PLANNING STATEMENT

URBAN DEVELOPMENTS (YORK) LTD AND JGC (1980) LTD

LAND AT CLIFF HILL, DENBY DALE

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PLANNING STATEMENT

On behalf of: Urban Developments (York) Ltd and JGC (1980) Ltd

In respect of: Land at Cliff Hill, Denby Dale

Date: August 2023

Reference: R003/4394LE

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1.0 Introduction

1.1 This Planning Statement (the 'Statement') has been prepared on behalf of Urban Developments (York) Ltd. and JGC (1980) Ltd. (the 'Applicants') by DPP, to assist Kirklees Council (the 'Council') in their consideration of this full planning application which seeks permission for the erection of residential development consisting of 62 dwellings on allocated land with grouting works for ground stabilisation to facilitate construction and associated hard and soft landscaping ('the Proposed Development') on land at Cliff Hill in Denby Dale (the 'Site').

1.2 This planning application is a resubmission of planning application 2022/62/91911/E which was submitted on May 31st 2022 and refused by the Council on March 21st 2023 ('the Original Application'). The Original Application sought permission for 48 dwellings as opposed to 62 dwellings.

1.3 The Statement takes the following structure:

- Chapter 2: Planning History
- Chapter 3: Proposed Development
- Chapter 4: National Planning Policy Referenced in the Refusal
- Chapter 5: Local Planning Policy Referenced in the Refusal
- Chapter 6: Planning Assessment
- Chapter 7: Planning Balance

1.4 The Statement should be read alongside the following plans and documents:

Plans pack by Brewster Bye Architects	
Documents	**Reference numbers**
Location Plan	571 16(01) 001
Proposed Site Plan	57116 - BBA - 09 - Z00 - DR - A - 0201 – Rev. P06
Proposed Levels Plan	57116 - BBA - 09 - Z00 - DR - A - 0203 - Rev. P02
Proposed Street Scenes	57116- BBA- 02- ZZZ- DR- A- 0250- Rev. P02
Proposed Materials Plan	57116 -BBA -09- Z00- DR - A - 0204 - Rev. P01
Proposed Boundary Treatments Plan	57116- BBA- 09 - Z00- DR- A- 0205 - Rev. P01
Proposed POS Plan	57116- BBA- 09- Z00- DR- A - 0206 - Rev. P01
Proposed Pedestrian Routes Plan	57116 -BBA -09-Z00-DR- A-0212 - Rev. P01
House Type A	571/16-BBA-01-XX-DR-A-0201 Rev. P04
House Type B	571/16-BBA-01-XX-DR-A-0202 Rev. P05
House Type C	571/16-BBA-01-XX-DR-A-0203 Rev. P06

Plans pack by Brewster Bye Architects	
Documents	**Reference numbers**
House Type D	553/07-BBA-01-XX-DR-A-0204 Rev. P07
House Type D1	57116- BBA- 02- D01ZZ- DR- A- 0236- Rev. P02
House Type H	553/07-BBA-01-XX-DR-A-0208 Rev. P07
House Type K	57116-BBA-02-KZZ-DR-A-0232- Rev. P03
House Type L	57116-BBA- 02-LZZ-DR-A-0233- Rev. P02
House Type M	57116-BBA- 02- MZZ- DR-A-0234- Rev. P02
House Type N	57116-BBA-02-NZZ-DR-A-0235- Rev. P02
Block Type AAA	57116- BBA- 03- AAAZZ- DR- A- 0237- Rev. P02
Block Type BAA	57116- BBA- 03- BAAZZ- DR- A- 0212- Rev. P03
Block Type BA	57116- BBA- 03- BAZZ- DR- A- 0211- Rev. P03
Block Type CC	57116- BBA- 03- CCZZ- DR- A- 0213- Rev. P03
Block Type DDK	57116- BBA- 03- DDKZZ- DR- A- 0239- Rev. P01
Block Type DD	57116- BBA- 03- DDZZ- DR- A- 0214- Rev. P03
Block Type K3	57116- BBA- 03- K3ZZ- DR- A- 0242- Rev. P02
Block Type K4	57116- BBA- 03- K4ZZ- DR- A- 0243- Rev. P02
Block Type LL	57116- BBA- 03- LLZZ- DR- A- 0245- Rev. P01
Block Type MM	57116- BBA- 03- MMZZ- DR- A- 0246- Rev. P01
Block Type NNN	57116- BBA- 03- NNNZZ- DR- A- 0247- Rev. P02
Block Type KD	57116- BBA- 03- KDZZ- DR- A- 0244- Rev. P02
Block Type DKK	57116- BBA- 03- KDZZ- DR- A- 0248- Rev. P02
Block Type KKA	57116- BBA- 03- KKAZZ- DR- A- 0240- Rev. P01
Block Type KK	57116- BBA- 03- KKZZ- DR- A- 0241- Rev. P02
Single Garage	57116- BBA- 02- ZXX- DR- A- 0230- Rev. P02
Plot 1 Garage	57116- BBA- 02- ZXX- DR- A- 0231- Rev. P02
Plot Sections 1 of 2	57116- BBA- 02- ZZZ - DR - A - 0240 - Rev. P04
Plot Sections 2 of 2	57116- BBA- 02- ZZZ - DR - A - 0241 - Rev. P02
Culvert Sections	57116- BBA- 02- ZZZ - DR - A - 0260 - Rev. P02

Plans pack by Brewster Bye Architects	
Documents	**Reference numbers**
Proposed Separation Plan	57116- BBA - 09-Z00 -DR -A - 0207 - Rev. P01
Proposed EV Plan	57116- BBA- 09- Z00 - DR - A - 0208 - Rev. P01
Proposed Bin Collection Plan	57116 -BBA -09- Z00- DR- A- 0209- Rev. P01
Proposed Retaining Wall Plan	57116 -BBA- 09- Z00- DR - A - 0210 - Rev. P01
Proposed Block Identification Plan	57116 -BBA- 09- Z00- DR- A- 0211- Rev. P02
Proposed Separation Sections	57116-BBA- 09- Z00- DR- A- 0255 - Rev. P01

Air	
Air Quality Assessment	J10/13073A/10/1/F3 – by Air Quality Consultants

Design and Access	
Design and Access Statement	July 2023 by Brewster Bye Architects

Ecology	
Ecological Impact Assessment	SF 3282 – by Smeeden Foreman
Biodiversity Net Gain Assessment	REF – by Smeeden Foreman

Ground	
Phase 1: Desktop Study Report & Coal Mining Risk Assessment	21-719 – by Arc Environmental
Phase 2 Geo-Environmental Report	C2206/22/E/3401 – by RGS
Coal Risk Assessment	C2206/21/E/3554 – by RGS
Georisk+ Report	SF30779604000 – by Groundsure
Georisk+ Report	SF30779604000 – by Groundsure
Ground Stabilisation Remedial Strategy	P10350 by GRM UK

Flood Risk/Drainage	
Flood Risk Assessment and Drainage Strategy	10/5610 Rev. E – by Ward Cole Consulting Engineers
Drainage Layout	10-5610-500E – by Ward Cole Consulting Engineers
Proposed Site Layout	10-5610-201 Rev. D – by Ward Cole Consulting Engineers

Highways	
Transport Assessment	21115 TA Issue No. 2 – by VIA Solutions
Framework Travel Plan	21115 FTP Issue No. 2 – by VIA Solutions

Noise	
Noise Assessment	13073B-20-R02-01 – by Noise Consultants Ltd

Planning Reports	
Planning Statement	R003/4394LE – by DPP
Statement of Community Involvement	R002/4394LE – by DPP

Topographical Survey	
Topographic Survey	P21-01216-MET-EXT-XX-TOP-M2-G-001-1 by Met Geo Environmental Ltd
Topographic Survey	P21-01216-MET-EXT-XX-TOP-M2-G-001-02 by Met Geo Environmental Ltd
Topographic Survey	P21-01216-MET-EXT-XX-TOP-M2-G-002-1 by Met Geo Environmental Ltd
Topographic Survey	P21-01216-MET-EXT-XX-TOP-M2-G-002-02 by Met Geo Environmental Ltd

Trees	
Arboricultural Survey Report	SF 3282 Rev. A – by Smeeden Foreman
Tree Survey Plan	SF 3282 TS01 – by Smeeden Foreman

Viability	
Viability Assessment	To follow

2.0 Planning History

2.1 The Site was subject to a previous planning application (ref: 2022/62/91911/E) ('the Original Application'), submitted by the Applicants, which was made on May 31st 2022 and refused on March 21st 2023.

This planning application is therefore a resubmission of the Original Application.

2.2 Following 10 months of discussions and active collaboration with officers to resolve issues that emerged during the application process, the application was presented to Heavy Woollen Planning Sub-Committee on the 16th March 2023 with recommendation for refusal. It was essentially presented to committee for refusal based on the remediation strategy and wrongly detailed the extraction of 12,000 tonnes of coal rather than the 6,000 tonnes of coal that was proposed to be removed. .

2.3 The reasons given by the Council for the refusal of the Original Application are summarised below as follows:

- Insufficient information provided regarding mitigation of land contamination risks;
- It was not demonstrated that the Proposed Development would be environmentally feasible or acceptable, nor that the proposals would provide local or national benefits that would outweigh the resultant environmental impacts for the purposes of winning and working minerals resulting from the Site's remediation;
- The Proposed Development does not achieve a net density of 35 dwellings per hectare that would be sufficient to use allocated housing land efficiently;
- The overlooking of and reduction in privacy for the existing properties at 2 and 3 Springhead Gardens;
- Insufficient information to demonstrate that the internal proposed road is designed to an adoptable standard;
- Insufficient information to demonstrate that Plots 42, 43, 44, and 45 would not incur unacceptable privacy issues on Cruck Cottage; and,
- The terms of a legal agreement to secure the planning obligations considered necessary to make the Proposed Development acceptable in planning terms was not agreed.

2.4 Despite this, the report confirmed that the principle of the residential development of the Site was acceptable and that all other technical matters had been resolved either directly or subject to conditions, those being:

- Drainage;
- Yorkshire Water;
- Coal Authority;
- Health & Safety Executive;

- Ecology;
- Education;
- Trees;
- Landscaping;
- Waste;
- Archaeology; and
- Conservation and design.

2.5 The policies referred to on the decision notice relating to the Original Application are set out in Chapter 5.0 and Chapter 6.0 of this Statement and the issues relating to the reasons for refusal are considered in Chapter 7.0 which is entitled 'Planning Assessment'.

3.0 Proposed Development

3.1 The Design and Access Statement, prepared by Brewster Bye Architects and submitted with this application, describes the Proposed Development in full and should be read prior to determining the application. However, this section of the Planning Statement will provide a summary and highlight the aspects of the Proposed Development that were not fully explained or justified when the Original Application was determined.

3.2 The Proposed Development seeks to erect 62 new, high-quality homes to be built by Urban Developments (York) Ltd.

Works of Ground Stabilisation

3.3 The Site consists of an area of land that has been the subject of mining in the past and therefore is heavily affected by this historic use. At the forefront of this are instability issues arising from underground mining workings and therefore remediation is required to stabilise the surface. The Original Application sought to do this by the excavation of materials and engineered backfill to provide suitable made ground that can be built on without risk.

3.4 However, since the refusal of the Original Application, a Ground Stabilisation Remedial Strategy ('GSRS') has been prepared by GRM Development Solutions Ltd.. The GSRS is based on the Phase 2 report and intrusive investigation detailed within it and is discussed in further detail in Chapter 7.0 of this Statement.

3.5 The proposed mitigation within the GSRS is a drill and grout operation which seeks to minimise the risk of ground instability and will consist of drilling approximately 300 primary holes and 250 secondary holes which will then be injected with a grout mix to fill and strengthen the voids.

3.6 For the three mine entries located on the Site, the GSRS recommends that each entry be stabilised by the grouting process described above and then capped with reinforced concrete that is twice the diameter of the entry.

3.7 The above remediation works will require the relevant licenses and agreements with the Coal Authority should planning be approved.

Layout

3.8 The revised layout is illustrated in Figure 2 below.

Figure 1 – Proposed Site Layout

3.9 This compares with the original layout, shown in **Figure 2** below.

Figure 2 – Original Application Proposed Layout

3.10 The Proposed Development retains the same road layout and access arrangements as the Original Application, but with an additional 13 dwellings. . This has primarily been achieved by decreasing the number of detached and semi-detached properties and adding in their place additional terraced houses. For example, the central area previously contained six detached and six semi-detached dwellings. In the proposed layout this has been changed to three detached, four semi-detached, and nine terraced properties. The proposed level of open space in the northern and western areas of the Site and the area of the attenuation tank remain the same as the Original Application.

3.11 In layout terms, the proposed scheme is essentially the same scheme as the layout in the Original Application in that the proposed dwellings are located either side of the new main access road that sweeps into the Site from west to northeast with secondary roads branching off towards the north of the Site to ensure that the entirety of the Site is used effectively.

House Types

3.12 The Proposed Development is comprised of a broad mix of 1-, 2-, 3-, and 4-bedroom dwellings, including detached, semi-detached and terraced properties with floor areas ranging from 58sqm. to 143.3sqm. The proposed house types are all traditional in appearance and are designed to be sympathetic to the local form and vernacular.

3.13 Sample elevations are demonstrated below in Figure 3 below.

Figure 3 – Proposed elevations for House Types A and H

3.14 The housing types are shown in Table 1 below.

Table 1 – Housing Types

Housing Type	Number	No. of bedrooms	Floorspace
Type A	9	2	71.2 sqm.
Type B	3	3	86.4 sqm.
Type C	6	4	143.3 sqm.
Type D	14	4	133.9 sqm.
Type H	4	4	141.9 sqm
Type K	19	3	100 sqm
Type L	2	3	120 sqm
Type M	2	2	75.4 sqm
Type N	3	1	58 sqm
Total	462		6,667 sqm

Housing Mix

3.15 The resulting housing mix is shown in Table 2 below.

Table 2 – Housing Mix

Number of bedrooms	Quantity	Percentage
1	3	4.8%
2	11	17.7%
3	24	38.7%
4	24	38.7%
Total	62	100%

Scale

3.16 The Proposed Development is for 62 new dwellings. There will be a mix of 1-, 2-, 3-, and 4-bedroom dwellings and each will range from two to three storeys in height.

Design

3.17 The scale, proportion and elevational detailing has taken influences from the settlement and all the house types have been carefully designed with traditional proportions and simple yet effective detailing that will age appropriately.

Access

3.18 Access will be gained from the west via Cumberworth Lane which leads off the A636/Wakefield Road, the main road running through the settlement. The proposed junction will provide access for cars and pedestrians as well as large refuse and emergency service vehicles. Tracking for large refuse vehicles is shown on drawings 2111504 and 2111505.

3.19 Each dwelling can achieve gently sloping access with a ramped access to the front door in line with Part M of the Building Regulations.

Parking

3.20 Each 2-bed or more property will be provided with a minimum of two allocated parking spaces, typically either to the side, front or rear of the property it serves whereas the 1-bed dwellings will have just the one space. There will be additional visitor spaces provided in various locations throughout the Site.

Charging

3.21 EV points will be provided in accordance with local authority requirements with one charge point per dwelling with private designated parking.

