

**KIRKLEES COUNCIL**  
**PLANNING SERVICE**  
**LIST OF PLANNING APPLICATIONS TO BE DECIDED BY**  
**PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)**

**26-Feb-2015**

**LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**  
**BACKGROUND PAPERS**

**There is a file for each planning application containing  
application forms, plans and background papers.**

**Simon Taylor - Extension 04778**



**In respect of the consideration of all the planning applications on this Agenda the following information applies;**

### **PLANNING POLICY**

The statutory development plan comprises:

The Unitary Development Plan (UDP). These reports will refer only to those polices of the UDP 'saved' under the direction of the Secretary of State beyond September 2007.

The statutory development plan is the starting point in the consideration of planning applications for the development or use of land unless material considerations indicate otherwise (Section 38(6) Planning and Compulsory Purchase Act 2004).

The LDF core strategy approved by the Council in March 2012 was submitted to the Secretary of State on 2<sup>nd</sup> April 2013 for independent examination. However, following correspondence and meetings with the planning inspector, appointed by the Secretary of State, the council resolved to withdraw the core strategy on 23<sup>rd</sup> October 2013. Until such time as revised core strategy proposals have been submitted for examination they will have no significant weight in the determination of planning applications.

### **National Policy/Guidelines**

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 27<sup>th</sup> March 2012, the Planning Practice Guidance Suite (PPGS) launched 6<sup>th</sup> March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

### **REPRESENTATIONS**

The Council adopted its Statement of Community Involvement (SCI) in relation to planning matters in September 2006. This sets out how people and organisations will be enabled and encouraged to be involved in the process relating to planning applications.

The applications have been publicised by way of press notice, site notices and neighbour letters (as appropriate) in accordance with the Statement of Community Involvement and in full accordance with the requirements of regulation, statute and national guidance.

## **EQUALITY ISSUES**

The Council has a general duty under section 149 Equality Act 2010 to have due regard to eliminating conduct that is prohibited by the Act, advancing equality of opportunity and fostering good relations between people who share a protected characteristic and people who do not share that characteristic. The relevant protected characteristics are:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- religion or belief;
- sex;
- sexual orientation.

## **HUMAN RIGHTS**

The Council has had regard to the Human Rights Act 1998, and in particular:-

- Article 8 – Right to respect for private and family life.
- Article 1 of the First Protocol – Right to peaceful enjoyment of property and possessions.

The Council considers that the recommendations within the reports are in accordance with the law, proportionate and both necessary to protect the rights and freedoms of others and in the public interest.

## **PLANNING CONDITIONS AND OBLIGATIONS**

Paragraph 203 of The National Planning Policy Framework (NPPF) requires that Local Planning Authorities consider whether otherwise unacceptable development could be made acceptable through the use of planning condition or obligations,

The Community Infrastructure Levy Regulations 2010 stipulates that planning obligations (also known as section 106 agreements – of the Town and Country Planning Act 1990) should only be sought where they meet all of the following tests.

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

The National Planning Policy Framework and further guidance in the PPGS launched on 6<sup>th</sup> March 2014 require that planning conditions should only be imposed where they meet a series of key tests; these are in summary:

1. necessary;
2. relevant to planning and;
3. to the development to be permitted;
4. enforceable;
5. precise and;
6. reasonable in all other respects.

**Recommendations made with respect to the applications brought before the Planning sub-committee have been made in accordance with the above requirements.**



|  |    |
|--|----|
| Application No: 2014/93014.....  | 9  |
| Type of application: 60m - OUTLINE APPLICATION   |    |
| Proposal: Outline application for residential development comprising of 41no. new dwellings plus associated works (within a conservation area) |    |
| Location: Edgerton Road, Edgerton, Huddersfield, HD3 3AA   |    |
| Ward: Greenhead Ward   |    |
| Applicant: Rob Cooke, Prospect Estates Ltd   |    |
| Agent: John Crompton, LOROC Architects   |    |
| Target Date: 07-Jan-2015   |    |
| Recommendation: MR - MINDED TO REFUSE  |    |
| Application No: 2013/92747.....  | 42 |
| Type of application: 62 - FULL APPLICATION   |    |
| Proposal: Change of use and alterations of A4 public house to D1 education centre  |    |
| Location: Jolly Sailor, 51, Broad Lane, Dalton, Huddersfield, HD5 9BY  |    |
| Ward: Dalton Ward  |    |
| Applicant: M Arshad Naz, Haaris & Co   |    |
| Agent: M Afaq, Operations Director, Mimar Architecture   |    |
| Target Date: 31-Mar-2015   |    |
| Recommendation: ASD-CONDITIONAL FULL APPROVAL SUBJECT TO THE DELEGATION OF AUTHORITY TO OFFICERS   |    |
| Application No: 2014/92369.....  | 56 |
| Type of application: 60m - OUTLINE APPLICATION   |    |
| Proposal: Outline application for residential development  |    |
| Location: Land to side and rear of, 11 Holme Avenue, Dalton, Huddersfield, HD5 8DP   |    |
| Ward: Almondbury Ward  |    |
| Applicant: Executors of HD Stephenson  |    |
| Agent: Farrar Bamforth Associates Ltd  |    |
| Target Date: 19-Mar-2015   |    |
| Recommendation: OP - CONDITIONAL OUTLINE PERMISSION  |    |
| Application No: 2014/91243.....  | 72 |
| Type of application: 60m - OUTLINE APPLICATION   |    |
| Proposal: Outline application for residential development and new access   |    |
| Location: adj 23, Ashford Park, Golcar, Huddersfield, HD7 4RL  |    |
| Ward: Golcar Ward  |    |
| Applicant: S Wilkinson   |    |
| Agent: Robert Beal, Plan B Planning & Design Ass Ltd   |    |
| Target Date: 16-Sep-2014   |    |
| Recommendation: OASD - CONDITIONAL OUTLINE APPROVAL SUBJECT TO DELEGATION TO OFFICERS  |    |

|   |     |
|---|-----|
| Application No: 2014/93626.....   | 89  |
| Type of application: 62 - FULL APPLICATION  |     |
| Proposal: Alterations to detached garage to create dwelling forming annex accommodation associated with The Lodge, Beaumont Park, Beaumont Park Road, Huddersfield, HD4 7AY (within the curtilage of a Listed Building) |     |
| Location: The Lodge, Beaumont Park, Beaumont Park Road, Huddersfield, HD4 7AY   |     |
| Ward: Crosland Moor and Netherton Ward  |     |
| Applicant: Mr & Mrs Calvin  |     |
| Agent:  |     |
| Target Date: 29-Jan-2015  |     |
| Recommendation: FC - CONDITIONAL FULL PERMISSION  |     |
| Application No: 2014/93641.....   | 101 |
| Type of application: 62 - FULL APPLICATION  |     |
| Proposal: Erection of one passive dwelling  |     |
| Location: Land adj, 97, Bourne View Road, Netherton, Huddersfield, HD4 7LA  |     |
| Ward: Crosland Moor and Netherton Ward  |     |
| Applicant: B Thomas   |     |
| Agent: Michael Dunn, SPACE Architecture and Design  |     |
| Target Date: 02-Mar-2015  |     |
| Recommendation: FC - CONDITIONAL FULL PERMISSION  |     |
| Application No: 2014/91027.....   | 120 |
| Type of application: 62 - FULL APPLICATION  |     |
| Proposal: Erection of small scale 11kW Gaia wind turbine mounted on 18m mast with a maximum tip height of 24.5m   |     |
| Location: Lower Whitegate Farm, White Gate Road, Holmbridge, Holmfirth, HD9 2TH   |     |
| Ward: Holme Valley South Ward   |     |
| Applicant: A Colwill  |     |
| Agent: Michael Gordon, Sustainable Energy Systems Limited   |     |
| Target Date: 10-Mar-2015  |     |
| Recommendation: RF1 - REFUSAL   |     |
| Application No: 2014/92112.....   | 140 |
| Type of application: 62 - FULL APPLICATION  |     |
| Proposal: Erection of 1 pair of semi-detached dwellings   |     |
| Location: Land adjacent 49, Helme Lane, Meltham, Holmfirth, HD9 5PF   |     |
| Ward: Holme Valley North Ward   |     |
| Applicant: Nick Saunders  |     |
| Agent: Andrew Smith, Valley Properties  |     |
| Target Date: 10-Mar-2015  |     |
| Recommendation: RF1 - REFUSAL   |     |



**Application No: 2014/93014**

**Type of application: 60m - OUTLINE APPLICATION**

**Proposal: Outline application for residential development comprising of 41no. new dwellings plus associated works (within a conservation area)**

**Location: Edgerton Road, Edgerton, Huddersfield, HD3 3AA**

**Grid Ref: 413276.0 417684.0**

**Ward: Greenhead Ward**

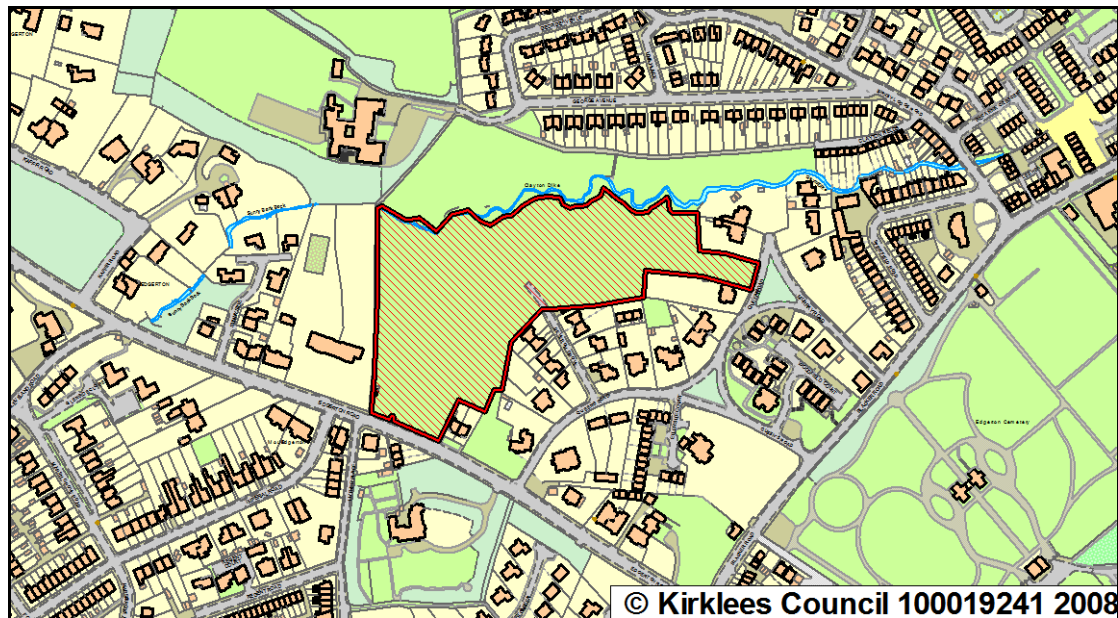
**Applicant: Rob Cooke, Prospect Estates Ltd**

**Agent: John Crompton, LOROC Architects**

**Target Date: 07-Jan-2015**

**Recommendation: MR - MINDED TO REFUSE**

## **LOCATION PLAN**



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

## 1. SUMMARY OF APPLICATION

|                                    |  |   |
|------------------------------------|--|---|
| <b>Application Details</b>         |  |   |
| Type of Development                | Outline application for erection of 41no houses and associated works – access and layout to be determined at this stage.   |   |
| Scale of Development               | Site Area 3.1ha  | 41 dwellings  |
| No. Jobs Created or Retained       | Unknown  |   |
| <b>Policy</b>                      |  |   |
| UDP allocation                     | Housing  |   |
| Independent Viability Required     | Yes  | Not received  |
| <b>Consultation/Representation</b> |  |   |
| Individual Support (No.)           | Two from 2 households  |   |
| Individual Objection (No.)         | Eleven   |   |
| Petition                           | None   |   |
| Ward Member Interest               | None   |   |
| Statutory Consultee Objections     | Yes  | Yorkshire Water, Environmental Health, Statutory drainage |
| <b>Contributions</b>               |  |   |
| • Affordable Housing               | Required -   |   |
| • Education                        | Required   |   |
| • Public Open Space                | Required   |   |
| • Other                            | None   |   |
| <b>Other Issues</b>                |  |   |
| Any Council Interest?              | Indirectly   | Council allotments bordering the site to the north        |
| Pre-application planning advice?   | Yes  | No objections raised                                      |
| Pre-App Consultation Undertaken?   | Yes  |   |
| <b>Comment on Application</b>      | The application has been assessed on its own merits and the proposals fail to fully address UDP policy issues of biodiversity, affordable housing and education needs. This has been weighed against the likelihood of an extant planning permission issued in 1967 being progressed but this does not significantly and demonstrably outweigh the harm. |   |

**RECOMMENDATION: THAT THE SECRETARY OF STATE BE INFORMED THAT THIS AUTHORITY WOULD HAVE BEEN MINDED TO REFUSE OUTLINE PLANNING PERMISSION.**

## 2. INFORMATION

This application is brought to the Area Planning Sub-Committee as the application site exceeds 0.5 ha but is less than 60 units.

The application is the subject of an appeal against non-determination by this Authority. This report seeks a resolution from the Area Planning Sub-Committee as to the decision they would have made if its determination had remained in their remit. This will form the Authority's Statement to the Planning Inspectorate which will determine the application in the normal way.

Cllr Sokhal has requested a site visit as "this is a controversial issue going over the last 18/19 years, so members should have a site visit before making any decision"

Positive negotiations are continuing with the applicant up to the date of the meeting to try reach agreement on outstanding issues where appropriate and these will be reported in the Update.

### **3. SITE DESCRIPTION / PROPOSAL**

The application relates to a large open site of approximately 3 hectares. It partly fronts Edgerton Road to the south. The western boundary abuts a public footpath alongside the large grounds of 18-20 Edgerton Road (HUD/345/20). The northern boundary is marked by Clayton Dyke with woodland along its banks and Council owned allotments to the north. This boundary does not follow the current channel of the Dyke but meanders across it. The south eastern and east boundaries of the site abut dwellings off Queens Road and Deveron Grove. The site slopes down from north to south.

The site lies within the Edgerton conservation area and there are listed buildings close to the site.

The site contains sporadic woodland and individual trees, most notably along the Dyke, which are protected by specific preservation orders as well as by virtue of their location in the conservation area. Within the conservation area trees above a minimum size are protected. Historic tree preservation orders (TPO) were required to be reviewed under legislation and a new Order was served in January 2015. This consolidates those historic TPOs some of which were unconfirmed and reflects the current coverage of significant individual trees and woodland on site.

Public footpath HUD/345/20 runs alongside the western boundary but the site boundary does not include its route. Nevertheless it is understood that there has been public access into and across the site for some years and the Council's Public Rights of Way Section are currently considering public claims for these routes.

The application seeks outline planning permission for residential development of 41 dwellings. Access and layout are submitted for approval at this stage with appearance, landscaping and scale reserved for future approval.

The submitted layout is for 41 detached dwellings mostly served in a cul-de-sac emerging between nos. 12 and 15 Queens Road. Four dwellings would be served off an extension to Deveron Grove. The layout shows two areas of

public open space, the largest of which would front Edgerton Road wrapping around the grade II listed former tram shelter and including the existing electricity sub-station. A footpath link would be provided across this from Edgerton Road into the site. The second smaller area would be more central within the site.

The layout shows the rear boundaries of the dwellings short of the Dyke and a woodland path beyond it on the general line of the channel wholly within the application site boundary.

The application is accompanied by the following:

- Design & Access Statement
- Community Consultation Report
- Heritage Assessment
- Transport Assessment
- Arboriculture Survey
- Flood Risk Assessment
- Habitat & protected Fauna Survey
- Geoenvironmental Site report

These documents will be referred to where relevant in the Officer Assessment below.

#### **4. BACKGROUND AND HISTORY**

97/90270 – Outline planning permission for 48 dwellings refused by the Huddersfield Area Planning Sub-Committee in March 2003. Refusal was on the grounds of premature development of a ‘greenfield’ site and concerns at the suitability of Deveron Grove and the surrounding highway system to accommodate additional traffic.

96/92085 – Outline application for residential development (47 units) and erection of 12 self contained flats, 11 dwellings and 2 bungalows. Application withdrawn.

96/93813 - Outline application for residential development and erection of 12 self contained flats, 11 dwellings and 2 bungalows. Application withdrawn.

In January 1967 planning permission was given for the erection of 20 houses, 23 bungalows and 12 flats on this site. The only plan in current records is a layout of dwellings and roads which showed access off Deveron Grove and Queens Road in the same positions as now proposed. It has been historically accepted by Officers that the permission remains extant due to the commencement of construction works albeit that such works subsequently ceased.

#### **5. PLANNING POLICY**

The site is allocated for Housing on the Unitary Development Plan (UDP). A footnote to the allocation states that a development brief is to be prepared,

including requirements for access, footpaths, open space and the protection of trees.

**The following UDP policies are relevant:**

H6 – Sites for new housing  
H18 – Public open space  
H10 – Affordable Housing  
BE1 – Good design contributing to built environment  
BE2 – design of new development  
BE5 – Development in conservation areas  
BE11 – Materials  
BE12 – Space about buildings  
NE6 – Retention of water areas in developments  
NE9 – Retention of mature trees  
EP11 – Enhancement of ecology  
T10 – Highway safety  
R13 – Public footpaths

**National Planning Policy Framework:**

Achieving sustainable development  
Section 4 - Promoting sustainable transport  
Section 6 - Delivering a wide choice of high quality homes  
Section 7 - Requiring good design  
Section 8 – Promoting healthy communities  
Section 10 – Meeting the challenge of climate change, flooding and coastal change  
Section 11 – Conserving and enhancing the natural environment.  
Section 12 – Conserving and enhancing the historic environment  
Decision taking

The NPPF has superseded national planning advice in Planning Policy Statements and Planning Policy Guidance as well as the Regional Spatial Strategy considered at the time of the previous outline application.

**Other Policy/Legislative Considerations:**

Supplementary Planning Guidance 2: Affordable Housing.

Providing for Education Needs Generated by New Housing.

Planning Practice Guidance was published on 6<sup>th</sup> March 2014 and the following sections are relevant to this application.

- Land stability
- Open space, sports and recreation facilities, public rights of way and local green space.
- Natural environment.

- Tree preservation orders
- Use of planning conditions
- Viability.

English Heritage Practice Guide to Planning Policy Statement 5 – Planning for the Historic Environment remains a relevant consideration even though PPS5 itself has been revoked.

## **6. CONSULTATION RESPONSES**

**K.C. Highways Development Management** – Following the negotiation of amended plans no objections in principle.

Detailed design of the road layout is largely agreed and expected to be concluded prior to the Committee meeting. These can be secured by conditions. Additionally new residents should be provided with residential metro cards and the developer would be required to contribute to the improvement of bus flows along the A629 corridor by the provision of bus priority loops at the Edgerton Road / Blacker Road junction. These should be secured through a S106 Agreement.

**K.C. Public Rights of Way (PROW) Team** – layout acceptable in principle subject to detail which can be resolved by condition.

**K.C. Environmental Services** – concerned that the proposed development would be subject to elevated levels of noise from road traffic on Edgerton Road. Officers confirm that this can be resolved by condition requiring an acoustic report identifying attenuation measures if appropriate. Officers also recommend conditions to deal with potential contamination although no indication of what contamination thought to be present has been identified. Finally a condition requiring the provision of facilities for charging plug in and other ultra low emission vehicles is required.

**Yorkshire Water** – initially objected to the drainage details / site layout on the grounds that there is insufficient ‘stand off’ distance between the proposed dwellings and sewerage infrastructure within the site. Yorkshire Water officers have had subsequent discussions with the applicant and state that there is a way forward to achieve the site layout with “very few minor amendments” and as such they withdraw their objections subject to a condition requiring such amendments.

**K.C. Trees** –no objections subject to conditions requiring a landscaping scheme to include tree planting and the submission of a detailed arboriculture method statement, in accordance with BS 5837, which includes details of any pruning works and covers the footpath by the stream side, to be submitted and approved prior to commencement.

**Environment Agency** – no objections subject to a condition requiring development to be carried out in accordance with the submitted Flood Risk Assessment and the proposed surface water run off limitation in particular.

The Agency also advise a sustainable drainage approach. The Agency notes that the development is in close proximity to an existing watercourse and that the NPPF requires LPAs to conserve and enhance the natural and local environment by minimising or providing net gain in biodiversity where possible. Finally the LPA should be satisfied, through Yorkshire Water that there is capacity in both the receiving sewer and sewage treatment works to accommodate the discharge proposed.

**K.C. Biodiversity** – concerned that the lack of a proper detailed assessment of the wildlife habitat does not allow full consideration of the effect of development. In such circumstances refusal is recommended.

**K.C. Drainage** – no objections subject to conditions.

**KC Conservation & Design** – No objections at this stage but the mature trees should be retained in line with the advice of KC Trees Officer so as not to reduce the significance of the conservation area.

**Police Architectural Liaison Officer (PALO)** – no objections.

**K.C. Education** – contributions to improve school capacity in the catchment area are required.

**YEDL** – no response.

**K.C. Housing** – confirm a demand for affordable housing in the area however, the proposed layout does not offer the mix of units expected to meet these needs.

**K.C. Landscape** – no response.

## **7. REPRESENTATIONS**

### **Community Involvement**

The Council adopted its Statement of Community Involvement (SCI) in relation to Planning matters in September 2006. This sets out how people and organisations will be enabled and encouraged to be involved in the process relating to planning applications.

For ‘major’ applications such as this a greater level of community consultation is encouraged as well as discussions with the Council at pre-application stage. Whilst the SCI is not prescriptive about the required form of community consultation on individual development proposals, it is stated that the Council wishes to be consulted on a programme for planned community involvement for individual sites.

In this case the applicants were party to pre-submission discussions with Council officers instigated by a third party potential developer. Furthermore

the applicant entered into discussions with the Clayton Fields Action Group (CFAG) prior to submitting the scheme. The applicant states that where possible the scheme has taken into account the comments made at that meeting.

The application was publicised by neighbour letter, site notice and in the newspaper. The publicity period expired on 21<sup>st</sup> November 2014.

The response to publicity may be summarised as follows:

Nineteen individuals / groups have made representations in response to the development including the Governors of St Patrick's Catholic Primary School close to the site and multiple representations from the Secretary and Chairman of the Clayton Fields Action group (CFAG).

In addition Barry Sheerman MP considers that it is extremely important to establish the accurate boundary between the Council land to the north and the applicant's land relative to the application boundary as part of the Planning process.

Councillor Mohan Sokhal states "I would be grateful if you could please arrange a site to Clayton Fields Edgerton before the hearing of this application on 26th February planning meeting. As you know this is controversial issue going over the last 18/19 years, so members should have a site visit before making any decision."

Councillor Andrew Cooper has requested clarity on the boundary issue.

#### Visual and residential amenity

- The increase in traffic will result in air pollution detrimental to residents' health. Air quality testing should be part of the planning application process.
- The development will increase noise nuisance to local residents and pollution to Clayton Dyke.
- Trees would be lost either directly or indirectly as a result of the proposal.
- Attractive public access to Clayton Dyke should be provided to maintain wildlife habitat. Boundary fencing close to the woodland walk would be oppressive and be seen as a security risk to residents as well as harming its amenity value.
- Maintenance of the woodland corridor could be taken on by local people.
- The proposed woodland walk close to the stream would be impassable in inclement weather, in times of flood and in winter and to the aged or disabled generally.
- The construction of the woodland walk would destroy the embankment and Dyke edge.



- The woodland walk is unlikely to be constructed due to cost, impracticality and time on the steep gradients. Its construction would destroy the woodland aspect.
- Contrary to the comments of the applicant the site is used and enjoyed by local people for walking, walking dogs and community events. The site is immeasurable local significance.
- Development needs to provide, reflect and expand adequate footpath routes across the site acknowledging historic routes. Existing routes should be improved.
- The development should allow for widening of the public footpath to the west of the site to incorporate the existing trees to enhance environmental value.
- A footpath through the site from Queens Road / Murray Road to the bridge over the Dyke will allow a traffic free route to the nearby school.
- Development would harm the high wildlife value of the site. The Habitat Survey submitted with the application is flawed and factually incorrect in that
  - a) The wildlife survey extends only to the land within the application site boundary and not the full length of the Dyke.
  - b) An accurate bat survey cannot be carried out during the species hibernation season or during the day.
  - c) Japanese knotweed is present on the site and should be removed before planning permission is issued.
  - d) A protected species, autumn crocus, is present on site and should be protected.
- Biodiversity should be enhanced through the provision of bat and bird boxes.
- The increase in artificial lighting resulting from occupation of the site will be detrimental to wildlife.
- Felling of trees would harm the character of the conservation area.
- Recent felling has resulted in an apparent loss of wildlife activity on the site.
- Residential gardens and boundary fences should not extend into the tree canopy and woodland corridor of Clayton Dyke.
- Trees alongside the footpath to the western boundary should be retained within the route not gardens. This route should be improved and widened.
- The footpath should be along the top of the Dyke embankment to preserve trees and the proposed residential curtilages moved back accordingly.
- The proposal will harm the character of the conservation area.
- Development should not impinge on the open space 'triangle' between Queens Road and Murray Road.

### General

- The LPA is urged to formally revoke the 1967 planning permission.
- The northern boundary of the site should be the beck. Residents have submitted historic information in support of this and request that the decision is deferred until this is resolved.

- The current northern boundary of the site excludes some parts of the channel making the provision of a wildlife corridor incomplete and less value. This is inconsistent with the requirements of the 1967 permission and does not reflect the existing use or route through the woodland.
- If the boundary issue is not resolved it will enable any future developer to enclose Clayton Dyke by fencing within the curtilages of the new dwellings obstructing the route of the woodland footpath, narrowing the accessible woodland corridor and enable the diversion of the claimed footpath to the north side of the Dyke within the allotments.
- Fences to the rear of dwellings close up to the Dyke is vulnerable to breach from the allotments whilst the banking provides cover for anyone to watch the houses unobserved. A more secure location for the fences would be at the top of the banking allowing a more practical community friendly shared area above the stream.
- Insufficient space between rear boundaries of the dwellings and the woodland to maintain privacy.
- CFAG understands from a pre-application meeting with the landowner that he is willing to gift the open space along the river corridor to public organisations. It is stated that some local residents are willing to take this on subject to details of the extent of the land and detailed responsibilities being agreed.
- The site is badly drained with surface water collecting at the bottom of the slope – concerns at where water will be drained from the hard surfaces in the proposal.
- The site suffers from sewerage odour from the network of sewers, drains, overflows and chambers on the site.
- Schools and medical facilities in the area are oversubscribed and the financial requirements from developer is unlikely to address the former.
- The Authority should pursue a more significant improvement beyond the 1967 permission.

### Road Safety

- Roads in the area are narrow, sloping with parking over pavements and restricted visibility from steep private drives which will make it difficult for the extra residents and construction traffic to negotiate and be hazardous to pedestrians including children.
- The Queens Road / Edgerton Road junction is narrow, lacks footpaths on either side with poor visibility and on-street parking and is taken at speed by inconsiderate drivers.
- Queens Road is a 'rat run' by speeding traffic. Measures should be taken to ensure that this junction does not become the key route in and out of this development. Queens Road should be made 'one-way' or provided with a pavement. This will result in vehicles exiting Murray Road mainly turning left onto Blacker Road which will ease congestion.
- Residents on Queens Road already experience difficulties entering and leaving their properties by vehicle.

- The development should incorporate a main exit onto Edgerton Road taking advantage of existing pedestrian traffic lights upgraded to a traffic light junction.
- Traffic flow in the surrounding roads is restricted by a blind corner, ambiguous road marking, poor streetlighting, parking / dropping off of children at a nursery on Queens Road.
- Construction traffic will have difficulty negotiating the Deveron Grove / Queens Road and Murray Road / Blacker road junctions.
- The Blacker Road / Murray Road junction is narrow, with narrow pavements, limited visibility and manoeuvrability space, suffers on-street parking and speeding traffic and has 4 accidents in the last 5 years whilst Blacker Road is used by speeding traffic.
- The development would generate 100+ cars on a road network which is already very busy from traffic from recent development in the area, suffers congestion and could not cope with the increase in traffic.
- If the development is granted planning permission, pavements, 'keep clear' boxes in front of existing drives, mirrors should be provided to address likely problems.

Two representations has been received in support of the proposals

- They reflect the outcome result of earlier discussions with the group.
- It is argued that the current proposals are an improvement on the 1967 permission in terms of:
  - Reduction of dwellings, use of stone and changed house type as well as the loss of affordable housing provision.
  - Access arrangements regarding Deveron Grove and Queens Road. Deveron grove is now a cul de sac and principle access is through Queens Road off Blacker Road not through Murray Road.
  - Improved provision of public open space and retention of Clayton Dyke as a wildlife habitat.
  - Retention of the existing footpath routes across the site.

## **8. APPLICANT'S STATEMENT**

The Design & Access Statement (D&AS) argues that the site is un-used and if left un-developed could become a nuisance attracting anti-social behaviour in an otherwise pleasant residential area.

Development is in line with NPPF objectives and the UDP, would address the District's shortfall in its 5-year housing supply and would bring economic benefits.

The layout would be in accordance with UDP policy BE12 and new footpaths would improve the amenity value of the site.

The Transport Assessment concludes that development traffic is an exchange between the proposal and the extant permission. The characteristics and times of impact of both sets of traffic will be the same. It states that the proposal would generate "a very light increase in use in vehicle numbers".

With regard to para 32 of the NPPF person and traffic generation will be relatively modest and less than the extant permission.

The site will be incorporated into the existing refuse collection round so that trips will not be increased and home deliveries will not be excessive.

#### Sustainability

The site is close to services within Huddersfield town centre with other facilities along the route. It is close to bus and rail links as well as schools and recreational facilities. The applicant does not intend to develop the site but assumes that the scheme will be designed to sustainable principles.

With regard to the remaining 'reserved matters' the applicant states:

#### Landscaping

The D&AS notes that public open space is provided in excess of the requirements of UDP policy H18. These are in areas whose characteristics prohibit development allowing maximum development potential. Details of future maintenance would be the subject of future discussion with the LPA.

The submitted arboriculture report identifies trees to be removed or pruned.

The layout includes key tree and shrub planting to enhance attractiveness which will be in accordance with 'Secured by Design'.

#### Scale

The density equates to 17.98 dwellings per hectare in keeping with the character of the area and appropriate for the size and topography of the site. All elements are domestic in scale and nature.

#### Access

The road design is to adoptable standards and contributes to reducing traffic speed throughout the scheme whilst allowing access for refuse/emergency vehicles. Houses would be disabled accessible. All dwellings have two off-street parking spaces with garages large enough to accommodate a car, cycles and normal domestic storage.

There is no evidence that the existing accident record in the area would be aggravated.

#### Appearance

The slope of the site has led to the use of split level design and varied rooflines. Dwellings are detached with spacious gardens to be in keeping with the surrounding properties and the conservation area. Trees and hedges will be retained where possible with poorer trees removed to enhance those of good quality.

#### Biodiversity

The applicant is willing to undertake bat transect surveys but as these can only be carried out in summer when the bats are active it is requested that this

is a condition of permission. The applicant is willing to accept conditions requiring them to undertake biodiversity enhancement.

#### Public Footpaths

The amended layout takes into account the footpaths officer's comments.

#### Affordable Housing, Education, Public Open space

The applicant states that the existing consent issued in 1967 for 55 dwellings "requires no provision by way of contributions to affordable housing, education or public open space provision and we would request that this factor is taken into consideration when applying a section 106 agreement to the new application consisting of 41 dwellings." It is stated that the current application incorporates "a substantial proportion of developable land allocated to public use and that an education contribution has also been requested". The applicant argues that the current proposal is 14 units less than the 1967 permission and the loss of revenue should justify no contribution to affordable housing. The applicant acknowledges that this is contrary to policy however the progression of the 1967 permission would not deliver any affordable housing. Furthermore there is local support for not providing affordable housing.

The applicant has not confirmed that they will or will not provide the financial contribution to meet the education needs generated by the development.

#### Traffic Noise

The applicant has stated that the dwellings would be separated from Edgerton Road by an area of public open space and there are level differences. It is argued that any noise disturbance would be small if not non-existent.

### **9. ASSESSMENT**

#### **Principle of development:**

S70 of the Town & Country Planning Act 1990 states that applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF states that in assessing and determining development proposals local planning authorities should apply the presumption in favour of sustainable development (para 197). The presumption in favour of sustainable development means that development

proposals that accord with the development plan should be approved without delay unless material considerations indicate otherwise.

NPPF paragraph 47 sets out the requirement for local authorities to demonstrate a 5 year supply of deliverable housing capacity including a buffer of 5% or 20% depending upon previous housing delivery. Measured against the RSS housing requirement the deliverable land supply is sufficient for 2.45 years. Further information is provided in the LDF Annual Monitoring Report<sup>1</sup>. In circumstances where a 5 year land supply cannot be demonstrated, NPPF paragraph 49 states: “relevant policies for the supply of housing should not be considered up to date”. NPPF paragraph 14 sets out a presumption in favour of sustainable development and states that where relevant policies are out-of-date, planning permission should be granted “unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in this framework taken as a whole, or that specific NPPF policies indicate development should be restricted”.

