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**Report of the Head of Planning and Development**

**STRATEGIC PLANNING COMMITTEE**

**Date: 23-Sep-2021**

**Subject: Planning Application 2021/91571 Erection of residential development for 125 dwellings (revised layout) land south of The Lodge and north of Church Lane, Linthwaite, Huddersfield**

**APPLICANT**

Mark Schofield, P Casey  
and Co Ltd / Yorkshire  
Housing

**DATE VALID**

16-Apr-2021

**TARGET DATE**

16-Jul-2021

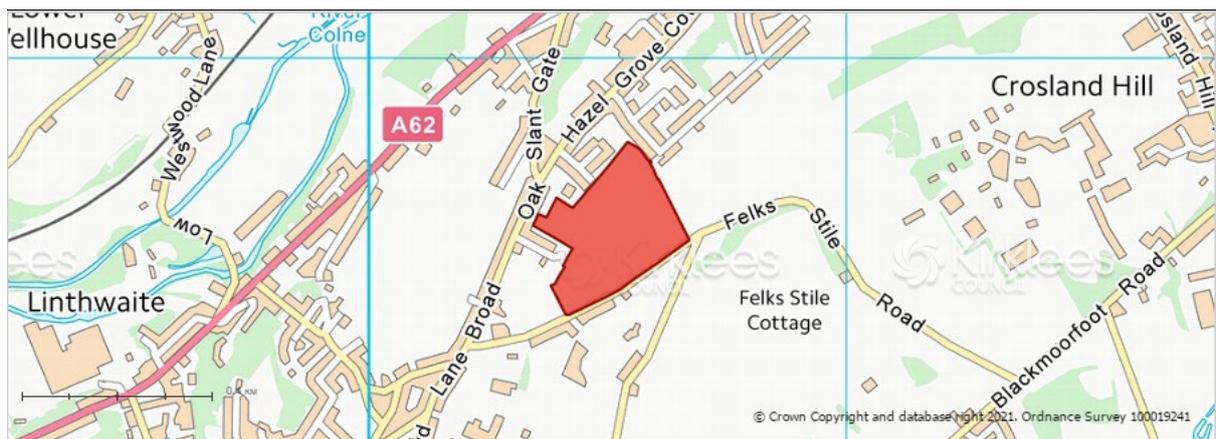
**EXTENSION EXPIRY DATE**

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Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

**LOCATION PLAN**



**Map not to scale – for identification purposes only**

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**Electoral wards affected:** Colne Valley

**Ward Councillors consulted:** Yes (ward Members for adjacent wards (Golcar and Crosland Moor and Netherton) also consulted)

**Public or Private:** Public

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**RECOMMENDATION:**

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report and to secure a Section 106 agreement to cover the following matters:

- 1) Affordable housing – 125 affordable housing units to be provided in perpetuity.
- 2) Open space – Off-site contribution of £173,180 required to address shortfalls in specific open space typologies.
- 3) Education – £424,606 contribution required.
- 4) Undeveloped land – No ransom scenario to be created.
- 5) Sustainable transport – Measures to encourage the use of sustainable modes of transport, including a £63,938 financial contribution, implementation of a Travel Plan and £10,000 towards Travel Plan monitoring.
- 6) Management – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker).
- 7) Biodiversity – Contribution (amount to be confirmed) towards off-site measures to achieve biodiversity net gain.
- 8) Traffic Regulation Order – Funding of TRO relating to parking restrictions outside Church Lane site entrance, and provision of double yellow lines.

In the circumstances where the Section 106 agreement has not been completed within three months of the date of the Committee's resolution then the Head of Planning and Development shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the mitigation and benefits that would have been secured; if so, the Head of Planning and Development is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

**1.0 INTRODUCTION:**

- 1.1 This is an application for full planning permission for the erection of 125 dwellings.
- 1.2 This application is presented to Strategic Planning Committee as the proposal is a residential development of more than 60 units.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site is 6 hectares in size and is allocated for housing in the Local Plan (site allocation ref: HS129). The site is bounded by Church Lane to the south, and meets the termini of The Lodge and Kinder Avenue towards the site's north corner. The site shares borders with several residential properties on Ladybower Avenue, The Lodge and Broad Oak, and with the grounds of Broad Oak Bowling Club. To the southwest, beyond a vehicular access lane and a public footpath, is Broad Oak Cricket Club.
- 2.2 The site is greenfield land and is currently in agricultural use. The site generally slopes downhill from south to north. The site's lowest point is at its north corner (approximately 195m AOD), and its highest point is at its east corner (approximately 230m AOD).
- 2.3 No part of the site is within a conservation area, and there are no listed buildings within the site, however historic field boundaries within and surrounding the site are undesignated heritage assets, as are the adjacent public footpaths. The nearest listed buildings are to the southwest (Christ Church) and north (60-62 Hazel Grove, Cowlersley Lane).
- 2.4 The site has landscape sensitivity resulting from its location, surrounding topography, and visibility from surrounding locations, including from across the Colne Valley.
- 2.5 No trees within or immediately adjacent to the site (within Kirklees) are protected by Tree Preservation Orders. Adjacent land to the south, east and southwest is green belt. The adjacent bowling green is designated as Urban Greenspace in the Local Plan. The site is within a Biodiversity Opportunity Zone (Valley Slopes), an Impact Risk Zone of a Site of Special Scientific Interest, and a twite buffer zone. Land to the southeast is part of the Wildlife Habitat Network.
- 2.6 The site's existing boundaries are dry stone walls and timber fences.
- 2.7 No public rights of way cross the site, however public footpath HUD/235/10 runs north-south along the site's eastern boundary. Public footpath COL/66/40 runs north-south outside the site's western boundary, beyond a private access lane.
- 2.8 Much of the site is within a 250m buffer zone of a historic landfill site on Cowlersley Lane.

## **3.0 PROPOSAL:**

- 3.1 The application is for full planning permission for the erection of 125 residential units. These would be provided along a new main estate road connecting Kinder Avenue to Church Lane, along a long cul-de-sac running southwest-to-northeast (and parallel to the longer stretch of the main estate road), and around a shorter cul-de-sac at the site's west corner.
- 3.2 A drainage attenuation basin is proposed at the site's north corner. The southeast part of the site would remain undeveloped, as would an area at the site's south corner where there is a risk of cricket ball strike.

- 3.3 A pedestrian connection is proposed between the main estate road and The Lodge. Another pedestrian connection is proposed at the terminus of the longer cul-de-sac, connecting to public footpath HUD/235/10. A footpath is also proposed close to the site's boundary along Church Lane, connecting the proposed site entrance to public footpath HUD/235/10 and an informal path that continues eastwards.
- 3.4 Off-street car parking is proposed in private driveways and garages.
- 3.5 All of the 125 residential units would be affordable. 10x 2-bedroom flats, 10x 2-bedroom houses, 86x 3-bedroom houses and 19x 4-bedroom houses are proposed. A 33% affordable rent / 67% intermediate tenure split is proposed.
- 3.6 All buildings would be two storeys in height. The proposed flats would occupy two blocks, and the proposed houses would be detached, semi-detached and provided in short terraces, in eight different house types (with variants thereof).
- 3.7 The applicant intends to dispose of surface water via the proposed attenuation basin, from which water would be discharged at a controlled rate to the existing combined sewer beneath Kinder Avenue. Foul water would also be disposed of via the existing combined sewer.

#### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

- 4.1 2002/93718 – Planning permission refused 30/01/2003 for the erection of a stable block.
- 4.2 2003/92194 – Planning permission granted 09/07/2003 for the erection of a stable block.
- 4.3 At the adjacent site to the east (at the terminus of Kinder Avenue) an application (ref: 2020/93291) for the erection of two dwellings is currently under consideration.

#### **5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):**

- 5.1 The applicant requested pre-application advice from the council in May 2017 (ref: 2017/20171) in relation to a residential development of 172 dwellings. Officers met with the pre-applicant team on 06/07/2017, and written advice was provided on 11/10/2017.
- 5.2 The applicant team subsequently amended the proposals, and draft layout drawings were submitted. Further meetings were held with officers on 25/06/2019 and 22/07/2019, and with ward Members (Cllr Warner, Cllr Bellamy and former Cllr Walker) on 16/07/2020. Further written advice was provided on 14/08/2020 and 10/03/2021.
- 5.3 Prior to submitting the current planning application, the applicant delivered 1,100 consultation leaflets to neighbouring properties. This leaflet included details of the emerging proposals, and invited residents to submit their views to a dedicated email address or via a telephone number. The applicant's Statement of Community Involvement reports that, over a 19-day consultation period, 59 responses were received.

- 5.4 During the life of the current application, the applicant submitted amended drawings which revised the proposed developable area (to avoid a ball strike risk area and to obviate the need for an unacceptable net or fence) and included other layout amendments (including a widened entrance to The Lodge and landscaped gaps between dwellings). Related landscaping drawings were also submitted, as were 3D images of the proposed development. A revised ball strike risk report, a revised Landscape and Visual Appraisal, ground gas and contamination information, a technical note regarding highways, details of amended house types, a revised Ecological Impact Assessment (and biodiversity net gain metric calculation), a revised Planning Statement, a Preliminary Construction Method Statement and a summary of revisions and responses to consultees were also submitted during the life of the current application.
- 5.5 On 09/09/2021 the council issued an Environmental Impact Assessment (EIA) Screening Opinion, confirming that the proposal was not EIA development (ref: 2021/20583).

## **6.0 PLANNING POLICY:**

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27/02/2019).

