the provision of new open space, consideration should be given to facilitating connectivity with wider networks, such as the wildlife habitat network, cycling and walking network. In this instance, no public open space is to be provided within the site, and the only areas that would even have the potential to function as public open space are towards the northern end of the site and would not naturally connect with the PROW which lies to the south-east of the site. The issue of connectivity with the PROW is being highlighted here only in so far as it relates to landscaping but will be examined later in the report having regard to other policy objectives.

It is considered that opportunities for further tree planting within the development are likely to be limited given that intensity of the development and degree of plot coverage. A comprehensive condition on landscaping will however be required to ensure that adequate details are provided concerning the landscaping scheme and how it is to be implemented, as well as future management and maintenance.

Trees

The Arboricultural Impact Assessment (AIA), November 2024, finds most of the trees on the site or overhanging its boundaries to be of high or moderate quality, with only two deemed low quality. None are scheduled for removal to facilitate the development. It is considered that development would not lead to any direct impact on the retained trees as the buildings of plots 7 to 12 are outside of root protection areas. The Council Arboricultural Officer however recommends for an Arboricultural Method Statement to ensure there is a robust plan to avoid damage to the trees in close proximity to excavations.

The dwellings on Plots 7-12 would have their rear elevations close to the tree belt, the canopy reaching to within 5m in places. There is likely to be future pressure to prune the retained trees owing to perceived problems of light restriction, which comes with potential risk of introducing infection. This can however, be managed through Tree Works applications. It is therefore considered that subject to a condition on an Arboricultural Method Statement, the development would ensure the retention of valuable trees both in the long and short-term.

It would therefore be compatible with the aims of Policy LP33 in ensuring the protection of valuable trees.

Urban design, conclusion

It is considered that the quantum, density, layout, scale and design details of the proposed development would result in a scheme that would, subject to conditions, complement and harmonise with its surroundings. The proposal incorporates a suitable amount of landscaping, including tree planting, and would ensure the long-term retention of valuable trees within the site. It would therefore assist in the aim of enhancing the townscape and creating high-

quality and beautiful places as set out in Policy LP24(a) of the Local Plan and Chapter 12 of the NPPF.

3 – Impact on residential amenity

Policy LP24(b) of the Kirklees Local Plan requires that proposals provide a high standard of amenity for future and neighbouring occupiers; including maintaining appropriate distances between buildings and the creation of development-free buffer zones between housing and employment uses incorporating means of screening where necessary.

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

Principle 6 – Residential layouts must ensure privacy and avoid negative impacts on light, having regard to the following standards:

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

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

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

Potential impact upon existing residential development:

The proposed units along the south- boundary would leave a very substantial distance between their rear walls' and the opposing front wall of 6-12 Lockgate Rise, being in excess of 28m and significantly more than the recommended 21m. Therefore, no concerns exist over potential impact on these properties.

To the west, 1-3 Lockgate Rise have their principal elevations facing north-west and south-east, and not towards the development site. No. 3 has a small ground floor window in its side elevation, facing the site, however, based on its size and location is presumed to serve a non-habitable room. The nearest proposed new units to no. 3, plots 12 and 13, would not give rise to the potential for overlooking of this property since they would also have their main windows facing north-west and south-east. While the proposed units would have windows facing south-west, they are to a bathroom and WC and therefore would be obscure glazed.

To the north-east of the site, within the blue line, is No. 17 Whitehall Road West, a bungalow. The bungalow's front windows will face the proposed access road, which raises no issues. However, it also has several habitable room windows in its rear elevation that would face towards the two storey plots 5 and 6. The closest of which would be approximately 21m from the nearest opposing window in Plot 6. The new and existing development would be angled from each other, and whilst finished floor levels are to be determined, the lack of steep topography within the site suggests that ground floor level would be similar in each case. While no 17 is acknowledged to be a bungalow, it is considered that the impact would not be overbearing nor lead to materially harmful overlooking.. Principle 6 does not give a recommended minimum distance from a new habitable room window to garden boundary, but it is considered that the separation distance of 8m that is shown would be sufficient to avoid undesirable overlooking or overshadowing of the rear garden of no. 17. Finally, it is also acknowledged that this relationship, between no.17 and the new dwellings, would not be significantly different from the arrangement of the previous permission (reference 2019/91534).

Also adjacent to the east site boundary are nos. 3 and 4 Elmfield Court. These properties are closely sited to the shared boundary, and, in some cases, have an outlook towards it. 4 Elmfield Close, a two-storey property, has one of its principal elevations facing the site. This could be considered the main, or most important elevation, since it looks out on to the property's rear, private, garden space. It has three upper floor windows and two glazed doors in its western elevation which (whilst it has not been possible to determine the internal layout) are presumed to give light and outlook to habitable rooms. Historic photographs, including aerial photographs available online, indicate that there were formerly trees on the boundary. It is not clear when these were removed as they are not recorded in either the current or previous tree surveys.

For the northernmost of this existing property's windows, the line of sight from these existing windows would not be obstructed by the new development. The average distance between the other rear windows of 4 Elmfield Close and the side wall of Plot 6 would be between 10m and 11m approximately, based on scaled measurements. The average distance between the side wall of the new house and the common boundary would be 1.7m. House type Cheltenham AS is proposed for this plot. The side elevation of this house

would be a blank wall and there is therefore no guideline distance to be applied in the SPD. There are no significant differences in land levels between the two plots and both houses are two-storey, securable via the proposed finish floor level condition. It is acknowledged that the erection of a new two-storey dwelling would have some impact on outlook for 4 Elmfield Close and would be likely to affect direct sunlight to the garden and possibly ground floor windows, especially mid-afternoon and between the autumn and spring equinox when solar angles are relatively low.

It is noted however that permission 2019/91534 allowed a new dwelling to be placed with a similar orientation to the boundary. This would have been 1m further from the common boundary, but owing to its height (being a three-storey dwelling with an eaves height of 6.5m at the front and 5.8m at the rear) and footprint, would have presented a larger aspect to the boundary than the Cheltenham AS house type now proposed. As previously noted, 2019/91534 is no longer an extant permission. However, being a very recent permission, and determined under the same LP policies and the officer's assessment making reference to the SPD, at least moderate weight can be placed on it as a material consideration. Finished floor levels were unknown at the time when the 2019 application was determined; the subsequently approved private drainage layout shows this house to have a floor level of 160.40m above ordnance datum (AOD) whereas the indicative plan by Brian G Hall 3/341/500/001 submitted with the current application for drainage purposes indicates finished floor levels of 160.950m AOD on this part of the site. The entire development would need to drain to the north, not to the west as was the case with application 2019/91534, which is likely to influence floor levels. Notwithstanding this, it is considered that the house type and siting now proposed would have a lesser impact on the neighbouring property than the one previously approved.

The above assessment relates to plot 6 as shown on plan ref. 2306/02/001 rev. O. Several of the other plans, principally showing technical details (i.e., drainage), show plot 6 in an earlier configuration, with a different layout and handing. It is not considered reasonable or necessary to have the applicant update all their plans showing the layout to reflect this, although this would then necessitate a dedicated condition explicitly stating that plot 6 be delivered in accordance with the details shown on the aforementioned plan, to avoid any confusion / misinterpretation.

In conclusion, it is considered that the proposed dwelling would not have a materially negative impact upon the living conditions enjoyed by 4 Elmfield Close.

Number 3 Elmfield Close has its principal elevations facing north-west and south-east, and therefore not towards the application site. This house does however have a side-facing window at ground floor, and it is not known whether this serves a habitable room. The Jedburgh house type proposed for this plot is two-storey with an attached single-storey garage, which would be the closest part of the development to the boundary. The direct line of sight from this window would be towards the main side wall of the new dwelling, at

approximately 7.5m; the side wall of the proposed garage would be about 3m closer to the common boundary, but not within the direct line of sight taken from the centre point of this window. It is also noted that there is a conservatory to the rear of 3 Elmfield Close which would be a similar distance to the side elevation of the proposed new house. In conclusion, whilst the new development might have a perceived impact on light to the side-facing windows in this property, it is considered that the impact on overall amenity levels for 3 Elmfield Close would be very minor since they would continue to enjoy an open aspect to the south-east, which is where the majority of their windows and outdoor amenity space are.

