

# Public Document Pack



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Friday 5 June 2015

## Notice of Meeting

Dear Member

### **Planning Sub-Committee (Huddersfield Area)**

The **Planning Sub-Committee (Huddersfield Area)** will meet in the **Council Chamber - Town Hall, Huddersfield** at **1.00 pm** on **Thursday 11 June 2015**.

(A coach will depart the Town Hall, at 10.30am to undertake Site Visits. The consideration of Planning Applications will commence at 1.00 pm in the Council Chamber)

This meeting will be webcast live.

The items which will be discussed are described in the agenda and there are reports attached which give more details.

A handwritten signature in black ink, appearing to read "Julie Muscroft".

**Julie Muscroft**

**Assistant Director of Legal, Governance and Monitoring**

Kirklees Council advocates openness and transparency as part of its democratic processes. Anyone wishing to record (film or audio) the public parts of the meeting should inform the Chair/Clerk of their intentions prior to the meeting.

## **The Planning Sub-Committee (Huddersfield Area) members are:-**

### **Member**

Councillor Terry Lyons (Chair)  
Councillor Donna Bellamy  
Councillor Jean Calvert  
Councillor Donald Firth  
Councillor Mark Hemingway  
Councillor Musarrat Khan  
Councillor Carole Pattison  
Councillor Amanda Pinnock  
Councillor Mohammad Sarwar  
Councillor Ken Sims  
Councillor Mohan Sokhal  
Councillor John Taylor  
Councillor Molly Walton  
Councillor Linda Wilkinson  
Councillor Andrew Marchington

When a Planning Sub-Committee (Huddersfield Area) member cannot be at the meeting another member can attend in their place from the list below:-

### **Substitutes Panel**

#### **Conservative**

B Armer  
N Patrick  
G Wilson

#### **Green**

K Allison  
A Cooper

#### **Independent**

#### **Labour**

E Firth  
S Hall  
K Rowling  
G Turner  
S Ullah

#### **Liberal Democrat**

C Burke  
J Lawson  
A Pinnock  
P Scott

# Agenda

## Reports or Explanatory Notes Attached

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**Pages**

**1: Membership of the Committee**

This is where Councillors who are attending as substitutes will say for whom they are attending.

**Wards  
Affected:**

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**2: Minutes of previous meeting**

1 - 14

To approve the Minutes of the meeting of the Committee held on 9 April 2015.

**Wards  
Affected:**

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**3: Interests and Lobbying**

15 - 16

The Councillors will be asked to say if there are any items on the Agenda about which they might have been lobbied. The Councillors will be asked to say if there are any items on the Agenda in which they have disclosable pecuniary interests, which would prevent them from participating in any discussion of the item or participating in any vote upon the item, or any other interests.

**Wards  
Affected:**

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#### **4: Admission of the Public**

Most debates take place in public. This only changes when there is a need to consider certain issues, for instance, commercially sensitive information or details concerning an individual. You will be told at this point whether there are any items on the Agenda which are to be discussed in private.

**Wards  
Affected:**

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#### **5: Deputations/Petitions**

The Committee will receive any petitions and hear any deputations from members of the public. A deputation is where up to five people can attend the meeting and make a presentation on some particular issue of concern. A member of the public can also hand in a petition at the meeting but that petition should relate to something on which the body has powers and responsibilities.

Any Member of the Public wishing to make a deputation is required to give notice in writing to the Assistant Director – Legal, Governance and Monitoring at least 24 hours prior to the start of the meeting.

**Wards  
Affected:**

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#### **6: Public Question Time**

The Committee will hear any questions from the general public.

**Wards  
Affected:**

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## **7: Site Visit - Application 2014/93192**

Outline application for erection of 2 semi detached dwellings with off road parking at land adjacent to Sude Hill Terrace, New Mill, Holmfirth

Estimated time of arrival at site: 10.55am

Contact: Adam Walker, Planning Officer

### **Wards**

**Affected:** Holme Valley South

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## **8: Site Visit - Application 2015/90452**

Outline application for erection of 22 dwellings and garages, and formation of associated car parking, access and landscaping at land adjacent to the Spotted Cow, New Hey Road, Salendine Nook

Estimated time of arrival at site: 11.30am

Contact: Bill Topping, Planning Officer

### **Wards**

**Affected:** Lindley

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## **9: Local Planning Authority Appeals**

17 - 42

The Sub Committee will be asked to note a report on the outcomes of appeals submitted by the Secretary of State.

Contact: Simon Taylor, Planning Services

### **Wards**

**Affected:** Colne Valley; Greenhead; Holme Valley South; Newsome

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## 10: Planning Applications

43 - 122

The Planning Sub Committee will consider the attached schedule of Planning Applications.

Please note that any Members of the Public who wish to speak at the meeting must have registered no later than 5.00pm (via telephone), or 11.59pm (via email) on Monday 8th June 2015. To pre register, please email [andrea.woodside@kirklees.gov.uk](mailto:andrea.woodside@kirklees.gov.uk) or telephone 01484 221715.

Contact: Simon Taylor, Planning Services

### **Wards**

**Affected:** All Wards

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## 11: Application 2014/92634

123 -  
140

To consider the application.

Contact: Adam Walker, Planning Officer

### **Wards**

**Affected:** Holme Valley North

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## 12: Application 2014/93014

141 -  
198

To consider the application.

Contact: John Ritchie, Planning Officer

### **Wards**

**Affected:**

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PB8

Contact Officer: Richard Dunne – 01484 221000

## **KIRKLEES COUNCIL**

### **PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)**

**Thursday 9 April 2015**

Present: Councillor Kane (in the Chair)  
Councillors Bellamy, Calvert, D Firth, E Firth, S Hall, Hemingway, Iredale,  
Lyons, Sarwar, Sokhal and Wilkinson

#### **1 Membership of the Committee**

Councillor E Firth substituted for Councillor Walton.

#### **2 Site Visits**

The Sub-Committee visited the sites of the following proposals:

- (a) Application 2014/92280 - Erection of detached dwelling adjacent to 77 Wessenden Head Road, Meltham, Holmfirth.
- (b) Application 2014/93961 - Erection of boundary fence to the existing Lindley Infant School and Lindley Junior School at Lindley CE (VA) Infant School, East Street, Lindley, Huddersfield.
- (c) Application 2013/94063 - Change of use, extension and alterations of former funeral home and workshops to form meeting rooms and office facilities. Removal of existing roof and replacement with flat roof to accommodate hidden solar panels. Change of use of agricultural land to form car park at 615 New Hey Road, Mount, Huddersfield.
- (d) Application 2014/93692 - Outline application for erection of 2 dwellings at land adjacent to 720 New Hey Road, Outlane, Huddersfield.
- (e) Application 2015/90002 - Erection of one dwelling and garage, alterations to access and demolition of existing building at Upper Snow Lea Farm, Lamb Hall Road, Longwood, Huddersfield.

#### **3 Minutes of previous meeting**

The Minutes of the meeting of the Sub Committee held on 26 February 2015 were approved as a correct record.

#### **4 Interests and Lobbying**

In connection with item 13 – Planning Applications, Members declared interests and identified planning applications in which they had been lobbied as follows:

Councillor Hemingway lobbied on Application 2014/93961.

Councillor Iredale declared a predetermination to Application 2015/90002 on the grounds that she had publicly expressed an opinion on the application.

Councillor Sokhal lobbied on Application 2014/93692.

Councillor Lyons declared an 'other' interest on Application 2014/92280 on the grounds that he lived in close proximity to the proposed dwelling.

#### **5 Admission of the Public**

The Sub Committee considered the question of the exclusion of the public and determined that all items be taken in public session.

#### **6 Deputations/Petitions**

No deputations or petitions were received.

#### **7 Local Authority Appeals**

The Sub Committee received a report which set out details of the decisions of the Planning Inspectorate in respect of appeals submitted against decisions of the Local Authority.

**RESOLVED** – That the report be noted.

#### **8 Planning Applications**

The Sub Committee considered the schedule of the Planning Applications. Under the provisions of the Councils Procedural Rule number 37, the Sub Committee heard representations from the members of the public in respect of the following applications;-

- (a) Application 2014/92280 – Erection of detached dwelling adjacent to 77 Wessenden Head Road, Meltham, Holmfirth - Iain Tavendale (speaking on behalf of the applicant)
- (b) Application 2014/93961 – Erection of boundary fence to the existing Lindley Infant School and Lindley Junior School at Lindley CE (VA) Infant School, East Street, Lindley, Huddersfield - Ian Gibbs (Chair of Governors in support) and Councillor Cahal Burke (Ward Councillor)
- (c) Application 2013/94063 – Change of use, extension and alterations of former funeral home and workshops to form meeting rooms and office facilities. Removal of existing roof and replacement with flat roof to accommodate hidden solar panels. Change of use of



agricultural land to form car park at 615 New Hey Road, Mount, Huddersfield - Andrew Keeling (speaking on behalf of the applicant) and Councillor Andrew Marchington (Ward Councillor)

- (d) Application 2014/93692 – Outline application for erection of 2 dwellings at land adjacent to 720 New Hey Road, Outlane, Huddersfield - Michael Chow (agent), Farid Eatessami and Hamid Merghan (applicants) and Councillor David Ridgway (Ward Councillor)
- (e) Application 2015/90002 – Erection of one dwelling and garage, alterations to access and demolition of existing building at Upper Snow Lea Farm, Lamb Hall Road, Longwood, Huddersfield - Steve Williams (applicant), John Pearcey (objector), Councillor Iredale and Councillor Marchington (Ward Councillors)
- (f) Application 2014/93929 – Erection of single storey extension at 1 Drake Hill Cottages, Hey Slack Lane, Whitley Common, Huddersfield - Andrew Keeling (speaking on behalf of the applicant)

**RESOLVED** - That the applications under the planning acts included in the list submitted for the consideration of the Sub Committee be determined as now indicated and that the schedule of such decisions be circulated to Members.



**KIRKLEES COUNCIL**  
**LIST OF PLANNING APPLICATIONS DECIDED BY**  
**PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)**  
**9 APRIL 2015**

**APPLICATION NO.                      DESCRIPTION, LOCATION OF PROPOSAL AND DECISION**

2014/92280                      J Askew – Erection of detached dwelling – adj 77 Wessenden Head Road, Meltham, Holmfirth, HD9 4HR

CONDITIONAL FULL PERMISSION, SUBJECT TO THE DELEGATION OF AUTHORITY TO OFFICERS TO  
(i) IMPOSE ALL NECESSARY AND APPROPRIATE CONDITIONS  
(ii) AND TO ISSUE THE DECISION

A recorded vote was taken in accordance with Council Procedure Rules as follows:

FOR: Councillors Hemingway, Bellamy, D Firth, S Hall, Iredale, Sokhal, Calvert, Sarwar and Lyons  
(9 Votes)

AGAINST: Councillors E Firth, Wilkinson and Kane (3 Votes)

2014/93961                      Nicola Beaumont – Erection of boundary fence to the existing Lindley Infant School and Lindley Junior School - Lindley CE VA Infant School, East Street, Lindley, Huddersfield, HD3 3NE

DEFERRED (TO ALLOW THE APPLICANTS AN OPPORTUNITY TO INVESTIGATE OPTIONS TO MITIGATE THE IMPACT ON RESIDENTIAL AND VISUAL AMENITY FOR THE FENCING PROPOSED ALONG THE WESTERN BOUNDARY OF THE SITE TO GEORGE STREET)

A recorded vote was taken in accordance with Council Procedure Rules as follows:

FOR: Councillors Hemingway, Bellamy, D Firth, E Firth, S Hall, Wilkinson, Iredale, Sokhal, Calvert, Sarwar, Lyons and Kane  
(12 Votes)

AGAINST: (0 Votes)

2013/94063                      Mark Foster, The Office Hub – Change of use, extension, and alterations of former funeral home and workshops to form meeting rooms and office facilities. Removal of existing roof and replacement with flat roof to accommodate hidden solar panels. Change of use of agricultural land to form car park – 615 New Hey Road, Mount, Huddersfield, HD3 3YE

CONDITIONAL FULL PERMISSION SUBJECT TO THE DELEGATION OF AUTHORITY TO OFFICERS TO:  
(i) SECURE A SECTION 106 LEGAL AGREEMENT TO ENSURE THE OPERATION OF THE SITE IS LIMITED TO SHORT TERM LEASE B1 OFFICE USE.  
(ii) IMPOSE ALL NECESSARY AND APPROPRIATE

**APPLICATION NO.                      DESCRIPTION, LOCATION OF PROPOSAL AND DECISION**

2013/94063 Cont'd

CONDITIONS. WHICH MAY INCLUDE THOSE SET OUT IN THE SUBMITTED REPORT, AND  
(iii) SUBJECT TO THERE BEING NO SUBSTANTIVE CHANGES THAT WOULD ALTER THE RECOMMENDATION TO ISSUE THE DECISION NOTICE.

A recorded vote was taken in accordance with Council Procedure Rules as follows:

FOR: Councillors Hemingway, Bellamy, D Firth, E Firth, S Hall, Sokhal, Sarwar, Lyons and Kane  
(9 Votes)

AGAINST: Councillors Wilkinson, Iredale and Calvert (3 Votes)

(The decision was made in line with the reasons given in the officer's report)

2014/93692

Queenscourt Development – Outline application for erection of 2 dwellings – Land Adjacent, 720, New Hey Road, Outlane, Huddersfield, HD3 3YQ

**REFUSAL**

(1) The site is located within the Green Belt, and as it is outside the settlement boundary of Outlane on the Kirklees Unitary Development Plan, it is not classed as infill development within an existing settlement or village for the purposes of Policy D13. Neither would the development satisfy the criteria set out in Policy D13 for infill development in the Green Belt. It would therefore constitute inappropriate development in the Green Belt which, which by definition is harmful to the Green Belt. It would significantly harm the openness of the Green Belt, especially given the elevated and prominent nature of the site. No very special circumstances have been demonstrated that clearly outweigh the harm to the Green Belt by reason of inappropriateness and other harm. It would therefore be contrary to the aims of Policy D13 of the Unitary - Development Plan and the National Planning Policy Framework - Protecting Green Belt land.

(2) The site is located within close proximity to the M62 motorway and its slip road from junction 23. For these reasons the area experiences poor air quality. The submitted air quality assessment fails to demonstrate that future occupiers of the proposed residential development would enjoy a good standard of amenity which is not adversely affected by unacceptable levels of air pollution. The development would therefore be contrary to Chapter 11 Conserving and enhancing the natural environment of the National Planning Policy Framework.

**APPLICATION NO.                      DESCRIPTION, LOCATION OF PROPOSAL AND DECISION**

2014/93692 Cont'd

(3) The site is located within close proximity to the M62 motorway and its slip road from junction 23. For these reasons it is subject to high levels of noise. The submitted noise assessment fails to demonstrate that future occupiers of the proposed residential development would enjoy a good standard of amenity which is not adversely affected by unacceptable levels of noise pollution. The development would therefore be contrary to Policy EP4 of the Kirklees Unitary Development Plan and Chapter 11 Conserving and enhancing the natural environment of the National Planning Policy Framework.

A recorded vote was taken in accordance with Council Procedure Rules as follows:

(1) A motion to approve the application

FOR: Councillors Sokhal, Calvert, Sarwar and Lyons  
(4 Votes)

AGAINST: Councillors Hemingway, Bellamy, D Firth, E Firth, S Hall, Wilkinson, Iredale and Kane  
(8 Votes)

(2) A vote to accept the officer recommendation

FOR: Councillors Hemingway, Bellamy, D Firth, E Firth, S Hall, Wilkinson, Iredale and Kane  
(8 Votes)

AGAINST: Councillors Sokhal, Calvert, Sarwar and Lyons  
(4 Votes)

(The decision was made in line with the reasons given in the officer's report)

2015/90002

Mr & Mrs S Williams – Erection of one dwelling and garage, alterations to access and demolition of existing building – Upper Snow Lea Farm, Lamb Hall Road, Longwood, Huddersfield, HD3 3TH

**CONDITIONAL FULL PERMISSION**

(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.