### Kirklees Local Plan (2019):

- 6.2 The application site is allocated for residential development in the Local Plan (site allocation ref: HS129). The site allocation sets out an indicative housing capacity of 170 dwellings, and identifies the following constraints relevant to the site:
- The provision of a pedestrian footway is required across the site frontage.
  - Noise source near site – noise from sports facilities.
- 6.3 Site allocation HS129 also identifies the following site-specific considerations:
- Development on this site should have regard to the topography and the southeast area of the site should remain open to form a continuation of the open steep hill from the east of the site.
  - Links to the Wildlife Habitat Network
- 6.4 Site allocation HS129 refers to a gross site area of 5.99 hectares, but identifies a net site area of 4.91 hectares, taking into account a reduced developable area due to the site's topography, and a need to keep the southeast area of the site open to form a continuation of the open steep hill from the east of the site.
- 6.5 Relevant Local Plan policies are:
- LP1 – Presumption in favour of sustainable development  
LP2 – Place shaping  
LP3 – Location of new development

LP4 – Providing infrastructure  
LP5 – Masterplanning sites  
LP7 – Efficient and effective use of land and buildings  
LP9 – Supporting skilled and flexible communities and workforce  
LP11 – Housing mix and affordable housing  
LP19 – Strategic transport infrastructure  
LP20 – Sustainable travel  
LP21 – Highways and access  
LP22 – Parking  
LP23 – Core walking and cycling network  
LP24 – Design  
LP26 – Renewable and low carbon energy  
LP27 – Flood risk  
LP28 – Drainage  
LP30 – Biodiversity and geodiversity  
LP32 – Landscape  
LP33 – Trees  
LP34 – Conserving and enhancing the water environment  
LP35 – Historic environment  
LP38 – Minerals safeguarding  
LP47 – Healthy, active and safe lifestyles  
LP48 – Community facilities and services  
LP49 – Educational and health care needs  
LP50 – Sport and physical activity  
LP51 – Protection and improvement of local air quality  
LP52 – Protection and improvement of environmental quality  
LP53 – Contaminated and unstable land  
LP63 – New open space  
LP65 – Housing allocations

Supplementary Planning Guidance / Documents and other documents:

6.6 Relevant guidance and documents:

- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Kirklees Housing Strategy (2018)
- Kirklees Strategic Housing Market Assessment (2016)
- Kirklees Interim Affordable Housing Policy (2020)
- Affordable Housing SPD (2008)
- Kirklees Joint Health and Wellbeing Strategy and Kirklees Health and Wellbeing Plan (2018)
- Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
- Negotiating Financial Contributions for Transport Improvements (2007)
- Providing for Education Needs Generated by New Housing (2012)
- Highway Design Guide SPD (2019)
- Waste Management Design Guide for New Developments (2020)
- Green Street Principles (2017)
- Viability Guidance Note (2020)
- Planning Applications Climate Change Guidance (2021)
- Housebuilders Design Guide SPD (2021)
- Open Space SPD (2021)
- Biodiversity Net Gain Technical Advice Note (2021)

## Climate change

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

### National Planning Policy and Guidance:

- 6.9 The National Planning Policy Framework (2021) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal. Relevant paragraphs/chapters are:
- Chapter 2 – Achieving sustainable development
  - Chapter 4 – Decision-making
  - Chapter 5 – Delivering a sufficient supply of homes
  - Chapter 8 – Promoting healthy and safe communities
  - Chapter 9 – Promoting sustainable transport
  - Chapter 11 – Making effective use of land
  - Chapter 12 – Achieving well-designed places
  - Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
  - Chapter 15 – Conserving and enhancing the natural environment
  - Chapter 16 – Conserving and enhancing the historic environment
  - Chapter 17 – Facilitating the sustainable use of materials.
- 6.10 Since March 2014 Planning Practice Guidance for England has been published online.
- 6.11 Relevant national guidance and documents:
- National Design Guide (2019)
  - Technical housing standards – nationally described space standard (2015, updated 2016)
  - Fields in Trust Guidance for Outdoor Sport and Play (2015)
  - National Model Design Code (2021)

## **7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application was advertised as a major development and as development affecting a public right of way and the setting of a listed building.

7.2 The application was advertised via four site notices posted on 12/05/2021, a press notice published on 07/05/2021, and letters delivered to addresses close to the application site. A corrected press notice was published on 16/07/2021. Following the submission of amended drawings and supporting information, four further site notices were posted on 20/08/2021 and reconsultation letters were delivered to addresses close to the application site. This is in line with the council's adopted Statement of Community Involvement. The end date for publicity was 13/09/2021.

7.3 68 representations were received in response to the council's consultation and reconsultation, including a representation from the Broad Oak Recreational Grounds Trust and a representation from the Vice President of the Broad Oak Bowling Club. These representations have been posted online. The following is a summary of the comments made:

- Amendments do not address earlier concerns.
- Objection to loss of green belt land. Council did not inform residents that land was no longer in the green belt. Objection to development of greenfield site. Other sites and brownfield land should be developed instead.
- Loss of greenfield land nearby would be compounded.
- Objection to density of development.
- Proposal is out of character with surroundings. Aesthetically unappealing development. Quiet rural nature of area would be lost.
- Loss of Broad Oak's village identity. Proposed development would merge historic villages.
- Adverse impact upon conservation areas and listed buildings.
- Stone should be used, which may affect costs and affordability of homes.
- Objection to proposed use of brick.
- Recent newbuilds nearby have been of a poor quality.
- Flats are not typical to the area.
- Population of Linthwaite would increase by 10%. Population of Broad Oak would increase by 30%.
- Appeal of Linthwaite would be reduced. Sustainable communities would be undermined by several developments.
- Other local developments have stalled.
- Inadequate demand for homes.
- Permission has been refused for houses adjacent to 143 Kinder Avenue.
- Objection to a high ball strike net. Net would be unsightly and ineffective. Broad Oak Recreational Grounds Trust would not give permission for erection of this net on their land. Cricket club would remain liable for damage from balls. Concern regarding maintenance of net. Net may result in damage to trees.
- Loss of privacy. Increased overlooking.
- Loss of views.
- Loss of natural light. Overshadowing caused by proposed trees.

- Light pollution. Stars would no longer be visible.
- Concern regarding location and amenity impact of bin store serving flats. Odours from bins. Vermin concerns.
- Noise from occupied development and its traffic. Noise from communal garden of proposed flats.
- Noise, dust and disturbance during construction.
- Concern regarding construction hours.
- Noise will prevent neighbouring residents from working from home.
- Increased air pollution.
- Adverse health impacts, including mental health.
- Increased risk of crime, affecting existing neighbouring residents.
- Risk of noise complaints from new residents against events held at adjacent bowling club.
- Overlooking of existing neighbouring residents.
- Increased traffic. Cowlersley Lane is already used to access motorway. Church Lane is congested at start and end of school day. Cumulative traffic impacts.
- Highway safety concerns. Traffic calming needed. Vehicles cannot pass safely on Kinder Avenue. Access from Kinder Avenue should only be one-way. Kinder Avenue is heavily parked. Ladybower Avenue is used by children for playing. Junction of Cowlersley Lane/Ladybower Avenue is a bottleneck. Part of Church Lane is notorious for accidents. Safety risk to schoolchildren.
- Objection to creation of a through-route and short cut.
- Adverse impact upon safety of public footpath users. Footpath users would have to divert.
- Bus stops would be dangerous to use. Concern regarding relocation of bus stop.
- Site cannot be accessed by train. Local bus services are poor.
- Inadequate parking proposed for residents and visitors.
- Query whether cycle lanes would be provided.
- Concern regarding construction traffic routing.
- Increased flood risk. Land around bowling club already becomes waterlogged. Springs exist at the application site. Treeplanting would not help mitigate flood risk. Existing fields serve as a soakaway for rainwater. Climate change will result in wetter winters.
- Query as to how basin would be drained. Management and dredging of basin queried. Safety risk to children created by basin. Basin may be used as a meeting point for youths, and a location for anti-social behaviour.
- Existing sewers could not cope with additional foul water.
- Adverse impact upon wildlife. Loss of buttercup meadow. Bats, deer and other species would be affected. Light pollution would deter nocturnal wildlife.
- Lack of local infrastructure, including school places, doctors, dentists, shops and public transport. No social clubs exist for youths.
- Quality of life would be reduced.
- Existing shared boundaries should be maintained.
- Council should pay for damage to adjacent properties.
- Loss of property value. Compensation should be paid.
- Consultation period too short.
- Support for construction of new homes.

- 7.4 Responses to these comments are set out later in this report.
- 7.5 Later submissions (made after or during the above reconsultation) did not necessitate further public reconsultation.

## 8.0 CONSULTATION RESPONSES:

The following is a brief summary of consultee advice (more details are contained within the assessment section of the report, where appropriate):

### 8.1 Statutory:

- 8.2 Sport England – Objection withdrawn, subject to further clarification being provided or the imposition of conditions detailing 1) how public access to land at the site's south corner would be restricted, and 2) a 2m high boundary treatment to the curtilage of unit 1.
- 8.3 Lead Local Flood Authority – Due to steepness of slopes and perched water, we agreed that infiltration should not be used at this site. Connection to public sewer is the only remaining option. No objection to a 5l/s connection. Applicant's indicative flood routing plan is acceptable. The history of flooding to existing properties would be lessened by intercepting water by developing the site. The land adjacent to these existing properties would be kept free from development and the road to the south would contain exceedance flows. Basin design can be conditioned. Section 106 agreement needs to secure management and maintenance arrangements for the proposed drainage until adopted. Construction phase flood risk and pollution mitigation (temporary drainage) can be conditioned. Submitted flood risk assessment refers to 1,200mm pipework in calculations, which may prevent highway adoption.
- 8.4 KC Highways – No objection. Agreed that there is no feasible solution to improve capacity at the Cowlersley Lane/A62 junction, and the low impact of the development at this junction would not justify capacity improvements. Agreed that inadequate carriageway width prevents new footway being provided on the north side of Church Lane (to connect with the footway outside the church). A Traffic Regulation Order (TRO) to remove on-street parking here is unlikely to be successful. A TRO and double yellow lines are needed for 10 to 15m outside the proposed site entrance, to ensure visibility is not impeded. Proposed informal crossing to Church Lane (with dropped kerbs and tactile paving) is acceptable given the generally low pedestrian traffic associated with the development. Noted that WYCA Metro do not require upgrades to local bus shelters. Providing upgrades to the bus stops immediately outside the application site will be difficult due to the limited space and adjacent access points, however shelter upgrades should still be secured. Negotiation will take place between the council and the applicant regarding MetroCard funding. Agreed that, due to the development's demographic, there are unlikely to be a large number of dwellings with 2 or 3 cars, and the proposed parking provision is justified. The internal estate roads provide an opportunity for on-street parking, which has a natural traffic calming impact.

