

## KIRKLEES METROPOLITAN COUNCIL

### PLANNING SERVICE

#### UPDATE OF LIST OF PLANNING APPLICATIONS TO BE DECIDED BY

#### STRATEGIC PLANNING COMMITTEE

2 MARCH 2023

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Planning Application 2021/94029

Item 10 – Page 7

**Demolition of existing structures and erection of a food store (class E) with associated access, parking, servicing areas and landscaping**

**site of, Former Spotted Cow Pub, New Hey Road, Oakes, Huddersfield, HD3 4B**

#### **Retail Assessment Report Wording**

Following consultation with Planning Policy group colleagues, the Case Officer has updated paragraphs 10.28 to 10.33 of the Committee Report as follows:

10.28 Policy LP13 – Town centre uses states that proposals which come forward for main town centre uses, which are located outside of the defined centre boundaries, will require the submission of a Sequential Test. The sequential test guides main town centre uses towards town centre locations first, then, if no town centre locations are available, to edge of centre locations, and, if neither town centre locations nor edge of centre locations are available, to out of centre locations (with preference for accessible sites which are well connected to the town centre). It supports the viability and vitality of town centres by placing existing town centres foremost in both plan-making and decision-taking.

10.29 Policy LP13 also requires a Retail Impact Assessment for planning applications which include retail development that is not located within a defined centre and where the development creates a floorspace greater than 500 sq.m gross. The proposal under this application has been subject to both a Sequential and Retail Impact test. The applicant's submissions for these tests have been reviewed by an independent consultant on behalf of the LPA.

10.30 In respect of the Sequential Test, the independent consultant has reviewed all of the sites and locations considered by the applicant in their submission and do not believe that any of them are both available and suitable to accommodate the proposed development. Whilst the consultant notes that other sites are being marketed in the area, it is not determined that any occupy a sequentially preferable position and are available and suitable for the proposed development (even allowing for appropriate flexibility in terms of format and scale). It is therefore concluded that the application proposal conforms to the requirements of the sequential test as articulated by paragraphs 87 and 88 of the NPPF.

10.31 In terms of the impact test, this relates to the impact of the proposal on existing, committed and planned public and private sector investment in a centre or centres in the catchment area of the proposal and the impact of the proposal on town centre vitality and viability including local consumer choice and trade in the town centre and wider retail catchment. Regarding the first part of the impact test, the independent consultant confirms that they are unaware of any town centre investment that would likely be prejudiced by the application proposal. The proposal conforms to the requirements of the first part of the impact test.

10.32 In relation to the second part of the test relating to vitality and viability of town centres, the independent consultant's opinion is that it is clear that any impacts arising at more distant destinations – including stores within and in proximity to Huddersfield town centre would be limited in practice. In terms of trade diversion from stores within defined centres, the impacts arising at Lindley district centre and Birchenclyffe local centre would be low as a consequence of the distance between the centres and the proposal and the differentiation of their offer. The Aldi store at Milnsbridge district centre would continue to trade satisfactorily as the proposal principally meets food retail needs only. There are two centres near to the development site which retail impact is of particular relevance. The first is Salendine Nook Local Centre which is 280m west of the development site at the junction between Moor Hill Road and New Hey Road. The second is Marsh District Centre which is 2km east of the development site and also positioned on the same highway of New Hey Road/Westbourne Road. The main anchor store at Salendine Nook is a Sainsbury's convenience store whereas a larger Co-op store anchors Marsh District Centre. The independent consultant's report on the applicant's retail impact assessment provided the following conclusions:

- the Sainsbury's at Salendine Nook local centre (and the centre as a whole) would continue to trade strongly subsequent to the implementation of the proposal and relevant commitments;
- the post-impact performance of the Co-op at Marsh district centre is of greater concern, but the level of trade diversion attributable to the application proposal is limited and there have been no submissions from the operator to suggest that its ongoing viability is in peril, despite being notified for a response;
- the wider offer at Marsh district centre would continue to perform the same important role and function in meeting day to day retail and service needs; and
- any impact arising elsewhere would not have a material impact on the ongoing role, function and operation of defined centres.