**APPLICATION NO.****DESCRIPTION, LOCATION OF PROPOSAL AND DECISION**

2015/90002 Cont'd

(3) Development shall not commence until details of external materials to be used on the hereby approved dwelling, and retaining structures have been submitted to and approved in writing by the Local Planning Authority. No materials other than those approved in accordance with this condition shall be used.

(4) 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 with or without modification) no development included within Classes A, B, C, D, E and F of Part 1 or Classes A or B of Part 2 of Schedule 2 to that Order shall be carried out.

(5) Notwithstanding the approved plans, the domestic curtilage of the dwelling house hereby approved shall be limited to the area outlined in red on the hereby approved Proposed Site Layout Plan Drawing Number Pp 01.12.14 as submitted on 21 January 2015.

(6) A scheme detailing the boundary treatment of the all the site shall be submitted to and approved in writing by the Local Planning Authority and the works comprising the approved scheme completed prior to the occupation of the hereby approved dwelling. The boundary treatment shall thereafter be retained in accordance with the approved details.

(7) The visibility splays as shown on the hereby approved Proposed Site Plan Drawing Number Pp 01.12.14 submitted on 21 January 2015 shall be laid out and completed before the development is brought into use. Thereafter the visibility splays shall be retained with no obstruction above the level of the adjacent carriageway in accordance with the details indicated on approved plan Pp 01.12.14.

(8) The development shall not be brought into use until all areas indicated to be used for access/parking/turning on the approved plans 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 13th 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 uses specified on the submitted/listed plans thereafter.

(9) The gradient of the driveway to the hereby approved dwelling shall not be steeper than 1 in 20 for the first 5.0 metres from the carriageway of Lamb Hall Road and the remainder of the

**APPLICATION NO.****DESCRIPTION, LOCATION OF PROPOSAL AND DECISION**

2015/90002 Cont'd

driveway shall be no steeper than 1 in 8. The works to form the driveway shall be retained thereafter.

(10) Before development commences details of storage and access for collection of wastes from the premises 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.

(11) Notwithstanding the approved plans, the development shall be carried out in complete accordance with the following ecological measures:

\* One bat box, in the form of a Schweglar type 1FR bat box or similar, shall be installed integral to the new dwelling within the site, during the construction phase. The box shall be installed on the south facing wall and be located at least 4 metres from the ground and not above windows or doors to avoid nuisance from bat droppings.

\* One woodcrete sparrow terrace nest box shall be installed, integral to the new dwelling within the site, during the construction phase. The box shall be installed in the north facing wall at least 3 metres from the ground and not located above windows or doors.

The above bat and bird boxes provided shall be installed before the dwelling is first occupied and hereafter be retained.

(12) 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.

(13) Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition 12 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.

(14) Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 13 development shall not commence until a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

(15) Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 14. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered [in either the



**APPLICATION NO.**

2015/90002 Cont'd

**DESCRIPTION, LOCATION OF PROPOSAL AND DECISION**

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.

(16) 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.

**Note regarding gates and barriers**

Any gates or barriers for or over a vehicular access or egress proposed under condition 6 should be set back 5 metres from the back of carriageway and hung as to only open inwards. So long as such gates or barriers are in position they should be retained to only open inwards. This is to avoid any conflict with the public highway.

**Note to Applicant Regarding Condition 8 – Surfacing**

Link to Communities and Local Government; and Environment Agency's '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 to Application Regarding Works Which Affect the Highway**

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. 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.

**APPLICATION NO.                      DESCRIPTION, LOCATION OF PROPOSAL AND DECISION**

2015/90002 Cont'd

**Note to Applicant Regarding Construction Site Noise**

As there are residential premises very close to the North West boundary of the site, please apply the following footnote to any consent granted:

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 Services can control noise from construction sites by serving a notice.

This notice can specify the hours during which work may be carried out.

**Note to Applicant Regarding Vegetation and Building Clearance**

Vegetation and building clearance should be undertaken outside of the bird breeding season, March to September 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.

A recorded vote was taken in accordance with Council Procedure Rules as follows:

FOR: Councillors D Firth, E Firth, S Hall, Sokhal, Calvert, Sarwar, Lyons and Kane  
(8 Votes)

AGAINST: Councillor Hemingway (1 Vote)

ABSTAINED: Councillors Bellamy and Wilkinson

(The decision was made in line with the reasons given in the officer's report and the update list)

<b>APPLICATION NO.</b>	<b>DESCRIPTION, LOCATION OF PROPOSAL AND DECISION</b>
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2014/93929

S Hollingworth – Erection of single storey extension - 1 Drake Hill Cottages, Hey Slack Lane, Whitley Common, Huddersfield, HD8 8YD

**REFUSAL**

(1) The proposed extension, by reason of its design and scale when considered cumulatively with the existing two storey side extension and detached outbuilding, would represent a disproportionate addition to the original building of 1 Drake Hill Cottage. This would constitute inappropriate development in the Green Belt which is harmful to the Green Belt by definition. No very special circumstances have been demonstrated that clearly outweigh the harm to the Green Belt by reason of inappropriateness or other harm. The extension would therefore fail to comply with Policy D11 of the Kirklees Unitary Development Plan and Chapter 9 of the National Planning Policy Framework.

A recorded vote was taken in accordance with Council Procedure Rules as follows:

FOR: Councillors S Hall, Wilkinson, Iredale, Sokhal, Calvert, Sarwar, Lyons and Kane  
(8 Votes)

AGAINST: Councillors Hemingway, Bellamy, D Firth and E Firth  
(4 Votes)

(The decision was made in line with the reasons given in the officer's report)

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## KIRKLEES COUNCIL

### DECLARATION OF INTERESTS AND LOBBYING

Planning Sub-Committee/Strategic Planning Committee

**Name of Councillor**

Item in which you have an interest	Type of interest (eg a disclosable pecuniary interest or an "Other Interest")	Does the nature of the interest require you to withdraw from the meeting while the item in which you have an interest is under consideration? [Y/N]	Brief description of your interest

**LOBBYING**

Date	Application/Page No.	Lobbied By (Name of person)	Applicant	Objector	Supporter	Action taken / Advice given

Signed: .....

Dated: .....

## NOTES

### Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your disclosable pecuniary interests under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.

Any tenancy where (to your knowledge) - the landlord is your council or authority; and the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -

- (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and  
(b) either -

the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or  
if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

### Lobbying

If you are approached by any Member of the public in respect of an application on the agenda you must declare that you have been lobbied. A declaration of lobbying does not affect your ability to participate in the consideration or determination of the application.



**Name of meeting: PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)**  
**Date: 11 JUNE 2015**

**Title of report: LOCAL PLANNING AUTHORITY APPEALS**

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Is it in the <a href="#">Council's Forward Plan</a> ?	No
Is it eligible for "call in" by <a href="#">Scrutiny</a> ?	No
Date signed off by <u>Director</u> & name	2 June 2015 Jacqui Gedman
Is it signed off by the Director of Resources?	No financial implications
Is it signed off by the Acting Assistant Director - Legal & Governance?	No legal implications
Cabinet member <a href="#">portfolio</a>	Cllr. P. McBride

Electoral [wards](#) affected: Holme Valley South; Colne Valley; Greenhead; Newsome;

Ward councillors consulted: No

Public or private: Public

1. **Purpose of report**  
For information
2. **Key points**
  - 2.1 2014/62/93455/W - Erection of first floor extension to side at Hammond Crest, Cartworth Road, Holmfirth, HD9 2RQ. (Officer) (Dismissed)
  - 2.2 2014/62/92044/W - Erection of detached dwelling with integral garage and formation of new access adj Nabb Royd, Cartworth Road, Holmfirth, HD9 2RQ. (Officer) (Dismissed)
  - 2.3 2014/62/91809/W & COMP/12/0323 - Erection of agricultural building for storage of tractor/trailer, agricultural equipment and animal feed (modified proposal) at Longfield Farm, Flathouse Lane, Linthwaite, Huddersfield, HD7 5PR. (Officer) (Appeals dismissed and enforcement notice upheld)

- 2.4 2014/62/92642/W - Demolition of existing building and erection of Sainsbury's Local food store (within a Conservation Area) at 134, Birkby Hall Road, Huddersfield, HD2 2UZ. (Officer) (Dismissed)
- 2.5 2013/62/93474/W - Demolition of existing garages and erection of one dwelling at Carrs Brook, Morton Street, Marsden, Huddersfield, HD7 6JH. (Sub-Committee contrary to officer recommendation) (Dismissed)
- 2.6 2014/62/92859/W - Erection of dormer and alterations to first floor to form self contained flat, installation of new window and door openings and internal alterations at Shax Pizza And Grill Bar, 44, Chapel Hill, Huddersfield, HD1 3EB. (Officer) (Dismissed)
- 2.7 2014/62/93152/W - Change of use from A1 to A5 and erection of ventilation fan to rear (within a Conservation Area) at 17, Blacker Road, Birkby, Huddersfield, HD1 5HU. (Officer) (Allowed)

**3. Implications for the Council**  
**Not applicable**

**4. Consultees and their opinions**  
**Not applicable**

**5. Next steps**  
**Not applicable**

**6. Officer recommendations and reasons**  
**To note**

**7. Cabinet portfolio holder recommendation**  
**Not applicable**

**8. Contact officer and relevant papers**  
**Simon Taylor – Head of Development Management**

**9. Director responsible**  
**Jacqui Gedman**



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# Appeal Decision

Site visit made on 25 February 2015

by **Matthew Birkinshaw BA(Hons) Msc MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20<sup>th</sup> March 2015

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**Appeal Ref: APP/Z4718/D/15/3003237**

**Hammond Crest, Cartworth Road, Holmfirth, HD9 2RQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Steven Parr against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2014/62/93455/W, dated 27 October 2014, was refused by notice dated 12 December 2014.
  - The development proposed is a first floor extension.
- 

## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are:
  - Whether or not the proposal is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework and development plan policy;
  - The effect of the proposal on the openness of the Green Belt; and
  - If the proposal is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

## Reasons

*Whether Inappropriate or Not*

3. Policy D11 of the *Kirklees Unitary Development Plan* (UDP) states that proposals to extend buildings in the Green Belt will be considered against their impact on openness, and, the size of the extension in relation to the existing building, which should remain the dominant element. It also directs that where extensions have already been carried out, a proposal should have regard to the scale and character of the original building.
4. This is broadly consistent with paragraph 89 of the National Planning Policy Framework ('the Framework'), which confirms that extensions are not inappropriate development in the Green Belt provided that they do not result in disproportionate additions to an original building.

5. In this case the semi-detached appeal property already contains a 2-storey side extension. Based on the evidence provided this represents an increase in the size of the original dwelling by roughly 50%. The Council also refers to an additional side extension and sun lounge which have been erected at the property. Thus, despite keeping the size of the extension to the absolute minimum required to meet the appellant's needs, combined with the previous alterations it would amount to a disproportionate addition to the original house.
6. For the purposes of the Framework the proposal is therefore inappropriate development, which, by definition is harmful to the Green Belt and should not be approved except in very special circumstances.

#### *Openness*

7. The Framework also states that the essential characteristics of Green Belts are their openness and their permanence. I note the appellant's comments that by erecting an extension over the garage the footprint of the dwelling would not be increased. However, by introducing more built development onto the site than exists at present, the openness of the Green Belt would be reduced. Although this harm would be limited, it would nonetheless still be material.

#### *Other Considerations*

8. I have also considered the effect of the proposal on the character and appearance of the host property, and recognise that a great deal of thought has gone into achieving a high standard of design. However, whilst the extension would reflect the existing property, this lack of harm is only a neutral factor in the overall planning balance. Based on the evidence provided I find no persuasive evidence to suggest that the provision of a side extension would 'significantly enhance' the appearance of the house or the surrounding area. Similarly, although it would provide more appropriate accommodation for the appellant, there is nothing to indicate that the extension is necessary to secure the future use of the property.
9. It has also been suggested that the appellant could erect a rear dormer without planning permission by utilising permitted development rights. Nevertheless, whilst this is not in dispute, situated at the rear and partially screened from public view on Cartworth Road a rear dormer would be materially different to the extension proposed. As a consequence, this only carries limited weight.

#### **Conclusions**

10. The proposal would be inappropriate development in the Green Belt for the purposes of national planning policy. The Framework clearly states that inappropriate development is harmful to the Green Belt, and that substantial weight should be attached to that harm. By resulting in the provision of a disproportionate addition to the original part of the building the scheme also conflicts with Kirklees UDP Policy D11.
11. On the other hand the design of the extension would be acceptable, and it would not cause any harm to the overall character and appearance of the host property or the surrounding area. Furthermore, compared to a rear dormer erected under permitted development rights it would also more appropriately meet the needs of the appellant, and I note that the local Parish Council supports the scheme.

12. However, these considerations do not clearly outweigh the substantial harm that I have identified as a result of inappropriateness and to the reduction in the openness of the Green Belt. As a result, the very special circumstances necessary to justify granting planning permission do not exist.

13. For this reason, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Matthew Birkinshaw*

INSPECTOR

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# Appeal Decision

Site visit carried out on 18 March 2015

**by Mrs J A Vyse DipTP DipPBM MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 25 March 2015**

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**Appeal Ref: APP/Z4718/W/14/3000642**  
**Nabbroyd, Cartworth Road, Holmfirth HD9 2RQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Colin Parr against the decision of Kirklees Metropolitan Council.
  - The application No 2014/62/92044/W, dated 27 April 2014, was refused by a notice dated 2 September 2014.
  - The development proposed is the formation of a new site access and the construction of a two bedroom dwelling with integral garage.
- 

## Decision

1. For the reasons that follow, the appeal is dismissed.

## Main Issues

2. These are whether the development proposed comprises inappropriate development having regard to the Green Belt policies of the development plan and the National Planning Policy Framework and, if it does, whether any harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development proposed.

## Reasons

### *Whether Inappropriate Development*

3. Nabbroyd is a two storey semi-detached dwelling that lies on the eastern side of Cartworth Road, which road rises steeply heading southwards out of Holmfirth. The appeal site lies to the side of Nabbroyd, immediately to the south. The two bedroom dwelling proposed would comprise a two storey stone and slate element at its northern end, close to Nabbroyd, adjoined by a lower single story element extending southwards behind the existing stone wall along the highway boundary.
4. There is no dispute that the appeal site lies within the Green Belt, as defined by the Kirklees Unitary Development Plan (March 1999)(UDP). Paragraph 89 of the National Planning Policy Framework (the Framework) makes clear that, with certain exceptions, the erection of new buildings in the Green Belt is inappropriate. One of the specified exceptions relates to limited infilling in villages. Another relates to limited infilling or the partial or complete redevelopment of previously-developed land which would not have a greater impact on the openness of the Green Belt and the purposes of including land in it.

5. Policy D13 of the UDP is permissive of infill development within existing settlements in the Green Belt where, among other things, the site is small (not more than two dwellings) and is within an otherwise continuously built up frontage, or where the site is small and is largely surrounded by development. The settlement of Holmfirth is inset from the wider Green Belt: the appeal site lies opposite to but outwith the settlement boundary and is thus not *within* the existing settlement. The site comprises a largely open grassed paddock/field to the side of Nabbroyd and, other than two timber buildings on the land, appears undeveloped. It lies behind a low stone wall and runs parallel to the road, sloping down to the northeast, into the river valley, away from Cartworth Road. Surrounding land to the northeast, east and southeast comprises open fields. Whilst there is a ribbon of built development on the opposite side of the road, those properties lie within the settlement boundary. In that context, the site does not lie within an otherwise built up frontage and is not surrounded by development. Accordingly, although only one property is proposed, the appeal scheme cannot be considered as infill development.
6. The appellant is of the view that the appeal site comprises previously-developed land, maintaining that it has been used as a garden for more than 40 years, although it not in the same ownership throughout that period. However, an application for a Certificate of Lawfulness in relation to use of the land as garden and allotment to Nabbroyd was refused in 2009. I am not aware that that decision was appealed. Moreover, the Glossary to the Framework makes it clear that private residential gardens, and allotments, are excluded from the definition of previously-developed land. In any event, although reasonably moderate in scale, the dwelling proposed would mean that this part of the Green Belt would be less open than it is now, even taking into account the two timber buildings currently located at the rear of the site, which would be removed.
7. Consequently, I am in no doubt that the appeal scheme would be inappropriate development, as defined by UDP policy D13 and by the Framework. By definition therefore, it would be harmful to the Green Belt.