Boundary Treatment

3.22 A number of different boundary treatments are proposed across the Site. These include 1.8m close boarded timber fences, garden walls, timber guard rails, metal estate rails, 1.2m stone wall, and retaining walls up to 1.8m in height.

3.23 An extract of the boundary treatments plan is shown in Figure 4 below.

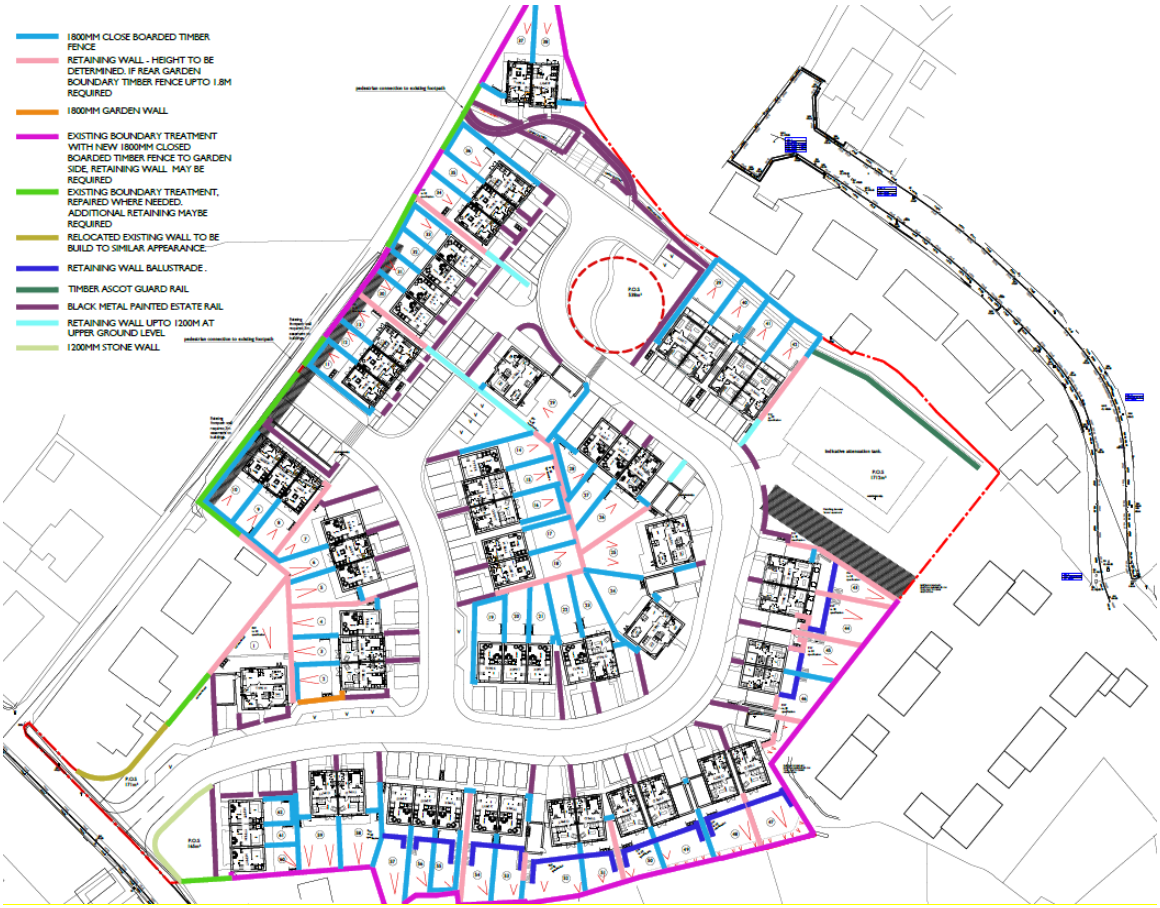


Figure 4 - Proposed Boundary Treatments

Materials

3.24 It is envisaged that the Proposed Development will use materials sympathetic to the local area (listed below) in order to integrate seamlessly with the surrounding properties. This effect will be further reinforced through the implementation of both hard and soft landscaping that will enhance the Proposed Development.

3.25 The facing materials that are proposed to be used include, but are not limited to, the following:

- Artificial stone dentil detailing
- Artificial stone window detailing
- Grey dormer windows
- Artificial stone heads/sills
- Timber canopies
- Artificial stone construction
- Grey slate roofing

3.26 Further details of how the above will be incorporated into the design of the Proposed Development can be found in the accompanying Design and Access Statement.

3.27 In addition to this, the submitted Proposed Materials Plan (57116-BBA-09-Z00-DR-A-0204-P01) shows the hard and soft landscaping materials for the Proposed Development, these include:

- Tarmacadam foot paths and roads
- Block paving in four colours (brindle, bracken, charcoal, natural)
- Concrete paving in natural colour
- Mid-level perennial planting
- Grass areas to the front and rear of the properties.

4.0 National Planning Policy Referenced in the Refusal

National Planning Policy Framework (July 2021) (the 'Framework')

Making effective use of land

4.1 Paragraph 124 confirms that:

> *"Planning policies and decisions should support development that makes efficient use of land, taking into account:*
>
> *(a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;*
>
> *(b) local market conditions and viability;*
>
> *(c) the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;*
>
> *(d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and*
>
> *(e) the importance of securing well-designed, attractive and healthy places."*

Conserving and enhancing the natural environment

4.2 Paragraph 183 states that:

> *"Planning policies and decisions should ensure that:*
>
> *(a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);*
>
> *(b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and*
>
> *(c) adequate site investigation information, prepared by a competent person, is available to inform these assessments."*

Facilitating the sustainable use of minerals

4.3 Paragraph 211 confirms that:

"When determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy. In considering proposals for mineral extraction, minerals planning authorities should:

……

(b) ensure that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality;

(c) ensure that any unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source 72 , and establish appropriate noise limits for extraction in proximity to noise sensitive properties;

…."

4.4 Paragraph 217 states that:

"Planning permission should not be granted for the extraction of coal unless:

(a) the proposal is environmentally acceptable, or can be made so by planning conditions or obligations; or

(b) if it is not environmentally acceptable, then it provides national, local or community benefits which clearly outweigh its likely impacts (taking all relevant matters into account, including any residual environmental impacts)."

5.0 Local Planning Policy Referenced in the Refusal

Kirklees Local Plan: Strategy and Policies ('KLPSP') (February 2019)

5.1 Policy LP7 – 'Efficient and Effective use of Land and Buildings' outlines how the Council will seek to ensure the best use of land and buildings, that the housing density of proposals should ensure efficient use of land, and that proposed developments should be in keeping with the character of the area.

5.2 Policy LP11 – 'Housing Mix and Affordable Housing' indicates that all proposals for housing, including those affecting the existing housing stock, will be of high quality and design and contribute to creating mixed and balanced communities in line with the latest evidence of housing need. The policy indicates that all proposals for housing must aim to provide a mix (size and tenure) of housing suitable for different household types.

5.3 Policy LP20 – 'Sustainable Travel' indicates that new development should be located in accordance with the spatial development strategy to ensure the need to travel is reduced and that essential travel needs can be met by forms of sustainable transport other than the private car. The policy indicates that the Council will support development proposals that can be served by alternative modes of transport such as public transport, cycling and walking and in the case of new residential development is located close to local facilities or incorporates opportunities for day-to-day activities on site.

5.4 Policy LP21 – 'Highways and Access' outlines how proposals should demonstrate that they can accommodate sustainable modes of transport and be accessed effectively and safely by all users. The policy confirms that new development will normally be permitted where safe and suitable access to the site can be achieved for all people and where the residual cumulative impacts of development are not severe.

5.5 It states that all proposals shall:

> *"a. ensure the safe and efficient flow of traffic within the development and on the surrounding highway network;*
>
> *.....*
>
> *d. take into account changes in site levels and topography to ensure the development can be accessed easily and safely by all sections of the community and by different modes of transport;*
>
> *e. take into account the features of surrounding roads and footpaths and provide adequate layout and visibility to allow the development to be accessed safely;*
>
> *f. take into account access for emergency, service and refuse collection vehicles;*
>
> *...."*

5.6 Policy LP24 – 'Design' indicates that good design should be at the core of all proposals in the district and should be considered at the outset of the development process. The policy goes onto indicate that development briefs, design codes and masterplans should be used to secure high quality, green, accessible, inclusive, and safe design, where applicable.

5.7 Policy LP28 – 'Drainage' indicates that the presumption is that Sustainable Drainage Systems (SuDS) will be used to assist in achieving the following on each site:

- typical greenfield run-off rates should not be exceeded;
- no negative impact on local water quality and improvements in water quality where practicable; and
- consider whether proposed open spaces and green infrastructure within sites can contribute to the sustainable drainage of the site.

5.8 Policy LP30 – 'Biodiversity & Geodiversity' indicates that the Council will seek to protect and enhance the biodiversity and geodiversity of Kirklees. The policy goes onto indicate that development proposals are required to result in no significant loss or harm to biodiversity through avoidance, adequate mitigation or, as a last resort, compensatory measures secured through the establishment of a legally binding agreement. The policy indicates that proposals are required to minimise impact on biodiversity and provide net biodiversity gains through good design.

5.9 Policy LP36 - 'Proposals for mineral extraction' describes how proposals for mineral extraction will be considered having regard to:

- the impact on the environment including water resources and the best and the most versatile agricultural land;
- the impact on residential amenity, highway safety and local heritage assets;
- the impact on human health; and
- any cumulative effects arising from multiple impacts from individual sites and/or a number of sites in a locality. Proposals to extract minerals should be accompanied by sufficient information to demonstrate that such unacceptable impacts would not occur, or could be satisfactorily controlled, and to demonstrate the presence of and need for the mineral.

5.10 Policy LP49 – 'Educational and health care needs' indicates that where the scale of development proposed may impact on education and health provision, the Council will actively work with applicants to resolve key planning issues in advance of a planning application being submitted. The need for the provision of additional school places will be a material consideration when proposals for new housing development are considered.

5.11 Policy LP51 – 'Protection and improvement of local air quality' indicates that development will be expected to demonstrate that it is not likely to result, directly or indirectly, in an increase in air pollution which would have an unacceptable impact on the natural and built environment or to people.

5.12 Policy LP52 – 'Protection and improvement of environmental quality' indicates that proposals which have the potential to increase pollution from noise, vibration, light, dust, odour, shadow flicker, chemicals or to increase pollution to soil, must be accompanied by evidence to show that the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution, so as to ensure it does not reduce the quality of life and well-being of people to an unacceptable level or have unacceptable impacts on the environment.

5.13 Policy LP53 – 'Contaminated and unstable land' indicates that land that is unstable, currently contaminated or suspected of being contaminated, or that will potentially become contaminated as a result of the development, will require the submission of an appropriate contamination assessment and/or land instability risk assessment. The policy indicates that for developments identified as being at risk of instability, or where there is evidence of contamination, measures should be incorporated to remediate the land and/or incorporate other measures to ensure that the contamination/instability does not have the potential to cause harm to people or the environment.

5.14 Policy LP63 – 'New open space' indicates that the Council will seek to secure well-designed new and improved open space, sport and recreation facilities in the district to encourage all residents to be as physically active as possible and promote a healthy lifestyle for all. New housing developments will be required to provide or contribute towards new open space or the improvement of existing provision in the area, unless the developer clearly demonstrates that it is not financially viable for the development proposal.

Housebuilders Design Guide Supplementary Planning Document

5.15 Paragraph 7.19 sets out the minimum separation distances advised for two storeys houses; these are:

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

5.16 In addition, paragraph 7.21 indicates that longer distances may be necessary if:

- It fits in with the local character;

- The site includes higher buildings to fit with local character, or is adjacent to higher buildings which would impact on the amount of natural light;
- Steep topography on the site, which presents challenges relating to overlooking.

6.0 Planning Assessment

Introduction

6.1 In determining the Original Application (ref. 2022/62/91911/E) the report to planning committee made it clear that the following matters had been agreed: drainage, Yorkshire Water, Coal Authority, Health & Safety Executive, ecology, education, trees, landscaping, waste, archaeology and conservation and design.

6.2 This Statement does not seek to go over the matters that have already been established and agreed. This Statement will concentrate on the matters of disagreement between the Applicants and the Council which are largely set out in the reasons for refusal.

Context

6.3 The Original Application (ref. 2022/62/91911/E) was refused for the following seven reasons:

1. Insufficient information provided regarding mitigation of land contamination risks;
2. It was not demonstrated that the Proposed Development would be environmentally feasible or acceptable, nor that the proposals would provide local or national benefits that would outweigh the resultant environmental impacts for the purposes of winning and working minerals resulting from the Site's remediation;
3. The Proposed Development does not achieve a net density of 35 dwellings per hectare that would be sufficient to use allocated housing land efficiently;
4. The overlooking of and reduction in privacy for the existing properties at 2 and 3 Springhead Gardens;
5. Insufficient information to demonstrate that the internal proposed road is designed to an adoptable standard;
6. Insufficient information to demonstrate that Plots 42, 43, 44, and 45 would not incur unacceptable privacy issues on Cruck Cottage; and,
7. The terms of a legal agreement to secure the planning obligations considered necessary to make the Proposed Development acceptable in planning terms was not agreed.

6.4 We will now assess the Proposed Development against each of these reasons for refusal.

First Reason for Refusal – Contamination & Mitigation

6.5 The first reason for refusal is given as:

> *"Insufficient information has been provided to satisfy the Local Planning Authority that the risks arising from land contamination resulting on the site can be adequately mitigated under the proposed land remediation strategy. Likewise insufficient understanding of the residual impacts of the site remediation, inclusive of an incomplete understanding of the site's characterisation, do not provide sufficient comfort to allow the*

proposed site remediation to be undertaken subject to appropriately worded planning conditions. The current submission therefore incurs unacceptable risks that could cause harm to people and/or the environment contrary to Kirklees Local Plan Policy LP53 as well as NPPF Paragraph 183 (clauses a, b and c).”

6.6 The first reason for refusal therefore relates to the remediation of the Site, the Sites characteristics and the harm that the remediation might do. There are several points to this reason for refusal. As such we will consider here:

- The principle of remediation and development;
- The characteristics of the Site; and the
- Proposed remediation method.

The Principle of Remediation and Development

6.7 First, to provide some policy context, paragraph 183 of the NPPF indicates that planning policies and decisions should ensure that sites are suitable for the intended use proposed, including accounting for ground conditions and any associated risks from land instability or contamination.

6.8 Policy LP53 outlines how development on unstable land, that is currently contaminated or suspected of being contaminated, or that will potentially become contaminated as a result of the development, will require the submission of an appropriate contamination assessment and/or land instability risk assessment. For such developments, the policy indicates that measures should be incorporated to remediate the land and/or incorporate other measures to ensure that the contamination/instability does not have the potential to cause harm to people or the environment. Policy LP53 therefore indicates that where land is suspected of being contaminated or unstable a suite of reports will be needed to address the issue. These have now been prepared and accompany this submission.

6.9 As the Site is allocated for housing development in the KLPSP it is therefore plain that Council consider that the land can be satisfactorily remediated through the submission of the material required under Policy LP53.It is clear that the Council consider that the Site can be beneficially developed for housing.

6.10 This is supported by the delegated officer’s report in respect of the Original Application, when considering the principle of development, it states in Section 10 that full weight can be given to the allocation subject to appropriate mitigation. We agree with the Council in this this regard, and we believe that an appropriate mitigation strategy has now been proposed. We will turn to this later.