10.33 Overall the independent consultant has concluded that the trade diversion impacts that would occur at defined centres, as a result of the development coming forward, are of an acceptable magnitude and that no centre would be the subject of a significant adverse impact or subject to a material erosion of their role or function. Furthermore, the application proposal would result in some benefit in respect of improved customer choice in the local area. Nevertheless, the consultant does caveat that the most significant qualitative benefit in respect of customer choice will arise from the delivery of the approved Aldi store at Oakes Mill which is

located broadly equidistant between Marsh District Centre and Salendine Nook Local Centre. The proposal accords with the second part of the impact test. Consequently, conditions are recommended to ensure the store trades in a manner suggested in practice, notably restrictions to the gross and net floorspace, the split between convenience and comparison goods sales as well as a restriction to prevent subdivision.

## **Representations**

Following application 2021/94029 being added to the Committee Agenda on Thursday 23<sup>rd</sup> February, 14 representations have been submitted by third parties, of which 6 are in support and 8 are in objection to the proposed development of a food retail store on the site.

Having reviewed the submitted representations, Development Management officers consider that no new matters material to the recommended decision have been provided (other than those which relate to the viability appraisals discussed below).

However, Committee members should note that two subsequent third-party retail assessment letters and a financial viability assessment of the scheme have been received on behalf of the owner of the Salendine Nook Local Centre. A further third-party financial viability assessment and retail impact letter was received on from Aldi on the 28<sup>th</sup> February 2023. Lastly, a petition in support of the proposed development of the retail store numbering 1,773 signatories has been submitted on behalf of the applicant. All of these representations, as well as those submitted previously, are available to view on the planning application webpage via the URL here:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f94029>

## **Bhullar Brothers Retail Impact Correspondence**

With regard to the retail impact letters received from Pegasus Group on behalf of Bhullar Brothers, the independent retail consultant who has advised the council on this application provided the following response to the initial letter:

*Good morning,*

*Please see below the comments below in response to the Pegasus Group letter of 8 February 2023 on behalf of Bhullar Brothers Ltd (as attached). The below response should be read in conjunction with Nexus' letter of 4 November 2022 and Nexus' original appraisal report for 2021/94029:*

### **Lidl's Offer**

*Nexus Planning is well aware of Lidl's offer which is focused around grocery items and we recognise that its stores are able to support a weekly food shop (albeit many of its shoppers will also regularly visit a second store to source some grocery items). The reference to a 'narrow offer' relates to the fact that discounters only sell a limited range of comparison goods and do not typically support any on-site concessions. The Spotted Cow site will not support any other separate retail or service uses. The wider offer of Salendine Nook local centre is not replicated at the application site.*

### Linked Trips

*In terms of the impact test, the fact that linked trips will be made by car as well as on foot is of some consequence in helping to underpin the future vitality of Salendine Nook local centre. In practice, some of these journeys would not result in any additional travel as some shoppers will pass the Spotted Cow site in order to access Salendine Nook by car.*

### Sequential Test

*The allocation of the application site is a matter for the Council to give consideration to. In terms of sequential alternative sites, we do not believe that any allocated site is available to accommodate the proposed foodstore development or – in the case of Land West of Widget Street – represents a suitably located site. We remain of the view that there is no more centrally located site which could support the development in practice.*

### The Household Shopper Survey

*As we identified in our letter to the Council of 4 November 2022, at the time of the household shopper survey was undertaken in July 2021, the UK was not subject to any ‘lockdown’ restrictions and the large majority of businesses had not been the subject of trading restrictions for a number of months. We remain of the view that the survey was undertaken at an appropriate time and can support a retail impact assessment.*

***In respect of the turnover of Salendine Nook, Pegasus’ letter identifies that ‘Looking at the figures in the two surveys reveals that the turnover of Salendine Nook derived from Zone 5 is 20% higher in the 2021 survey than it was seen in the Council’s 2016 update.’***