Internal space

The house types that are now being applied for would each benefit from the following amount of internal space (according to information on the plans, supplied in square feet and converted to square metres):

House type	Bedrooms / floors	Floorspace (sqm)	NDSS Standard	Compliant
Wharfedale	3-bed, 3-storey	129	90	Yes
Arundel	3-bed, 3-storey	122	90	Yes
Cheltenham	4-bed, 2-storey	121	97	Yes
Gosford	4-bed, 2-storey	108	97	Yes
Rothbury	4-bed, 2-storey	111	97	Yes
Jedburgh	3-bed, 2-storey	93	84	Yes
Bamburgh	3-bed, 2-storey	93	84	Yes
Edinburgh	2-bed, 2-storey	70	70	Yes

All house types would meet, and in most cases exceed, the minimum figure in the NDSS for the relevant type of dwelling, which is acceptable.

Outlook, light and privacy for future occupants

Mutual overlooking distance between Plots 1 and 3-4 would fall short of the recommended 21m. The biggest shortfall would occur in the case of Plot 1 as the measured distances between the rear facing habitable windows and the nearest facing windows in Plot 1 would be between 15.3m and 15.6m.

The shortfall in the recommended separation distance, 21m, is significant, but any perceived reduction in privacy would be somewhat mitigated by the houses being slightly angled away from each other (approximately 15 degrees). It is also noted that in the case of Plot 1, the bedroom most affected (bedroom 4) would also be the smallest. The indicative floor levels shown on the drainage strategy drawing indicates that Plot 4, which faces it, would have a slightly higher floor level (by 350mm). Whilst Plot 4, being the smaller of the two dwellings and with only one bedroom at the rear, would arguably be the more negatively affected of the two, occupants would not get the impression of being looked down upon by the neighbouring house.

The house type chosen for Plot 1 – the Gosford – is the most appropriate house type for this plot out of the selection of house types proposed for the development as it has the shortest front-to-back measurement. Others, such as the Jedburgh, have a lesser overall footprint, but the plot would not be able to accommodate the attached garage with a suitable driveway. There is very little, if any, opportunity to increase distances by changing the position of the two houses within their respective plots. Introducing a “stagger” between Plots 3 and 4 would only allow Plot 4 to be moved about 500mm further to the south-east, assuming two standard parking spaces are to be retained. Moving the house on Plot 1 further north would mean that there would no longer be a passageway around the side of the house for the use of future occupants, unless the estate road was shifted slightly to the west, which in turn would make Plots 22-23 more cramped (these two houses already have their rear windows only 10m from a facing gable wall). A more radical change, moving Plots 2-14 further south-east, would bring Plots 7-12 even closer to the belt of protected trees, and even if it did not lead to pressure for tree removal it would give rise to increased amenity impacts on the plots adjacent to the south-eastern boundary (especially 11-12) arising from overshadowing. The Arboricultural Officer has advised against the houses being moved further south-east for this reason, and because it would give rise to increased pressure to prune the trees.

In summary, there would appear to be no satisfactory way to significantly increase distances between the two most closely facing plots, 1 and 2-4, without sacrificing other aspects of residential amenity within the development or completely redesigning the layout.

The removal of one of the three houses out of Plots 2-4 would not be a significant improvement – assuming the remaining two houses were placed centrally, the right-hand plot would still have its windows between 15.6m and 16.1m from the facing windows in Plot 1. Removal of Plot 1 would create the opportunity to provide public open space within the site. This however might not be deemed an efficient use of the site, since it has been implicitly accepted in the two extant or recent permissions, that the site is capable of accommodating 23 dwellings. Furthermore, appendix 4 of the Open Space SPD sets 25 dwellings as the threshold above which POS should, by default, be provided on site. It is therefore considered on balance, having regard to all planning objectives, that the loss of a housing unit would not clearly be outweighed by any planning benefit.

The relationship between Plots 1 and 4 is one that would not be considered acceptable in the case of proposed new development in close proximity to an existing occupied dwelling. Prospective purchasers or tenants of any of these properties would however be aware of the situation. Whilst still a finely balanced case, it is considered in the light of the above factors and the aforementioned need to increase housing supply, and since only a small number of properties on a 23-unit development would be affected, that the reduction in recommended separation distances can, on balance, be accepted in this instance.

Plots 19 and 21 would fall very marginally short of the recommended 12m stand-off distance between a habitable room window and a wall containing a non-habitable room but the shortfall is not considered to be significant, nor would it result in material harm to the amenity of future occupiers.

Besides these two examples, all dwellings would be compliant with the recommended distances set out above, with respect to other new houses forming part of the same development.

In conclusion, the proposed dwellings have been sited and designed that overlooking of their neighbours' windows or amenity space at close quarters would be prevented or minimised. All would receive what are considered adequate amounts of natural light and would not suffer undue obstruction to outlook.

Provision of private garden space

All new dwellings would be provided with a private garden. There is no standard length, breadth or area recommended for a new residential garden in any adopted Kirklees document, which must be looked at on a case-by-case basis both for individual houses and the development as a whole, also paying due regard to their aspect and the amount of natural sunlight they would benefit from.

The Cheltenham house on Plot 6 would have a rather small rear garden for a four-bedroom house as it would have an average depth of just under 7m. This garden would however benefit from afternoon and evening sun, and there is some additional useable garden space at the front. Plot 14's rear garden is also small, measuring an average of 8m depth, but this has been dictated by the need to provide parking spaces for Plot 15, and despite having a northerly aspect Plot 14's garden would benefit from unobstructed direct sunlight from the east and west. The three Edinburgh houses (plots 2-4) would have smaller than average rear gardens, with the largest being 7.5m depth and the two end properties having their gardens reduced in size further to make space for a passageway and to accommodate the estate road. But as these are two-bedroom houses it is considered that the amount of garden space is acceptable, and they will be able to receive direct sunlight from a westerly and south-westerly direction.

Taking a holistic view of the proposed development, it is considered that it provides outdoor amenity space that is of acceptable scale and quality having regard to the house type and the character of the area.

Noise

The proposed development fronts on to a busy main road. There are commercial premises across the road and adjacent to the proposed site. Traffic and commercial noise have the potential to affect the amenity of future occupiers. An acoustic report was not submitted with the application. The anticipated noise level is not, however, expected to be onerous or prohibitive

to development. It is considered this concern can be satisfactorily addressed by means of a condition requiring a noise report to be submitted before development commences, detailing the existing noise climate and describing what attenuation measures, if any, need to be incorporated into the development.

Residential amenity – conclusion

It is considered that the layout, scale and design of the development would, subject to conditions, provide an acceptable standard of living for future occupants whilst not harming the amenities of neighbouring properties, thereby according with the aims of LP24(b).

A condition will need to be imposed requiring the erection of boundary treatments to prevent overlooking between residential gardens – this can consist of the implementation of the submitted scheme of boundary treatments, revision B (examined in detail under subheading Crime and Security in section 8 of this assessment) which is now considered to be acceptable.

It is also recommended that all first-floor side facing windows shall be fitted with obscure-glazing in perpetuity to protect the privacy of both their future and neighbouring occupants (all, it is noted, are non-habitable, in most cases bathrooms or en-suite facilities).

Owing to the nearness of some properties to established residential development or to each other, it is considered expedient to remove residential permitted development rights for extensions, dormers and outbuildings (Class A, B and E) from some, but not all, new dwellings – see relevant subsection under part (7).

4 – Impact on highway safety

Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed effectively and safely by all users. The policy also states that new development would normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.