#### *Any Other Harm*

8. The appeal site sits lower than the road and the dwelling proposed would be built into the slope of the land here, which falls away steeply into the river valley. As a consequence, the two storey element would only be some 1.5 storeys in height when seen from the road. It would sit gable end on to the highway and, with only a small single opening within the apex, would have the appearance almost of a large outbuilding with a timber lean to at the side, the main two storey elevation facing east, out across the valley. The longer single storey element would be dug into the sloping land, behind the boundary walling. It would have a monopitch sedum roof with a glazed frontage, again looking out across the river valley. I recognise, in this regard, that the house would be largely hidden from public view. It would, however, still reduce the openness of the Green Belt, a concept that is not dependent on public visibility but which is an essential characteristic of such designated land.

#### *Other Considerations*

9. It is well established that inappropriate development is, by definition, harmful to the Green Belt and should not be approved other than in very special circumstances. Paragraph 88 of the Framework confirms that very special

circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.

10. Framework paragraph 55 identifies special circumstances in which a new house in the countryside might be considered, including the exceptional quality or innovative nature of the design of the dwelling. To qualify, such a building should be truly outstanding or innovative, helping to raise standards of design more generally in rural areas, reflect the highest standards in architecture, significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.
11. The design of the dwelling proposed takes inspiration from local vernacular architecture, with the masonry element providing a visual link with Nabbroyd and other stone buildings in the locality. This contrasts with a more contemporary single storey glazed element that would be partially earth-sheltered and dug into the hillside, with a green roof. The design has also been informed by the constraints of the site, with the building set into the sloping ground. In terms of the choice of materials and design approach taken, I am satisfied that, in principle, the scheme could be considered as a high quality design that responds sensitively to its setting.
12. However, whilst there is development on the opposite side of the road, I saw it to be loose-knit, with the appeal site itself surrounded by open fields giving it a distinctly rural feel, removed from the more closely built-up development nearer the town. Whilst the scheme would include removal of the two timber buildings on the site, their appearance, whether or not they are lawful, is not so harmful or damaging to the landscape that their removal is justified by the dwelling proposed as a means of significantly enhancing its rural setting. Indeed, the proposal would detract from the open nature of the site and would extend built development along the eastern side of Cartworth Road, introducing residential development further into the countryside.
13. The house proposed would include a green roof and would incorporate measures to conserve water and energy. High levels of insulation and airtightness would also ensure that the building would be carbon neutral. I am not persuaded though, that the design takes the technologies employed in this regard beyond already well trodden paths. All in all, I cannot conclude that the proposed building is either innovative in nature, or of such exceptional design that it might justify the provision of a new dwelling in the countryside. On that basis, it does not represent the very special circumstances identified in Framework paragraph 55.
14. I understand that the appellant and his wife have lived in the area for many years and that the accommodation is intended to provide the appellant with independence as his health condition progresses, whilst allowing him to remain in the familiar countryside that he and his wife have loved throughout their lives. It is not clear, however, what the broad nature of his health challenges might be, or what the limitations of the existing accommodation are that might be addressed by the development proposed. That said, I recognise that the dwelling proposed would, in the main be single storey, and may provide more suitable accommodation for the appellant both now and in the future. However, whilst exceptionally, the personal circumstances of an occupier may be material to the consideration of a planning application, such arguments will

seldom outweigh more general planning considerations. In this case, the development proposed is of a permanent nature and would remain long after the personal circumstances of the appellant have ceased to be material. On balance, I afford those personal circumstances only limited weight.

### **Conclusion**

15. I have found that the appeal scheme would be inappropriate development in the Green Belt and would detract from its openness, one of its essential characteristics. In accordance with the provisions of the Framework, I therefore afford those harms substantial weight. For the appeal to succeed, the combined weight of other considerations must clearly outweigh the totality of the harm arising. Although the house may benefit the appellant, and has been designed in a way that minimises its intrusion into the landscape, those considerations do not clearly outweigh the harm that I have identified. As such the very special circumstances, as required by paragraph 88 of the Framework, necessary to justify the development proposed, do not exist. Accordingly, for the reasons given above, the appeal fails.

*Jennifer A Vyse*

INSPECTOR

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## Appeal Decisions

Site visit made on 3 March 2015

**by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 16 April 2015**

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### **Appeal Ref: APP/Z4718/C/14/2227100**

#### **Longfield Farm, Flathouse Lane, Linthwaite, Huddersfield HD7 5PR**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Ms Daphne Barnforth against an enforcement notice issued by Kirklees Metropolitan Borough Council.
  - The notice was issued on 15 September 2014.
  - The breach of planning control as alleged in the notice is the erection of a building.
  - The requirements of the notice are completely demolish the building and restore the land to its previous condition.
  - The period for compliance with the requirements is two months.
  - The appeal is proceeding on the grounds set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended.
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### **Appeal Ref: APP/Z4718/A/14/2227030**

#### **Longfield Farm, Flathouse Lane, Linthwaite, Huddersfield HD7 5PR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Ms Daphne Barnforth against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2014/62/91809/W, dated 5 June 2014, was refused by notice dated 19 August 2014.
  - The development proposed is an agricultural building for storage of tractor/trailer, agricultural equipment and animal feed (modified proposal).
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### **Decision**

1. The appeals are dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

### **Reasons**

#### Background information

2. The Appellant owns agricultural land to the west and east of Flathouse Lane, which is, where it passes between the Appellant's fields, a track that is a public footpath. The Appellant's land is in the Green Belt and in the Linthwaite Conservation Area (LCA). The building that is the subject of the appeals has been erected in the east corner of a field on the east side of the lane. It is about 12 metres long, 9 metres wide, 3.6 metres high to the eaves and 5 metres high to the ridge. It is clad in colour coated steel and has a fibre cement roof.



3. The building was the subject of two unsuccessful planning applications refused by the Council in March 2013 and March 2014. A planning appeal was submitted against the second refusal but this was also unsuccessful. Subsequently the Council issued the enforcement notice that is the subject of the enforcement appeal. Prior to issue of the notice the Appellant submitted another planning application but this was also unsuccessful and is the subject of the planning appeal. The application, essentially, was for retention of the building that has been erected but reduced in height and clad in different materials.

The planning appeal

4. Paragraph 89 of the National Planning Policy Framework (NPPF) states that the construction of a new building in the Green Belt is inappropriate unless it is for, amongst other things, agriculture. The Inspector in the previous planning appeal, having considered the Council's evidence on the need for the building, concluded that the building is not inappropriate development in the Green Belt. There is no reason, in this case, to disagree with this conclusion.

5. The main issue is the effect of the building, after alteration as proposed, on the openness and visual amenity of the Green Belt and on the character of the LCA.

6. Paragraph 79 of the NPPF states that an essential characteristic of Green Belts is their openness. The building is remote from other buildings on the holding and is at a relatively high point in the steeply undulating landscape. It is clearly visible from the public footpath in views to the east and north-east and would be even if it was reduced in height as proposed by about 1.2 metres, to be about 2.4 metres high to the eaves and 3.7 metres high to the ridge. The altered building would undermine, and would be harmful to, the openness of the Green Belt.

7. The building would be reclad in timber and the roof would be covered with a dark material. Also, the steel doors would be replaced by timber doors and planting is proposed to the north and west of the building, to supplement a tree planting scheme to the east and south of the building that is the subject of a Forestry Commission grant. It is the building's remote position and prominence in the landscape that is harmful to the visual amenity of the Green Belt rather than its height and existing materials, which are not inappropriate for an agricultural building. Furthermore, planting would take many years to become established and would probably not provide adequate screening. The altered building would adversely affect, and would be harmful to, the visual amenity of the Green Belt.

8. The appraisal of the LCA carried out in 2004 regards the Appellant's holding to be part of open countryside that is important to the setting of Linthwaite. The building, even if it were to be altered as proposed, would intrude into the open countryside that is important to the setting of Linthwaite and would thus detract from, and would be harmful to, the character of the LCA.

9. The Appellant intends, if the appeal was to be successful, to remove "...some of the other unattractive buildings on the site..." and to improve the appearance of those that would be retained. This would not, however, mitigate the harm that would be caused by the altered appeal building. The building, as proposed to be altered, would have an adverse effect on, and would be harmful to, the openness and visual amenity of the Green Belt, and the character of the Linthwaite Conservation Area. The proposed development thus conflicts with saved policy BE5 of the Kirklees Unitary Development Plan. In these circumstances planning permission must be withheld and the planning appeal thus fails.

### The ground (f) enforcement appeal

10. The matters put forward by the Appellant in support of her ground (f) appeal are the same as those that have been considered in the planning appeal. They relate to the merits of retaining the building, altered as proposed, and are not relevant to a ground (f) appeal. The building is a breach of planning control and planning permission has been withheld. The only remedy to the breach of planning control is the removal of the building and the requirements of the notice are not therefore excessive. The ground (f) appeal thus fails.

*John Braithwaite*

Inspector

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## Appeal Decision

Site visit made on 5 May 2015

**by Alison Partington BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 27<sup>th</sup> May 2015**

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**Appeal Ref: APP/Z4718/W/15/3006137**

**134 Birkby Hall Road, Birkby, Huddersfield HD2 2UZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Sainsbury's Supermarkets Ltd against Kirklees Metropolitan Borough Council.
  - The application Ref 2014/92642, is dated 20 August 2014.
  - The development proposed is the demolition of the existing building and erection of Sainsbury's Local Food Store.
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### Decision

1. The appeal is dismissed and planning permission is refused for the demolition of the existing building and erection of Sainsbury's Local Food Store at 134 Birkby Hall Road, Birkby, Huddersfield HD2 2UZ.

### Main Issue

2. The main issue in the appeal is the effect of the proposed development on highway safety.

### Reasons

3. The appeal site is located on the corner of Birkby Hall Road and Storth Place. The latter is an unmade road in a poor state of repair which provides a link between Birkby Hall Road and Storth Road. The Council have indicated that the visibility at the junction of Storth Place and Birkby Hall Road is substandard, and this is not disputed by the appellant. The site has been occupied by a car sales business and 2 car repair workshops, although I noted at my site visit that one of the workshops has relocated to larger premises.
4. The site is in close proximity to the busy junction of Birkby Hall Road, Grimscar Avenue and Wheathouse Road which is controlled by a mini-roundabout. Although the appellant has suggested that Birkby Hall Road is lightly trafficked, I observed at my site visit that it carried a significant amount of traffic, and that queues regularly formed at the mini-roundabout junction. This observation accords with the Council's assessment of the data within the appellant's Transport Statement, and comments from local residents.
5. The width of Birkby Hall Road is such that cars parked on the road prevent the free flow of traffic along it. In the vicinity of the site there are parking restrictions on both sides of the road, but there are no restrictions on Storth Place. Given that many of the houses in close proximity to the site have no

off-street parking, there is significant demand from residents for on-street parking spaces that are available, particularly in front of the terrace of houses located between the site and the mini-roundabout. As a result of the cars parked here, traffic on Birkby Hall Road approaching the junction with Grimscar Avenue, can have to wait on the highway in front of the site, especially if traffic is coming in the other direction.

6. The proposed development would be provided with 9 parking spaces (including one disabled space). The Council have indicated that the standards set out in the *Kirklees Unitary Development Plan (adopted March 1999 and revised September 2007)* (UDP) would require 17 spaces to be provided for staff and customers. I note that this is based on the standard for town centre and neighbourhood shops of up to approximately 150sqm. Although the floor area of the proposed store area would be larger than this, given the nature of the store, and the type and length of visits it would attract, this standard would appear to be the most appropriate to use in this case.
7. The appellant has pointed out that these are maximum standards and that the UDP states that lower levels may be appropriate provided that the scheme can operate effectively, or there will be no significant adverse impacts for road safety or traffic management. In addition, they highlight that given the age of the UDP the standards do not take account of the advice in the paragraph 39 of the National Planning Policy Framework.
8. Whilst the store would mainly serve a local catchment, it is probable that many customers would still choose to drive, and the proposal would also attract passing trade. Nevertheless the appellant's evidence from a variety of sources including TRICS data, and surveys and information from other Sainsbury's Local stores, is that this level of provision would be adequate. However, it also shows that at certain times of the day the car parking would be operating at or close to capacity.
9. In addition, no dedicated staff parking is to be provided on the site. Although it is indicated that the site is well served by public transport, the service in the evenings and weekends, especially Sunday, is limited. Given the operating hours of the store, even if many of the staff are local, the likelihood is that many would travel by car and so would want to park in the immediate vicinity.
10. In contrast to the appellant's data, the Council's survey data from other similar convenience stores within the district indicates that the demand for parking at the busiest times of the day would exceed the capacity of the proposed car park. Although I note the concerns raised by the appellant with regard to this data.
11. The evidence on the demand for parking that could be generated is inconclusive. It is clear that many different factors can affect it and so forecasting demand with any certainty is problematical. However, given that no staff parking is proposed, that at certain times of the day the car park will be at or very close to capacity, and the fact that when lorries are manoeuvring into the delivery bay cars will be unable to enter the car park, I consider that it is highly probable that the proposal would generate demand for on-street parking in the immediate vicinity.
12. It has been suggested that even if it would create some demand for on-street parking, as the proposal would result in the loss of the existing businesses on

the site, overall the proposal would result in a reduction in on-street parking, or at least be no worse. Whilst there is no off-street parking associated with any of the current businesses, the hours and days of operation of these businesses are considerably less than for the proposed store. Moreover, although cars may be parked for longer periods of time, the volume of visitors they attract in a day is limited.

13. Notwithstanding the traffic restrictions in the immediate vicinity of the site, on-street parking is available on Birkby Hall Road. However, due to the width of the road, any such parking created by the proposal on this road would have an adverse impact on the free flow of traffic which, given the nature of the road, the volume of traffic it carries, and the proximity of the site to the junction, would be detrimental to highway safety.
14. At present parking associated with the repair workshop appears to be mainly on Storth Place and, despite its unmade nature, it is likely that it would also be utilised for parking in relation to the proposed store. Whilst cars related to the workshop are likely to remain parked for large parts of the day, the volume of traffic movements are likely to be limited. In contrast, the majority of cars parked in relation to the store would only remain for short periods of time, but there would be much higher level of movements as the turnover of customers is significantly more.
15. Notwithstanding the accident data for the junction of Storth Place and Birkby Hall Road, given that the visibility at the junction is substandard, any intensification of the use of this junction would increase the harm to highway safety. In addition, as Storth Place has no segregated footpath or street lighting, an increase in the number of traffic movements on the road would have the potential to harm pedestrian safety. As a result, in both these respects, I consider the appeal scheme would be detrimental to the safety of road users.
16. The proposed development would be provided with a delivery bay to the front of the store. This would utilise the same access as the car park and would require the use of two parking bays to enable the largest lorries to manoeuvre into the bay. It is indicated that up to 7 deliveries a day would take place, although these would generally be at times when it is predicted that the car park would be operating well below capacity. However, even if this is the case, whilst lorries were manoeuvring in the delivery bay, it would render the car park inaccessible to other vehicles, which has the potential to result in traffic waiting to enter the site blocking the highway or parking on the street.
17. Moreover, if two delivery vehicles were to be present at the same time, one would be required to wait on the highway. Whilst this would be detrimental to highway safety, through the use of ISOTRACK to monitor the delivery vehicles, and a condition requiring the submission of a Delivery Management Plan, I am satisfied that this could be prevented from occurring on a regular basis.
18. Notwithstanding this, overall I consider that the proposed development would have an unacceptable impact on highway safety. It would therefore be contrary to Policies T10, T19 and BE1 of the UDP which seek to ensure that developments do not have an adverse impact on highway safety, and are provided with adequate parking.