*Household surveys can only provide an estimate of the turnover of retail destinations. In this instance, we note that the Kirklees Retail Capacity Study Update report of 2016 identified an estimated convenience goods turnover of £8.32m at 2016 for the Sainsbury’s Salendine Nook store in 2014 prices. Lichfields RIA identifies a convenience goods turnover for Salendine Nook of £9.14m at 2025 in 2020 prices. Once account is made for the different price bases, these turnover figures are very similar. The household survey is considered to be robust.*

### The Turnover of the Proposed Foodstore

*The key driver in respect of a foodstore’s performance is its attractiveness to customers. The use of net sales areas to estimate the turnover of a foodstore is a common approach which reflects the fact that this area determines the offer and attractiveness of the store. We therefore confirm that we believe that the turnover of the proposed Ney Hey Road store has been calculated in an appropriate manner.*

### The Cumulative Impact Assessment

*We refer to our earlier response in cumulative impact at pages 3 and 4 of our 4 November 2022. The Pegasus letter does not introduce new evidence in respect of cumulative impact.*

### Acceptability of Impacts

*The 4 November letter does not introduce any new information which leads us to revisit our conclusions in respect of impact. We remain of the view that the in-centre impacts associated with the New Hey Road application proposal are below the 'significant adverse' level which could merit the proposal's refusal.*

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Development Management officers have not responded to the further letter received on 27<sup>th</sup> February 2023 from Pegasus Group (on behalf of Bhullar Brothers) as it is considered that no new information has been provided and that the above response, in conjunction with the independent consultant's report, provides sufficient detail to set out the Council's position.

### **Bhullar Brothers Viability Appraisal**

As regards the submission of a further financial viability scheme (reducing the proposed yield from 54 units to a more realistic 33 units) by ADS consulting on behalf of Bhullar Brothers, again there are significant issues at the frontage of the site in respect of residential amenity. More descriptively, proposed two storey elevations are sited as little as 3.5m to 5m from rear boundaries of existing properties on Nook Court. Likewise, the location of proposed rear habitable windows can be presumed to not meet the 21m separation distance (as required by the Housebuilder Design Guide SPD) relative to the rear elevations/habitable windows at the rear of the same existing properties on Nook Court. By contrast, the properties on Nook Court are afforded 10m between their rear elevation and rear boundary opposite. There are therefore significant privacy and overbearance issues with attempting to increase the density of the scheme at the front of the site – hence why the LPA considered that the yield of the housing site could not be pushed any further than the 31 units reviewed by the independent assessor.

ADS consulting further highlight that plot externals in the independent assessor's addendum report (dated 9<sup>th</sup> January 2023) cited a 10% value when 12.5% was used in the viability calculation. A response was provided by the independent assessor which highlighted that the calculation of 12.5% for externals, taking account of landscaping costs, was correct and that the 10% figure was incorrect and a typo/carry-over from the previous report position whereby landscaping costs had been factored into the abnormal costs. Consequently, as the output of the independent viability appraisal remains accurate, the LPA have no concerns in respect of the officer recommendation, or the conclusions drawn in the committee report.

ADS also assert that a sensitivity analysis was not conducted in the independent assessor addendum report. The LPA can confirm that a sensitivity analysis was conducted in the independent assessor's original report and that the market signals (which came to pass throughout 2022) are highlighted in paragraph 5.4 of the independent report whereby increases in construction costs and decreases in sales rates would result in the residual land value falling below the benchmark land value thus rendering the site unviable. Undeniably, the existing market, and the outlook throughout 2023, have and will incur stubborn build cost inflation and decreased sales values resulting from increased interest lending rates. Overall, had a sensitivity assessment for the

independent addendum report been provided, it would present a further eroding position relative to the sensitivity assessment provided under the original independent viability report. Consequently, the LPA have no concerns in respect of the officer recommendation or the conclusions drawn in the committee report with regard to the omission of a sensitivity analysis materially affecting a decision by Committee members.