The NPPF states that the purpose of the planning system “is to contribute to the achievement of sustainable development.” NPPF identifies the dimensions of sustainable development as economic, social and environmental roles. It states that these roles are mutually dependent and should not be taken in isolation. “Economic, social and environmental gains should be sought jointly and simultaneously through the planning system.” NPPF stresses the presumption in favour of sustainable development.

The starting point in the consideration of this application is that the site is allocated for housing on the Unitary Development Plan (site H8.7). A footnote to the allocation states that a development brief is to be prepared, including requirements for access, footpaths, open space and the protection of trees. Such a brief has not been prepared. It is surmised that when the site was initially accepted as a ‘village green’ the prospect of development was seen to be diminished if not removed and no purpose would be served by preparing a development brief. The lack of a development brief is not considered to prejudice Members’ consideration of the application. Officers consider that all issues which would be expected to be covered in a development brief have been adequately assessed as part of the current application. Officers do not regard this as a departure from the development plan.

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The proposals should be considered on their own merits as is normal practice.

Notwithstanding the fact that the site is allocated for housing on the Unitary Development Plan, when considered against the three NPPF roles the development is on balance felt to be sustainable.

The proposal fulfils the economic role as will result in employment opportunities for contractors and suppliers.

In terms of the social role the proposal will contribute to “the supply of housing to meet the needs of present and future generations”. The layout including public open space and conformation with privacy standards in UDP policy BE12 will help to create a high quality built environment on which quality design can be negotiated at reserved matters stage.

Notwithstanding the pending decision on the claimed public routes through the site it is not publically accessible. The proposal would be an improvement in this respect by introducing a woodland walk and providing areas of public open space within it and along the Dyke.

In such circumstances the proposal fulfils the social role of sustainable development.

In terms of the environmental role the proposal would not materially harm the built or historic environment or result in an unacceptable loss of trees. In the absence of any professional assessment of the quality of the woodland as a habitat it is not possible to determine whether harm will be caused in this respect.

The proposal would result in housing in an easily accessible location to the town centre and local facilities helping to minimise pollution and mitigating climate change.

On balance it is accepted that the proposal constitutes sustainable development.

**Impact on visual amenity:**

The application is in outline with external appearance and scale reserved for future approval. The layout of detached houses is in keeping with the character of the surrounding area and a suitable external appearance and scale to harmonise with the surrounding area can be negotiated through the reserved matters process. It is considered that in such circumstances the proposal accords with UDP policies and advice in the NPPF.

## **Impact on residential amenity:**

### UDP policy BE12

The policy states that new dwellings should be designed to provide privacy and open space for their occupants and physical separation from adjacent property and land.

UDP policy BE12 requires minimum acceptable distances of:

- 21 metres between facing habitable room windows
- 12 metres between a habitable room window and a blank wall or a wall containing a non-habitable room window.
- 10.5 metres between a habitable room window and the boundary of any adjacent undeveloped land, and
- 1.5 metres between the wall of a new dwelling and the boundary of any adjacent land (other than a highway)

Distances less than these will be acceptable if it can be shown that by reason of permanent screening, changes in level or innovative design no detriment would be caused to existing or future occupiers of the dwellings or to any adjacent premises or potential development land.

The proposed dwellings will be close to existing dwellings on the boundary of Deveron Grove and Queens Road.

In the absence of details of the design of the dwellings when submitted as reserved matters it is assumed at this stage that habitable room windows will be restricted to front and rear elevations

Nos 8b,c & d Queens Road have rear habitable room windows facing into the site. The wall of the nearest proposed dwelling would be 12.3 metres from those windows and it would be reasonable to expect it to contain non-habitable windows such that it will comply with policy BE12.

No 15 Queens Road has habitable room windows on the side 13 metres facing the rear wall of plot 41. The applicant has confirmed that the rear wall of plot 41 would be blank. This is practical and BE12 compliant.

No 12 Queens Road has a blank gable facing across the proposed access road 15 metres to potential habitable room windows on plot 41.

No 6 Deveron Grove appears to contain a habitable room window on the side wall facing plot 7 scaled at 10.2metres. This is less than required under BE12 however, the dwellings would be set at an angle and staggered such that separation distance will increase to 13.7 metres at its furthest point and the window is set away from direct view to the wall. In such cases this relationship is considered acceptable.

No 9 Deveron Grove has habitable room windows on the side wall facing plot 8 which is expected to be blank or contain non-habitable room windows.



These would be 6.4 metres apart, well below the distances allowed under BE12. However, the position of the two dwellings is staggered so that plot 6 is set forward of no 9 and there would not be a direct relationship. The aspect of the windows would be over the garden of plot 8. In such circumstances this is considered acceptable.

Within the site the distances are less than required under policy BE12 in some cases. However, this is acceptable for the following reasons:

- Some dwellings are set staggered to neighbours so do not comply with BE12 at their lowest point but do so as the increased distance of the stagger takes effect.
- Relationships across an intervening public road would enjoy less privacy than a 'back to back' situation.
- The layout has been amended to reduce the harmful effect on trees within the site. It is considered that in this instance the need to retain trees under UDP policy NE9 outweighs the harm caused by reduced privacy distances required under policy BE12 between future plots.

Plot 19 is angled towards an open area of land to the side of Brook House, Edgerton Road. This land may be interpreted as 'undeveloped land' for the purposes of BE12. The separation distance varies between 9.5 and 16 metres which, taken as a whole is considered acceptable.

In terms of separation distances the proposal does not strictly accord with UDP policy BE12 but it would not result in harm to privacy and therefore is still considered acceptable for the reasons set out above.

The proposal would provide public open space in excess of that required under UDP policy H18. Excluding the woodland area to Clayton Dyke the plans show two areas of public open space on the frontage to Edgerton Road and within the site off Deveron Grove providing 2,220 sq m & 889sqm respectively. This total of 3109 sqm compares with 1230 sqm (41units x 30sqm) which would be required under UDP policy H18.

In such circumstances the proposal is not considered to be harmful to residential amenity.

#### **Impact on Heritage assets:**

Under requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 the LPA must have special regard to the desirability of preserving the setting of any listed building. In this case there are grade II listed buildings at the former tram shelter on Edgerton Road, nos 18-20 Edgerton Road and nos 1-2, 9 & 16 Queens Road.

Similarly the LPA must pay special attention to the desirability of preserving or enhancing the character and appearance of the conservation area.

NPPF states that in determining planning applications local planning authorities should take into account:

- the desirability of sustaining and enhancing the significance of heritage assets,
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality and
- the desirability of new development making a positive contribution to local character and distinctiveness.

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

It is considered that the submitted layout preserves the setting of these buildings and that control over the external appearance of the dwellings as a reserved matter is sufficient to preserve the setting in the future.

The Edgerton Conservation Area was designated in 1976. The character of the conservation area is predominantly that of a leafy residential area with large, well detailed detached dwellings set in generous grounds. The mature trees, hedges and shrubs set in these private gardens add interest and help soften the buildings. Areas of the conservation area have been eroded in terms of a loss of significance due to the change of use of buildings, inappropriate extensions and infill developments. The last appraisal was adopted in 2007 which was part of a review of the conservation area; this resulted in the area being extended. Of note for this application the boundary was extended to include the allotments to act as a buffer between the dyke and the dwellings to the north of this site.

The density of this part of the conservation area is low due to the amount of open space and limited number of dwellings. The historic buildings in this area are vernacular in style and whilst two storey in height their scale is much smaller than that of Victorian properties elsewhere. There are examples of fairly dense development in this part of the conservation area so it is considered that a layout of this type would not be of detriment to the conservation area.

At this stage there are no objections to the means of access from a heritage point of view but it will be critical that the design, landscaping and boundary treatments are carefully considered at reserved matters stage so as not to reduce the significance of the conservation area. To enable the layout to succeed mature trees should be retained in line with the advice of the Arboricultural Officer.

It is considered that the proposal is in line with NPPF advice and Policy BE5 of the UDP.

## **Trees & Biodiversity:**

The proposal would result in the loss of seven young to semi-mature trees to facilitate the development on site. The submitted tree survey identifies a greater number but Officers consider that these additional trees can be retained as part of the development.

The location of the crown spread on the layout plan submitted with the application is not considered by Officers to be accurate. However, the Trees Officer has inspected the trees on site and superimposed the canopy line shown on the applicant's tree survey onto the layout plan in order to inform his recommendation.

The Trees Officer initially had concerns that the tree loss/negative impact on the woodland strip to implement the new proposal would be similar if not worse overall than the available plan with the 1967 decision notice. In response the applicant has moved the dwellings away from the tree canopy and removed dwellings that were shown within the tree canopy. The layout removes the possibility of dwellings being erected within the tree canopy which was a possibility under the 1967 permission.

On balance the Trees Officer raises no objections to the current proposal as, whilst a greater distance between the rear walls of the dwellings and the tree canopy would be desirable there would be no immediate tree loss arising from the proposal and weight is given to the possible layout of the 1967 permission over which this current application represents an improvement.

The submitted arboriculture method statement is not considered to be sufficient however, Officers consider that this could be dealt with by condition should the Inspector grant consent.

A woodland management scheme for the whole of the woodland to the south of the Dyke is desirable.

With regard to the woodland habitat as opposed to amenity of individual trees the following assessment is made.

The NPPF identifies conserving and enhancing the natural environment as one of its main aims by minimising impacts on biodiversity and providing net gains where possible. Protecting and enhancing natural environment and improving biodiversity are part of the environmental role of sustainable development. Paragraph 118 of the NPPF states that:

*“if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated or, as a last resort, compensated for, then planning permission should be refused.”*

Article 10 of the Habitats Directive stresses the importance of natural networks of linked habitat corridors to allow the movement of species between

suitable habitats and promote the expansion of diversity. River corridors are effective in this respect as well as possibly helping wildlife adapt to climate change.

Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England to have regard in the exercise of their functions to the purpose of conserving biodiversity.

The National Planning Guidance on Natural Environment states that in considering how development can affect biodiversity it is useful to consider (among others) whether an ecological survey is appropriate. The Guidance states that local planning authorities should only require an ecological survey "if they consider there is a reasonable likelihood of a protected species being present and affected by the development.

Officers consider that there is a reasonable likelihood of bats roosting in the woodland. Officers are concerned that the lack of suitable information on the value of the habitat with the application makes it difficult to make an accurate judgement of the effect of the development. The applicant has been asked to provide a detailed habitat assessment but has declined.

Much of the site has been cleared and previously consisted of scrub and groups of young trees. Some woodland and trees remain and, in particular, the woodland around the stream corridor is likely to form an important part of local habitat networks for species such as foraging bats and nesting and foraging birds. Autumn crocus, a native species although naturalised in most areas of the UK, is also known to occur at the site and its presence should be retained in suitable locations.

The Phase 1 Habitat and Protected Fauna Survey originally submitted with the application has established the habitat types, as opposed to quality, present at the site, much of which is low value habitat. A number of invasive plant species occur across the site. The report also identifies the habitat around the beck as scattered trees but Officers would class this as woodland.

Whilst Officers agree with some of the report findings, including the need for further information in some areas, the report does not adequately address all of the ecological issues below.

1. There is no assessment of the woodland habitat alongside the beck as part of the ecological survey or an assessment of the potential impacts of the development, including excavating a footpath alongside the beck. Lowland deciduous woodland is a UK Habitat of Principal Importance. An assessment of this woodland is required predetermination as the proposal will impact directly on this habitat as the gardens will extend under the tree canopy. Impacts on semi-natural woodland should be avoided which Officers regard as an important issue and argue strongly that gardens should not impinge on woodland habitat or any UK Habitat of Principal Importance. To do so in the absence of a detailed habitat assessment of harm and any mitigation

measures is contrary to NPPF guidance. The woodland would ideally have been assessed during the survey.

2. The report states that the only two Priority Habitats present (another term for UK Habitat of Principal Importance) are the stream and neutral grassland (but as the latter is improved grassland – supplemented with a host of garden escapees - it is not really a UK Habitat of Principal Importance). There is no mention of the woodland as a UK Habitat of Principal Importance (or Priority Habitat). This additional survey woodland work should not be conditioned. In the absence of a detailed habitat survey and justification for any loss of habitat Officers object to the scheme and further loss and potential future erosion of this woodland habitat.
3. The report refers to the need for a bat survey to assess the bat roost potential of the trees present at the site. It also recommends a series of bat activity surveys to understand how the site is used by foraging bats. Furthermore the report recommends bat surveys of the 2 buildings present within the site.

It is not clear if the trees proposed for removal have any bat roost potential. This should be established before determination of the application and, contrary to the applicant's statement, can be investigated at this time of year although an endoscope search may be required.

The existing buildings on site identified with bat roost potential in the report are off or on the periphery of the site. However, if trees are to be removed which could impact indirectly on any roosts present, then the buildings should be surveyed predetermination. Otherwise this is not an issue. If the roosts are to be affected by tree removal, this additional survey work should not be conditioned.

In terms of bat activity surveys to determine main foraging areas i.e. other than related to roost potential as addressed above Officers consider that these could be conditioned as it is very unlikely that foraging habitat cannot be protected as part of the development. However, it is stressed that this is subject to the findings of the above surveys for bat roost potential and the woodland.

In addition, insufficient information has been provided to demonstrate how potential biodiversity impacts of the development will be mitigated or compensated for and, also, any appropriate enhancement measures which might be included. The measures below should be conditioned with details to be approved by the LPA:

- An appropriate number of bat boxes at suitable locations integral to new buildings.
- An appropriate number of woodcrete bat boxes such as Schweglar 1FF type or similar at suitable locations on mature trees.

- An appropriate number of bird boxes for sparrows (sparrow terraces) and swifts at suitable locations integral to new buildings.
- An appropriate number of woodcrete bird boxes for starlings and woodland species at suitable locations on mature trees.
- A landscaping scheme based upon the use of native shrub and tree species and retaining areas of the autumn crocus and the use of fencing, between and surrounding gardens that does not impede or obstruct the free movement of hedgehogs.
- A lighting scheme and method of working designed to minimise light spillage into tree corridors during the construction phase and post development. .
- A method statement for the eradication and control of invasive plant species.
- A landscape and woodland management plan which aims to enhance biodiversity interest across the site, including the woodland.

A cautionary note should be added to any permission that any vegetation clearance should adopt best practice and be undertaken outside the bird breeding season, March to August. Any clearance within the period should be preceded by a nest search by an ecologist and should any active nests are present which will be affected by the works then work should cease until the young have fledged.

With regard to specific issues raised by local residents.

- The development will not impact on the Dyke therefore, subject to best practice to be adopted during the construction phase, crayfish will not be impacted.
- Japanese knotweed is present on site but a condition requiring a method statement for its removal is sufficient.

### **Riverside Corridor:**

The preservation of the riverside corridor as woodland with public access through it was one of the main benefits sought by local residents in pre-application discussion.

The proposed woodland path lies to the rear of plots 25-34 connecting public footpath HUD/345/20 along the western boundary of the site to an informal desire line between the site of plots 34 and 35 crossing the Dyke onto Council land to the north. It runs to the south of the channel within the site boundary. Along this length however, the joint boundary between the application site and land within the Council's ownership meanders across either side of the channel. Clearly this makes any requirement to provide a public open space through the Dyke channel, other than the woodland walk difficult as it is beyond the application site boundary.

It would be preferable to secure future maintenance or improvement of all the land on either side of the Dyke channel. However, there is no reason to doubt the applicant's interpretation of the boundary. Local residents have

questioned the northern boundary of the application site as it relates to the channel of the Dyke and Council owned allotments beyond it to the north. The evidence put forward by residents has been considered by the Council's Legal and Asset Officers who remain satisfied that, under current legal interpretation of the moving channel the application boundary matches that of the Council ownership. In such circumstances Officers are satisfied that the land to the south of the channel is within the control of the applicant and a condition of any planning permission would secure satisfactory maintenance of the woodland.

The PROW officer notes that whilst the woodland and the pedestrian route should remain open for public access it would not be suitable for adoption by the Highway Authority. The future maintenance of the path could be resolved by condition.

The exact rear boundaries of the dwellings can be conditioned.

#### **Traffic Noise and Contamination:**

Officers accept that these issues can be resolved by condition.

#### **Drainage:**

Paragraph 103 of the NPPF notes that when determining planning applications LPAs should ensure flood risk is not increased elsewhere. Development should be appropriately flood resilient and resistant and priority is given to sustainable drainage systems (SUDS).

Following the submission of amended plans regarding flood routing through the site and surface water storage Officers raise no objections subject to conditions.

The Drainage officer notes that the flood risk assessment (FRA) fails to take account of current evidence surface water flows in the vicinity of the site coming down Luther Place onto Edgerton Road and down Queen's Road, as return events increase it clearly identifies a route into site via Deveron Grove.

The statement in the FRA that peripheral roads should be above current site levels does not appear to be appropriate for this site.

The FRA was produced without consultation with Kirklees Flood Management & Yorkshire Water.

Flows from the wider catchment into site and those associated with the new drainage on site, blockages at gullies/pipework, or general exceedance events means that overland flows must be considered that avoid property and garden where at all possible. Key areas appear to be the extending Deveron Grove through the public open space, and the other roads/public open space

to the low point of the site and across to the Clayton Dike (or safely off site as the indicative plan now suggests). Raised tables in highway design and any sharp bends need to be considered in terms of how exceedance flow routes are managed. This aspect can now be conditioned.

For surface water flows, Kirklees guidelines impose a 5l/s/ha restriction on surface water discharge rates, which can be reduced to 3.5l/s where significant land drainage is introduced, i.e. terraced areas with retaining walls increasing the efficiency of land drainage that requires a compensatory reduction. This discharge rates on the indicative layout are not yet approved. Areas of soft landscaping between the northernmost properties and the watercourse should not be part of this assessment to avoid double counting. Soft landscaped areas picked up by interceptor drainage should also be discounted.

Conditions are recommended on any planning permission to address the following issues.

- The submission of full drainage details for approval
- Flow Restriction & Surface Water Attenuation
- An assessment of the means of dealing with 1 in 100 year storm events.
- Details of temporary drainage provision during the construction phase to be submitted and agreed

It is recognised that the layout does not resolve issues raised by Yorkshire Water relative to their infrastructure. The extent of the required relocation has not been defined by YW or the applicant and there may be potential conflict with the layout if approved by the Inspectorate on appeal. However, this is covered by separate legislation which the developer must adhere to irrespective of any planning permission. Should a relocation be required in the future this is for the developer to make application to this Authority in the future either as a further application for planning permission or a minor amendment. The lack of clarity on this matter at this stage does not significantly or demonstrably outweigh the benefits of securing housing on this site.

Yorkshire Water have offered no advice on the systems not shown on the statutory record that appear to conflict with plots 6 and 7 as highlighted by the Strategic Drainage Officer. This is being pursued at the time of writing.

### **Highway safety:**

#### Road Safety

Following negotiations with the agent an amended road layout and design has now been negotiated and whilst the majority of the Highway officer's concerns



have been addressed others have yet to be concluded. These are minor design issues and will not significantly affect the layout and Officers are confident that these will be resolved prior to the Sub-Committee meeting. The recommendation has been made on this basis however, should matters remain unresolved Members will be updated at the meeting.

The percentage increase in the existing levels of vehicle traffic as a result of the development would be within the range of daily fluctuations of traffic.

If planning permission is resolved to be granted a S106 agreement would be recommended to require the developer to provide residential metrocards via Metro's Residential Metrocard scheme. This is so as to encourage non-car modes of travel.

The site is well served by public transport. However, through internal consultation with Urban Traffic Control (UTC) regarding the operation of the Edgerton Road/Blacker Road junction, the applicant would be required to contribute to improvement of the flow of buses along the A629 corridor via provision of bus priority loops at the Edgerton Road/Blacker Road junction.

In principle therefore and subject to relevant conditions it is not considered that the proposal will harm road safety and it therefore accords with UDP and NPPF policy

#### Public Rights of way

NPPF para 75 notes that local authorities should seek opportunities to provide better facilities for footpath users. UDP policy R13 states that the potential for new links in the public right of way network should be taken into account when considering development proposals.

The PROW officer has considered the latest layout and raises no objections subject to conditions protecting the footway links within the estate in perpetuity.

The applicant has demonstrated in principle that a woodland walk could be routed as shown on the submitted plans. Public access through the route can be secured by formal agreement as it would not be maintained at public expense other than as part of the public open space and woodland management requirements.

#### Definitive map modification order applications (DMMO)

The land at Clayton Fields is the subject of seven undecided applications requesting modification of the definitive map and statement of public rights of way. Generally and in summary, the applications seek to claim four public footpaths which run entirely or mainly within the application site. The alleged footpaths variously connect five points on the planning site's boundaries:

- Edgerton Road
- Queens Road

- Deveron Grove
- A point near Clayton Dyke south of 55 George Avenue (claimed path then crosses KC land to Hudds footpath 345)
- Huddersfield footpath 345 near the footbridge (north-west corner of site)

It is noted that the submitted layout proposes formal pedestrian access through the site, albeit much of it on estate road footways, from/to public vehicular highway at Edgerton Road, Deveron Grove and Queens Road, and from to/path 345 at both the POS and near the footbridge. The recorded width of part of path Huddersfield 345 is the subject of the seventh DMMO application. The site allows for protection of this currently available width of path 345 and offers a buffer in addition at the rear of plots 22-25.

As mentioned above, in the planning application there is an additional proposed path (running north between plots 34 and 35) towards Clayton Dyke. This route follows the alignment of one of the claimed paths which continues across the Dyke through the allotments to the north. Although it is welcomed, it is noted that, as proposed, it does not link north with the formal highway network through the adjacent land and as such the weight that can be attached to its value may be limited. This is because the proposed path within the development site joins an informal path over third party (Council allotment) land before meeting the definitive Huddersfield public footpath 345 to the rear of George Avenue. Nevertheless it would be advisable to retain this link in the layout to allow for any successful outcome of the public claim.

The applicants also propose the above-mentioned woodland path for public use. This would offer additional off-footway connectivity to the footbridge to the north-west of the site.

The proposal offers public access over four routes on land within the applicant's control between all five points identified above, albeit on different alignments from those claimed and predominantly over proposed estate road footways. Taking the specific circumstances of this site into account, if planning consent is granted on the basis of current submissions, the PROW officers' view without prejudice is that they would have no objection at this time to an application to divert/extinguish/provide pedestrian routes across the Clayton Fields site in accordance with the submitted proposals. It is noted that the applicants have not conceded the existence of any public rights of way across the site.

Any permission should make appropriate provision/conditions regarding design (including sections), construction, future public status and maintenance regimes (public or private) for pedestrian routes at the site.

The applicant has been asked to consider improvement to or replacement of the Clayton Dyke footbridge, (highways structure reference k2223 carrying footpath 345) but has not responded. However, given that this structure is outside the application site boundary and the proportion of additional pedestrian traffic over it directly attributable to the proposed development would be minimal it is considered that such a requirement would be

disproportionate and any condition requiring such work would fail the tests of necessity and proportionality.

### **Affordable Housing / Education Needs:**

The scale of the application is such that in normal circumstances contributions to secure affordable housing, public open space and education provision would be required in accordance with SPD2 and NPPF.

Unitary Development Plan policy H10 states that the provision of affordable housing will be a material consideration when planning applications are considered. The Council will negotiate with developers for the inclusion of an element of affordable housing where the lack of affordable housing has been demonstrated. Supplementary Planning Guidance Note 2 identifies the agreed mechanisms for this delivery.

Officers confirm that there is demand for affordable housing in the area. The Kirklees Strategic Housing Market Assessment identifies a need for 524 new affordable homes per year in the Huddersfield market area. There is a total annual requirement of 1457 affordable homes for Kirklees as a whole. The needs across the district are for 2 and 3 bedroom homes. There is also a need for some 4 bedroom units.

The proposed layout for this site which consists of 41 detached dwellings, 40 of which are to be 4+ bedroom and 1 to be 3 bedroom (as indicated on the application form), doesn't offer the mix of units expected to meet housing needs.

Housing Officers would be looking for on-site affordable housing provision in accordance with Supplementary Planning Document 2 (Affordable Housing). As this is a greenfield site there would be a requirement for 30% of the gross internal floorspace of the proposed units to be affordable. There would also be a requirement for 65% of the affordable units to be social rented and 35% to be intermediate housing.

SPD2 states that the Council's preference is for on-site provision however, off-site provision or a financial contribution in lieu of on-site provision may be accepted as long as the agreed approach contributes to the creation of mixed communities in the local authority area. Consideration will normally only be given to off-site provision where appropriate alternative sites have been identified and where the project will be delivered prior to the on-site market development being occupied.

Notwithstanding the above Planning Officers consider that a reason for refusal on the grounds that the proposed house types are unsuitable for the affordable housing demand could not be justified. Planning officers consider that so long as a full affordable housing contribution can be secured then it would be acceptable to provide this either as a financial contribution or off-site. The need to meet the 5 year housing supply requirement and the requirement for house types and density in character with the conservation

area outweighs the harm due to the failure to provide the whole contribution on site.

The fundamental objection to the proposal is that the applicants have confirmed that they do not wish to provide any affordable housing and this forms the basis of a refusal of planning permission.

The applicant states that the existing consent issued in 1967 for 55 dwellings “requires no provision by way of contributions to affordable housing, education or public open space provision and we would request that this factor is taken into consideration when applying a section 106 agreement to the new application consisting of 41 dwellings.” It is stated that the current application incorporates ‘a substantial proportion of developable land allocated to public use and that an education contribution has also been requested.’ The applicant argues that the current proposal is 14 units less than the 1967 permission and the loss of revenue should justify no contribution to affordable housing. The applicant acknowledges that this is contrary to policy however the scheme delivers a far better scheme than that from the implementation of the 1967 permission and is supported locally.

The applicant has not clarified any intent to provide contributions to meet the expected education needs.

Para 72 of the NPPF notes that:

“The Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning Authorities should take a proactive, positive and collaborative approach to meeting this requirement.”

With regard to both affordable housing provision and contributions to meet education needs generated by the proposal the applicant would normally be expected to provide a viability appraisal with financial information to show the effect of these requirements on the viability of the scheme. It is not considered that the applicant’s argument is a justifiable reason to forgo affordable housing provision or meet education requirements in this case. Such provision is required under UDP policy and advice in the NPPF and failure to provide it would represent a fundamental reason for refusal.

Officers consider that this could be addressed by conditions of any outline planning permission issued. However, such conditions would be imposed in the light of the applicant’s stated intention not to provide affordable housing and failure to accept a requirement to provide a financial contribution to meet education needs. In such circumstances it would be more appropriate to recommend that the Inspector refuses planning permission for these reasons. The Inspector would be informed that this Authority considers that conditions to secure affordable housing and an education contribution are fundamental to any issue of planning permission on appeal.

## Objections:

Most of the objections raised by members of the public have been addressed above. Officers comments on the residual matters are as follows:

- Environmental Health Officers have raised no objections on air quality grounds or the effect of noise from the development on neighbours.
- It would be a condition of any planning permission that a scheme for the future maintenance of open space areas is agreed. It is open to the developer to choose who he wishes to take on maintenance responsibility subject to this Authority being satisfied at the long term viability of the nominated body. It is open to local residents to bid for this to the applicant at that stage if they wish. It is important to ensure that control extends to the whole of the land up to the Dyke channel. Furthermore any future developer would be encouraged to liaise with the Council as landowner of the opposite side of the Dyke to agree a comprehensive scheme for the woodland corridor as a whole.
- The development does not extend to the open space 'triangle' between Queens Road and Murray Road.
- The issue of revocation of the extant 1967 is a separate issue and is not a material reason to refuse planning permission for this application. The current application must be considered on its own merits and circumstances however, the extant permission is a material consideration.

## The 1967 planning permission:

The extant permission issued in 1967 is a material consideration. The Sub-Committee need to come to their own view on the impact of that development and the prospect of the applicant progressing the development in accordance with the planning permission if the current submission is refused on appeal.

Of the details accompanying the application of which Officers are currently aware, the only layout plan appears to be a layout of dwellings and roads with access off Deveron Grove and Queens Road in the same positions as the access points now proposed.

There were three conditions to the planning permission as follows:

*"1. That the gables as well as the fronts of the proposed flats on the frontage to Edgerton Road shall be constructed of stone. Reason In order to ensure a satisfactory appearance in sympathy with the adjacent properties fronting onto Edgerton Road, which are constructed principally in stone.*

*2. That the land adjacent to the stream and excluded from the curtilage of the dwellings shall be made available for open space and planted with trees and shrubs during the first planting season immediately following the occupation of any of the dwellinghouses abutting this land. Reason In order to ensure that this area does not become an unsightly piece of wasteland, in a residential area.*

*3. That the provisions of Article 3(1) of the Town & Country Planning General Development order, 1963 and the First Schedule thereto shall not apply to the erection of garages on this estate, such garages shall be of permanent materials in harmony with the dwelling and shall be subject of an application for planning permission. Reason In order to prevent the erection of garages which would be out of character with the remainder of the development in the interests of achieving a satisfactory standard of visual amenity.”*

It has been accepted by Officers that the permission remains extant due to the commencement of construction works albeit that such works subsequently ceased.

In the intervening years the site has been the subject of private action by local residents to protect the site as a ‘village green’. This protection was withdrawn following a successful appeal by the landowner through the Courts.

In May 2014 Officers sought Counsel’s opinion on the status of the 1967 permission. Counsel advised that, if the only approved plan was a layout plan and no “reserved matters” conditions were imposed in the permission then “the development could be built to whatever design or external appearance the developer chose.” However the situation is complicated by the absence of the relevant approved plan to accompany the 1967 permission. Consequently neither the Council nor the developer can be certain that any development undertaken pursuant to this permission, actually accorded with the approved plan. Counsel has confirmed that the Authority is acting reasonably in relying on a historic record, compiled for the purposes of the Land Commission Act 1967, to accept the development was started before 6<sup>th</sup> April 1967, and therefore lawfully implemented.

Whilst the available layout plan is not stamped as approved its date and applicant details are consistent with the decision notice. This has led Officers to the conclusion that the plan may be regarded as the best approximation so that if a developer followed that layout the LPA would not be able to say that it appeared to them that there had been a breach of planning control and/ or it was expedient to take enforcement action.

The layout plan shows a relatively unimaginative layout with minimal public open space and no public access alongside the Dyke. The submission did not include a noise survey, tree survey, habitat assessment, drainage details, details of highway construction, flood risk assessment, heritage assessment or details of the external appearance of the dwellings. There is no requirement for affordable housing or a contribution towards education needs.

The Trees Officer confirms that the tree loss in the available plan with the 1967 decision notice would be similar if not worse overall than the current proposal.

In Officers view the current submission represents a significant improvement on the 1967 decision. Conditions of any permission can reinstate control over

the external appearance and materials of the dwellings and highway design. They can require the design to take into account the impact of traffic noise on future residents and implement any remedial action, the treatment of possible land contamination and require wildlife habitat features on the dwellings. Conditions can secure affordable housing, a contribution towards the education needs generated by the development, a management plan for the woodland and future maintenance of public open space.

The proposed layout would be more in keeping with the character of the surrounding area including the conservation area and the setting of listed buildings. It would make the riverside woodland an important feature of the development with public access. The 1967 permission merely sought to prevent the area being incorporated into the curtilage of the dwellings and retain it as open space with planting. The reason was to prevent the area becoming unsightly. There was no requirement for public access.

The layout would incorporate significant areas of public open space. Excluding the woodland area to Clayton Dyke the plans show two areas of public open space on the frontage to Edgerton Road and within the site off Deveron Grove providing 2,220 sq m & 889sqm respectively. This total of 3109 sqm compares with 1230 sqm which would be required under UDP policy H18 and none provided in the 1967 permission. Furthermore the main area of open space will be on the frontage to Edgerton Road where it will make a positive contribution to the streetscene and enhance the setting of the public footpath along the western boundary of the site.

The proposed layout would recognise and make allowance for the routes of claimed footpaths through the site increasing permeability in the area and encouraging non-car transport.

### **Conclusion:**

The proposal is sustainable development of a site allocated for housing on the Unitary Development Plan. It will contribute to the Council's current shortfall of a five year housing supply. It is considered that this carries great weight in the decision.

The applicant has not provided the habitat assessment requested by Officers to assess the value of the site or its potential as a bat habitat or feeding ground. It is considered that the lack of this assessment as well as appropriate mitigation measures significantly and demonstrably outweighs the benefits of securing housing on this site.

The proposal does not raise any issues of harm to drainage, residential and visual amenity, trees, heritage and road safety raised by consultees or members of the public that are not significantly and demonstrably outweighed by the benefits of housing delivery.

Members are advised that the 'fallback' position of the 1967 planning permission does not carry significant weight.

The current proposal is contrary to UDP policy and the NPPF for the following reasons:

- The applicant has failed to provide an adequate assessment of the woodland habitat
- The proposal does not provide affordable housing or provision to meet education needs.

This justifies a recommendation of refusal to the Inspector.

#### **10. RECOMMENDATION:**

**That the Secretary of State be informed that this Authority would have been minded to refuse planning permission on the grounds that:**

1. The applicant has failed to demonstrate sufficient information to enable the implications of the proposed development to be properly judged having regard to the impact on wildlife habitat and biodiversity. In the absence of this information the likely harm to biodiversity and the natural environment significantly and demonstrably outweighs the benefits when assessed against the policies in part 11 of the National Planning Policy Framework.
2. The proposal fails to provide affordable housing provision contrary to Unitary Development Plan policy H10, Supplementary Planning Guidance 2 and part 6 of the National Planning Policy Framework.
3. The proposal fails to provide for education needs generated by the development contrary to part 8 of the National Planning Policy Framework and the Council's 'Providing for Education needs Generated by New Housing'.



