Development Management
Kirklees Council
Planning & Development Service
PO Box 1720
Huddersfield, HD1 9EL

19th December 2024

Dear Sir or Madam,

LAND AT CLIFF ROAD, DENBY DALE, HUDDERSFIELD – RESUBMISSION OF APPLICATION FOR FULL PLANNING PERMISSION – ERECTION OF RESIDENTIAL DEVELOPMENT FOR 62 DWELLINGS INCLUDING THE REQUIRED GROUNDS WORKS TO FACILITATE CONSTRUCTION OF DWELLINGS WITH ASSOCIATED HARD AND SOFT LANDSCAPING

We write on behalf of the applicants JGC (1980) and Nick Gould to submit a full planning application for the development of Land at Cliff Road, Denby Dale for 62 residential dwellings, landscaping, and the associated ground works required to enable the construction of the development.

The application represents a submission of planning application Ref. 2031/92191 which was refused by the Council on the 23rd July 2024, despite it being recommended for approval by officers prior to being heard at planning committee on the 16th May 2024 and 20th June 2024. The one reason for refusal was as follows: -

> ***The ground works, removal of coal, and remediation associated with the proposed development would result in an unacceptable number of vehicle movements and unacceptable environmental impacts. In addition, due to unknown conditions beneath the site, there is a lack of information that prevents it being fully ascertained what the environmental impacts of the aforementioned works would be. Furthermore, it has not been demonstrated that the site is suitable for residential development. The proposed development is therefore contrary to Policies LP24, LP36, LP52 and LP53 of the Kirklees Local Plan and chapters 8, 15 and 17 of the National Planning Policy Framework.***

This resubmission is made following a number of changes in circumstances which are material considerations that should be taken into account in the determination of this application. Which include as follows: -

- The publication of the new National Planning Policy Framework (NPPF) on the 12th December 2024. There is an overall rhetoric of accelerating the delivery of new homes in the country, and affordable homes in particular.

- The undertaking of a 'peer review' of the previous application by a 3rd party geo-environmental expert with 25 years' experience in site investigation and remediation mainly within Yorkshire and the North East. The result of this review is firmly that the documentation submitted alongside the original application, and the Council's Environmental Health Officer's (EHO) review of it, were robust and that the site can be developed without any adverse environmental impacts. In the same manner as recently constructed residential development sites which are part of the same housing allocation (Ref. HS144) and an adjacent housing allocation (Ref. H143) within the adopted Local Plan. The peer review has also corroborated the position of both the previous applicant and EHO that the specific amount of material required to be extracted from the site cannot be fully quantified until work commences on site, which is the same position with all development sites, not just those underlain by coal.

- We can confirm that the applicant does not intend to dispose of any coal extracted from the site for commercial purposes. Due to the nature of the works involved, it is expected that the coal/material extracted from the site will be inert on account of the process involved and the

geo-environmental composition of the site's ground conditions. Accordingly, the construction process will replicate other recent developments within this area of the District which did not have an unacceptable environmental impact.

- The applicants are willing to work with the Council to agree the details of the expected movements from vehicles throughout the construction process. Both in terms of times of day and a restriction of the number of movements each day. This will ensure that the amenity of neighbouring properties is protected at a greater level to that which is usually the case on residential development sites.

With regards to whether the site is suitable for residential development, on account of the available evidence the applicant's position is that it is unequivocal that the application site represents a suitable site for residential development. This position is also corroborated by the 3rd party peer review letter and the Council's granting of planning permission of a separate housing development which is sited within the same housing allocation (Ref. HS144). A site which shares the same geo-environmental composition as the application site, and which has since been constructed without any of the perceived environmental impacts that were referred to in the original reason for refusal associated with the planning application at this site.

We provide further information in respect of each of the above points below and conclude by confirming that it is clear that the site is suitable for residential development. Indeed, the principle of development was established when the site was allocated for housing in the Kirklees Local Plan, following the undertaking of a number of assessments to confirm that the site was a deliverable (suitable, available, and achievable) residential development site.