### **Aldi Financial Viability Appraisal and Retail Impact Correspondence**

Further to the Bhullar Brothers submission, Planning Potential on behalf of Aldi have submitted their own financial viability appraisal (by EDGE ltd) of the site with a yield of 35 units. It is claimed that a 100% market housing scheme would be able to generate £882,500 in residual land value with a further 10% affordable housing scenario providing a £714,500 residual land value thereby rendering the site viable for housing development. It is noted that the abnormal costs are set at £795,259 (inclusive of the retaining walls necessary for delivering the proposal) has not been provided. By contrast the independent Quantity Surveyor provided a detailed breakdown of abnormal costs and arrived at a figure of £2,155,262 for abnormal costs with the applicant claiming an even more inflated figure of £4,030,000 for site delivery. On this basis, and given that a detailed and fully costed set of abnormal values for delivering the stated 35 units scheme have not been provided, Aldi's housing viability appraisal seems highly implausible.

With regards Aldi's retail impact correspondence, the independent retail consultant has reviewed the third party position and has refuted the claim that the applicant has not accounted for the new Aldi store in their cumulative assessment. Consequently, the independent consultant confirms that they are satisfied that the resultant impact of the development of the retail store under this application is below a 'significant adverse' level in respect of all defined centres, including that of Salendine Nook.

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It is noted that Committee members have received a request for deferral of the application (dated 1<sup>st</sup> March 2023) citing that new information has come to light. Development Management Officers refute this on account of the full explanation of the latest matters set out above which responds to the representor's submission of documents following addition of the application to the meeting agenda.

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There are no further matters to update members in respect of 2021/94029

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Demolition of existing Piazza shopping centre; part removal of Queensgate Market; demolition/retention of service tunnels; redevelopment of the site to form new public realm space (including public park and gardens, play areas, public square/outdoor event space); refurbishment and change of use of existing Queensgate Market Hall into food hall (Use Class E (b) sale of food and drink for consumption, mostly, on the premises); refurbishment and extension of existing library and art gallery building to form museum (Use Class F.1); change of use of part existing market hall building and extension to form public library (Use Class F.1); erection of indoor event venue incorporating multi-storey car park below (Sui-Generis); erection of public gallery building (Class F.1); associated infrastructure

on land and buildings at Queensgate Market, Huddersfield Library and Art Gallery, and Piazza (and The Shambles) Shopping Centre (part Listed Building/part within a Conservation Area) Piazza Centre, Princess Alexandra Walk, Huddersfield, HD1 2RS

#### Revised Recommendation

This is to reflect the likelihood that the delivery of the scheme will be led by the Local Authority and reflects consistency and flexibility that is within officer reports.

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

**1. Sustainable transport:- Framework Travel Plan (and subordinate plans) implementation and monitoring including fees – £15,000 (£3,000 for five years).**

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

#### Highways

A Stage 1 RSA and Designer's Response has now been submitted, these have been reviewed and HDM are satisfied that issues raised in the RSA and detailed highway design comments can be adequately addressed at detailed design stage.

UTMC have advised that whilst there are some minor anomalies in the TRANSYT model they are satisfied that the results of the modelling are acceptable in principle and that the traffic impact of the development would not result in a significant impact on the operation or safety of the highway network.

In summary, outstanding highway matters have been satisfactorily addressed, subject to conditions, access, parking and servicing arrangements are considered acceptable, it is considered that traffic generated by the proposed development can be accommodated on the highway network and will not result in a significant impact on the operation or safety of the highway network.

### Representations

Following the application being added to the Committee Agenda no more representations have been received by third parties.

The applicants have considered comments received in the publicity of the application relating to car parking for the site and Huddersfield Town Centre and have referred to a response that they received from Huddersfield Unlimited Transport Group (HUTG) as part of their public consultation process which is included below:

*(HUTG) welcomes the plans for the new Cultural Heart. It is essential that the Cultural Heart is easily accessible by all modes of transport and particularly for those travelling on foot, by bicycle, on buses and trains; where high quality facilities should contribute to the future attractiveness, success, and resilience of the whole town centre. Arrangements must be made so that good transport links become an enabler, not a barrier to the Cultural Heart being the success that everyone is hoping and planning for.*

#### *Active and Sustainable Transport:*

*High quality, safe and well-lit walking and cycling links to the Cultural Heart, are vital, as is a sufficient quantity of secure cycle parking for both staff and visitors (short and long-stay). Good connections between the station/bus station and the Cultural Heart are also very important, linked to reliable, frequent public transport services, with sufficient capacity for people to travel in comfort.*