## 8.6 Non-statutory:

- 8.7 KC Conservation and Design – The proposed layout is broadly supported but requires some relatively modest refinement to fully address the landscape context and thereby reveal its potential as a high-quality, green, accessible, inclusive and safe residential development. The proposed layout development would have no significant direct or indirect impact on identified heritage assets but would have a transformative landscape impact. Proposed ball strike net would have a disproportionately harmful impact on the setting of the Grade II listed church, landscape character and the amenity of current and future residents. The erection of the net would result in less than substantial harm to a designated heritage asset, which is not supported. The proposal should consequently be amended, with the presentation of the proposals also enhanced to demonstrate how the final layout would complement its hillside context (by means of selected CGI views) in order to meet the requirements of NPPF paragraph 127 and Local Plan policies LP24 and LP35.
- 8.8 KC Ecology – Provided the ecological measures identified within the applicant's Ecological Impact Assessment are incorporated, it is not anticipated there will be significant negative ecological impacts and the proposals are in accordance with Local Plan policy LP30i. Further detail required regarding habitat condition and classification, clarification regarding the level of planting possible around the attenuation basin, and inclusion of the basin area within the biodiversity net gain metric calculations.
- 8.9 KC Education – £424,606 contribution required towards the provision of school places.
- 8.10 KC Environmental Health – No objection. Applicant's assessment of air quality impacts is accepted. Conditions recommended, requiring implementation of applicant's suggested air quality mitigation measures, and the provision of electric vehicle charging facilities. Regarding contaminated land, some matters have not been adequately addressed by the applicant. Four conditions related to contaminated land are therefore recommended. Submitted Construction Method Statement fails to demonstrate how nearby residential amenity will be protected from nuisance during the construction phase, therefore a condition requiring further submission is recommended. Regarding noise, the applicant's findings are accepted, however conditions regarding sound insulation and ventilation are recommended.
- 8.11 KC Highway Structures – Standard conditions recommended regarding retaining walls/structures.
- 8.12 KC Landscape – Off-site contribution of £173,180 required to address shortfalls in specific open space typologies. Conditions recommended regarding landscaping and a Landscape and Ecological Management Plan. Detailed advice provided regarding open space Section 106 obligations. Further advice provided regarding landscaping, bin storage, street lighting and tree planting.
- 8.13 KC Public Health – Desktop Health Impact Assessment and draft Travel Plan are welcomed, and include positive measures. Advice provided regarding implementation of travel plan measures.

- 8.14 KC Strategic Housing – Supports proposed housing and tenure mix. 20% affordable housing provision required of developments of 11 or more units. On-site provision preferred. There is significant need for 1- and 2-bedroom affordable homes in Kirklees Rural West, along with 1- and 2-bedroom dwellings for older people specifically. Given the need for affordable 2-bedroom homes in Golcar and 3- and 4-bedroom housing in the surrounding areas, the proposed housing mix would provide significant public benefit. The dwellings would meet a range of affordable housing needs, including those of individuals, small families and larger families, which is welcomed. The proposed dwellings would provide much-needed affordable rented housing, and would offer different routes into home ownership.
- 8.15 KC Strategic Waste – Site is within 250m of a closed landfill site.
- 8.16 West Yorkshire Combined Authority (WYCA) – To encourage the use of sustainable transport as a realistic alternative to the car, a package of sustainable travel measures needs to be funded. This can be used to purchase measures including discounted Residential MetroCards. Based on a bus-only ticket, a contribution of £63,938 would be appropriate.
- 8.17 West Yorkshire Police Designing Out Crime Officer – Requested clarification regarding access to the rear of units 34 and 35, and queried what lighting was proposed (including to the side of unit 51, and at private drives).
- 8.18 Yorkshire Water – No objection, subject to condition requiring implementation of measures set out in Flood Risk Assessment.
- 8.19 Yorkshire Wildlife Trust – No major concerns highlighted within applicant's Ecological Impact Assessment. Corrections to applicant's biodiversity net gain calculation required. Ecological Design Strategy required, outlining how habitats would be protected during construction, created and enhanced in line with the metric calculations, and managed and monitored for a minimum of 30 years.

## **9.0 MAIN ISSUES**

- Land use and principle of development
- Quantum and density
- Sustainability and climate change
- Urban design, conservation and landscape impacts
- Residential amenity and quality
- Unit sizes
- Affordable housing
- Highways and transportation issues
- Flood risk and drainage issues
- Environmental and public health
- Site contamination and stability
- Trees, landscaping and biodiversity
- Representations
- Planning obligations
- Other planning matters

## **10.0 APPRAISAL**

### Land use and principle of development

- 10.1 Planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
- 10.2 The Local Plan sets out a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum.
- 10.3 Full weight can be given to site allocation HS129, which allocates the site for housing. Allocation of this and other greenfield (and previously green belt) sites was based on a rigorous borough-wide assessment of housing and other need, as well as analysis of available land and its suitability for housing, employment and other uses. The Local Plan, which was found to be an appropriate basis for the planning of the borough by the relevant Inspector, strongly encourages the use of the borough's brownfield land, however some release of green belt land and reliance on windfall sites was also demonstrated to be necessary in order to meet development needs. Regarding this particular site, in her report of 30/01/2019 the Local Plan Inspector (referring to the site when it was numbered H1776) stated that there were exceptional circumstances to justify the release of the site from the green belt. The Inspector commented that the site is well contained with built development to the north, west and south, and further noted that Church Lane and field boundaries would provide defensible green belt boundaries.
- 10.4 The site is within wider mineral safeguarding areas relating to sandstone and to surface coal resource (SCR) with sandstone and/or clay and shale. Local Plan policy LP38 therefore applies. This states that surface development at the application site will only be permitted where it has been demonstrated that certain criteria apply. Criterion c of policy LP38 is relevant, and allows for approval of the proposed development, as there is an overriding need (in this case, housing and affordable housing need, having regard to Local Plan delivery targets) for it.
- 10.5 Given the above, and notwithstanding local objections to the principle of development here, it is considered that the proposed residential use, and the principle of residential development at this site, is policy-compliant.
- 10.6 Other requirements of the Local Plan Inspector regarding this site (including in relation to the prominence of part of the site, and the need to limit development accordingly) are reflected in the wording of site allocation HS129, and are considered later in this report.

### Quantum and density

- 10.7 To ensure efficient use of land Local Plan policy LP7 requires developments to achieve a net density of at least 35 dwellings per hectare, where appropriate, and having regard to the character of the area and the design of the scheme. 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 housing needs. Kirklees has a finite supply of land for the delivery of the 31,140 new homes required during the Local Plan period, and there is a need to “sweat” allocated sites (having regard to all relevant planning considerations) to ensure the borough’s housing delivery targets are met.

10.8 The 125 units proposed at this site falls short of the 170-unit indicative capacity set out in site allocation HS129 (and included at the request of the Local Plan Inspector). 125 units is approximately 74% of 170 units.

10.9 Of note, in her report of 30/01/2019 the Local Plan Inspector (referring to the site when it was numbered H1776) stated:

*“...the south-east part of the site is steeply sloping and prominent, and I consider that the indicative capacity of 209 dwellings could not be accommodated without harming long distant views and character. Nevertheless, mitigation is capable of being provided through provision of an open buffer and a reduction in site capacity to 170 dwellings... The proposed wording in [modifications that were subsequently incorporated into the wording of site allocation HS129] is suitably flexible to allow the exact position of the buffer and open areas to be determined through the planning application process”.*

10.10 The 170-unit indicative site capacity referred to in site allocation HS129 already takes into account the need to keep part of the site free from development in order to prevent harm to “long distant views and character”, however the Local Plan Inspector chose not to specify how much of the site should remain undeveloped, and the site allocation only goes as far as stating “the south east area of the site should remain open to form a continuation of the open steep hill from the east of the site”. The extent of the undeveloped space can, therefore, be determined as part of the council’s assessment of the current planning application.

10.11 The applicant’s efforts to address the site’s constraints are noted. Topography, ball strike risk and the need for on-site attenuation are three key considerations that have defined (and limited) the site’s developable area, such that three large parts of the site would not accommodate housing in the current proposals. The applicant has further argued that the council’s requirements regarding drainage and adoptable highway design (particularly highway gradients), and Yorkshire Water’s requirements, have further prevented development of more of the site. This and other information has been set out in the applicant’s Design Evolution Report, which details draft proposals considered by the applicant team from June 2019 onwards, and which explains why each was discounted. Draft proposals of up to 169 units were considered, however these involved smaller attenuation basins (than the 5,000sqm (0.5 hectare) basin subsequently ascertained to be necessary), under-street attenuation pipes (which officers subsequently advised would prevent highway adoption), and more development in the steepest part of the site (which would have involved greater excavation and retention). The Design Evolution Report also notes that the more development is proposed, the larger the attenuation basin needs to be. It is additionally noted that a 4.5m drainage easement is required along part of the site’s east boundary, and that shallow underlying rock beneath the steepest part of the site would involve costly

excavation work to accommodate development platforms. The applicant's Design Evolution Report concludes by asserting that the current scheme of 125 units is as dense as could reasonably be achieved on the site.