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. The NPPF continues that 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

First considering traffic generation, the application's Transport Statement includes an assessment of the anticipated traffic generation. The forecast two-way peak hour AM and PM traffic flows are 16 and 22 trips, an increase of 8 and 12 trips compared to the previously approved application. KC Highways Development Management concur with the conclusions of the Transport Statement, that the traffic would not materially increase traffic on the local network nor harm the operation of local junctions.

Regarding traffic during the construction period, given the scale and nature of the development officers recommend a Construction Management Plan (CMP) be secured via condition (this is typically combined with the Construction Environmental Management Plan (CEMP)). This is to ensure the development would not cause harm to local highway safety and efficiency. This would be required pre-commencement, given the need to ensure appropriate measures from the start of works. K.C. Highways DM have also advised that a 'highway condition survey' be undertaken, via condition. This would include a review of the state of the local highway network before development commences, and a post completion review, with a scheme of remediation works to address any damage attributed to construction traffic. This request is considered reasonable, and a condition is recommended accordingly.

The proposed access is to be formed at the north-eastern corner of the site. This would serve the proposed development, and the existing dwelling, no. 17. The principle of forming a new access for residential development in this position has previously been accepted in application number 2020/92802 which would have served 11 residential units (10 new plus one existing). The current proposals are for a total of 24 units (23 new plus one existing), from the same point of access as previously approved.

Plans have been submitted showing the proposed highway works that are deemed to be necessary to mitigate any impacts of the formation of a new access at this point which is close to the access to the West Yorkshire Fire and Rescue Service headquarters. These include lane markings, right turn arrows and the relocation of a pedestrian refuge island. This approach is accepted in principle by KC Highways Development Management.

The plans show the access road proceeding south from the new junction, curving to the west and then ending at a hammerhead which will serve Plots 2-12. A non-adoptable spur near the site entrance will serve Plots 20, 21 and 23, the other new houses (and no. 17) being served by the adoptable access road. The road would only have footways for a short distance within the access junction radius and extending 25m up the western side. Elsewhere it would be provided with hard margins which will be a minimum of 600mm in width but would be of greater width in places owing to the need to allow car doors to be opened conveniently around the visitor parking spaces, or to allow for internal visibility. 2.4m x 70 m sight lines onto Whitehall Road West, 2.4m x 25m sight lines into the proposed turning head, 25m forward visibility through the site, widening to visitor parking bays, acceptable gradients and an

acceptable Stage 1 Road Safety Audit and Designers Response have all been demonstrated. Acceptable refuse vehicle swept paths are provided within the appendices to the Transport Statement.

Each four-bedroom house would benefit from two external parking spaces (either side by side or in tandem) plus a single attached or integral garage meeting minimum space standards. All three- and two-bedroom dwellings would be provided with two external parking spaces. These are in line with the recommended levels of parking within the Highways Design Guide and are accepted. Four designated visitor parking spaces are provided, as bays by the side of the adoptable estate road. The Highway Design Guide recommends the provision of one visitor space for every four dwellings, which would indicate six spaces overall. The Highway Officer has confirmed that the apparent under-provision is acceptable in this case because there are opportunities for visitors to park safely within the carriageway – for instance, alongside Plot 15, or outside no. 8 at the eastern end of the hammerhead – without affecting visibility, turning provision or access for service vehicles.

The development indicatively shows bin stores of a suitable size for three refuse containers per dwelling, and easily accessible collection points, which in most cases shared between two or more dwellings. These would allow all wastes to be collected safely from the adoptable highway, with final details to be secured via condition.

KC Highways Development Management recommend the following conditions:

- Visibility splays as shown on plan 23/24/SK/003 to be provided.
- A detailed scheme for the provision of highway improvement works including the re-siting of an existing pedestrian crossing traffic island on Whitehall Road West with associated signing and white lining shall be submitted to and approved in writing by the LPA.
- Submission of a Construction Management Plan (CMP) including pre- and post-development road condition surveys.
- Submission of an Estate Street Phasing Plan.

These are considered reasonable although the pre- and post- development road condition surveys it is recommended should form a separate condition for the sake of clarity, and it is also noted that some of the items requested as part of the CMP, such as temporary drainage, would normally be covered by other conditions.

The case officer additionally recommends the following conditions:

- That all private parking spaces are made available for use before the dwelling to which they relate is occupied, and thereafter so retained.

- That all attached or integral garages be provided before first occupation, retained as such, and not converted to living accommodation.
- Bin collection points and bin collection points shall be provided before the dwelling(s) to which they relate are to be brought into use.
- Condition on temporary waste collection arrangements where some dwellings are to be occupied before the whole development is completed.
- A minimum of one electric vehicle charge point per dwelling is provided and thereafter retained.

Highways England have recommended a condition for the submission of a Construction Traffic Management Plan (CTMP), in order to mitigate any adverse impact from the development on the M62 Motorway in accordance with DfT Circular 01/2022. It is considered that this need not be imposed as a separate condition – it would be covered adequately by a CMP – provided that Highways England are consulted on any subsequent application to discharge the condition.

The plans do not indicate that any significant retaining walls will be required on or adjacent to the public highway (the drainage layout shows one retaining wall of up to 800mm in height at right-angles to the highway and 2.5m from it). KC Highway Structures have confirmed that an Approval in Principle for retaining structures should not be sought in this instance. The standard condition on drainage infrastructure within the adopted highway should however be applied in the interests of the safety of future users and preventing overloading of drainage infrastructure.

Policy LP20 states that proposals for new development shall be designed to encourage sustainable modes of travel and demonstrate how links have been utilised to encourage connectivity. In general, it is desirable for new development to take opportunities to achieve greater connectivity with the existing PROW network, in the interests of promoting both sustainable transport and healthy and active lifestyles. PROW SPE 14/30 lies to the south-east of the site and the development layout offers no direct connection to it. The benefits of a new link would however be somewhat limited as it would only provide future residents with a cut-through to a bus stop on Bradford Road – this would mainly benefit those dwellings within the southern half of the site, saving a maximum of 170m walking distance compared to the option of making the trip via Whitehall Road West. Application 2019/91534 also failed to provide any such connectivity, and was raised as an issue in the officer's report to Committee, but was concluded to not prohibit approval. Whilst a link to the PROW would have represented a modest net benefit, the lack of such a link is therefore not considered a significant shortcoming.

Cycle storage facilities are not shown on the site plan. The provision of such facilities should be the subject of a condition to ensure that opportunities are

taken to promote low-impact means of transport as well as active and healthy lifestyles.

The proposed development demonstrates that safe access to the existing highway network can be gained. The internal layout is considered satisfactory from the point of view of vehicular and pedestrian access, servicing and parking. It is considered that subject to conditions, as set out above, the development would support the aims of sustainable transport and of ensuring that development would facilitate the safe and convenient use of the highway by existing and future users, in accordance with the aims of LP20, 21 and 22.

5 – Ecology

The site lies within the Bat Alert Layer. Approximately 40% of the site also lies within the Kirklees Wildlife Habitat Network; this consists of a rectangular area in the southern part of the site which continues as a narrow corridor along the western margin of the site, following a line of trees, to meet the Whitehall Road West frontage.

As noted elsewhere within this report, the site has been cleared.

The ecological information submitted with the initial application documents did not meet current minimum standards – it comprised two separate metric calculations for the northern and southern portions of the site, and used the superseded version 2.0. The applicant later submitted a Biodiversity Net Gain (BNG) Metric in the correct format, version 4.0. While it is understood that this is based on survey work undertaken for the two previous applications, 2019/91534 and 2020/92802, given the site has been stripped, this is considered to adhere to degregation rules (i.e., not assessing the site's baseline post-strip). No new Preliminary Ecological Assessment (PEA) or Ecological Impact Assessment has been supplied.

The original PEA for 2020/92802 (dated September 2020) found that the main semi-natural habitat on site was bramble scrub of medium distinctiveness, the condition classed as “fairly poor”. It also noted the lack of connectivity with any other semi-natural habitat. The line of trees was found to have low distinctiveness and be in moderate to poor condition (this, it is understood, referred to a line of trees within the middle part of the site, since removed). It found that no trees on site had bat roost potential, the existing dwelling low bat roost potential, and did not recommend an activity survey. Standard precautionary measures were recommended for other faunal species.