#### *Parking:*

*Some visitors to the Cultural Heart will drive to the town centre. The supporting information for the planning application demonstrates that there are already a significant number of car parking spaces in Huddersfield town centre, and that there is potential to accommodate demand associated with events to be held at the Cultural Heart. Acknowledging that Huddersfield Civic Society, who are represented in the HUTG, have a different view, using existing car parking capacity in a dynamic and intelligent way would seem to offer a solution for accommodating parking demand associated with the Cultural Heart. For this to work efficiently and effectively HUTG suggest that the following is necessary:*

- Aggregating council and privately run parking (e.g. Kingsgate, Sainsbury's, University) with clear messaging on travel and parking options for visitors on the Cultural Heart website and when booking tickets for events.*
- Introduction of an advanced booking system for both public and private car parking to avoid vehicles circulating the town centre looking for spaces.*
- Car parking should be high quality: good lighting, security, EV charging, toilets.*



*Travel Plan:*

*The Travel Plan is the mechanism by which many of the operational aspects of the Cultural Heart can be successfully achieved. Implementation of a robust Travel Plan should be a condition of planning consent. Detailed plans should be provided for operation of the cultural heart at events (e.g. alerting visitors to public transport provision, events staff acting as stewards throughout the town centre, cooperation with private parking providers) and agreed with Kirklees Council.*

*The Travel Plan also provides a mechanism for monitoring travel to and from events. The operators should feedback successes and lessons learnt to Kirklees Council and other partners, with regular review to give the opportunity to make changes that will further improve access for visitors.*

Officer's Comment:

The comments from HUTG are noted. The assessment of the Highways authority included in paragraphs 9.92-9.94 remain unchanged that identify the main issues that have been assessed.

Officers also noted that one of the representations from members of the public had not been incorporated in the representations section of the main agenda and so is summarised below:

- The University acknowledges the development will bring about positive benefits for the town, district and university itself and fully supports the principle.
- The site is immediately adjacent to the Western and North western areas of the Universities main Queensgate Campus which contain several listed buildings and principal pedestrian & vehicular access points across the Queensway ring road
- Important that there is no barrier to movements between the two sites.
- Encourage improvement and enhancement of routes crossing the ring road to improve connectivity.
- How does the MSCP plan sit within the Town Centre car parking plan?
- Removal of trees along Queensgate requires sensitive handling.
- The proposed MSCP building is bland and featureless (at this current time)
- Ring road elevations turns its back on the University campus ring road elevation.
- Lacks detail of phasing of the development that is key given it will take several years to build.

Officer Comment: The comments above are noted and the issues relating to car parking, vehicular and pedestrian access, phasing of the development, trees and design have been assessed and are reported within the main agenda.

**Outline application for redevelopment of former waste water treatment works, including demolition of existing structures to provide employment uses (Use Classes E(g)(ii); E(g)(iii); B2 and B8)**

**Former North Bierley Waste Water Treatment Works, Cliff Hollins Lane, Oakenshaw, BD12 7ET**

**Clarification on red-line boundary and land allocation**

The applicant's red-line boundary partly extends into the Green Belt. This includes the point of access to Cliff Hollins Lane, which is to be via a road previously approved via 2016/92298 and thus not part of this application. However, the red line also encroached on land to the east that is the Green Belt, across Hunsworth Beck (circa 0.6ha of land).

There is no intention for this land to be developed as part of the application. Its inclusion is for ecological enhancement and landscaping purposes only. This is reiterated via the applicant's 'development parameters plan', which shows the extent of the proposed developable area as being wholly within the Employment Allocation. Nonetheless, to offer reassurance and clarity for all, a condition is recommended which requires the Reserved Matters proposals to be in accordance with the 'development parameters plan' thus prohibiting any development within the Green Belt as part of this application.