Finally, for the avoidance of any doubt, the planning application is again supported by the same plans and documents as listed in the Decision Notice associated with the previously refused planning application.

IMPLICATIONS OF THE REVISED NATIONAL PLANNING POLICY FRAMEWORK

The revised NPPF was published on the 12th December 2024. Paragraph 231 of the guidance makes clear that the policies contained within it are material considerations which should be taken into account in dealing with applications from the day of its publication. In this regard, below we provide a synopsis of the key revisions made to the NPPF which impact upon the development proposals: -

- There is an overall rhetoric of accelerating the delivery of new homes across the country, and affordable homes in particular. The development will of course deliver a policy compliant 20% affordable homes across a range of affordable tenures.

- Presumption in Favour of Sustainable Development – Paragraph 11 d) – Whilst it is our position that the development proposals fully accord with the Development Plan (and would therefore fall to be assessed against paragraph 11(c) in planning terms), the strengthening of the objective to accelerate the delivery of affordable homes is made clear in Paragraph 11 d) where the provision of affordable homes is specifically identified as a matter that decision-taking should pay a particular regard to. The development will of course deliver a policy compliant 20% affordable homes across a range of affordable tenures.

- Delivering A Sufficient Supply of Homes – Paragraph 61 – The amended wording strengthens the Government's approach to the delivery of new homes where it confirms that the overall aim should be to meet an area's identified housing need, removing the reference to '*as much……need as possible*". When determining the planning application the Council need to consider the implications of doing so on the delivery of the District's housing needs which should be met. The site is of course allocated for housing in the adopted Local Plan.

- Delivering A Sufficient Supply of Homes – Paragraph 62 – The paragraph makes clear that to determine the minimum number of homes needed, strategic policies should be informed by a

local housing need assessment, conducted using the standard method in national planning practice guidance. On the same day, the Government published the results of the new standard method calculation for each of the country's local authority areas. For the Kirklees area the annual housing requirement has increased to **1,840 homes** per annum.

- Delivering A Sufficient Supply of Homes – Maintaining Supply & Delivery – Paragraph 78 – Due to the increase in the District's annual housing needs the Council will continue to be unable to demonstrate a 5-year land supply (5YLS) of deliverable housing sites and the implications of the revised NPPF is an increase in the Council's 5YLS deficit by a minimum of 550 homes (or 660 homes with the 20% buffer included). Based on the latest available data provided by the Council this would increase the 5YLS shortfall from 2,800 homes to 3,460 homes. Accordingly, the presumption in favour of sustainable development outlined in Paragraph 11 would continue to be engaged and the Council's action plan for meeting this shortfall should surely focus on the approval of applications on allocated housing sites where there is no strong reason for refusal.

It is clear that the revisions made to the NPPF give even greater weight to the benefits associated with the delivery of new market and affordable homes on this allocated housing site. As outlined above, the Presumption in Favour of Sustainable Development, otherwise know as the 'tilted balance', is engaged and as the development clearly accords with the policies of the Kirklees Local Plan this planning application should be approved without delay.

PEER REVIEW OF PREVIOUSLY SUBMITTED GEO-ENVIRONMENTAL DOCUMENTATION

Enclosed with the revised submission is a 'Peer Review' undertaken by RSK Geosciences of the ground investigation reports and a treatment specification for the proposed residential site at the site. The reviewer and author of the enclosed letter is an Associate Director and Team Leader for RSK Geosciences, with 25 years' experience relating to site investigation and remediation mainly within Yorkshire and the North East. RSK Geosciences work with a number of national housebuilders across the region.

The review outlines that the ground investigation reports demonstrate the site is not contaminated and this has been accepted by the contaminated land team at Kirklees Council.