6.11 In addition to the above, we note that the letter from the Chief Planning Officer, dated the 26th of July 2023 and attached at Appendix 1, states that *“development should proceed on sites that are adopted in a local plan with full input from the local community, unless there are strong reasons why it cannot”.* We consider that this statement is in addition to the normal presumption in

favour of development: in effect we consider that there is now a strong presumption in favour of development that accords with the development plan and therefore for the development plan not to be followed the impacts need to be severe.

6.12 The principle of remediation and the development of the Site is therefore not in doubt. It is plainly acceptable in planning terms.

The Characteristics of the Site

6.13 A Geotechnical Phase 1 Report (prepared by Arc Environmental) and a Geotechnical Phase 2 Report (produced by Rogers Geotechnical Services Ltd) have been undertaken and provide a comprehensive understanding of the Site. In addition, a Gas Monitoring Report (prepared by Rogers Geotechnical Services Ltd), has been prepared and all of these reports are submitted in support of the Proposed Development.

6.14 The Phase 2 report provides detailed analyses of the ground conditions of the Site through intrusive investigations via boreholes across the Site. Three areas of coal were discovered on the Site, together with related voided strata which ranged from 0.4m to 2.5m in thickness. These void areas pose a risk to stability as there is insufficient thickness of competent rock cover above the workings to mitigate the risk of instability impacting the surface. As such, a high-risk development rating has been applied to the Site in the Phase 2 report.

6.15 In order to mitigate against this risk, the Phase 2 states that consideration should be given toward pressure grouting of the voided ground to fill the voids and transmit stresses from development through the grout once hardened. Alternatively, the Phase 2 reports recommends the excavation and removal of the voids associated with the two seams at relatively shallow depths.

6.16 The characteristics of the Site are therefore fully understood.

Proposed Remediation Method

6.17 Since the refusal of the Original Application, a Ground Stabilisation Remedial Strategy ('GSRS') has been prepared by GRM Development Solutions Ltd to provide a geological setting and risk assessment of the conditions encountered on the Site and provide a means for viable development following remediation and treatment. The GSRS is based on the Phase 2 report and intrusive investigation detailed within it.

6.18 The proposed mitigation within GSRS to minimise the risk of instability is a drill and grout which will consist of drilling approximately 300 primary holes and 250 secondary holes which will then be injected with a grout mix to fill and strengthen the voids.

6.19 For the three mine entries located on the Site, the GSRS recommends that each entry be stabilised by the grouting process described above and then capped with reinforced concrete that is twice the diameter of the entry.

6.20 In the centre of the Site, it is proposed that ground levels will be up to 2.5 metres lower than existing topographic levels and therefore the change in levels, and the required foundations, may be impacted by the shallow coal seams below. In this instance, the GSRS recommends removing the workings or seam in full, subject to earthwork adjustments and final levels. Should this be undertaken, an extraction volume of approximately 4,150 cubic metres is anticipated. However, where this is deemed impractical, the seam will need grouting as per the above.

6.21 Regarding ground gas emissions, once the above mitigation has been completed, the risk from gas is considered to be negligible due to the inability of gas to migrate through hardened grout.

6.22 The above remediation works will require the relevant licenses and agreements with the Coal Authority should planning be approved.

6.23 The proposed remediation strategy is considered appropriate and, in the context of the only other alternative remediation strategy, that being the removal of the voids through extraction and subsequent re-engineering of the Site as previously proposed, provides a pragmatic solution which minimises any impacts on nearby receptors.

6.24 In summary, it is considered that the principle of the residential development of the Site is established. Further, it is clear that the Site can be remediated to provide a stable development platform. The additional information provided in the above reports demonstrate that more than adequate information is available to understand the characteristics of the Site and that this has informed an appropriate and proportion mitigation strategy. Therefore, the Proposed Development is informed by a full and comprehensive understanding of the Site. On the basis of the recommendation of the geotechnical reports an appropriate and well recognised method of remediation has been proposed which will minimise environmental harm.

6.25 Given the above, it is considered that the information referred to in this subsection addresses the first reason for refusal and as such it is considered that the Proposed Development accords with Paragraph 183 of the NPPF and Policy LP53 of the KLPSP.

Second Reason for Refusal – Environmental Feasibility

6.26 The second reason for refusal is gave as:

> *"It has not been demonstrated that the proposed development would be environmentally feasible or acceptable nor that the proposal would provide local or national benefits that would outweigh the resultant residual environmental impacts of developing the site for the purposes of winning and working minerals (coal) resulting from the site's remediation. Indeed, the proposed site remediation strategy creates unknown residual environmental impacts that have not been adequately assessed. There are therefore significant concerns with the proposed development in respect of the potential for adverse impacts on water resources, ground gas pathways, human health (noise & air quality in particular) as well as residential amenity more broadly. No overriding community benefits are identified which would make the extraction of coal acceptable from the site. Overall, the proposal is*

found to be contrary to mineral planning policy with particular regard to Kirklees Local Plan Policies LP36, LP51 and LP52 as well as National Planning Policy Paragraphs 211 (clauses b & c) and 217 (clauses a and b).”

6.27 The second reason for refusal largely relates to the environmental effects of the remediation works. Before we address the above issues, we would raise two general points. First, and as noted earlier, the committee report on the Original Application was predicated on a significantly more extensive scope of work associated with the necessary stabilisation and concluded that those works would be harmful and secondly, we are perplexed by the penultimate sentence in the second reason for refusal which suggests that there is “*no overriding community benefits are identified which would make the extraction of coal acceptable from the site.”* We will address these two issues before moving onto the environmental issues.

Winning and Working of Minerals

6.28 In the second reason for the refusal, it was strongly suggested that the Proposed Development consists of a fairly large-scale winning and working minerals operation. Additionally, there were concerns expressed from Councillors and the public during the Original Application about the scale of the proposed works. There was therefore an unfortunate misunderstanding.

6.29 Notwithstanding the above, and as already discussed, since the Original Application was refused, a GSRS has been produced and the proposed mitigation is now grouting with limited potential excavation and that being only associate with the creation of a stable central land platform where voids/minerals may be very near the proposed surface.

6.30 The treatment of the Site through grouting will have a minimal impact on existing residents and adjacent users due to the fact that remediation takes place under the ground, with only the drilling and the pumping of the materials taking place above ground. The result is fewer vehicular trips and limited impact on air quality and noise when compared to the previously proposed mitigation by extraction and the removal of the mineral and the subsequent re-engineering of the Site.

6.31 We would stress that the grouting of the Site and the potential need to remove the shallow voids in the central part of the Site in order to create a suitable central development platform, is incidental to the main development proposal of the construct residential dwellings i.e., without the prospects of a residential development coming forward, there would be no need to carry out the remedial works. .

6.32 Given that it is now proposed to grout the lower void areas it is plain that the proposed remediation works can no longer be characterised as the winning and working of minerals which was previously stated by the Council and it is clear that the work required and strictly limited to the stabilisation of the land to allow for the beneficial residential development of the Site.

No Overriding Community Benefit

6.33 There is no requirement within either local or national planning policies to demonstrate an overriding community benefit for remediation works relating to a planning application. However, if there was, then the benefits are considered to be obvious.

6.34 The first major local and national benefit of that the Proposed Development would be to remediate land allocated for housing which, as the Geotechnical Phase 2 report established during the course of their investigation work, was deemed unstable for residential development without remediation. Without treatment the Site cannot come forward for housing and therefore cannot help satisfy the acute need for housing across the country.

6.35 Further, and in additional to the national housing crisis, Kirklees have also failed to meet their housing target as per the latest Housing Delivery Test ('HDT') results published by the Government. As such, substantial weight should be given to the fact that the Applicant is willing to remediate land and make that land good in order to provide housing. There is therefore a substantial social benefit in the wider sense of providing new homes on the Site.

6.36 In addition to the above, when remediated the development would provide a range and choice of new homes to meet the local identified housing need. The Proposed Development would therefore have a significant social benefit and a local community benefit.

6.37 Other obvious benefits include the provision of local jobs during construction of the development, followed by the post construction expenditure once the dwellings are occupied, some of which would be spent in local shops/restaurants and public houses. This, in our view, would constitute a significant community benefit.

6.38 As a result, the benefits of the scheme are obvious and are material planning considerations to which substantial weight can be given. In our view there is no need to show community benefit but if there were it is undeniable that there would be a significant level of community benefit.

Environmental Issues

6.39 The second reason cited for refusal, deals with environmental effects of the proposed remediation strategy. The reports attached to this submission establish that impacts on such matters as water resources, ground gas pathways, human health and residential amenity are acceptable during remediation and construction and are summarise below under the following headings:

- Impacts on Water Resources.
- Impacts on Ground Gas Pathways.
- Impacts on Human Health; and
- Impacts on Residential Amenity.

6.40 Where possible we have considered the pre-construction issues and then the construction or residual issues.

Impacts on Water Resources

Pre-Construction

6.41 In terms of water impact, the Phase 2 report describes how all boreholes were found to be dry and, consequently, it is not expected that below ground water will be an issue on the Site. On the basis of the above the proposed method of remediation by grouting will not impact on water quality.

Construction

6.42 The Phase 2 ground investigation report outlines measures to protect end receptors and plastic services from being penetrated by, or degrading due to, the presence of contamination in the soil or groundwater and to provide protection for end users.

6.43 The Phase 2 ground investigation report notes that no groundwater was encountered during testing, but should any contaminated water enter excavations above ground, it is proposed to remove it and transport it to an appropriate treatment facility by a suitably licensed carrier before construction begins.

6.44 During construction, new plastic services will be constructed in a surround of clean inert material and a risk assessment will be carried as instructed by the statutory water authority for the area. Where necessary, testing will be carried out (in line with recommendations in the United Kingdom Water Industry Research (UKWIR) website under Report Ref. No. 10/WM/03/21 - 'Guidance for the Selection of Water Supply Pipes to be used in Brownfield Sites'.)

6.45 Based on the above, it is clear that measures have been outlined that will follow best practices to ensure that residual impacts on water resources are avoided.

Impacts on Ground Gas Pathways

Pre-Construction

6.46 The GSRS recommends that gas monitoring be undertaken throughout all investigation boreholes and at regular intervals during remediation works.

Construction

6.47 Based on the ground gas monitoring completed to date, the Site has been provisionally characterised as 'Characteristic Situation 2' as indicated on page 32 of the Phase 2 ground investigation report.

6.48 The submitted reports make clear that remediation of the workings is likely to alter the sources and ground gas flow pathways which were initially deemed to represent a risk to end users.

6.49 As such, the Phase 2 ground investigation report outlines the required steps to remediate the Site with respect to such ground gas anomalies in line with the guidance from CIRIA C665, and CLAIRE, Good Practice for Risk Assessment for Coal Mine Gas Emissions, October 2021.

6.50 It indicates that following the proposed remediation/ground stabilisation works, the following two steps need to be carried out:

- Continuous ground gas monitoring within boreholes to determine a new ground gas characterisation for the Site.
- Installation of ground gas protection measures, if required, under the new characterisation regime.

6.51 This involves leaving a period of time upon completion of the remediation work to allow for consolidation to occur in line with the completed method statement and risk assessment. During this period of time boreholes with a minimum of three continuous ground gas monitoring points shall be installed across the Site to re-evaluate the characterisation of ground gases following the remediation. Following completion of remediation works and continuous ground gas monitoring, the risk assessment outlined in the Rogers Report will be reviewed as part of an interim verification prior to construction starting.

6.52 Any new ground gas evaluation will supersede any existing recommendations.

6.53 On completion of these works an inspection will take place and, should visual or olfactory evidence of contamination be revealed, then suitably qualified specialists will be consulted. Further testing and updates to the site-specific ground model, risk assessment, and remediation strategy will be undertaken where necessary.

6.54 Based on the above, it is clear that the documents submitted fully consider the range of possible ground gas impacts and measures have been outlined that will follow best practices to ensure that residual impacts of any ground gas is avoided.

Impacts on Human Health

Pre-Construction and Construction

6.55 Given that the proposed remediation measures outlined are designed to remove any residual sources of potential contamination so that the land cannot be classified as contaminated land under Part IIA Of the Environmental Protection Act 1990, it is considered that there will be no impact on human health.

6.56 Indeed, the reports outline remediation measures to provide:

General protection to end receptors:

- To protect the site operatives during the construction process from the ingestion of soil or dust, dermal contact with the soil and inhalation of dust.

- To protect the neighbours from the inhalation of dust.
- To protect plastic services from being penetrated by or degrading due to the presence of contamination in the soil or groundwater.
- To protect buried concrete from being affected by aggressive ground conditions.
- To protect operatives and end users from accumulation of carbon dioxide and methane.

6.57 In the context of the above, and for example, measures to manage dust which could be an issue on the Site during remediation and construction unless it is proactively managed are proposed. To this extent, the Site Manager will monitor dust diligently and, in setting up a basic weather station, monitor wind direction and other relevant factors during the working day along with monitoring the earthmoving operations etc, in order to avoid the creation excessive dust.

6.58 Further, it is anticipated that a water bowser will be on Site to wet down soil stockpiles with a fine spray, as required. Should conditions become untenable, contractors will suspend operations until the situation improves.

6.59 Robust measures to prevent impacts on human health can be included in a Construction Management Plan.

6.60 It is considered that the remediation proposal cover all potential risk to human health and, subject to the above measures being implemented, any risks to human health can be prevented.

Impacts on Residential Amenity

Pre-Construction

6.61 As discussed above the benefits of grouting when compared to the Original Application are obvious. Grouting has a limited above ground impact due to works taking place below ground and fewer vehicle trips entering and leaving the Site are envisaged. If some materials are required to be transported off-site these will be minimal in comparison. It is envisaged that the remediation measures now proposed will significantly reduce the impact on adjoining residential amenity when compared to the remediation method proposed in the Original Application.

Construction

6.62 This Site is not unusual. Indeed, it is fairly typical of house building projects in Kirklees. With considerate and appropriate working practices, such as those typically contained in a Construction Management Plan, there will be minimal impact on the existing residential properties. The level of impact is temporary and minimal, and such a level of impact is normally regarded as acceptable. We can see no reason why this would not be the case here.

Completion

6.63 As for the future residents and adjoining residents, following the completion of the proposed remediation strategy, the implementation of any necessary ground gas measures and the

completion of the development it is considered that there will be no residual harm to residential amenity.

Conclusion

6.64 Given the above, it is clear that the additional assessments undertaken demonstrate that no residual environmental impacts are expected to arise from the Proposed Development are normal and not unusual and any potential environmental impacts can be controlled by the imposition of conditions.

Third Reason for Refusal – Inadequate Density per Hectare

6.65 The decision notice states that the third reason for refusal is:

> *"The proposed development layout does not achieve a net density of 35 dwellings per hectare that would be sufficient to use allocated housing land efficiently for a residential purpose. As such the proposal is contrary to Policy LP7 of the Kirklees Local Plan and paragraph 124 of the National Planning Policy Framework as it does not seek to maximise housing delivery and is not overridden by mitigating reasons with regard to development viability, compatibility with its surroundings or meeting local housing needs. The lack of a sufficient density would also further undermine the Local Planning Authority's housing delivery target, which is subject to a Housing Delivery Test Action Plan."*

6.66 For context, paragraph 124 of the Framework indicates that policies and decisions should support development that makes efficient use of land whilst taking into account different housing types, the availability of suitable land, local market conditions, and the area's prevailing character and setting. Similarly, Policy LP7 relates to the 'efficient and effective use of land and buildings' and indicates that proposals should make efficient use of previously developed land in sustainable locations. LP7 also indicates that housing density should be in keeping with the character of the area and that developments should achieve a net density of at least 35 dwellings per hectare, where appropriate. However, the second part of Policy LP7 states that:

> *"lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or to secure particular house types to meet local needs"*.