**Erection of 10 affordable dwellings, with access from Chapelgate and associated works, including resident play zone**

**Land Adj, 67, Chapelgate, Scholes, Holmfirth, HD9 1SX**

**Highways**

Paragraphs 10.45 – 10.47 of the committee report details concerns raised by representations that the applicant's plans are wrong. There was uncertainty over the width of the road (Chapelgate), as it appears that a lack of maintenance has led to a natural verge growing around the site that has encroached into the highway. The oldest aerial photos available to the Council (2000) show this informal verge to be in place.

The applicant designed their access around the highway as it is on site now, and not the claimed widths of the highway and carriageway suggested in the representations. K.C. Highways stated:

*it is impossible to determine the exact width of the highway due to the overgrown verges. However, it is possible that the carriageway width adjacent to the proposed site access may have been circa 5.5m wide at some point. Potential evidence for this is the centre line marking in the road, which should only normally be provided on roads where the carriageway is a minimum of 5.5m wide. Based on my check of the*

*applicants drawing, the adjacent carriageway width appears to narrow to circa 4.9m within the vicinity of the access. This narrowing appears to be due to some overgrowth of the verges on both sides of the carriageway (but mainly on the site side).*

A condition to address this issue was proposed within paragraph 10.46. However, since the report the applicant has provided a plan which is considered to address the issue and is accepted by K.C. Highways. It includes the Chapelgate carriageway being no less than 5.5m wide.

Residents have expressed further objection to the proposed works (including the amended plan), to the following effect:

- Chapelgate was established as public highway via the 'Graveship of Holme Enclosure Act 1834' which defined it as a 30ft (9.1m) wide public highway.
- The highway design 'rule of thumb' at the time (19<sup>th</sup> century) was that footways should be a minimum 1/6<sup>th</sup> of a carriageway. This is approximately evident on Chapelgate, which typically has a carriageway width of circa 25ft (7.6m) and has footpaths between 5ft (1.5m) and 5ft6inch (1.7m). Therefore, the carriageway narrowing to 5.5m as intended would create / formalise a pinch point that has only occurred due to lack of maintenance.
- The objector contends that the Council / Highway Authority are not authorised to reduce the width of the carriageway without approval from the Secretary of State for Transport.

The above has been discussed between planning officers, K.C. Legal, and K.C. Highways. In summary, we note the 'Graveship of Holme Enclosure Act 1834' and public highway being established at 30ft. The proposal would not, however, reduce the width of the 'highway', As the formal 'highway' consists of the carriageway and, if present, footways and verges.

Part 5, specifically Section 62, of the Highways Act 1980 grants wide ranging powers to the Highway Authority to improve the highway. It does not preclude the carriageway being narrowed through the introduction of a footway which is what the proposal would seek. To reiterate, the carriageway is not the 'highway' but a component part of it. The proposal would redistribute that 'highway' between carriageway and new footway. Permission from the Secretary of State for Transport is not required for such works.

Historic rules of thumb for highway design carry limited weight in modern design: the fundamental question is whether the works would be safe from a highway perspective. K.C. Highways and planning officers consider this to be the case and would be an improvement in general. The width of the carriageway would not be narrowed beyond its current state, which has been in situ from at least 2000 (assumed to be longer). However, a footway would be provided which, as well as providing sightlines from the new access, improve visibility around the bend for all users travelling from Dean Bridge Lane to Chapelgate. The new footway would also be of benefit to pedestrian safety.

It is also claimed that the ‘Graveship of Holme Enclosure Act 1834’ established a public right of way across the site. This has been reviewed by officers and K.C. Public Right of Way and no such evidence has been found. Whether a public right of way crosses the site will continue to be investigated through the DMMO application, as detailed in paragraphs 10.53 – 10.57 of the main report.

Occupancy criteria

The proposal seeks affordable housing, to address local need, to justify building within the Green Belt as assessed within paragraphs 10.1 – 10.8 of the main report.