The PEA submitted in support of 2019/91534 (dated April 2019) found the site to have low ecological value and low connectivity. Two large sycamore trees (designated T5 and T14) were considered to have low potential for roosting bats and the PEA recommended that if these trees were to be removed, appropriate precautionary measures should be taken. Further recommendations are made with regards to lighting on the site to prevent impacts to commuting or foraging bats.

While it is acknowledged the PEAs would typically be considered out of date, given the site has been cleared, a further (up to date) field study at this point in time would therefore be unlikely to provide any further useful data since, in order to assess the ecological value of the site pre-clearance, it would have to be based on aerial photographs. Taking these factors into account, it is considered that the findings of the previous ecological surveys – which are a matter of public record – provide a reasonable degree of certainty as to the existing habitat value of the site and any potential for adverse impacts arising from the development.

It is considered that, taking into account the findings of the past ecological surveys, the site's present condition, its relative lack of connectivity with other semi-natural habitat, and as it would ensure the retention of the tree belt near the southern boundary, the possibility of harm to protected species or fauna is remote. Further investigative work were therefore considered unnecessary. As noted elsewhere, all trees within the belt along the south-eastern boundary of the site are proposed to be retained (including the aforementioned T5 and T14), the only works recommended being “remedial pruning”. Any permission granted should however be subject to a requirement for a Construction Environmental Management Plan (Biodiversity) as a precautionary measure to ensure that any residual risks to fauna that may be present on site are averted. In particular, outdoor lighting during construction, if required, must be designed and used so as not to disturb roosting or foraging bats that may be present.

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, taking into account any site degradation that has occurred since 30-Jan-2020 as required by Schedule 14 of the Environment Act.

In this instance, the baseline value of the habitat on site has been calculated at 5.75 habitat units and 0.68 hedgerow units. The required net gain would therefore be 0.575 and 0.068 for the respective type of unit. On-site, post intervention habitat would consist of 3.83 habitat units and 0.61 hedgerow units, representing a net loss. To deliver a net gain of 10% would require the creation of 2.495 habitat units and 0.138 hedgerow units off site. As noted above, the delivery of this net gain would be secured via condition.

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

In this case, the proposed on-site provision is not anticipated to be 'significant'. The PPG states the following on identifying significant gains:

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*

The submitted BNG Metric includes the anticipated on-site habitat retention, enhancement, and creation, although the PPG states that retention of existing habitat does not count as an on-site enhancement.

In this case, 3.03 habitat units would be retained as existing (the tree belt to the south). As noted above, retention does not count for on-site enhancement and would not attribute to 'significance' in this regard. New habitat is to amount to 0.8ha units, all of which would be 'low distinctness'. The example for 'significant' includes *a large number of biodiversity units relative to the biodiversity value of the site before development*, which the LPA currently consider to be 1 habitat units. Furthermore, in this case, 0.54 units would be garden space. On the matter of gardens, the PPG says:

Non-significant enhancements are habitat enhancements whose loss will not significantly decrease the development's biodiversity value. They should still be included in your metric calculations.

Examples could include private gardens which have a low distinctiveness value, or container planting. These enhancements do not normally require maintenance provisions, so for non-significant enhancements, you do not need to have an HMMP, legal agreement or commitment to maintain them for 30 years.

Officers would also consider it unreasonable to require private gardens to be managed and maintained by a manco (or similar) for a period of 30 years. Removing the private gardens reduces the proposed on-site habitat creation to 0.26, which is below 1 habitat unit, and would not be significant. Accordingly, a legal agreement for habitat management or a condition for a Habitat Management Maintenance Plan (HMMP) is not considered necessary in this case.

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. The principle of discharge to a culverted watercourse and public sewer has already been accepted for the northern and southern parcels of land, and the proposal is deemed to adhere to the drainage hierarchy.

A foul and surface water drainage strategy shows that surface water disposal would be via an attenuation tank located in the north-western part of the site and ultimately to a culverted watercourse on the northern side of Whitehall Road. Foul water disposal would be to a private 150mm diameter foul water sewer in Heathfield Lane.

KC Lead Local Flood Authority confirm that the latest submitted drainage plan, flood routing and supporting information is sufficient for approval, but that the following matters should be conditioned:

1. The submission of a bespoke maintenance and management plan;
2. Temporary drainage arrangements to be provided during construction.

These are considered reasonable and proportionate. It is also recommended, for the avoidance of doubt, that a prescriptive condition requiring the implementation of the drainage scheme should be imposed on the decision.

Yorkshire Water confirm that they have no objection to the surface and foul water drainage arrangements shown on drainage layout Revision K. This has since been superseded by Revision L, but this contained a single change, an increase in the gradient of the foul sewer pipe, but on both revisions this exceeded the recommended minimum gradient of 1:150, so it was not considered expedient to reconsult Yorkshire Water again.

Highways England were consulted because of the possible implications the development might have for drainage infrastructure associated with the M62 motorway. They have now withdrawn their objection and do not recommend any further conditions related to drainage.

In conclusion it is considered that subject to conditions as set out above, the development would be drained in a safe and sustainable manner in accordance with the aims of LP30 and Chapter 14 of the NPPF.

Planning Obligations

Paragraph 56 of the NPPF confirms that planning obligations must only be sought where they meet all the following: (i) necessary to make the development acceptable in planning terms, (ii) directly related to the development and (iii) fairly and reasonably related in scale and kind to the development. Should planning permission be granted, Officers recommend that this application should be subject to a Section 106 agreement to cover the following:

Affordable Housing

Five affordable units are proposed, all of which are to be Intermediate, specifically two First Homes and three Discounted Market Sale. None are proposed as Affordable Rented. The Affordable Housing & Housing Mix SPD sets out as standard a 55-45% split in favour of Affordable Rented, and that within the 45% Intermediate element 25% should be First Homes and 20% other Intermediate.

It is noted however that the affordable housing element in the two approved schemes were also Discounted Market Sale only. In the assessment of 2019/91534, officers reached the view that “given the small scale of the development on a housing allocation site, the provision of 3 intermediate dwellings is satisfactory” even though at the time a 55-45 split (whilst not formally set out in any policy document) was normally expected. The officer’s report for application 2020/92802 stated that given that the adjacent site did not proportionally provide the discounted market and affordable rent split of 45% and 55% respectively, it would be onerous for a development of only 10 dwellinghouses, to provide the full provision of social rented units.

The application now being considered is for a larger quantum of development which might, arguably, provide the opportunity for a greater diversity of tenure types owing to economies of scale. It is considered on balance however that given the recent history of the site and extant permission, and since, even applying the 55-45 split would only result in three affordable rented units being provided, the applicant’s proposal for five intermediate homes can be accepted in this instance. These would be divided between First Homes and Discounted Market Sale homes (whereas the two previous permissions provided only Discounted Market Sale homes). It would therefore provide a greater range of affordable housing tenures than would have been delivered by the two previous proposals. The provision of affordable housing has been secured by means of a Section 106 Agreement.

The affordable units are dispersed throughout the site (as one block of two, one block of three) and comprise 3 x 2-bedroom, 2 x 3-bedroom, which is compliant with the recommended breakdown for Intermediate housing within that market sub-area. It is considered that the accommodation provided would not be inferior to the market units on site in quality of design. This is to be assessed in more detail in the relevant sections of this report.

Public Open Space

Two areas within the site – one in the far north of the site adjacent to the Whitehall Road West frontage (247sqm), and the smaller area between Plots 19, 21 and 22 (81sqm) might in principle be large enough to function as Amenity Greenspace, as recognised by KC Landscape in their comments. The developer's agent has subsequently confirmed however that these areas are not intended to function as POS.