6.67 Whilst not quoted in the reasons for refusal, it is worth noting that the Site forms part of a housing allocation within the KLPAD, under with reference HS144. The constraints identified under HS144 are:

- Third part land required to achieve sufficient visibility splays,
- The provision of a pedestrian footway is required across the site frontage at Leak Hall Lane,

- Public right of way crosses the site,
- Site is close to listed buildings,
- Site is close to an archaeological site,
- Part/all of the site is within a High-Risk Coal Referral Area

6.68 With the above constraints in mind, housing allocation HS144 was identified as having an indicative capacity of 113 dwellings; which is the equivalent of 35 dwellings per hectare.

6.69 However, there are further constraints to HS144 which have not been identified in the policy, namely, the topography of the Site, the irregular shape of the land and the narrow access points. All of these contribute towards a lower density of development, especially when combined with development requirements such as the need for an adoptable standard road (which the Council have raised as the fifth reason for refusal), respecting neighbouring properties (which was raised as the fourth and sixth reasons for refusal), tree retention and drainage attenuation.

6.70 As such, it is considered the Proposed Development, which features an additional 13 dwellings over the Original Application, represents the maximum density desirable on the Site and, looking at the proposed layout plan, it is difficult to see how additional dwellings can be provided without impacting on the aforementioned constraints or creating a development which is out of character with its surrounds and would not deliver the housing needed locally.

6.71 Notwithstanding the above we note that to achieve a net density of 35 dwellings per hectare, the Proposed Development would have to include 66 dwellings on the Site. The Proposed Development in fact proposes 62 which is, in fact, close to the policy requirement.

Therefore, the Proposed Development is only marginally below the policy target.

6.72 Whilst only marginal below the policy target there is no conflict with the policy as the policy allows for lower densities in certain circumstances and it is our view that these circumstances are applicable here.

6.73 Part c of Policy LP7 states that a lower density is allowed where it can be demonstrated that developments would not be compatible with its surroundings, or where development viability would be compromised, or where there is a need to secure particular house types to meet local needs. As has already been discussed, it is clear when viewing the layout that the proposed development reflects the grain of development in the local area and that it would be difficult to accommodate additional units and provide a range and choice of house types consistent with the character of the area and the local housing need.

6.74 This is reflected in our analysis of other applications approved in Denby Dale which show that none have achieved 35 dwellings per hectare, with Table 3 below showing those approved within the last five years and the densities achieved.

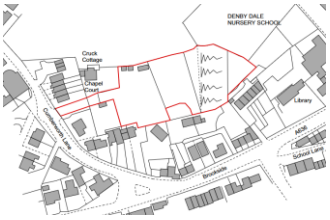
Application Ref.	Date of Approval	Description	Location/Map	Density
2017/62/93798/E	06/06/2018	Erection of 6 detached dwellings	 Land at Leak Hall Crescent	**15.78** dwellings per ha.
2019/60/93906/E	07/01/2021	Outline application for erection of residential development up to 10 dwellings	 Land off Cumberworth Lane	**21.28** dwellings per ha.
2018/62/91082/E	19/06/2019	Erection of 3 detached dwellings with associated access and landscaping	 Land adjacent to Wood Lane	**12.5** dwellings per ha.
2020/62/90488/E	26 May 2020	Erection of 2 detached dwellings and 1 detached garage with associated landscaping and access	 Land west of Wood Lane	**18.19** dwellings per ha.

Table 3 – Approved Residential Applications in Denby Dale within the last five years and their achieved densities.

6.75 Given all of the above, it is clear that the Site is constrained by such factors as the drainage solution, the topography and shape of the Site and the need to safeguard existing and proposed residential amenity and retain trees and vegetation. With these constraints in mind, it is considered that the Proposed Development maximises the density possible on the Site without harm to local character of the area. Furthermore, the net density proposed significantly exceeds the net densities achieved on similar development nearby. It has therefore considered that the Proposed Development accords with Policy LP7 and paragraph 124 of the Framework.

Fourth Reason for Refusal – Relationship with Springhead Gardens

6.76 The decision notice states that the fourth reason for refusal was as follows:

> *"Proposed plots 35 and 36 are at a topographical level and distance from existing properties at 2 and 3 Springhead Gardens whereby their rear windows and garden terraces would significantly overlook and reduce the privacy of the existing residential properties at significant detriment to residents' amenity. The identified impacts on privacy in respect of levels and separation distances are contrary to the Supplementary Planning Document – Housebuilders Design Guide (with particular regard to clauses 7.19 and 7.21) and Kirklees Local Plan Policy LP24 – Design."*

6.77 In the revised layout (ref. 10-5610-201D) the plots previously numbered 35-36, now numbered 43 to 46, have an alternative house type proposed to ensure maximum separation distance between the existing Springhead Gardens properties. Two plots are in excess of the 21m separation distance to the rear elevations of the neighbouring properties as set out within 7.19 of the Housing Design Guide SPD ('HDGSPD'). This is best illustrated by the Separation Distances Plan (ref. 57116-BBA-09-Z00-DR-A-0207-P01) which shows that Plot 43 is now a minimum distance of 24.1m to the nearest building and Plot 44 is approximately 21.3m away at the closest point. Plot 45 is 20.5m away which essential achieves the required separation distance, and this distance is increased when considering window to window distances.

6.78 It is acknowledged that the introduction of what is now numbered plot 46 only achieves a minimum 17m separation distance to the nearest dwellings, however this is in fact measured from a corner point which therefore means visibility is obscured and the privacy/amenity of existing dwellings are protected.

6.79 As such, it is concluded that the relevant plots no longer give rise to concerns in respect of privacy levels and separation distances. It is therefore considered that these plots accord with the Housebuilders Design Guide SPD and KLPSP Policy LP24.

Fifth Reason for Refusal – Design of the Proposed Road

6.80 The decision notice states at Point 5 that:

> *"It has not been demonstrated, through a lack of information, that the site's internal estate road is designed or is able to be designed to an acceptable layout/adoptable standard that would be safe for use by pedestrians and private vehicles or is operationally feasible to be serviced by a refuse collection vehicle. The proposed development is therefore contrary to the guidance contained within the Highways Design Guide SPD, as well as Policy LP21 – Highways and Access – of the Kirklees Local Plan (with specific regard to clauses a, d, e and f)."*

6.81 The proposed layout shows the estate road as 5.5m wide with 2m footways on either side. This then ends with a shared surface arrangement servicing eight dwellings in the northern corner of

the Site, along with a turning head. An additional shared surface road servicing 14 dwellings is also access off the main estate road, also culminating in a turning head.

6.82 In order to support the Proposed Development, a vehicle tracking document contained in the appendices of the Transport Assessment has been produced which demonstrates that a refuse vehicle can safely traverse the Site whilst entering and exiting in a forward gear. The tracking document also shows that a car travelling in the opposite direction can safely pass the refuse vehicle at all times.

6.83 The prepared shared surface sections of the road are also 5.5m wide, allowing two vehicles to pass unimpeded, along with a 0.75m edge to allow for pedestrians to step off the roadway if required. This is a standard arrangement that has been approved by the Council in the past and was not objected to in the Original Application.

6.84 As such, it is considered that the fifth reason for refusal has been overcome and that the internal estate roads are appropriate for the scale of the development.

Sixth Reason for Refusal – Relationship with Cruck Cottage

6.85 The decision notice states at Point 6 that:

> *"Insufficient information has been provided to evidence that Plots 42, 43, 44, and 45 would not incur unacceptable privacy issues in relation to the northern elevation of Cruck Cottage, given that the proposed dwellinghouses are set at a higher topographical level and within the 21m facing separation distance from the rear of the existing dwellinghouse. The identified impacts on privacy in respect of levels and separation distances are contrary to the Supplementary Planning Document – Housebuilders Design Guide (with particular regard to clauses 7.19 and 7.21) and Kirklees Local Plan Policy LP24 – Design."*

6.86 The plots previously numbered 42-45, now numbered 54 to 58, now have an alternative house type proposed which is less deep than in the Original Application. The effect is that the closest point between the rear elevations and the boundary is now 2.3m greater than the previous scheme. Whilst this revision has not been able to achieve the recommended 21m of separation to Cruck Cottage, it does ensure a minimum of 16.6m at the narrowest point and ensures that the minimum rear garden distance of 13.6m is achieved, in excess of the HDGSPD guidance under paragraph 7.19.

6.87 In addition, due to the topography of the land and the close proximity of the boundary fence to Cruck Cottage, as well as its nature as a bungalow, means that the possibility of looking into Cruck Cottage is considered to be entirely eliminated, with any overlooking from the Proposed Development being on the roof of Cruck Cottage and not into the dwelling or outside amenity space.

6.88 As such, it is considered that the relevant plots no longer give rise to concerns in respect of privacy levels and separation distances. It is considered that these plots, therefore, accord with the Housebuilders Design Guide SPD and KLPSP Policy LP24.

Seventh Reason for Refusal – Planning Obligations

6.89 The seventh reason for refusal as listed in the decision notice for the Original Application is as follows:

> *"Planning obligations directly related to the development have been identified by the Local Planning Authority as being necessary to make the development acceptable in planning terms. These obligations relate to delivery of on-site affordable housing provision, a financial contribution to provide educational capacity for increased school capacity in the local area, a financial contribution to off-set open space typology shortfalls, a financial contribution to offset biodiversity loss and provide a 10% biodiversity net gain, a financial contribution for the encouragement of sustainable travel alongside provision of requisite management of drainage infrastructure and shared spaces serving the proposed development. The terms of a legal agreement to secure these obligations has not been agreed and the weight of viability evidence provided by the applicant does not have full regard to the change in site circumstances (concerning the extraction of minerals) since the Kirklees Local Plan was adopted. By consequence the application is contrary to Policies LP11, LP20, LP28, LP30, LP49 and LP63 of the Kirklees Local Plan."*

6.90 The delegated officer's report prepared for the Planning Committee provides further clarity on what was expected in respect of planning obligations in paragraph 10.98 onwards; these are:

- Nine affordable housing units, comprising two First Homes, two Other Intermediate Units, and five Affordable Rent.
- An education contribution of £59,573 to increase school capacity in the area.
- A public open space contribution of £88,594 to offset shortfalls in local public space.
- A contribution of £147,890 towards biodiversity net gain.
- A sustainable travel contribution of £52,128.
- A site management agreement for shared spaces and drainage infrastructure.

6.91 In the Original Application, a Viability Assessment was submitted to demonstrate that some of the above financial contributions could not be made without prejudicing the development as per paragraph 58 of the Framework. As the Council did not receive an independent review of the Viability Assessment for the Original Application prior to determination, it therefore constituted a reason for refusal.

6.92 As such, an updated Viability Assessment will be provided with the Proposed Development and it is requested that this is independently reviewed prior to determination in order to understand and agree the planning obligations.

6.93 It is clear that, the seventh reason for refusal can be overcome and as such the Proposed Development will be compliant with Policies LP11, LP20, LP28, LP30, LP49 and LP63 of the KLPSP.

7.0 Planning Balance

7.1 This Statement has been prepared, on behalf of the Applicants, by DPP, to assist the Council in their consideration of this full planning application which seeks permission for the erection of 62 dwellings.

7.2 The Proposed Development has been assessed against the Framework and the Development Plan, as well as the reasons for refusal given in respect of the Original Application which principally related to the proposed means of remediation Through the analysis contained within this Statement it has been demonstrated that the changes made to the scheme, principally the method of remediation, and the new and updated information provided, that the Proposed Development has overcome the previous concerns of the Council.

7.3 In this Statement, and the previous version under the Original Application, we have shown that the Site is allocated for residential development and that the principle of residential is established. We have demonstrated that the Site can be remediated by an environmental acceptable means and as a result we have shown that the Proposed Development will contribute towards the supply of homes in an authority and will meet the identified housing need locally which is a community benefit. The Proposed Development will therefore boost the supply of housing, with is a Government objective, and help address local housing need and the Council under delivery of new homes.

7.4 In addition, we have shown that the Proposed Development will bring substantial social and economic benefits and the impact on environmental consideration is neutral to slightly positive. We therefore consider that the Proposed Development very much falls within the definition of sustainable development.

7.5 We have shown that, there is no policy or other material consideration which weighs against the granting of planning permission. Therefore, in line with paragraph 14 of the Framework, we consider that planning permission should be granted without delay.

Appendix 1 – Letter from the Chief Planning Officer (Dated July 26th 2023)

Department for Levelling Up, Housing & Communities

PLANNING NEWSLETTER

By Email Only

Message from Chief Planner

26 July 2023

This Newsletter provides updates on the latest announcements from DLUHC and other government departments and agencies relating to planning practices and policy. Please see overleaf for the list of contents.

On Monday, the Secretary of State set out his plans for housing delivery across England. Supporting the planning system was a key part of his speech. Details on the full announcement can be found here including the following important content regarding the NPPF and development management:

> *"The government's commitment to development and regeneration in and around existing town and city centres is also guiding its consideration of responses to the consultation on updating the National Planning Policy Framework. The government wants to make it easier to progress such developments, and to that end is clear that:*
>
> - *Development should proceed on sites that are adopted in a local plan with full input from the local community, unless there are strong reasons why it cannot.*
> - *Local councils should be open and pragmatic in agreeing changes to developments where conditions mean that the original plan may no longer be viable, rather than losing the development wholesale or seeing development mothballed.*
> - *Better use should be made of small pockets of brownfield land by being more permissive, so more homes can be built more quickly, where and how it makes sense, giving more confidence and certainty to SME builders.*
>
> *Later in the year, the government will pass the Levelling Up and Regeneration Bill to put in place our reforms to the planning system that will create more beautiful and sustainable homes in the right places, and publish updates to the National Planning Policy Framework."*

With regard to planning fees, draft regulations to introduce a national fee increase of 35% for major applications and 25% for all other applications were laid on 20 July. This is a significant moment, providing much-needed financial sustainability to Local Planning Authorities (LPAs). The regulations need to receive parliamentary approval before coming into effect and we will make sure you're updated when they do.

The Planning Skills Delivery Fund (PSDF) was also launched. LPAs can now apply for funding which can be used to hire additional planning officers and invest in other resources to help clear planning backlogs. Applications are open until 11 September, with each Authority able to bid for up to £100,000. This will be complemented by the setup of a "super-squad" team of planners and other experts who will support the delivery of major housing developments, underpinned by

Department for Levelling Up, Housing & Communities

PLANNING NEWSLETTER

£13.5m in funding. More information will be shared about this programme in due course.

The Newsletter also sets out more detail on the significant public consultations on reforms to the preparation and content of local plans, permitted development rights and reforms to the National Strategic Infrastructure Projects (NSIP) consenting process, which were all launched this week. This is alongside updates on the LPA Skills & Resourcing Survey, the Pathways to Planning Graduate Scheme, Active Travel England, the Traveller Site Fund and Local Nature Recovery Strategies.