This recommendation is based on the following plans:

| <b>Plan</b>   | <b>Ref</b>                   | <b>Received</b>   |
|---|------------------------------|-------------------|
| Location plan   | 1414-100                     | 8 October 2014    |
| Site / (Layout) plan                                      | 1414-101 rev N               | 10 February 2015  |
| Topographical Survey                                      | 3998 –rev O                  | 8 October 2014    |
| Planning & Heritage Statement                             | September 2014               | 21 October 2014   |
| Design & Access statement                                 | September 2014               | 8 October 2014    |
| Phase 1 Habitat & Protected Fauna Statement               | 140380: 22-August 2014       | 21 October 2014   |
| Flood Risk Assessment                                     | PR/LEM/37278-002 – Aug 2014  | 21 October 2014   |
| Geotechnical & Geoenvironmental Site Investigation report | Issue 1- 37278-001 June 2014 | 21 October 2014   |
| Affordable Housing Statement                              | October 2014                 | 21 October 2014   |
| Statement of Community Consultation                       | September 2014               | 30 September 2014 |
| Transport assessment                                      | 8226-001-02                  | 21 October 2014   |
| Arboricultural Report & Impact Assessment                 | 11854/AJB                    | 2 October 2014    |
| Surface Water Drainage Statement                          | 37278                        | 26 November 2014  |
| Indicative flood routing                                  |                              | 26 November 2014  |
| Surface Water flow routing                                | 1414.101 rev E               | 05 February 2015  |
| Road alignments   | 8226-001                     | 12 January 2015   |
| Woodland Path details                                     | JCA Ltd                      | 12 February 2015  |
| Vehicle tracking plan                                     |                              | 12 February 2015  |
| Highway longitudinal sections                             | 8226-001                     | 12 January 2015   |

**Application No: 2013/92747**

**Type of application: 62 - FULL APPLICATION**

**Proposal: Change of use and alterations of A4 public house to D1 education centre**

**Location: Jolly Sailor, 51, Broad Lane, Dalton, Huddersfield, HD5 9BY**

**Grid Ref: 415845.0 416787.0**

**Ward: Dalton Ward**

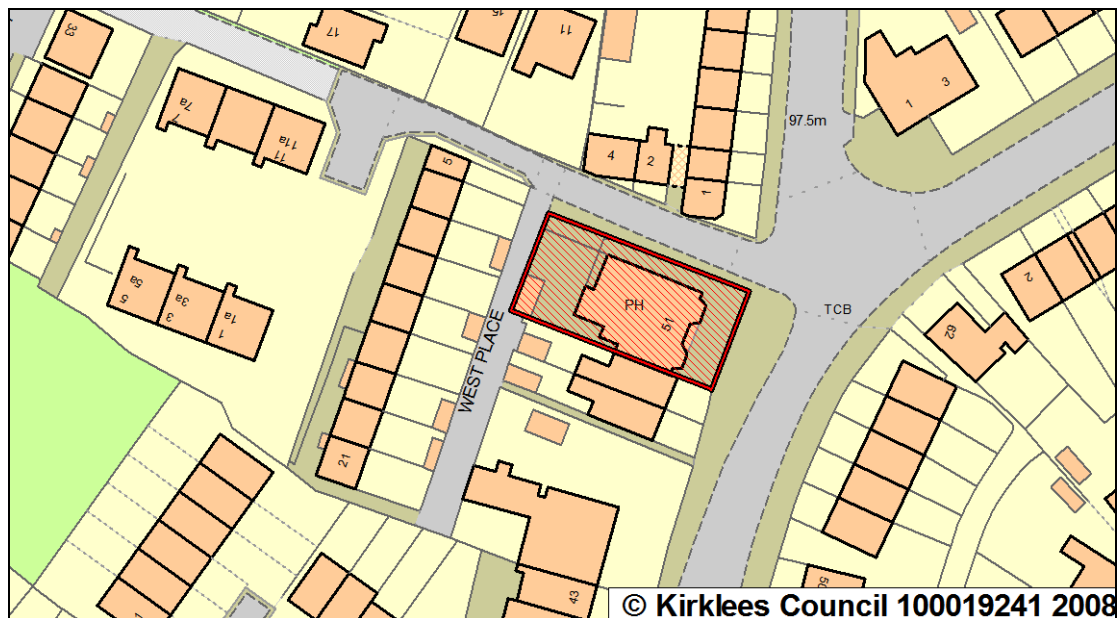
**Applicant: M Arshad Naz, Haaris & Co**

**Agent: M Afaq, Operations Director, Mimar Architecture**

**Target Date: 31-Mar-2015**

**Recommendation: ASD-CONDITIONAL FULL APPROVAL SUBJECT TO THE DELEGATION OF AUTHORITY TO OFFICERS**

## LOCATION PLAN



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

## **1. SUMMARY OF APPLICATION**

The application seeks change of use and alterations of the ground and basement floors of the vacant A4 public house 'Jolly Sailor' to a D1 education centre with a flat at first floor.

The change of use to an education centre to serve the local community is supported in principle. It is considered there would be no detrimental impact on residential amenity. On the grounds that the maximum number of children in attendance at the education centre has been reduced from 30 to 12 and the number of parking spaces now complies with UDP parking standards of 1 space per child, Highway Services have removed their objection.

### **RECOMMENDATION: CONDITIONAL FULL PERMISSION SUBJECT TO THE DELEGATION OF AUTHORITY TO OFFICERS TO**

- **RESOLVE HIGHWAY SAFETY MATTERS**
- **IMPOSE ALL NECESSARY AND APPROPRIATE CONDITIONS WHICH MAY INCLUDE THOSE SET OUT BELOW AND**
- **SUBJECT TO THERE BEING NO SUBSTANTIVE CHANGES THAT WOULD ALTER THE RECOMMENDATION TO ISSUE THE DECISION NOTICE**

## **2. INFORMATION**

The application was previously reported to Huddersfield Planning Sub Committee on 28<sup>th</sup> November 2013 and was deferred to allow the applicant an opportunity to re-examine highway issues.

The application was originally brought to sub-committee at the request of Councillor Peter McBride for the following planning reasons.

"If approved it will have a significant impact on the community. On the one hand the building will find a use of significant benefit to one section of the community who have sought such an opportunity for many years and the applicants intend its use to a wider community. On the other there is a genuine concern regarding parking and congestion of traffic on Dalton's busiest internal road"

Cllr McBride has clarified that he would like Sub-Committee to consider the benefits to the community against the implications of the use on highway safety (parking and congestion).

A significant amount of representation from the local community has also been received.

The previous Chair of Sub-Committee (Cllr Preest) confirmed that Cllr McBride's request is valid having regard to the Councillor's Protocol for Planning Committees.

### **3. PROPOSAL/SITE DESCRIPTION**

The application site is the vacant Jolly Sailor public house situated on the corner of Broad Lane with Hill Top Road at Dalton. This is an end terraced building comprising the public house on the lower floors and the former landlord's accommodation at first floor. At the front of the property are three off-street parking spaces and to the rear is a yard area which is enclosed via a brick boundary wall with separate pedestrian and vehicular access gates via Hill Top Road. The premises are currently unoccupied. The surrounding area is of mixed use with commercial and residential properties and the site is unallocated on the Unitary Development Plan Proposals Map.

The application seeks change of use and alterations of the ground and basement floors of the vacant A4 public house to a D1 education centre with the retention of residential accommodation on the first floor. Paragraph 4.2 of the revised design and access statement states the operation will provide:

- Education classes to help underpin local children's learning, specifically aimed at Key Stage 3 pupils ranging between 6-14 year olds. These courses will operate out of two classrooms with a maximum of 12 students; to help improve local education statistics which are currently below the National and LEA average;
- One to one tutoring sessions for students in specialised subjects e.g. Maths, Physics, Art
- Other opportunities to assist in community relations, social interaction and cohesion.

Paragraph 4.1 states the centre would also double up as a training centre that would offer the following;

1. Language centre for English/Maths
2. Cookery / Art courses
3. Drop-in community centre
4. Health and Hygiene courses
5. Place of social gathering

The proposed hours of opening will be from 09:30am to 16:00pm and 18:00 to 21:00pm Monday-Friday, 09:00 to 16:00pm Saturday and 10.00am to 16:00 Sunday.

The proposed external alterations include a new fire escape stair from basement level within the area formerly utilised as a barrel ramp, a new level access for wheelchair accessibility, a drop off zone off Hill Top Road and cycle hoops. Two parking spaces are shown to the rear of the building.

### **4. BACKGROUND AND HISTORY**

2011/92581 – Change of use from A4 public house to S1 community halls with minor internal and external alterations – Withdrawn due to concerns over highway safety

2012/93417 – Change of use from pubic house to place of worship and alterations – Withdrawn due to concerns over highway safety

## **5. PLANNING POLICY**

The site is unallocated on the Unitary Development Plan Proposals Map

### **Kirklees Unitary Development Plan:**

D2 – Unallocated Land  
BE1 – Design principles  
EP4 – Noise sensitive development  
C1 – Community Facilities  
T10 – Highway Safety  
BE23 – Crime prevention

### **National Planning Policy Framework:**

NPPF Ensuring the vitality of town centres  
NPPF Promoting healthy communities  
NPPF Conserving and Enhancing the Natural Environment  
NPPF Promoting Sustainable Transport

## **6. CONSULTATIONS**

**K.C Highway Services** – No objections

**K.C Environmental Services** – No observations to make

**K.C Policy** – No objections

**West Yorkshire Police Architectural Liaison Officer** – No objections

## **7. REPRESENTATIONS**

The application was advertised by neighbour letter, press notice and site notice expiring 16<sup>th</sup> February 2015. 130 representations in total and a petition have been received. These include 97 letters of objection, 33 letters of support and a petition in support of the application with 411 signatures.

### **Petition in Support:**

- The project will enhance the knowledge of youths and take them off the street helping to create a safer neighbourhood
- The building will be brought back into a viable use
- It will improve literacy to create an affluent / flourishing community.
- There will be a strict localised admissions policy.

The petition includes two letters from teachers who say they will utilise their experience to make an impact at the Dalton Education Centre where pupil progress in line with national targets will be a key focus.

### 33 Letters of Support. Observations made:

- There is a need for an accessible education centre in the Dalton area
- There will be less noise, litter and trouble than the pub.
- The centre would not cause congestion or parking issues.
- The facility will improve understanding in Maths, English and IT and reduce the number of youths on the streets.
- Alternatives such as a supermarket will cause traffic problems and impact on local shops.
- Existing activities in the area are the physical sport type and students can benefit from private tutoring.
- The scheme has proposed so many good uses for this building: courses, classes, training and is what the area needs.

### 97 Objections Main concerns raised:

#### Highway Safety Concerns

- The site has no suitable parking facilities. The existing parking involves reversing via a public pavement with a restricted view on a sharp bend.
- The site is on a busy main road, on a bend and adjacent to 2 parallel junctions, and to a corner shop and takeaway. There are problems with cars parking on pavements and double parking putting pedestrian safety at risk. An increase in traffic will exacerbate this.
- This is an unusual junction layout which will be made more dangerous by the increase in traffic and parked cars.
- The Transport Statement / Travel Plan is a copy submitted previously to change the use to a place of worship. Information is suggested/expected not factual. The figure of 35 pupils is not a stated maximum and exact figures are unknown. The number of teachers has not been included nor has their transport/parking been addressed.
- Hill Top Road is a single track road not designed to receive high volumes of traffic. A drop off lay-by will create congestion and inconvenience for residents. Concerned visitors will use private parking areas and block the entrance / exit to the existing flats.
- The transport survey has identified 200 parking spaces on the surrounding streets. Many people park here and commute to Huddersfield on public transport.
- The parking spaces are used by locals and visitors to the shops and will be displaced onto pavements
- There have been several accidents which lead to the road being narrowed, pavements widened and speed cameras installed.
- The applicant can promote walking/cycling but parents will collect children by car as a matter of safeguarding. A family residing in the building will reduce spaces available, and spaces will be taken by employees/officials.
- Buses will struggle to negotiate the area at peak times
- School children cross the road daily.
- Blocking roads would cause delays for emergency vehicles

### Impact on Residential Amenity

- The proposal will attract increased pedestrian and vehicular traffic there will be an impact on noise pollution from traffic, cars stopping/starting, vehicle doors, users of the building congregating outside the area and youths congregating as they arrive and leave.
- There would be noise from visitors throughout the day and late at night with a closing time of 22.00hrs or 23.00hrs.

### Other Matters

- The reference to local schools underperformance is supported by a link to results dating back to 2005 and 2006. Nether Hall High school saw the % of A-C grade GCSE'S increase to 55% in 2012 which is 5% below the National average and should the trend continue, the school could achieve in line with, or above National averages in 2013. Moldgreen Junior school achieved outstanding KS2 results in 2012 with 95% achieving Level 4 in Maths and English versus schools in England achieving 79%. At St Joseph's RC Primary school results are above national average.
- There is no explanation of what the centre will be used for between 8.00am and 6.00pm, and between 8.00pm and 11.00pm
- There are several community centres in this area, all under used.
- Nether Hall has a creative and media course to offer mathematics, further maths, English language and literature to GCSE standards, creative arts and design to Btec standard and many schools in the area provide homework clubs
- A D1 permission allows the use of the centre as a Mosque; the original plans and intentions of the applicant.
- The applicants propose an open admissions criterion but identify 50 possible households.

## **8. ASSESSMENT**

### **General Principle/Policy:**

The site has no specific allocation on the Unitary Development Plan Proposals Map. Policy D2 of the Unitary Development Plan (UDP) states "planning permission for the development (including change of use) of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]". All these considerations are addressed later in this assessment. Subject to these not being prejudiced the proposal would be acceptable in principle in relation to policy D2.

At the heart of the National Planning Policy Framework (NPPF) is a presumption in favour of sustainable development where local planning authorities should positively seek opportunities to meet the development needs of the their area. Whilst the site does not fall within a local centre chapter 8 of the NPPF 'promoting healthy communities' stipulates planning policies and decision should promote opportunities for meetings between

members of the community and plan positively for the provision and use of community facilities whilst guarding against the unnecessary loss of valued facilities and services. Policy C1 of the Unitary Development Plan stipulates that community facilities should be provided in accessible locations, which will normally be town and local centres.

The 'in principle' assessment of the acceptability of the proposed change of use is taken by weighing up the loss of the existing public house facility serving the local community, against the benefits of the proposed use of the ground floor of the building as a community education centre. With respect to the loss of the public house, it is noted this property has been empty for a number of years and currently does not serve the needs of the local community. What is more there are alternative public houses located in the centres of Moldgreen and Long Lane, Dalton. It is considered therefore that even with the loss of this facility there would remain sufficient provision to serve the needs of the local community.

Turning to the proposed community education centre, the ethos is to provide education classes to underpin local children's learning.

33 letters of support and a petition in support of the application with 411 signatures has been received. The comments regarding this are précised in the "representations" section and it is clear the proposed change of use to a community education centre would provide a specific community benefit for those who wished to use it.

The requirement for an education centre has also been challenged within the objections received again précised above. However, in principle this change of use is to assess whether a new community facility would be acceptable in this location. The proposed use as an education centre would provide a new community use with the associated benefits in a currently vacant building. It is considered there would not be a detrimental impact arising from the loss of the public house which has been empty for a number of years as there is alternative provision within neighbouring local centres. It is considered in principle the change of use from an existing community facility to a proposed education centre would be acceptable in accordance with the NPPF. However, this is in principle. An assessment of the potential impact of this development on highway safety, residential amenity and visual amenity is also required.

#### **Impact on highway safety:**

Policy T10 of the UDP states that "new development will not normally be permitted if it will create or materially add to highway safety or environmental problems . . ." Guidance in the NPPF states that 'development should only be prevented or refused on transport grounds where residual cumulative impacts of development are severe'

To serve the proposed educational use the proposed layout plan illustrates the provision of two formal spaces to the rear of the premises to serve the



residential accommodation and for teaching staff. A drop off lay by is proposed to the side off Hill Top Road with two spaces to allow children to be dropped off. There were also originally three parking spaces shown at the front of the property which would have required vehicles to reverse off onto Broad Lane. These have been removed from the site plan but this would not prevent vehicles parking here unless prevented by a physical block to their usage – such as bollards. If the application was acceptable in all other aspects this could be controlled by condition.

The site is located on Broad Lane at the junction with Hill Top Road and Carr Green Lane. Broad Lane is a busy classified road linking A629 Wakefield Road with Kirkheaton and the B6118. A significant degree of objection has been received to the proposal on the grounds of the impact on highway safety. The comments regarding this are précised in the “representations” section.

The revised transport statement dated January 2015 by HY Consulting notes has provided the following information:

- The proposed use of the education centre includes various activities linked to the educational requirements of the local community. The education centre will therefore be primarily used during the evening between 6.00pm and 8.00pm during school term time but for longer periods during school holidays. Operating hours will be restricted to outside the network traffic peak hours as detailed below:

09:30 to 16:00 and 18:00 to 21:00 Monday to Friday  
09:00 to 16:00 Saturday  
10:00 to 16:00 Sunday

- The maximum number of children in attendance at the education centre is to be 12. A staff member will reside permanently on site looking after maintenance and administration matters. They will live with their family in the first floor accommodation. Two other teachers will be on site during normal teaching hours.
- An admission criteria will be in place at the education centre where only children from the local area of Moldgreen and Dalton will be admitted, who can easily travel to and from the education centre using sustainable green modes of travel e.g. by foot or on bike.
- The applicants propose to promote a Travel Plan to encourage sustainable green modes of travel.
- The age range of children on site is proposed to be between 6 to 14 years old, Community Education Centres usually run their courses / classes in line with the teaching curriculum delivered at Secondary School level. The Community Education Centre will offer classes (in topics such as Maths, English and Science) to underpin primary

education provided by local schools to help underperforming children to improve their results. The Community Education Centre will provide education on good road safety practices for the pupils as pedestrians, cyclists and vehicle passengers. Advice will be sought from Kirklees Council's Road Safety Officers on the most appropriate training methods to achieve this.

Highways Services have considered the revised proposal to restrict the number of children attending the education centre to 12. The officer notes that the parking layout includes two parking spaces to the rear of the building for the residential accommodation and teaching staff and a drop off area with two spaces for children to the side of the building, both with access from Hill Top Road. Highway Services raise no concerns to the layout of the parking area for staff and residents, or to the location of the proposed cycle storage facilities which would be adequately secured behind a sliding gate.

Taking into account that the number of parking spaces to be provided now complies with UDP standards for this class use of 1 space per 6 children, Highway Services have concluded on balance that the proposal would no longer be detrimental to highway safety. To regulate the proposal in accordance with the stated operation by the applicant, they recommend a number of conditions to restrict the hours of opening and the number of children attending the centre to a maximum of 12 and that the proposal shall not be used as a place of worship. They also request the applicant submit a travel plan to include measures to improve and encourage the use of sustainable transport, and details of the proposed drop off lay-by.

The consultation response from Highway Services raises no objection provided the operators of the centre comply with a series of recommended conditions. This requires the number of people attending the premise to be limited to twelve. Given that 'children' are specifically referred to in the supporting transport statement by HY Consulting, it is considered necessary to define 'children' by condition and in accordance with this those attending will be limited to be within the age range of 'between 6 to 14 years old'. This is in the interests of highway safety and is to avoid older persons travelling by car to attend the premise. It sets a strict range of opening hours to avoid peak traffic times and finally restricts the uses to be carried on at the site to avoid a place of worship being formed. This again is in the interests of highway safety as other uses would generate significantly more traffic and parking demand which cannot be safely accommodated on site or the immediate surrounding area. This is a very finely balanced recommendation and the limitations on use of the site, given the surrounding highway network cannot be over emphasised.

Since this appraisal the applicant has clarified that the education centre would not be solely open for the purpose of educating a maximum of 12 children between the ages of 6 to 14 as referred to in the Transport Statement. The centre would also be open to adults. In light of this Highway Services will re-assess the application and the conclusion of this will be reported to members in the update. However, on the basis of the Transport Assessment that has

been submitted, and subject to the proposal being regulated in strict accordance with the number of children and the age range specified, Highway Services have removed their objection.

**Impact on visual amenity:**

Policies BE1 and BE2 of the Unitary Development Plan (UDP) are considerations in relation to design, materials and layout. The proposed external alterations include a new fire escape stair from basement level within the area formerly utilised as a barrel ramp, a new level access for wheelchair accessibility, a proposed drop off zone and cycle hoops. It is considered the proposed physical alterations which are minor in scale would preserve the visual amenities of the host building and the surrounding area and would accord with policies BE1 and D2 of the UDP.

**Impact on residential amenity:**

Policy D2 of the Unitary Development Plan stipulates that development should protect the residential amenity of neighbouring residential properties. The application site adjoins residential properties to the south of the site; No's 49 and 47 Broad Lane and is in close proximity to properties off West Place to the west of the site.

The proposed hours of opening will be from 09:30am to 16:00pm and 18:00 to 21:00pm Monday-Friday, 09:00 to 16:00pm Saturday and 10.00am to 16:00 Sunday. Concerns have been raised within the representations received that this is a residential area predominantly populated by families with young children and it is not acceptable to have people coming and going from early hours to late evening with noise.

Environmental Services were consulted for their comments. They raise no objections to the proposed development in respect of noise disturbance from the change of use of the former public house to an education centre. It is acknowledged that there would be more activity associated with the use of the premises than that latterly experienced when the pub was in use. There would be more comings and goings and a level of disturbance which does not at present exist. However, these are not considered to represent significant adverse impacts that in themselves would lead the application to fail. It is recognised that development will often create some noise and disturbance but most planning approvals are likely to interfere, to some extent, with an adjoining occupier's enjoyment of their property. However the test is whether this is proportionate. In this instance taking into account the authorised use of the site and the activities proposed it is considered there would be no unduly detrimental impact on residential amenity and the proposal would accord with policies D2 and EP4 of the UDP.

### **Crime Prevention:**

UDP Policy BE23 states that new developments should incorporate crime prevention measures to achieve pedestrian safety on footpaths; natural surveillance of public spaces; and secure locations for parking areas. The NPPF states that planning should promote safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion. This consideration relates equally to the impact of the development on existing residents and the future amenity of users of the application site.

The West Yorkshire Police Architectural Liaison officer has assessed the application and raises no objection to the principle of development, considering the previous use. When assessing the initial application it was noted that the building should be within its own defined defensible space, with adequate boundary treatments and that the existing provision was suitable apart from a small section at the side of the premises alongside Hill Top Road. It was advised the existing railings be extended towards Broad Lane as far as the front elevation of the building and then return to meet the building at that point to complete a defensible space around the building. The revised plans now propose a drop off zone off Hill Top Road. The officer has re-assessed the application and is satisfied that there would be adequate boundary treatment in place without extending the existing railings to allow space for the comfortable accommodation of a vehicle. Crime prevention matters are addressed.

### **Other Matters:**

Concerns have been raised in the representations received that if this application is approved, the owner would not require a further change of use application to convert the building into a Mosque; the original plans and intentions of the applicant.

In response to this concern a place of worship would fall within category 'D1' of the Use Classes Order. However, the application being proposed is for an education centre and is assessed on its own merits. The future change of use of the building is recommended to be restricted in the interests of highway safety. This would require an applicant to submit a planning application for other uses, including other uses within Class D1 of the Use Classes order.

### **Representations:**

130 representations in total and a petition have been received. These include 97 letters of objection, 33 letters of support and a petition in support of the application with 411 signatures. These issues, where materially relevant to the consideration of the application, have been addressed above.

## **Conclusion:**

To conclude, the change of use to an education centre to serve the local community is supported in principle. It is considered there would be no detrimental impact on residential amenity.

On the grounds that the maximum number of children in attendance at the education centre has been reduced from 30 to 12 and the number of parking spaces now complies with UDP parking standards of 1 space per children, Highway Services have removed their objection. The impact of the proposal on highway safety at this difficult junction is finely balanced, however taking into account that Highway Services have removed their objection, the development is considered to be sustainable and in accordance with Policies in the UDP and guidance in the NPPF. The recommendation is for approval.

## **9. RECOMMENDATION: CONDITIONAL FULL PERMISSION SUBJECT TO THE DELEGATION OF AUTHORITY TO OFFICERS TO**

- **RESOLVE HIGHWAY SAFETY MATTERS**
- **IMPOSE ALL NECESSARY AND APPROPRIATE CONDITIONS WHICH MAY INCLUDE THOSE SET OUT BELOW AND**
- **SUBJECT TO THERE BEING NO SUBSTANTIVE CHANGES THAT WOULD ALTER THE RECOMMENDATION TO ISSUE THE DECISION NOTICE**

1. The development hereby permitted shall be begun within three years of the date of this permission.

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

3. The education centre use hereby permitted shall not be open for any purpose outside the hours of 09:30 to 16:00 and 18:00 to 21:00 Monday to Friday, 09:00 to 16:00 Saturday, 10:00 to 16:00 Sunday.

4. The ground and basement floors of No.51 Broad Lane Dalton shall be used for no purpose other than an education centre and not for any other purpose in Class D1 of the Schedule of the Town and Country Planning (Use Classes) Order 1987 (as amended) "the Order" or in any provision equivalent to that Class in any Statutory Instrument revoking or re-enacting that Order. The first floor shall be used for no purpose other than residential use falling within Class C3 of the Order.

5. Within the first 3 months of any part of the development being brought into use a travel plan shall be submitted to and approved in writing by the Local Planning Authority. The travel plan shall include measures to improve and encourage the use of sustainable transport. The measures shall include

- targets aimed at lowering car use, particularly single occupancy trips, from/to the site
- the provision of bus/train information;
- car sharing facilities
- the introduction of working practices to reduce travel demand
- the provision of on-site cycle facilities and information
- timing of classes to avoid peak hour traffic
- details of how the travel plan will be managed
- a program for monitoring the travel plan and its progress
- details of how the travel plan will be promoted.

The approved travel plan shall thereafter retained.

6. Before development commences, a detailed scheme for the provision of the proposed drop off lay-by on Hill Top Road and bollards to prevent cars using the area in front of the building to Broad Lane for parking shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include construction specifications, white lining, signing and surface finishes together with an independent Safety Audit covering all aspects of the work. All the approved works shall be implemented before any part of the development is first brought into use and thereafter retained.

7. The development shall not commence until cycle storage facilities have been provided in accordance with details that have been approved in writing by the Local Planning Authority, the approved facilities shall thereafter be retained.

**NOTE:** Link to Communities and Local Government; and Environment Agencies 'Guidance on the permeable surfacing of front gardens' published 13th May 2009 (ISBN 9781409804864):

[www.communities.gov.uk/publications/planningandbuilding/pavingfrontgardens](http://www.communities.gov.uk/publications/planningandbuilding/pavingfrontgardens)

**NOTE:** The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer (Kirklees Street Scene: 01484 414700) with regard to obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution.

This recommendation is based on the following plans:-

| <b>Plan Type</b>                            | <b>Reference</b> | <b>Version</b> | <b>Date Received</b> |
|---|------------------|----------------|----------------------|
| Design & Access Statement                   | M/356            |                | 05.02.15             |
| Transport Statement                         | 14199            | Jan<br>2015    | 05.02.15             |
| Location Plan                               | P_01             |                | 31.10.14             |
| Existing Plans                              | P_02             |                | 31.10.14             |
| Existing Elevations                         | P_03             |                | 31.10.14             |
| Proposed Layout Plan                        | P_04             | A              | 05.02.15             |
| Proposed Ground Floor Plan<br>and Site Plan | P_05             | A              | 05.02.15             |
| Proposed Basement and<br>First Floor Plans  | P_06             | A              | 05.02.15             |
| Proposed Elevations                         | P_07             | A              | 05.02.15             |

**Application No: 2014/92369**

**Type of application: 60m - OUTLINE APPLICATION**

**Proposal: Outline application for residential development**

**Location: Land to side and rear of, 11 Holme Avenue, Dalton,  
Huddersfield, HD5 8DP**

**Grid Ref: 416324.0 416244.0**

**Ward: Almondbury Ward**

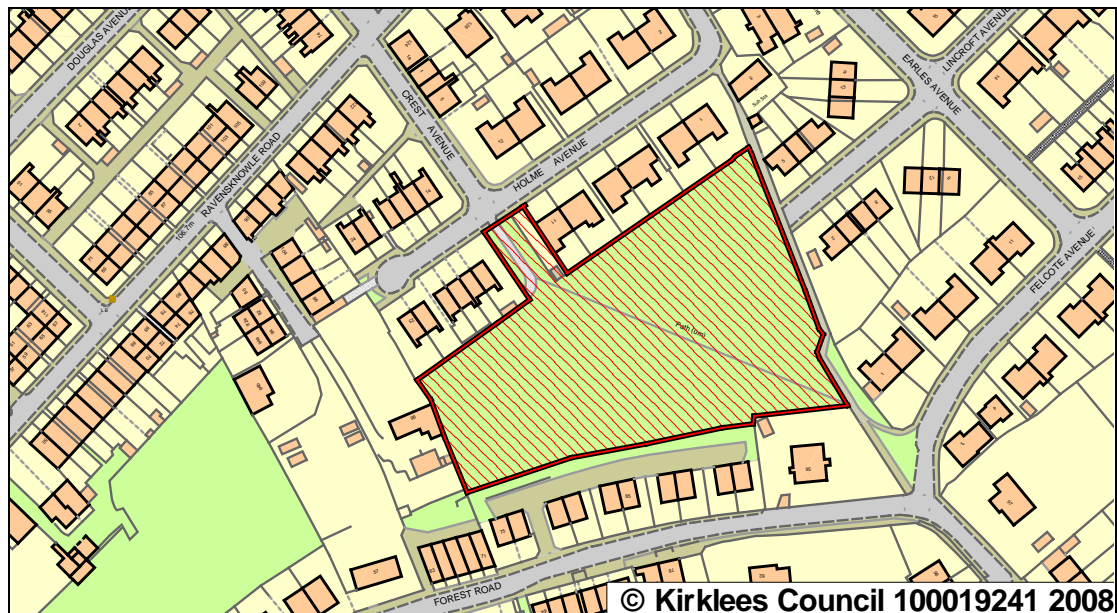
**Applicant: Executors of HD Stephenson**

**Agent: Farrar Bamforth Associates Ltd**

**Target Date: 19-Mar-2015**

**Recommendation: OP - CONDITIONAL OUTLINE PERMISSION**

## **LOCATION PLAN**



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



## 1. SUMMARY OF APPLICATION

|                                    |  |   |
|------------------------------------|--|---|
| <b>Application Details</b>         |  |   |
| Type of Development                | Residential (Outline Application)                                |   |
| Scale of Development               | Site area: 0.67 hectares   | Units: Unspecified                      |
| No. Jobs Created or Retained       | N/A  |   |
| <b>Policy</b>                      |  |   |
| UDP allocation                     | Housing allocation H7.26 - estimated capacity 26 dwellings       |   |
| Independent Viability Required     | No   | N/A due to number of dwellings proposed |
| <b>Consultation/Representation</b> |  |   |
| Individual Support (No.)           |  |   |
| Individual Objection (No.)         | 33   |   |
| Petition                           | 38   | N/A                                     |
| Ward Member Interest               | Yes  | Ward Cllr Linda Wilkinson               |
| Statutory Consultee Objections     | No   |   |
| <b>Contributions</b>               |  |   |
| • <i>Affordable Housing</i>        | To be secured by condition                                       |   |
| • <i>Education</i>                 | To be secured by condition                                       |   |
| • <i>Public Open Space</i>         | To be secured by condition                                       |   |
| • <i>Other</i>                     | N/A  |   |
| <b>Other Issues</b>                |  |   |
| Any Council Interest?              | No   |   |
| Pre-application planning advice?   | Yes  | Highways advice given                   |
| Pre-App Consultation Undertaken?   | No   |   |
| <b>Comment on Application</b>      | The application is recommended for conditional outline approval. |   |

## RECOMMENDATION: CONDITIONAL OUTLINE APPROVAL

## 2. INFORMATION

The proposals are brought forward to the Huddersfield Planning Sub-Committee for determination in accordance with the Council's Scheme of Delegation as:

- The application site area is in excess of 0.5 hectares
- A significant level of representation has been received

### Site Description

The application relates to a site of approximately 0.67 hectares of land and is set within a residential area. The site is accessed from Holme Avenue which

is a cul-de-sac of semi-detached and terraced properties. The main part of the site then extends to the south of Holme Avenue. Bordering the site to the south are the rear gardens of properties on Forest Road. Dwellings are also located to the east and west of the site.

The site is largely overgrown and there are significant changes in levels with the southern part of the site being set approximately 12 metres higher than the access point on Holme Avenue – it therefore slopes upwards from north to south.

An informal path runs through the site diagonally, with a public footpath (Hudd/100) running adjacent to the eastern boundary of the site. The site does not contain any protected trees.

### Proposal

The application is for outline planning permission for residential development. The only matter applied for is access. Meaning that appearance, layout, scale and landscaping form the 'Reserved Matters'.

The proposed access is to be off Holme Avenue, which connects with Crest Avenue and Brian Avenue. An indicative layout has been submitted with the application which shows 25 properties, but this is for information only.

Effectively, this application seeks only to establish the principle of residential development on the site and means of access.