The requirement for Amenity Greenspace will therefore have to be met through a financial contribution. According to the principles set out in the Kirklees Open Space SDP, the development will also attract a contribution towards Natural & Semi-Natural Green Space, Parks & Recreation, Outdoor Sports, Children & Young People, but not Allotments. Based on the number of dwellings and the Open Space Standards in part 5 of the SPD, and taking into account that which is to be provided on site, the development attracts liability for a contribution of £61,260 which will accordingly be sought as part of a Section 106 Agreement. This could be used for the improvement of POS provision in the vicinity of the site, including, but not restricted to, Turnpike Close and Birkenshaw Recreation Ground. This has been agreed by the applicant and incorporated into the signed and sealed Section 106 Agreement.

Management and maintenance

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

As noted in the ecology section, as the habitat is concluded to be 'not significant', clauses relating to net gain management are not required.

7 – Other matters

Air Quality

The proposed development is located adjacent to Whitehall Road West, which is considered to be a road of concern in terms of air quality. The site is also located approximately 140m away from an existing Air Quality Management Area (AQMA 4) Birkenshaw, which was declared by Kirklees Council due to exceedances of the annual mean air quality objective for nitrogen dioxide (NO₂).

In support of the proposal, an Air Quality Assessment by Miller Goodall, dated the 26th of June 2024, ref: 103182 has been submitted. The report advises that the risks arising from fugitive dust emissions during construction are moderate.

Table 5 of the report demonstrates DEFRA background concentrations at the proposed site are below air quality objectives, the closest Kirklees monitoring point K38 demonstrates that roadside concentrations of nitrogen dioxide (NO₂), is below air quality objectives. The proposed properties will be situated away from the roadside and therefore it is concluded mitigation to properties is not required.

It also concludes that in the operational phase effect on local air quality will be minimal.

In light of this Type 1 mitigation under WYLES guidance has been applied, the report confirms a dust mitigation scheme will operate during the construction phase and electric vehicle charging points will be provided to each proposed dwelling.

KC Environmental Health accept the report provided and recommend a condition to ensure the fugitive dust mitigation within the report is incorporated within the condition for a Construction Environmental Management Plan.

Removal of permitted development rights

Condition 10 on permission 2020/92802 removed all permitted development rights that would have been included within Part 1 of Schedule 2 of the Order. According to the officer report, the condition was applied to prevent the creation of balconies above the rear extensions without the permission of the Local Planning Authority. This is not considered necessary since the house types now chosen would not be built with attached flat-roofed single-storey elements.

However, it is recommended that permitted development rights for extensions and buildings falling within Class A and E should be removed for:

- i. Plots 7-12 (because of possible conflict with the retention of the trees, since extensions and outbuildings might involve work within their root protection area or give rise to increased perception of nuisance from overshadowing or debris fall);
- ii. Plot 6 (because of its proximity to an existing dwelling and the possibility of overbearing impact resulting from extensions or outbuildings close to the common boundary).

In addition, it is recommended that Class A, B, C and E permitted development rights should be removed for Plots 1-4 since the mutual separation between these properties, as previously noted, is already below the distance generally recommended, and there is a risk that any rear extensions would have an overbearing impact or give rise to a further reduction in privacy.

Crime and security

A plan has been provided (13-Jun-2025) showing, in brief, the following boundary treatments:

1. Outer boundaries of site to have a standard 1.8m hit and miss fence installed.
2. Similar 1.8m fences are to be provided as boundaries between gardens, except in locations where a 1.8m or 2.0m acoustic fence is indicated.
3. An acoustic fence is also shown alongside parts of the new estate road.
4. Stone wall to be retained to site frontage.

The Designing Out Crime Officer, who was consulted on the development, made the following comments:

1. I note from the site layout plans that 1800mm high wall with fence panels are being proposed adjacent to plots 22, 23. The positioning of this wall and fence will act as a screen from the dwelling to the driveways and obscure surveillance over the vehicles. Rather than fence panels, hit and miss railings or hit and miss fencing, on top of the wall is preferred.

Case officer comments: whilst a more permeable solution would be preferred in the interests of surveillance, this solution has been chosen because of the anticipated need to provide acoustic screening. A condition can however be imposed to the effect that if the noise report does not recommend 1.8m acoustic screening for this boundary, the proposed alternatives should be used instead.

2. The site layout plans show that plots 6 and 7 on their east perimeter and plots 12 and 20 on their west perimeter do not have any perimeter fencing.

Case officer comments: The latest version of the plan shows 1.8m fencing to the relevant boundaries.

3. The site layout plans show that some of the plots do not have any gates fitted.

Case officer comments: All plots now have gates.

4. It is noted from the site layout plans that some of the rear gardens butt up to green spaces. To offer these rear gardens more protection, defensive planting such as Berberis Vulgaris, hawthorne or blackthorn etc could be planted adjacent to the fencing.

Case officer comments: If the plots being referred to are those at the south-eastern end of the site, 7-12, these are separated from adjacent green space by a 1.8m fence and this is considered adequate for security. Defensive planting, in order to be effective, would have to provide a continuous barrier, and this would also interfere with access to the fence for maintenance.

A condition on boundary treatments is recommended which will be essentially a prescriptive condition but with the caveat concerning Plots 22 and 23 as mentioned above, and should furthermore contain the requirement that all non-acoustic fences contain suitable gaps to allow the movement of hedgehogs. It is recommended that further condition requiring details of measures that are proposed to protect future residents from crime and the fear of crime should also be imposed as is standard for major housing schemes.

Land contamination

Paragraph 180(e) and 189(a) of the NPPF state that planning policies and decisions should prevent new development from contributing to, or being put at risk from, land instability and that a site is suitable for its proposed use.

The site has been identified by Kirklees as potentially contaminated land due to its previous use as a sandstone quarry (our reference 32/2). The site is c.100m southwest of potentially contaminated land (our reference 22/2) associated with a colliery. The coal mining legacy may impact the development through migration of mine gas.

No reports assessing possible land contamination were submitted with the application. It is considered that the risk and implications of land contamination can, in the circumstances, be adequately addressed through the imposition of conditions requiring the submission of a Phase One contaminated land report with subsequent reports (Phase 2, etc) depending upon its findings.

Coal mining legacy

The site partly within a Coal Referral Area. The applicant submitted a Coal Mining Risk Assessment report in support of the application. This recommends that further investigations are carried out to establish whether shallow coal workings are present, the results of the investigations used to inform any remedial works and/or mitigation measures that may be necessary.

The Mining Remediation Authority accept the report and recommend that the standard two conditions – a scheme of intrusive investigations with details of remedial works if appropriate, and a statement signed off by a competent person certifying that the site is safe for occupation.

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.

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.

Archaeological implications

The presumed route of a Roman road is believed to lie adjacent to the southern site boundary.

In the recent application for the northern half of the site, West Yorkshire Archaeology Advisory Services did not make any recommendations. In the application for the southern half of the site, WYAAS advised that an archaeological evaluation be submitted, preferably before determination, or if the LPA rejected this approach then it must be conditioned that no development is to take place within the area indicated until the applicant, or their agents or successors in title, has secured the implementation of a programme archaeological recording. This condition was imposed without further survey work being undertaken. The information submitted with the subsequent discharge of condition application found no evidence of archaeological remains within the development area. WYAAS confirmed that the results were accepted, and that no further archaeological work would need to be carried out. It is therefore considered that no further conditions are necessary.

8 – Representations

Ten representations were received. Concerns that have not been addressed and responded to in the main part of the report are summarised below with issues raised and officer responses:

Design and appearance

- Spen Valley Civic Society comments as follows: 1. Positive that 2 small sites have been combined with one entrance/exit. 2. Positive to see 21% allocated for affordable dwellings. 3. Can a few more small tree

species be included in design? 4. Filling in a last piece of space will complete development in this quarter of Birkenshaw.

Response: Spen Valley Civic Society's positive comments are noted. As noted, the landscaping scheme submitted with the application must be considered indicative. It is however considered generally acceptable and provides adequate species diversity for a site of this size.