Your inputs and engagement with these areas of policy and delivery will be much appreciated. Please reach out to the teams delivering this work for support and advice if you have any queries.

Kind regards,

Joanna Averley
Chief Planner

Appendix 2 – Original Planning Statement

PLANNING STATEMENT

URBAN DEVELOPMENTS (YORK) LTD AND JGC (1980) LTD

LAND AT CLIFF HILL, DENBY DALE

www.dppukltd.com

PLANNING STATEMENT

On behalf of: Urban Developments (York) Ltd and JGC (1980) Ltd

In respect of: Land at Cliff Hill, Denby Dale

Date: December 2022

Reference: R001/4394LE Ver. 2.0

Author: ML/WM/CW

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1.0 Introduction

1.1 This Planning Statement ('the Statement') has been prepared on behalf of Urban Developments (York) Ltd. and JGC (1980) Ltd. ('the Applicants') by DPP, to assist Kirklees Council ('the Council') in their consideration of this full planning application which seeks permission for the erection of 48 dwellings ('the Proposed Development') on land at Cliff Hill in Denby Dale ('the Site').

1.2 The Statement takes the following structure:

- Chapter 2: Site Context
- Chapter 3: Proposed Development
- Chapter 4: National Planning Policy Context
- Chapter 5: Local Planning Policy Context
- Chapter 6: Planning Assessment
- Chapter 7: Planning Balance

1.3 The Statement should be read alongside the following plans and documents:

Plans pack by Brewster Bye Architects	
Existing Site Plan	571/16(02)002
Location Plan	571/16(01)001
Proposed Site Plan	571/16(02)010 Rev. R
Proposed Levels Plan	571/16(02)003
House Type A	571/16-BBA-01-XX-DR-A-0201 Rev. P02
House Type B	571/16-BBA-01-XX-DR-A-0202 Rev. P02
House Type C	571/16-BBA-01-XX-DR-A-0203 Rev. P03
House Type D	553/07-BBA-01-XX-DR-A-0204 Rev. P04
House Type E	553/07-BBA-01-XX-DR-A-0205 Rev. P05
House Type F	553/07-BBA-01-XX-DR-A-0206 Rev. P05
House Type G	553/07-BBA-01-XX-DR-A-0207 Rev. P04
House Type H	553/07-BBA-01-XX-DR-A-0208 Rev. P04
House Type I	553/07-BBA-01-XX-DR-A-0209 Rev. P04
House Type J	553/07-BBA-01-XX-DR-A-0210 Rev. P05
Block Type AA	571/16-BBA-01-XX-DR-A-0211 Rev. P01
Block Type BAA	571/16-BBA-01-XX-DR-A-0212 Rev. P01
Block Type CC	571/16-BBA-01-XX-DR-A-0213 Rev. P01
Block Type DD	553/07-BBA-01-XX-DR-A-0214 Rev. P01

Plans pack by Brewster Bye Architects	
Block Type GG	553/07-BBA-01-XX-DR-A-0215 Rev. P01
Block Type II	553/07-BBA-01-XX-DR-A-0216 Rev. P01
House Type E1	553/07-BBA-01-XX-DR-A-0220 Rev. P01
House Type E2	553/07-BBA-01-XX-DR-A-0221 Rev. P01
House Type E3	553/07-BBA-01-XX-DR-A-0222 Rev. P01
House Type E4	553/07-BBA-01-XX-DR-A-0223 Rev. P01
House Type H1	553/07-BBA-01-XX-DR-A-0224 Rev. P01
House Type J1	553/07-BBA-01-XX-DR-A-0225 Rev. P01
Proposed Street Scenes	571/16-BBA-01-XX-DR-A-0250 Rev. P01
Proposed And Existing Site Sections	571/16-BBA-01-XX-DR-A-0251 Rev. P01
Sheeted Visuals 3&4	571/16(02)041
Sheeted Visuals 5&6	571/16(02)042
Sheeted Visuals 7&8	571/16(02)043
Sheeted Visuals 9&10	571/16(02)044
Sheeted Visuals 11&12	571/16(02)045
Proposed Suds Basin Layout and Sections (by Ward Cole Consulting Engineers)	10-5610-001

Air	
Air Quality Assessment	J10/13073A/10/1/F1 – by Air Quality Consultants

Archaeology	
Archaeological Desk-Based Assessment	OSA22DT08 – by On Site Archaeology

Design and Access	
Design and Access Statement	by Brewster Bye Architects

Ecology	
Initial Ecological Review	SF 3282 – by Smeeden Foreman

Ground

Phase 1: Desktop Study Report & Coal Mining Risk Assessment	21-719 – by Arc Environmental
Phase 2 Geo-Environmental Report	C2206/22/E/3401 – by RGS
Coal Risk Assessment	C2206/21/E/3554 – by RGS
Georisk+ Report	SF30779604000 – by Groundsure

Highways	
Transport Assessment	21115 TA – by VIA Solutions
Framework Travel Plan	21115 FTP – by VIA Solutions
Proposed Access Arrangement Plan	2111502 – by VIA Solutions
Road Safety Audit Brief Stage 1	21115 – by VIA Solutions

Flood Risk/Drainage	
Flood Risk Assessment and Drainage Strategy	10/5610 Rev. A – by Ward Cole Consulting Engineers

Noise	
Noise Assessment	J10-13073A-20 A/1/F1 – by Noise Consultants

Planning Reports	
Planning Statement	R001/4394LE – by DPP
Statement of Community Involvement	R002/4394LE – by DPP

Topographical Survey	
Topographic Survey	P21-01216-MET-EXT-XX-TOP-M2-G-001-1 by Met Geo Environmental Ltd
Topographic Survey	P21-01216-MET-EXT-XX-TOP-M2-G-001-02 by Met Geo Environmental Ltd
Topographic Survey	P21-01216-MET-EXT-XX-TOP-M2-G-002-1 by Met Geo Environmental Ltd
Topographic Survey	P21-01216-MET-EXT-XX-TOP-M2-G-002-02 by Met Geo Environmental Ltd

Trees	
Arboricultural Survey Report	SF 3282 – by Smeeden Foreman
Tree Survey Plan	SF 3282 TS01 – by Smeeden Foreman

2.0 Site Context

2.1 The Site lies to the north of Wakefield Road, to the northwest of existing houses located on Leak Hall Crescent, and to the northeast of Denby Dale Methodist Church and surrounding houses on Cumberworth Lane. It comprises a parcel of grassland, situated in a central location within the village of Denby Dale which lies approximately 11.5km to the southeast of Huddersfield.

2.2 The extent of the Site is indicated in the aerial photograph in Figure 1 (below) and measures approximately 1.9 hectare in area.

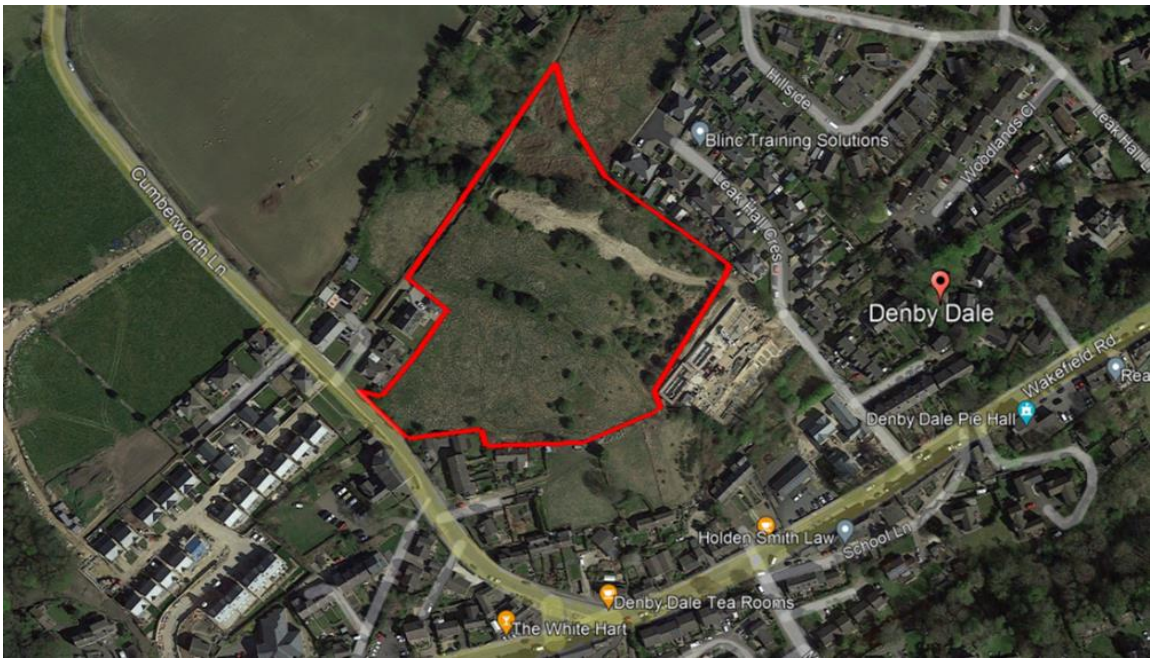

Figure 1 - Aerial Photo of Site with Approximate Site Boundary

2.3 To the north, the Site is bound by a Public Right of Way ('PRoW'), beyond which there is further grassland and trees which serve as a buffer between agricultural land further to the north. The western boundary of the Site is formed by Cumberworth Lane along which are a number of dwellings that directly bound the Site. The southern boundary is formed by a combination of residential dwellings and further grassland directly to the south of the Site. To the east the Site is bound by Leak Hall Crescent which is residential in character.

2.4 The Site is accessed from the west via Cumberworth Lane which leads off the A636/Wakefield Road, the main road running through the village.

Planning Context

2.5 The Site has no planning history.

3.0 Proposed Development

3.1 The Design and Access Statement, prepared by Brewster Bye Architects and submitted with this application, describes the Proposed Development in full. However, the following section will summarise the Proposed Development, which concerns the erection of 48 dwellings.

3.2 The Proposed Development seeks to erect 48 new, high-quality homes to be built by Urban Developments (York) Ltd.

Layout

3.3 The proposed layout is illustrated in Figure 2 below.

Figure 2 - Proposed Site Layout

3.4 The extract from the layout plan above demonstrates that the Site is broadly arranged to follow a new main access road that sweeps across the Site from west to northeast. A secondary road branches off towards the north of the site to ensure that the entirety of the site is used effectively.

House Types/Housing Mix

3.5 The Proposed Development is comprised of a broad mix of 2-, 3-, 4- and 5-bedroom dwellings, including detached and semi-detached properties with floor areas ranging from 71.9 sqm. to 260.1 sqm. The proposed house types are all traditional in appearance and designed to be sympathetic to the local form and vernacular.

3.6 Sample elevations are demonstrated below in **Figure 3** below.

Figure 3 - Proposed Elevations (House Types E & C)

3.7 The open market housing types are shown in **Table 1** below.

Table 1 – Market Housing Types

Housing Type	Number	No. of bedrooms	Floorspace
Type A	5	2	71.9 sqm.
Type B	3	3	87.2 sqm.
Type C	4	4	144.4 sqm.
Type D	4	4	134.8 sqm.
Type E	6	5	228.4 sqm.
Type F	3	4	148.2 sqm.
Type G	9	3	140.6 sqm.
Type H	4	4	143.2 sqm.

Housing Type	Number	No. of bedrooms	Floorspace
Type I	7	4	191.3 sqm.
Type J	3	5	260.1 sqm.
Total	48		

3.8 The resulting open market housing mix is shown in Table 2 below.

Table 2 - Market Housing Mix

Number of bedrooms	Quantity	Percentage
2	5	10.4%
3	12	25%
4	22	45.8%
5	9	18.8%
Total	48	100%

Scale

3.9 The Proposed Development is for 48 new dwellings. There will be a mix of 2-, 3-, 4- and 5-bedroom dwellings and each will range from two to three storeys in height.

Design

3.10 The scale, proportion and elevational detailing has taken influences from the village and all the house types have been carefully designed with traditional proportions and simple yet effective detailing that will not date.

Access

3.11 Access will be gained from the west via Cumberworth Lane which leads off the A636/Wakefield Road, the main road running through the village. The proposed junction will provide access for cars and pedestrians as well as large refuse and emergency service vehicles. Each dwelling can achieve gently sloping access with a ramped access to the front door in line with Part M of the Building Regulations.

3.12 Each property will be provided with a minimum of two allocated parking spaces, typically either to the side, front or rear of the property it serves whereas the larger properties will have at least three spaces. There will be additional visitor spaces provided in various locations throughout the Site.

3.13 EV points will be provided in accordance with local authority requirements with one charge point per dwelling with private designated parking.

Boundary Treatment

3.14 A number of different boundary treatments are proposed across the Site (including 1.8m high screen timber fencing, gabion baskets, masonry/timber retaining and structured planting).

3.15 Examples CGIs and photos of these boundary treatments are shown in **Figure 4** (below) along with an illustration of their proposed distribution in the Site.

Figure 4 - Proposed Boundary Treatments

Materials

3.16 It is envisaged that the Proposed Development will use materials sympathetic to the local area (listed below) in order to integrate seamlessly with the surrounding properties. This effect will be further reinforced through the implementation of both hard and soft landscaping that will enhance the Proposed Development.

3.17 The materials that are proposed to be used include, but are not limited to, the following:

- Artificial stone dentil detailing
- Artificial stone window detailing
- Grey dormer windows
- Artificial stone heads/sills
- Timber canopies

- Artificial stone construction
- Grey slate roofing

3.18 Further details of how the above will be incorporated into the design of the Proposed Development can be found in the accompanying Design and Access Statement.

4.0 National Planning Policy Context

National Planning Policy Framework (July 2021) ('the Framework')

Introduction

4.1 The Framework was published in July 2021 and supersedes all previous versions of national planning policy guidance documents. The Framework sets out the government's requirements and objectives for the planning system in England, in order to ensure that decision making is positive, sustainable and provides for necessary development in the right areas.

4.2 Paragraph 2 confirms that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. It also confirms that the Framework must be taken into account in preparing the development plans and is a material consideration in planning decisions.

The Presumption in Favour of Sustainable Development

4.3 The NPPF seeks to ensure that a positive framework for decision making is implemented, with the core principle of the framework being the presumption in favour of development. Sustainable development provides economic benefits to the country (by contributing to a strong responsive and competitive economy), social benefits (through supporting vibrant and healthy communities) and an environmental role (by protecting and enhancing our natural, built and historic environment).

4.4 Paragraph 10 of the Framework goes onto state that:

> "*So that sustainable development is pursued in a positive way, at the heart of the NPPF is a presumption in favour of sustainable development*".

4.5 As set out at paragraph 11, with regard to decision taking, this means:

> *"Approving development proposals that accord with an up-to-date development plan without delay; or*
>
> *Where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, granting permission unless:*
>
> *i. The application of policies in this NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
>
> *ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this NPPF taken as a whole."*

Determining Applications

4.6 Paragraph 47 states that:

> *"Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing."*

Maintaining Supply and Delivery of Housing

4.7 Paragraph 60 confirms that:

> *"To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay."*

4.8 Paragraph 69 indicates that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly.

4.9 Referring to rural housing, Paragraph 79 states that:

> *"Housing should be located where it will enhance or maintain the vitality of rural communities."*

And that:

> *"Where there are groups of smaller settlements, development in one village may support services in a village nearby."*

Promoting Healthy and Safe Communities

4.10 Paragraph 92 sets out that decisions should aim to achieve healthy, inclusive and safe places through promoting social interaction.