## **4. BACKGROUND AND HISTORY**

1987/02023 – Outline application for erection of residential development. Approved 3/6/1988.

1991/02565 – renewal of unimplemented Outline application for erection of residential development. Approved 30/7/1991

## **5. PLANNING POLICY**

### Kirklees Unitary Development Plan

D2 – Development without notation

BE1 – Design principles

BE2 – Quality of design

BE11 – Use of natural stone

BE12 – Space about buildings

T10 – Highway safety

T16 – Pedestrian routes

T19 – Car parking standards

G6 – Contaminated land

EP10 – Energy Efficiency

EP11 – Integral landscaping scheme to protect / enhance ecology

BE23 – Crime Prevention  
NE9 – Mature trees  
H1 – Meeting the housing needs of the district  
H6 – Housing sites

### National Planning Policy Framework

NPPF Promoting sustainable transport (chapter 4)  
NPPF Delivering a wide choice of high quality homes (chapter 6)  
NPPF Requiring good design (chapter 7)  
NPPF Promoting healthy communities (chapter 8)  
NPPF Meeting the challenge of climate change, flooding (chapter 10)  
NPPF Conserving and enhancing the natural environment (chapter 11)

### Other policy considerations

Providing for Education Needs Generated by New Housing' (KMC Policy Guidance)

SPD2 – Affordable Housing

National Planning Practice Guidance on affordable housing.

## **6. CONSULTATIONS**

The following is a brief summary of the consultation responses received. Where necessary, these consultations are reported in more detail in the assessment below:

**K.C. Highways Development Management** – Following receipt of amended plans no objections subject to conditions.

**Public Rights of Way** – No objections.

**K.C. Environmental Services** – No objections.

**K.C. Trees** – Trees on site do not meet criteria for a tree preservation order to be served, therefore no objection (subject to a condition)

**K.C. Environment Unit** – Submitted ecological survey has established that site has low to moderate ecological value – no objections subject to conditions.

**K.C. Strategic Drainage** – No objection subject to conditions.

**K.C. Landscaping** – The area shown as public open space on the indicative drawing is significantly smaller than the required provision.

**Yorkshire Water** – No objection subject to conditions

**West Yorkshire Police Architectural Liaison Officer (PALO) – No objections in principle, subject to consideration at detailed stage.**

## **7. REPRESENTATIONS**

The application has been advertised by neighbour letter, newspaper advertisement and site notice. This publicity period expired on 12<sup>th</sup> September 2014. Following receipt of an amended red line boundary, the application has been re-advertised by neighbour letter and site notices. This amended period of publicity expires on the 18<sup>th</sup> February 2015.

A total of 33 letters of representation have been received in objection to the scheme at the time of writing. In addition, a 38 signature petition of objection has also been received. The points raised may be summarised as follows:

### Highways:

- Highway network is already congested and development will make this worse.
- Highway safety concerns with the development, including recent JCB accident

### Landscape / ecology:

- Development will lead to loss of greenspace
- Area is well populated with bats and wildlife

### Planning policy:

- Previous approvals are no longer relevant

### Amenity:

- Development will lead to a loss of privacy and dwellings are already overlooked
- If 3 storey properties are built this would be out of keeping and increase privacy concerns
- Dwellings will result in a loss of light to property
- Too many dwellings are proposed

### Infrastructure capacity:

- A number of other developments have been approved in this area recently

### Other matters raised:

- Healthy Trees have already been felled
- Public footpath running through site is to be moved without consultation

- Local residents have already had to endure years of building work
- Concern over noise disturbance from construction
- Proposal represents overdevelopment of the site
- Development may lead to flooding, which is already a problem (including natural springs)
- 45 houses are to be built
- Legal provision in place to prevent access adjacent to No. 11 Holme Avenue
- Only 1 site notice was posted
- Part of application site may not be in land owned by the applicant
- Anti-social behaviour occurs on the footpath within the site

Ward Councillor Linda Wilkinson has requested an update on the application.

## **8. ASSESSMENT**

The application is for outline planning permission for residential development. The only matter applied for is access. Meaning that appearance, layout, scale and landscaping form the 'Reserved Matters'.

The proposed access is to be off Holme Avenue, which connects with Crest Avenue and Brian Avenue. An indicative layout has been submitted with the application which shows 25 properties, but this is for information only.

Effectively, this application seeks only to establish the principle of residential development on the site and means of access.

### **General principle:**

The site is allocated for housing in the UDP (ref: H7.26) and as such the principle for housing has been established in policy terms.

This is consistent with NPPF paragraph 14, which states that there is a presumption in favour of sustainable development and for decision taking this means,

*“Approving development proposals that accord with the development plan without delay.”*

The principle of the development is therefore considered acceptable.

### **Impact on visual amenity:**

In relation to the impact of the development on visual amenity, this will need to be examined fully at reserved matters stage when details of layout, scale, landscaping, and appearance are submitted.

Residential development (subject to appropriate layout, scale and appearance) is considered appropriate in this context, given the fact that residential development surrounds the application site.

The scale of the development will need to be given particular consideration given the significant changes in levels within the site.

### **Impact on residential amenity (including Noise):**

The applicant has not sought approval of details of layout at this time and therefore the issue of the impact of the dwellings on residential amenity will need to be fully considered at reserved matters stage. However, it is considered that an acceptable layout can be brought forward as reserved matters which would not unduly impact on residential amenity.

Policy BE12 of the Unitary Development Plan requires minimum separation distances of 21 metres between existing and proposed habitable room windows and it is considered that the site is large enough to enable separation distances to be at least in accordance with these requirements to be achieved (subject to a suitable number of dwellings being proposed). Achieving at least these separation distances will ensure that no significant loss of amenity will occur in terms of overlooking.

As details of scale of the dwellings have not been submitted, this will be appropriately considered at reserved matters stage. However, it is considered that the overall scale may need to be comparable to that of surrounding development, which is mainly 2 storey.

In terms of living conditions for future occupants, adequate amenity space would need be provided when details of the site layout are brought forward. Depending upon the site layout proposed, it may be necessary to remove Permitted Development Rights for extensions/outbuildings, but again this is a matter for consideration at Reserved Matters stage.

Pollution and Noise have raised no issues in respect of noise or contaminated land.

### **Highways:**

In principle and subject to a number of conditions, no objections are raised in respect of the proposed development. Detailed comments in respect of highways will follow in the update.

With regard to Public Rights of Way a number of representations refer to a public right of way running through the site. This is not a definitive route although residents may wish to pursue a claim that public rights may have been established over the site. This would be separate to the consideration of this application.

The indicative layout plan shows an intention to retain public access along an alternative line to that route which informally exists across the site via the estate road and a path link to Huddersfield public footpath 100 adjacent the

eastern boundary. Any public rights which may have been established would only be changed by formal legal order or similar legal event.

As layout has not been applied for at this stage, consideration of layout at reserved matters would need to consider this in the context of connectivity to and through the site.

### **Drainage/Flood Risk:**

The Council's Strategic Drainage Officer and Yorkshire Water have been consulted on the application and raised no objections subject to the imposition of conditions.

These relate to the need for full drainage details (including foul and surface water) to be submitted before development can commence.

Subject to the imposition of conditions, it is considered that the proposed development is acceptable in relation to flood risk and drainage.

### **Ecology:**

The Council's Environment Unit (EU) has been consulted on the application and the applicant has submitted an ecological survey. This survey established that the site has low to moderate ecological value.

The survey details the need for native tree and shrub species and the creation of hedges and an ecological corridor. Whilst layout and landscaping details are not for consideration, it is considered that a landscaping scheme requiring these measures can be conditioned. This would be in accordance with Policy EP11 of the UDP.

The EU has also requested, as recommended in the ecology survey, an 'appropriate' number of bat and bird boxes be provided, including some for swifts which are present in this area. This would help to mitigate the impact of the development. As the number of dwellings is not known at this stage it is not possible to prescribe a specific number of bat and bird boxes. As new dwellings tend to have no features that can accommodate either birds or bats a condition would provide for these nesting and roosting features to be incorporated into the design of dwellings. In these circumstances the development would comply with Chapter 11 of the NPPF and with the recommendations of the submitted ecology survey.

### **Trees:**

The Council's Arboricultural Officer has been consulted on the application and has commented,

*"The remaining trees on this site do not meet the criteria for a tree preservation order to be served, therefore I have no objection."*

*However I would like to see a condition attaching to any permission for a landscaping scheme which includes some tree planting.”*

Subject to the reserved matter of ‘landscape’ providing a scheme which includes appropriate tree planting, the development is considered acceptable in respect of impact on trees and therefore accords with UDP Policy NE9.

#### **Affordable housing:**

The requirements of Policies H10 & H12 of the UDP and the SPD2 apply to developments of 5 or more dwellings. Planning Practice Guidance issued in November 2014 states that affordable housing contributions should not be sought on sites of 10 units or less and this is a material consideration.

Although a specific number of dwellings are not sought under this application, given the size of the site it is almost inevitable that it will exceed 10. Therefore a standard condition should be imposed in this regard.

#### **Public Open Space:**

Policy H18 of the UDP requires the provision of POS on sites put forward for housing development which are over 0.4 hectares. As this site is above that threshold, the requirements apply.

The indicative site plan shows a small area of open space towards the north-west corner of the site. The Landscaping team have commented that this area is significantly smaller than the required POS provision based upon the indicative drawing.

Given that layout is not applied for and numbers of dwellings are not specified, it is considered that this matter should be addressed at reserved matters stage, with a standard condition imposed on the outline consent, if members are minded to approve the application. This will provide opportunity to consider on site provision of POS or off-site contribution to a specific scheme.

#### **Education:**

As a specific number of dwellings are not sought at this stage, it is considered that the requirements of ‘Providing for Education Needs Generated by New Housing’ (KMC Policy Guidance) may apply to the development and therefore the standard condition should be imposed.



## **Objections:**

Insofar as representations received that have not been addressed in the above assessment these are answered as follows:

### Planning policy:

- Previous approvals are no longer relevant

**Response:** It is noted that the site has previously benefited from outline consent for residential development. However given the period of time since the most recent approval, the application has been assessed on its planning merits based upon current planning legislation.

### Infrastructure capacity:

- A number of other developments have been approved in this area recently

**Response:** Whilst this is noted the application has been assessed on its individual planning merits, with regard to the Housing allocation of the site.

### Other matters raised:

- Healthy Trees have already been felled

**Response:** As there are no protected trees within the site they are not protected under the legislation and can be removed without consent.

- Public footpath running through site is to be moved without consultation

**Response:** Whilst a public footpath runs adjacent to (but outside of) the eastern boundary of the site, there are no public rights of way running through the site. This has been considered in the above 'Highways' section of the report.

- Local residents have already had to endure years of building work

**Response:** This is not a material planning consideration and a level of disturbance is inevitable with any new development. Any significant disturbance could be assessed under Environmental Health legislation if necessary.

- Legal provision in place to prevent access adjacent to No. 11 Holme Avenue

**Response:** This is not a material planning consideration and any rights of access/ownership are not overridden by the grant of planning permission.

- Only 1 site notice was posted

**Response:** 5 site notices were posted in the respect of the application during the initial publicity process and a further 5 were posted for the re-advertisement process.

- Part of application site may not be in land owned by the applicant

**Response:** The applicant has been challenged on this point and has submitted a revised (reduced) red line boundary which has been subject to re-advertisement.

- Anti-social behaviour occurs on the footpath within the site

**Response:** Development of the site which would provide overlooking of the informal footpaths within the site would help to reduce any anti-social behaviour.

### **Conclusion:**

The site is allocated for housing in the UDP (ref: H7.26) and as such the principle for housing has been established in policy terms.

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. It is considered that the proposed development is in accordance with the principles of sustainable development.

This application has been assessed against relevant policies in the development plan and other material considerations. The proposals are considered to be compliant with the policies in the Unitary Development Plan and there are no adverse impacts which would outweigh the benefits of the scheme.

Conditional outline planning permission is recommended.

## **10. RECOMMENDATION**

### **CONDITIONAL OUTLINE APPROVAL**

1. Approval of the details of the appearance, landscaping, layout and scale (hereinafter called the 'reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced.
2. Plans and particulars of the reserved matters referred to in Condition 1 above, relating to appearance, landscaping, layout and scale shall be submitted in writing to the Local Planning Authority and shall be carried out in full accordance with the approved plans.
3. Application for approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
4. The development hereby permitted shall be begun either before the expiration of two years from the final approval of reserved matters or in the case of approval of different dates, the final approval of the last such matter to be approved.

5. Before the development commences a scheme detailing the location and cross sections information together with the proposed design and construction for all retaining walls and building walls adjacent to both the existing and new public highways shall be submitted to and approved by the Local Planning Authority in writing. The approved scheme shall be implemented prior to the commencement of the proposed development.

6. Visibility splays of 2.4m x 43m from the new access along Holme Avenue shall be cleared of all obstructions to visibility exceeding 1 m in height above the footway before any dwelling is first occupied. Thereafter the visibility splays shall be retained free of any such obstruction.

7. No development shall take place until details of the junction and associated highway works, between the proposed estate road and Holme Avenue, have submitted to and approved in writing by the Local Planning Authority. The details shall include full sections, details of speed reducing features, construction specifications, drainage works, lighting, signage, white lining, surface finishes, treatment of sight lines together with an independent safety audit covering all aspects of the works. No dwelling shall be occupied until the works to provide the junction and associated highway works have been completed in accordance with the approved details.

8. A full travel plan shall be submitted to and approved in writing by the Local Planning Authority 3 months prior to any part of the development being brought into use. The travel plan shall include measures to improve and encourage the use of sustainable transport as follows:

- the provision of 'live' and other bus/train information;
- provision of METRO passes;
- car sharing facilities
- the upgrade of bus stops and shelters where necessary;
- the introduction of working practices to reduce travel demand and
- the provision of on site cycle facilities and information

The Travel Plan will include details of when these measures will be introduced. To support the promotion of the use of sustainable modes the travel plan will also include: how the travel plan will be managed; targets aimed at lowering car use, particularly single occupancy trips, from/to the site; a program for monitoring the travel plan and its progress and how the travel plan and its objective of more sustainable travel will be promoted. The Travel Plan shall continue to be developed and implemented as long as any part of the development is occupied.

9. No development shall take place until a scheme detailing the proposed internal adoptable estate roads have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include full sections, drainage works, street lighting, signing, surface finishes and the treatment of sight lines, together with phasing of the works and an independent safety audit covering all aspects of work. The development shall thereafter be carried out in accordance with the details so approved,

completed in accordance with the agreed phasing arrangements and retained thereafter.

10. No development shall commence until a scheme has been submitted to and approved in writing by the Local Planning Authority which details the proposed measures to be taken for the protection of public safety on Public Right of Way *Huddersfield 100* which runs adjacent the eastern boundary of the site in relation to all aspects of construction works within and including access to or from the site. The approved scheme shall be implemented throughout the construction period of the development.

11. No material operation as defined in Section 56(4)(a)-(d) of the Town & Country Planning Act 1990 shall be carried out to commence the development pursuant to this planning permission until arrangements for the provision of affordable housing have been submitted to and approved in writing by the Local Planning Authority. Unless otherwise approved in writing by the Local Planning Authority, the arrangements shall cover the following matters:-

- a) the number and type of affordable housing units to be provided.
- b) the layout and disposition of the units affordable housing to be provided.
- c) the timescale for the implementation and completion of the affordable housing units;
- d) the mechanism for ensuring that the affordable housing units remain affordable for both the initial and subsequent occupiers.

12. No material operation as defined in section 56(4)(a)-(d) of the Town & Country Planning Act 1990 shall be carried out to commence the development pursuant to this planning permission until arrangements for the provision of public open space to serve the development have been submitted to and approved in writing by the Local Planning Authority. The arrangements shall cover the following matters:-

- a) the layout and disposition of the public open space.
- b) the timescale for the implementation and completion of the works to provide the public open space;
- c) the mechanism for ensuring that the public open space will be available for public within perpetuity.
- d) maintenance of the public open space in perpetuity.

13. No material operation as defined in Section 56(4)(a)-(d) of the Town & Country Planning Act 1990 shall be carried out to commence the development pursuant to this planning permission until arrangements for the provision of educational facilities to serve the needs of the development have been submitted to and approved in writing by the Local Planning Authority.

14. Development shall not commence until a scheme restricting the rate of surface water discharge from the site to a maximum of 3.5 litres per second has been submitted to and approved in writing by Local Planning Authority. The drainage scheme shall be designed to attenuate flows generated by the critical 1 in 30 year storm event as a minimum requirement. Flows between

the critical 1 in 30 or critical 1 in 100 year storm events shall be stored on site in areas to be approved in writing by the Local Planning Authority, unless it can be demonstrated that discharge from site does not cause an increased risk in flooding elsewhere. The scheme shall include a detailed maintenance and management regime for the storage facility including the flow restriction. There shall be no piped discharge of surface water from the development and no part of the development shall be brought into use until the flow restriction and attenuation works comprising the approved scheme have been completed. The approved maintenance and management scheme shall be implemented throughout the lifetime of the development.

15. The development shall not commence until an assessment of the effects of 1 in 100 year storm events, with an additional allowance for climate change, on drainage infrastructure and surface water run-off pre and post development between the development and the surrounding area, in both directions, has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be brought into use (dwellings shall not be occupied) until the works comprising the approved scheme have been completed and such approved scheme shall be retained thereafter.

16. Development shall not commence until a scheme, detailing temporary surface water drainage for the construction phase (after soil and vegetation strip) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail:

- phasing of the development and phasing of temporary drainage provision.
- include methods of preventing silt, debris and contaminants entering existing drainage systems and watercourses and how flooding of adjacent land is prevented.

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

17. No development shall take place until details of the proposed means of disposal of foul and surface water drainage, including details of any balancing works and off-site works, have been submitted to and approved by the Local Planning Authority.

18. There shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

19. Details submitted in respect of landscaping pursuant to conditions 1 and 2 shall include the indication of all existing trees and hedgerows on and

adjoining the site, details of any to be retained, together with measures for their protection in the course of the development. The scheme shall detail the provision of native trees and shrubs, along with the creation of an ecological corridor. The scheme shall also detail the phasing of the landscaping and planting. The development and the works comprising the approved scheme shall be implemented in accordance with the approved phasing. The approved landscaping scheme shall, from its completion, be maintained for a period of five years. If, within this period, any tree, shrub or hedge shall die, become diseased or be removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives its written consent to any variation.

20. Development shall not commence until details of in-situ bat and bird boxes incorporated into the design of the dwellings have been submitted to and approved in writing by the Local Planning Authority. The bat and bird boxes shall be provided at a ratio of one box per 3 dwellings. The development shall be undertaken in accordance with the details so approved and the bat and bird boxes provided retained thereafter.

**NOTE: Construction Site Noise**

To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of:

07.30 and 18.30 hours Mondays to Fridays  
08.00 and 13.00hours , Saturdays

With no working Sundays or Public Holidays  
In some cases, different site specific hours of operation may be appropriate.

Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation

**Footnote: Works within the highway – Street Lighting:**

The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer, Flint Street, Fartown, Huddersfield (Kirklees Street Care – 0800 7318765) with regard to obtaining this permission and approval of the construction specification. It should be noted that the relocation of street lighting column (**Ref 002**) within the Holme Lane highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Sections 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution.

**FOOTNOTE:** A footpath crosses the site which may have established rights of way; if so the diversion of this footpath requires legal authority. Public consultations/notices are probably required.

This recommendation is based on the following plan(s):-

| <b>Plan Type</b>                          | <b>Reference</b> | <b>Version</b> | <b>Date Received</b> |
|---|------------------|----------------|----------------------|
| Location plan (amended red line boundary) |                  |                | 28/1/15              |
| Proposed site layout                      | 13-D54-02 Rev E  |                | 10/2/15              |
| Topographical survey                      |                  |                | 29/7/14              |
| Contaminated land report                  | 13-D54 ARC       |                | 29/7/14              |
| Drainage Assessment                       |                  |                | 29/7/14              |
| Ecological report                         |                  |                | 29/7/14              |
| Design & Access statement                 |                  |                | 29/7/14              |
| Planning Policy Statement                 |                  |                | 29/7/14              |
| Transport Statement                       |                  |                | 29/7/14              |

**Application No: 2014/91243**

**Type of application: 60m - OUTLINE APPLICATION**

**Proposal: Outline application for residential development and new access**

**Location: adj 23, Ashford Park, Golcar, Huddersfield, HD7 4RL**

**Grid Ref: 409520.0 416247.0**

**Ward: Golcar Ward**

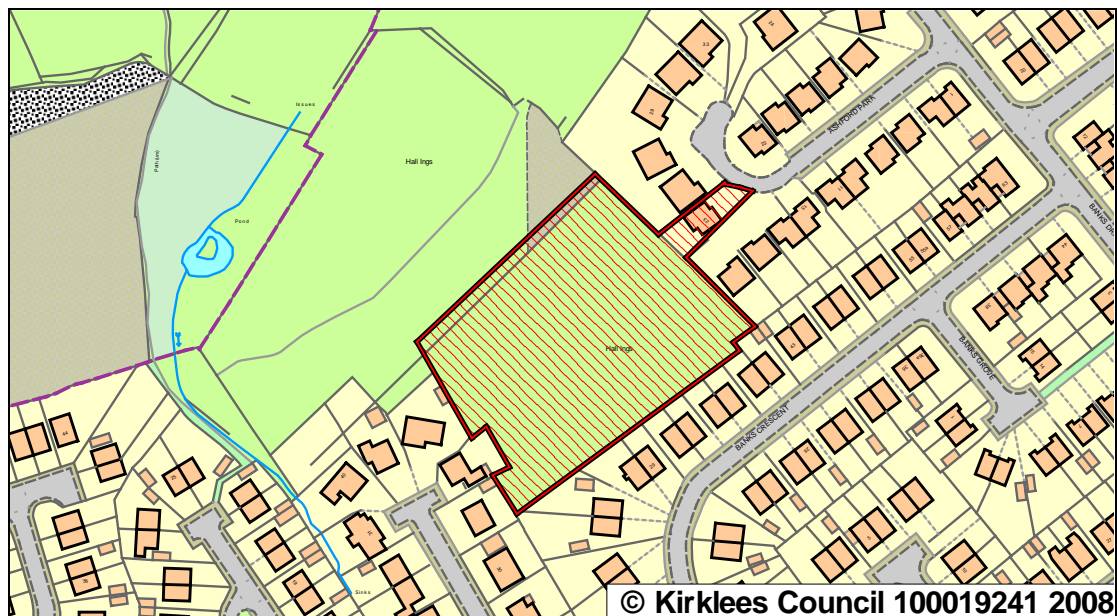
**Applicant: S Wilkinson**

**Agent: Robert Beal, Plan B Planning & Design Ass Ltd**

**Target Date: 16-Sep-2014**

**Recommendation: OASD - CONDITIONAL OUTLINE APPROVAL  
SUBJECT TO DELEGATION TO OFFICERS**

## LOCATION PLAN



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



## 1. SUMMARY OF APPLICATION

|                                    |  |                      |
|------------------------------------|--|----------------------|
| Scale of Development               | 0.54 ha  |                      |
| No. Jobs Created or Retained       | N/A  |                      |
| <b>Policy</b>                      |  |                      |
| UDP allocation                     | D2 Unallocated   |                      |
| Independent Viability Required     | N/A  |                      |
| <b>Representation/Consultation</b> |  |                      |
| Individual Support (No.)           | 1  |                      |
| Individual objections              | 31   |                      |
| Petition                           | N/A  |                      |
| Ward Member Interest               | Cllr Richards  | Requested site visit |
| Statutory Consultee Objections     | None   |                      |
| <b>Contributions</b>               |  |                      |
| • <i>Affordable Housing</i>        | To be conditioned  |                      |
| • <i>Education</i>                 | N/A  |                      |
| • <i>Public Open Space</i>         | To be conditioned  |                      |
| • <i>Other</i>                     | N/A  |                      |
| <b>Other Issues</b>                |  |                      |
| Any Council Interest?              | N/A  |                      |
| Planning Pre-application advice?   | None   |                      |
| Pre-App Consultation Undertaken?   | No   |                      |
| <b>Comment on Application</b>      | <p>The proposal is for a residential development on unallocated land on the Unitary Development Plan, as such there is no objection in principle to releasing this site at present, indeed the Council currently is unable to demonstrate a 5 year supply of deliverable housing land, and this development would assist in addressing that shortfall.</p> <p>The site is considered to be in a sustainable location, access and layout issues are acceptable. Matters of bio diversity and drainage can be satisfactorily dealt with via condition.</p> |                      |

### RECOMMENDATION: CONDITIONAL OUTLINE PERMISSION SUBJECT TO THE DELEGATION OF AUTHORITY TO OFFICERS TO:

- IMPOSE ALL NECESSARY AND APPROPRIATE CONDITIONS WHICH MAY INCLUDE THOSE SET OUT BELOW AND
- SUBJECT TO THERE BEING NO SUBSTANTIVE CHANGES THAT WOULD ALTER THE RECOMMENDATION TO ISSUE THE DECISION NOTICE

## **2. INFORMATION**

This application is brought to Committee as the site is in excess of 0.5ha.

Ward Councillor Hilary Richards has requested a site visit. The reasons for this are to consider the access arrangements to the site and its relationship to the neighbouring dwellings.

## **3. PROPOSAL/SITE DESCRIPTION**

### **Site**

The application site comprises an area of approx. 0.70 ha and is a green field site with substantial tree coverage on the northern edge of the site. The site slopes down from NW to SE and is part of a larger hillside. It is principally rough scrubland. There are dwellings to 3 sides of the site. These are Ashford Park to the east, Banks Crescent to the south and Banks Avenue to the west.

The application site also includes no 23 Ashford Park for access purposes.

The site is unallocated on the Unitary Development Plan with the land immediately to the north being allocated as Green Belt.

The trees on the northern part of the site are covered by a Woodland Tree Preservation Order.

### **Proposal**

Outline planning permission is sought for residential development with access and layout applied for. Access is proposed off Ashford Park and involves the demolition of part of no 23, and the creation of a single car width drive into the site. The submitted layout comprises 19 no dwellings, 15 detached and 4 semi detached, that are laid out around a cul-de-sac.

## **4. BACKGROUND AND HISTORY**

No relevant history.

## **5. PLANNING POLICY**

### **Kirklees Unitary Development Plan**

D2 – Unallocated land  
BE1 – Design principles  
BE2 – Quality of design  
BE12 – Space about buildings  
G6 – Land contamination  
T10 – Highway safety  
T19 – Parking standards  
NE9 – Retention of mature trees

H10 – Affordable housing  
H18 – Provision of open space  
EP11 – Ecological landscaping

### **National Planning Policy Framework**

Part 4 Promoting sustainable transport  
Part 6 Delivering a wide choice of quality homes  
Part 7 Requiring good design  
Part 8 Promoting a health community  
Part 10 Meeting the challenge of climate change, flooding and coastal change  
Part 11 Conserving and enhancing the natural environment

K.C. Policy Guidance: ‘Providing for Education Needs Generated by New Housing’.

K.C. Supplementary Planning Document (SPD2) – ‘Affordable Housing’

## **6. CONSULTATIONS**

**KC Highways** - No objections recommend conditions (see full assessment below)

**KC Environmental Health** - No objections recommend conditions in the event of approval

**KC Trees** - The trees to the northern edge of the site that extend into the green belt area that abuts the application site, have been protected by a Woodland Tree Preservation Order, since this application was received. This TPO has now been confirmed.

The applicant was required to accurately plot the tree canopy spread of the group, as well as that of an isolated Oak tree also covered by the TPO. Plots 1-6 (on the northern side of the site) are considered to be a satisfactory distance from the tree canopy to safeguard the trees. Plots 6 and 7 are in close proximity to the isolated Oak tree, and may require either repositioning or omitting.

**KC Environment Unit** - Originally concerned about the application and the effect it would have on site, especially the trees to the northern part of the site, which were part of a larger and important feature, both visually and in terms of bio diversity. Additional survey work was requested and protection for the trees.

Additional protection for the trees is now in place, and they are part of a larger belt that extends beyond the red line of the site, but is within land in the applicant’s ownership. Therefore would recommend conditions for the provision of bio diversity opportunities within the development (bat/ bird boxes etc) but also a Biodiversity Management plan for the site.

**KC Strategic Drainage** - Normal surface water drainage will not be sufficient on this site, and soakaways are not appropriate.

Any alternative, including the option of deep bored soakaways, would need to be proven to be acceptable, and future maintenance delivered as part of the approval. Concerned whether such a system and be delivered and adequately maintained.

**Yorkshire Water** - No objections, recommend conditions in the event of an approval.

Confirm that the submission drainage solutions is dealt with via a hierarchical process, ie preferred systems of sustainable drainage may not be suitable in some cases, in which case alternative schemes are produced down the hierarchy. The framing of their recommended conditions is in the Grampian form, ie the requirement that any details are agreed prior to any development taking place, and have indicated that they would accept surface water discharge into their system if necessary.

**KC Strategic Housing Services** - Site is green field and in accordance with Policy H10 and SPD2 affordable housing should be provided at 30% of floor area. There is a demonstrable need for affordable housing in the area.

**KC Recreation and Parks** - The size of the site is above the trigger for the provision of Public Open Space, in accordance with Policy H18. In this case an off site contribution in lieu of on site provision would be acceptable.

**Police Architectural Liaison Officer** - No adverse comments on this proposal. Would require to be consulted on the reserved matters application, and recommend robust boundary fencing for reasons of security, between dwellings.

## **7. REPRESENTATIONS**

This application has been publicised by press notice, site notices and neighbour letters. The press notice expired 25<sup>th</sup> July 2014. 31 letters of objection have been received, the main points of concern being:

1. The site has severe drainage problems and this also effects neighbouring development, particularly on Banks Crescent.
2. Further traffic onto Ashford Park would be a traffic hazard to all concerned, and would result in additional congestion. The road is steep and any problems would be exacerbated in the winter months.
3. The cumulative impact of this development with other developments in Golcar would exacerbate congestion.
4. The site does not have an obvious access and the proposed access is contrived and unacceptable.
5. The site contains a large number of trees and flora, which will be damaged by any development.

6. The development will have an adverse effect on wildlife conservation, including bats
7. The relationship of the proposed access with the existing shared access to 17, 19 and 21 Ashford Park is unacceptable. Also if there is to be an access the proposal for a timber fence between the 2 drives is inadequate a solid structure ie brick or stone would be needed.
8. There would be severe problems and disturbance from construction traffic during construction.
9. There would be problems of overlooking from the proposed dwellings given the layout submitted shown and the difference in levels between the site and Banks Crescent.
10. The local infrastructure cannot cope with the additional housing ie the local schools are full ,and Doctors surgeries oversubscribed.

One letter of support has been received, which states:

1. It is accepted that there is a shortage of housing, and an additional 19 units will not result in any significant harm or disturbance.

## **8. ASSESSMENT**

### **General Principle:**

The site is unallocated on the Unitary Development Plan and as such subject to Policy D2, which indicates that planning permission for development including change of use of land, on the UDP proposals map, and not subject to specific policies in the plan will be granted subject to the proposals not prejudicing:

- The implementation of the plan;
- The avoidance of over development;
- The conservation of energy;
- Highway safety;
- Residential amenity;
- Visual amenity;
- The character of the surroundings;
- Wildlife interests; and the efficient operation of existing and planned infrastructure.

The site is not subject to specific polices and the principle of a residential use is compatible with Policy D2

As such there is no policy objection in principle to residential development of this site at this time, and in accordance with the guidance contained in paragraph 14 of the National Planning Policy Framework, there is a presumption in favour of sustainable development, for decision taking purposes this means “approving development proposals that accord with the development plan without delay”.

In addition the Council is currently unable to demonstrate a 5 year supply of deliverable housing sites, the provision of residential development on this site will help to address the shortfall.

Paragraph 49 of the NPPF indicates that housing applications should be considered in the context of the presumption in favour of sustainable development.

Accessibility is one element of sustainable development, but not the ultimate factor. Accessibility tests are set out in the Regional Spatial Strategy (RSS table 13.9). Although the RSS has been revoked it remains the latest plan which has been the subject of public examination and is therefore currently the most-sound basis for assessment under the NPPF paragraph 4.

The tests are:

1. Is there a local service area within 1200m walking distance?
2. Is there a bus stop within 800m walking distance with a service of at least 30 minutes (25 minutes plus 5 minutes walking) to a town centre offering employment, leisure and retail opportunities?
3. Is there a primary school within 1600m (this equates to a 20 minute walk)?
4. Is there a surgery or other primary health care facility within 1600m?

This site satisfies all of the above tests.

Given the size of the site policies relating to Affordable Housing (H10) and Public Open Space (H18) are applicable. If the application was acceptable conditions could be imposed as part of the outline permission to enable these contributions to be secured. As the proposal is for less than 25 dwellings this falls below the threshold to consider education contributions under the Council's published guidance.

### **Highways Issues:**

This application seeks outline approval for residential development and new access at land adjacent 23 Ashford Park, Golcar Huddersfield

It is proposed to erect a total of 19 dwellings comprising 15 detached houses and 4 semi-detached houses and a replacement garage within the site. The site is situated to the south west of Ashford Park and is currently an open field of overgrown grass and scrub. The site has no highway frontage and is effectively land locked. It is surrounded on three sides by residential development. The land to the north west of the site is owned by the applicant but does not form part of the application. This land rises steeply up towards Scapegoat Hill and is much more overgrown and with limited access.