19. The National Planning Policy Framework (paragraph 32) indicates that development should only be refused on transport grounds where the cumulative impacts of the development are severe. However, the same paragraph also states development should ensure that safe and suitable access is achieved for all people, and paragraph 35 states that developments should minimise conflicts between traffic and cyclists or pedestrians. For the above reasons I do not consider that the proposed development would achieve these.
20. My attention has been drawn to another appeal for a similar type of store elsewhere in Kirklees which was allowed. However, although below the required standards, the level of parking at this store was greater than is proposed here and there was also a relevant "fall back" position. As such, the circumstances are not directly comparable to those which apply in this appeal. I have in any case determined the appeal on its own merits.

#### *Other Matters*

21. The appeal site is located within Birkby Conservation Area and as a result I have had special regard to the statutory duty to pay attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. I note the Council has no objection to either the demolition of the existing building or the new development. From the evidence before me, and what I observed on site, I see no reason to reach a different conclusion, and I am satisfied that the proposal would preserve the character and appearance of the conservation area.
22. The potential impact of noise from deliveries and plant on the living conditions of nearby residents is disputed by the parties and in the light of this, the appropriateness or otherwise of various suggested conditions to control these matters has been debated within the evidence. However, given my conclusion above regarding the impact of the proposal on highway safety, these are matters of secondary importance.

#### **Conclusion**

23. For the reasons set out above, I conclude that the appeal should be dismissed.

*Alison Partington*

INSPECTOR

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# Appeal Decision

Site visit made on 17 March 2015

**by Matthew Birkinshaw BA(Hons) Msc MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 1<sup>st</sup> May 2015**

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**Appeal Ref: APP/Z4718/W/15/3002613**

**Carrs Brook, Morton Street, Marsden, Huddersfield, HD7 6JH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr C Lee against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2013/62/93474/W, dated 29 October 2013, was refused by notice dated 24 September 2014.
  - The development proposed is the demolition of existing garages and erection of single dwelling.
- 

## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is the effect of the proposal on the living conditions of the occupants of 2 Carrs Street, having particular regard to outlook and privacy.

## Reasons

### *Outlook*

3. The appeal relates to a section of front garden belonging to 'Carrs Brook'. As part of the proposal the existing garages would be demolished to make way for a 2-storey detached dwelling. The new property would front onto an unadopted track, beyond which is the detached bungalow, no.2 Carrs Street.
4. Based on the evidence provided the design has clearly been influenced by its relationship with no.2, and I recognise that the appellant has gone to extensive lengths to overcome the issues raised. Nevertheless, at its closest point the proposal would be approximately 15.6m from the south-east facing elevation of no.2 which contains ground floor living, and bedroom windows. Critically, due to the topography of the area it would also be roughly 2.7m higher than the adjacent property, resulting in the principal elevation of a 2-storey dwelling extending over 10m above the ground floor level of the bungalow below.
5. Combined, I consider that the size, scale and elevated position of the scheme would give rise to an overbearing and dominating form of development. When also taking into account that the south-east facing elevation of the bungalow contains habitable room windows leading out onto the garden, the imposing nature of the scheme would cause material harm to the occupants' standard of living.

6. In reaching this view I appreciate that the two properties would be at an angle to one another, which would increase the degree of separation and minimise the visual impact of the proposal. The intervening track and existing boundary fence would also provide an additional buffer to no.2, which includes habitable room windows recessed behind a small veranda. Nonetheless, the first floor of the 2-storey scheme and its large pitched roof would still be clearly visible from the bungalow and parts of the rear garden, which would face towards the principal elevation of a new dwelling at a minimum distance of roughly 15.6m. Based on the evidence provided I am therefore not persuaded that these factors would be sufficient to mitigate the overbearing nature of the scheme, which, due to its size and elevated position would be harmful to the outlook from no.2.
7. Both parties have also referred to *Kirklees Unitary Development Plan* (UDP) Policy BE12 which sets out the minimum acceptable distances 'normally' required between new dwellings and adjacent properties. With over 12m from the habitable room windows of no.2 and the proposed first floor, non-habitable bathroom window the proposal accords with Policy BE12(ii). Nonetheless, this does not take into account the significant change in level. The policy also includes the caveat that such distances are only 'normally' acceptable. Thus, in this particular case exceeding the 12m minimum standard does not justify allowing the appeal given the harm that would be caused by its elevated position relative to the neighbouring bungalow.
8. The appellant's frustrations regarding the Council's process of determining the planning application are also noted, as is the fact that the scheme was initially recommended for approval by Officers. However, I am required to consider the proposal on its specific merits, having due regard to relevant planning policy and guidance and I have determined the appeal on this basis. Moreover, in terms of outlook the Planning Officer's report identified that there would be an impact on the occupants of no.2, and that this would be exacerbated by the change in level. Although this was considered acceptable 'on balance' by the Officer, it was not illogical for the Council to reach a different view, which has been substantiated through written representations at appeal.
9. I therefore conclude that by reason of its elevated siting the overall size, scale and height of the proposal would be harmful to the outlook from 2 Carrs Street, which in turn would prejudice the occupants' living conditions. Of the policies referred to by the Council Kirklees UDP Policy D2 is the most relevant, and by failing to ensure that the proposal does not prejudice residential amenity it directly conflicts with development plan policy. For the same reasons the proposal is also contrary to one of the Core Planning Principles of the National Planning Policy Framework ('the Framework') which seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.

#### *Privacy*

10. Following amendments to the design only rooflights and an obscure glazed bathroom window would be located on the front elevation of the appeal scheme above ground floor level. The retention of these features could also be secured through the use of appropriately worded planning conditions. As a result, the proposal would not give rise to any direct overlooking of the property below from first floor level, and would not cause a significant loss of privacy for the occupants of 2 Carrs Street.



11. At ground floor the proposed kitchen window would face the south-east elevation of the bungalow at a distance of less than 21m, contrary to the minimum acceptable distance normally required between habitable room windows in Kirklees UDP Policy BE12(i). However, the proposed 1.8m high wall at the front of the appeal scheme would restrict views of the bungalow below. Although some oblique glimpses past the wall would be possible, due to the change in level this would primarily be restricted to the eaves height and above. As a consequence, even if the fence along the south-east boundary of the bungalow was removed, the proposal would not give rise to any harmful overlooking of habitable room windows or parts of the rear garden.
12. Although objectors to the scheme have also raised concerns that the wall would make the kitchen dark with no outlook, it would form part of an open plan living/dining area with south-east and south-west facing windows, and double patio doors. The kitchen window would also be over 2m from the dry stone wall which would drop away in height to allow oblique views towards Morton Street. As a result, the standard of living accommodation for potential future occupants would be adequate, and the outlook from the kitchen window would not place undue pressure on the need to remove the screening in the future.
13. I therefore conclude that by reason of its design and the change in level the proposal would not give rise to any loss of privacy sufficient to cause material harm to the living conditions of the occupants of 2 Carrs Street. Consequently, there is no conflict with Kirklees UDP Policy BE12 which states that a distance less than 21m between habitable room windows will be acceptable if, by reason of permanent screening, changes in level, or innovative design no detriment would be caused to existing occupiers of adjacent premises. For the same reasons there is also no conflict with UDP Policy D2 which states that planning permission will be granted provided that development proposals do not prejudice residential amenity.

### **Other Matters**

14. In reaching my conclusions against the main issue I have taken into account evidence which suggests that there is currently less than a five-year supply of deliverable housing land available, and, also borne in mind paragraphs 47-49 of the Framework.
15. However, the single dwelling proposed would only make a limited contribution to addressing this undersupply. Based on the information provided I therefore consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the Framework taken as a whole. As a result, the scheme is not the sustainable development for which there is a presumption in favour.
16. Finally, it is also recognised that the Council has not raised any other concerns with the proposal, and I find no reasons to disagree. Nonetheless, this does not overcome the harm that has been identified to the living conditions of neighbouring residents.

**Conclusion**

17. Although the proposal would not result in a loss of privacy, it would be harmful to the outlook from no.2 Carrs Street.
18. For this reason, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*Matthew Birkinshaw*

INSPECTOR

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## Appeal Decision

Site visit made on 28 April 2015

by **Anne Jordan BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 May 2015

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**Appeal Ref: APP/Z4718/W/15/3006992**  
**Shax, 44 Chapel Hill, Huddersfield, HD1 3EB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Shakeel Mohammed against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2014/62/92859/W, dated 10 September 2014, was refused by notice dated 17 February 2015.
  - The development proposed is alterations to rear roof to form dormer and conversion of 1<sup>st</sup> floor to become self contained flat. Internal alterations to form staircases and new window and door openings.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the proposal on the living conditions of future occupiers of the proposed dwelling, with regard to the impact of noise, odour and air quality.

### Reasons

3. Shax is a hot food takeaway on a busy main road in the centre of Huddersfield. The property lies in a predominantly commercial area, and is adjoined on both sides by hot food takeaways, with a public house and a number of other takeaways and commercial uses lie within a short distance of the site. Chapel Hill is a main route into the town centre with two lanes of traffic in both directions. I am advised by the Council that it is heavily trafficked and this was evident at the time of my visit, with stationary traffic from the lights at the top of the hill. A small number of properties appear to have upper floors in residential use.
4. The proposal seeks to bring the upper floor of the property into use as a self contained flat. The physical changes to facilitate the use, are not a matter of dispute between the parties. Instead the Council has concerns in relation to the standard of accommodation that the dwelling would provide. These in part relate to the effect that traffic on the main road may have on living conditions as a result of noise and air quality.
5. I note that the Environmental Health Officer has advised that subject to appropriate survey work, mitigation measures to ameliorate the impact of noise and poor air quality would be an acceptable solution. In this regard,

appropriately worded conditions could secure measures to mitigate the worst impacts of traffic noise and pollution in this case, and would also be appropriate to secure measures to reduce the internal transmission of noise from the use below.

6. However, during my visit I noted that a large flue on the adjoining Al-Faisal Indian Takeaway was positioned on the rear of the building, within a very short distance of the proposed box dormer, which would contain windows to the stairwell and bedroom. In its position above the eaves it would discharge directly into the windows of the adjoining property. Furthermore, another flue, relating to the ground floor takeaway to the appeal property, was also positioned within a short distance of the proposed dormer.
7. Whilst the appellant could in theory control the discharge from his own flue, this would not be the case with the system on the adjoining property. Even if the system was operated to a high standard, and the windows were non-opening and acoustically glazed, the very close proximity of the adjoining flue to the property's only bedroom would leave future occupiers at risk from an intrusive level of noise, odour and vibration, the effect of which would be worsened by the late hours in which the takeaway would operate.
8. These factors lead me to the view that mitigation measures could not be assured of sufficiently mitigating the intrusive effects of the adjoining use and acceptable living conditions within could not therefore be secured. While it is likely that future occupiers of the dwelling would be aware of the presence of the flue and its likely effect, this would not lessen the harmful effect of the proposal on living conditions. I also take into account that the use would bring the upper floor of the property into use and would provide an additional residential dwelling. However, it is not in the public interest to provide dwellings which provide poor standards of amenity and these matters do not therefore outweigh my concerns in relation to living conditions.
9. I therefore conclude that the proposal would fail to comply with the requirements of policies EP4 and D2 of the *Kirklees Unitary Development Plan* which seek to take into the account the effects of noise on new residential development and to ensure that it does not prejudice residential amenity. This is consistent with guidance within the *National Planning Policy Framework* which seeks to ensure a good standard of amenity for all future occupiers of land or buildings.
10. Therefore, having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Anne Jordan*

INSPECTOR

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## Appeal Decision

Site visit made on 27 April 2015

by **Jonathan Hockley BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 May 2015

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**Appeal Ref: APP/Z4718/W/14/3001640**

**17 Blacker Road, Huddersfield HD1 5HU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Sirwan Mustafa against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2014/62/93152/W, dated 30 September 2014, was refused by notice dated 20 November 2014.
  - The development proposed is the change of use from A1 to A5 and erection of ventilation fan to rear all in conservation area.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the change of use from A1 to A5 and erection of ventilation fan to rear all in conservation area at 17 Blacker Road, Huddersfield HD1 5HU in accordance with the terms of the application, Ref 2014/62/93152/W, dated 30 September 2014, subject to the following condition:
  - 1) Within 3 months of the date of this decision, a scheme for the installation of equipment to control the emission of fumes, smell, and noise from the premises shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include full details of any equipment already installed at the premises. The scheme as approved shall be implemented within 1 month of written approval. All equipment installed as part of the scheme shall thereafter be operated and maintained in accordance with the manufacturer's instructions at all times.

### Main Issues

2. I consider the main issues in this case to be as follows:
  - The effect of the proposal on the vitality and viability of the Birkby Local Centre.
  - The effect of the proposal on the living conditions of nearby residents, with particular regard to noise and odours.

### Reasons

#### *Vitality and viability*

3. The Birkby local centre is based around the junction of Blacker Road and St Johns Road/Wheathouse Road. There is a particular concentration of retail uses located along the south side of Blacker Road to the north east of this

junction, where the appeal site is located. Blacker Road in this area is only open to vehicle traffic in one direction, and is a busy, bustling street. At the time of my site visit the proposal had been implemented and the A5 hot food takeaway (HFT) was in use.

4. Policy S14 of the Kirklees Unitary Development Plan, 2007 (the UDP), states that proposals for HFTs, if they are located within a local centre, will be considered having regard to their effect on the retail mix or balance of the centre. The Council state that 11, or 18.3% of the shops in the Birkby Local Centre are hot food takeaways, and that the unit would increase the number to 12, or 20%. The Council's Policy Officer states that this would increase the balance of service uses in the centre to a level which "may" be detrimental to the retail mix and balance.
5. At my site visit I noted that HFTs were concentrated in the area of Blacker Road which was only open to 1 way traffic; between the junction of Blacker Road and St Johns Road/Wheathouse Road and the split where northbound traffic is diverted to use Filbert Street I noted 9 shop units, none of which were in use as HFTs; after the introduction of one way traffic control there are 19 units, of which 6 were in use as HFTs (including the appeal site). Nevertheless, I noted that there was still a reasonable mix of uses within the street and the wider area. Whilst the level of HFTs in the direct area was fairly high, this section of the centre was noticeably more busy than the surrounding area, and it was clear from my visit that during the middle of the day that this area of the local centre was bustling. I do not consider therefore that the change of use has adversely affected the vitality and viability of the centre.
6. The Council note that Policy S11 of the UDP is a useful guide when considering retail mix and balance. This policy states that service uses will normally be permitted where, amongst other criteria, it would result in not more than 33% of the frontage being in non-shopping use. The Council consider that, prior to the use being implemented, 35% of the units were in service use, and the unit would exacerbate this further. However, this policy only applies to designated primary shopping frontages. The appeal site does not lie within such a frontage and the policy does not therefore apply. Notwithstanding this, the unit has led to 37% of the units within the local centre being in non-service uses. This is not significantly over the 33% guide and seems reasonable for a non-primary shopping frontage area, where shopping uses may be harder to attract.
7. I therefore conclude that the change of use has not led to an adverse effect on the vitality and viability of the Birkby Local Centre. In this respect the proposal complies with Policy S14 of the UDP. The proposal also complies with the National Planning Policy Framework, which states that planning decisions should promote strong neighbourhood centres and active street frontages.

#### *Living conditions*

8. The ground floor uses of the south side of Blacker Road are generally retail uses. It is not clear from the evidence or the plans provided if the upper floors are residential in nature or are uses ancillary to the ground floor. Filbert Street runs behind the rear of the appeal site. This street has a distinctly commercial feel, with a large wall of a industrial/commercial building running along its southern side, and the rear of the Blacker Road units on the northern side. The

rear yards of these units are commercial in nature, housing waste storage areas, bounded with dwarf walls and high metal railings.