4.11 Paragraph 93 states that:

> *"Planning Policies should:*
>
> *a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;*
>
> *b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;*

c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;

d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and

e) ensure an integrated approach to considering the location of housing, economic uses and community facilities and services."

Promoting Sustainable Transport

4.12 Paragraph 110 sets out the criteria for assessing development proposals, prioritising the provision of opportunities for travel by sustainable transport modes, ensuring safe and suitable access for all users, and ensuring there are no significant unmitigated impacts on highways.

4.13 Paragraph 111 confirms that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Making Effective Use of Land

4.14 Paragraph 119 states that:

"Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions."

Achieving well-designed places

4.15 Paragraph 126 indicates that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

4.16 Paragraph 130 confirms that planning policies and decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

4.17 Paragraph 131 states trees make an important contribution to the character and quality of urban environments and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly planted trees, and that existing trees are retained wherever possible.

Meeting the Challenge of Climate Change, Flooding and Coastal Change

4.18 Paragraph 167 notes that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment.

4.19 Paragraph 169 sets out that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.

Conserving and Enhancing the Natural Environment

4.20 Paragraph 174 states that:

"Decisions should contribute to and enhance the natural local environment by:

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;

d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and

f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate."

4.21 Paragraph 183 further states that planning decisions should ensure that:

a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);

b) *after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and*

c) *adequate site investigation information, prepared by a competent person, is available to inform these assessments.*

Conserving and Enhancing the Historic Environment

4.22 Paragraph 189 indicates that Local Planning Authorities should require an applicant to describe the significance of any heritage assets affected when determining planning applications.

4.23 Paragraph 197 states that:

> *"In determining applications, local planning authorities should take account of:*
>
> *(a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
>
> *(b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
>
> *(c) the desirability of new development making a positive contribution to local character and distinctiveness."*

5.0 Local Planning Context

Adopted Local Plan

5.1 The Kirklees Development Plan currently comprises:

- Policies Map (adopted February 2019);
- Kirklees Local Plan: Strategy and Policies (adopted February 2019); and
- Kirklees Local Plan: Allocations and Designations (adopted February 2019).

5.2 There are additionally three Supplementary Planning Documents ('SPD') of relevance to the Proposed Development:

- Housebuilders Design Guide SPD (adopted June 2021);
- Open Space SPD (adopted June 2021); and
- Kirklees Highway Design Guide (adopted November 2019).

Policies Map (February 2019)

5.3 The Policies Map shows the Site to form part of housing allocation 'HS144' as indicated by the orange shading in Figure 5 below.

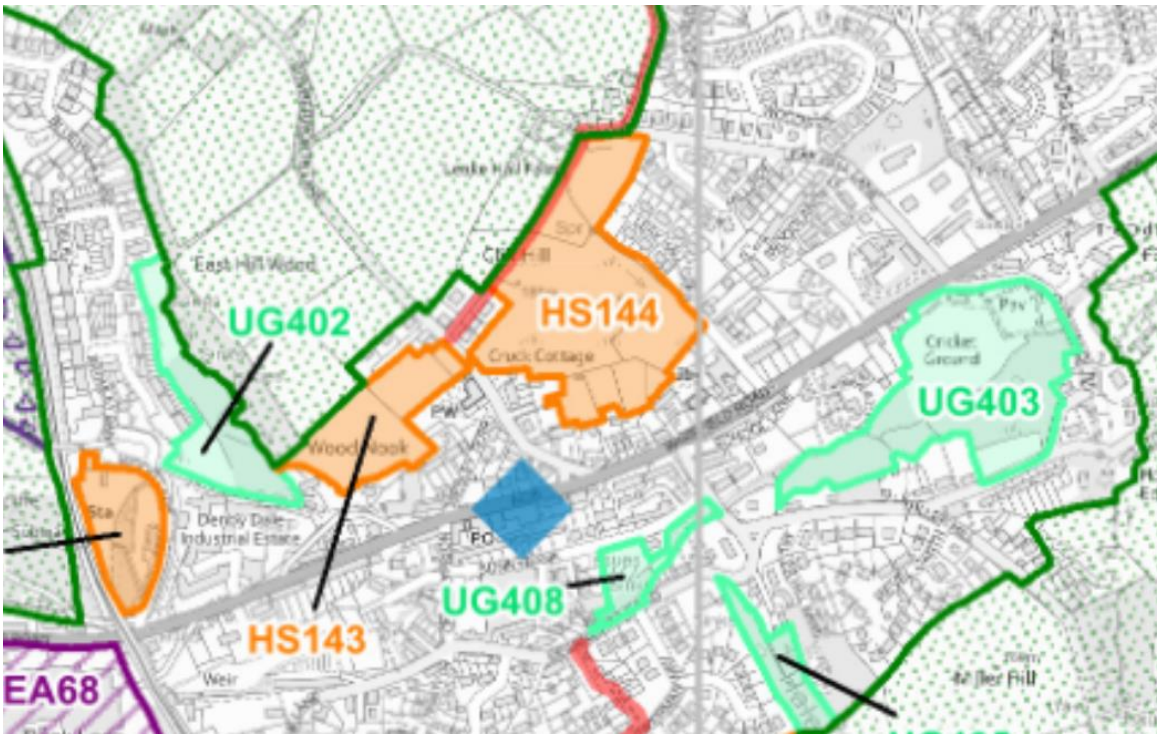

Figure 5 - Local Plan (2019) Policies Map Extract

Kirklees Local Plan: Allocations and Designations ('KLPAD') (February 2019)

5.4 The KLPAD document was adopted in February 2019 and outlines the allocations and designations for Kirklees, subdivided into different categories (such as housing, employment and mixed-use allocations) which are indicated by area, whereas town centre proposals are shown according to their respective town/district/local centre location.

5.5 As outlined above, the Site forms part of housing allocation '**HS144**' of which the following constraints and requirements (shown in **3**) have been outlined in the 'KLPAD' document.

Table 3 – Site Box for Housing Allocation 'HS144' Details as Outlined in KLPAD

Gross/Net site area	3.24 Ha.
Constraints	• Third party land required to achieve sufficient visibility splays • The provision of a pedestrian footway is required across the site • frontage at Leak Hall Lane • Public right of way crosses the site • Site is close to listed buildings • Site is close to an archaeological site • Part/all of the site is within a High-Risk Coal Referral Area
Indicative capacity	113 dwellings
Reports required	• Transport Assessment • Travel Plan • Flood Risk Assessment • Contamination report (Phase 1) • Heritage Impact Assessment • Pre-determination archaeological assessment • Coal Mining Risk Assessment
Other site-specific considerations	N/A

Kirklees Local Plan: Strategy and Policies ('KLPSP') (February 2019)

5.6 The KLPSP sets out the policies necessary to achieve the strategy and how much new development there should be in the district and where it will go. The KLPSP covers the period 2013 – 2031.

5.7 The relevant policies are set out as follows:

5.8 **Policy LP1 – 'Presumption in Favour of Sustainable Development'** indicates that, when considering development proposals, the Council will take a positive approach that reflects the

presumption in favour of sustainable development contained in the NPPF. It confirms that the council will always work pro-actively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

5.9 Further, proposals that accord with the policies in the KLPSP and the KLPSD (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise.

5.10 Policy LP2 – 'Place Shaping' confirms that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the plan, in order to protect and enhance the qualities which contribute to the character of these places.

5.11 Policy LP3 – 'Location of New Development' describes how development proposals will be required to reflect the Spatial Development Strategy, Policy LP1 and Policy LP2. This means that development should reflect the settlement's size and function; place-shaping strengths, opportunities and challenges for growth; spatial priorities for urban renaissance and regeneration; and the need to provide for new homes and jobs.

5.12 It confirms that development will be permitted where it supports the delivery of housing and employment growth in a sustainable way and where it ensures delivery of housing and jobs in smaller settlements to meet local housing and employment needs.

5.13 Policy LP5 – 'Masterplanning Sites' states that masterplans would only be sought where feasible and appropriate.

5.14 Policy LP7 – 'Efficient and Effective use of Land and Buildings' outlines how, to ensure the best use of land and buildings, the housing density of proposals should ensure efficient use of land, in keeping with the character of the area and the design of the scheme.

5.15 Policy LP11 – 'Housing Mix and Affordable Housing' states that all proposals for housing, including those affecting the existing housing stock, will be of high quality and design and contribute to creating mixed and balanced communities in line with the latest evidence of housing need. All proposals for housing must aim to provide a mix (size and tenure) of housing suitable for different household types.

5.16 Further, considering the overall shortfall in affordable homes, the council will negotiate with developers for the inclusion of an element of affordable homes in planning applications for housing developments of more than 10 homes. However, the policy confirms that the proportion may be less where viability evidence demonstrates that there are development costs which would otherwise prejudice the implementation of the proposal.

5.17 Policy LP20 – 'Sustainable Travel' confirms that new development will be located in accordance with the spatial development strategy to ensure the need to travel is reduced and that essential travel needs can be met by forms of sustainable transport other than the private car. The council will support development proposals that can be served by alternative modes of transport such as

public transport, cycling and walking and in the case of new residential development is located close to local facilities or incorporates opportunities for day-to-day activities on site.

5.18 Policy LP21 – 'Highways and Access' outlines how proposals shall demonstrate that they can accommodate sustainable modes of transport and be accessed effectively and safely by all users. New development will normally be permitted where safe and suitable access to the site can be achieved for all people and where the residual cumulative impacts of development are not severe.

5.19 Policy LP22 – 'Parking' confirms that new developments will incorporate flexibly designed minimum parking spaces for private cars, considering a range of solutions, to provide the most efficient arrangement of safe, secure, convenient, and visually unobtrusive car parking within the site including a mix of on- and off-street parking in accordance with current guidance.

5.20 Policy LP24 – 'Design' states that good design should be at the core of all proposals in the district and should be considered at the outset of the development process. Development briefs, design codes and masterplans should be used to secure high quality, green, accessible, inclusive, and safe design, where applicable. Where appropriate and in agreement with the developer, schemes will be submitted for design review.

5.21 Policy LP27 – 'Flood Risk' confirms that proposals must be supported by an appropriate site-specific Flood Risk Assessment in line with national planning policy. This must take account of all sources of flooding set out in the Strategic Flood Risk Assessment and demonstrate that the proposal will be safe throughout the lifetime of the development (taking account of climate change).

5.22 Policy LP28 – 'Drainage' states that the presumption is that Sustainable Drainage Systems (SuDS) will be used to assist in achieving the following on each site: typical greenfield run-off rates should not be exceeded; no negative impact on local water quality and improvements in water quality where practicable; and consider whether proposed open spaces and green infrastructure within sites can contribute to the sustainable drainage of the site.

5.23 Policy LP30 – 'Biodiversity & Geodiversity' confirms that the Council will seek to protect and enhance the biodiversity and geodiversity of Kirklees. Development proposals are required to result in no significant loss or harm to biodiversity through avoidance, adequate mitigation or, as a last resort, compensatory measures secured through the establishment of a legally binding agreement. Further, proposals are required to minimise impact on biodiversity and provide net biodiversity gains through good design.

5.24 Policy LP32 – 'Landscape' outlines how proposals should be designed to take into account and seek to enhance the landscape character of the area by considering the patterns of woodland, trees and field boundaries.

5.25 Policy LP33 – 'Trees' states that the Council will not grant planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity. Proposals should

normally retain any valuable or important trees where they make a contribution to public amenity, the distinctiveness of a specific location or contribute to the environment.

5.26 Policy LP35 – 'Historic Environment' outlines how proposals should retain those elements of the historic environment which contribute to the distinct identity of the Kirklees area and ensure they are appropriately conserved, to the extent warranted by their significance, also having regard to the wider benefits of development.

5.27 Policy LP47 – 'Healthy, Active and Safe Lifestyles' confirms that the council will, with its partners, create an environment which supports healthy, active and safe communities and reduces inequality. Healthy, active and safe lifestyles will be enabled through a number of measures including: increasing access to green spaces and green infrastructure; creating high-quality and inclusive environments incorporating active design and the creation of safe, accessible and green environments; and increasing opportunities for walking, cycling and encouraging more sustainable travel choices.

5.28 Policy LP63 – 'New Open Space' states that the Council will seek to secure well-designed new and improved open space, sport and recreation facilities in the district. New housing developments will be required to provide or contribute towards new open space or the improvement of existing provision in the area, unless the developer clearly demonstrates that it is not financially viable for the development proposal. New open space should be provided in accordance with the Council's local open space standards or national standards where relevant.

5.29 Policy LP65 – 'Housing Allocations' confirms that, for sites listed as allocated for housing in the plan, planning permission will be expected to be granted if proposals accord with the development principles set out in the relevant site boxes (see 3 with reference to the Site), relevant development plan policies and as shown on the Policies Map.

Housebuilders Design Guide SPD (adopted June 2021)

5.30 This document sets out what the Council considers to be good residential design, to raise the quality of housing that is delivered in the district, supporting the vision in the plan. It outlines the following design principles:

5.31 Principle 1 confirms that developers are expected to draw upon the range of tools available to help secure high-quality design for residential development, from the outset of the development process.

5.32 Principle 2 indicates that new residential development proposals will be expected to respect and enhance the local character of the area through a number of measures including taking cues from the character of the surrounding built and natural environment within the locality and creating a positive and coherent identity which complements the surrounding built form.

5.33 Principle 3 outlines how developers are expected to clearly identify and map out site opportunities and constraints in the Design and Access Statement. To ensure that constraints are

fully embedded into the design of the site and that the site can be developed to make the efficient and effective use of land.

5.34 Principle 4 indicates that net development density is expected to achieve at least 35 dwellings per hectare, though higher densities are supported in areas in or adjacent to town centres which are well served by public transport and to secure more sustainable forms of development. Densities lower than 35 are only permitted in line with Local Plan Policy LP7.

5.35 Principle 5 confirms that buildings should be aligned and set-back to form a coherent building line and designed to front on to the street, including corner plots, to help create active frontages. The layout of the development should enable important views to be maintained to provide a sense of place and visual connections to surrounding areas.

5.36 Principle 6 outlines how residential layouts must ensure adequate privacy and maintain high standards of residential amenity, to avoid negative impacts on light, outlook and to avoid overlooking.

5.37 Principle 7 indicates that the integration of green infrastructure and accessible open space must be considered early in the design process by assessing (1) the site's context; (2) the ability to make connections with wider green infrastructure networks; and (3) the multi-functional role green infrastructure can perform.

5.38 Principle 8 describes how the transition from urban to open land should be carefully considered where development is located on the edge of the urban area. Proposals should demonstrate how the new development makes a positive contribution to the character and function of the landscape through sensitive siting and good design.

5.39 Principle 9 outlines how proposals are required to provide net gains in biodiversity, with ecological enhancement integral to the design of the development.

5.40 Principle 10 indicates that the site layout should make effective connections to existing walking and cycling links and take opportunities to create new connections. Site access will recognise the different needs of people walking, cycling and using cars and prioritise the needs of people walking and cycling, to encourage sustainable modes of travel.