The proposed access is from Ashford Park to the southern side of house number 23 which is an existing detached property with an integral garage. The proposed access would be across the garden to number 23 and would involve the demolition of the existing integral garage.

In terms of network hierarchy Ashford Park is considered to be an unclassified residential road which connects to Leymoor Road, Swallow Lane and wider highway network via other residential roads Banks Road, Banks Approach and Banks Side.

In the vicinity of the site Ashford Park is a shared surface carriageway, with a carriageway width of around 5.0m and 1.8m wide service margins to either side.

#### Access

It is proposed to access the site directly from Ashford Park via a new priority junction. At the junction with Ashford Park the proposed access road comprises of a 5.0m wide carriageway with a 600mm hard margin to the northern side and a 1.2m wide footway to the south. The proposed access geometry and visibility meets recommended standards and they are considered acceptable to serve a development of the scale proposed.

#### Internal Layout

At the site access an approximately 15m long restriction point is proposed which comprises a 3.2m wide carriageway with a 600mm hard margin and 1.2m wide footway. Sight lines are good across this restriction point and there is space to both sides to allow two vehicles to pass. The width of the restriction is considered sufficient to allow access for emergency and refuse vehicles and the proposed raised platform should reduce vehicle speeds entering and leaving the site which is considered to benefit highway safety.

Beyond the restriction the layout comprises a 5.5m shared surface carriageway with 600mm hard margins to either side leading to a turning head.

#### Parking

Replacement parking is provided to number 23 and whilst no detailed plans are provided all the plots appear sufficient in size to accommodate off-street parking. These proposals are considered acceptable from a highways point of view and we have no wish to resist the granting of planning permission.

As such it is considered that the application is considered to be in accordance with Policies T10 and T19, of the Kirklees Unitary Development Plan.

#### **Impact on Amenity:**

The proposal provides for a residential scheme at a density of approx. 35 dwellings per ha, comprising a mixture of semi detached and detached properties. This is considered to be an efficient use of the site, with a comparable density to the area that surrounds it with similar house types.

#### Visual Amenity

As stated above the principle of residential is considered acceptable on this site as is the density and mix of dwellings. This is an outline application, for

access and layout, and issues of scale, landscape and appearance will all be reserved matters, to be considered under a separate application.

The principal element of visual amenity on this site is the belt of trees that bound the north western edge of the site. These trees extend into the adjoining area and hillside which is allocated as green belt on the Unitary Development Plan. As such these trees afford considerable visual amenity for not just the application site, but the wider area, the trees being visible from considerable distances on the hillside. Since the application was received these trees have been protected by a Tree Preservation Order, which is now confirmed. The imposition of a TPO and any necessary conditions to protect the trees both during construction and subsequently when any dwellings are built will safeguard the visual amenities of the area. Furthermore there is an isolated oak tree protected by TPO that could affect the submitted layout. This could require plots 6 and 7 to be repositioned or omitted. Further information will be provided in the update.

Taking all the above into account the proposal could be approved to be in accordance with Policy NE9 of the Kirklees Unitary Development Plan, in that the layout and access has taken proper account of mature trees on and adjoining the site.

#### Residential Amenity

In terms of the Council's space about buildings standards, the separation distances between the dwellings proposed and those existing on Banks Crescent and Banks Avenue is in accordance with the Council's adopted space about building standards in policy BE12. There are distances of approx. 21m between dwellings as originally erected. There are a number of rear extensions to properties on Banks Crescent. Given the limited garden areas, these are within 3-4m of the boundary line with the application site. As such, whilst the distances in these cases will be less than 21m, the provision of a boundary fence will prevent any direct line of sight into these extensions.

The application site to the rear of the Banks Crescent, is at a slightly higher level and as such, in addition to boundary screening, it is proposed to remove permitted development rights for extensions to dwellings on Plots13-19. This would also extend to dormer windows, but not to garden curtilage buildings such as sheds.

Within the site there are a number of dwellings either side of the access road that would be less than 21m apart, the shortest distances are between approx. 17 and 18m. In these circumstances the application does not accord with Policy BE12. These properties face each other across a road that will be used for vehicles as well as pedestrians and deliveries, ie there will be a considerable degree of public activity, which one would not associate with rear garden areas. This aspect needs to be balanced against the desirability of making efficient use of the land in order to meet housing need. The application of the separation distances in a rigid way is not conducive to securing a varied form in the streetscene, within the layout, and future occupiers of the development would be aware of the separation distances.



Also in this specific case to move the dwellings back up to 3m would result in a much closer and unacceptable position in relation to TPO'd trees to the north west and to residential properties to the south east.

In these circumstances it is not considered that the shortfall in some of the distances will have a materially adverse impact upon the amenity and the shortfall itself would not be grounds to refuse permission when balanced against other material considerations.

### **Bio Diversity:**

The application was accompanied by a Phase 1 Extended Habitat Survey which was, at the request of the Environment Unit, extended and further work carried out and a plan detailing mitigation submitted.

The conclusion of the survey was that the tree belt was an important feature and valuable in terms of bio diversity, both existing and in terms of potential enhancement. There are a range of smaller habitats within the site that in themselves do not satisfy the criteria for priority habitat, but it is acknowledged that they would merit some replacement/ mitigation for their loss on neighbouring land to the north and west of the application site. This area is within the applicant's ownership and identified as blue land within the application, as such it is possible to impose conditions on such if necessary to ensure acceptable development.

The updated Habitat Survey includes a detailed Ashford Park Habitat Management Plan that covers both the application site and neighbouring "blue" land ( Ref Ashford Park, Golcar, Habitat Management Plan 088\_14/RE02-001 dated 21/10/14). This document is part of the application, and it is proposed to condition its implementation.

As such, and subject to the imposition of conditions, it is considered that this application satisfies the guidance contained in part 11 of the National Planning Policy Framework "Conserving and Enhancing the natural environment".

### **Environmental Issues (Contamination/Noise):**

The site is a green field site, and the application has been accompanied by a Geo Environmental Survey. The site is capable of being made fit to receive new development, and this can be secured by conditions.

With regard to the position of the proposed access ie adjacent to no 23 and to the front of nos. 19 and 21, Ashford Park, it is accepted that there will be an increased level of disturbance, but given the limited number of vehicle movements a development of this size would actually generate it is not considered that refusal on the grounds of noise or disturbance could be substantiated, or that any mitigation eg acoustic fencing is required.

An advisory note can be added to a permission setting out recommended hours of construction in the interests of residential amenity. Furthermore it is recommended that a construction management plan is imposed by condition both in the interests of residential amenity and highway safety.

### **Drainage:**

The site is located within Flood zone 1, an area least likely to flood. Given the size of the site there is no requirement for a Flood Risk Assessment. As such there is no justification for rejecting this application as being in an inappropriate flood plain, and the development of the application site will not result in the creation of a new or enlarged floodplain.

It is accepted that the neighbouring properties have experienced some surface water run off problems and that parts of the site are marshy. However that is the current situation and not associated with the proposed development. If the development were not to proceed, nothing would change, and any existing drainage issues would remain unresolved.

As such clearly the development of this site is not causing drainage problems, they already exist, but nor should result in any further problems. This is an outline application and the imposition of drainage conditions is a normal practice on such applications. It is accepted that some of the preferred solutions eg SUDS and soakaways are not suitable for this particular site, but there are alternative solutions which can be explored and submitted for consideration, and this will need to be approved prior to any development commencing.

Also on a site such as this, given that the applicant owns a considerably larger area of land on the hillside adjacent to this site, there could be an opportunity to deliver some betterment of the existing situation by imposition of condition.

As such there is not considered to be any justification for refusing this application on the grounds that it will cause drainage problems for existing neighbours, as they already appear to be occurring. The rejection of the application will not in itself resolve those problems.

It is considered that the imposition of drainage conditions is appropriate, and will satisfy the guidance contained in part 10 of the National Planning Policy Framework "Meeting the challenge of climate change, flooding and coastal change".

## **Objections:**

The list of objections to this proposal is itemised above, but there are 4 common themes which are listed and addressed below.

1. The development will cause severe problems of traffic congestion and highway safety on Ashford Park and the access is unsafe.

*The Highways Service have considered the application and are satisfied that the scheme is satisfactory. The development will contain adequate parking for the proposed houses as well as turning. The level of traffic that will occur from a small development such as this, can comfortably be accommodated on the existing road network, and there is adequate visibility, when emerging onto Ashford Park.*

2. There are many trees on the site and the scheme will cause harm and damage to them as well as the considerable wildlife interests and habitat that the site and the surrounding area contains..

*The trees on this site and neighbouring land have been protected by a Tree Preservation Order, which has now been confirmed, as such they are safeguarded which is an improvement upon the site previously. Also there is as part of the application an Ashford Park "Golcar" Habitat Management Plan, for this site and the neighbouring area, that is deliverable by condition as part of this application.*

3. There are drainage problems associated with this site, and the development will exacerbate these.

*The existing problems neighbours experience regarding surface water run-off, may be associated with the site, but they are not as a result of this development. Refusing the scheme will not solve any existing problems. The imposition of conditions requiring details, specific to the site, to be agreed before the development is commenced, is considered to be the appropriate way of dealing with this issue.*

4. There will be problems of overlooking, for properties on Banks Crescent.

*The proposal has been considered against Policy BE12, and this has been explained in full in the assessment. Conditions removing permitted development rights for dwellings that back onto Banks Crescent are attached to the recommendation to safeguard future amenity given levels differences across the site.*

5. The local infrastructure cannot cope with the additional housing ie the local schools are full ,and Doctors surgeries oversubscribed.

*The scale of the application falls below that to be considered against the Council's policy guidance on Education contributions. The Local Planning Authority cannot take into account the provision of doctor's surgeries as a material consideration.*

6. The cumulative impact of this development with other developments in Golcar would exacerbate congestion.

*Cumulative impact has been considered by Highway Services in their assessment of the application. Clarification of this will be provided in the update.*

### **Conclusion:**

The proposal is for a residential development, on unallocated land on the Unitary Development Plan, as such there is no objection in principle to releasing this site at present, indeed the Council currently is unable to demonstrate a 5 year supply of deliverable housing land, and this development would assist in addressing that shortfall.

The site is considered to be in a sustainable location, access and layout issues are acceptable. Matters of bio diversity and drainage can be satisfactorily dealt with via condition.

As such on balance this application is recommended for approval.

### **9. RECOMMENDATION**

#### **RECOMMENDATION: CONDITIONAL OUTLINE PERMISSION SUBJECT TO THE DELEGATION OF AUTHORITY TO OFFICERS TO:**

- **IMPOSE ALL NECESSARY AND APPROPRIATE CONDITIONS WHICH MAY INCLUDE THOSE SET OUT BELOW AND**
- **SUBJECT TO THERE BEING NO SUBSTANTIVE CHANGES THAT WOULD ALTER THE RECOMMENDATION TO ISSUE THE DECISION NOTICE**

1. Approval of the details of the scale, appearance, and the landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced.

2. Plans and particulars of the reserved matters referred to in Condition 1 above, relating to the scale, appearance, and the landscaping of the site, shall be submitted in writing to the Local Planning Authority and shall be carried out in full accordance with the approved plans.

3. Application for approval of any reserved matter shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

4. The development hereby permitted shall be begun either before the expiration of two years from the final approval of reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

5. No material operation as defined in section 56(4)(a)-(d) of the Town & Country Planning Act 1990 shall be carried out to commence the development pursuant to this planning permission until arrangements for the provision of public open space to serve the development have been submitted to and agreed in writing by the Local Planning Authority. The arrangements shall cover the following matters:-

- a) the layout and disposition of the public open space.
- b) the timescale for the implementation and completion of the works to provide the public open space;
- c) the mechanism for ensuring that the public open space will be available for public within perpetuity.
- d) maintenance of the public open space in perpetuity.

6. No material operation as defined in Section 56(4)(a)-(d) of the Town & Country Planning Act 1990 shall be carried out to commence the development pursuant to this planning permission until arrangements for the provision of affordable housing within the development have been submitted to and agreed in writing by the Local Planning Authority. The arrangements shall cover the following matters:-

- a) the number and type of affordable housing units to be provided.
- b) the layout and disposition of the units affordable housing to be provided.
- c) the timescale for the implementation and completion of the affordable housing units;
- d) the mechanism for ensuring that the affordable housing units remain affordable for both the initial and subsequent occupiers.

7. Notwithstanding the details shown on the approved plan LDS 1996/002, no development shall take place until a scheme detailing arrangements and specification for layout and parking have been submitted to and approved in writing by the Local Planning Authority. Before any building is occupied the development shall be completed in accordance with the details shown on the approved plans and retained thereafter.

8. Before development commences details of storage and access for collection of wastes from the dwellings shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be provided before first occupation and shall be so retained thereafter.

9. Development shall not commence until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study Report) has been submitted to and approved in writing by the Local Planning Authority.

10. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition 9 development shall not commence until a Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the local planning authority.

11. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 10. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered [in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report] is identified or encountered on site, all works on site (save for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 working days. Unless otherwise agreed in writing with the local planning authority, works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the local planning authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

12. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the local planning authority. Unless otherwise agreed in writing with the local planning authority, no part of the site shall be brought into use until such time as the remediation measures for the whole site have been completed in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the local planning authority.

13. Development shall not commence until a scheme detailing measures to protect the trees and/or other areas of vegetation as indicated on drawing no. LDS/002

E has been submitted to and approved in writing by the Local Planning Authority. Development shall not commence until the works comprising the approved scheme have been completed, these shall be retained and maintained throughout the construction phase.

14. Notwithstanding the details of landscape required by conditions 1 and 2, the details submitted pursuant to the reserved matter of 'landscape' shall include details of boundary treatments and shall include screen fencing between the application site and the properties on Banks Crescent. The development shall be implemented in accordance with the approved details prior to the occupation of the dwellings that they relate to and be subsequently retained.

15. Notwithstanding the details of scale and appearance required by conditions 1 and 2, the details submitted pursuant to the reserved matters of 'scale and appearance' shall include reference to existing and proposed ground, road and finished floors levels. The submitted information shall also include detailed cross sections through the NE to SW to demonstrate the relationship of dwellings to existing development on Banks Avenue, Banks Crescent and Ashford Park. The development shall be implemented in accordance with the details so approved.

16. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 as amended (or any Order revoking or re-enacting that Order) no development included within Schedule 2, Part 1:

- Classes A, B and C for Plots 13-19, and
- Classes A and E for Plots 1-6

to that Order shall be carried out without the prior written consent of the Local Planning Authority.

17. The areas to be used by vehicles including parking, loading and unloading areas shall be surfaced and drained before the development is occupied/brought into use and thereafter retained.

18. Development shall not commence until a construction management plan has been submitted to and approved in writing by the Local Planning Authority. The construction plan shall include the following details:

- a) Hours of construction, including demolition
- b) Hours of delivery of materials
- c) Location of site management offices
- d) Location of materials storage compound including loading/ unloading areas
- e) Car parking areas for construction workers
- f) Wheel cleaning facilities or comparable measures to prevent site vehicles bringing mud, debris or dirt onto the highway.

The construction plan approved shall be kept in place, operated and adhered to at all times until the development is complete.

19. Development shall not commence until a scheme detailing foul, surface water and land drainage (including off site works, outfalls , balancing works, plans and longitudinal sections, hydraulic calculations, phasing of drainage provision, existing drainage to be maintained/diverted/ abandoned, and percolation tests, where appropriate) has been submitted to an approved in writing by the Local Planning Authority. None of the dwellings shall be occupied until such time as the approved drainage scheme has been provided to site to serve the development, or each agreed phasing of the development to which the dwellings relate, and thereafter retained.

20. The site shall be developed with separate systems of drainage for foul and surface water on and off site.

21. Development shall not commence until an assessment of the effects of 1 in 100 year storm events, with an additional allowance for climate change, blockage scenarios and exceedance events, on drainage infrastructure and surface water run- off pre and post development between the site and the surrounding area in both directions, has been submitted to and approved in writing by the Local Planning Authority. None of the dwellings shall be occupied until the works comprising the approved scheme have been completed and such approved scheme shall thereafter be retained.

22. Development shall not commence until a scheme detailing temporary surface water drainage for the construction phase (after soil and vegetation strip) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail:

- The phasing of the development and phasing of temporary drainage provision;
- The methods of preventing silt, debris and contaminants entering the existing drainage systems and watercourses and how flooding of adjacent land is prevented.

23. Before development commences a scheme detailing the provision of bat boxes and bird nesting opportunities shall be submitted to and approved in writing by the Local planning Authority. The development shall be completed in accordance with the approved scheme before the dwellings to which they relate are first occupied and thereafter shall be retained.

This recommendation is based on the following plan(s):-

| <b>Plan Type</b>                | <b>Reference</b> | <b>Version</b> | <b>Date Received</b> |
|---------------------------------|------------------|----------------|----------------------|
| Design & Access Statement       |                  |                | 17/6/14              |
| Updated Drainage Statement      |                  |                | 1/12/14              |
| Extended Phase 1 Habitat Survey | 008_14/RE02-001  |                | 21/10/14             |
| Location Plan                   |                  |                | 17/6/14              |
| Existing site plan              | LDS 1996/001     | C              | 17/6/14              |
| Proposed block layout           | LDS/002          | E              | Feb 2014             |
| Site Section                    | LDS/1996/005     |                | 17/6/14              |
| Site entrance (existing)        | LDS/1996/003     |                | 17/6/14              |
| Site entrance (proposed)        | LDS/1996/004     |                | 17/6/14              |



**Application No: 2014/93626**

**Type of application: 62 - FULL APPLICATION**

**Proposal: Alterations to detached garage to create dwelling forming annex accommodation associated with The Lodge, Beaumont Park, Beaumont Park Road, Huddersfield, HD4 7AY (within the curtilage of a Listed Building)**

**Location: The Lodge, Beaumont Park, Beaumont Park Road, Huddersfield, HD4 7AY**

**Grid Ref: 412612.0 414404.0**

**Ward: Crosland Moor and Netherton Ward**

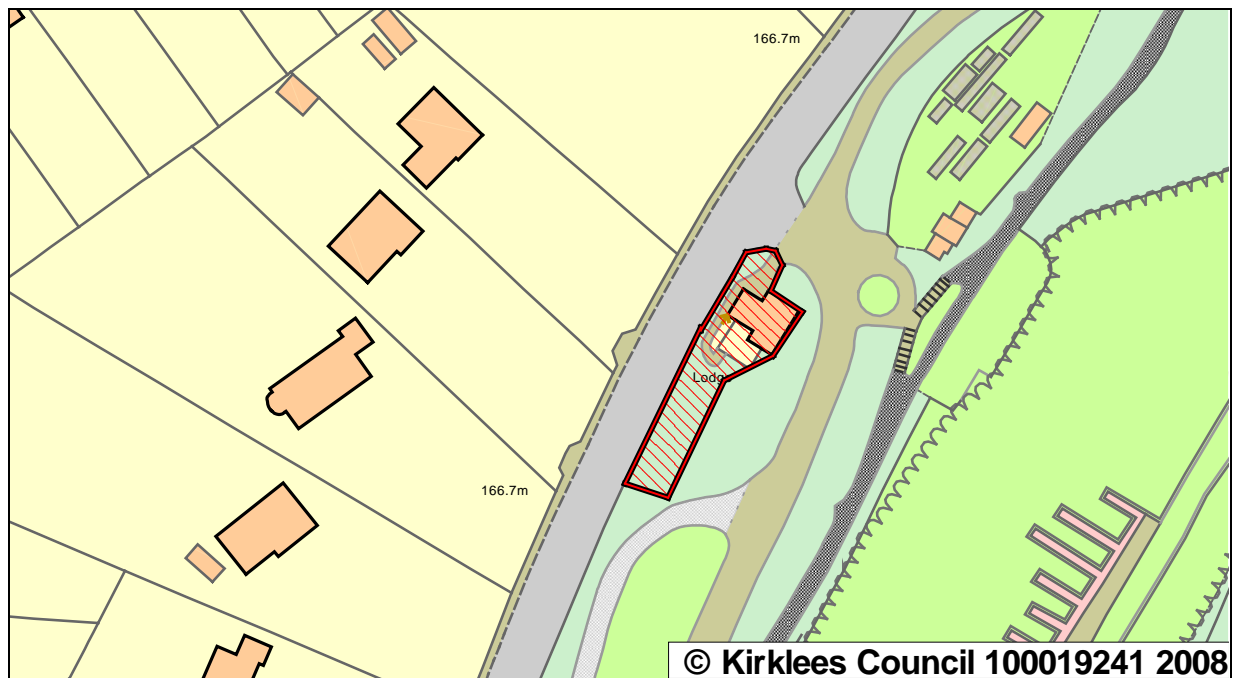
**Applicant: Mr & Mrs Calvin**

**Agent:**

**Target Date: 29-Jan-2015**

**Recommendation: FC - CONDITIONAL FULL PERMISSION**

## **LOCATION PLAN**



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

## **1. SUMMARY OF APPLICATION**

It is considered that the principle of change of use of the garage to residential annexe accommodation would not adversely affect visual or residential amenity. The physical alterations proposed would not harm visual amenity, the character or setting of the Listed Building, or the setting of Beaumont Park. Sufficient parking space can be provided within the curtilage. It is considered that the proposal would amount to sustainable development. It is therefore recommended that conditional permission is granted.

### **RECOMMENDATION: CONDITIONAL FULL PERMISSION**

## **2. INFORMATION**

The application is brought to Sub Committee for determination due to the significant volume of local opinion.

## **3. PROPOSAL/SITE DESCRIPTION**

### *Site*

The Lodge comprises a detached Grade II Listed dwelling, and its curtilage. The dwelling is located on the east side of Beaumont Park Road and is surrounded on the other 3 sides by Beaumont Park. The dwelling itself is situated at the northern end of the curtilage, and there is a detached garage under construction near the southern end. The garage appears to be externally complete except that the roof covering has not been put on and the windows and doors have not been installed. Vehicular access to the house and garage is taken by a tarmac driveway which provides a right of way for pedestrians using the Park. Within the curtilage there is a short driveway connecting this to the garage.

The site is situated on the east side of Beaumont Park Road and is surrounded to the south, east and west by the Park in what is otherwise a residential area. The Park, including The Lodge and its curtilage, is a Grade II listed Historic Park and Garden.

### *Proposal*

The proposal is for the change of use of the detached garage to create a dwelling forming annexe accommodation for The Lodge, and associated alterations. The main external alterations would be that: the main garage door opening which faces south would be infilled with full-height windows with vertical divides; the other two external doors, in the south and north elevations respectively, would be in the same position to those shown on the original approval but would have a different design to those shown on the approved plans, with two panels at the bottom and glazing above. The positioning and design of the four windows, two in the east side and two in the north (rear), is to remain the same.

The applicant's design and access statement says that its purpose is to provide accommodation for the applicant's mother, who has a long-term illness and requires care.

The applicant has submitted a further statement in response to the objections received. The main points are as follows:

- 1) The Council sold the freehold in 1992 so that it is no longer part of the Park; (as a point of clarification The Lodge and its curtilage is within the boundary of the listed historic park and garden of Beaumont Park)
- 2) The property was, I believe, used as a business for some 20 years;
- 3) I'm happy for any conditions to the site regarding selling off as another dwelling.
- 4) All care has been taken that materials, especially the stone, match the existing house. The stone is totally reclaimed stone to match the house even though the planning never specified reclaimed stone.
- 5) There is enough room for one to two cars now but I can easily take soil away and make more space at the back of the property if required.
- 6) The property already has planning for the building to be there in its entirety so it would have no impact on the character of the Park.
- 7) After our discussion I am led to believe that internal layout is not a concern to the change of use planning. However I will put a shower in the downstairs toilet, as I seemed to miss that on my planning drawings.
- 8) I am instructed by the Building regulations that I have to insulate the floor with king span insulation and the screed over the top. So it was just as easy for me to put a piece of stone there as so I could then build my floor up to this to get the internal floor level.
- 9) The width of the garage door is exactly what it is supposed to be in the planning drawings that were passed and can easily accommodate a car through.
- 10) Several other properties on Beaumont Park Road have had permissions for annexe accommodation to be built.

The applicant has also confirmed that if planning permission is granted, he would consider converting the building back into a garage in the event of its no longer being required for annexe accommodation in the future.

#### **4. BACKGROUND AND HISTORY**

2012/92860 – Erection of detached garage. Approved and commenced, although not completed.

2014/90591 – Approval of details reserved by condition 4 (raft foundations). Details approved.

#### **5. PLANNING POLICY**

##### **Kirklees Unitary Development Plan (UDP)**

The site is within the Green Belt and within a Wildlife Corridor on the UDP Proposals Map.

- **BE1** – Design principles
- **BE2** – Quality of design
- **BE12** – Space about buildings
- **NE5** – Development proposals within a Wildlife Corridor
- **T10** – Highway safety
- **T19** – Parking standards

##### **National Planning Policy Framework (NPPF)**

- Section 7 – Requiring good design
- Section 9 – Protecting Green Belt land
- Section 10 – Meeting the challenge of climate change, flooding and coastal change
- Section 11 – Conserving and enhancing the natural environment
- Section 12 – Conserving and enhancing the historic environment.

#### **6. CONSULTATION RESPONSES**

**KC Highways Development Management** – No objections subject to conditions

**KC Planning Conservation & Design** – No objections

**Garden History Society** – No response to date

#### **7. REPRESENTATIONS**

The application has been advertised by site notice, press notice and neighbour notification. The publicity period ended 10-Jan-2015.

15 representations from local residents, of which 13 are in objection, the remaining 2 are comments.

The planning related objections are as follows:

- It looks as though the original intention was always to build a house not a garage;
- This means the original application is invalid;
- Does a door in the proposed bedroom mean an extension or a conservatory will be applied for?
- Has the garage been built to the correct specifications approved in the planning permission such as height, position, ground area, levels etc?
- Impact on character of park and Listed Building;
- The new stone used does not blend in with the Park, Lodge House and surrounding properties;
- The temptation might be to sell it separately from the Lodge, which would further damage the ambience of Beaumont Park;
- English Heritage should be consulted;
- An increase in private parking at the property could compromise the safety of visitors to the park;
- Visual intrusion due to more washing being hung out;
- It could set a precedent for houses to be built in large gardens opposite Beaumont Park, with further traffic and access problems;
- Not sufficient publicity;
- Building is not completed, so should it not be an application for a new dwelling rather than alteration?
- Inaccuracies in the application form – including that there is parking for 2 cars when in fact there is only permission for 1 car to be parked within the grounds, form states there is a foul sewer already there but this is doubtful as there were only garages and sheds there before, (18) should be “yes”
- The internal layout is unsuitable for a person in poor health, owing to the size of the proposed bedroom, the bed pushed up against a wall and no place to bathe or shower;

One further letter does not object but raises the following concern:

- If the properties were sold in the future as two separate entities- can it be made legally binding that they remain as one in law?
- The Lodge was only used as a business for at most 10 years, not 20 years, and as the owners lived opposite the site on Beaumont Park Road, delivery vehicles and visitors would have parked on Beaumont Park Road not in the Park.

## **8. ASSESSMENT**

### **General Principle:**

The application will be assessed having regard to the following Policies contained within the NPPF:

Requiring good design – Developments should function well and add to the overall quality of the area, establish a strong sense of place, optimise the potential of the site to accommodate development, create safe and accessible environments, and be visually attractive.

Protecting Green Belt land – Inappropriate development should be avoided and substantial weight should be given to any harm to the Green Belt.

Conserving and enhancing the natural environment – advises that planning policies and decisions should aim to prevent noise giving rise to significant adverse impacts on health and quality of life.

Conserving and enhancing the historic environment – planning decisions should ensure that heritage assets are conserved or enhanced.

Within the UDP, the most relevant policies are BE1 and BE2 (development should be visually attractive and respect the character of its surroundings), NE5 (development proposals involving land identified as a Wildlife Corridor should make provision for the retention of the corridor and the protection of the wildlife value of the land), and T10 and T19 (development should not create or materially add to highway safety problems, and parking should be provided taking into consideration the standards in UDP appendix 2).

### **Appropriateness within Green Belt:**

The re-use of buildings within the Green Belt is not inappropriate provided that they are of permanent and substantial construction (para. 90) and the alteration of a building is not inappropriate provided it does not result in disproportionate additions over and above the original building. In this case, the proposal would result in the change of use of a building that already has planning permission and is nearing completion, and would not result in any addition or extension. It is therefore considered compliant with the policies of

constraint in the Green Belt and would not harm the openness of the Green Belt or conflict with the purposes of including land within it.

**Impact on amenity:**

***Visual amenity:***

It was considered at the time of the original application that the garage would be appropriate in design and materials and would respect the appearance of the listed dwelling and its wider surroundings.

The proposed development would not result in any changes to the external appearance of the building except in the installation of full-height windows in place of the garage door, which is considered to have a neutral impact on the overall appearance of the building, and changes to the design of the two external personnel doors.

The coursed stone that has been used as a walling material is considered appropriate in terms of type colour and scale. It has the appearance of reused stone although it is not as heavily weathered as the stone on the existing dwelling. It should be noted however that the conditions on the decision notice did not require recovered or second-hand stone to be used.

The creation of a separate residential curtilage could however be harmful to the character and setting of the Listed Building and the Park so it is recommended that a condition is imposed to the effect that it can only be ancillary accommodation and not an independent dwelling.

It is considered that the proposed development would respect the character and significance of the grade II Listed Building, the character of the listed Park and Garden and the wider area, and visual amenity. It would therefore comply with the aims of Policies BE1 and BE2 of the UDP and guidance in Chapters 7 and 12 of the NPPF.

***Residential amenity:***

The proposed annexe accommodation would not be in a position to overlook any other residential properties and it is considered it would have no impact on residential amenity.

**Impact on ecology:**

It is considered that the development would have no adverse impact on the wildlife corridor as it would have no impact on ecology, trees, or habitats for bats or other protected species.

**Highway safety:**

The development would result in the loss of the existing parking within the garage. The applicant has submitted an additional drawing that purports to

show there would be room to park 2 vehicles on the driveway associated with the garage. As the driveway is only 8m in length, there would not be enough room for 2 parking spaces of standard length (5m) to be formed. There is room to park a vehicle at the opposite end of the curtilage on an area which is already hard surfaced. The applicant has confirmed in an email that this is available to use for parking but not highlighted this as a parking space on any plan.

In short the submitted plans do not demonstrate that more than 1 vehicle could be parked within the curtilage, although based on observations on site it would appear that 2 could be accommodated.

It is noted however that under the 2012 permission, there was no condition that required the garage to be used solely for the garaging of private motor vehicles and for no other purpose. So the garage could have been completed and used for domestic storage instead of parking without it being in breach of condition. This would have resulted in the same loss of parking provision as if the garage had been converted. Furthermore, it is unlikely that the proposed annexe accommodation would in itself give rise to additional demand for parking since if it was to be used for an elderly person or someone else requiring care, the occupant would not be likely to require their own vehicle.

However, even if the development were to result in the need to park one additional vehicle on the public highway, it would be difficult to demonstrate that this in itself would be detrimental to highway safety as Beaumont Park Road has good width and alignment and there appears to be capacity for a degree of further on-street parking.

It is considered on balance that a condition should be imposed to effect that the building can only be used as annexe accommodation in the interests of highway safety to prevent the development giving rise to additional demand for parking, and that the parking spaces shown on the plans should be retained at all times. Subject to these conditions it is considered that the proposed development would accord with the aims of Policies T10 and T19 of the UDP.

**Other issues:**

The application is not considered to raise any further material planning issues.

**Representations:**

15 representations have been received.

The planning related objections are as follows:

It looks as though the original intention was always to build a house not a garage;

**Response:** The applicant's intentions at the time of the original application are not a material consideration in the determination of subsequent



applications. This application is assessed taking into account the building is in-situ and the development applied for is for alterations and a change of its use to an annex.

This means the original application is invalid;

**Response:** An application cannot be retrospectively declared invalid once it is approved.

Does a door in the proposed bedroom mean an extension or a conservatory will be applied for?

**Response:** Any future application for an extension would be assessed on its own merits, taking into account the potential impact on the setting of the Listed Building and the Park. There is no indication that this is the applicant's intention at the present time, however.

Has the garage been built to the correct specifications approved in the planning permission such as height, position, ground area, levels etc?

**Response:** From an external inspection it appears that the garage conforms to the approved plans.

Impact on character of park and Listed Building;

**Response:** It is considered that the change in use and associated alterations would not result in any adverse impact on the character or setting of either the Park or the Listed Building. The Garden History Society have been notified of the application and a response was awaited at the time of writing.

The new stone used does not blend in with the Park, Lodge House and surrounding properties;

**Response:** The stone used is considered appropriate in terms of type, colour, texture and scale and is considered to be in accordance with the conditions on the original permission for the erection of a garage.

The temptation might be to sell it separately from the Lodge, which would further damage the ambience of Beaumont Park;

**Response:** A condition can be imposed to ensure that it can only be used for purposes ancillary to the dwelling.

English Heritage should be consulted;

**Response:** English Heritage are not a statutory consultee for applications of this nature. The Garden History Society were however consulted as the application could affect the historic park and garden. At the present time, officers are still awaiting a response.

An increase in private parking at the property could compromise the safety of visitors to the park;

**Response:** For the reasons set out in the Assessment above ("highway safety") it is considered unlikely that the development would give rise to increased parking demand or have any adverse impact upon highway safety.