9. The unit has a large stainless steel ventilation flue located on its rear elevation, located directly adjacent to a flue used for the adjacent unit. Whilst the unit has led to a run of 3 HFTs located in a row, there is no evidence that this has led to issues locally with noise and odour generation. Blacker Road is a busy street, where noise from traffic may be expected well into the evenings and it is reasonable to assume that any local residents may be inured to a certain degree against some local noise. The Council's report states that noise and odours from the ventilation system could be controlled by condition, and although the flue is already in place I see no reason why this condition could not be modified and implemented retrospectively to ensure that the equipment installed meets the necessary standards and safeguards the living conditions of any local residents.
10. I therefore conclude that the proposal, with the imposition of a suitable condition, would not have an adverse effect on the living conditions of nearby residents, with particular regard to noise and odours. The proposal complies with Policy S14 of the UDP.

#### *Other Matters*

11. The unit lies within the Birkby Conservation Area. The BCA covers a large area, and in the area of the appeal site is characterised by a mix of commercial and residential uses. The change of use has brought into use a unit on the Blacker Road frontage and has effected a visual change to the rear of the building, in the shape of the installed ventilation flue. However, this flue is seen in the context of the commercial nature of the rear of the properties on Filbert Street and is sited in between 2 existing flues. I therefore agree with the Council that the flue has a neutral effect on the character or appearance of the BCA. I have had regard to the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. In this respect I am satisfied that the change of use and ventilation flue would preserve these interests.
12. A local resident raises concerns over local highways conditions. As mentioned above, Blacker Road is only open to motorised traffic heading in a south bound direction. Whilst the road is busy, parking bays are located down both sides of the street and the site is located in a sustainable area with good access to public transport. I do not consider that the use of the site for a HFT would lead to adverse effects on the local highway. I also note in this respect that the Council's Highways Officer acknowledges existing issues with traffic and parking problems in the area but considers that the unit would not have a substantial effect on this existing situation.

#### **Conditions**

13. The Council have recommended 4 conditions in the event of an approval, relating to implementation, compliance with plans, details of the ventilation system, and of any external lighting. Given the fact that the unit is already in place and operating, conditions relating to compliance with plans and implementation are not necessary.

14. As stated above, I agree with the condition requiring details of the ventilation system to be agreed, in the interests of the living conditions of any nearby residents. I have, however, altered this condition to take account of the fact that the unit is in operation. I do not consider that the condition requiring details of stray light and glare is necessary or reasonable in such a busy neighbourhood centre.
15. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

*Jon Hockley*

INSPECTOR



**KIRKLEES COUNCIL**

**PLANNING SERVICE**

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

**11-Jun-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: 2014/93192.....	9
Type of application: 60 - OUTLINE APPLICATION	
Proposal: Outline application for erection of 2 semi detached dwellings with off road parking	
Location: Land adj Sude Hill Terrace, New Mill, Holmfirth, HD9 7BL	
Ward: Holme Valley South Ward	
Applicant: Holme Valley Land Charity	
Agent: Nicholas Charlton, FCS Consultants	
Target Date: 24-Mar-2015	
Recommendation: FC - CONDITIONAL FULL PERMISSION	
Application No: 2015/90452.....	23
Type of application: 60m - OUTLINE APPLICATION	
Proposal: Outline application for erection of 22 dwellings and garages, and formation of associated car parking, access and landscaping	
Location: Land Adjacent to Spotted Cow, New Hey Road, Salendine Nook, Huddersfield, HD3 4GP	
Ward: Lindley Ward	
Applicant: G Jolley	
Agent: Sarah Wills, DLP Planning Ltd	
Target Date: 19-May-2015	
Recommendation: RF1 - REFUSAL	
Application No: 2015/90374.....	34
Type of application: 62 - FULL APPLICATION	
Proposal: Erection of 5 dwellings (within a Conservation Area)	
Location: Hoyle Beck Close, Linthwaite, Huddersfield, HD7 5RB	
Ward: Colne Valley Ward	
Applicant: Michelle Gaffaney, Greenstone Design Ltd	
Agent:	
Target Date: 15-Jun-2015	
Recommendation: ASD-CONDITIONAL FULL APPROVAL SUBJECT TO THE DELEGATION OF AUTHORITY TO OFFICERS	
Application No: 2014/93961.....	48
Type of application: 62 - FULL APPLICATION	
Proposal: Erection of boundary fence to the existing Lindley Infant School and Lindley Junior School	
Location: Lindley CE VA Infant School, East Street, Lindley, Huddersfield, HD3 3NE	
Ward: Lindley Ward	
Applicant: Nicola Beaumont	
Agent: Simon Taylor, Brewster Bye Architects	
Target Date: 16-Feb-2015	
Recommendation: FC - CONDITIONAL FULL PERMISSION	

Application No: 2014/93217 ..... 58  
Type of application: 62m - FULL APPLICATION  
Proposal: Erection of extension and alterations to existing industrial unit  
Location: Oakes Business Park Ltd, New Street, Slaithwaite, Huddersfield,  
HD7 5BB  
Ward: Colne Valley Ward  
Applicant: Alan Davies  
Agent: Alan Davies, Northern Design Partnership  
Target Date: 18-Mar-2015  
Recommendation: FC - CONDITIONAL FULL PERMISSION



Application No: 2014/93192

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

Proposal: *Outline application for erection of 2 semi detached dwellings with off road parking*

Location: *Land adj Sude Hill Terrace, New Mill, Holmfirth, HD9 7BL*

Grid Ref: 416642.0 408651.0

Ward: *Holme Valley South Ward*

Applicant: *Holme Valley Land Charity*

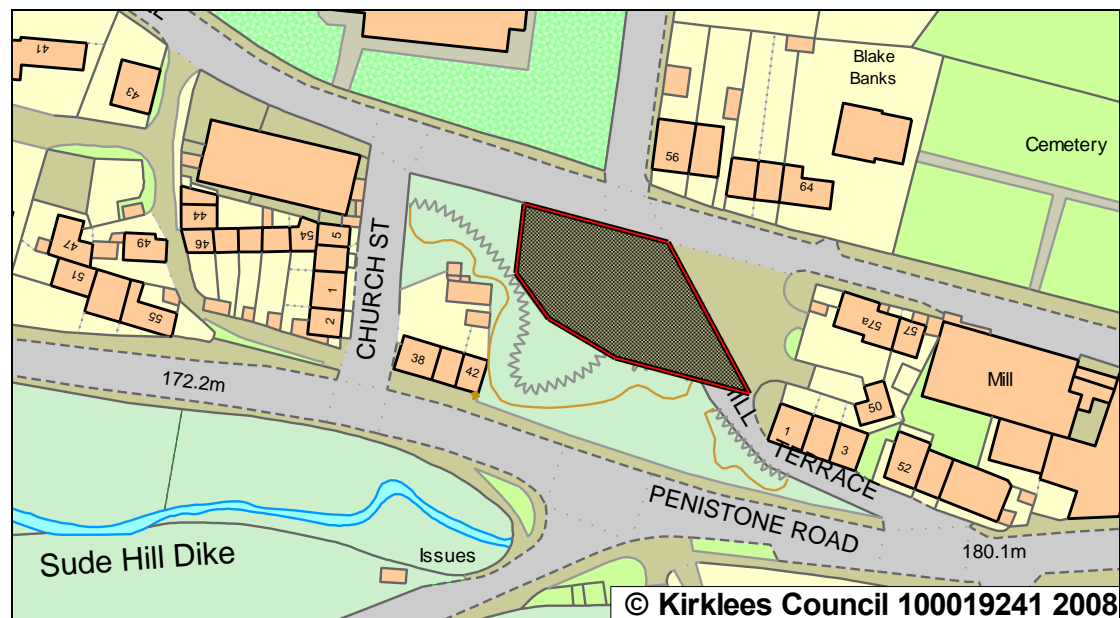
Agent: *Nicholas Charlton, FCS Consultants*

Target Date: *24-Mar-2015*

Recommendation: **FC - CONDITIONAL FULL PERMISSION**

Link to [guidance notes for public speaking at planning committee](#) including how to pre-register your intention to speak.

## LOCATION PLAN



Map not to scale – for identification purposes only

## **1. SUMMARY OF APPLICATION**

**RECOMMENDATION:** Conditional Full Permission

The application site, used informal for parking, represents a previously developed piece of land. The principle of erecting two new dwellings at the application site is considered acceptable, and would provide additional dwellings for the local area. The site is considered to be of a sufficient size to accommodate the dwellings with an acceptable form of access. Local ecology could be sufficiently protected by the development and it is considered that the proposal would have an acceptable impact on local amenity.

## **2. INFORMATION**

The application is brought before the Huddersfield Planning Sub Committee due to the level of representations received which totals 174 letters.

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

### *Site*

The application site forms a piece of land located off Sude Hill in New Mill. Sude Hill Terrace runs through the middle of the site, and connects and Sude Hill with Penistone Road; Penistone Road is located at a considerably lower level to the application site. The site is currently used as a parking area accessed off Sude Hill and Sude Hill Terrace. It is surfaced with hard core. A number of trees with understory landscape is located to the south of the site, and a bench is located adjacent Sude Hill Terrace. The site of the proposed dwellings is located to the western half of the application site.

Surrounding the application site to the west is the Grade II listed Christ Church and its associated church yard, and the semi detached dwellings of no.s56 and 58 Sude Hill. To the south the land drops away steeply to a former quarry along Penistone Road. To the east are no.s 57 and 57a Sude Hill, and Sude Hill Mill further to the east. To the south east are no.s 1-3 Sude Hill Terrace. To the west adjacent Sude Hill is a vacant piece of land, at a lower level on Penistone Road are the dwellings of no.s 38-42.

### *Proposal*

The application seeks outline planning permission for the erection of a pair of semi-detached dwellings, and seeks formal approval of access and layout.

The proposed dwellings would be located adjacent Sude Hill, and each would be 8.5 metres deep with a maximum width of 9.4 metres, amenity space would be located to the rear, with a small front garden also provided. Access to the site would be via Sude Hill Terrace, with parking and turning for the dwellings located to the east with 4 spaces provided. The development also includes the provision of a 1.8 metre wide footway along Sude Hill, and a 1.8 metre wide footway along Sude Hill Terrace. An existing piece of land to the east described as 'existing scrub unofficial car parking' would remain.

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

88/06862 - Outline application for erection of vicarage - Approved

*Site to the south adjacent 42 Penistone Road*

2014/93203 - Outline application for erection of no.1 detached dwelling and associated works - Approved

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

The site is unallocated on the Kirklees UDP Proposal Plan.

##### Kirklees Unitary Development Plan

- **BE1** – Design principles
- **BE2** – Quality of design
- **BE12** - Space about buildings
- **T10** - Highway safety
- **T19** – Parking Standards
- **D2** – Development on Land without Notation on the UDP Proposals Map
- **G6** – Contaminated Land

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

- **NPPF6:** Delivering a wide choice of high quality homes
- **NPPF7:** Requiring good design
- **NPPF8:** Promoting healthy communities
- **NPPF11:** Conserving and enhancing the natural environment
- **NPPF12 :** Conserving and enhancing the historic 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 Environment Unit** – no objections subject to conditions
- **KC Environmental Services** – no objections
- **KC Highways**– no objections subject to conditions
- **KC Conservation and Design** – no objections

##### **Public/Members Response**

## **7. REPRESENTATIONS**

Initial publicity on the application expired on: 25 November 2014.

A second round of publicity ended on 2 March 2015.

A total of approximately 174 letters of representation were received, some people having written in more than once. One letter of objection was replicated approximately 100 times and signed by individual residents. Jason McCartney MP has also raised objections to the proposal. Cllr Nigel Patrick also opposes the proposal, and his comments are set out in full below.

The main planning concerns raised by residents are summarised as follows:

- **Impact on highway safety** – The road is tight and congested during church services and auctions. The loss of parking facilities would increase congestion and lower highway safety.
- **Poor emergency services access** – As existing the congestion on Sude Hill makes it difficult for emergency services to access. This will be made worse as a consequence of the proposals.
- **Impact on the setting of a listed building** – Christ Church is a listed building and its setting should be protected. The proposed development will have an adverse impact on its setting by reducing visual sight lines, affecting the way the church is viewed and its historic integrity.
- **Loss of parking** – The Street is already busy with residents' off-street parking. The car park provides informal parking space which is utilised by residents. The car park is used by users of the showroom and church goers. Objectors are concerned that parking will become even more difficult during these busy times. In particular, problems for disabled and elderly residents who struggle to get from their car to house.
- **Loss of amenity space** – The site is used for community activities such as bonfires on Bonfire Night and Village Fetes.
- **Disputed history of land** – Land contamination surveys should be carried out because the site was once a landfill site for mill and could have toxins.
- **Disputed ownership of the site** – It is unsure who owns the site. Is it common land/within ownership of Holme Valley Land?
- **Overlooking onto neighbouring properties** – There will be an element of overlooking into neighbouring properties no's 38, 40 and 42 Penistone Road.
- **Ecological Impact** – The site is a wildlife corridor for bats and birds going toward the neighbouring woodland. The loss of this site would be detrimental to these species.
- **Impact on preparation of Neighbourhood Development Plan** – The planning application should be withdrawn in order for Holme Valley Parish Council to include the land within their Neighbourhood Development plan which is currently in application.

- **Alternative use for land** – Local residents have entered into discussions with Holme Valley Land Charity and have proposed to retain the site for residential parking and create a community garden. Landscaping proposals have been submitted to Holme Valley Land for their consideration.

**Ward Member Cllr Nigel Patrick has commented as follows:**

*I oppose this application. The land in question is owned by the Parish Council and managed by their Land Charity. I have always known it as a car park, a community car park, used by people attending the church and the auction rooms. If this car park is lost to housing then it will create on road parking problems and safety issues.*

*I would appeal to the Parish Council and ask them to withdraw the application for this site and retain the land as a car park for the benefit of the community.*

- **Holme Valley Parish Council Comments** - Declared a disclosable pecuniary interest in the development as trustees of the applicant, the Holme Valley Land Charity.

## **8. ASSESSMENT**

The site is without notation on the UDP Proposals Map and Policy D2 (development of land 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.

### **Principle**

The application site is considered to be of an appropriate size to accommodate two new dwellings. The application site is considered to form a previously developed (brownfield) piece of land, as its current use is as an unofficial/informal car park, with the majority of the site covered in hard core. It is recognised however that most southerly part of the site, bordering the former quarry below on Penistone Road, is grassed and there is some existing trees/scrub and a bench which is used by the public.

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’.

Consequently an assessment needs to be made as to whether the development is in keeping with the character of the local area and the impact this has on amenity. A detailed assessment of all key elements of the proposal will be carried out below against relevant planning policy.

The first issue is the principle of the loss of a 'community facility'. It is acknowledged that the proposal would lead to the loss of part of an unofficial/informal parking area used by the members of the public which allows for local residents and visitors to the area to park off street. Anecdotal objections to the application also highlight other uses the site has been used for in the past. The development of the site as such would result in the loss of a space which has been used for a number of community uses in the past.

Given the informal/unofficial nature of the parking area and other uses however, it is not considered that significant weight can be given to its ongoing provision as a parking area/other uses, and these uses are currently allowed on the site at the discretion of the land owner. Furthermore the site has no formal designation as a community facility or asset. The application does however propose to retain an area of land to the east of the site for off street parking, which could be controlled by condition, and it is considered that there is available on street parking along Sude Hill which could accommodate displaced vehicles. Taking all this into account it is considered the principle of housing on the majority of the site is acceptable.

### **Design:**

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 application site is also located opposite the Grade II listed Christ Church, and the application has been assessed by Council's Conservation Officer, and in relation to advice set out in Chapter 12 of the NPPF.

The development of the application site for 2 dwellings is considered to represent an efficient use of this brownfield land, in a sustainable location within New Mill. The layout proposed would ensure the provision of a small

front garden as well as garden space to the rear. It is anticipated that the principal elevation of the dwellings would face Sude Hill, and this would provide an active frontage to the street scene. In addition a footway would be provided adjacent Sude Hill and Sude Hill Terrace to the benefit of pedestrians.