- 10.12 The applicant has made valid points regarding the application site's constraints. It is further noted that the applicant has included 10x 2-bedroom flats in the development, to help ensure unit numbers are not reduced even further below the 170 units expected of this site. This accords with paragraph 3.5 of the Local Plan and table 7.1 of the council's most recent Strategic Housing Market Assessment, which identify a need for more flats to be provided in major schemes if known needs are to be met. Due to the prevailing local character and typologies, however, it is not considered appropriate to increase on-site delivery through the inclusion of more flats than the proposed 10. Officers also recognise that the proposed 100% affordable housing provision is likely to impact upon viability (although no financial viability information has been provided) such that abnormal excavation and retention costs associated with development in the steepest part of the site could not easily be absorbed. The potentially harmful visual impact of such excavation and retention is also a material consideration. Finally, it is noted that the applicant has avoided a further reduction in unit numbers (from 125) when addressing key concerns during the life of the application (namely, ball strike risk and the widening of the pedestrian access from The Lodge).
- 10.13 A policy-compliant scheme of 170 units in a site of 6 hectares would achieve a density of 28 units per hectare. With 125 units currently proposed at this site, a density of only 21 units per hectare would be achieved. Having regard to the site's constraints, however, it is accepted that not all of the allocated site is developable. Assuming a developable area of approximately 3.5 hectares, the current proposal would achieve a density of 36 units per hectare, which in fact slightly exceeds the expectations of Local Plan policy LP7.
- 10.14 The under-delivery of units at this site (below the expected 170) is a shortcoming of the proposed development that attracts negative weight in the balance of relevant planning considerations. Under-use of scarce, allocated development land could potentially contribute towards development pressure elsewhere, at less appropriate sites. The application site's constraints, however, cannot be disregarded, and these limit the negative weight to be attached to this shortcoming. It is also noted that such a low quantum of development at this site could help reduce impacts, such as in relation to highways.
- 10.15 Local Plan policy LP7 states that, to ensure the best use of land and buildings, proposals must allow for access to adjoining undeveloped land so it may subsequently be developed. Paragraph 6.41 of the Local Plan states that the council will continue to positively support measures to ensure the best use of land and buildings, including through the application of relevant policies to ensure land is not sterilised for development. Given this policy, and the site allocation's expectation of 170 units, officers have considered the potential for parts of the application site being developed in the future, subject to a further planning application being submitted and approved. However, the south corner of the site is unlikely to be developed in the future unless Sport England were to no longer require new homes to be shielded by visually harmful nets/fences. The site's northern corner is unlikely to be viably developed unless a developer was able to fill in the attenuation basin, compensate for the biodiversity lost from around it, and provide an acceptable drainage

attenuation solution elsewhere. The southeast part of the application site has some potential for development, should a developer be able to address the topographical challenges here (in terms of cost, highway gradients and avoiding the construction of unsightly retention), compensate for the lost biodiversity, and ensure wider landscape impacts do not result. To this end, the applicant has designed a spur of the estate road with no private curtilage at its terminus, to allow for future vehicular access. Related to this provision, it is recommended that an appropriate obligation be secured via a Section 106 agreement, requiring the applicant to allow vehicular, cycle, pedestrian and construction access to this land in the future, without unreasonable hindrance and without exploiting a ransom scenario.

- 10.16 With all the above matters, and unit sizes and amenity matters (discussed later in this report) taken into account, it is recommended that the quantum of development currently proposed be accepted, albeit with this matter attracting negative weight in the balance of planning considerations.

#### Sustainability and climate change

- 10.17 As set out at paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF goes on to provide commentary on the environmental, social and economic aspects of sustainable development, all of which are relevant to planning decisions.
- 10.18 The application site is a sustainable location for residential development, as it is relatively accessible and is on the edge of an existing, established settlement that is served by public transport and other facilities. This part of Linthwaite has two convenience shops, a petrol station, two pubs, a church, a bowling club, a cricket club and schools, such that at least some of the daily, social and community needs of residents of the proposed development can be met within the area surrounding the application site, which further indicates that residential development at this site can be regarded as sustainable.
- 10.19 Regarding climate change, measures would be necessary to encourage the use of sustainable modes of transport. Adequate provision for cyclists (including cycle storage space), electric vehicle charging points, a Travel Plan and other measures have been proposed or would be secured by condition or planning obligations. A development at this site which was entirely reliant on residents travelling by private car is unlikely to be considered sustainable. Drainage and flood risk minimisation measures would need to account for climate change.
- 10.20 Further reference to, and assessment of, the sustainability of the proposed development is provided later in this report in relation to transport and other relevant planning considerations.

#### Urban design, conservation and landscape impacts

- 10.21 Chapters 11, 12 and 16 of the NPPF, the National Design Guide, and Local Plan policies LP2, LP5, LP7, LP24, LP32 and LP35 are of particular relevance to this application in relation to design, as is the council's Housebuilders Design Guide SPD.

- 10.22 Due to its size, location and slope, and due to the surrounding topography, the application site is highly visible in long views across the Colne Valley (including from Sunny Bank Road, Copley Bank Road, Scar Lane and Lower Gate), and in views from Kinder Avenue and The Lodge to the north, Felks Stile Road to the east, Heath Road to the south and public footpaths COL/66/40 and HUD/235/10. There are no designated heritage assets within or immediately adjacent to the site, however the nearest part of the Linthwaite Conservation Area is 270m to the west, and the nearest listed buildings are Christ Church Linthwaite to the southwest and 60/62 Cowlersley Lane to the north. Both these buildings are Grade II listed. Many long views of the church and conservation area also take in the site, and the site contributes to the setting of these heritage assets to a degree.
- 10.23 The proposed 125 dwellings would be provided along a new main estate road connecting Kinder Avenue to Church Lane, along a long cul-de-sac running southwest-to-northeast (and parallel to the longer stretch of the main estate road), and around a shorter cul-de-sac at the site's west corner. As noted above, a drainage attenuation basin is proposed at the site's north corner, the southeast part of the site would remain undeveloped, and an area at the site's south corner would also be kept free of new buildings. Off-street car parking is proposed in private driveways and garages. All buildings would be two storeys in height. A mix of flatted blocks, short terraces, and detached and semi-detached homes are proposed.
- 10.24 The proposed layout is generally considered acceptable. It is accepted that drainage attenuation must be provided at the lowest (northernmost) corner of the site. An appropriate perimeter block approach has been adopted at the centre of the site (for units 47 to 92), and in other locations the development would partly complete perimeter blocks with existing properties at The Lodge and Broad Oak. This is considered acceptable, as it helps to minimise the exposure of vulnerable rear and side garden boundaries to public access. Elsewhere, the applicant proposes rear garden boundaries (at units 93 to 125) adjacent to the site's largest publicly-accessible open space, and proposes an attenuation basin behind the rear gardens of 12 to 20 Ladybower Avenue and 23 to 39 The Lodge. While this raises concerns regarding the vulnerability of rear boundaries, this can be mitigated by restricting access around the basin, and by making use of defensive (dense and thorny) planting. It is also noted that retaining walls are proposed to the rear of units 93 to 125.
- 10.25 Flood routing is also an important consideration in relation to layout, and this matter is considered later in this report.
- 10.26 The proposed layout would result in two estate roads sweeping across the site in a similar manner to existing hillside roads which ascend up the slopes of the Colne Valley, and which are lined with dwellings.
- 10.27 Related to this aspect of the proposed layout, there has been much discussion between officers and the applicant regarding the proposed arrangement of massing along the two estate roads. Officers expressed concern that – due to the lengths of the roads, and the regularity of the proposed dwellings and the gaps between them – much of the development would have a massing that appeared castellated, and unlike other massings in the valley (where more variety, terraces, less repetition, smaller groups of similar buildings, and wider gaps exist). This concern, however, has been partly mitigated by the inclusion

of a north-south landscaped gap or corridor (between units 58 and 59, 81 and 82, and 104 and 105), elevational variations, and subtle variations in building lines, and it is noted that many of the relevant dwellings are proposed in the lower parts of the site which are less visible in longer views from across the valley.