Residential amenity

- Arundel is the wrong house type for Plot 1 because of the impact it will have on light to no. 3 Elmfield Close and the Gosford would be preferred.

Response: Plot 1 is located near the centre of the site and is considered to be too far away to have any material impact upon either 3 or 4 Elmfield Close. If the dwelling being referred to is actually Plot 7, this has already been substituted for a smaller house type as set out in section (3) of the Assessment.

Highway issues

- The option of access from Heathfield would appear to be better.

Response: The possible existence of an alternative option that might, by some criteria, be better in planning terms, does not provide grounds for refusing a scheme that is acceptable on its own merits.

Other concerns

- General plan:- shows the site boundary encroaching into the back garden of No 15. Proposed site/block layout:-shows the site boundary encroaching into the driveway, garage & back garden of No 15.

Response: These comments appear to relate to superseded plans. The scheme as shown on the site layout and other current plans does not extend beyond the red line boundary, which is the same as for the approved 2020 application.

- Impact on availability of school places.

Response: Current Kirklees policy is that a contribution towards school places will not be sought for schemes of fewer than 25 units. Possible impact on local schools is therefore not a material consideration in this instance.

- Impact on demand for doctors surgery.

Response: Any possible impact upon demand for medical facilities cannot be given weight as a material consideration.

- On the plans it appears that a tree which would seem to be over 100 years old is going to be removed. Surely this tree should be subject to a tree preservation order. Furthermore, this tree is up against our boundary wall and its removal will inevitably cause major damage to the wall. If the council allows removal of this tree then the developer should be made liable for the rebuilding of the wall using the original materials.

Response: It is unclear which tree is being referred to. Possible damage to a third-party wall is in any case deemed a private civil matter.

- According to the plans a new tree will be planted which will be adjacent to the semi-detached houses being built behind our property. The placement of this tree effectively forms a barrier to the afternoon sun coming into our garden which will affect the growth of our plants and also significantly reduces our enjoyment of our garden amenity.

This relates to the indicative landscaping scheme which shows a tree (*Sorbus aucuparia*, or rowan) planted within the south-east corner of Plot 6. The Arboricultural Officer was asked for advice on this point and confirmed that in her opinion a Rowan tree planted in this position would not have a significant impact in terms of overshadowing and is acceptable. As previously stated, the landscaping scheme is indicative only and the residential amenity implications any landscaping scheme finally approved will need to be carefully considered if it would involve a change in the species, number or positioning of proposed trees.

9 – Conclusion

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

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

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the reserved matters applied for would result in a scheme that would constitute sustainable development and is therefore recommended for approval.

Recommendation – GRANT CONDITIONAL FULL PERMISSION, SUBJECT TO S106 AGREEMENT

Decision Authorisation: Delegated Powers
Application Number: 2024/92281
Officer Recommendation: Conditional full permission

Conditions and Reasons

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

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

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

Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, 2, 20, 21, 22, 24, 28, 30 of the Kirklees Local Plan and Principles 2, 5, 6, 8, 9, 12, 13, 14, 15, 17, 18, 19 of the Housebuilders' Design Guide SPD.

3. Notwithstanding the submitted plans, the dwelling on plot 6 shall be located and positioned as shown on plan ref. 23066/02/001 rev. O and shall be the Cheltenham (AS) configuration, as shown on plan ref. 2022/33/13 rev. CD.

Reason: For the avoidance over what is being approved, given sequential variations to the proposal, in the interest of visual and residential amenity in compliance with Policy LP24 of the Kirklees Local Plan.

4. Development shall not commence until a scheme of details of finished floor levels of each dwelling, together with corresponding finished ground levels of land, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out only in accordance with the details so approved and no dwelling shall be occupied until the works relating to that dwelling have been completed, and these works shall be so retained.

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

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

5. No above ground development shall commence until:

- i. a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity, and;
- ii. any remediation works and/or mitigation measures to address land instability arising from past coal mining legacy, 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.

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

Reason: To ensure that there are no risks to the safety of future users or occupiers of the site arising from land instability, 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.

6. 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 there are no risks to the safety of future users or occupiers of the site arising from land instability, 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.

7. Groundworks shall not commence until actual or potential land contamination (including the possible presence of mine gas) at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study 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 the presence of contamination can be assessed at an appropriate stage in the development process.

8. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition (6) groundworks (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report by 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 the presence of contamination can be assessed at an appropriate stage in the development process.

9. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition (7), 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 the contamination can be remediated at an appropriate stage in the development process.

10. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 9. 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. This information is required pre-commencement to ensure that the contamination can be remediated at an appropriate stage in the development process.

11. 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 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.

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.

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

- i. Noise & vibration arising from all construction related activities. This should also include suitable restrictions on the hours of working on the site including times of deliveries.
- ii. Dust arising from all construction related activities, which should include measures to monitor and record the emissions of dust during construction, Include the dust mitigation within appendix D of the Air

Quality Assessment by Miller Goodall, dated the 26th of June 2024, ref: 103182.

- iii. Artificial lighting used in connection with all construction related activities and security of the construction site.
- iv. A communications plan detailing the responsible person, their contact details and how this will be communicated to residents and the Local Authority must be included.

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

Reason: To safeguard the amenities of the occupiers of nearby properties in accordance with part 15 of the NPPF and LP52 of the Local Plan. This information is required pre-commencement to ensure that harm to the amenities of residential properties and the environment does not occur at any stage in the construction process.

13. Before construction work commences, a report specifying the measures to be taken to protect the development from noise from all significant noise sources that are likely to affect the proposed development including road traffic/commercial premises shall be submitted to and approved in writing by the Local Planning Authority. The report shall:

- a) Determine the existing noise climate
- a) Predict the noise climate in living rooms and gardens (daytime), bedrooms (night-time) and other habitable rooms of the development
- b) Detail the proposed attenuation/design necessary to protect the amenity of the occupants of the new residences (including ventilation if required).

The development shall not be occupied until all works specified in the approved report have been carried out in full and such works shall be thereafter retained.

Reason: To ensure the amenity of future residents in accordance with the principles set out within Policies LP24(b) and LP52 of the Kirklees Local Plan. This pre-commencement condition is necessary to ensure appropriate measures are designed and agreed prior to any construction works being erected which could otherwise prevent satisfactory noise attenuation being installed.

14. Prior to development commencing, notwithstanding the submitted plans and information, an Arboricultural Method Statement, in accordance with British BS 5837, shall be submitted and approved in writing by the Local Planning Authority. . The method statement shall include details on how the construction work will be undertaken to minimise damage to the retained trees. Thereafter, the development shall be carried out in complete accordance with the Arboricultural Method Statement.

Reason: So as to protect to viability of the protected mature trees within close proximity to the application site and to accord with Policy LP33 of the Local Plan and advice within the National Planning Policy Framework. PRECOMM

NOTE This information is required pre-commencement to ensure that no harm to protected trees occurs at any stage during the development process.

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

- i. A timetable of all works,
- ii. Details of point(s) of access for construction traffic,
- iii. Vehicle sizes and routes,
- iv. Times of vehicle movements, including how the plan will seek to reduce construction traffic at peak hours,
- v. Parking for construction workers,
- vi. The loading, unloading and storage of materials and plant within the site,
- vii. Signage,
- viii. Wheel washing facilities within the site and/or other measures to prevent mud and debris being deposited on the public highway.

All construction arrangements shall be carried out in accordance with the approved CMP throughout the period of construction.

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

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

16. The development shall not commence until a survey of the existing condition of the highway on Whitehall Road West has been submitted to and approved in writing by the Local Planning Authority. The survey shall include carriageway and footway surfacing, verges, kerbs, edgings, street lighting, signing and white lining. Upon completion of the development and before any building is occupied a highway condition survey identifying a scheme to reinstate any subsequent defects in the condition of the highway on Denby Lane shall be submitted to and approved in writing by the Local Planning Authority.

All of the identified works shall be implemented before an part of the development is first brought into use.