The Conservation Officer raises no objection to the proposal with regard to its impact on the setting of the Grade II listed Gothic Commissioners Church. Whilst scale and appearance are reserved from the outline application it is considered that an appropriate scheme could be devised which is in keeping with the character and appearance of the locality. The application is therefore considered to comply with the requirements of Policies D2, BE1 and BE2 of the UDP and Policies in the NPPF.

### **Highways**

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.

The Highway Officer has stated that each of the proposed dwellings has two off-street parking spaces and the proposed driveway is sufficient in size to allow internal vehicle turning. The application also includes the provision of localised widening of the private Sude Hill Terrace within the ownership of the applicants and new 1.8 metre wide footways along Sude Hill in front of the dwellings, and Sude Hill Terrace. The provision of footways would improve pedestrian facilities in the local area, and ensure that acceptable sight lines are retained. The application would therefore comply with Policies T10 and T19 of the UDP.

### **Amenity**

The impact of the proposal on amenity needs to be considered in relation to residential amenity, and any potential for contamination of the site.

#### *Residential Amenity*

The impact of the development on residential amenity needs to be considered in relation to Policies D2 and BE12 of the UDP.

The application site is located adjacent to Sude Hill, the closest properties to the application site are no.s 56 and 58 Sude Hill to the north east. No.56 is the closest whose front elevation is located 16 metres from the eastern edge of one of the proposed dwellings, the relationship between the properties is however not direct but rather at an oblique angle. While final design details have not been provided, a separation distance of 16 metres would meet the 12 metre requirement between habitable and non-habitable room windows, and it is important to note that the properties do not have a direct relationship. It is therefore considered that the relationship between no.s 56 and 58 is acceptable.

The dwelling granted outline permission adjacent Penistone Road under application 2014/9320, and no.s 38-42 Penistone Road are located at such a significantly lower level than the application site that overlooking is not likely to be possible from the proposed dwellings. This could be considered further when details of appearance and scale are submitted. Other properties along Sude Hill are located beyond the 21 metres advised in Policy BE12 and the relationship to these properties is considered to be acceptable.

In terms of overshadowing and overbearing impact, it is not considered that the proposed dwellings would be cause a detrimental impact to adjacent properties given the separation distances achieved but again this can be assessed in further detail when plans of scale and appearance are submitted.

It is therefore considered that the proposal would have an acceptable impact on the amenity of future and existing occupiers in terms of overlooking, overbearing and overshadowing. It is not considered that the application site would be subject to adverse levels of noise, and no further information on this matter is considered necessary.

#### *Contamination*

The development has been assessed by Environmental Services in respect to previous contamination of the site and in relation to Policy G6 of the UDP. The applicant has also submitted a desktop study which has been assessed. The Environmental Services Officer accepts the findings of the submitted report and advises that any unexpected contamination requires reporting, and that details of any soils to be imported are provided.

#### **Ecology**

The ecology impact of the development has been assessed by the Council's Ecologist and in relation to Policies in Chapter 11 of the NPPF; an ecological bat report has also been submitted by the applicant which has been assessed.

The Council's Ecologist has stated that the site is of limited ecological value, and there are no statutory constraints to the development. A note is however recommended regarding the removal of vegetation outside of the bird breeding season, and the provision of mitigation and enhancement measures to improve local biodiversity. These measures are included in the recommendation as a note and a condition.

It is also advised that a landscaping scheme should be provided to add further ecological enhancement to the site. However given that landscaping is reserved from consideration at outline stage, such information will come forward for assessment at reserved matters stage.

Subject to the condition and note set out above, the proposal would comply with the requirements of Chapter 11 of the NPPF.



## Representations:

A total of approximately 174 letters of representation were received, some people having written in more than once. One letter of objection was replicated approximately 100 times and signed by individual residents. Cllr Nigel Patrick also opposes the proposal, and his comments are set out in full below.

The planning related objections raised are summarised as follows with a response to each one in turn:

- **Impact on highway safety** – The local roads in particular Sude Hill Terrace is tight and congested during church services and auctions. The loss of parking facilities would increase congestion and lower highway safety.

**Response:** The application has been assessed by Highway Services as set out above, and access arrangements are considered to be acceptable. The development would provide sufficient off street parking and internal turning to serve the development.

- **Poor emergency services access** – As existing the congestion on Sude Hill makes it difficult for emergency services to access. This will be made worse as a consequence of the proposals.

**Response:** Access for emergency service vehicles is considered to be acceptable, the proposed development would not alter existing access arrangements.

- **Impact on the setting of a listed building** – Christ Church is a listed building and its setting should be protected. The proposed development will have an adverse impact on its setting by reducing visual sight lines, affecting the way the church is viewed and its historic integrity.

**Response:** The application has been assessed by the Council's Conservation Officer who raises no objections, and does not consider that the setting of the listed Christ Church is adversely affected by the development. The impact of any subsequent 'reserved matters' applications for scale and appearance of the development would consider this matter in further detail.

- **Loss of parking** – The Street is already busy with residents' off-street parking. The car park provides informal parking space which is utilised by residents. The car park is used by users of the showroom and church goers. Objectors are concerned that parking will become even more difficult during these busy times. In particular, problems for disabled and elderly residents who struggle to get from their car to house.

**Response:** As set out above, the use of the application site as an informal/unofficial car park is at the discretion of the land owner, and it is considered that little weight can be attached to the function it provides in off

street parking. Notwithstanding this it should also be noted that the application proposes to retain an area of land to the east of the site for off street parking, and it is considered that there is available on street parking along Sude Hill which could accommodate any displaced vehicles. To ensure the provision of the additional parking area set out on the submitted plans, a condition will seek this area to be retained.

- **Loss of amenity space** – The site is used for community activities such as bonfires on Bonfire Night and Village Fetes.

**Response:** while it is acknowledged that the application site may have been used by local residents in the past for certain community activities this has been at the discretion of the land owner, and it is not considered that the loss of this land outweighs the benefits of the scheme in providing housing in a sustainable location.

- **Disputed history of land** – Land contamination surveys should be carried out because the site was once a landfill site for mill and could have toxins.

**Response:** The applicant has carried out a desktop phase 1 contaminated land survey which has been assessed by the Council's Environmental Services team, and the findings have been accepted.

- **Disputed ownership of the site** – It is unsure who owns the site. Is it an issue which has been previously highlighted with other sites in the Holme Valley which the Holme Valley Land Charity own.

**Response:** The applicant has signed certificate A to state that they own the site, and no information to the contrary has been provided by objectors on this matter to detail that another party owns the land. The application is therefore valid and a decision on the application can be made.

- **Overlooking onto neighbouring properties** – There will be an element of overlooking into neighbouring properties no's 38, 40 and 42 Penistone Road.

**Response:** No.s 38,40 and 42 are located at a significantly lower level than the application site, and it is therefore not considered possible for detrimental overlooking to occur. However this would be considered in further detail upon submission of 'reserved matters'.

- **Ecological Impact** – The site is a wildlife corridor for bats and birds going toward the neighbouring woodland. The loss of this site would be detrimental to these species.

**Response:** The application has been assessed by the Councils Ecologist who raises no objections to the proposal. In addition the proposal would achieve ecological enhancements by the provision of new bird and bat opportunities.

- **Impact on preparation of Neighbourhood Development Plan** – The planning application should be withdrawn in order for Holme Valley Parish Council to include the land within their Neighbourhood Development plan which is currently in application.

**Response:** Whilst the Holme Valley Parish Council area has been approved as a neighbourhood area, there is no neighbourhood development plan in place. The current application has to be considered on its own individual merits taking into account the relevant planning policies at the date of decision which are the Kirklees UDP and the NPPF.

- **Alternative use for land** – Local residents have entered into discussions with Holme Valley Land Charity and have proposed to retain the site for residential parking and create a community garden. Landscaping proposals have been submitted to Holme Valley Land Charity for their consideration.

**Response:** The alternative scheme proposed for the site, whilst providing an alternative use can be given little weight in the consideration of the current planning application. It would be for the land owner to determine whether they are willing to allow the alternative scheme to progress outside the scope of this application.

**Ward Member Cllr Nigel Patrick has commented as follows:**

*I oppose this application. The land in question is owned by the Parish Council and managed by their Land Charity. I have always known it as a car park, a community car park, used by people attending the church and the auction rooms. If this car park is lost to housing then it will create on road parking problems and safety issues.*

*I would appeal to the Parish Council and ask them to withdraw the application for this site and retain the land as a car park for the benefit of the community.*

**Response:** The above comments are noted however as set out above the loss of the parking area can only be given limited weight as its use has been at the discretion of the land owner. As highlighted earlier in the report the informal use of the site for community purposes has been taken into account and weighed against the provision of housing on the site.

**Conclusion:**

In conclusion the principle of erecting two new dwellings at the application site is considered to be acceptable providing additional houses for the local area. The site is considered to be of a sufficient size to accommodate the dwellings, and could provide an acceptable form of access. Local ecology could be sufficiently protected by the development and it is considered that the proposal would have an acceptable impact on local amenity.

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**

Approval subject to the following conditions:

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 commenced.
2. Plans and particulars of the reserved matters referred to in Condition 1 above, relating to 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. 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.
6. The triangular piece of land located to the east of the application and as indicated as '*Existing scrub unofficial car parking to remain*' on the approved plan Dwg. No. HLC Sh 01 Rev D shall remain free of obstruction for use as a car park to serve the local community and surrounding uses. Before the dwellings hereby approved are first brought into use a scheme shall be submitted to and approved in writing by the local planning authority demonstrating how this car parking area is to be managed. Thereafter the car parking area shall be managed in accordance with the scheme so approved.
7. Prior to the development being brought into use, the approved vehicle parking areas shall be surfaced and drained 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 superseded; and thereafter retained.
8. Notwithstanding the details shown on the approved plan, development shall not commence until a scheme detailing the provision of a 1.8m wide footway to the Sude Hill and Sude Hill Terrace frontages of the development site together with construction specification, surfacing, drainage and kerbing including the relocation of existing street lighting column no. 9 and associated highway works has been submitted and approved in writing by the Local

Planning Authority. The development shall not be brought into use until the approved scheme has been implemented and retained thereafter.

9. 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. Unless otherwise approved in writing with the Local Planning Authority, 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 with 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.

10. If any soils are to be imported onto site as part of the development, a validation report will be submitted to and approved in writing before any soil is imported into the site to prove that the soils used are suitable for use in residential gardens. Only the approved soil shall then be imported into the site and used.

11. The following ecological enhancements shall be provided within the development hereby approved, and shall be retained thereafter.

- The installation of a multi-chamber swift nest box integral to the new build.
- The installation of 2 bat tubes (Schweglar type 1FR or similar) fitted integral to suitable elevations of the new build.

#### **NOTE - Ecology**

Vegetation clearance 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.

#### **NOTE – Highways Works**

Link to Communities and Local Government; and Environment Agency's '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 – Highways Works**

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 plan(s):-

<b>Plan Type</b>	<b>Plan Reference</b>	<b>Revision</b>	<b>Date Received</b>
Location Plan	-	-	26/1/2015
Existing Site Survey	Dwg. No. HLC SH 03.	-	26/1/2015
Proposed Site Layout Plan	Dwg. No. HLC SH 01 Rev D	-	26/1/2015
Design and Access Statement	-	-	23/10/2014
Supporting Statement	-	-	26/1/2015
Ecological Assessment	BE-R-0880-01 November 2010	-	23/10/2014
Phase 1 Contaminated Land Report	NG7585/SUD/DJA 18 <sup>th</sup> November 2010	-	23/10/2014
Coal Mining Search Report	228348	-	23/10/2014

**Application No: 2015/90452**

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

**Proposal: Outline application for erection of 22 dwellings and garages, and formation of associated car parking, access and landscaping**

**Location: Land Adjacent to Spotted Cow, New Hey Road, Salendine Nook, Huddersfield, HD3 4GP**

**Grid Ref: 410664.0 417791.0**

**Ward: Lindley Ward**

**Applicant: G Jolley**

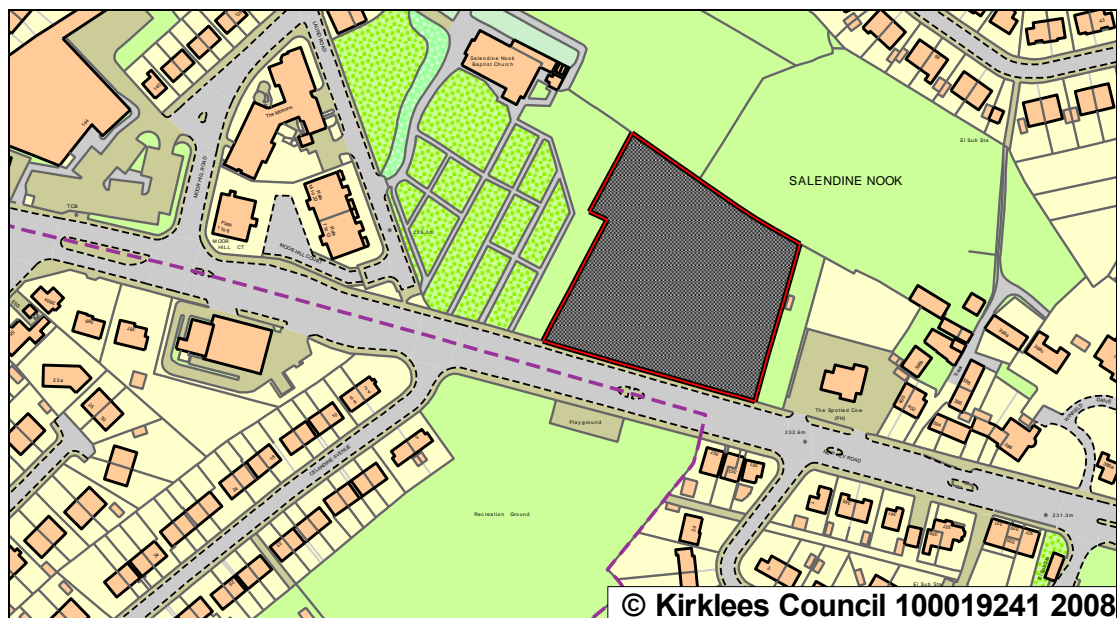
**Agent: Sarah Wills, DLP Planning Ltd**

**Target Date: 19-May-2015**

**Recommendation: RF1 - REFUSAL**

Link to [guidance notes for public speaking at planning committee](#) including how to pre-register your intention to speak.

## LOCATION PLAN



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

## SUMMARY OF APPLICATION.

Scale of Development	0.61ha	22 dwellings
No. Jobs Created or Retained	n/a	
<b>Policy</b>		
UDP allocation	Housing allocation (H8.60)	
Independent Viability Required	N/A	
<b>Representation/Consultation</b>		
Individual Support (No.)	0	
Individual objections	1	
Petition	n/a	
Ward Member Interest	n/a	
Statutory Consultee Objections	none	
<b>Contributions</b>		
• <i>Affordable Housing</i>	n/a	
• <i>Education</i>	n/a	
• <i>Public Open Space</i>	n/a	
• <i>Other</i>	n/a	
<b>Other Issues</b>		
Any Council Interest?		
Planning Pre-application advice?	Yes	
Pre-App Consultation Undertaken?	Yes	Letters sent to 230 neighbouring addresses
<b>Comment on Application</b>	The principle of housing on this site, which is a housing allocation on the UDP, is acceptable. However, there are specific issues related to the layout which lead to the application being recommended for refusal.	

## RECOMMENDATION: REFUSE OUTLINE PLANNING PERMISSION

### 2. INFORMATION

This application has been brought to Committee as it is a site in excess of 0.5ha in area.

### 3. PROPOSAL/SITE DESCRIPTION

#### Site

The site comprises an area of 0.61ha located on the northern side of New Hey Road, Salendine Nook. The site is fairly level with substantial frontage onto New Hey Road, there is a substantial area of hard standing towards the centre of the site (last use as tennis courts), the surrounding area is grassed and there are a significant number of mature trees to the perimeter of the site which are protected by a Tree Preservation Order. As such this is regarded as a green field site.