- 10.28 Paragraph 7.19 of the council's Housebuilders Design Guide SPD advises that, for a new dwelling located in a regular street pattern that has two storeys, there should normally be a minimum of a 2 metres distance from the side wall of the new dwelling to a shared boundary. This is not proposed in several locations in the proposed development, however this is considered acceptable, given the above concerns regarding the proposed quantum of development, and the fact that greater spacing between dwellings could result in fewer units and/or a less acceptable unit size mix.
- 10.29 An amended Landscape and Visual Appraisal (rev P04) was submitted during the life of the application. Unhelpfully, this makes use of photographs taken looking into the sun (such that the site and its hillside appear silhouetted to a degree) or taken with the site in shadow, however the document is nonetheless of some use in assessing the proposed development's wider visual and landscape impacts. It asserts that the application site is currently of moderate quality and has a low overall sensitivity (such that it has some features worthy of retention but also has some capacity to accept change), and that the proposed development would have a minimal impact upon the relevant National Character Area (37: Yorkshire Southern Pennine Fringe) and locally-defined Landscape Character Areas. For the 20 viewpoints assessed by the applicant, a range of impacts are suggested – these are generally moderate or major for those viewpoints closest to the application site, to slight, minimal and negligible for those further away (including those located on the opposite side of the Colne Valley).
- 10.30 These assertions are generally accepted. The proposed development would have a transformative effect at the site, and an impact on the wider landscape and views, however many aspects of the proposals would help to mitigate those impacts, including the applicant's decision to not propose development within the southeast part of the site (in accordance with site allocation requirements), the inclusion of street trees, and the proposal to use context-appropriate materials. The submitted Landscape and Visual Appraisal also notes field patterns and extensive tree and woodland cover as key characteristics of the local landscape, as defined under Landscape Character Area F4 (Colne: Slaithwaite, Marsden) in the Kirklees District Landscape Character Assessment, and these characteristics are reflected in the proposed landscaping, which would further help to limit the development's impacts.
- 10.31 Of note, the submitted Landscape and Visual Appraisal does not note or illustrate other developments that may come forward in this part of the Colne Valley as a result of Local Plan site allocations, nor the 312-unit major development approved in 1973 (ref: CV5330) at the Royds Avenue / Slant Gate / Royds House Lane site downhill to the west. Some of these developments would be visible in the same views as the proposal currently under consideration and would contribute to cumulative visual and landscape impacts. Despite these potential impacts not being assessed by the applicant, officers have had regard to them, and given their respective locations, their relationships with existing built-up areas and other features, and the valley's

topography, it is not considered that cumulative visual and landscape impacts would be unacceptable.

- 10.32 In accordance with Local Plan policy LP21 (which encourages the use of sustainable modes of transport) and policies LP20, LP24dii and LP47e (which require improvements to neighbourhood connectivity and opportunities for walking and cycling), the applicant has given appropriate consideration to pedestrian movement and connectivity. The footways of Kinder Avenue would be extended into the site, and following amendments made during the life of the application, a legible and inviting pedestrian connection (with good sight lines, enabling users to see their route ahead) is proposed to/from The Lodge. Appropriate pedestrian connections are also proposed to public footpath HUD/235/10. Subject to details of these connections, landscaping and adjacent boundary treatments (which, it is recommended, be submitted at conditions stage), the proposed development would have an acceptable impact upon adjacent public rights of way, their accessibility and appeal.
- 10.33 In visual amenity and streetscape terms, acceptable parking is proposed, such that this provision would not result in a car-dominated street scene.
- 10.34 The proposed house types are sufficiently reflective of Pennine vernacular, with pitched roofs, gable ends, context-appropriate window proportions and other appropriate features proposed. The two “Cotdale” blocks would accommodate the development’s 10 flats, and would be of a similar design to the proposed houses. 2-storey development is predominant on this hillside within the Colne Valley (although some single- and 3-storey buildings exist locally), and the applicant’s proposals reflect this pattern. Although the applicant proposes a greater proportion of semi-detached dwellings than is found in the immediate surrounding area, the proposed mix of terraced, detached and semi-detached typologies is considered acceptable.
- 10.35 Artificial stone, buff/grey brick, concrete slate-coloured roof tiles, grey (RAL 7016) UPVC windows and doors, and black UPVC rainwater goods are proposed. Subject to details and samples of these materials being submitted and approved pursuant to a recommended condition, this materials palette is considered acceptable. Brick and natural stone have been used in the streets immediately surrounding the application site. Any brick used at this site would need to be a close match (in colour, tone and texture) to the proposed artificial stone.
- 10.36 There are few designated heritage assets close to the site, and it is considered that none would be adversely affected by the proposed development. The dwellings that were previously proposed in the site’s southern corner triggered a request from Sport England for the inclusion of an unacceptably tall net or fence (possibly 15m or 20m in height) to mitigate ball strike risk. Such an intervention would have harmed the setting of the Grade II listed Christ Church Linthwaite to the southwest, and would have been harmful to visual amenity generally. Recent amendments to the proposed layout, however, have obviated the need for such a net or fence. In other parts of the application site, the applicant proposes landscaping that would retain or reflect some of the existing historic field boundaries, which is welcomed.

- 10.37 Regarding crime and anti-social behaviour and the potential for unauthorised access to rear gardens, some rear and side ginnels are proposed (albeit to relatively few dwellings). The need for these is understood – residents of mid-terrace dwellings are likely to want to be able to access their rear gardens without having to pass through their homes, for example when carrying out gardening jobs, or moving bicycles. To help address the concerns relating to potential crime committed via these ginnels, it is recommended that details of boundary treatments, and of gates to rear ginnels (to minimise public access to vulnerable parts of the proposed development) be secured by condition.
- 10.38 The recently-widened proposed pedestrian entrance to/from The Lodge is now considered safer to pedestrians, although landscaping and lighting along this route would need to be designed with regard to safety and security. It is recommended that details of lighting to publicly-accessible parts of the proposed development (including shared drives) be secured by condition.
- 10.39 A general condition related to secure by design measures is also recommended. Details submitted pursuant to this condition would need to complement details of the proposed landscaping and boundary treatments, and should confirm that side windows to habitable rooms at units 47, 92 and 93 would be provided, to enhance natural surveillance of public footpath HUD/235/10. Side windows to unit 46 (overlooking the pedestrian route to/from The Lodge) would also be beneficial in terms of natural surveillance.
- 10.40 Other than in the case of the proposed first-floor flats, all new units would have ground floor WCs, making those units at least visitable by people with certain disabilities. The inclusion of ground floor flats in the scheme creates at least some opportunities for people with certain disabilities and older family members to move into the development, as does the inclusion of convertible habitable rooms at ground floor level in some of the larger units.
- 10.41 In relation to dementia-friendly design, the proposed layout is generally legible, well-connected and permeable for pedestrians. Only one true dead-end for pedestrians would be created (at the cul-de-sac at the west end of the site).
- 10.42 Stone gabion walls (with timber and wire fences above) are proposed behind units 93 to 125 and along a stretch of the proposed main estate road. 1.8m high timber fences (including trellis, where natural surveillance is required) would enclose rear gardens. 1.8m timber fences (with 1.95m artificial stone piers) are proposed in four locations. Notwithstanding the details submitted at application stage, as noted above, a condition requiring full details of boundary treatments is recommended, and it is recommended that the visibility and acceptability of these proposals be considered further at conditions stage alongside the applicant's more detailed landscaping information (which, it is also recommended, be secured at conditions stage). Amendments are likely to be necessary to the proposed timber and wire fences, and to the fencing proposed to the side of units 47 and 92, depending on the visibility of those boundaries. Sections of every curtilage bounded by a retaining wall would need to be submitted, to inform a full assessment of the dwelling-garden-wall relationship. Taller parts of the proposed gabion wall may require soft planting to soften their visual impact. Proposals for the repair of the site's perimeter dry stone walls (including along public footpath HUD/235/10) would be required.

- 10.43 In light of the above assessment, it is considered that the relevant requirements of chapters 11 and 12 of the NPPF, and Local Plan policies LP2, LP5, LP7, LP24 and LP35 would be sufficiently complied with. There would also be an acceptable level of compliance with guidance set out in the National Design Guide and the council's Housebuilders Design Guide SPD.

Residential amenity and quality

- 10.44 Local Plan policy LP24 requires developments to provide a high standard of amenity for future and neighbouring occupiers, including by maintaining appropriate distances between buildings.
- 10.45 Acceptable separation distances are proposed between the new dwellings and existing adjacent properties, such that sufficient privacy, outlook and natural light would be maintained. A distance of 13m would be provided between the side elevation of 24 The Lodge and unit 44. 26m would be maintained between the rear elevation of 77 Broad Oak and the side elevation of unit 27. 20m would be maintained between the rear elevations of 91 Broad Oak and units 17 to 22. 34m would be maintained between the rear elevations of Broad Oak Barn and unit 16.
- 10.46 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.
- 10.47 On a related point, concerns have been raised by operators of the adjacent bowling club regarding evening events held there, and the risk of noise complaints being made by residents of the new dwellings. Paragraph 187 provides a degree of protection to such an existing use in this situation, stating:

*“Planning... decisions should ensure that new development can be integrated effectively with existing... community facilities (such as... sports clubs). Existing... facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing... community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed”.*

- 10.48 In comments dated 02/07/2021, KC Environmental Health recognise the possibility of noise from the bowling club affecting the nearest new dwellings. Officers note that the club is licensed and holds events, and that this has not been fully considered in the applicant's Noise Impact Assessment. That report states that the existing dwellings in the immediate vicinity of the premises already imposes a constraint in terms of the level of noise those sources can emit without causing disturbance to the local community. This is a valid point, however to ensure the likelihood of complaints from new residents is minimised, it is recommended that the condition requested by KC Environmental Health be applied with additional requirements relating to sound insulation at units 27 to 32 and 36 to 46.

- 10.49 A condition requiring the submission and approval of a Construction (Environmental) Management Plan (C(E)MP) is recommended. The necessary discharge of conditions submission would need to sufficiently address the potential amenity impacts of construction work at this site, including cumulative amenity impacts should other nearby sites be developed at the same time. Details of dust suppression measures would need to be included in the C(E)MP. An informative regarding hours of noisy construction work is recommended.
- 10.50 The sizes and quality of the proposed residential accommodation are also material planning considerations.
- 10.51 10x 2-bedroom flats, 10x 2-bedroom houses, 86x 3-bedroom houses and 19x 4-bedroom houses are proposed. The proposed unit size mix would cater for a range of household sizes, would help create a mixed and balanced community, would help avoid visual monotony across the site, and is welcomed.
- 10.52 All units would be dual aspect. All units would have adequate privacy, outlook and access to natural light. Dwellings would be provided with adequate private outdoor amenity space proportionate to the size of each dwelling and its number of residents. Communal gardens are proposed for the 10 flats.
- 10.53 Adequate distances would be provided within the proposed development between new dwellings.
- 10.54 With reference to the open space typologies set out in the council's Open Space SPD, the applicant proposes the following on-site provision:
- Natural and Semi-natural Greenspace - 23,377sqm
  - Amenity Greenspace - 3,400sqm
  - Provision for Children and Young People - 30sqm
  - Allotments and Community Food Growing – 626sqm
- 10.55 This on-site provision is welcomed, however a further financial contribution towards off-site provision of £173,180 would still be required to address shortfalls in specific open space typologies.