Reason: To ensure that any deterioration in the quality of the highway that may occur during construction is remedied in the interests of the safety and convenience of highway users, and to accord with the aims of Policies LP20-21 of the Kirklees Local Plan. This information is required pre-commencement to ensure that an accurate record of the condition of the highway is obtained so that any defects arising from construction can be accurately identified and remediated.

17. Before construction of the dwellings hereby approved commences, the wall to the site frontage shall be set back to the rear of the proposed visibility splays as shown on approved plan number 23/24/SK/003 Rev B, and all of the visibility splays shown shall be cleared of all obstructions to visibility of

over 1.0m in height above the adjacent carriageway and tarmac surfaced to current standards in accordance with details that have previously been approved in writing by the Local Planning Authority. The existing stone boundary wall shall be rebuilt to the rear of the sight lines using the existing stone before any new dwelling is first brought into use, and all visibility splays shall thereafter be retained as such.

Reason: To ensure adequate visibility in the interests of highway safety, to ensure that the wall's contribution to local character is retained, and to accord with the aims of Policies LP21 and LP24 of the Kirklees Local Plan.

18. Prior to development commencing, a detailed scheme for the provision of highway improvement works including the re-siting of an existing pedestrian crossing traffic island on Whitehall Road West with associated signing and white lining shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include construction specifications, white lining, signing, surface finishes together with an independent Safety Audits covering all aspects of the work. All the agreed works shall be implemented before any part of the development is first brought into use.

Reason: To ensure that the development does not adversely affect the safe and efficient use of the highway for existing and future users and to accord with the aims of Policy LP21 of the Kirklees Local Plan. This information is required pre-commencement to allow time for the scheme to be submitted, assessed approved so that it can be implemented before any part of the new development is occupied.

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

Reason: To ensure that the estate streets serving the development are completed to an acceptable standard in the interests of the safety and convenience of occupants and other users of the development, in the interest of highway safety and to accord with the aims of Policies LP20 and LP21 of the Kirklees Local Plan.

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

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

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

21. 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.

22. All approved private vehicle parking areas shown on the approved site plan shall be provided and laid out with a hardened and drained surface, and all attached and integral garages shown on the approved drawings provided, before the dwelling to which they relate is first occupied. The parking areas shall thereafter be retained as such, free from obstructions to their use for the parking of vehicles.

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

23. 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 integral and attached garages shown on the approved plans for Plots 1, 5-10 and 20-21 shall be retained as such and shall not be converted to living accommodation.

Reason: To ensure that sufficient private parking for all future users of the site is provided and retained in the interests of highway safety and to ensure that informal parking does not obstruct turning space or interfere with the servicing of the site, and to accord with the aims of Policies LP21 and 22 of the Kirklees Local Plan.

24. Before any new dwelling is first occupied, details of the design of enclosures for bin storage and bin presentation points (for collection) for the new dwellings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. All the approved bin enclosures shall be provided, and all of the areas shown on the approved site plan for the storage and collection of wastes including both private and communal bin presentation points, laid out with a hard surface and made available for use, before the

dwelling(s) to which they relate are first occupied, and thereafter retained as such, free from all obstructions to their use.

Reason: In the interests of visual amenity and to ensure the provision of satisfactory

facilities for the separation, storage and disposal of wastes, to meet the requirements

set out in Policy LP24 part d(vi) of the Kirklees Local Plan.

25. No dwelling shall be occupied until details showing the provision of secure (from crime and the elements) bicycle storage facilities to serve the residential properties have been submitted to and approved in writing by the local planning authority. These facilities shall be provided and made available for use prior to the first occupation of the dwelling to which it relates and thereafter retained as such.

Reason: To comply with the Council's sustainability objectives by encouraging the use of low-impact modes of travel, the promotion of healthy, safe and active lifestyles, and protection against crime and the fear of crime, in accordance with the aims of Policies LP20, 24 and 47 of the Kirklees Local Plan, the Highways Design Guide Supplementary Planning Document, and Chapter 8 of the National Planning Policy Framework.

26. 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. a plan showing the location of the attenuation storage and supporting calculations, which shall be based on the critical 1 in 5-year storm.

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

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

27. The permanent foul and surface water drainage scheme shall be implemented in accordance with the approved details reference BIR-FPM-ZZ-XX-DR-X-0001/0002/0003 P04, 23/341/500/006 Rev H and 23-341-EXT-002

23/341/500/001 Rev L, 002 Rev J, 003 Rev G, 004 Rev B, 005 Rev C, 007 Rev F before any part of the development is first occupied, and thereafter maintained as such.

Reason: To ensure that the site can be drained in a safe and sustainable manner at all times and to accord with the aims of Policy LP28 of the Kirklees Local Plan and Chapter 14 of the NPPF.

28. Before development commences above foundation level, a detailed maintenance and management regime for the storage facility including the flow restriction shall be submitted to and approved in writing by the Local Planning Authority. This shall include a risk assessment applied prior to a method statement consisting of a schedule and itinerary of tasks including access to and into the specific

attenuation and flow control arrangements for this site. The approved maintenance and management scheme shall be implemented thereafter.

Reason: To ensure that the site can be drained in a safe and sustainable manner at all times and to accord with the aims of Policy LP28 of the Kirklees Local Plan and Chapter 14 of the NPPF.

29. No development shall take place (including ground works and vegetation clearance) until a Construction Environmental Management Plan - Biodiversity (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include the following:

- i. Risk assessment of potentially damaging construction activities.
- ii. Identification of “biodiversity protection zones”.
- iii. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- iv. The location and timing of sensitive works to avoid harm to biodiversity features
- v. The times during construction when specialist ecologists need to be present on site to oversee works.
- vi. Responsible persons and lines of communication.
- vii. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- viii. Use of protective fences, exclusion barriers and warning signs.

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

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

30. Prior to works commencing on the superstructure of any dwelling, notwithstanding the submitted details, a landscape plan including a landscape

management and maintenance plan (LMMP) shall be submitted to, and approved in writing by, the Local Planning Authority.

- a. Details of hard and soft landscaping including planting plan & specification.
- b. An implementation, 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.
- c. Details of initial aftercare and long-term maintenance for minimum of 5 years and seasonal maintenance operations. This shall include any SuDS features, existing trees and vegetation retained on site, slopes and bankings, woodlands, plus management of any equipment or playable/educational space, including where relevant RoSPA safety inspections.
- d. Details of monitoring and remedial measures, including replacement of any equipment, safety surfacing, site furniture, trees, shrubs, hedgerows or planting that fails or becomes diseased within the first five years from completion.

The approved landscaping scheme shall, from its completion, be maintained for a period of five years. If, within this 5-year period, any tree, shrub or hedge shall die, become diseased or be removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of visual amenity, to ensure that opportunities are taken to enhance the biodiversity of the site, and to accord with the aims of Policies LP24 and LP30 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

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

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

32. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order with or without modification) no development included within Classes A, B, C or E of Part 1 of Schedule 2 to that Order shall be made to Plots 1-4, and no development included within Classes A or E of Part 1 of Schedule 2 to that Order shall be made to Plots 7-12, as shown on the approved site plan.

Reason: To ensure that extensions or outbuildings do not result in harmful overlooking or an overbearing impact upon occupants of neighbouring dwellings and that an adequate amount of private amenity space is retained for future residents, and to ensure that future extensions or outbuildings do not lead to conflict between residential amenity and the preservation of valuable trees within the site, in accordance with Policy LP24(b) of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

33. All side-facing windows above ground floor level shall be non-opening or top-opening only and shall be fitted with obscure glazing to give a grade 5 degree of obscurity before the dwelling to which they relate is first occupied. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order with or without modification), windows of this type shall thereafter be retained.

Reason: To protect the privacy of existing and future occupants and to accord with the aims of Policy LP24(b) of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

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

Reason: To ensure that the development contributes to the Council's ambition to have net zero carbon emissions by 2038 and to accord with the aims of Chapter 14 of the NPPF, Policy LP24(d) of the Kirklees Local Plan, Principle 18 of the Housebuilders' Design Guide SPD.