5.41 Principle 11 confirms that schemes should provide inclusive spaces that meet the needs of pedestrians, cyclists and children and ensure streets are well integrated into the development.

5.42 Principle 12 describes how, at the outset of the development, applicants should identify the need for car parking having considered a range of measures to reduce private car-use into the design of development and through travel plans such as promoting car sharing and car clubs

5.43 Principle 13 outlines how applicants should show how different materials which are prevalent in the vicinity of the site have been taken into account in the proposal and consider the use of locally prevalent materials and finishing of buildings to reflect the character of the area.

5.44 Principle 14 describes how the design of windows and doors is expected to relate well to the street frontage and neighbouring properties and reflect local character in style and materials.

5.45 Principle 15 confirms that the design of the roofline should relate well to the site context, including topography, views, heights of buildings and the roof types.

5.46 Principle 16 describes how all new homes should aim to be accessible and adaptable homes to meet the changing needs of occupants over time in accordance with Building Regulations.

5.47 Principle 17 outlines how all new houses should have adequate access to private outdoor space that is functional and proportionate to the size of the dwelling and the character and context of the site.

5.48 Principle 18 states that new proposals should contribute to the Council's ambition to have net zero carbon emissions by 2038, with high levels of environmental sustainability by ensuring the fabric and siting of homes, and their energy sources reduce their reliance on sources of non-renewable energy.

5.49 Principle 19 outlines how provision for waste storage and recycling must be incorporated into the design of new developments in such a way that it is convenient for both collection and use whilst having minimal visual impact on the development.

Open Space SPD (adopted June 2021)

5.50 This document informs applicants and developers of the minimum level of open space the Council would normally expect to be provided in connection with housing developments. The SPD provides detailed guidance and additional information about the implementation of Kirklees Local Plan policy LP63 'New Open Space' and is a material consideration in the determination of planning applications.

5.51 It confirms that new housing developments which result in an increase of more than 10 dwellings will normally be expected to provide and/or contribute towards new or enhanced open space, sport and recreation facilities.

5.52 Table 4 below shows the requirements and applies to residential new build and conversions, flats and houses.

Table 4 - Housing development and open space required

Development	Parks & Recreation Grounds	Natural & Semi-natural Greenspace	Amenity Greenspace	Allotments(50 or more dwellings)	Children &Young People	Outdoor Sports Facilities
Market Housing	Yes	Yes	Yes	Yes	Yes	Yes
Affordable Housing	Yes	Yes	Yes	Yes	Yes	Yes
Housing for Older People	Yes	Yes	Yes	Yes	No	No
Student Housing	Yes	Yes	Yes	No	No	No

5.53 The dwelling thresholds are indicated in Table 5 below.

Table 5 - Dwelling thresholds for on-site and off-site provision

Type of Open Space	Thresholds for On-Site Provision	Reason for On-Site Threshold	Thresholds for Off-Site Contributions
Parks & recreation grounds	500 dwellings	Scale of development generates the requirement for a small park/recreation ground	11 dwellings
Natural & semi-natural greenspace	200 dwellings	Scale of development required to create 1 ha on-site, including 50% woodland planting	11 dwellings
Amenitygreenspace	11 dwellings	For amenity purposes and to achieve a well-designed scheme	Preference is for on-site provision
Allotments & community growing	500 dwellings	Dwellings required to provide 12 plots on site	50 dwellings (generates one plot)
Children & young people	11 dwellings	Size able to accommodate a Local Area of Play	11 dwellings
Outdoor sports pitches	700 dwellings	Scale of development generates the requirement for two pitches	11 dwellings

Kirklees Highway Design Guide (adopted November 2019).

5.54 This document promotes high standards of highway design that reflect nationally recognised best practice and facilitate the delivery of high quality residential, employment and mixed-use developments in Kirklees.

6.0 Planning Considerations

Introduction

6.1 In accordance with paragraph 2 of the Framework, and section 38(6) of the Planning and Compulsory Purchase Act 2004, it is necessary to consider the Proposed Development against the provisions of the Development Plan unless material considerations indicate otherwise.

6.2 In this case, the Development Plan is formed by the following documents:

- Policies Map (February 2019);
- Kirklees Local Plan: Strategy and Policies (February 2019); and
- Kirklees Local Plan: Allocations and Designations (February 2019).

6.3 In the context of the Development Plan, we will consider the Proposed Development under the following headings:

- The Framework
- The Principle of Development
  - The Allocation
  - Housing Delivery Test
- Other Technical Considerations
  - Affordable Housing
  - Design and Character
  - Trees
  - Highways
  - Ecology
  - Flood Risk and Drainage
  - Density
  - Archaeology
  - Noise
  - Summary
- Sustainable Development
  - Introduction
  - Economic Benefits
  - Construction Phase
  - Completion and Occupation
  - Social Benefits
  - Environmental benefits

The Framework

6.4 The Framework was published in July 2021 and is a material consideration in the determination of planning applications.

6.5 Section 5 of the NPPF concerns the Government's objective of significantly boosting the supply of homes. It confirms that it is important that a variety of land should be capable of coming forward where it is needed and that land with permission is developed without unnecessary delay. Paragraph 69 also recognises the contribution that small and medium sized sites can make in enabling planning authorities to maintain a supply of housing.

6.6 The Proposed Development is consistent with these objectives. The Proposed Development involves the provision of 48 market dwellings on a medium-sized parcel of land. The Site is plainly the type of land that the Government envisages being developed without delay in order to significantly boost the supply of housing across the country. In principle, the Proposed Development is consistent with the objectives of the Framework, and substantial weight should be afforded in favour of the application as a result.

The Principle of Development

The Allocation

6.7 The Site lies within an area of land allocated for residential development (allocation reference 'HS144'), which the Council have recently assessed through the Local Plan process and deemed appropriate for residential development. The Site is therefore allocated for residential development in an up-to-date development Plan and as such the principle of its development is plainly acceptable, subject to other material considerations which will be discussed in the following sections.

6.8 The KLPAD site box (as reproduced in Table 3 above) lists the Site's constraints and lists the following reports as being required to form part of any planning application:

- Transport Assessment
- Travel Plan
- Flood Risk Assessment
- Contamination report (Phase 1)
- Heritage Impact Assessment
- Pre-determination archaeological assessment
- Coal Mining Risk Assessment

6.9 The constraints listed include third party land required to achieve sufficient visibility splays. In terms of application requirements, the KLPAD site box refers to the provision of a pedestrian footway across the Site and for the Proposed Development to be carefully designed.

6.10 All of the above required reports have been included in the accompanying submission package with a Heritage Impact Assessment included as part of the accompanying Archaeological Desk-Based Assessment by On Site Archaeology (ref. OSA22DT08). Further, third party land has been acquired to provide the necessary visibility splays onto Cumberworth Lane, pedestrian footways have been provided in the Proposed Development and we consider that the scheme has been well designed taking on board and reflecting the comments made by the local community.

6.11 To support this further, policy LP65 confirms that sites allocated for housing within the Development Plan, such as the land in question, will be expected to be granted planning permission so long as the proposals accord with the principles set out in the allocation and the Development Plan.

Housing Delivery Test

6.12 Notwithstanding the above, it is apparent through the latest Housing Delivery Test ('HDT') published in January 2022 that the Council have a historic shortfall in delivering housing. The HDT figures for the three years up to 2022 show that there has been a shortfall in delivery of approximately 600 dwellings, which represents a delivery rate of 87% of the identified need; this results in the need for the Council to undertake an action plan for the second year in a row.

6.13 A HDT Action Plan is yet to be published for 2022 however the 2021 plan is available on the Council's website as part of their monitoring reports, and it contains key actions to boost housing delivery. One of these actions is timely development management decisions which meet the agreed performance indicators for determination of planning applications, i.e., within the statutory determination deadline.

6.14 It is therefore clear that the Proposed Development, should it be compliant with all relevant local planning policies, be approved without delay in order to further housing delivery in the area and achieve the aims of the HDT Action Plan.

6.15 The principle of the residential development of the Site has plainly been established and substantial weight should be given to this consideration in the planning balance.

Other Technical Considerations

6.16 This section will now consider the remaining technical considerations.

- Affordable Housing
- Design and Character
- Trees
- Highways
- Ecology
- Flood Risk and Drainage
- Density
- Archaeology

- Noise
- Summary

Affordable Housing

6.17 Paragraph 65 of the Framework outlines how major development involving the provision of housing should expect at least 10% of the total number of homes to be available for affordable home ownership unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups.

6.18 At a local level, Policy LP11 of the KLPSP indicates that the Council will negotiate with developers for the inclusion of an element of affordable homes in planning applications for housing developments of more than 10 dwellings, however the proportion of affordable homes should be 20% of the total units on market housing sites. Policy LP11 however, allows for a reduction in the amount of affordable housing to be provided where viability evidence demonstrates that there are costs which would otherwise prejudice the implementation of the proposal.

6.19 Due to the significant abnormal development costs, it is not viable to provide any affordable dwellings on the Site. A viability report will be submitted to the Council shortly to justify this

6.20 Subject to the forthcoming Viability Report which will demonstrate that it is not viable to provide affordable dwellings on the Site, the Proposed Development is consistent with the Framework and Policy LP11 of the KLPSP to which weight can be attached.

Design and Character

6.21 Paragraph 126 of the Framework indicates that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Similarly, Policy LP24 of the KLPSP describes how good design should be at the core of all proposals in the district and should be considered at the outset of the development process.

6.22 A Design and Access Statement ('DAS') has been produced in support of the Proposed Development and has been submitted alongside a full suite of proposed plans and elevations. The submitted also provides information on similar projects the Applicant has delivered as well as examples of the architects' project history and then goes onto set out the contextual appraisal within which demonstrates the Designers' understanding of the Site, its setting and local vernacular surrounding the Site. This includes predominantly detached and semi-detached dwellings of artificial stone construction and detailing and typically 2- and 3-storeys in height. Stepped plots and split-level dwellings are also common due to the sloping topography found within Denby Dale.

6.23 Looking at the Site specifically, it is apparent that there are a number of constraints which include the PRoW adjacent to the Site, its proximity to heritage assets, its location within a coal mining high risk area, and the topography of the Site. These constraints and planning factors have all influenced the layout and the design of the houses.

6.24 With regards to the proposed design, artificial stone will be the predominant material alongside artificial stone detailing and uPVC windows and door frames. Grey roof tiles are also proposed to ensure the new dwellings are complimentary to the local vernacular. In addition, a total of 10 house types are proposed to add variety to the street scene and to create a high-quality development. Of these house types, six will be 2-storey pitched roof dwellings when viewed from the front, with two being stepped and 3-storey from the rear, and the remaining four will feature dormer windows that will face onto the street. Again, this matches the local house types in the area.

6.25 Overall, and given the above, it is considered that the Proposed Development is compliant with the Framework and Policy LP24 of the KLPSP.

Trees

6.26 Paragraph 131 of the Framework indicates that trees make an important contribution to the character and quality of urban environments and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly planted trees, and that existing trees are retained wherever possible.

6.27 Policy LP33 of the KLPSP states that the Council will not grant planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity. Proposals should normally retain any valuable or important trees where they make a contribution to public amenity, the distinctiveness of a specific location or contribute to the environment.

6.28 An accompanying Arboricultural Survey Report produced by Smeeden Foreman (ref. SF 3282) and Tree Survey Plan by the same consultants (ref. SF 3282 TS01) outline the existing trees on the Site and their current quality, as well as recommendations for future protection. There are two small, poor quality trees (an ash and elder tree) towards the northern boundary of the Site and a group of poor quality trees (ref. G12 – comprised of an Elder, Sycamore, and Hawthorn tree) along the Site's southern boundary. All of these trees were identified as having category U retention value in the tree report with an estimated life expectancy of less than 10 years.

6.29 The document assesses the quality of the remaining existing trees on the Site as generally being of low quality (category C) with some moderate quality (category B) trees and one category A Oak tree (to the north of the Site). The latter tree will be retained due to its amenity value and as per the Tree Preservation Order it is subject to, whilst a number of the other trees will be removed to

facilitate the development. Where trees are removed, replacements can be provided and incorporated into the landscaping plan.

6.30 Overall, and given the above, it is considered that the Proposed Development therefore satisfies the requirements of the Framework and Policies LP32 and Policy LP33 of the Local Plan.

Highways

6.31 Paragraph 111 of the Framework indicates that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Policy LP21 supports this and seeks to ensure that proposals demonstrate that they can accommodate sustainable modes of transport and be accessed effectively and safely by all users.

6.32 In support of the application, a Transport Assessment ('TA'), Framework Travel Plan ('FTP'), and Road Safety Audit have been prepared by Via Solutions. These documents should be read in full in order to fully understand the highways impacts of the Proposed Development however a summary is provided below.

6.33 The TA assesses the characteristics of the existing infrastructure in the surrounding area of the Site and predicts the level of traffic generated by the Proposed Development and its impact. It concludes that the adjacent highway network can adequately accommodate the traffic impact in terms of both safety and capacity and will not impact on the functionality of the junctions assessed. The TA also considers that the Site is in a highly sustainable location with a wide range of local services and facilities that can be accessed on foot any by cycle, as well as the frequent bus services and train station only a short distance away.

6.34 The FTP states that development layout will provide safe and convenient access via the main site access for pedestrians and cyclists to link to connecting streets along Cumberworth Lane. It also confirms that the surrounding highway network already provides a good level of pedestrian and cyclist infrastructure.

6.35 The FTP's initiatives will be used to reduce reliance on the private car and promote more sustainable travel choices. These generally include the promotion of the travel choices through marketing initiatives such as poster campaigns, personal Travel Plans, internet sites, mobile apps and accessible information. Travel information and initiatives will be promoted to all residents via a Travel Information Welcome Pack and thereafter by producing leaflets and newsletters as well as utilising the internet and communication sessions.

6.36 A Travel Plan Co-ordinator ('TPC') will be necessary to deliver the measures outlined in the FTP. This role will be maintained until the end of the agreed monitoring period and the TPC will coordinate all initiatives for the development site in liaison with the Council's Travel Plan Officer including monitoring and reporting (via the annual travel surveys). The TPC will promote cycling to work and school, particularly for those residents that work or take their child to a school within

a 2km radius of the site. The TPC will liaise with the Council's public transport officer and local bus operators to provide up-to-date details of bus services, including route information and service frequencies. The TPC will be responsible for the dissemination of this information to residents.

6.37 The Road Safety Audit identified problems including an absence of suitable drainage which may lead to ponding at the junction, limited visibility for pedestrians at proposed crossing and the absence of a continuous footway on the eastern flank of Cumberworth Lane. These can all be mitigated by an appropriate drainage strategy, visibility splays, and the provision of footways.

6.38 Together the Transport Assessment, Framework Travel Plan, and Road Safety Audit conclude that the Proposed Development should not have a significant impact on the highway network and as such the Proposed Development is in accordance with Policy LP21 of the Local Plan, and the Framework.

Ecology

6.39 Paragraph 174 of the Framework indicates that planning decisions should contribute to and enhance the natural environment and protect valued landscapes and sites of biodiversity or geological value. At a local level, Policy LP30 confirms that the Council will seek to protect and enhance the biodiversity and geodiversity of Kirklees, with proposals required to result in no significant loss or harm to biodiversity. The policy establishes a preference to avoid harm but where this is not possible provide adequate mitigation and then compensatory measures, securing a legal agreement if necessary.