#### Unit sizes

- 10.56 The sizes of the proposed residential units is a material planning consideration. Local Plan policy LP24 states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, and the provision of residential units of an adequate size can help to meet this objective. The provision of adequate living space is also relevant to some of the council's other key objectives, including improved health and wellbeing, addressing inequality, and the creation of sustainable communities. Recent epidemic-related lockdowns and increased working from home have further demonstrated the need for adequate living space.

- 10.57 Although the Government's Nationally Described Space Standards (March 2015, updated 2016) (NDSS) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed, as set out in the council's Housebuilder Design Guide SPD. NDSS is the Government's clearest statement on what constitutes adequately-sized units, and its use as a standard is becoming more widespread – for example, since April 2021, all permitted development residential conversions were required to be NDSS-compliant.
- 10.58 All of the proposed houses would be NDSS-compliant. The 10 flats ("Cotdale" type) would be 64sqm in size at first floor level (exceeding the NDSS's 61sqm standard for 2-bedroom, 3-person, single-storey units), however the ground floor flats would be 58sqm in size, falling short of the standard. With five of the 125 units falling short of the relevant standard (by 3sqm per unit), some negative weight applies, however given the overall level of compliance with NDSS, this is not considered to be significantly problematic.

#### Affordable housing

- 10.59 Local Plan policy LP11 requires 20% of units in market housing sites to be affordable. A 55% social or affordable rent / 45% intermediate tenure split would be required, although this can be flexible. Given the need to integrate affordable housing within developments, and to ensure dwellings of different tenures are not visually distinguishable from each other, affordable housing would need to be appropriately designed and pepper-potted around the proposed development.
- 10.60 All of the 125 units are proposed to be affordable. This clearly meets and exceeds the 20% provision required by Local Plan policy LP11 and attracts significant positive weight in the balance of planning considerations.
- 10.61 41 of the units would be for affordable rent, 51 would be shared ownership units, and 33 would be rent-to-buy units. This represents a 33% / 67% affordable rent / intermediate tenure split. Given that a strictly policy-compliant provision of 20% would be required to provide 13 affordable or social rent units and 12 intermediate units, the proposed tenure split is considered acceptable.
- 10.62 The applicant's Affordable Housing Statement does not clarify how the proposed 2-, 3- and 4-bedroom units would make up each of the three proposed tenures, however it is recommended that the unit size / tenure mix be secured via the required Section 106 agreement in response to known need and further advice from KC Strategic Housing.

#### Highway and transportation issues

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

- 10.64 Paragraph 110 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 111 of the NPPF adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.
- 10.65 Existing highway conditions must be noted. Church Lane provides the application site's main road frontage (approximately 300m long) and is subject to a 30mph speed restriction outside part of the site. Further to the east, the national speed limit applies. Church Lane lacks a footway on its north side outside the cricket ground and the application site, however a footway serves dwellings on the opposite side of the carriageway. This has several dropped kerbs, providing access to off-street parking. No parking restrictions apply to Church Lane directly outside the application site. Two bus stops exist directly outside the application site on Church Lane. A raised plateau, "keep clear" road markings, bollards and signage exist at the entrance to the junior and infant school to the southwest.
- 10.66 Close to its north corner, the application site also meets the terminus of Kinder Avenue. This is a relatively quiet residential street, with footways either side of an unusually wide carriageway, a 30mph speed restriction, and no restriction of on-street parking. Also close to the application site's north corner, The Lodge is a residential cul-de-sac which meets the site boundary.
- 10.67 No public rights of way cross the site, however public footpath HUD/235/10 runs north-south along the site's eastern boundary. Public footpath COL/66/40 runs north-south outside the site's western boundary, beyond a private access lane. From the point where public footpath HUD/235/10 meets Church Lane (where a bus stop exists), an informal path extends eastwards to meet footpath HUD/234/20 which skirts the edge of the Black Cat allocated site. This informal path appears on Ordnance Survey maps and appears to be relatively well-used, however it is not registered as a public right of way. In the Local Plan, a section of the Core Walking and Cycling Network extends between Crosland Hill Road and Kinder Avenue, and another section runs along Cowlersley Lane.
- 10.68 Site allocation HS129 requires the proposed development to provide a footway along its Church Lane frontage. Such a footway would assist safer east-west pedestrian movement, including movement between the Black Cat development and Colne Valley High School, and would provide a useful (albeit incomplete) connection to the above-mentioned section of the Core Walking and Cycling Network between Crosland Hill Road and Kinder Avenue. However, for cost reasons, the applicant has not proposed a new footway along the site frontage. Church Lane lacks adequate carriageway width to accommodate the addition of a 2m wide footway along its north side. This would mean such a footway would need to be built within the application site, which – due to the site's slope – would require significant and costly retention and engineering to an adoptable standard. The applicant instead proposes an east-west footpath a little further down the slope, connecting the proposed

development's Church Lane entrance with the informal path that continues eastwards. This is an inferior provision, as it would be located away from the carriageway and may feel less safe to use at night. It would, however, provide an east-west route away from the traffic of Church Lane, and would improve pedestrian movement options locally. Of note, no new footway is to be provided along Felks Stile Road (the continuation of Church Lane) as part of the Black Cat site development (ref: 2020/92546).

- 10.69 Short lengths of new footway are proposed at the site entrance's junction radii on Church Lane. To the west of this site entrance, a short length of path (again, set into the site, away from the carriageway) is proposed, providing a connection between the development's internal footways and the existing bus stop on Church Lane at the site's south corner. A condition is recommended, requiring details (including details of gradients) of this path, to ensure that it provides adequate accessibility to this public transport facility. The applicant also proposes tactile paving and dropped kerbs to the west of the site entrance and on the opposite footway, to enable pedestrians to cross and use the existing footway on the south side of Church Lane.
- 10.70 The applicant proposes no new footway between the application site's south corner, across the cricket ground's frontage, to connect to the footway outside Christ Church Linthwaite. This is unfortunate, however it is accepted that there isn't sufficient carriageway width here to provide a 2m wide footway without losing on-street parking in order to allow two-way traffic to continue to pass – the provision of a 2m wide footway here would necessitate such parking restrictions, or may result in residents parking on the footways. As an alternative, the provision of the above-mentioned dropped kerbs and tactile paving (to facilitate improved pedestrian access to/from the opposite footway) is considered acceptable given the generally low pedestrian traffic likely to be associated with the development.
- 10.71 Notwithstanding the acceptability of alternative measures, the lack of footway provision along Church Lane attracts some negative weight in the balance of planning considerations.
- 10.72 The proposed development's internal highway layout is considered acceptable. The applicant has had regard to the requirements of the council's Highway Design SPD, and has discussed the proposals (at pre-application stage) with Section 38 officers. The creation of new cul-de-sacs in major developments should be avoided wherever possible, however at this site it is accepted that the two proposed vehicular cul-de-sacs (where refuse collection vehicles would need to reverse to turn) are a result of the site's shape and challenging topography. Adequate forward visibility has been demonstrated within the site for refuse collection vehicles. Regarding the proposal to provide a vehicular connection between Kinder Avenue and Church Lane, although concerns have been raised by some residents, it is considered that no obvious or advantageous short-cut (resulting in excessive traffic to Ladybower Avenue and Kinder Avenue) would be created for significant volumes of traffic moving along Cowlersley Lane. To reduce speeds along the proposed development's relatively straight internal roads, the applicant proposes to provide raised junction areas and build-outs so that traffic speeds are self-enforcing at below 20mph. The possibility of on-street parking within the site would also naturally have a traffic calming effect.

- 10.73 Adequate visibility splays of 2.4m x 45m are proposed either side of the site entrance to Church Lane. That section of road is subject to a 30mph speed limit, and the applicant's speed survey here (carried out on 20/08/2020) found the 85th percentile wet weather speeds to be 30.7mph (southwest-bound) and 30.6mph (northeast-bound). Accident data for Church Lane does not suggest that the provision of a site entrance here would be inherently unsafe. A Traffic Regulation Order (TRO) and double yellow lines are needed for 10 to 15m stretches on Church Lane either side of this proposed site entrance, to ensure visibility is not impeded.
- 10.74 Having made reasonable assumptions as to which site entrance/exit residents of the proposed development would use, the applicant has provided the following trip generation predictions:

Site entrance/exit	Peak hour	Arrivals	Departures
Kinder Avenue	am	9	23
	pm	23	9
Church Lane	am	16	40
	pm	40	16

- 10.75 Of note, the applicant predicts that 73.7% of the proposed development's traffic would travel north to the Cowlersley Lane/A62 Manchester Road/Morley Lane junction, 16.3% would travel south along Gillroyd Lane, and 10% would travel east towards Blackmoorfoot Road via Felks Stile Road. In addition, the applicant predicts that some existing local residents are likely to make use of the through-route created by the proposed development, with 10% of Kinder Avenue's traffic predicted to travel through the site to access Gillroyd Lane or Felks Stile Road.
- 10.76 In accordance with officers' pre-application advice (and in light of the Strategic Planning Committee's interest in cumulative highway impacts when considering the nearby Black Cat development earlier this year), the applicant has additionally taken into account predicted background traffic growth, and traffic growth likely to be created by other major developments in this part of the Colne Valley, including:
- The Heights, off Cowlersley Lane (42 dwellings – completed)
  - Black Cat site (770 dwellings – current planning application)
  - St Luke's Hospital site (200 dwellings – under construction)
  - Royds Avenue / Slant Gate / Royds House Lane site (312 dwellings – commenced)
- 10.77 Using the PICADY assessment tool, the applicant predicts that – taking into account the proposed development's traffic, and predicted traffic growth – the site entrance on Church Lane would operate well within capacity, with minimal queueing. For the Church Lane/Gillroyd Lane, Gillroyd Lane/Blackmoorfoot Lane, and Woodside View (South Avenue)/Cowlersley Lane junctions, the applicant predicts acceptable traffic flows, with little additional queueing. The applicant has not provided a full assessment of the Felks Stile Road/Blackmoorfoot Road junction, as it is predicted that the proposed development would only generate an additional 9 traffic movements during the morning and evening peak periods here. This is accepted.