Paragraph 10.8 states:

*Compliance with Policy LP11 of the Local Plan, Policy 6 of the NDP, and paragraph 149(f) of the NPPF is subject to securing a S106 that ensures future occupiers adhere to two tests; that they have a genuine need for affordable housing and meet a local criterion.*

To elaborate on the ‘local criterion’, the following draft criteria have been agreed with the applicant:

<b>"Local Criteria"</b>	<b>Connection</b>	<p>means a person or a member of their household having a connection to the Locality by reason of the following:</p> <ul style="list-style-type: none"> <li>(a) currently lives in the Locality as their primary residence and has done so for the past 3 years;</li> <li>(b) previously lived in the Locality as the primary residence for at least 5 years cumulatively in the past 10 years;</li> <li>(c) has Close Family ordinarily resident in the Locality and that Close Family has been ordinarily resident in the Locality for the past 3 years;</li> <li>(d) needs to move to the Locality to receive or provide care or support;</li> <li>(e) is employed on a permanent basis for more than 16 hours per week in the Locality or is about to take up an offer of permanent employment in the Locality;</li> <li>(f) needs to move to the Locality to be close to local facilities because of a specific identified need;</li> <li>(g) has some other connection to the Locality as approved by the Council in writing;</li> </ul>
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The ‘locality’ will, initially, be the Scholes Built up Area, as defined within the applicant’s Housing Needs Survey. In the event that the applicant is unable to occupy the units with prospective tenants from the Scholes Built up Area within a reasonable timeframe, the ‘locality’ would cascade to the greater HD9 1 postcode area, which formed part of the applicant’s Housing Needs Survey. Officers do not support the provision of a further cascade (i.e., the Holme Valley Parish or larger Kirklees district). These provisions would be secured within the S106 agreement.

The affordable housing criteria will follow standard procedure, with the exception that these units are not expected to be promoted on the Council's Housing List.

### Rear boundary treatment

The proposal includes the erection of a 1.8m high fence to the rear of the site, with the following stated in paragraph 10.12:

*The proposal includes the erection of a 1.8m high paladin mesh fencing along the west boundary. While officers have expressed concern over the inclusion of such a fence, the applicant has stressed the need from a safety perspective. It would prevent access to the acknowledged very steep retaining wall (that includes a 2m drop onto hard surface). Given that fences up to 2m may be erected without planning permission (when away from the Highway) and the need to ensure safety, on balance its inclusion is not unacceptable.*

Notwithstanding the above, further discussions have been held. During the course of the application the retaining walls were amended to include gabion baskets up to 2m, with the remaining land to be sloped and secured using soil rock nailing. Originally the retaining walls were proposed as flat, thus having a different shape. With the new retaining wall including sloped land secured using soil rock nailing, the opportunity for the fencing to be moved down the slope has been put to the applicant, who agreed. Draft plans of the fencing being moved lower, and thus having a less prominent impact, have been shared with officers and welcomed in principle. However, at the time of writing, no formal plans have been provided.

In light of the above, it is deemed reasonable to amend the recommended condition 3 from:

“Boundary treatments to be installed as detailed, and thereafter retained.”

To

“Details of boundary treatments to be submitted and approved, and thereafter installed and retained.”

This would allow the applicant to re-design the rear fencing as discussed and agreed in principle. For the avoidance of doubt, however, should the applicant wish to retain the fencing as proposed, officers' position would revert to that detailed in paragraph 10.12 (i.e., it'd be unreasonable to oppose such fencing).

### Representations

Holme Valley Parish Council provided the following comments on the application:

*The Parish Council is disallowed from considering this application, as it is the sole corporate trustee of the Holme Valley Land Charity, - the owner of the land of this proposed development. All individual councillors are, therefore, members of the corporate trustee. Under guidance from*

*the Yorkshire Local Councils Associations, Members each declared a personal interest in this application and the application was not considered.*

Following the committee report being published a further 13 representations have been received. This takes the final total of representations to 245. The following are the matters raised that are not detailed within the main committee report:

- The ecohomes website says that after first occupation the local criteria will be reduced and these units open to tenants from all of Kirklees.
- Requesting clarification on how these units will be secured for local people and whether a restrictive covenant will be imposed.

**Response:** The claim re. ecohomes is noted (but not verified by officers). Nonetheless it is deemed immaterial to the planning application. As has been set out, officers require a S106 to be signed to support the application which will control, in perpetuity, who is able to occupy these units.

- The proposal will create a dangerous precedence and lead to numerous applications for housing in the Green Belt.