To the east of the site is a vacant public house (the Spotted Cow), and to the west is Salendine Nook Baptist Church and graveyard (the Church is a Grade 2 listed building). To the north of the site is a hillside between the application site and the rear of dwellings on Deercroft Crescent. This section of land is allocated as Provision Open Land.

The application site is allocated for housing on the Kirklees Unitary Development Plan. (H8.60)

### **Proposal**

Outline permission is sought for the erection of 22 no dwellings. Access and layout are applied for with scale, appearance and landscaping being reserved for subsequent consideration. The access is taken off New Hey Road and the layout is in the form of cul-de-sac, with the properties nearest New Hey Road facing onto the road. There are a number of communal parking areas proposed within the scheme.

The layout proposes a mix of detached, semi detached and terraced properties.

## **4. BACKGROUND AND HISTORY**

2014/92408 Outline application for residential - Withdrawn

## **5. PLANNING POLICY**

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

Site allocated for housing (H8.60).

H1 Housing needs of the district.

H10 – Affordable housing

H18 – Provision of open space

T10 – Highway safety

T19 – Parking standards

G6 – Land contamination

NE9 – Retention of mature trees

BE1 – Design principles

BE2 – Quality of design

BE11 – use of stone

BE23 – Crime prevention.

EP4 – Noise sensitive development

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

Part 4 Promoting sustainable transport.

Part 6 Delivering a wide choice of high quality homes

Part 7 Requiring good design

Part 8 Promoting healthy communities.

Part 11 Conserving and enhancing the natural environment

Part 12 Conserving and enhancing the historic environment.

### **Other guidelines:**

Supplementary Planning Document 2 “Affordable Housing”.

## **6. CONSULTATIONS**

**K C Highways** - The access arrangements into the site off New Hey Road are acceptable. In terms of the layout the proposal is generally acceptable, apart from the parking arrangements for 3 of the plots 18,19 and 20. (these matters do not amount to a reason for refusal, and could be resolved in a Reserved Matters submission) .

**KC Environmental Services** - Recommend conditions regarding decontamination/remediation, noise attenuation and ventilation in the event of approval.

**KC Trees** - The site includes a substantial number of mature /protected trees, that afford significant visual amenity for the site and the surrounding area. The submitted trees survey is insufficient to enable a proper assessment of the scheme and its effect on the trees to be undertaken. Based upon the submitted layout the proposal would result in considerable harm and loss to a larger number of the protected trees, especially on the northern boundary.

**K C Environment Unit** - The Ecology Survey requires clarification regarding the removal/ retention of an Ash Tree which has bat roost potential. The applicants indicate that this is to be retained. No measures for compensation/ enhancement are included within the scheme.

**KC Conservation and Design** – The layout appears to make efficient use of the site, and the access is in the logical location. The land is in close proximity to the Grade 2 listed chapel to the NW and as such could be seen as being within its setting; However it is not considered that a residential scheme per se would be harmful to that setting  
Careful attention should be paid to the boundary treatments, landscaping and retention of trees.

**KC Strategic Housing**- the site is a Greenfield site and in accordance with SPD 2 and Policy H10 affordable housing should be provided at 30% of gross floor area. There is a demonstrable need for affordable housing in this area.

**KC Parks and Recreation.** Given the size of the site Policy H18 is applicable. In this case a contribution towards improvements of existing facilities in the area would be acceptable.

**Lead Local Flood Authority.** Do not object to the principle of development, however as Layout is applied for additional information would be required to reveal the exact route of an enclosed ordinary watercourse adjacent to the site. Object to the application in the absence of this further information.

**Yorkshire Water** - Recommend conditions in the event of an approval. Advise that the developer contact the relevant authority with a view to establishing a suitable watercourse for the disposal of surface water.

**Police Architectural Liaison officer** - Whilst the scheme is outline, layout is applied for. There are a number of concerns regarding the layout..

As such there are considerable concerns regarding this layout set against UDP policy BE23.

## **7. REPRESENTATIONS**

This application was publicised by site notices, press notice and neighbour letters. The period of publicity ended 3<sup>rd</sup> April 2015.

One letter of representation has been received the making points of concern being:

1. The site is not suitable for housing, and will result in a further loss of valuable green space in the area.

*Response: The site is allocated for housing in the Unitary Development Plan.*

2. There are serious concerns regarding the traffic in this location, on the busy New Hey Road opposite a school, and its level crossings. Introducing the traffic from an additional residential scheme would exacerbate the existing situation which is a traffic hazard.

*Response: Highways assessment is included below. This resubmission has provided the additional information to justify the principle of access and the works necessary to gain access into the site and egress from the site.*

3. What will happen to the neighbouring green field site which is allocated a Provisional Open Land?

*Response: The POL site is not included within the application red line and cannot be accessed from the application site in any event. As such any future proposals for the POL site will have to be dealt with on their merits at that time.*

4. The local schools are full and the community facilities in the area are unable to cope with any extra dwellings.

*Response; The Council's Education policies only relate to a scheme in excess of 25 units, which would not be the case here. The provision of other facilities such as doctors and dentists is not a matter over which the local planning authority has control.*

Huddersfield Civic Society- No objections to the principle of housing, but given the proximity to the listed Baptist Chapel the materials should be natural stone

## **8. ASSESSMENT**

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

The site is allocated for housing on the Kirklees Unitary Development Plan, and as such in accordance with the guidance contained in paragraph 14 of the National Planning Policy Framework, the presumption is in favour of sustainable development, and that for decision taking purposes this means approving development that accords with the development plan without delay, “unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against this Framework as a whole”.

It is accepted that the site accords with the UDP in so far as it is allocated for housing and that policy issues such as the provision of affordable housing and public open space provision can be dealt with by means of planning conditions. However the application seeks approval of layout for 22 dwellings, as well as access, and the implications of the layout and access proposed in relation to other policy matters in both the Unitary Development Plan and the National Planning Policy Framework are dealt with below.

### **Highways Issues:**

The site is allocated for housing, and there is no objection in principle to serving the site off New Hey Road. Whilst this is an outline application access is specifically applied for and additional information has been provided to justify the siting and the associated road works required to provide a traffic island and right hand turn land from New Hey Road to serve the development. The information submitted in the Transport Statement, which includes details of the off-site highway works on New Hey Road and the access into the site from New Hey Road, is satisfactory and no objection is raised to the access arrangements detailed on drawing no. N. YK.1453-3T Fig 2 01.

The internal layout is considered to be generally acceptable, with the exception of the parking arrangements for three of the plots ie Plots 18,19 and 20. However these arrangements could be simply modified if the rest of the submitted layout was considered acceptable and would not in themselves amount to a reason to refuse the access details proposed.

In conclusion, subject to the slight amendment of the parking arrangements proposed for plots 18, 19 and 20 details of access are acceptable in accordance with Policy T10 of the UDP.

### **Impact on Amenity:**

The site is flanked by a substantial number of mature protected trees that in themselves provide significant visual amenity for both the site and the surrounding area, including the setting of the neighbouring listed chapel.

The layout proposed would result in significant harm to and loss of mature trees and at the development stage would prejudice the long term protection

of those remaining given the close proximity to habitable windows. As such the proposal would result in significant harm to the visual amenity of the area contrary to the principles of Policy BE1 of the UDP as well as failing to retain mature trees on the site and being contrary to Policy NE9 of the UDP.

The proposed layout is affected by the number and size of protected mature trees on the perimeter of the site, which should be retained as part of the development. The future amenity of the occupiers of a number of plots, especially those along the northern boundary of the site, would be adversely affected by shading and leaf drop. The trees would completely overhang the private garden areas of a number of plots which would also affect the amenities of future occupiers.

For these reasons the proposed layout is considered unacceptable and contrary to Policies NE9 and BE1 of the UDP and Chapter 7 of the NPPF. This is because the layout is of poor design which does not improve the character or quality of the area (or the amenities of future occupiers) and because this new development would not integrate into the natural environment because of its impact, both short and longer term, on the protected trees around the site.

### **Setting of a listed building**

The proposed layout has been considered in relation to the impact this could have on the setting of the Grade II listed Salendine Nook Baptist Church to the north west of the site. Consultation was undertaken with the Council's Conservation and Design Team. No objections have been raised in respect of the proposed layout and it is considered that the development could take place without an adverse impact on the significance of this nearby heritage asset. This would be in accordance with Chapter 12 of the NPPF.

### **Environmental Issues (Contamination/Remediation/ Drainage and Noise):**

The site is capable of being remediated and made fit to receive the new development. This matter can be dealt with by means of condition.

The site is within Flood Zone 1 (ie within an area least likely to flood). The site is greenfield (with elements of hard standing in the centre from its former tennis court use). However, Kirklees Flood Management & Drainage, acting as Lead Local Flood Authority, holds records of an enclosed ordinary watercourse within the boundary of Salendine Nook Baptist Church immediately adjacent to the site. Although the mapping of this watercourse is incomplete other mapping suggests the natural route for flows is inside the northern boundary of the application site. Because of this the applicant was requested to undertake an investigation to reveal the exact route of any watercourse prior to determination. This was in order to consider the impact of this on the proposed layout in order to minimise flood risk. This is material to the current application because details of layout have been applied for.

The applicants have been approached regarding this but have requested that it be dealt with by condition, as they state that it is not something which has been highlighted previously. Recent advice within NPPG however states that 'where surface water or other local flood risks are likely to significantly affect a proposed development site, early discussions between the planning authority and the developer will help to identify the flood risk issues that the authority would expect to see addressed in the planning application'. As details of layout still form part of the application the potential risk of flooding to these properties is a material consideration. We would expect this to be addressed in the planning application. As it has not it has not been demonstrated that the development is immune from flood risk.

The site is adjacent to New Hey Road, a very busy arterial road leading up to the M62, and as such this is a potential source of noise nuisance for the dwellings, particularly those fronting onto New Hey Road. The application has been submitted with a noise report which has been assessed by Environmental Services. They recommended that prior to development being occupied the mitigation identified in the accompanying sound measurements and recommendations of the noise report be implemented and verified. Furthermore it is requested that a condition be imposed to control ventilation of habitable rooms. This would be in the interests of noise mitigation. These conditions would ensure that the development would comply with Chapter 11 of the NPPF.

### **Bio diversity.**

The site is within an area of bat roost potential. In accordance with Chapter 11 of the NPPF when determining applications local planning authorities should aim to conserve and enhance biodiversity and the impact of the development on the ecology of the area is a material consideration. Furthermore there are mature trees within and on the perimeter of the site, some of which are protected by Tree Preservation Order. Policy NE9 of the UDP supports the retention of mature trees and requires satisfactory precautions to be taken to ensure the continued viability of trees to be retained on development sites.

The application has been accompanied by a Phase 1 ecological survey, tree location plan and bat roost assessment of the trees but no bat activity report has been undertaken. The Biodiversity Officer has requested a bat activity report be submitted before the application is determined to determine how bats use tree corridors on site; this could be material to the submitted layout. It was also requested that further surveys were undertaken of an ash tree on site but the agent has clarified that this tree is proposed to be retained. No further information has been submitted by the Agent in respect of this matter.

The proposed layout would result in the direct loss of trees and it is considered that it would cause long term conflicts with remaining trees leading to pressure to fell or excessively prune them, as set out in the 'amenity' section of the assessment. Furthermore the Trees Officer considers that the tree information provided by the applicants does not comply with BS 5837 although the Agents dispute this considering that the information submitted

'provides a robust tree methodology in accordance with BS 5837'. In detail it is considered that there is insufficient information in support of the application in terms of a tree protection plan and detailed method statement.

Given the issues raised above the application would be contrary to the guidance contained with part 11 of the National Planning Policy Framework "Conserving and enhancing the natural environment" and Policy NE9 of the UDP.

### **Crime Prevention:**

The Police Architectural Liaison Officer has been consulted on the proposed layout. This is in accordance with the NPPF. There are a number of concerns regarding the layout which are as follows.

The layout includes communal parking areas, resulting in a number of parking spaces remotely located from the dwellings they are intended to serve, as well as communal rear access points to dwellings from these enclosed parking areas, which appear to be bounded by substantial fencing. These elements of the layout would be contrary to the guidance contained in part 8 of the National Planning Policy Framework "Promoting Healthy Communities" and Policy BE23 of the Kirklees Unitary Development Plan. Chapter 8 seeks to promote safe and accessible development and environments where crime and disorder and the fear of crime do not undermine quality of life. Policy BE23 states that new development should incorporate crime prevention measures to achieve, amongst other things, secure locations for car parking spaces.

### **Conclusion:**

This site is allocated for housing on the Unitary Development Plan and accordingly there is no objection to the principle of residential on this site. Both access and layout are applied for. The access details off New Hey Road into the site are considered to be acceptable, however the layout details are not acceptable for the reasons that have been detailed in the assessment above. The adverse impacts of the development proposed – based on the layout and supporting information - significantly and demonstrably outweigh the benefits of the development when assessed against other policies within the UDP and the NPPF taken as a whole. The applicants have maintained their request that the layout be considered at this stage, and accordingly refusal is recommended.

## **9. RECOMMENDATION**

### **REFUSAL**

1. The proposed layout would result in significant harm to and loss of mature trees and at the development stage would prejudice the long term protection of those remaining given the close proximity to likely habitable windows and overhang of private gardens. As such the proposal would result in significant

harm to the visual amenity of the area contrary to the principles of Policy BE1 of the UDP as well as failing to retain mature trees on the site and being contrary to Policy NE9 of the UDP.

2. The proposal layout is of a poor design which would fail to provide a good standard of amenity for future occupants due to the proximity of large mature trees to the private garden areas and rear elevations of a number of dwellings. This would cause substantial shading as well as leaf drop and potential structural damage. This is contrary to Policy BE1 of the Unitary Development Plan and Chapter 7 of the National Planning Policy Framework.

3. The layout includes communal parking areas, resulting in a number of parking spaces remotely located from the dwellings they are intended to serve, as well as communal rear access points to dwellings from these enclosed parking areas being separated by boundary treatment. These arrangements would neither be in the best interests of crime prevention nor promote a safe and accessible development for future residents. Thus the layout is contrary to guidance contained in part 8 "Promoting Healthy Communities" of the National Planning Policy Framework and Policy BE23 of the Kirklees Unitary Development Plan.

4. The site is within an area where there is a reasonable likelihood of bat roost potential and the application has been supported by a bat roost assessment of trees. However, no bat activity surveys have been undertaken to determine how bats use existing tree corridors which would be affected by the proposed layout and the removal of trees within the site. Information with the application has therefore failed to demonstrate the likely impact on biodiversity as a result of the development contrary to Chapter 11 of the National Planning Policy Framework.

5. Mapping records suggest that the route of an ordinary watercourse flows inside the northern boundary of the application site. The route of the watercourse could result in flood risk to future residents of the site. This could significantly affect a proposed development site, especially the submitted layout. Information submitted with the application fails to address this issue although the local planning authority sought details from the applicants. The proposal is therefore contrary to advice in Chapter 10 of the National Planning Policy Framework.