6.40 In support of the Proposed Development, an Initial Ecological Review ('IER') has been prepared by Smeeden Foreman to assess the ecological value of the Site.

6.41 The IER concludes that the layout of the Proposed Development will result in the loss of scrub and rough grassland habitats with the retention of trees where possible. Potential biodiversity enhancements have been identified alongside the public open space to the northeast of the Site with tree and hedgerow planting across the development in association with garden boundaries. Other recommendations include creating habitats associated with the proposed Sustainable Drainage System ('SuDS') features and sensitive lighting to avoid impacting on any commuting or foraging bat populations.

6.42 The IER also summarises the work and surveys which are currently ongoing and will inform the planning balance. These include a Biodiversity Net Gain Assessment and bat transect surveys. Following completion of these, a summary of the resulting impact assessment based upon CIEEM guidelines will be completed and submitted as part of the Proposed Development. Neither of these reports are likely to impact materially on the Proposed Development.

6.43 Overall, the IER concludes that it is anticipated that the Proposed Development will have no significant residual ecological impacts on the Site and the forthcoming reports will outline measures to ensure no net loss of biodiversity and to mitigate against any potential habitat

losses. As such, the Proposed Development is in accordance with Policy LP30 of the Local Plan, and the Framework.

Flood Risk and Drainage

6.44 Paragraph 167 of the Framework notes that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere and that, where appropriate, applications should be supported by a site-specific flood-risk assessment. In addition, paragraph 169 of the Framework indicates that developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. Complementary to these paragraphs are Policies LP27 and LP28 which relate to flood risk and drainage respectively. Policy LP27 indicates that a site-specific Flood Risk Assessment must be provided for major developments and that it must demonstrate that the proposals will be safe throughout the lifetime of the development. Policy LP28 indicates that SuDS will be expected as a first resort and any deviation away from this will need justification.

6.45 With this in mind, a Flood Risk Assessment & Drainage Strategy ('FRADS') has been prepared by Ward Cole and submitted in support of the Proposed Development.

6.46 The report confirms that the Site lies within Flood Zone 1 and therefore has a low annual risk of flooding from rivers and the sea, meaning that all development is appropriate. The FRADS also concludes that the risk of surface water flooding is low.

6.47 A surface water drainage system is proposed that will incorporate stormwater attenuation and thus reduce the risk of flooding to surrounding properties. Surface water runoff outflow from the Site post development will be restricted to the calculated greenfield runoff rate of 12 'litres per second, and microdrainage hydraulic simulation results confirm that there will be no flooding in the surface water drainage network for all rainfall events up to the 1% annual exceedance probability event, including a 40% allowance for climate change.

6.48 Surface water flows will be routed along internal roads to either Cumberworth Lane or the attenuation basin, and main drainage will be offered for adoption under Section 104 of the Water Industry Act to Yorkshire Water.

6.49 Foul drainage from the Site will be discharged to the public sewer in Leak Hall Crescent via an existing connection through the neighbouring residential development. Again, it is intended to offer the main foul drainage system for adoption by Yorkshire Water in accordance with a Section 104 agreement.

6.50 Given the findings and outcomes of the FRADS, it is considered that the Proposed Development satisfies the requirements of Paragraphs 167 and 169 of the Framework and Policy LP27 and Policy LP28 of the Development Plan.

Density

6.51 As already discussed, the Site forms part of the housing allocation HS144 which allocates an indicative 113 dwellings across 3.24 ha.; this represents a density of 35 dwellings per hectare ('dwph'). With regards to the Proposed Development, there are 48 dwellings proposed across 1.9 ha., which represents 25dwph. Whilst this is below the indicative density as allocated, the shape of the Site, the location of the access, and the need for a SuDS attenuation basin results in a layout that will create a high quality scheme that meets the policy and design requirements but one that cannot achieve a high density. The proposed density is also comparative with that of the rest of Denby Dale. The overall density of allocation HS144 can be increased should the remainder come forward for development.

Archaeology

6.52 Paragraph 189 of the Framework indicates that local planning authorities should require an applicant to describe the significance of any heritage assets affected when determining planning applications, whilst paragraph 197 indicates that the contributions that heritage assets make should be assessed when determining planning applications. At a local level, Policy LP35 indicates that proposals should retain those elements of the historic environment which contribute to the distinct identity of the Kirklees area and ensure they are appropriately conserved.

6.53 As such, an Archaeological Desk Based Assessment has been prepared by On Site Archaeology and submitted as part of the Proposed Development. The document outlines the research undertaken and found that the Site has low potential to contain archaeological evidence from the medieval and post-medieval periods and very low potential to contain prehistoric or Roman archaeology. The only reference related to the medieval period from the search area was to a possible deserted settlement around Leak Hall, however survey work carried out in 2012 failed to record any earthworks.

6.54 One listed building has been found near to the Site which is the Wesleyan Methodist Chapel located to the west on Cumberworth Lane. The principal elevation of this chapel faces south, and it is considered that the Proposed Development is set back enough to not detrimentally impact on this heritage asset.

6.55 Given the above, it is clear that the Proposed Development is compliant with both the Framework and Policy LP35 of the Development Plan.

Noise

6.56 The NPPF indicates at paragraph 174 that planning policies and decisions should contribute to and enhance the natural local environment by preventing new and existing development from contributing to unacceptable levels of soil, air, water or noise pollution or land instability. In addition, paragraph 185 indicates that policies and decisions should ensure that new development is appropriate for its location, taking into account the likely effects of pollution. At a local level, Policy LP52 indicates that proposals which have the potential to increase pollution

from noise and other forms of pollution must be accompanied by evidence to show that the impacts have been evaluated and measures taken to prevent or reduce pollution.

6.57 In support of the Proposed Development, a Noise Assessment has been prepared by Noise Consultants Ltd to assess the Site in terms of suitability for residential use based on baseline noise monitoring and observations.

6.58 The initial noise risk assessment demonstrated that there is likely to be negligible to low risk of adverse effects from noise without the implementation of noise mitigation, with the highest areas of risk closest to Cumberworth Lane. For habitable rooms in the Proposed Development, it has been demonstrated that the guideline internal noise levels can be achieved with windows closed using standard double glazing and an appropriate non-acoustic means of ventilation installed. With windows open, reasonable internal noise conditions would be achievable across the Site and therefore the noise constraints in relation to the potential for overheating are considered to be negligible. Noise levels in the garden areas are also predicted to be below the target guidance noise level however a boundary treatment of a 1.8m high fence is recommended for the plot closest to Cumberworth Lane.

6.59 As a result of the above, it is clear that there will be no adverse noise related impacts on the Proposed Development and therefore it is compliant with both the Framework and Policy LP52.

Summary

6.60 In relation to other policies and guidance, we have shown above that the Proposed Development is in conformity with the Framework and the relevant policies of the Development Plan, and that there are no other material considerations, policy or otherwise, which would weigh against the scheme.

6.61 In fact, we have shown that there are material considerations which weigh strongly in support of the grant of planning permission.

Sustainable Development

Introduction

6.62 Paragraph 7 of the NPPF defines sustainable development as “meeting the needs of the present without compromising the ability of future generations to meet their own need”. It also sets out three overarching objectives of sustainable development, which are interdependent and need to be pursued in mutually supportive ways. At paragraph 8, these overarching objectives are economic, helping to build a strong, responsive and competitive economy; social, to support strong, vibrant and healthy communities, and; environmental, to contribute to protecting and enhancing our natural, built and historic environment.

6.63 To achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously. The Proposed Development will contribute to these dimensions and the scheme will deliver important benefits in each area. In this regard, we note the following:

Economic Benefits

6.64 The Proposals will bring a variety of indirect and direct financial benefits to the local community and district during the construction and occupation of the Proposed Development. This report assesses the economic benefits of the Proposed Development under the following headings:

- Construction Phase;
- Occupation; and
- Completion.

Construction Phase

6.65 The Home Builder Federation ('HBF') estimate that for every new house built, 1.5 direct jobs will be created. In addition to this, CEBR's report for the National Housebuilder's Federation published in 2018[1] indicates that for every 1 direct construction job 0.78 indirect jobs are created in the supply chain. As such, for each single dwelling constructed in the UK, 2.67 jobs are created in the UK economy. Therefore, based on a total of 48 dwellings, the Proposed Development will help to provide 125 jobs (71 of these being direct) and it is envisaged that it will take approximately 1.5 years to complete the Proposed Development.

6.66 The value of construction jobs created by the Proposed Development can be calculated into an annual wage generation figure by multiplying the number of jobs set out above by an average wage figure available from the Office for National Statistics ('ONS'), which stands £27,054 for construction and building trades personnel[2]. As such, the wage generation figure associated with the direct construction jobs is £1.9m over the life of the build programme, with additional wage generation coming from indirect jobs. Wages associated with indirect jobs are likely to be less, on average, but could add a further £1.4m into the local economy.

6.67 The Proposed Development will therefore create or secure 125 direct and in direct jobs and generate around £3.3m in wages over the life of the build programme.

Completion & Occupation

6.68 In addition to the above, key findings published by the ONS in 2019 offer an insight into household expenditure between 2016 and 2018[3]. The findings show that the average total

[1] https://www.hbf.co.uk/news/economic-footprint-uk-house-building-july-2018/

[2] https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/annualsurveyofhoursandearnings/2021#glossary

[3] https://www.ons.gov.uk/peoplepopulationandcommunity/personalandhouseholdfinances/expenditure/datasets/detailedhouseholdexpenditurebycountriesandregionsuktablea35

household expenditure in West Yorkshire between 2016 and 2018 was £521 per week. This includes a range of expenditure groups including household bills, transport, food, convenience goods and comparison goods.

6.69 Examining the findings and excluding the expenditure groups that were less likely to generate spending in the local economy, such as household rent, mortgage payments, household fuel and utilities, the average household expenditure for West Yorkshire was £451.90.

6.70 When applying these findings to the Proposed Development, the addition of 48 dwellings to the area could potentially generate £21,239 of additional household expenditure per week. This equates to around £1.1m of additional household expenditure per year being brought to the area. Over a 10-year period the Proposed Development could therefore generate of £11m of additional household expenditure within the local area.

6.71 In addition to the above, the development of new dwellings will also make an important contribution to the resources of the Council via Council tax and the New Homes Bonus.

6.72 The New Homes Bonus Scheme will bring in significant financial contribution from the Government to the district, the amount of which is determined by the increase in the number of homes. The New Homes Bonus is paid each year for 6 years and is based on the amount of extra Council Tax revenue raised for new build homes, conversions and long-term empty homes brought back into use. An extra payment is also made for the provision of affordable homes. The New Homes Bonus can generate significant financial contributions which will vary over time, but it is likely to equate to approximately £1,500 per unit per year. The Proposed Development will generate capital sum of in excess of £70,000 per year or £423,000 over the lifetime of the payments which can then be directly spent on district wide improvements.

6.73 In light of the above it is clear that the Proposed Development will generate economic benefits for the local area and the wider district, and this is a material consideration to which substantial positive weight can be attached.

Social Benefits

6.74 As a country and as a district, insufficient houses have been built over a considerable period of time leading to unsustainable house price inflation and a widening in the affordability gap. This is made clear by the latest Housing Delivery Test results for Kirklees. The Proposed Development will create 48 new open-market houses, thereby helping to address the significant housing need. The Proposed Development will therefore help the Council to satisfy the open market housing needs of the district and it will contribute towards achieving a five-year housing land supply as required by the NPPF. This benefit clearly coincides with the national aim of significantly boosting the supply of homes, as discussed previously in this report.

6.75 The erection of new housing would therefore have significant social benefits and noting the substantial need for homes of all kinds in the district we attach substantial positive weight to this matter.

Environmental Benefits

6.76 Paragraph 8 of the NPPF states that planning has an environmental objective which is:

"to protect and enhance our natural, built and historic environment, including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy."

6.77 Section 11 of the NPPF relates to making effective use of land and indicates that planning policies and decisions should encourage multiple benefits from both urban and rural land and take opportunities to achieve net environmental gains, such as where new development would enable new habitat creation or improve public access to the countryside.

6.78 As is demonstrated through the supporting information, the existing Site is sustainably located adjacent to the existing settlement and is in a location which allows people to walk to the village centre, the local nursery school and bus routes as well as a train station without using private vehicles.

6.79 Further, the reports attached to this submission indicate that the Site can be characterised as a field of rank grassland with areas of scattered trees and dense scrub, remnant outgrown hedgerows and occasional trees. These represent three habitat groups however there are no priority habitats on the Site.

6.80 As identified by the Council, the Site falls within the Kirklees Wildlife Habitat Network and the Biodiversity Opportunity Zone – Pennine Foothills, and also falls within the Strategic Green Infrastructure Area – River Dearne Corridor.

6.81 One tree has been identified with low potential for bat roosting and further survey work, including bat transect surveys, are being undertaken to determine whether there is any presence on Site.

6.82 The tree reports produced by Smeeden Foreman confirm that two small poor quality trees (an ash and elder tree) towards the northern boundary of the Site and a group of poor quality trees (ref. G12 – comprised of an Elder, Sycamore, and Hawthorn tree) along the Site's southern boundary will be removed in line with recommendations due to their Category U status. A full landscaping plan can demonstrate mitigation for any lost trees as necessary.

6.83 In addition, the Proposed Development will also deliver an area of public open space to the benefit of the future residents and the wider public. Without development, this area of land would remain private.

6.84 In addition, the ecology report provided as part of the Proposals concludes that the Proposed Development will have no significant residual ecological impacts on the Site and the forthcoming reports will outline measures to ensure no net loss of biodiversity and to mitigate against any potential habitat loss.

6.85 Overall, we consider that the Proposed Development will have a neutral to slight positive impact on environmental matters.

Summary

6.86 In conclusion, it has been demonstrated that the Proposed Development meets the social, economic and environmental dimensions of sustainability as set out in paragraph 8 of the NPPF.

6.87 It has also been shown that substantial positive weight can be attached to the economic benefits and social benefits and neutral to slight positive weight to the environmental considerations. It is therefore clear that these factors weigh strongly in favour of granting planning permission.

7.0 Planning Balance

7.1 This Statement has been prepared, on behalf of the Applicants, by DPP to assist the Council in their consideration of this full planning application which seeks permission for the erection of 48 dwellings.

7.2 The Framework seeks to significantly boost the supply of homes and recognises the contribution that small and medium sized sites can make in enabling planning authorities to maintain a supply of housing. The Proposed Development is consistent with these objectives.

7.3 The Site forms part of a larger parcel of land allocated for residential development in a recently adopted Development Plan. The Development Plan is up to date, and full weight can be given to it and the allocation.

7.4 We have shown that the Proposed Development accords with the requirements of Policy HS144 and as such the principle of the residential development is firmly established.

7.5 We have shown that, there is no policy or other material consideration which weighs against the granting of planning permission.

7.6 Conversely, we have shown that the Proposed Development will bring substantial social and economic benefits and the impact on environmental consideration is neutral to slight positive. We therefore consider that the Proposed Development very much falls within the definition of sustainable development.

7.7 Therefore, in line with paragraph 14 of the NPPF, planning permission should be granted without delay.