- 10.78 For the Cowlersley Lane/A62 Manchester Road/Morley Lane junction, however, the applicant notes that the junction already struggles to cope with current levels of traffic, and that future growth will only make this situation worse. The applicant has argued, however, that the proposed development itself would only result in a marginal worsening of the existing situation at this junction.
- 10.79 Movements at this junction are controlled by the council using traffic lights and MOVA, which the applicant states is the most advanced system for junction control available in the UK. Private property meets the footways (and, in some locations, the carriageways) of this junction, and existing buildings are close to the roads, meaning that no meaningful capacity improvements are possible at this junction without costly purchase and demolition. Demolition of buildings at this junction may be contentious in any case, given that the junction is within the Milnsbridge Conservation Area. Finally, it is noted that challenging topography at this junction (particularly where the northeast-bound lane of Cowlersley Lane meets the A62) may prevent capacity improvements such as the addition of filter lanes, as acceptable gradients may not be achievable.
- 10.80 It is accepted that the proposed development itself would result in only a marginal increase to peak-time traffic movements at this junction. It is therefore concluded that the traffic impact here cannot be classified as significant or severe, as per the test within paragraph 111 of the NPPF. Officers have assessed the potential for mitigation at this junction, and have concluded that capacity improvement interventions would not be possible here. It is therefore recommended that some negative weight be attached to the unmitigated (and unmitigable) impact of the proposed development at this junction, but that planning permission should not be refused on these grounds.
- 10.81 Acceptable off-street parking is proposed for the residential units. Paragraph 5.4 of the Council's Highway Design Guide SPD sets out numbers of spaces commonly provided for apartments and houses of various sizes, and the proposed development, and the proposed development would largely meet these expectations. Minor off-street parking shortfalls are proposed for some units, and the applicant has provided satisfactory justification for this with reference to car ownership statistics for Kirklees, typical car ownership levels for households occupying affordable housing, and the availability of on-street parking within the development. For these reasons (and for street scene and visual amenity reasons), it is recommended that these minor shortfalls be accepted.
- 10.82 The council's Highway Design Guide SPD states that in most circumstances, one visitor parking space per four dwellings is considered appropriate. Visitor parking spaces are not annotated on the applicant's proposed layout (except in the case of two spaces identified outside the proposed flats), however the applicant's Technical Note of July 2021 includes a plan identifying where vehicles could park on the development's internal estate roads without obstructing refuse collection vehicles or access to private drives.
- 10.83 Officers have provided detailed comments to the applicant regarding the internal layout of the proposed development, and in relation to Section 38 matters. A condition regarding internal adoptable roads is recommended.

- 10.84 The applicant has submitted a draft Travel Plan, setting out proposed measures intended to encourage a reduction in car usage, particularly single occupancy journeys, and increase the use of public transport, walking and cycling. A Section 106 planning obligation is necessary to ensure an acceptable final Travel Plan is submitted and implemented. A Travel Plan monitoring fee of £10,000 will also be necessary.
- 10.85 The West Yorkshire Combined Authority (WYCA) have advised that, to encourage the use of sustainable transport as a realistic alternative to the car, a package of sustainable travel measures needs to be funded by the applicant. This can be used to purchase measures including discounted Residential MetroCards. Based on a bus-only ticket, WYCA have advised that a contribution of £63,938 would be appropriate, and it is recommended that this be secured by condition.
- 10.86 WYCA have not asked for a contribution towards improvements to local bus stops. Two bus stops exist directly outside the application site on Church Lane – improvements to these have been considered, however the limited available space would prevent the installation of shelters. Significant retention would be required at the east corner of the site to provide space for a shelter, and a shelter at the south corner would impede visibility at the junction of Church Lane and the private access lane that runs along the site's western edge.
- 10.87 Details of secure, covered and conveniently-located cycle parking for residents would be secured by a recommended condition.
- 10.88 Storage space for three bins, and refuse collection points, will be required for all dwellings. Further details of waste collection, including details of management to ensure waste collection points are not used for fly-tipping or permanent bin storage, are required by recommended condition. The same condition would require refuse collection points in locations that would not obstruct access to private driveways. In response to residents' concerns regarding the bin store proposed for the 10 flats, measures would need to be proposed at conditions stage to address odour, vermin and other relevant management considerations.
- 10.89 Details of means of access to the site for construction traffic would be secured via the recommended condition requiring the submission and approval of a Construction (Environmental) Management Plan.

#### Flood risk and drainage issues

- 10.90 Local Plan policies LP24, LP27 and LP28 are relevant to flood risk and drainage, as is chapter 14 of the NPPF. In response to the council's consultation and reconsultation, several residents raised concerns regarding flood risk, noting that parts of the site (close to the adjacent bowling club, The Lodge and Ladybower Avenue) become waterlogged following rain.
- 10.91 The applicant intends to dispose of surface water via the proposed attenuation basin at the site's north corner, from which water would be discharged at a controlled rate (5 litres per second) to the existing combined sewer beneath Kinder Avenue. The applicant has submitted a Flood Risk Assessment to support the application, along with drainage calculations.

- 10.92 It is accepted that the attenuation basin is proposed in the correct location, at the site's lowest point. Due to the steepness of the site's slopes, the presence of perched water beneath the site, and the lack of a suitable nearby watercourse, it is accepted that disposal of surface water to the existing combined sewer (from the attenuation basin, at a controlled rate) is necessary, and complies with the Government's drainage hierarchy. The proposed discharge rate of 5 litres per second has attracted no objection from either the Lead Local Flood Authority (LLFA) or Yorkshire Water.
- 10.93 Residents' concerns regarding previous waterlogging of parts of the site are noted, however the LLFA have suggested that these problems are likely to be lessened by the proposed development, as surface water would be intercepted and brought under control via the applicant's proposed drainage scheme.
- 10.94 Regarding flood routing, the LLFA has advised that the applicant's indicative plans are acceptable (it is recommended that further details regarding levels, kerb and other relevant design aspects be secured by condition), and that the road to the south of the proposed basin would contain exceedance flows.
- 10.95 The LLFA have also advised that the detailed design of the attenuation basin can be secured by condition.
- 10.96 The maintenance and management of the approved surface water drainage system (until formally adopted by the statutory undertaker) would need to be secured via a recommended Section 106 agreement.
- 10.97 The applicant has been advised that spans of 900mm or more beneath the highway are likely to preclude its adoption. Regarding this consideration, the LLFA have queried why the applicant's drainage calculations included references to 1,200mm pipework. The applicant has since clarified that these actually referred to 1,200mm wide manholes, and that pipes wider than 900mm are not proposed. The LLFA are satisfied with this explanation.
- 10.98 Details of temporary surface water drainage arrangements (during the construction phase) would be secured via a recommended condition.
- 10.99 Foul water from the proposed development would discharge to the existing combined sewer beneath Kinder Avenue. This proposal has not attracted an objection from Yorkshire Water, and is considered acceptable.

#### Environmental and public health

- 10.100 An Air Quality Assessment has been submitted by the applicant. Having regard to the West Yorkshire Low Emission Strategy, KC Environmental Health have advised that the applicant's assessment of air quality impacts is accepted, and conditions are recommended, requiring the implementation of the applicant's suggested air quality mitigation measures, and the provision of electric vehicle charging facilities. In addition, it is recommended that a final Travel Plan, including mechanisms for discouraging high emission vehicle use and encouraging modal shift (to public transport, walking and cycling) and uptake of low emission fuels and technologies, be secured via Section 106 obligations.

- 10.101 Regarding noise, the applicant has submitted a Noise Impact Assessment. KC Environmental Health have advised that the applicant's findings regarding noise are accepted, however conditions regarding sound insulation (including in relation to noise from the bowling club, as discussed earlier in this report) and ventilation are recommended.
- 10.102 The health impacts of the proposed development are a material consideration relevant to planning, and compliance with Local Plan policy LP47 is required. The applicant has submitted a Desktop Health Impact Assessment. The council's Public Health team have raised no objection in principle to the proposed development and have expressed support for some aspects of it. Having regard to the proposed affordable housing, travel planning, cycling provision, pedestrian connections (which can help facilitate active travel), accessibility, dementia-friendly design, measures to be proposed at conditions stage to minimise crime and anti-social behaviour, and other matters, it is considered that the proposed development would not have negative impacts on human health.