Visual intrusion due to more washing being hung out;

**Response:** It is considered unlikely that increased domestic paraphernalia would be visually intrusive provided the property was simply used as an annex to the principal dwelling.

It could set a precedent for houses to be built in large gardens opposite Beaumont Park, with further traffic and access problems;

**Response:** Any such applications would be assessed on their own merits. It should be noted however that this is an application for the use of the garage as annexe accommodation not an independent dwelling.

Not sufficient publicity;

**Response:** The application has been publicised by neighbour notification, site notice and press advertisement.

Building is not completed, so should it not be an application for a new dwelling rather than alteration?

**Response:** It is considered that this does not make any material difference to the planning merits of the application as the building already has planning permission and is substantially complete externally.

Inaccuracies in the application form – including that there is parking for 2 cars when in fact there is only permission for 1 car to be parked within the grounds, (18) should be “yes”

**Response:** It is not clear what type of permission is referred to here. Question (18) refers to changes in the amount of non-residential floorspace. Since the proposed change is from a domestic garage to domestic annexe accommodation, this is considered accurate.

Form states there is a foul sewer already there but this is doubtful as there were only garages and sheds there before.

**Response:** There is presumably a foul sewer within the site to serve the existing dwelling.

The internal layout is unsuitable for a person in poor health, owing to the size of the proposed bedroom, the bed pushed up against a wall and no place to bathe or shower;

**Response:** In the event of planning permission being granted, the internal layout can be changed without a further application for planning permission being required.

One further letter does not object but raises the following concern:

If the properties were sold in the future as two separate entities- can it be made legally binding that they remain as one in law?

**Response:** A condition can be imposed to ensure that it can only be used for purposes ancillary to the dwelling.

The Lodge was only used as a business for at most 10 years, not 20 years, and as the owners lived opposite the site on Beaumont Park Road, delivery

vehicles and visitors would have parked on Beaumont Park Road not in the Park.

**Response:** It is considered that any historic business use of The Lodge is not material to this application.

### **Conclusion:**

The proposal relates solely to the change of use of a building that already has planning permission, and with some associated alterations. It is considered that the principle of the change of use of the garage to residential annexe accommodation would not adversely affect visual or residential amenity. The physical alterations proposed would not harm visual amenity, the character or setting of the Listed Building, or the setting of Beaumont Park. Sufficient parking space can be provided within the curtilage. It is considered that subject to conditions on ancillary use and the retention of the existing parking spaces the proposal would amount to sustainable development. It is therefore recommended that conditional permission is granted.

## **9. RECOMMENDATION**

### **CONDITIONAL FULL PERMISSION**

#### **Conditions**

1. The development hereby permitted shall be begun within three years of the date of this permission.
2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
3. The detached building shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as The Lodge, Beaumont Park Road, Huddersfield, HD4 7AY and shall at no time be occupied as an independent dwelling.
4. The existing car parking accommodation within the site as shown on the approved plan shall be retained, free of obstructions and available for the parking of vehicles at all times.

This recommendation is based on the following plans:

| <b>Plan Type</b>                               | <b>Reference</b> | <b>Version</b> | <b>Date Received</b> |
|--|------------------|----------------|----------------------|
| Location plan                                  |                  |                | 04-Dec-2014          |
| Layout plan                                    |                  |                | 04-Dec-2014          |
| Plan   |                  |                | 04-Dec-2014          |
| Foundation drawing                             | Leofric          |                | 04-Dec-2014          |
| Plans and elevations as proposed               | SK-4066-01       | C              | 04-Dec-2014          |
| Design & Access Statement                      |                  |                | 04-Dec-2014          |
| Additional statement in response to objections |                  |                | 20-Jan-2015          |
| Parking plan                                   |                  |                | 22-Jan-2015          |

**Application No: 2014/93641**

**Type of application: 62 - FULL APPLICATION**

**Proposal: *Erection of one passive dwelling***

**Location: *Land adj, 97, Bourne View Road, Netherton, Huddersfield, HD4 7LA***

**Grid Ref: 412850.0 413463.0**

**Ward: *Crosland Moor and Netherton Ward***

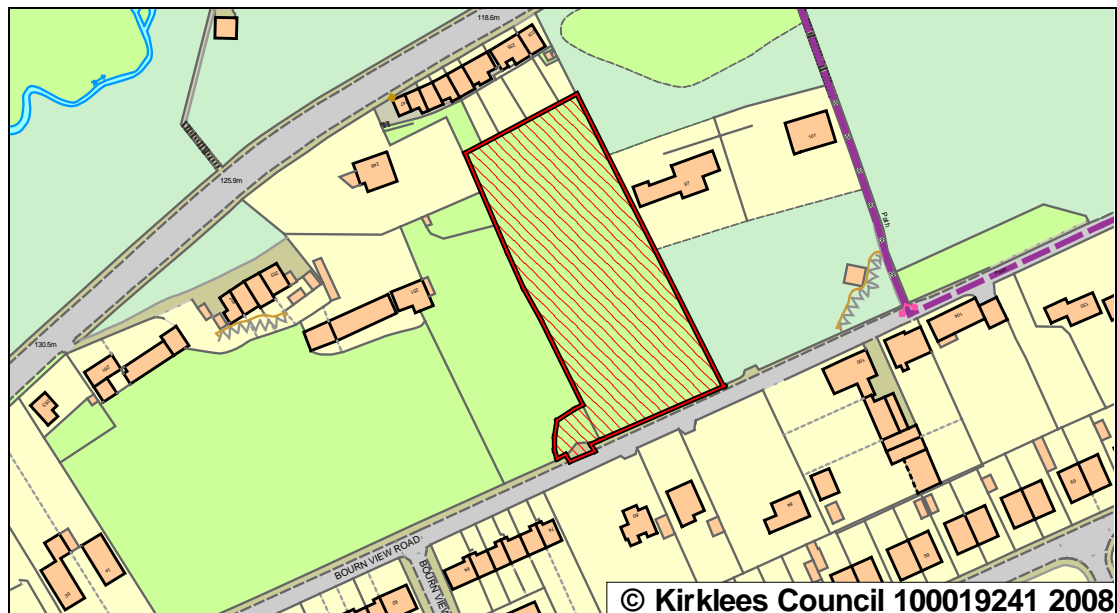
**Applicant: *B Thomas***

**Agent: *Michael Dunn, SPACE Architecture and Design***

**Target Date: *02-Mar-2015***

**Recommendation: *FC - CONDITIONAL FULL PERMISSION***

## **LOCATION PLAN**



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

### **1. SUMMARY OF APPLICATION**

The principle of residential of this site, which forms part of a housing site allocation, is considered acceptable. The scale and design of the new dwelling, whilst contemporary in its appearance, would be constructed of

materials which would be in-keeping with the local area, where there is a mixture of house types. The scale and design is therefore, on balance, considered satisfactory.

The access, which would be via Bourne View Road, is considered acceptable and due to the proposal only being for the erection of one dwelling, is not considered to result in any highway safety implications. Finally, the proposed dwelling has been designed to safeguard residential amenity, the potential future development of the wider housing allocation site, and with the inclusion of appropriate conditions, the ecology of the local area.

## **RECOMMENDATION: CONDITIONAL FULL PERMISSION**

### **2. INFORMATION**

The application is brought to Huddersfield Sub-Committee for determination at the request of officers due to the significant number of representation that has been received in objection to the proposals.

### **3. SITE DESCRIPTION / PROPOSAL**

#### **Site Description**

The application site is currently an open area of field that is located adjacent to no. 97 Bourn View Road. The site is set to the east of an open area of land allocated for housing under the UDP and when taking the width of the site along with the route of the proposed access, this development would account for approximately one fifth of the wider housing allocation.

The site is set on a hillside with the topography sloping down to the north. It is a grassed area of land with mature trees running along its eastern boundary and some saplings scattered through the site. To the immediate east, west and south of the site there are some relatively spacious dwellings. There is however also a character of dense residential development with terraced properties to the immediate north and south of the site.

#### **Proposal**

The proposal is for the erection of one detached passive dwelling on the site. The bulk of the dwelling would be a hexagonal shape and due to the change in levels across the site it would be viewed as two storey to the north and single storey to the south.

The new dwelling would be located between two existing houses. A distance of 14.0m would be retained to the shared boundary with no.97 Bourn View Road (to the east) and 8.0m to the western boundary, with no.251 Meltham Road beyond (although a distance of over 33m would be achieved to the gable of this existing property).

The dwelling is proposed to be faced in coursed sandstone with ashlar band at first floor level and fibre cement slates for the roofing material.

A courtyard and lawned area would be located to the eastern side and part of the rear elevations and the wider area would be landscaped as a wild flower meadow to the south and additional tree planting carried out to the north (front). The existing trees located along the eastern boundary would be retained.

A long driveway would serve the dwelling, accessed via Bourn View Road. The construction of the house and garage would require some regrading works within the site.

#### **4. BACKGROUND AND HISTORY**

2012/90628 – Erection of one dwelling – Refused

Relevant planning history along Bourn View Road:

The Old Farmhouse, 31 Bourn View Road:

2013/92090 – Outline application for erection of one detached dwelling – Refused (appeal upheld)

Land adjacent to no.23, Bourn View Road:

2011/92551 – Erection of one dwelling and detached garage – Approved

2011/90411 – Outline application for erection of one detached dwelling – Approved

No.82 Bourn View Road:

2007/90237 – Change of use from garage/flat to a nursery (day care) – Refused

#### **5. PLANNING POLICY**

The site forms part of a wider housing allocation site (covering 1.3Ha), referenced H7.9 on the UDP proposals map. It is anticipated that 16 dwellings would be accommodated on this site. The land immediately to the eastern boundary of the application is protected by a group tree preservation order (ref.12/77/a1).

#### **Kirklees Unitary Development Plan**

H6 – Sites for new housing  
BE1 – Design principles  
BE2 – Quality of design  
BE11 – Materials  
BE12 – Space about buildings  
NE9 – Retention of mature trees  
T10 – Highway safety  
EP11 – Ecological landscaping

## **National Planning Policy Framework**

Chapter 6 – Delivering a wide choice of high quality homes

Chapter 7 – Requiring good design

Chapter 8 – Promoting healthy communities

Chapter 10 – Meeting the challenge of climate change, flooding and coastal change

Chapter 11 – Conserving and enhancing the natural environment

## **6. CONSULTATIONS**

Below is a summary of the consultation responses received; where appropriate these are expanded upon in the assessment section of this report:

**K.C. Highway Development Management** – No objection, subject to conditions.

**K.C. Environment Unit** – Ecological Survey required which should establish the habitats present, the site's ecological value, and the potential impacts of the development. Mitigation and enhancements measure should then be proposed, and should include bat tubes, bird boxes, and a landscaping scheme.

**K.C. Policy Section** – Previously commented that “Development of a single dwelling on the site, that wouldn't deliver the remaining dwellings in the allocation would not accord with paragraph 14 of the NPPF, as failure to make optimum use of the land would constitute an adverse impact that would significantly and demonstrably outweigh the benefits”.

**K.C. Strategic Drainage** – Previously commented “no objection”, subject to conditions, on application 2012/90628.

**K.C. Environmental Services** – Previously commented “no objection”, subject to condition relating to the reporting of any unexpected land contamination, on application 2012/90628.

**K.C. Arboricultural officer** – No objection - the new driveway would be a sufficient distance away from the protected trees. A condition relating to the erection of protective fencing around the crown spread of the protected trees which overhang the site along the eastern boundary is recommended.

## **7. REPRESENTATIONS**

The application has been advertised by site notice and neighbour notification letters. The publicity period ended on 26 December 2014.

As a result of the above publicity, there have been 29 representations received - one in support and 28 objecting to the proposals.



A summary of the comments received are as follows:

Support:

1. No objection to the passive house, provided that it would be a single dwelling.

Object:

1. Block sunlight to properties below, including their garden areas.
2. If more than one house built, there would be noise concerns – currently, this is a peaceful area.
3. Landslide/drainage concerns.
4. Don't want any access to be gained to the gardens of the properties below the site.
5. 16 houses would lead to congestion.
6. Bourn View Road is a very narrow, virtually single track because of parked vehicles.
7. The junction of Bourn View Road and Delph Lane is extremely narrow and congested.
8. Compromise wildlife, in terms of trees/bramble bushes/wildlife – because of increase in people, vehicles, and pollution. This is a quiet Green Belt for wildlife. Have bats been taken into account?
9. Planning permission already refused on this site. The same reasons for previously refusing the application still apply.
10. Publicity probably done correctly, but the application was submitted in December when people unlikely to see it.
11. Visual impact of the development – both in terms of the passive house and 16 dwellings.
12. On weekends, may people walk along Bourn View Road – one of the only couple of areas of green spaces left in Netherpton.
13. Difficulty developing the site, as with another development part way along Bourn View Road – which is now only partly developed and has been left to rot.
14. Cannot find an approval anywhere for the 16 houses shown.

15. An application to turn an existing house into a nursery was rejected a few years ago on highway issues.

16. The planning application includes a septic tank which will require maintenance, removal and extraction, causing noise. There would also be a risk of leakage from the septic tank which could cause unpleasant smells and would be detrimental to health of local residents.

17. The road (Bourn View Road) is quite settled, most residents are middle aged and retired . . . to have new houses which would attract a different type of person would not be in-keeping with why people moved here in the first place.

## **8. ASSESSMENT**

### **Background Information:**

As set out in the planning history section, there has been a relatively recent planning application for the erection of one dwelling which was refused on this site. The reasons for refusing that application were as follows:

1. The application site is part of a wider area of land allocated for housing in the Kirklees Unitary Development Plan. It has not been demonstrated that the development of this site for a single dwelling, in the scale and layout proposed, would allow for the effective development of the remaining housing allocation. The proposal would fail to make optimum use of the land and the harm caused by this would outweigh any benefits accrued by the development. To permit such a development is contrary to Policy H6 of the Kirklees Unitary Development Plan and paragraph 14 of the National Planning Policy Framework.
2. The proposed terrace area would overlook the adjacent land which is allocated for housing on the Unitary Development Plan at a distance of 6.5 metres. This would cause potential detriment to the effective development of the remaining housing allocation and fail to make optimum use of the land by introducing a constraint to future development on the adjacent site. This would be contrary to Policies BE1 and H6 of the Kirklees Unitary Development Plan as well as paragraph 14 of the National Planning Policy Framework.
3. The design features of the dwelling, combined its scale, would not respect the existing character of the area or local distinctiveness. The dwelling would appear overly prominent in this location, especially when viewed from the north, and would result in harm to the visual amenity of the area. To permit such a development is contrary to Policies BE1 and BE2 of the Kirklees Unitary Development Plan, as well as chapter 7 of the National Planning Policy Framework, which highlights the importance of good design and promoting or reinforcing local distinctiveness.

4. It has not been demonstrated that the development would conserve or enhance biodiversity. The site is a semi-natural environment and as such is likely to have ecological value. Any loss of habitat would require appropriate mitigate and compensation methods to be included as part of the development. Such methods have not been included within the proposals and as such, there are concerns over the impact of potential habitats on the site. To permit the development would be contrary to chapter 11 of the National Planning Policy Framework.

5. The proposed access to serve the new dwelling would be located beneath the crown spread of protected mature trees located on the adjacent land, to the eastern boundary of the application site. To permit the access in this location would lead to pressure to fell the mature trees and as such, would be contrary to Policy NE9 of the Kirklees Unitary Development Plan.

The applicant has now attempted to address the previous reasons for refusing the application, and this is set out in the main assessment below.

### **Principle of development:**

The application site is located on an area of land that is allocated for housing on the UDP proposals map, whereby Policy H6 of the UDP applies. As such the principle of developing the site for residential purposes would appear to be acceptable. However account should be given to other policies, and consideration should be given into whether developing the site with the scale of property as proposed, is acceptable in principle.

Under the National Planning Policy Framework (NPPF) Local Authorities are required to provide a five year supply of deliverable sites. Housing applications should also be considered in the context of the presumption in favour of sustainable development (para 49 of the NPPF) and authorities should encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value (para 17 of the NPPF).

This is a Greenfield (previously undeveloped) site. However, the Council is unable to demonstrate a five year supply of available housing land sufficient to satisfy the requirements of the NPPF. Paragraph 49 of NPPF states that if a local planning authority cannot demonstrate a 5 year supply of deliverable housing sites “relevant policies for the supply of housing should not be considered up-to-date”. Paragraph 14 states that where “relevant policies are out of date” planning permission should be granted unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or
- specific policies in this Framework indicate development should be restricted”. (For example, sites designated as Sites of Special Scientific Interest; land designated as Green Belt, an Area of Outstanding Natural Beauty...etc)

Under Policy H6 of the UDP, the application site makes up part of a wider area of potential housing development land. The site is given the number H7.9, and is a 1.3 hectare site anticipated to accommodate approximately 16no. dwellings. This site was retained as a housing site at the UDP inquiry, although it was set with a lower than average capacity, at 15 dwellings. Taking the size of the allocation as a whole, this would result in a density of 12 dwellings per hectare.

It is acknowledged by officers that a large dwelling could be accommodated on the site and that higher density development may be possible elsewhere across the housing allocation. However, before agreeing to low density development on part of the allocation there should be an assurance that the high density development and the further housing allocation can be adequately accommodated on the remainder of the site in the future.

In an attempt to demonstrate that the remainder of the housing allocation can be accommodated on the site, the applicant has submitted an indicative layout plan. This conveys the provision of an additional 16no. houses across the site. This is considered to, on balance, adequately demonstrate that the land can be effectively used for housing and meet the required UDP housing allocation (without prejudice to the formal submission of any future planning application on that land).

In light of the above, the previous concern that the wider site could not be developed, as set out in reason one of the refusal for application 2012/90628, has been overcome and it is now considered, by officers, that the granting of this permission would not cause detriment to the future effective use of the wider housing allocation site.

The proposals would now comply with the aims of Policy H6 of the UDP, as well as paragraphs 14 and 58 of the NPPF, which, amongst other things, require development to optimise the potential of a site.

#### **Impact on visual amenity:**

Policies BE1 and BE2 of the UDP relate to general design principles. Chapter 7 of the NPPF highlights the requirement for good design, setting out under paragraph 56 that “the Government attaches great importance to the design of the built environment” . . .and that “good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people”.

With regard to the position of the dwelling, it would be located in between no.251 Meltham Road (to the west) and no.97 Bourn View Road (to the east). The position of the new dwelling is therefore considered acceptable from a visual amenity perspective and would sit comfortably in this location, following the general layout of the immediate area, and complying with Policies BE1 and BE2 of the UDP as well as the aims of chapter 7 of the NPPF.

In this particular instance, as with the previously refused scheme, the proposal is to erect a contemporary dwelling which, it is appreciated, would not necessarily follow the general design of dwellings within the vicinity. However, it should be noted that there are a mixture of house types within the vicinity, which include various materials of construction as well as architectural detailing.

The scale of the dwelling has been reduced from the previously proposed scheme, and the areas of outdoor terracing also limited. The scale of the dwelling would therefore be relatively comparable to those found within the surrounding area. In addition, the dwelling would be faced in natural stone, again, in-keeping with the predominant facing material in the area. Finally, when it comes to the overall design, whilst this would be a rather unorthodox design of dwelling within the area, paragraph 58 of the NPPF does set out, amongst other things, that decisions should aim to ensure that developments “respond to local character and history, reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation”.

In this instance, officers are satisfied that, on balance, with the inclusion of appropriate materials e.g. natural stone facing materials (a condition is recommended that samples of both facing and roofing materials are approved in writing by the Local Planning Authority before development commences), the proposal would relate satisfactorily to the local character of the area and that, through the granting of this application, innovation would not be discouraged. The proposal is, on balance, considered to comply with the aims of Policies BE1 and BE2 of the UDP, as well as the aims of chapter 7 of the NPPF.

Reasons two and three of the previous refusal are considered, by officers, to have been addressed.

#### **Impact on residential amenity:**

Policy BE12 of the UDP is of relevance when considering the impact of a new dwelling on the residential amenity of existing dwellings.

As previously set out, the new dwelling would be located between two existing houses. A distance of 14.0m would be retained to the shared boundary with no.97 Bourn View Road (to the east) and 8.0m to the boundary with no.251 Meltham Road to the west (although a distance of over 33m would be achieved to the gable of this existing property). It should be noted, no.251 Meltham Road is within the ownership of the applicant.

A distance of approximately 26m would be achieved between the front elevation of the new dwelling and the shared boundary with the properties which front onto Meltham Road – an overall distance in excess of 41m would be achieved with the terraced properties themselves, which are set at a lower level than the application site.

A distance in excess of 50m would be achieved between the rear elevation of the new dwelling and the shared southern boundary, with Bourn View Road.

All of the distances set out above would comply with, and exceed those, set out in Policy BE12 of the UDP. Even when taking into account the topography of the land, and the relationship with the terraced dwellings along Meltham Road, which are set at a lower level than the application site, there would be no undue overlooking or overbearing impact caused to these occupants.

This proposal has removed the terrace that was previously proposed to the dwelling, as well as reducing its height to two storey, factors which are considered to address reasons two and three of the previous refusal.

Officers are satisfied that there would be no undue harm caused to residential amenity, complying with Policy BE12 of the UDP.

### **Ecology considerations:**

The application site primarily consists of grassland and some encroaching scrub with neighbouring woodland. The intention is to retain some of these areas however the Council's Biodiversity officer has advised that an ecological assessment should still be carried out to establish any habitats present, the site's ecological value, and the potential impacts of the development.

The applicant has not submitted an ecological assessment in this instance but is aware that, if members consider it necessary, a request may be formally made for such an assessment to be carried out however, it has not been carried out as yet due to the potential delay this could cause to the determination of the application. However, as shown on the proposed site layout, the proposal is to retain the majority of the grassland area as well as the woodland (which is located outside of the applicant's ownership). Furthermore, as part of the landscaping scheme, the domestic curtilage would be restricted to a small area immediately around the new dwelling, with the remainder of the area being wildflower meadow to the south and the planting of native species e.g. oak, to the north. This is recommended to be restricted through the imposition of a condition which would restrict the extent of domestic curtilage associated with the new dwelling.

In light of the above, and on balance, provided that full details of the landscaping scheme are conditioned, along with other appropriate mitigation measures, such as the provision of bat roosting opportunities integral to the new dwelling, and an advisory note regarding the timing of when the vegetation is removed, the proposals are considered to accord with the aims of chapter 11 of the NPPF and would mitigate the requirement for an ecological survey to be carried out. However, as set out previously, if members consider it appropriate, an ecological survey can be formally requested to be submitted by the applicant.

The fourth reason for refusal is, on balance, considered by officers to be addressed.

**Impact on mature trees:**

Located along the eastern boundary of the site is an area of protected trees. The previous scheme was refused because the proposed driveway would have been located beneath the crown spread of these trees. However, the driveway has now been re-positioned away from the mature trees so as to ensure that their viability would be maintained, in accordance with the aims of Policy NE9 of the UDP.

The Council's Arboricultural officer has reviewed the proposals and has verbally confirmed 'no objection'. The new driveway would no longer be located beneath the crown spread of the existing protected trees located along the eastern boundary of the site. Subject to the inclusion of a condition which would require protective fencing to be erected around the crown spread of any of the mature trees which overhang the site along the eastern boundary is imposed, officers are satisfied that the proposals would accord with the aims of Policy NE9 of the UDP.

The fifth reason for the previous refusal is considered, by officers, to be addressed.

**Drainage considerations:**

In the objections raised by neighbouring residents the drainage of the site has been mentioned, with concerns that the proposal would result in drainage problems for the residents on Meltham Road. To assess the impact of the development on such matters consultations have previously been carried out with the Council's Strategic Drainage Officers.

They have previously confirmed 'no objection' to the development, but noted that due to the steep topography of the site that drainage may be an issue. As such, conditions are recommended to be included which would require details of drainage and soakaways, as well as controlling the off-set from the public sewer.

With the inclusion of such conditions, the proposal would accord with the aims of chapter 10 of the NPPF.

**Contamination and other environmental considerations:**

To assess the impact on environmental concerns, i.e. noise and pollution, consultation has previously been carried out with officers in Environmental Services. They confirmed 'no objection' to the development but due to the potential use of the site for tipping in the past, the inclusion of the standard condition relating to unexpected contamination is recommended. The inclusion of such a condition would ensure no harm to future residents of the

site from any contamination that may be present, in line with Policy G6 of the UDP as well as the aims of chapter 11 of the NPPF.

In addition to the above, the proposal is to include a septic tank to serve the new dwelling, which has been a cause for concern raised by one of the objectors. With regard to the septic tank, full details are recommended to be submitted to and approved in writing by the Local Planning Authority via condition.

#### **Highway safety considerations:**

The proposals have been carefully reviewed by the Council's Highway Development Management (HDM) officers.

The proposed access to the new dwelling would be via a private drive with a maximum gradient of 1:8 (where accessed immediately from Bourn View Road). A turning head has also been proposed which would be of sufficient proportions for emergency vehicles to turn.

Subject to the inclusion of appropriate conditions, the proposal would accord with Policy T10 of the UDP, which states that new development should not materially add to any highway safety implications.

#### **Representations:**

Most of the concerns raised by objectors have been addressed in the report above. The following can however also be added.

#### Support:

1. No objection to the passive house, provided that it would be a single dwelling.

Response: Noted.

#### Object:

1. Block sunlight to properties below, including their garden areas.

Response: As set out in the residential amenity section of the main assessment, a sufficient distance would be achieved between the new dwelling and surrounding existing properties so as not to result in any undue overbearing impact, including any blocking of sunlight. The distances with other properties accords with, and exceeds, those set out in Policy BE12 of the UDP. A condition is also recommended which would require full details of the levels of the site, as well as the levels of surrounding land and development, to be submitted to and approved in writing by the Local Planning Authority before development commences. This would further help to ensure that the proposals would not impact adversely upon the residential amenity of surrounding occupants.



2. If more than one house built, there would be noise concerns – currently, this is a peaceful area.

Response: Noted. The proposal is for one dwelling only.

3. Landslide/drainage concerns.

Response: Drainage matters have been considered in the main report above. With regard to landslide, paragraph 120 of the NPPF sets out that “where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner”. Furthermore, the structural aspects of the development would be considered as part of the Building Regulations application.

4. Don't want any access to be gained to the gardens of the properties below the site.

Response: The granting of a planning application does not override any private legal matters relating to access or ownership. Furthermore, the proposals do not include any access through the gardens of the properties below the site.

5. 16 houses would lead to congestion.

Response: The proposal is for one dwelling only. An indicative layout showing 16 houses has been submitted in order to address the requirements of Policy H6 of the UDP and the aims of chapter 6 of the NPPF.

6. Bourn View Road is a very narrow, virtually single track because of parked vehicles.

Response: Noted. However the proposals have been reviewed by the Council's Highway Development Management (HDM) officers and no objection has been raised, subject to the inclusion of appropriate conditions. Furthermore, the proposal is for one dwelling only.

7. The junction of Bourn View Road and Delph Lane is extremely narrow and congested.

Response: Noted however, please see comments in relation to point 6 above.

8. Compromise wildlife, in terms of trees/bramble bushes/wildlife – because of increase in people, vehicles, and pollution. This is a quiet Green Belt for wildlife. Have bats been taken into account?

Response: Noted however, with the inclusion of appropriate conditions, the majority of the site can be safeguarded. In addition, mitigation measures, including those in relation to bats, are also recommended to be conditioned. The proposals would no longer impact upon the mature trees located along the eastern boundary of the site. On balance, the proposal is considered to comply with the aims of chapter 11 of the NPPF.

9. Planning permission already refused on this site. The same reasons for previously refusing the application still apply.

Response: Noted however, as set out in the main assessment above, the previous reasons for refusal are, on balance, considered by officers to address the previous reasons for refusal.

10. Publicity probably done correctly, but the application was submitted in December when people unlikely to see it.

Response: Noted. However, an applicant can submit a planning application at their discretion.

11. Visual impact of the development – both in terms of the passive house and 16 dwellings.

Response: The visual impact of the proposals have been carefully considered in regard to the one passive house (the 16 dwellings are not being considered at this stage) . . an assessment on visual amenity of the one house is set out above and is, on balance, considered to be acceptable by officers.

12. On weekends, may people walk along Bourn View Road – one of the only couple of areas of green spaces left in Netherton.

Response: Noted. However, the new dwelling itself would be set some 50m from Bourn View Road and would also be set at a lower land level. Officers are therefore satisfied that the proposal would not harm the amenity of users of Bourn View Road.

13. Difficulty developing the site, as with another development part way along Bourn View Road – which is now only partly developed and has been left to rot.

Response: This is not a 'material planning consideration'.

14. Cannot find an approval anywhere for the 16 houses shown.

Response: The 16 dwellings are shown for indicative purposes only, in an attempt to demonstrate that the development of the one passive dwelling would not prejudice the development of the wider housing allocation site.

15. An application to turn an existing house into a children's nursery was rejected a few years ago on highway issues.

Response: Noted. However, the proposal for one dwelling would not generate the same number of vehicular movements as a children's nursery.

16. The planning application includes a septic tank which will require maintenance, removal and extraction, causing noise. There would also be a risk of leakage from the septic tank which could cause unpleasant smells and would be detrimental to health of local residents.

Response: Full details of the septic tank would be required to be submitted via condition.

17. The road (Bourn View Road) is quite settled, most residents are middle aged and retired . . . to have new houses which would attract a different type of person would not be in-keeping with why people moved here in the first place.

Response: Noted. However, this is not a 'material planning consideration'.

The applicant has also reviewed the above objections and a summary of their response in relation to the concerns is set out below:

- The majority of the objections have misunderstood the nature of the application. The application is for a single dwelling on part of the previously identified allocated site for housing. In order to demonstrate how the site could eventually deliver the Council's policy for the specified number of dwelling, a 'for illustrative purposes only' site layout has been submitted as part of the application which shows how the site might be developed in the future.
- The impact on the 'open' nature of the site of a single dwelling will be very small. The size and location of the house will not affect long range views from existing properties on Bourn View Road. The access drive will not have any effect on the trees adjacent to the site. Additionally, part of the site will be uncultivated and planted with indigenous shrubs and other plants in order to provide a suitable habitat for wild birds and animals.
- The current design is for a house that is only two storeys high on the side that faces the valley and only one storey high where it faces Bourn View Road. Its visual impact will be less than the adjacent existing properties that are accessed from Bourn View Road. It will be constructed from locally quarried split face sandstone in order to match many of the existing properties that are close to the site.
- The effect that a single dwelling will have on traffic issues is negligible. The single access point off Bourn View Road will be in a location that will provide adequate visibility onto the road for egressing drivers and will be at a gradient that will be acceptable. Adequate parking facilities will be provided within the site to ensure no on street parking.
- According to data available from the TRICs database, this indicates just one trip during both the morning and evening peak times and potentially between 6 and 8 trips per day overall would be the result of this development. Therefore, the traffic generated by the new dwelling will be unrecognisable from the day to day fluctuations in traffic even along Bourn View Road and there will be a negligible impact on highway safety.

### **Conclusion:**

The principle of residential of this site, which forms part of a housing site allocation, is considered acceptable. The scale and design of the new dwelling, whilst contemporary in its appearance, would be constructed of materials which would be in-keeping with the local area, which comprises of a mixture of house types. The scale and design is therefore, on balance, considered satisfactory.

The access, which would be via Bourne View Road, is considered acceptable and is not considered to result in any highway safety implications. Finally, the proposed dwelling has been designed to safeguard residential amenity, the potential future development of the wider housing allocation site, and the ecology of the local area.

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

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

## **9. RECOMMENDATION**

### **CONDITIONAL FULL PERMISSION**

1. The development shall be begun not later than the expiration of three years beginning with the date on which permission is granted.
2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
3. Samples of all facing and roofing materials shall be left on site for inspection and approved in writing by the Local Planning Authority before development commences. The development shall then be completed using the approved materials.
4. Notwithstanding the submitted plans and information, a scheme detailing the boundary treatment for all of the site, including details of any retaining features located around the new dwelling, shall be submitted to and approved in writing by the Local Planning Authority before development commences. The development shall then be completed in accordance with the approved details before the dwelling is first brought into use and thereafter retained.
5. Development shall not commence until a scheme detailing foul, surface water and land drainage, (including off site works, outfalls, balancing works, plans and longitudinal sections, hydraulic calculations, existing drainage to be maintained/diverted/abandoned, and percolation tests, where appropriate) has been submitted to and approved in writing by the Local Planning Authority. The dwelling shall not be occupied until such approved drainage scheme has been provided on the site to serve the it and thereafter be retained.
6. Development shall not commence until a scheme demonstrating that designed soakaways are an effective (or otherwise) means of draining of

surface water on this development. Percolation tests in accordance with BRE Digest 365 shall be submitted to and approved in writing by the Local Planning Authority along with calculations demonstrating that the designed soakaways can store a critical 1 in 30 year storm event and can empty by 50% within 24 hours. An assessment of the risk of flows from soakaways re-emerging to flood properties at lower level or causing waterlogged ground shall also for part of the information required to be submitted for approval by this condition.

7. There shall be no new buildings, structures or raised ground levels within 3 metres of the centre line of the 225mm public combined sewer located within the boundary of the site.