The site has a coal mining legacy, which has been investigated, with shallow mine workings and mine entries proved within the site. A treatment plan has been proposed, the concept of which has been reviewed by the Coal Authority, who have no objection to the proposed development.

Treatment of shallow workings will be undertaken by drilling and grouting, which has been undertaken on many development sites within West Yorkshire. With respect to earthworks to lower site levels, a surplus of material will be created within the site that will require export off site, this will include coal. The removal of the coal and other material is a standard earthworks exercise to enable design levels to be achieved. Where coal is left in situ, it will be covered with at least 1m of inert material, as recommended by Kirklees.

The cut and fill earthworks will be undertaken with regulated environmental controls relating to noise, dust, surface water runoff, vibration, and traffic movements. The environmental controls are detailed in the Construction Environmental Management Plan (CEMP), which has been submitted to planning and is considered by RSK to be suitable for the site. The use of a CEMP, which is standard on all development sites, ensures that we have planning conditions that control the site conditions to ensure that the correct measures are put in place throughout the entirety of the construction process. Other sites in the immediate vicinity of Cliff Hall had similar ground conditions as a result of shallow mining. These nearby sites have been successfully treated, using the same treatment methods as proposed at Cliff Hall, to allow residential development.

In summary, the peer review has confirmed that site investigation works to date have been able to demonstrate that the site is suitable for residential development, albeit further investigations works are

required which can be undertaken during the enabling earthworks and drilling and grouting stabilisation works.

Whilst RSK Geosciences appreciate the previous request by 3rd parties that the developers confirm the specific amount of material, which is required to be taken from the site, we share the view that this is something that cannot be fully quantified until work commences on site. This is the same position with all development sites, not just those underlain by coal. But what we can confirm is that the processes which have been proposed for the groundworks and treatment at the Cliff Hill site is in full accordance with the required regulations outlined in CIRIA C758D (2019), Construction Procedures for Earthworks BS EN 16907-3:2018 and guidance in NHBC Chapter 4.6. This will ensure that there are no adverse environmental impacts throughout the construction process. The adjacent development sites have followed the same process that is being proposed here. Which is direct evidence of the robustness of the measures which are proposed to be put in place at the Cliff Hill site.

The result of the peer review is firmly that the documentation submitted alongside the original application, and the Council's Environmental Health Officer's (EHO) review of it, were robust and that the site can be developed without any adverse environmental impacts. In the same manner as recently constructed residential development sites which are part of the same housing allocation (Ref. HS144) and an adjacent housing allocation (Ref. H143) within the adopted Local Plan. Indeed, the previously proposed conditions by the EHO mirror those which were approved on the applications/developments which have since been built out without any known issues.

Finally, the peer review has also corroborated the position of both the previous applicant and EHO that the specific amount of material required to be extracted from the site cannot be fully quantified until work commences on site, which is the same position with all development sites, not just those underlain by coal. Such details can be secured via an appropriately worded planning condition, and we can confirm that the applicants are happy to accept the same conditions which were imposed on the neighbouring developments associated with the same housing allocation (Ref. HS144) and the adjacent housing allocation Ref. H143.

THE SITES SUITABILITYT FOR RESIDENTIAL DEVELOPMENT

In order to demonstrate the site's suitability for residential development, we have undertaken an assessment of the sites deliverability in accordance with the definition provided within Annex 2 of the revised NPPF which states that: -

> ***To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years***

It is our clear view that the site can be considered as a ***Deliverable*** residential development site on account of: -

Suitability

The site is allocated for residential development under Site Allocation Ref. HS144 within the adopted Kirklees Local Plan. The Kirklees Local Plan is the statutory development plan for the Kirklees District local authority area. Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Accordingly, the principle of residential development at the site is established by its allocation in the adopted Kirklees Local Plan.