#### Site contamination and stability

- 10.103 The site is not within an area known to be at risk from historic shallow mineworkings.
- 10.104 Regarding contaminated land, as per the comments of KC Environmental Health, some matters have not been adequately addressed by the applicant in the submitted Phase II Site Appraisal and related documents. Four conditions related to contaminated land are therefore recommended.
- 10.105 Part of the site is within the 250m buffer zone of a historic landfill site at Cowlersley Lane Quarry to the west, however this designation does not prevent the approval of residential development at this site.

#### Trees, landscaping and biodiversity

- 10.106 No trees within or immediately adjacent to the site are protected by Tree Preservation Orders. Adjacent land to the south, east and southwest is green belt. The adjacent bowling green is designated as Urban Greenspace in the Local Plan. The site is within a Biodiversity Opportunity Zone (Valley Slopes), an Impact Risk Zone of a Site of Special Scientific Interest, and a twice buffer zone. Land to the southeast is part of the Wildlife Habitat Network.
- 10.107 In relation to landscaping, the proposed development is generally considered acceptable. The applicant has given appropriate consideration to biodiversity, wider landscape impacts, security, residential amenity and neighbour amenity when designing the proposed landscaping. In the most recent amendments to the proposals, a north-south landscaped gap or corridor (between units 58 and 59, 81 and 82, and 104 and 105) has been added, which would assist with breaking up the regular massing of dwellings along the development's two estate roads, and could additionally serve as a wildlife corridor connecting the proposed basin (and the soft landscaping and habitats around it) to the undeveloped land further uphill to the south. Maintenance and management of this gap, and of other landscaped areas, would be the responsibility of a residents' management company. The proposed landscaping layout does not include ambiguous, leftover spaces for which responsibility would be unclear and which may be vulnerable to anti-social behaviour and fly-tipping.

- 10.108 Notwithstanding the general acceptability of the proposed landscaping, it is recommended that full details be secured by condition, along with the submission of an Ecological Design Strategy.
- 10.109 A net biodiversity gain needs to be demonstrated in accordance with Local Plan policy LP30 and chapter 15 of the NPPF. The applicant has stated that – given that a large part of the allocated site would remain undeveloped (and would be enhanced with planting and habitat creation) – an on-site biodiversity net gain of over 10% would be provided. The applicant’s latest biodiversity net gain metric calculation is currently being reviewed, and in the meantime it is recommended that appropriate conditions and Section 106 obligations be secured to ensure the required net gain is indeed achieved.
- 10.110 No significant trees exist on the site, and no trees immediately adjacent to the site (within Kirklees) are protected by Tree Preservation Orders. Development of the site presents an opportunity to increase tree coverage in this part of Kirklees, although not all of the site’s undeveloped land should be planted with trees. The proposed tree planting would complement the woodland uphill to the south of the application site, would complement the wooded character of the Colne Valley, and would additionally help the development respond to the White Rose Forest initiative, which is promoted by the council and which is intended to greatly increase tree cover within the borough. During the life of the application, amendments were made to include additional street trees along the proposed estate roads in accordance with the requirements of NPPF paragraph 131 and the West Yorkshire Combined Authority’s “Green Streets” principles. Several of the proposed street trees would be within garden curtilages, and the applicant has agreed to secure covenants regarding their retention.

#### Representations

- 10.111 To date, a total of 68 representations have been received in response to the council’s consultation and reconsultation. The comments raised have been addressed in this report.
- 10.112 The development’s impact upon adjacent property prices is not a material planning consideration.
- 10.113 Although outlook is a material consideration (and is discussed earlier in this report), the proposed development’s impact upon views across land in separate ownership is not a material planning consideration.
- 10.114 As noted earlier in this report, it is recommended that details of suitable boundary treatments be secured by condition, however the future maintenance of shared boundaries (and any disputes that may arise) would be a matter for the respective parties either side of the boundary to resolve.

#### Planning obligations

- 10.115 To mitigate the impacts of the proposed development, the following planning obligations would need to be secured via a Section 106 agreement:
- 1) Affordable housing – 125 affordable housing units to be provided in perpetuity.

- 2) Open space – Off-site contribution of £173,180 to address shortfalls in specific open space typologies.
- 3) Education – £424,606 contribution required.
- 4) Undeveloped land – No ransom scenario to be created.
- 5) Sustainable transport – Measures to encourage the use of sustainable modes of transport, including a £63,938 financial contribution, implementation of a Travel Plan and £10,000 towards Travel Plan monitoring.
- 6) Management – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker).
- 7) Biodiversity – Contribution (amount to be confirmed) towards off-site measures to achieve biodiversity net gain.
- 8) Traffic Regulation Order – Funding of TRO relating to parking restrictions outside Church Lane site entrance, and provision of double yellow lines.

10.116 The provision of training and apprenticeships is strongly encouraged by Local Plan policy LP9, and as the proposed development meets the relevant threshold (housing developments which would deliver 60 dwellings or more), officers have asked the applicant to agree to provide a training or apprenticeship programme to improve skills and education. Such agreements are currently not being secured through Section 106 agreements – instead, officers are working proactively with applicants to ensure training and apprenticeships are provided. For this application, the applicant has confirmed that any developer partner would be expected to maximise opportunities for apprenticeships, the employment of long-term jobseekers, and training. Officers have suggested that an Employment and Skills Agreement be entered into.

#### Other planning matters

- 10.117 A condition removing permitted development rights from some of the proposed dwellings is recommended. This is considered necessary for the dwellings proposed with smaller gardens, as extensions under permitted development allowances here could reduce the private outdoor amenity spaces to an unacceptable degree. Permitted development extensions could also affect long views of the site from the opposite side of the Colne Valley.
- 10.118 In an attempt to obviate the need for the submission of a Construction (Environmental) Management Plan at conditions stage, the applicant submitted a Submitted Construction Method Statement. This was reviewed by KC Environmental Health, who have advised that the document fails to demonstrate how nearby residential amenity will be protected from nuisance during the construction phase. A condition requiring further submission is therefore recommended.
- 10.119 Light pollution has been raised as a concern by residents. While it is noted that residential development at this site would inevitably results in some upward spill of light, and that this would adversely affect the visibility of stars from some vantagepoints, it is not recommended that planning permission be refused on these grounds. It is noted that street lighting commonly used in new estate roads has been designed to reduce upward glare (when compared with lighting used in previous decades). Lighting is not proposed within the

parts of the application site that would remain undeveloped. A condition regarding outdoor lighting is recommended.

- 10.120 At pre-application stage the applicant stated that the relevant notice had been served on Northern Powergrid regarding the unsightly overhead electricity cables that cross the site, and that these would be undergrounded as part of the proposed development. A condition requiring details of the proposed electricity substation is recommended.

## **11.0 CONCLUSION**

- 11.1 The application site is allocated for residential development under site allocation HS129, and the principle of residential development at this site is considered acceptable.
- 11.2 The proposed development has shortcomings that attract some negative weight in the balance of relevant planning considerations. These relate to the shortfall of dwellings proposed on scarce allocated land, the sizes of five of the proposed flats, the unmitigated impact predicted at the Cowlersley Lane/A62 junction, and the lack of a footway to Church Lane. The proposed development's benefits (including the provision of 125 dwellings of which all would be affordable homes, construction-phase employment, tree planting, planning obligations that would benefit the public as well as residents of the development, and the required biodiversity net gain), however, attract significant positive weight.
- 11.3 The site has constraints in the form of adjacent residential development (and the amenities of these properties), topography, drainage, ecological considerations, and other matters relevant to planning. These constraints have been sufficiently addressed by the applicant, or can be addressed at conditions stage.
- 11.4 On balance, and with significant weight being given to this being a 100% affordable housing scheme, approval of full planning permission is recommended, subject to conditions and planning obligations to be secured via a Section 106 agreement.
- 11.5 The NPPF introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. 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.

## **12.0 CONDITIONS (summary list – full wording of conditions, including any amendments/ additions, to be delegated to the Head of Planning and Development)**

1. Three years to commence development.
2. Development to be carried out in accordance with the approved plans and specifications.
3. Submission of a Construction (Environmental) Management Plan.
4. Submission of details of temporary drainage measures.
5. Submission of details of temporary waste collection and storage (should development be phased, and/or dwellings become occupied prior to completion of the development).
6. Provision of site entrance and visibility splays prior to works commencing.
7. Submission of details relating to internal adoptable roads and crossings.
8. Cycle parking provision to be provided within the site.
9. Provision of Electric Vehicle charging points (one charging point per dwelling with dedicated parking).
10. Implementation of air quality mitigation measures.
11. Implementation of sound insulation measures, including additional requirements relating to units 27 to 32 and 36 to 46.
12. Submission of ventilation scheme in relation to noise.
13. Provision of waste storage and collection.
14. Submission of details of attenuation basin.
15. Submission of full details of flood routing.
16. Submission of an Intrusive Site Investigation Report (Phase II Report).
17. Submission of Remediation Strategy.
18. Implementation of Remediation Strategy.
19. Submission of Validation Report.
20. Submission of details of crime prevention measures.
21. Submission of details of electricity substation.
22. Submission of details of external materials.
23. Submission of details of boundary treatments (including details of 2m high boundary treatment to the curtilage of unit 1, in accordance with Sport England's request).
24. Submission of details of how public access to land at the site's south corner would be restricted, in accordance with Sport England's request.
25. Submission of details of external lighting.
26. Submission of details of paths parallel to Church Lane.
27. Submission of full details of open space and playspace.
28. Submission of full landscaping details, including details of tree planting, and details of covenants regarding street tree retention.
29. Biodiversity enhancement and net gain.
30. Submission and implementation of an Ecological Design Strategy.
31. Removal of permitted development rights.

### **Background Papers:**

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f91571>

Certificate of Ownership – Certificate B signed