35. Prior to their use, notwithstanding the submitted materials schedule, full details of all external materials to be used on the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed using the approved materials.

Reason: In the interests of visual amenity and to accord with the aims of Policy LP24(a) of the Kirklees Local Plan.

36. All windows shall be set in a reveal of 50-100mm.

Reason: In the interests of visual amenity and to accord with the aims of Policy LP24(a) of the Kirklees Local Plan.

37. The boundary treatments shown within the submitted plan reference 2306/02/002 Revision B shall be erected or constructed before first occupation of any dwelling(s) to which they relate, subject to any additional or modified boundary treatments (acoustic fencing) being shown to be necessary based on the results of the noise survey referred to in condition (13), and that hit-and-miss fencing shall be used for the outer side boundaries of Plots 22 and 23 unless solid fencing is shown to be necessary based on the results of the noise survey. Any new boundary fence other than an acoustic fence shall

be provided with a gap of 130mm by 130mm to allow the passage of hedgehogs. The approved boundary treatments shall thereafter be retained.

Reason: To ensure that the privacy of existing and future residents is protected, to ensure that future residents are protected against loss of amenity arising from noise, and that any long-term impacts on the biodiversity of the site are prevented or minimised, in accordance with the aims of Policies LP24(b), LP30 and LP52 of the Kirklees Local Plan.

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

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

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

- a) a biodiversity gain plan has been submitted to the planning authority; and
- 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
- f) any such other matters as the Secretary of State may by regulations specify.

S38 Agreement – Informative

The applicant should be aware that the internal street layout will need to be built to adoptable standards if offered for adoption under Section 38 of the

Highways Act 1980. The applicant is advised to make early contact with the Highways Section 38 team at Highways.Section38@kirklees.gov.uk to initiate the Section 38 process, technical approval and agreement. Further information is available on the council's website at: [Highways Guidance Note - Section 38 Agreements for Highway Adoptions \(kirklees.gov.uk\)](#)

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

Until such time that the S38 (or S37) process has been fully completed, and the Local Highway Authority have confirmed that the streets have been built to an acceptable standard (following the maintenance period), there is no guarantee that the streets will ultimately become adopted highway. Therefore, until the streets have been fully adopted, the purchasers of the properties will be responsible for the ongoing management and maintenance of the streets servicing their properties. It is the developer's responsibility to inform the potential purchasers of the properties of the adoption status of the streets prior to purchase. The potential purchasers must also be advised by the developer of the potential implications of the streets remaining private, should adoption not occur for any reason, which are described in DfT Advice Note 'Highway Adoption' at Annex C 'A Guidematerial for Home Buyers': [Highways Adoption \(publishing.service.gov.uk\)](#)

Notes: drainage infrastructure

All new storm water attenuation tanks/pipes/culverts/manholes 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. 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 BD63- Inspection of Highway structures. Furthermore, all new precast pipes/ culverts/storage tanks proposed for use within the footprint of an adoptable highway must comply with the Specification for Highway Works (SHW-Series 500 or 2500) and/or must be accredited with a BBA (The British Board of Agrément Roads and Bridges) or HAPAS (Highway Authority Product Approval Scheme) or equivalent certificate.

Note: construction times

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

- 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.

Plan Type	Reference	Version	Date Received
Application form			13-Aug-2024
Location plan	PP-13294615v1		13-Aug-2024
Topographical survey	2797/001		13-Aug-2024
Site plan	2306/02/001	O	11-Apr-2025
Surface 001 Network Sims			23-Jun-2025
100-year plus 45% CC 6 hours			23-Jun-2025
Drainage site location plan			17-Jun-2025
Flood exceedance routes	23/341/500/007	F	17-Jun-2025
Flow control manhole	23/341/500/005	C	17-Jun-2025
Drainage standard details	23/341/500/004	B	17-Jun-2025
Manhole schedules	23/341/500/003	G	17-Jun-2025
Long sections	23/341/500/002	J	17-Jun-2025
Drainage layout	23/341/500/001	L	17-Jun-2025
External works & surface water	23-341-EXT-002		10-Jun-2025

Plan Type	Reference	Version	Date Received
tanks			
Impermeable areas plan	23/341/500/006	H	10-Jun-2025
Tank drawing 1-3	BIR-FPM-ZZ-XX-DR-X-0001/0002/0003	P04	29-May-2025
BNG Metric	4.0		16-Apr-2025
BNG Assessment	ER-8376-03		16-Apr-2025
Habitat condition assessment			16-Apr-2025
Coal Mining Risk Assessment	GRO-24208-5354		13-Sep-2024
Transport statement with appendix	2024376		13-Aug-2024
Road markings and signage	24/230/DE/1200/001	A	23-Dec-2024
Kerbing details	24/230/DE/1100/001	A	23-Dec-2024
Typical sections	24/230/DE/700/002		23-Dec-2024
Pavement detail	24/230/DE/700/001	A	23-Dec-2024
Site clearance	24/230/DE/200/001		23-Dec-2024
Proposed long section	24/230/DE/100/002		23-Dec-2024
General arrangement (highways)	24/230/DE/100/001	A	23-Dec-2024
Swept paths	23/341/SK/002		23-Dec-2024
Junction visibility splays	23/341/SK/001		23-Dec-2024
Swept path analysis	DPL SK009	B	08-Jan-2025
Visibility splays	23/341/100/005	C	12-Mar-2025
Speed survey results	16460		12-Mar-2025
Road safety audit brief	23-341-001.001		12-Mar-2025
RSA Passports	Jonathan Birkett, Gillian Kidd		12-Mar-2025
RSA Stage One	Meraki Alliance		28-Mar-2025
Designers' Response	Ian Ellis		28-Mar-2025
Proposed access arrangements and highway layout	23/341/SK/003	B	27-Mar-2025
Air quality assessment	103182		13-Aug-2024
Boundary treatment plan	2306/02/002	B	03-Jul-2025
Arboricultural Impact Assessment	Iain Tavendale		07-Nov-2024
Landscaped / garden areas	2306/02/001	A	27-Nov-2024
Detailed landscape proposals	H2 240701 1		22-Nov-2024
Streetscene elevations	SK-003	A	04-Oct-2024
Arundel AS plans and elevations	2019/04/14	A	11-Apr-2025

Plan Type	Reference	Version	Date Received
Arundel OP plans and elevations	2019/04/15	A	11-Apr-2025
Bamburgh AS plans and elevations	2020/21/12	A	13-Aug-2024
Bamburgh OP plans and elevations	2020/21/13	A	13-Aug-2024
Jedburgh AS plans and elevations	2306/03/001/15		04-Oct-2024
Jedburgh OP plans and elevations	2306/03/001/16		04-Oct-2024
Gosford AS plans and elevations	2020/34/12	A	13-Aug-2024
Gosford OP plans and elevations	2020/34/13	A	13-Aug-2024
Rothbury AS plans and elevations	2306/03/002/15		04-Oct-2024
Rothbury OP plans and elevations	2306/03/002/16		04-Oct-2024
Cheltenham AS plans and elevations	2022/33/13	CD	13-Aug-2024
Cheltenham OP plans and elevations	2022/33/14		13-Aug-2024
Wharfedale AS plans and elevations	2019/03/14		13-Aug-2024
Wharfedale OP plans and elevations	2019/03/15	A	13-Aug-2024
Edinburgh AS plans and elevations	2020/20/12		04-Oct-2024
Edinburgh OP plans and elevations	2020/20/13		04-Oct-2024
Paignton AS plans and elevations	25-PAIG-001-801		04-Oct-2024
Paignton OP plans and elevations	25-PAIG-001-802		04-Oct-2024

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application.

The case officer requested several amendments during the application process in the interests of visual and residential amenity, highway safety, the safe and sustainable draining of the site, and accounting for biodiversity, which informed the final decision.

Report Dated: 23/07/2025