As stated above, Paragraph 11 c) of the NPPF identifies that decisions should apply a presumption in favour of sustainable development which means approving proposals that accord with an up-to-date development plan without delay. Whilst the development proposals accord with the development plan, footnote 8 to Paragraph 11 d) of the NNPF also establishes that the development plan is currently out

of date by virtue of the Council being unable to demonstrate a five year supply of deliverable housing sites. Accordingly, the Council are required to grant planning permission unless: -

i. *the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or*

ii. *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places, and providing affordable homes, individually or in combination.*

The site is not located within a protected area and does not have any impact on assets of particular importance.

It is the applicant's clear position that there are no adverse impacts associated with the development which would ***significantly and demonstrably*** outweigh the benefits, especially when taking into account either individually or in combination that the site is located within a sustainable location; will deliver a density which makes an effective use of land when considered against the site allocation capacity; will deliver a well-designed housing scheme; and will provide a policy compliant level of affordable homes.

The most succinct way of demonstrating this position is through summarising the conclusions reached within the 20th June 2024 planning officer committee report associated with the scheme. The report is enclosed with this letter and the key elements are summarised as follows: -

- Housing Need & Delivery – Paragraph 11. 7 - A residential development of 62 dwellings would make a significant contribution towards meeting identified needs. This attracts significant weight in the balance of material planning considerations relevant to the current application.

- Principle of Development – Paragraph 11.13 – The principle of residential development at the application site is considered acceptable, subject to the further discussion of other relevant matters later in this report.

- Quantum & Density – Paragraph 11.26 - it is considered that the proposed density - while below the figure set out in Local Plan policy LP7 – is acceptable. The development represents an efficient use of scarce allocated land.

- Sustainable Location – Paragraph 11.28 – The application site is considered to be a sustainable location for residential development, as it is on the edge of an existing, established settlement that is served by public transport and other (albeit limited) facilities. As noted above, Denby Dale has a number of shops, food and drink establishments, education and sports facilities, places of worship, a community hall, a community library, open spaces, and other facilities. Denby Dale railway station is a 600m walk (approximately) from the entrance to the application site. The nearest bus stops are on Cumberworth Lane to the south of the application site, and other bus stops further to the south on Wakefield Road are served by several bus routes. Given these facilities, at least some of the daily, social and community needs of residents of the proposed development could be met locally (within walking distance), and combined trips could be made, which further indicates that residential development at this site can be regarded as sustainable.

- Climate Change – Paragraph 11.29 – A Climate Change Statement has been submitted with the application. This includes commitments regarding the use of air source heat pumps, the

specification of energy-efficient electrical goods, the provision of instructions for residents, the implementation of a carbon reduction plan during construction, the orientation of dwellings to maximise solar gain (where possible), the implementation of measures to reduce flood risk, the implementation of water-saving measures, and the inclusion of appropriate landscaping incorporating biodiversity enhancements.

- Sustainable Development – Paragraph 11.25 - In light of the assessment set out above and later in this report, it is considered that the proposal can be regarded as sustainable development.

- Urban Design Matters – Paragraph 11.41 - The proposed development's internal layout is considered to be legible and logical. It appropriately responds to the site's topography (as far as is possible, given the need to achieve appropriate road gradients) and other constraints such as the TPO-protected tree

- Urban Design Matters – Paragraph 11.42 - The proposed typologies and house types are considered appropriate for this site. A welcomed mix of terraced, detached, and semi-detached dwellings is proposed. This is reflective of the variety that surrounds the application site and would ensure that a repetitive or monotonous street scene is not created.

- Urban Design Matters – Paragraph 11.43 - The proposed elevations are considered acceptable for this location. The proposed pitched roofs and fenestration arrangements are suitably reflective of local vernacular, while other details (including the proposed forward-facing gables and timber entrance canopies) would add interest to the elevations and street scene.