8. In the event that contamination not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all works on site (save for site investigation works) shall cease immediately and the Local Planning authority shall be notified in writing within 2 working days. Works on site shall not recommence until either (a) a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority or (b) the Local Planning Authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy. Following completion of any measures identified in the approved Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. Unless otherwise approved in writing by the Local Planning Authority, no part of the site shall be brought into use until such time as the whole site has been remediated in accordance with the approved Remediation Strategy and a Validation Report in respect of those works has been approved in writing by the Local Planning Authority.

9. The development authorised by this permission shall not begin until full details of the proposed septic tank including porosity and percolation tests have been submitted to and approved in writing by the Local Planning Authority. Thereafter the septic tank shall be installed in accordance with the approved details before the dwelling is first occupied and retained.

10. Notwithstanding the requirements of condition 9, if porosity and percolation tests show the land unsuitable for a septic tank then the development authorised by this permission shall not begin until details of an alternative means of disposing of foul waste has been submitted to and approved in writing by the Local Planning Authority. Thereafter the alternative means of disposing of foul waste shall be installed in accordance with the approved details before the dwelling is first occupied and retained.

11. Sightlines of 2m x site frontage shall be cleared of all obstructions to visibility exceeding 1 m in height before the dwelling is first occupied and these sightlines shall thereafter be retained free of any such obstruction.

12. The development shall not be brought into use until all areas indicated to be used for access, parking, and turning on the approved plan(s) have been laid out with a hardened and drained surface in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13<sup>th</sup> May 2009 (ISBN 9781409804864) as amended or any successor guidance; Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any Order revoking or re-enacting that Order) this shall be so retained, free of obstructions and available for the use(s) specified on the submitted/listed plan(s) for the lifetime of the development.

13. Notwithstanding the submitted plans and information, a scheme for the provision of wildlife habitat improvements shall be submitted to and approved in writing by the Local Planning Authority before development commences. The arrangements shall include:

- a long-term specification and management plan for wildlife habitat conservation and improvements, tailored to the Habitats and Species of Principal Importance and Protected Species (and the potential for protected species);
- artificial bat roosting / swift and swallow nesting sites integral to the building and the,
- timescale for the implementation of the wildlife habitat improvements.

The development shall be carried out in complete accordance with the approved scheme and timescales and thereafter be retained.

14. A scheme detailing landscaping, tree/shrub planting, including the indication of all existing trees and hedgerows on and adjoining the site, details of any to be retained, together with measures for their protection in the course of the development, shall be submitted to and approved in writing by the Local Planning Authority before development commences. The scheme shall detail the phasing of the landscaping and planting. The development and the works comprising the approved scheme shall be implemented in accordance with the approved phasing. The approved landscaping scheme shall, from its completion, be maintained for a period of five years. If, within this period, any tree, shrub or hedge shall die, become diseased or be removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives its written approval to any variation.

15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order (with or without modification)) no buildings or extensions other than those expressly authorised by this permission shall be erected within the red line boundary of the application site shown on the approved plans at any time.

16. The domestic curtilage associated with the new dwelling does not include all of the land within the red line boundary of the application site. The domestic curtilage shall be restricted to the areas indicated as the herb

garden, patio, lawn, and courtyard, on the submitted 'Site Layout for proposed passive house'.

17. Notwithstanding the submitted plans and information, detailed plans indicating existing and proposed site, road, and building levels related to Ordnance Datum or an identifiable temporary datum shall be submitted to and approved in writing by the Local Planning Authority before development commences. Thereafter the development shall be carried out in accordance with the approved details.

18. Prior to development commencing protective fencing in accordance with British Standard BS 5837 shall be erected around all protected trees which overhang the eastern boundary of the site.

**NOTE:** The removal of vegetation and any buildings present should be undertaken outside of the bird breeding season, March to August inclusive. If any clearance work is to be carried out within this period, a nest search by a suitably qualified ecologist should be undertaken immediately preceding the works. If any active nests are present work which may cause destruction of nests or, disturbance to the resident birds must cease until the young have fledged.

This recommendation is based on the following plan(s):-

| <b>Plan Type</b>  | <b>Reference</b> | <b>Version</b> | <b>Date Received</b> |
|---|------------------|----------------|----------------------|
| Site Location Plan  | 14.019(9-)003    |                | 25 November 2014     |
| Site Layout for Proposed Passive House  | 14.019(9-)002    |                | 25 November 2014     |
| Elevations for Proposed Passive House   | 14.019(2-)003    |                | 25 November 2014     |
| Plans for Proposed Passive House  | 14.019(2-)002    |                | 25 November 2014     |
| 'Whole Site' Layout   | 14.019(9-)001    |                | 25 November 2014     |
| Bourn View Road, Netherton (Section of access prepared by Paul A Howarth Highway Consultants Ltd) | 01               |                | 25 November 2014     |
| Additional supporting letter  |                  |                | 22 December 2014     |
| Additional Support Letter dated 5 February 2015   |                  |                | 5 February 2015      |
| Additional Supporting Highway Statement dated 5 February 2015                                     |                  |                | 5 February 2015      |

**Application No: 2014/91027**

**Type of application: 62 - FULL APPLICATION**

**Proposal: Erection of small scale 11kW Gaia wind turbine mounted on 18m mast with a maximum tip height of 24.5m**

**Location: Lower Whitegate Farm, White Gate Road, Holmbridge, Holmfirth, HD9 2TH**

**Grid Ref: 412815.5 405788.1**

**Ward: Holme Valley South Ward**

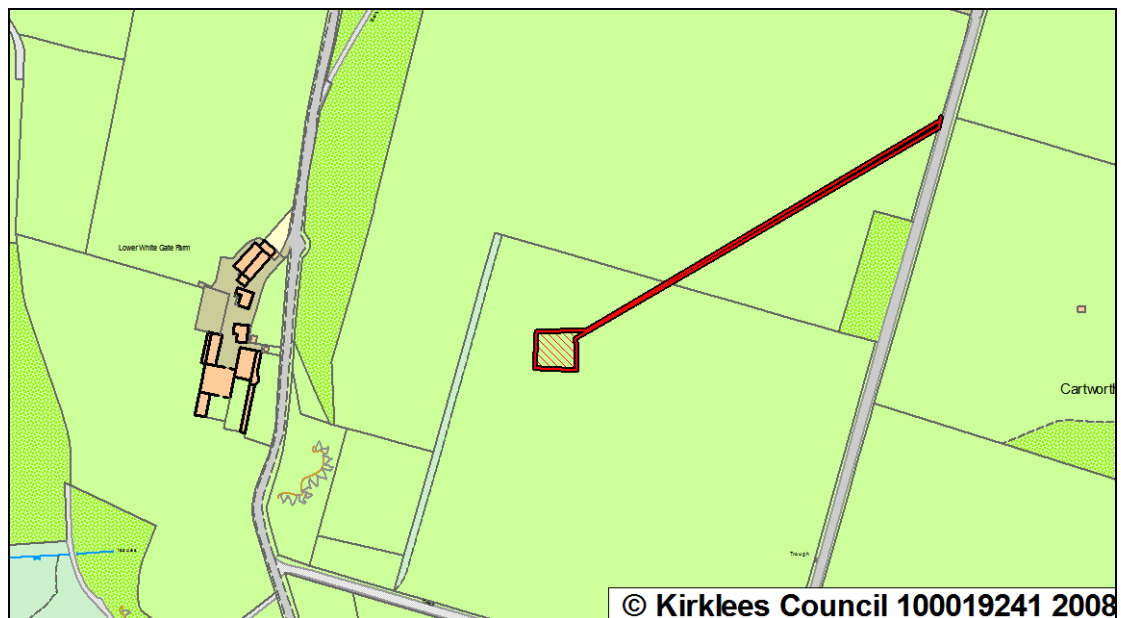
**Applicant: A Colwill**

**Agent: Michael Gordon, Sustainable Energy Systems Limited**

**Target Date: 10-Mar-2015**

**Recommendation: RF1 - REFUSAL**

## **LOCATION PLAN**



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



## **1. SUMMARY OF APPLICATION**

The application seeks the erection of a wind turbine to serve Lower Whitegate Farm. The site is designated Green Belt in the Unitary Development Plan and the proposal constitutes inappropriate development consistent with guidance in the NPPF. As a consequence planning permission should not be granted unless very special circumstances can be demonstrated that clearly outweigh the harm caused by reason of inappropriateness and any other harm.

Whilst this proposal could potentially lead to benefits by the production of a significant amount of renewable energy, and assist in the diversification of a rural enterprise it is considered that, in this instance, these benefits would not be sufficient to offset the resultant harm to the openness of the Green Belt and the local landscape by way of cumulative impact and the detrimental impact the turbine would have on views into and from the nearby Peak District National Park.

**RECOMMENDATION:** Refusal

## **2. INFORMATION**

The application is brought before the Huddersfield Planning Sub Committee at the request of the Chair for the following reason:

*The application has a unique set of circumstances where it is felt that a decision by the Huddersfield Planning Sub Committee is most appropriate. The proposed turbine would support the establishment of a recently opened bed and breakfast business with food ancillary education centre at Lower Whitegate Farm, providing an additional 4 new jobs, and would assist in reducing energy consumption at the site by approximately 50%.*

## **3. PROPOSAL/SITE DESCRIPTION**

### *Site*

The application site is located on high ground approximately 2 kilometres south of the centre of Holmfirth and lies within an area which has been allocated as Green Belt in the adopted Unitary Development Plan. The immediate area surrounding the site is rural in character with isolated residential properties and farmsteads. The boundary of the Peak District National Park is located approximately 670 metres to the south west of the application site.

The site is positioned in an open field towards the western edge of a plateau and is raised above the level of the farm which is to be supplied by electricity by approximately 25 metres. Three other wind turbines are located within close proximity of the application site on Cartworth Moor, an existing turbine of matching design which serves Lower White Gate Farm, one which serves Upper White Gate Farm, and one which serves New Dunsley Poultry Farm.

### *Proposal*

The applicant proposes to erect a single 11kW wind turbine on an 18 metre high mast which would have an overall height from ground level to blade tip of approximately 24.5metres. The applicant has indicated that this proposal would generate a 47,000 kWh of electricity per annum based on the amount generated by the existing adjacent matching turbine. The applicant has stated that the electricity would be used to support the recently opened bed and breakfast business at the site, and would save 24,922 kgs of carbon per year. The turbine would also be connected to the national grid in order that any surplus electricity can be fed directly into the grid at times of low usage.

## **4. BACKGROUND AND HISTORY**

None in relation to the exact position of the wind turbine. However, there has been some planning history in relation to Lower White Gate Farm which the turbine would serve, which is set out below:

2013/90057 - Alterations to existing barn to form bed and breakfast accommodation and ancillary food education centre – Approved and in operation

[http://www2.kirklees.gov.uk/business/planning/application\\_search/detail.aspx?id=2013%2f90057](http://www2.kirklees.gov.uk/business/planning/application_search/detail.aspx?id=2013%2f90057)

2011/93154 - Installation of a single 11kW Gaia wind turbine on an 18m mast – Approved and in operation

[http://www2.kirklees.gov.uk/business/planning/application\\_search/detail.aspx?id=2011%2f93154](http://www2.kirklees.gov.uk/business/planning/application_search/detail.aspx?id=2011%2f93154)

2011/91073 - Erection of 2 No. 12Kw Wind Turbines on 15 metre mast – Approved, but not in operation, now lapsed.

[http://www2.kirklees.gov.uk/business/planning/application\\_search/detail.aspx?id=2011%2f91073](http://www2.kirklees.gov.uk/business/planning/application_search/detail.aspx?id=2011%2f91073)

Approved Wind Turbine Applications in Local Area which are in Operation

| <b>App No:</b> | <b>Address</b>   | <b>Proposal</b>  | <b>Tower Height</b> | <b>Height to Blade Tip</b> | <b>Distance from Site</b> |
|----------------|--|--|---------------------|----------------------------|---------------------------|
| 2012/93066     | Upper Whitegate Farm   | Erection of 50kW Endurance wind turbine on 25m mast  | 24.6                | 34.2                       | 0.2 km                    |
| 2011/92229     | New Dunsley Poultry Farm   | Installation of 1 No. 50kw wind turbine on a 24.6m mast  | 24.6                | 34.2                       | 0.6 km                    |
| 2009/93461     | Woodhouse farm, Holmbridge   | Extensions and alterations at the site and erection of wind turbine  | 9                   | 11.9                       | 0.7 km                    |
| 2009/92927     | Quarry Lodge, Westgate, Cartworth Moor, H                                      | Installation of 9m Wind Turbine supporting a three blade rotor of 3.5 metres                                   | 9                   | 11.9                       | 0.6 km                    |
| 2009/92635     | Land Adjacent, Upper Waterside Farm, Royd Lane, Holmbridge, Holmfirth, HD9 2BA | Erection of 6kw domestic wind turbine on 15 metres mast  | 15                  | 17.785                     | 1.1 km                    |
| 2013/94011     | Longley Farm, Holmfirth, HD9 2JD   | Replacement of existing wind turbine with a single wind turbine up to 46m to tip and associated infrastructure |                     | 46                         | 1.8 km                    |

|          |   |   |  |      |        |
|----------|---|---|--|------|--------|
| 86/01878 | Longley Farm,<br>Longley<br>Edge/Dunford<br>Road, Holmfirth | Construction<br>of windmill to<br>generate<br>electricity |  | 32.5 | 1.8 km |
|----------|---|---|--|------|--------|

#### Refused Applications for Wind Turbines

| <b>App No:</b>            | <b>Address</b>   | <b>Proposal</b>   | <b>Tower Height</b> | <b>Height to Blade Tip</b> | <b>Distance from Site</b> |
|---------------------------|--|---|---------------------|----------------------------|---------------------------|
| 2013/91465                | Moorfield Farm,<br>Cartworth Moor Road,<br>Cartworth Moor,<br>Holmfirth,<br>HD9 2QS  | Installation of 1 medium scale 50kW Endurance wind turbine on a 24m monopole mast | 24.6                | 34.2                       | 0.57 km                   |
| <b>Reason for Refusal</b> | 1. Detrimental cumulative and landscape impact.<br>2. Proximity to bridleway.<br>Appeal: Dismissed (Ref: APP/Z4718/A/14/2220417) |   |                     |                            |                           |

### **5. PLANNING POLICY**

The site is allocated Green Belt on the Kirklees UDP Proposal Plan.

#### Kirklees Unitary Development Plan

- **EP6** – Noise generating development
- **EP8** – Wind turbines
- **NE8a** – Development affecting views from the Peak District National Park
- **T10** – Highway safety
- **R13** – Development and footpaths

#### National Planning Policy Framework (NPPF)

- **Chapter 3** – Supporting a Prosperous Rural Economy
- **Chapter 9** – Protecting Green Belt Land
- **Chapter 10** – Meeting the Challenge of Climate Change, Flooding and Coastal Change
- **Chapter 11** – Conserving and Enhancing the Natural Environment
- **Chapter 12** – Conserving and Enhancing the Historic Environment

#### Other Guidance/Considerations

Kirklees Supplementary Planning Guidance: Wind Energy

Landscape & Capacity Study for Wind Energy Developments in the South Pennines (published 2010). However, it should be noted that this document's sole purpose is to inform the drafting of the Local Plan which would then be further scrutinised by statutory requirements and consultation. The document can be used to inform decisions on planning applications especially in relation to factual issues and therefore constitutes a material consideration and the weight to be accorded to the document is at the discretion of the decision maker. However, the contents of the report are not binding and are just one of the factors to be taken into consideration. Given the dual nature of the document and its prematurity it is advised that little weight should be attached to it in the consideration of this application.

ETSU – R – 97: The Assessment & Rating of Noise from Wind Farms

Landscape Guidance for wind turbines up to 60m high in the South and West Pennines (published 2013)

National Planning Practice Guidance – Published 2014 'Renewable and low carbon energy'.

## **6. CONSULTATIONS**

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

- **KC Environment Services** – No objections
- **KC Environment Unit** – No objections.
- **Peak District National Park** – No response
- **Telecommunications Association of the UK Water Industry (TAUWI)** – no objections
- **National Air Traffic Services (N.A.T.S.)** - No objections
- **Leeds/Bradford Airport** – No objection
- **Ministry of Defence (M.O.D.)** – No objection
- **Civil Aviation Authority (C.A.A.)** – declined to comment.
- **OFCOM** – comments made

## **7. REPRESENTATIONS**

Initial publicity on the application expired on: 16/5/2014.

In total 2 local residents have made comments on the application which raise the following objections to the proposal:

- The occupiers of Moorfield Farm and Upper White Gate Farm already experience flicker from the existing turbine.
- The proposal will have a detrimental cumulative impact on the local landscape from other turbines already in operation in close proximity to the application site.
- A second turbine at the site will have a detrimental impact to the operation of a caravan and camping site at Upper Whitegate Farm, by reason of noise and visual amenity.
- The proposed turbine is located in an area which is a breeding ground for Golden Plover, which is a rare breed bird, and there is concern the proposed turbine would have a detrimental impact on this bird.

## **8. ASSESSMENT**

The application seeks consent for the erection of a wind turbine in an area of Green Belt located to the south west of Holmfirth, on the prominent Cartworth Moor plateau. Such applications need to be assessed in relation to their impact on the Green Belt, both in principle and in terms of its impact on the character, recreational value and visual amenity of the Green Belt and the wider landscape. The application will also be assessed in relation to residential amenity, highway safety, ecology and aviation safeguarding as well as all other material planning considerations.

### **Principle of development within the Green Belt:**

The proposal is situated on land allocated as Green Belt in the Kirklees Unitary Development Plan. Guidance in the NPPF states that “...*fundamental aim of Green Belt is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.*” Paragraphs 87 & 88 of the NPPF goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

It is considered that due to the nature of this proposal it would constitute inappropriate development within the Green Belt as defined by Chapter 9.

Inappropriate development is by definition harmful to the Green Belt, and as set out in the NPPF ‘*Very special circumstances*’ (to allow such development) *will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.*”

Chapter 9 goes on to indicate in paragraph 91, that the wider benefits of energy generated from renewable sources can constitute very special circumstances which outweigh harm by reason of inappropriate development.

Chapter 10 of the NPPF regarding '*meeting the challenge of climate change, flooding and coastal change*' sets out that the development of renewable energy is a key element in mitigating climate change and the delivery of sustainable development. Chapter 10 also indicates that, in order to increase the supply of renewable energy, LPA's should have a positive strategy to promote energy from renewable sources. In addition Chapter 10 advises that:

*"When determining planning applications, Local Planning Authorities should not require applicants to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions..."*

Currently there is a UK commitment to source 15% of its energy from renewable sources by 2020 alongside targets introduced by the Climate Change Act 2008 to reduce carbon emissions by 80% below 1990 levels by 2050.

The applicant has indicated that this proposal would potentially see the generation of 47,000 kwh/year of electricity from a renewable source which would see a corresponding decrease in carbon emissions. Consequently this proposal would contribute towards delivering national climate change targets which is a material consideration for the proposed development.

Section 3 of the NPPF regarding the rural economy, also indicates that planning policies should support the sustainable growth and expansion of rural businesses, and the development and diversification of agricultural and other rural businesses. The applicant has stated the following to support the application:

*The development will generate electricity at Lower Whitegate Farm where the applicant is committed to reducing their fuel costs as well as improving their sustainability credentials. A reduction in the applicant's carbon footprint fits well with the applicants' vision for their business.*

*The family run farm business at Lower Whitegate Farm is a mixed livestock venture comprising beef cattle, pigs and sheep. 50% of produce reared on the farm is sold through local livestock markets and to local abattoirs and 50% is returned from the abattoir to be butchered 'in-house' and sold directly to consumers at local markets and farmers markets.*

*The Farm business provides an income for the applicant and his family, as well as his parents. The applicant and his father manage the business, working on the farm, in the butchery and selling their products at the farmers markets. The business currently employs one*

*part time butcher and a student farm worker who is currently studying agriculture at college.*

*The applicant believes that the current business structure at Lower Whitegate Farm is unsustainable. Agriculture profits are generally low, there is uncertainty over cap reform and production and fuel costs are rising. Change is needed to secure the future of the business and farming at Lower Whitegate Farm.*

*In order to help maintain the business of Lower Whitegate Farm, the applicant, has converted one of the barns into bed and breakfast accommodation and ancillary food education centre under application 2013/90057 which has provided 4 new jobs (3 fte).*

*Since the B&B was opened the applicant has advised that they are now using about 150kwh every day from the grid - before the B&B opened we used 27kwh/day which was reduced from 80kwh/day before the 1st turbine was installed. The current turbine is averaging over 47,000 kwh/year compared to the national average of 36,000kwh for similar rated wind turbines. It is imagined that by installing a second turbine it should reduce energy usage from the grid by 50%, and if a reliable and cost effective way to store electric can be found, almost eliminate our reliance on the national grid.*

*This application is an essential element in helping the applicants to achieving their sustainability ambitions. The choice of turbine was specifically selected with this in mind, where it is considered to be the most efficient at the appropriate scale and design for the landscape in which it is set in.*

The information above is considered to represent the applicant's very special circumstances. The principle of this development, however, hinges on whether this explanation of the benefits achieved from the generation of renewable energy in this location and for the farming business, clearly outweighs its impact (harm) to the Green Belt by reason of inappropriateness and any other harm. In this instance this will be assessed using the criteria set out in Policy EP8 of the UDP.

Policy EP8 of the UDP specifically deals with wind turbines. This indicates that such development will be permitted provided that it does not cause serious harm to:

- *the character, recreational value and visual amenity of the green belt or landscape;*
- *the character, appearance or setting of a listed building or conservation area;*
- *the amenity of occupiers of land in the vicinity;*



- *the ecology of the area;*
- *areas designated at national, regional or local level as of nature conservation, scientific or archaeological interest;*
- *highway safety; or*
- *existing transmitting or receiving systems by reason of electromagnetic disturbance*

*And provided special regard is paid to the visual relationships with other existing or proposed wind turbines.*

The development is assessed against these criteria below.

**Impact on visual amenity and landscape character:**

The impact of the proposed wind turbine on visual amenity and landscape character is a key consideration for a development of this size given its location in this predominantly rural setting.

The sensitivity of a landscape to accommodate change varies according to the existing landscape, the nature of the proposed development and the type of change being proposed. In general terms, areas of high landscape quality are more sensitive to change than areas of lesser quality and value. The assessment of sensitivity is considered against the value, quality and capacity of the landscape. It should also be noted that, in the case of wind turbine development, it is not a clear cut matter to determine whether or not a change in views should necessarily be regarded as an adverse or positive effect, because of the wider varying responses of individuals to this form of development. The perception of the viewer influences whether a significant visual effect would constitute acceptable change to the landscape.

The application site is located on a high hilltop plateau. The character of the surrounding landscape is primarily agricultural made up of a mosaic of agricultural fields used for grazing, bounded by dry stone walls. Due to the proposed position of the turbine it would be visible both at close quarters when seen from the nearest residential properties, from the local highway network, recreational paths, and at medium range distances, particularly when viewed from the east when the turbine would appear on the sky line, with the existing nearby turbines at Lower Whitegate Farm, Upper Whitegate Farm, with New Dunsley Farm also visible further in the distance.

The ‘Landscape Capacity Study for Wind Energy Developments in the South Pennines’, was commissioned by a number of local planning authorities which are situated within the Southern Pennines region, and, in figure 7, identifies the character of this landscape as moorland fringes/upland pastures and a landscape sensitivity to wind energy development which is high (locally moderate to high). The aforementioned study goes on to indicate that this

type of landscape is of high sensitivity over much of its area due to the adjoining open moorland plateaux, as well as small scale complex land cover, wide visibility, high scenic quality, natural and cultural heritage features, and nationally and regionally important recreational interests.

The proposed turbine would be set on an 18 metre high mast which would have an overall height from ground level to blade tip of approximately 24.5 metres. This has the potential to affect the landscape character and visual amenity of this area. However, it should be noted that there are examples of other vertical structures evident in the wider landscape such as other wind turbine development and telegraph poles, particularly when viewed from the east (from Dunford Rd which then turns into Penistone Rd).

The applicant has submitted a Landscape Visual Impact Assessment (LVIA) which includes photomontages to illustrate the likely impact this turbine would have on visual amenity and the surrounding landscape. The applicant has also included a Zone of Theoretical Visibility (ZTV) which indicates, in theory, where the turbine may be seen. This covers an area which extends to a maximum of approximately 5 kilometres from the site. However, visibility will obviously vary due to atmospheric conditions.

The proposed development lies relatively close to a small number of sensitive receptors such as residential properties (the closest being approximately 250 metres from the site). The turbine would be prominent when viewed at close range from certain locations, and it is considered that the associated visual impacts when viewed from these locations would be reasonably significant, although it is accepted that these impacts would diminish with distance.

Whether the visual impacts associated with these receptors are considered acceptable is a subjective consideration and inevitably a matter of judgement. However, there is some guidance provided in the document entitled 'Landscape Guidance for Wind Turbines up to 60m high in the South and West Pennines'.

There is no doubt that, due to the proposed location of the turbine, this development would have a visual impact on the surrounding area. It is therefore a question of whether the impact associated with this development is considered to be acceptable.

Guidance in chapter 3 of the document entitled 'Landscape Guidance for Wind Turbines up to 60m high in the South and West Pennines' sets out that "a simple, clear, visual relationship will usually be most effective". In this instance, the proposed turbine would appear isolated from the host property of Lower Whitegate Farm, and thus appear unrelated to it. This would be the case when viewing the turbine from close proximity, where it is located at a higher level than Lower Whitegate Farm as demonstrated in viewpoint 6 of the Photomontage. This isolated, unrelated location, along with the size of the turbine, would result in its detrimental impact upon the visual amenity of the area.

As set out above, the turbine would be highly visible from public viewpoints along nearby roads and footpaths. This would be the case when viewed from 'Cartworth Moor Road' to the east as well as public footpaths located to the south, and in the surrounding area. Officers are of the opinion that, when the turbine would be observed from these relatively close viewpoints the character of the landscape would be materially changed by the presence of the development. Some of the inherent openness would therefore be lost.

From further afield the impact of the turbine would potentially be reduced however, Officers do have some concern in respect of cumulative impact, as set out in the next section below.

To conclude on this matter, users of the local footpath network, as well as local residents, would be in the highest category of sensitivity of receptors to visual impact of the proposed wind turbine. There would be a significant impact on the visual experience of the area for both of these groups. Some local residents would have direct views of the turbine, with resultant detraction from visual amenity. Users of the footpath network would experience intermittent detraction from the pleasure of countryside recreation.

Consideration also needs to be made in respect of the impact of the turbine on the Peak District National Park, which is located 670 metres from the application site. The Peak Park Planning Authority have not provided any formal comments to the application, however Policy NE8a restricts developments which are harmful to views from the Peak Park, or views into the Peak Park.

In this case it is noted that there are a number of other turbines on Cartworth Moor within proximity to the application site, and it is considered that any harm arising to views from or into the Peak Park would occur from a cumulative impact as assessed below.

As such, officers are of the opinion that the proposed development would be of serious harm to the character and appearance of the area. To approve the proposal would be contrary to Policy EP8 of the UDP as well as the aims of the NPPF.

### **Cumulative impact:**

The cumulative impact of the proposed development is an important consideration for the application. Government Guidance published in March 2014 indicates that cumulative landscape impacts are the effects the development would have on fabric, character and quality of landscape, and that cumulative visual impacts concern the degree to which proposed development would become a feature in particular views (or sequence of views), and the impact this has upon how people experience these views. Cumulative visual impacts may arise where two or more of the same type of renewable energy development will be visible from the same point, or will be visible shortly after each other along the same journey.

In addition, landscape guidance in the Landscape & Capacity Study for Wind Energy Developments in the South Pennines suggests that cumulative impact does not just apply to turbines in close proximity but also when turbines are seen together in the same view, particularly if these turbines are of different types and scale. The cumulative impact of other renewable energy developments also needs to be considered in relation to its impact on views into and from the adjacent Peak District National Park.

Records indicate that there are 8 approvals in place for wind turbines within 2 km of the application site, of which 7 are operational as set out in the table of section 4 of this report. Tower heights of these turbines range from 9 metres to 24.6 metres. In addition a recently approved application at Longley Farm has approval for a turbine with blade tip of 46 metres, but this is not yet operational.

In this case, the application is for a single turbine, however it would be of a matching design and appearance to the existing Gaia turbine operational at the site, approved under 2011/93154, which is approximately 75 metres away to the north west. The two turbines in many respects would be read as a pair in the landscape. The area is however dominated by a large number of single turbines other than the wind farms in the Barnsley district, and an assessment of cumulative impact must therefore be considered in this context.

The proposed turbine would be read as one of four along a 1km stretch of Cartworth Moor, as demonstrated by viewpoints 1 and 2, with further turbines located in the surrounding area as set out in the table in section 4 of this report. The area surrounding the site forms a high plateau which would allow simultaneous views of some of the approved turbines in conjunction with this proposal. The views of the other approved turbines would also be seen from views within the Peak District National Park as demonstrated by viewpoints 1 and 2, and from views towards the Peak Park, as demonstrated by viewpoint 10.

It is also accepted that permitted turbine development in the area would be visible to pedestrians and drivers shortly after each other when progressing along local public rights of way and nearby vehicular routes such as Cartworth Moor Road (close proximity) and Dunford Road (long distance).

It should be noted that a recent appeal decision (on application no. 2013/91465) has been received for an Endurance Turbine at Moorfield Farm 570 metres away to the north, where cumulative impact was one of the reasons for the appeal being dismissed.

The applicant has put forward that the proposed Gaia would be less visually prominent than the Endurance Turbine proposed at Moorfield Farm, and they consider that significant weight should be attached in this respect. However Officers are of the opinion that the structure even with a different design, would still be clearly read as a turbine in the local landscape, and would add to the visual clutter on Cartworth Moor by adding a new structure within close proximity to other structures of two different designs.

In this instance, the cumulative visual impact, in the form of the creation of visual clutter as well as visual impacts on recreational interests (para. 4.1.2 of the 'Landscape Guidance for Wind Turbines up to 60m high in the South and West Pennines'), and the impact of the development of views into and from the Peak District National Park, because of the number of turbines which would be viewed simultaneously, is unacceptable and would cause a significant detrimental impact to the fabric, character and quality of the landscape.

In conclusion the proposed turbine is considered to cause harm to the local landscape and Green Belt by way of detrimental cumulative impact, and views into and from the Peak District National Park. The proposal would therefore fail to comply with Policies in Chapter 9 of the NPPF and Policies EP8 and NE8a of the UDP.

### **Impact on the setting of heritage assets:**

The impact of the proposed wind turbine on the significance of heritage assets has been considered in relation to guidance set out in Chapter 12 of the NPPF, and the application has been assessed by the Council's Conservation Officer.

The site does not lie within or close to a conservation area, and there are no listed buildings in the immediate vicinity of the site. The closest listed buildings are Park Nook approximately 650 metres to the east and Woodhouse Farm approximately 750 metres to the north west. Given the separation to these listed buildings the proposal is considered not to have a detrimental impact on the setting of the listed building.

It is therefore considered that this proposal would accord with policy guidance contained in Section 12 of the National Planning Policy Framework.

### **Impact on residential amenity:**

#### *Noise*

Chapter 11 of the NPPF indicates that planning decisions should aim to avoid significant adverse impacts to health and quality of life as a result of noise.

UDP Policy EP6 states that existing and projected noise levels will be taken into account in considering applications for developments which are, or have potential to be, noise generators. The application has also been assessed by the Council's Environmental Service (Pollution and Noise).

Renewable technologies may generate small increases in noise levels (whether from machinery such as aerodynamic noise from wind turbines, or from associated sources - for example, traffic). LPAs should therefore ensure that renewable energy developments have been located and designed in such a way to minimise increases in ambient noise levels. The 1997 report by ETSU (ETSU –R-97 'The assessment and rating of noise from wind farms,)

for the Department of Trade and Industry, is used to assess and rate noise from wind energy development.

It should be noted at this point that it is not the intention of the above guidance to seek to ensure that turbines are inaudible at noise sensitive properties. Its purpose is to ensure turbine noise is restricted to an acceptable limit. The Environmental Service has reviewed the plans, together with the accompanying information. Environmental Services state that with two GAIA turbines together (previously consented (2012 and the proposed turbine), it is not considered that there would be any noise issue. This assessment is based on the submitted generic report, knowledge of the turbines in operation and the distances involved to unconnected properties (270m).

The nearest property to these turbines is Upper Whitegate Farm which has its own noise climate dominated by its own 50kW turbine at 70m from their dwelling. Even without this turbine there is still no concern. Lower Whitegate Farm, the applicant's property, is located 180 metres to the west and the next nearest property is approximately 330m away at Moorfield House. Given the separation between the turbine and residential property and there are no noise concerns regarding the erection of this turbine in this location.

It is therefore considered that this development would accord with UDP policies EP6 and EP8 and policy guidance contained within Section 11 of the NPPF.

#### *Visual Amenity*

Views of the turbine from the nearest residential properties would be possible and more limited views of the turbine would be gained at longer distance from properties within the wider surrounding area. However due to the turbine's position and separation from surrounding residential properties, it is considered that the turbine would not appear as an overly dominant feature when viewed from these locations.

#### *Shadow Flicker/Light Reflection*

Shadow flicker resulting from wind turbines is difficult to predict and depends on a number of factors such as distance from the turbine, time of the year, turbine height, rotor diameter etc. However, it is generally recognised that this phenomenon occurs for very limited periods, typically for a few minutes at certain times of the day during short periods of the year.