**Response:** Each application is assessed on its own merits. It should also be noted that the proposal has been concluded as appropriate development within the Green Belt (i.e., not requiring Very Special Circumstances). However, there has been (and would be for any other applications) a high bar set for the applicant to demonstrate compliance via local need.

- Question on how “large retaining walls” are in keeping with the Green Belt.
- The use of gabion baskets is unattractive.

**Response:** The 2m gabion baskets are relatively low and, from moderate to far distances, will appear mostly natural. The land above is to be sloped and grassed so would appear natural from most vistas.

- Requesting why Yorkshire Stone is not to be used.

**Response:** The properties are to be faced in natural stone, expected to be Yorkshire Stone, with samples sought via condition.

- Brownfield land should be built on, not greenfield.
- The Housing Needs Assessment fails to consider affordable housing at nearby housing estates, including Dobroyd Mills.

**Response:** Local and national policy does not require brownfield development prior to greenfield. Furthermore, when considering brownfield sites, due regard must be given to availability to develop (i.e., does the landowner want it to be developed), feasibility, and size. This proposal seeks 10 units to provide local need. The main brownfield site within the study area (erroneously noted as being outside within the main report) is Dobroyd Mills which is substantially larger and expected to host circa 75 dwellings (based on application 2017/90620). Thus, it's not a comparable site.

The applicant's housing needs assessment has considered the affordable housing expected to be delivered by local housing allocations. By virtue of the national policy 'vacant building credit', (on the assumption the buildings do not progress to being 'abandoned') it's unlikely that development at Dobroyd Mills would deliver affordable housing.

- The development will lead to light and noise pollution. The lighting will illuminate the neighbouring fields all night long.

**Response:** A lighting design strategy for ecology is recommended via condition, to ensure no undue lighting pollution that would harm local species. Lighting from residential houses is not deemed harmful to amenity. Street lighting will be assessed via the highway design condition.

- The site area is incorrectly referenced, using a figure from the OS map which includes neighbouring land.

**Response:** Officers have measured the red-line plan at 0.37ha and are satisfied it is accurate.

- The proposed tree planting will grow towards neighbouring land and cause issues.

**Response:** officers consider there to be no fundamental issues. Reasonable management and maintenance can be expected; anything beyond this is a private matter for land owners.

- The applicant seeks works to boundary walls which are not their property.
- The proposal restricts access to adjacent agricultural land which has "access across the quarry site has allowed for an almost completely open choice of where to enter or exit the quarry site to the public highway"

**Response:** Rights of access and boundary disputes are a private matter between land owners.

- The site has been publicly accessed for generations, for play and walking route. Its loss will harm local residents and prevent children playing.

**Response:** This is noted; however, the site is neither allocation nor designated within the Local Plan. Therefore, such claims carry limited weight, and the proposal must be assessed on its planning merits.

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**Demolition of existing building and erection of engineering building with associated external works**

**David Brown Santasalo UK Ltd, Park Works, Park Road, Lockwood, Huddersfield, HD4 5DD**

Extension of Time

The applicant has agreed an extension of time until 06 March 2023 to allow this application to be determined at Strategic Planning Committee.

Pre-Commencement Conditions

As detailed in Paragraph 10.94 of the main report, notice has been served on the applicant to agree pre-commencement conditions in accordance with Section 100ZA of the Town and Country Planning Act 1990 and The Town and Country Planning (Pre-commencement Conditions) Regulations 2018.

The applicant agreed on 28 February 2023 to the imposition of the relevant pre-commencement conditions (Conditions 3 – 12).

**Deepen and extend Windy Ridge Quarry; increase the number of HGV movements permitted; excavate former landfill to recover recyclable materials (retrospective); temporarily store soils on part of the previously restored quarry area (retrospective); form new access; restore the site by infill with construction, demolition and excavation wastes; and recycle imported construction demolition and excavation wastes**

**Windy Ridge Quarry, Cartworth Moor Road, Cartworth Moor, Holmfirth, HD9 2RL**

Consultation response received from Natural England on 24<sup>th</sup> February advising:

*“Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection”.*

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