- Residential Quality & Amenity – Paragraph 11.55 – In terms of noise, although residential development would increase activity and movements to and from the site, given the quantum of development proposed, and the number and locations of new vehicular and pedestrian entrances that new residents would use to access the site, it is not considered that neighbouring residents would be significantly impacted. The proposed residential use is not inherently problematic in terms of noise and is not considered incompatible with existing surrounding uses in relation to noise.

- Highways & Transportation Issues – Paragraph 11.90 - It is considered that the impact of the traffic generated by the development would have no material or severe impact on the operation or safety of the local highway network.

- Highways & Transportation Issues – Paragraph 11.100 - The site access proposals and associated works on Cumberworth Lane are considered acceptable and would provide an improvement over the current arrangements.

- Flood Risk & Drainage – Paragraph 11.130 & 11.131 - The Lead Local Flood Authority (the LLFA) support the application. Yorkshire Water have not objected to the proposals.

- Environmental Health Considerations – Paragraph 11.133 - The applicant's air quality methodology is considered by KC Environmental Health to be acceptable, and no further mitigation measures are required for this development.

- Environmental Health Considerations – Paragraph 11.136 - Regarding noise during the remediation and construction phase, works would be restricted to appropriate hours, and the applicant's proposed construction methodology (to the extent it has been detailed to date) is considered acceptable.

- Environmental Health Considerations – Paragraph 11.139 – Conditions are recommended requiring the submission of management plans for both the extraction and construction phases of development. Both plans would need to specify hours of working, and control noise and vibration, dust, and artificial lighting to minimise impacts upon neighbouring residents.

- Site Contamination & Stability – Paragraph 11.151 – It is recommended that other conditions relating to the remediation of the site's coal mining legacy be applied in accordance with the forthcoming further comments of the Coal Authority. Subject to appropriate details being submitted pursuant to these conditions, it is considered that the applicant's proposals would satisfactorily stabilise the site (in accordance with the NPPF and the Local Plan), rendering it able to accommodate residential development.

- Ecological Considerations – Paragraph 11.164 – Subject to the biodiversity net gain contribution being secured, and conditions being applied in relation to ecological mitigation and landscaping, it is considered that the proposed development is acceptable in terms of its ecological impact.

- Planning Obligations – Paragraph 11.179 – The following planning obligations securing mitigation (and the benefits of the proposed development, where relevant to the balance of planning considerations) would need to be included in a Section 106 agreement: -

    - Affordable housing – 12 affordable dwellings (seven social/affordable rent, three First Homes, and two others intermediate) to be provided in perpetuity.

    - Open space – Off-site contribution of up to £120,055 to address shortfalls in specific open space typologies.

    - On-site open space inspection fee – £250.

    - Education – Contribution of £97,444 towards secondary provision.

    - Sustainable transport – Measures to encourage the use of sustainable modes of transport, including: -
        - £49,335.88 contribution towards sustainable travel measures;
        - Implementation of a Travel Plan;
        - £10,000 towards Travel Plan monitoring; and
        - Provision of public access between the development's estate road and public footpath DEN/61/10 (and maintenance of links) in perpetuity.

    - Biodiversity – Contribution of £147,775 towards off-site measures to achieve biodiversity net gain.

    - Management and maintenance – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, of infrastructure (including surface water drainage until formally adopted by the statutory undertaker, and of the site's existing watercourse) and of street trees (if planted on land not adopted).

- Conclusion – Paragraphs 12.1 to 12.5 – The principle of residential development at this site is considered acceptable. The applicant has satisfactorily addressed the concerns set out in the previous reasons for refusal (ref: 2022/91911), and concerns raised during the life of this application. The site has constraints in the form of adjacent residential development (and the amenities of these properties), access, topography, drainage, ecological considerations,

heritage, and other matters relevant to planning. These constraints have been sufficiently addressed by the applicant or would be addressed at conditions stage. The proposed development has been assessed against relevant policies in the development plan and other material considerations. Subject to conditions, it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) and is therefore recommended for approval.