Current National Planning Practice Guidance indicates that only properties within 130 degrees either side of north, relative to a turbine can be affected at these latitudes in the UK. Previous guidance advised that flicker effects have been proven to occur only within 10 rotor diameters of a turbine. In this case this represents a distance of approximately 130 metres. The nearest residential properties which are located within the 130 degree zone described above are located beyond this distance at 310 metres with Moorfield House. It is considered that given the significant separation that the proposed turbine would not have a detrimental impact on residential properties in terms of shadow flicker.

Turbines can also cause flashes from reflected light and whilst it is not possible to eliminate this phenomenon altogether it can be ameliorated by the use of a matt finish on the turbine blades. This type of turbine includes a matt type finish on its blades which would help to mitigate such effects.

In light of the above it is concluded that the proposed turbine would not cause detrimental shadow flicker or cause light reflections to surrounding residential properties.

### **Impacts on protected species and ecology:**

The impact of the proposal on local ecology needs to be considered in respect of policies in Chapter 11 of the NPPF, and the application has been assessed by the Council's Ecologist.

The site lies within 700 metres of the Dark Peak Special Protection Area (SPA). A number of wind turbines have already been erected in the area and some bird survey work has been undertaken as part of these applications. Birds associated with the SPA do use the surrounding habitats.

A Habitats Regulations Assessment has been submitted to assess the potential impacts of the development on the South Pennines SPA (Special Protection Area), and relevant breeding bird communities and possible impacts on the SAC (Special Area of Conservation).

The survey and assessment has concluded that the proposal is unlikely to have a likely significant impact on functional land linked to the South Pennine Moors SPA and the cited bird populations.

The location of all other plans and projects for the area needs to be considered alongside this proposal, and the potential cumulative impacts on the SAC, SPA and its bird communities. Such plans and projects include extant planning permissions, existing applications and proposed applications.

The survey report and assessment has concluded that this proposal will not create additional impacts on functional land linked to the South Pennine Moors SPA and the cited bird populations. The conclusions are accepted by the Council's Ecologist, however some mitigation measures are advised, which could be conditioned.

It is therefore considered that this proposal would not adversely affect local ecology and therefore accords with national policy contained within section 11 of the NPPF.

### **Impact on public rights of way/highway safety:**

The turbine would be located a minimum of 180 metres away from Cartworth Moor Road, which is a designated bridleway, the public footpath Hol/175/60 is located to the south 160 metres away.

Whilst not defining a safe separation distance from PROW or the non-strategic road network using a guide, the document 'The Strategic Road and the Delivery of Sustainable Development' indicates that the Highways Agency seeks a set back distance from the strategic highway network of the overall turbine height plus 10% for turbines up to 50kW which in this case would equate to 27.3 metres. Given the distances set out above, the proposed turbine is located well beyond these distances.

Cartworth Moor Road is a designated bridleway as it passes the site. Thus it is likely to be used by riders. Whilst not a mandatory standard, the British Horse Society advises that a minimum separation distance of three times blade tip height should be provided between a turbine and any route used by horses. In this case three times the height of the turbine to blade tip would be 73.5m. As Cartworth Moor Road is over 180m from the application site this is sufficient to give confidence that horses would remain settled and that the turbine would not result in a significant risk to horses.

It is therefore considered that this proposal would not present a hazard to highway safety or inconvenience users of nearby PROWs, including horses, and therefore does not conflict with UDP policies R13 and T10.

#### **Aviation safeguarding and local and national infrastructure:**

Aviation safety and local and national infrastructure are important considerations for wind turbine developments. A number of consultees have assessed the potential impact of the development on aviation and local and national infrastructure. No objections are raised by any of these consultees, though the Ministry of Defence have requested details of the location and height of the turbine should the application be approved. This request for information could be included in a note on a decision notice.

Consequently, the application is not considered to present a danger to aircraft flying in the vicinity of the site or air traffic control systems, no control systems for local and national infrastructure.

#### **Consideration of Very Special Circumstances:**

The very special circumstances detailed by the applicant have been carefully considered. It is noted that the turbine would generate renewable energy, support the continued diversification of the farm business, reduce its reliance on the national grid and would assist in creating 3 full time equivalent jobs. However, as set out in the assessment it is considered that these circumstances are not so 'very special' to outweigh the harm it would cause to the openness and character of the Green Belt, by reason of inappropriateness and the harm it would have on the visual amenity of the area, including its cumulative impact. The proposal is therefore contrary to Policies EP8 and NE8a of the UDP and Policies in the NPPF.



**Representations:**

The planning related objections raised are summarised as follows with a response to each one in turn:

- The occupiers of Moorfield Farm and Upper White Gate Farm already experience flicker from the existing turbine.

**Response:** It would not be possible for the occupiers of Upper White Gate Farm to experience shadow flicker as the dwelling is located to the south of the application site. It is considered that the occupiers of Moorfield Farm are located sufficiently far enough away at 310 metres from the site for shadow flicker to not occur.

- The proposal will have a detrimental cumulative impact on the local landscape from other turbines already in operation in close proximity to the application site.

**Response:** The above comments are noted, and as set out above, the cumulative impact of the development is not considered to be acceptable.

- A second turbine at the site will have a detrimental impact to the operation of a caravan and camping site at Upper Whitegate Farm, by reason of noise and visual amenity.

**Response:** The impact of the second turbine on the operation of the caravan and camping business at Upper Whitegate Farm, and the application has to be assessed on its planning merits.

- The proposed turbine is located in an area which is a breeding ground for Golden Plover, which is a rare breed bird, and there is concern the proposed turbine would have a detrimental impact on this bird.

**Response:** The ecology impact of the development has been assessed by the Councils Ecologist and an ecological report has been submitted. The findings of the report have been accepted by the Ecologist and proposal is considered to have an acceptable on local ecology.

**Conclusion:**

In conclusion the site is designated Green Belt in the Unitary Development Plan and the proposal constitutes inappropriate development consistent with guidance in the NPPF. As a consequence planning permission should not be granted unless very special circumstances can be demonstrated that clearly outweigh the harm caused by reason of inappropriateness and any other harm.

Whilst this proposal could potentially lead to benefits due to the production of a significant amount of renewable energy, assist in the diversification of a rural enterprise and support the provision of 3 full time equivalent jobs, in this instance, it is considered that these benefits would not be sufficient to offset the resultant harm to the openness of the Green Belt, and the local landscape by way of cumulative impact and the detrimental impact the turbine would have on views into and from the nearby Peak District National Park.

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

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and that there is a specific policy in the NPPF that indicates development should be restricted.

## **9. RECOMMENDATION**

### **REFUSAL**

1. The siting of the wind turbine in this prominent location would, by reason of its scale, location and cumulative impact create a strident feature within the local landscape which would adversely affect the openness and visual amenity of the area. The siting would appear unrelated to the host property it is to serve and would subsequently appear more prominent within the landscape. When considered with other approved wind turbines within the locality, which could be viewed simultaneously or shortly after one another on a journey of both short and long distances, the turbine would result in a cumulative impact adversely affecting the fabric of the landscape. This includes views into and from the Peak District National Park. As very special circumstances have not been demonstrated to clearly outweigh the harm this inappropriate development would cause to this part of the Green Belt, the development would be contrary to Unitary Development Plan Policy EP8 and NE8a and National Planning Policy Framework 9 and 10.

This recommendation is based on the following plan(s):-

| <b>Plan Type</b>                                   | <b>Plan Reference</b>  | <b>Revision</b> | <b>Date Received</b> |
|--|------------------------|-----------------|----------------------|
| Location Plan                                      | -                      | -               | 8/4/2014             |
| Proposed Elevations                                | GAIA-WIND 18-1L        | -               | 8/4/2014             |
| Comparison Elevations of other Turbines/Structures | -                      | -               | 8/4/2014             |
| Design and Access Statement                        | -                      | -               | 8/4/2014             |
| Green Belt Justification Statement                 | -                      | -               | 8/4/2014             |
| Photomontage and ZTV                               | -                      | -               | 8/4/2014             |
| Landscape Visual Impact Assessment                 | -                      | -               | 8/4/2014             |
| Noise Assessment                                   | NIA/4008/12/3568/FINAL | -               | 8/4/2014             |
| Letter to Parish Council                           | -                      | -               | 8/4/2014             |
| Cumulative Impact Assessment                       | -                      | -               | 27/6/2014            |
| Ecological Statement                               | -                      | -               | 18/7/2014            |
| Statement Regarding Energy Needs                   | -                      | -               | 14/1/2015            |

**Application No: 2014/92112**

**Type of application: 62 - FULL APPLICATION**

**Proposal: *Erection of 1 pair of semi-detached dwellings***

**Location: *Land adjacent 49, Helme Lane, Meltham, Holmfirth, HD9 5PF***

**Grid Ref: 409595.0 411152.0**

**Ward: *Holme Valley North Ward***

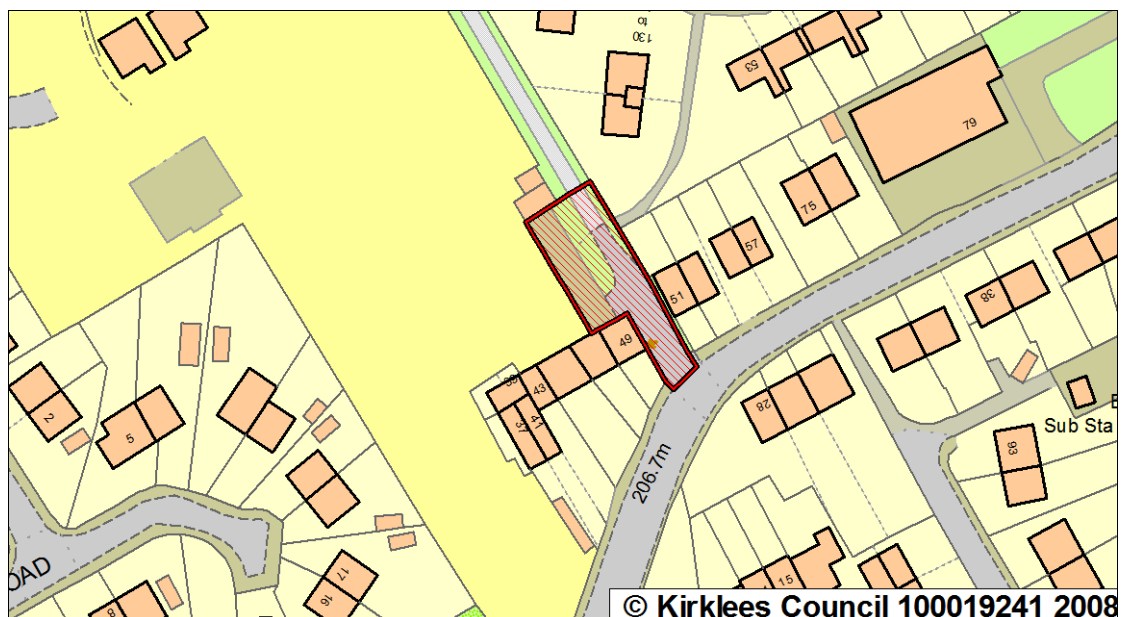
**Applicant: *Nick Saunders***

**Agent: *Andrew Smith, Valley Properties***

**Target Date: *10-Mar-2015***

**Recommendation: *RF1 - REFUSAL***

## **LOCATION PLAN**



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

### **1. SUMMARY OF APPLICATION**

The application seeks to erect a pair of semi-detached dwellings on a previously developed site off Helme Lane in Meltham, and represents the resubmission of the refused application 2013/92320. The proposal is considered to represent an overdevelopment of the site, which would have an

adverse impact on the amenity of surrounding residential properties, namely no.s 41 – 43 Acorn Drive, and 47 and 51 Helme Lane, and the future occupiers of the dwellings, and insufficient space about dwelling distances would be achieved.

## **RECOMMENDATION: Refusal**

### **2. INFORMATION**

The application was originally brought before the Huddersfield Planning Sub Committee at the request of Cllr Holroyd-Doveton, the committee request is set out below:

*Can I request that the above application go to the planning committee. Having looked at the site, the application for additional housing (which will help our numbers locally) seems a reasonable use of this waste ground.*

*There is adequate possibilities for this development - indeed the ground has long been an eye-sore. A visit to the site will enable an assessment of the situation to be carried out. The officer disagrees, I would like the elected members (who are responsible) and more than one person, to make the decision. A site visit should enable this to happen.*

The previous Chair of the Huddersfield Planning Sub Committee, Cllr Preest, considered the request whilst he was still acting as Chair and stated:

*I have thought further about this and consider the comments are well founded...therefore please can you kindly place this on the Agenda list as requested by Councillor Holroyd-Doveton.*

It is therefore considered that the request is valid having regard to the Councillor's Protocol for Planning Committees.

The application was deferred at the Sub-Committee meeting of 16<sup>th</sup> January 2015. This was because " the person due to speak in support of the application on behalf of the applicant is unavailable to attend the meeting".

### **3. PROPOSAL/SITE DESCRIPTION**

#### *Site*

The application site comprises land to the north of no.49 Helme Lane. The site was previously occupied by a number of garage structures which are all now demolished although the bases retained. A stone boundary wall marks the western side of the property which steps upwards with the topography of the site. To the east, the site is accessed via Highfield Lane which is a part surfaced part gravel lane which leads to Highfield House to the north and also forms a public footpath.

Surrounding the property to the south west are the terraced 3 storey stone built dwellings of nos. 37-49 Helme Lane, and to the south east are the semi-detached 2 storey properties of nos. 51-53 Helme Lane. Directly to the west are the new build dwellings of no. 41-43 Acorn Drive, with nos. 35-39 located slightly further to the north west. To the north east are the side elevations of nos. 130-136 Highfield Avenue.

#### *Proposal*

The application seeks full planning permission for the erection of one pair of semi-detached dwellings. In total, the dwellings would be 10.5 metres wide, have a depth of 7.8 metres and be two storeys high, with a maximum height of 7.7 metres. A lounge and kitchen would be provided for each dwelling on the ground floor, with a bedroom, bathroom and study/small bedroom provided at the first floor level. The south western rear elevation of the dwellings would be blank, with habitable room windows located in the north eastern front elevation, and in either side elevation. The new dwellings would be constructed from artificial stone and the roof covered in grey concrete tiles. One parking space would be provided for each dwelling at the side of the properties along with amenity space for the dwellings.

The proposal also includes improvements to a section of Highfield Lane to access the northern plot, as well as making improvements to local surface drainage arrangements along Highfield Lane.

#### **4. BACKGROUND AND HISTORY**

##### *Application Site*

2014/92849 – Discharge conditions 3 (stone), 4 (roof tile), 6 (screen) 11 (land contamination) on previous permission 2011/91157 for extension to time limit for implementing existing permission number 2008/90206 for erection of detached dwelling – Details agreed.

2013/92320 - Erection of 1 pair of semi-detached dwellings – Refused 15 October 2014

2011/91157 – Extension to time limit for implementing existing permission – Approved 18/10/2011

2008/90206 – Erection of detached dwelling – Approved 12/05/2008

2007/92088 – Demolition of 8 lock up garages and erection of 1 pair of semi-detached dwellings with car parking spaces – refused 22/04/2008

##### *Adjacent Site*

2010/93009 - Erection of 34 dwellings with garages – Approved at Appeal 28 October 2011

## **5. PLANNING POLICY**

The site is unallocated on the Kirklees UDP Proposal Plan.

### **Kirklees Unitary Development Plan**

- **D2** – Development on Land without Notation on the UDP Proposals Map
- **BE1** – Design Principles
- **BE2** – Quality of design
- **BE12** – Space about buildings
- **T10** – Highway safety
- **T19** – Parking Standards
- **R13** – Public Rights of Way

### **National Planning Policy Framework (NPPF)**

- **Chapter 6** – Delivering a wide choice of high quality homes
- **Chapter 7** – Requiring good design
- **Chapter 10** – Climate Change & Flooding
- **Chapter 11** – Conserving the natural environment

## **6. CONSULTATIONS**

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

**KC Highways** – no objection subject to conditions

**KC Strategic Drainage** – proposed drainage improvements would need to be secured for the development to be acceptable.

**KC Environmental Services** – no objection subject to conditions

## **7. REPRESENTATIONS**

Initial publicity on the application expired on: 15 August 2014

In total one comment has been received from a local resident, a summary of the comment is set out below:

- The site is not considered large enough for the proposed two dwellings.
- The development of two dwellings on the site has been refused before and it is considered that there are no material differences to the scheme which change this assessment.
- There is concern that the proposal would lead to a detrimental over bearing and overshadowing impact to the kitchen and bathroom of no.47 Helme Lane.
- There is no provision for access to no.s 47 and 49 for access.

- In times of wet weather the local area floods down Highfield Lane with surface water, and the site is not considered fit for development.

**Meltham Town Council** – Support the application.

## **8. ASSESSMENT**

### **Principle:**

The site is without notation on the UDP Proposals Map and Policy D2 (development of and without notation) of the UDP states “planning permission for the development ... of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]”. All these considerations are addressed later in this assessment.

### *Background*

The application represents a resubmission of application 2013/92320 which proposed two dwellings with two bedrooms, and was refused for the following reasons:

1. *The proposal would result in an over-intensive and cramped form of development on this site. There would be very limited amenity space available for future occupants and the proposal would not achieve suitable space about buildings, thereby impacting on the amenities of neighbouring properties. As such, the proposal fails to comply with the requirements of Policy BE12 the UDP and Chapter 7 of the NPPF.*
2. *The site is within an area at risk from overground and underground water flows, which present a serious flood risk. The proposal fails to include adequate information regarding practicable flood risk mitigation methods to be used on site. Detailed drainage information is not provided with the application and therefore the threat of flooding and appropriateness of any drainage is unclear contrary to Chapter 10 of the NPPF.*

The current application has sought to address these reasons for refusal by reducing the scale of the development. For information the site’s previous planning history set out below.

The site has benefited from permission for the erection of a single dwelling under application 2008/90206, and the time of this development was subsequently extended under application 2011/91157 until 17 October 2014. A site visit on 26 November 2014 noted that a single trench has been dug on site which is surrounded Heras fencing, possibly in relation to the commencing development on the 2011 permission. It would however be for the applicant to demonstrate that a lawful commencement had started on site for this development via a certificate of lawfulness, and currently no such certificate has been submitted.



The 2008 permission and its subsequent extension of time established the principle of developing the site for a single dwelling. However it should be noted that the 2008 and 2011 permission were granted prior to the approval of the adjacent residential development of 34 dwellings at Acorn Drive to the west, which gained consent via appeal on 28 October 2011 under application 2010/93009. This together with the proposed erection of two dwellings, as opposed to a single dwelling, is material to the assessment of the current application.

Planning permission for two dwellings was refused in 2007, for a proposal not dissimilar to the current submission terms of design and scale. The 2007 permission was refused on the grounds of overdevelopment of the site, a similar wording to the first reason for refusal of the 2013 permission set out above was used.

### **General Principle:**

The application site is considered to be too small to accommodate the proposed semi-detached dwellings. It would lead to an overdevelopment of the site.

The site is classified as brownfield given that it was once occupied by a number of garages; however these were demolished between 2006 and 2009 according to the historic aerial photographs. An assessment therefore needs to be made as to whether the development of the site would be in keeping with the character of the local area and the impact this has on amenity.

The Council is currently unable to demonstrate a five year supply of deliverable housing sites. Relevant information in this respect is provided in the annual monitoring report published on 31 December 2013. In these circumstances, in accordance with NPPF paragraph 49, "relevant policies for the supply of housing should not be considered up to date". Consequently planning applications for housing are required to be determined on the basis of the guidance in NPPF paragraph 14. This requires proposals which accord with UDP to be approved without delay or where the UDP is silent or out-of-date to grant planning permission unless the adverse impacts of doing so would 'significantly and demonstrably' outweigh the benefits in the NPPF.

A detailed assessment of all key elements of the proposal will be carried out below against relevant planning policy.

### **Design and Amenity:**

The NPPF provides guidance in respect of design in 'core planning principles' and in paragraph 56, both are set out below:

- *always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;*

56. *The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.*

Kirklees UDP Policies D2, BE1 and BE2 are also relevant. All the policies seek to achieve good quality design that retains a sense of local identity, which is in keeping with the scale of development in the local area and is visually attractive.

The current submission has amended the scale of the proposed dwellings refused under application 2013/92320, reducing the height of the eaves by 1.2 metres, the ridge by 1.6 metres and removing a bedroom and bathroom which was proposed for the roof space. Whilst acknowledging the reduction in scale, the proposal for two dwellings is still considered to constitute an overdevelopment of this small site. This would be out of character with the local area.

While it is acknowledged that there is no particularly prominent house type locally, it is considered that the proposal fails to provide sufficient space about the dwellings as discussed below. The dwellings would only have very limited amenity space for the future occupiers which, in respect of the southern plot, would also be significantly overshadowed. Outlook from the habitable room windows in the side elevations would also be extremely limited and the southern plot in particular would experience detrimental overshadowing from existing properties. In these circumstances it is considered that future occupiers would experience a detrimental sense of overbearing from surrounding developments. Such arrangements would represent a poor standard of design, and the proposal would represent a cramped form of development which would be contrary to policy advice in chapter 7 of the NPPF.

The impact of the development on residential amenity needs to be considered in relation to Policies D2 and BE12 of the UDP. The impact of the development on existing occupiers of surrounding properties, and also the future occupiers of the proposed dwellings, needs to be considered in detail. The closest residential properties to the site are no. s 41 and 43 Acorn Drive to the west, no.s 47-51 Helme Lane to the south/southeast, and no.s 130-136 Highfield Avenue to the northeast. The impact of the development on these properties and future occupiers will be assessed in turn.

#### *41 and 43 Acorn Drive*

No.s 41 and 43 Acorn Drive are located to the rear of the application site to the west and would be 8.5 metres from the rear blank elevations of the dwellings. No.s 41 and 43 Acorn Drive are new dwellings constructed under the planning permission for a wider development of 34 houses approved under application 2010/93009. The properties are the same house type, and contain two bedroom windows at first floor level on each rear elevation, with a ground floor dining room and kitchen at ground floor. All of the windows in the rear elevation of no.s 41 and 43 are considered to be habitable room windows.

Policy BE12 advises that a separation distance of 12 metres should be achieved between habitable room windows and blank elevations, and the proposed separation of only 8.5 metres falls significantly short of this distance. This short fall in separation distances would lead to a detrimental overshadowing impact to the rear of no.s41 and 43, especially in the morning given the proposed dwellings position to the east of the existing properties. The short fall in separation distances is not considered to be acceptable, and the proposal would fail to comply with Policies BE12 and D2 of the UDP.

It is acknowledged that proposed dwellings are located no closer to the boundary of the application site than the previously approved applications in 2008 and 2011 for a single dwelling, it should be noted that the dwellings in Acorn Drive had not gained permission, and this material change in circumstances needs to be considered. Furthermore the proposed dwellings are over 70% wider than the single dwelling previously approved which is considered to be materially larger, and would lead to a greater impact on the occupiers of the existing dwellings than the previously approved scheme.

#### *47-51 Helme Lane*

These properties are located to the south and south east of the application site. No.s47 and 49 adjoin the application site, with the southern proposed dwelling located 6 metres from the rear of no.49. The rear of no.49 is a blank elevation and in terms of direct overlooking to no.49 from the proposed dwelling it would not be possible.

There would however be an oblique overlooking impact from the first floor habitable study bedroom window of the southern plot, with the three mullion windows in rear elevation of no.47 which are also habitable. The windows are within only 8 metres of each other at an approximate angle of 45 degrees, and this oblique relationship is considered to be detrimental to the occupiers of no.47. Policy BE12 advises a separation distance of 21 metres is achieved between habitable room windows, and whilst the relationship is not direct it is considered that it would lead to a detrimental relationship between the two properties in terms of residential amenity, which would be contrary to Policies D2 and BE12.

It should also be noted that the previous permissions on the site for a single dwelling from 2008 and 2011, did not propose any habitable room windows in this southern side elevation of the dwelling, with only a bathroom and a landing window provided. The current submission is therefore considered to be materially different to that approved previously approved, and the previous approvals hold no weight in relation to this matter.

Turning to the impact on no.51, the proposed dwelling would be 7 metres from no.51 at its very closest to the west. While there would not be a direct window to window relationship between the proposed properties and no.51, there would be a potential oblique overlooking impact on the rear of no.51 from the first floor bedroom windows in the dwellings. The window in the southern plot would be approximately 10 metres from the windows in the rear of no.51, and

a distance of 13 metres would be achieved from the first floor window in the northern plot. The first floor windows in the proposed dwelling would also lead to a direct overlooking impact at close quarters of the amenity space of no.51 which is not ideal. Policy BE12 advises that a distance of 21 metres is achieved between habitable room windows and given the short fall in distance set out above, the proposals impact on no.51 is not considered to be acceptable.

#### *130-136 Highfield Avenue*

No.s 130 136 are located to the north east of the application site, and the side elevation of these properties at their closest is 21 metres away from the front elevation of the proposed dwellings. The separation distance achieved meets 21 metres advised in Policy BE12 between habitable room windows, and it is considered that this separation is sufficient to prevent any detrimental overlooking or overbearing impact on the occupiers of no.s130-136.

#### *Future Occupiers of the Dwellings*

Turning to the impact of the development on the future occupiers of the dwellings, consideration needs to be taken in relation to the space about dwelling distances that can be achieved to adjacent land and adjacent properties, and the impact of these distances on the future occupiers.

As set out above, the side elevation of southern proposed property would be within 6 metres of the rear elevation of no.s47-49 Helme Lane. The proposed dwellings close proximity to no.47-49 combined with the proposed properties orientation to the north of no.s47-49, would lead to the southern elevation of the proposed dwelling, and the proposed garden space being extremely overshadowed. The close proximity of the windows in the southern elevation to the rear of nos. 47-49 would also limit outlook from the windows in the side elevation. The impact is further exacerbated by the presence of an existing 2.5 metre stone boundary wall to the west, which would increase the sense of enclosure for the future occupiers further, and in particular the windows on the ground floor which serve a habitable kitchen. This arrangement is not considered to be in the best interests of the future occupiers of the dwelling, and highlights that the proposal represents a cramped form of development.

The plot to the north would also only achieve a distance of 6 metres to the boundary of the site, but it is acknowledged the proposal would not be within close proximity to another building. A 2.5 metre high stone boundary wall would however be located along the western elevation, and the position of the windows within a northern aspect would reduce the level of natural light to the property.

The garden areas to the proposed dwellings are also considered to be very limited in terms of their size at only 26 square metres, and it is considered that given their orientation would be of poor quality gaining only limited sunlight. While one parking space is provided for each dwelling, Officers consider that there could be pressure to increase the parking provision at the site after development to provide two spaces for each dwelling. The proposal includes a study which is also considered to be of a sufficient size to be used as a

bedroom if required, and this could lead to further parking demands. If two spaces were provided for each dwelling then this would all but remove the garden space for the dwellings leaving no amenity space for future occupiers.

The proposed dwellings would be built directly on to the boundary to Highfield Lane at the front, including lounge windows directly addressing the access, and directly up to the boundary at the rear. Even in these circumstances the depth of the dwellings is only 7.8m given the restricted nature of the plot. Policy BE12 advises that a minimum distance of 1.5 metres should be achieved to the boundary of the application site and this is not achieved here. The lack of defensible space for future residents to the front of the plot and the visual appearance of two dwellings with such extensive plot coverage again represent the overdevelopment of the site, which would be out of keeping with the character and appearance of the local area, and would be detrimental to visual amenity and the street scene along Highfield Lane. The proposal would therefore fail to comply with Policies BE1, BE12 and D2 of the UDP.

### **Highway Safety:**

The highway impact of the development has been assessed in relation to Policies T10 and T19 of the UDP, and the scheme has been considered by the Highways Officer who raises no objection.

Access to the site is directly onto Highgate Lane which is an un-adopted road off Helme Lane which carries public footpath Meltham 55 and serves as an access to property to the north. Each of the dwellings will have a single off-street parking spaces located to either side of the proposed dwellings.

Sight lines at the junction of Highgate Lane and Helme Lane appear good in both directions and there have been no recorded injury accidents at this junction in the last 5 years. Given the size of the proposed dwelling with only one bedroom, 1 off-street parking space is considered acceptable.

The application is therefore considered to have an acceptable impact on Highway Safety and would comply with Policies T10 and T19 of the UDP.

### **Drainage:**

Drainage arrangements for the proposed dwellings have been considered by the Strategic Drainage Officer and in relation to policies in Chapter 10 of the NPPF. Drainage concerns formed one of the reasons for refusal on the previous application and the applicant has sought to address this matter with the submission of further information including a scheme to repair existing local drainage.

The main flood risk locally involves significant overland flows from the surrounding areas (fields) that reach Highfield Lane. There have been recent flooding events (and associated flood damage) on Highfield Lane and Helme Lane that have affected local properties.

The Drainage Officer has stated that discussions have taken place since the last application, and a flood risk/drainage strategy has been devised along with the submission of a survey of the existing drains. The submitted strategy proposes to do the following:

1. Lay a drainage pipe from the source of the water behind Highfield House to discharge into the existing road gulley adjacent Highfield House. Clean out the road gulley and check for defects – rectify as necessary. Remove the sandbags from site.
2. Remove and replace existing collapsed sections of drains with equal diameter pipe-work.
3. Locate all buried gullies along section of drain, check for defects – rectify as necessary.
4. Remove unmade surface from track adjacent to proposed dwellings and lay new tarmac surfacing to same. Include for creating falls to new gullies etc.

The principle of the submitted strategy and the findings of the survey are accepted, however more detailed drawings are required before any works commence. However the works would fall outside of the application red line boundary, (it relates to a significant section of Highfield Lane to the north of the site) and it is considered that the most appropriate way of securing these works would be via a 'Grampian' condition which could also require specific details of the works to be provided prior to development. The proposal, subject to the drainage strategy being secured, would reduce surface water flood incidents locally. The proposal would therefore comply with Policies in Chapter 10 of the NPPF.

#### **Other Considerations:**

The site is recorded as potentially contaminated due to a past use. Pollution & Noise Control have commented that prior to the commencement of the development (if approving), that contaminated land reports be submitted to and approved by the LPA. The 2008 planning application was approved subject to conditions requiring the submission of contamination and mitigation reports. The lack of this information is not a specific reason to refuse the application, as appropriate conditions could be imposed.

#### **Representations:**

The planning related objections raised are summarised as follows with a response to each one in turn:

- The site is not considered large enough for the proposed two dwellings.

**Response:** These comments are noted, and are similar to the Officer assessment.

- The development of two dwellings on the site has been refused before and it is considered that there are no material differences to the scheme which change this assessment.

**Response:** These comments are noted, however Officers do consider there to be a material change in the proposal, but it can not be supported for the reason set out.

- There is concern that the proposal would lead to a detrimental over bearing and overshadowing impact to the kitchen and bathroom of no.47 Helme Lane.

**Response:** These comments are noted, and the impact on no.47 forms one of the reasons for refusal as set out in the report.

- There is no provision for access to no.s 47 and 49 for access.

**Response:** Access to the rear of no.s 47 and 49 is a private legal matter and one which falls outside of the planning application.

- In times of wet weather the local area floods down Highfield Lane with surface water, and the site is not considered fit for development.

**Response:** These comments are noted, and the applicant has provided a drainage strategy to improve drainage arrangements locally, which could be secured by a legal agreement.

## **Conclusion:**

In conclusion the proposed semi-detached dwellings are considered to represent an overdevelopment of the site, which would have an adverse impact on the amenity of surrounding residential properties, namely no.s 41 – 43 Acorn Drive, and nos. 47 and 51 Helme Lane, and the future occupiers of the dwellings, and insufficient space about dwelling distances are provided.

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

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the development when assessed against the policies in the UDP and NPPF.

## **9. RECOMMENDATION**

### **REFUSAL**

1. The proposal would result in an over-intensive and cramped form of development on this site. There would be very limited amenity space available for future occupants and the proposal would not achieve suitable space about buildings distances, thereby impacting on the amenities of the future occupiers. As such, the proposal fails to comply with the requirements of Policies D2, BE1 and BE12 the Kirklees Unitary Development Plan and Chapter 7 of the National Planning Policy Framework.

2. The proposal would detrimentally overlook and overbear the occupiers of no.s 41 and 43 Acorn Drive to the west, and detrimentally overlook, at an oblique angle, the occupiers of no.47 Helme Lane to the south, and no.51 to the south east. The proposal would fail to meet acceptable space about dwelling distances, or retain a good standard of amenity for occupiers of surrounding properties, contrary to the requirements of Policies D2 and BE12 the Kirklees Unitary Development Plan and Chapter 7 of the National Planning Policy Framework.

This recommendation is based on the following plan(s):-

| <b>Plan Type</b>                       | <b>Plan Reference</b> | <b>Revision</b> | <b>Date Received</b> |
|--|-----------------------|-----------------|----------------------|
| Location Plan                          | LP 01                 |                 | 3/7/2014             |
| Survey Drawing                         | 2013/020/01           |                 | 3/7/2014             |
| Proposed Plans and Elevations          | 2013/020/04           |                 | 3/7/2014             |
| Flood Management and Drainage Strategy | -                     |                 | 3/7/2014             |
| Supporting Statement 1                 |                       |                 | 9/6/2014             |
| Supporting Statement 2                 |                       |                 | 1/10/2014            |
| Drainage Survey                        | 1180144               | -               | 21/8/2014            |