It is clear that it was the view of the Council's planning officers that the application site represents a suitable site for residential development. There are no objections to the development proposals from any of the Council's technical officers or statutory consultees.

A number of planning conditions were proposed within the report. All of which were discussed with the applicant and agreed at the time. The applicant can again confirm their acceptance of these conditions.

However, as identified above, with specific reference to the previous reason for refusal and concerns associated with coal extraction and the construction process, the applicant is happy to work with the Councill to agree amended/additional conditions which would secure the following: -

- We can confirm that the applicant does not intend to dispose of any coal extracted from the site for commercial purposes. Due to the nature of the works involved, it is expected that the coal/material extracted from the site will be inert on account of the process involved and the geo-environmental composition of the site's ground conditions. Accordingly, the construction process will replicate other recent developments within this area of the District which did not have an unacceptable environmental impact.

- The applicants are willing to work with the Council to agree the details of the expected movements from vehicles throughout the construction process. Both in terms of times of day and a restriction of the number of movements each day. This will ensure that the amenity of neighbouring properties is protected at a greater level to that which is usually the case on residential development sites.

On account of the evidence provided above it is unequivocal that the application site represents a suitable site for residential development. This position is also corroborated by the enclosed 3rd party peer review letter and the Council's granting of planning permission of a separate housing development which is sited within the same housing allocation (Ref. HS144). A site which shares the same geo-environmental composition as the application site, and which has since been constructed without any of the perceived environmental impacts that were referred to in the original reason for refusal associated with the planning application at this site.

Availability

The site is available for residential development now as there are no legal or ownership constraints as the landowners by virtue of this and the previous planning applications are expressing an intention to develop the site for residential use within the next 5-years.

Achievability

A viable housing development can be delivered at the site within the next 5 years. The landowners are in discussions with a number of developers, including national housebuilders, who are interested in developing the site for residential use. Each of the interested parties have had the benefit of being able to review the technical reports submitted alongside the previous planning application, which has enabled them to undertake their own economic viability assessment of the site, including an assessment of any site-specific abnormal costs. The site is considered to be achievable for residential development now as there is a realistic prospect that the site can deliver new homes within the next 5 years.

Deliverability Conclusion

The site can be considered a deliverable residential development site and its release would deliver significant economic and social benefits in the form of: -

- Creating a sustainable community which contributes to the District's market and affordable housing needs, offering existing and potential residents of the District the opportunity to live in the house and location they desire.

- New construction expenditure in the region of £9m creating substantial direct and indirect employment opportunities of approximately 39 new direct jobs and 54 new indirect jobs of which 70% are usually retained in the local area.

- Sustaining and improving Kirklee's labour market through delivering new homes in the right location.

- Increasing retail and leisure expenditure in the local area by approximately £1.4m per annum, creating 9 jobs in these sectors.

- Provision of funding towards public services from an estimated figure of £500k from the Government's new homes bonuses & annual council tax payments of circa £90k per annum.

The development of the site will deliver a number of socio-economic benefits to Denby Dale and the wider District within 5-years of the approval of the planning application, alongside making an important contribution to the Council's current 5-year housing land supply deficit.

CONCLUSION

The development proposals will create a sustainable, high quality and accessible development which will provide significant benefits to Denby Dale and the wider Kirklees area. Notably in respect of the delivery of new homes on an allocated housing site.

There have been a number of changes in circumstances which are material considerations that should be taken into account in the determination of this new application. Most notably the publication of the revised NPPF which makes clear the Government's overall objective of accelerating the delivery of new homes across the country.

Within this letter we have also outlined our response to the Council's previous reason for refusal, which we request is given sufficient weight in the determination of this application.

The development proposals can be considered Sustainable Development as defined by the NPPF and should be approved without delay.

We trust that this submission meets the Council's requirements in order that this application can be validated immediately. Should you wish to discuss any of the above, please do not hesitate to contact me.

Yours sincerely,

PAUL BUTLER
Director