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	N-YK1453		17/2/15
Site layout	1453/PL102	D	1/6/15
Topographical Survey	2787 LR/1		17/2/15
Design and Access Statement			17/2/15
Transport Statement			17/2/15
Tree Location Plan			17/2/15
Phase 1 Geo-Environment Statement	JS/ahb/3507-Rp-001		17/2/15
Sound Measurement and Recommendations			17/2/15
Phase 1 Habitat Report	019-00L rep.docx		17/2/15
Details of right turn lane and visibility	N-YK1453-3T-FIGURE 2 Rev 1		1/6/15
Tracking Analysis	N-YK1453-3T-02 A		1/6/15

**Application No: 2015/90374**

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

**Proposal: *Erection of 5 dwellings (within a Conservation Area)***

**Location: *Hoyle Beck Close, Linthwaite, Huddersfield, HD7 5RB***

**Grid Ref: 409836.0 414403.0**

**Ward: *Colne Valley Ward***

**Applicant: *Michelle Gaffaney, Greenstone Design Ltd***

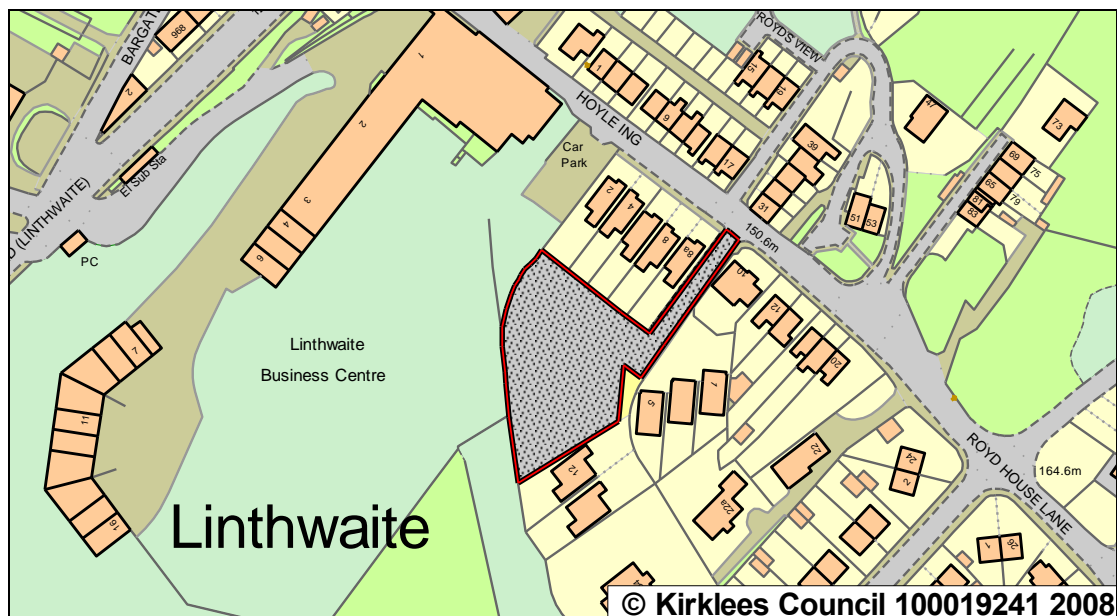
**Agent:**

**Target Date: *15-Jun-2015***

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

Link to [guidance notes for public speaking at planning committee](#) including how to pre-register your intention to speak.

## LOCATION PLAN



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

## **1. SUMMARY OF APPLICATION**

The application seeks full planning permission for the erection of 5 dwellings on land allocated on the Unitary Development Plan as Provisional Open Land (POL).

The application site has an extant outline permission granted under 2013/93555 in January 2014 by the Huddersfield Planning Sub-Committee. The proposal can achieve acceptable space about dwelling distances, can be accessed safely in highway terms, and its development would not prejudice any potential future development of the wider POL allocation.

The scheme would not be detrimental to local ecology or biodiversity and enhancements are conditioned as part of the recommendation. It is considered that the application would have an acceptable impact on the Linthwaite Conservation Area. There would be no harmful effect on visual or residential amenity.

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

- **RESOLVE OUTSTANDING HIGHWAY 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 is brought before the Huddersfield Planning Sub Committee at as it represents a departure from D5 of the UDP but comprises less than 60 dwellings.

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

### *Site*

The site is a vacant piece of land located to the rear (south west) of Hoyle Ing and is accessed off Hoyle Beck Close. The site is currently covered by earth mounds, grass and a degree of planting. The site abuts residential development off Hoyle Beck Close to the south east and Hoyle Ing to the north east. To the south and west the land drops away to a wooded area and beyond to an open grassed field. A turning head is located within the application site to the rear of no.8a Hoyle Ing.

The site lies within the Linthwaite Conservation Area.

### *Proposal*

The application seeks planning permission for the erection of 5 detached dwellings. The dwellings would be arranged in a fan shape, and would all be

of the same design. The dwellings would be 7.8 metres wide, by 10 metres deep, and have a maximum overall height of 8.8 metres. The dwellings would be constructed from a mix of artificial stone and render, and would be of a contemporary appearance.

Access to the dwellings would be via Hoyle Beck Close which would lead from Hoyle Ing. Each dwelling would be provided 3 parking spaces, 2 of which are laid out in a tandem arrangement. Space for internal turning would be provided in a shared space to the front of the site. A small section of amenity space would be provided to the front of each dwelling, with larger space to the rear.

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

2013/93555 - Outline application for erection of 5 dwellings (within a Conservation Area) – Outline Permission granted.

2013/90680 – Outline application for erection of 5 dwellings (within a Conservation Area) – Refused

*Adjacent Site to the South and East*

2002/90483 - erection of 5 detached dwellings with integral garages – Approved and built.

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

The site is allocated as Provisional Open Land on the Kirklees UDP Proposal Plan.

##### Kirklees Unitary Development Plan

- **BE1** – Design principles
- **BE2** – Quality of design
- **BE5** – Development within a Conservation Area
- **BE11** – Materials of construction
- **BE12** – Space About Dwellings
- **T10** – Highway Safety
- **T19** – Parking Standards
- **R13** – Public Rights of Way
- **D5** – Provisional Open Land
- **H10** – Affordable Housing
- **G6** – Contaminated Land
- **EP4** – Sensitive Locations
- **EP6** – Development and Noise

## National Planning Policy Framework (NPPF)

- **NPPF4:** Promoting Sustainable Transport
- **NPPF6:** Delivering a wide choice of high quality homes
- **NPPF7:** Requiring good design
- **NPPF11:** Conserving and enhancing the natural environment
- **NPPF12:** Conserving and enhancing the historic 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 Environment Unit** – No objection subject to conditions
- **KC Conservation and Design** – No objection, subject to conditions
- **KC Highways DM** – No objection, subject to conditions
- **KC Environmental Services** – No objection, subject to conditions
- **KC Strategic Drainage** – No objection, subject to conditions

## **7. REPRESENTATIONS**

Initial publicity on the application expired on: 27/3/2015. One comment received, a summary of the points raised is set out below:

- The land is used as a short cut the adjacent park and Linthwaite Clough School to the south, the proposal would remove access to the park and the school and lead to the a significantly increase time to get there. A footpath should be provided by the new development to allow access. Without the footpath link the proposal would limit access to the park.

## **8. ASSESSMENT**

### **General principle:**

The application site has the benefit of outline permission for the erection of 5 dwellings under 2013/93555. This application considered the acceptability of developing part of a wider allocation of Provisional Open Land (POL) in the Councils UDP, subject to UDP policy D5. For completeness this assessment is undertaken again below but it must be recognised that the ‘fallback’ position is that there is an extant permission for the erection of 5 dwellings on the site.

Policy D5 states that:

*“Planning permission will not be granted other than for development required in connection with established uses, changes of use to alternative open land uses or temporary uses which would not prejudice the contribution of the site to the character of its surroundings and the possibility of development in the longer term”*

The weight that can be given to Policy D5 in determining applications for housing must be assessed in the context of NPPF paragraphs 215 and 49.

In the context of paragraph 215, the wording of Policy D5 is consistent with NPPF paragraph 85 concerning safeguarded land. However, with regard to paragraph 49, the Council is currently unable to demonstrate a five year supply of deliverable housing sites. . Relevant information is provided in the annual monitoring report published on 31 December 2013.

[www.kirklees.gov.uk/business/regeneration/ldf/AnnualMonitoringReport.aspx](http://www.kirklees.gov.uk/business/regeneration/ldf/AnnualMonitoringReport.aspx)

The weight that can be given to Policy D5 in these circumstances was assessed in October 2013 by a Planning Inspector in his consideration of an appeal against refusal of permission for housing on a POL site at Ashbourne Drive, Cleckheaton (ref: APP/Z4718/A/13/2201353). The inspector concluded (paragraph 42):

*“The lack of a five-year supply, on its own, weighs in favour of the development. In combination with other paragraphs in the Framework concerning housing delivery the weight is increased. The lack of a five-year supply also means that policies in the UDP concerning housing land are out of date. Policy D5 clearly relates to housing and so it, too, is out of date and its weight is reduced accordingly. This significantly reduces the weight that can be given to the policy requirement for there to be a review of the plan before the land can be released. In these circumstances, the Framework’s presumption in favour of sustainable development is engaged.”*

The presumption referred to by the Inspector is set out in NPPF paragraph 14 which 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”*. Footnote 9 lists examples of restrictive policies but this does not include policies concerning safeguarded land.

### **Sustainability:**

The National Planning Policy Framework (NPPF) states that the purpose of the planning system “is to contribute to the achievement of sustainable development.” (para 6). NPPF notes that pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in peoples’ quality of life (para 9). NPPF identifies the dimensions of sustainable development as economic, social and environmental roles (para 7). It states that these roles are mutually dependent and should not be undertaken in isolation. “Economic, social and environmental gains should be sought jointly and simultaneously through the planning system.” (para 8). NPPF stresses the presumption in favour of sustainable development. The developer has submitted a supporting

document on sustainability, and the proposal has been assessed against each role as follows:

Economic:

A proposal for five dwellings would bring some economic gains by providing business opportunities for contractors and local suppliers. In accordance with the NPPF new houses will support growth and satisfy housing needs thereby contribute to the building of a strong economy. The proposals would be creating additional demand for local services and potentially increasing use and viability of local bus services

Social:

There will be a social gain through the provision of new housing at a time of general shortage that has good access to local facilities.

In terms of social inclusion and accessibility the site is within 800m of the centre of Linthwaite located along Manchester Road. A core public transport network is available along Manchester Road the same distance away. There is a primary school, Linthwaite Clough, within 800m of the site. Finally there are medical facilities available in Slaithwaite around 2.2km away which is served by a direct bus link approximately 200m from the site. The distance of the medical centre to the site might involve a slight increase in trips by private car.

Environmental:

The development of a greenfield site represents an environmental loss. However, although national policy encourages the use of brownfield land for development it also makes clear that no significant weight can be given to the loss of greenfield sites to housing when there is a national priority to increase housing supply. On balance the proposal is considered to meet the paragraph 8 test.

The Services Biodiversity officer raises no objections to the development subject to conditions.

Further to the above regarding the sustainability of the site, observations made by the Inspector for a recent appeal decision on a POL site in Netherthong (APP/Z4718/A/14/2219016 - Land off St Marys Avenue) should be noted with respect to accessibility. This is highlighted in the 'Social' thread of sustainability above. In that case the Inspector noted the deficiencies in access to local services by sustainable means but having,

*“regard to the emphasis on growth within the Framework, and (having given) weight to the need to boost the supply of housing. In the absence of a 5 year housing land supply, the contribution the development would make to housing supply in the District would significantly and demonstrably outweigh the harm that would arise as a result of increased trips by private car.”*

Assessing the policies in the NPPF as a whole in accordance with the paragraph 14 test, the environmental harm arising from the development of this Greenfield site and the marginal disadvantages in its social accessibility are considered to be clearly outweighed by the benefits to be gained from the provision of housing. The principle of development is therefore acceptable.

### **Heritage and Amenity**

The impact of the development on heritage and amenity needs to be considered in relation to the appearance of the proposed dwellings, and their impact on the Linthwaite Conservation Area, and the impact of the dwellings on existing and future occupiers. The application has been assessed with respect to Policies BE1, BE2, BE5, BE11 and BE23 of the UDP, and Policies in the NPPF. The application has also been assessed by the Council's Conservation and Design Officer.

#### *Heritage and Design*

In terms of the impact on the Linthwaite Conservation Area, the principle of the development for 5 dwellings has been previously approved. The proposed layout reflects that shown indicatively on the outline planning permission, and the fan shaped layout of the dwellings has sought to maximise the number of dwellings on site. The proposed dwellings are of a similar scale to the adjacent dwellings along Hoyle Beck Close, no.s 1-5, and the pattern of development would be broadly similar to these existing dwellings, fan out across the site.

The proposed dwellings are considered to fit into the local context of new dwellings built along Hoyle Beck Close and Hoyle Ing, with no.s 2-10 and 1-5, which gained planning approval in the early 2000s. These dwellings are constructed from artificial stone, and the roofs covered in concrete roof tiles. The proposed dwellings contemporary appearance with the use of stone, render and concrete tiles is considered to complement this local setting. The proposed materials of construction are considered to harmonise with existing dwellings.

The Conservation Officer has stated that the proposed development would not have a detrimental impact upon the special character and appearance of the Linthwaite Conservation Area, therefore this application is considered to be acceptable. The layout of the proposed dwellings is also considered to be acceptable in terms of crime prevention.

The proposal is therefore considered to comply with the requirements of Policies BE1, BE2, BE5, BE11 and BE23 of the UDP Policies in the NPPF.

#### *Residential Amenity*

In terms of the impact of the development on residential amenity, space about dwellings policy BE12 provides a set of separation distances to ensure the protection of the amenity of existing and future occupiers. The impact of the



proposed dwellings on amenity needs to be considered in terms of overlooking, overbearing and overshadowing impact.

In terms of space about dwellings, the front elevation of Plot 1 is located a minimum of 14 metres from the gable end elevation of no.5 Hoyle Beck Close which contains 4 small windows, the majority of which are non-habitable with the only habitable room window serving as a secondary window to a lounge. Plot 2 would be 18 metres to that gable end.

Plots 3 and 4 would achieve a good level of separation to adjacent properties in accordance with Policy BE12.

The side elevation of plot 5, would be 20.4 metres from the rear elevation of no.2 and 4 Hoyle Ing, this separation is considered to be acceptable.

The separation distances achieved are considered to meet the requirements of Policy BE12 and it is considered that in principle the proposed development would not lead to any detrimental overshadowing, overbearing or overlooking impact to occur.

#### *Separation to POL*

Separation distances to the adjacent POL site also need to be considered with the design of the development, as the POL site to the rear is currently undeveloped. A minimum of 3.4 metres can be achieved to the rear of plot 5 to a maximum of 9.4 metres to the rear of plot 1. While these distances are less than the 10.5 metres advised by Policy BE12, they are considered to be acceptable in this instance.

The topography of the land to the rear of the site changes significantly with the remainder of the POL site set at a lower level than that of the application site. It is therefore considered to be unlikely that this section of the POL would be developed. In addition the area directly to the rear is covered by a number of relatively mature trees which would most likely be retained by any future development of the wider POL site given the level changes at the site. These trees would be protected by virtue of falling within the Conservation Area. The proposal is therefore considered to have an acceptable impact on the future development of the adjacent POL site.

#### *Contamination and Pollution*

The potential for disturbance from adjacent uses, and contamination at the site has been assessed by the Council's Environmental Services Team. They state that the submitted contaminated land reports do not provide sufficient detail to address all the matters, contaminated land conditions are therefore be attached to the recommendation to address this point.

The application site also within proximity to the Linthwaite Business Park which is a potential source of noise, and previously a noise condition was recommended in the outline permission. This issue has however been

reviewed by Environmental Services, and they do not considered that a noise report is required given the separation distances achieved.

In principle it is considered that the site could be developed without undue impact on the amenity of future occupiers of the site. The application would therefore comply with Policies G6, BE12, EP4 and EP6 of the UDP and Policies in the NPPF.

### **Highway Safety:**

The impact of the proposal on highway and pedestrian safety has been considered by the Highways Officer and by the Public Rights of Way (PROW) Officer, and in relation to Policies T10, T19 and R13 of the UDP and Policies in the NPPF.

### *Vehicular Access*

The proposed vehicular access arrangements for the site off Hoyle Beck Close are considered to be acceptable in principle, and acceptable sight lines can be achieved at the junction with Hoyle Ing. Hoyle Beck Close is currently un-adopted and the access road which forms the Close has only been partially constructed. Notwithstanding this it is considered to be of a sufficient standard to accommodate five additional properties subject to appropriate conditions.

From the details provided the vehicular access arrangements for the site are considered to be acceptable, and there is sufficient space for adequate off street parking for 5 dwellings. It is considered necessary to ensure that the whole of Hoyle Beck Close is brought up to an adoptable standard, as previously the application for no.s 1-3 did not deliver this, and given the increase traffic levels along Hoyle Beck Close brought about by the development it is considered important to deliver this.

Discussions are ongoing with the applicant to ensure that the layout can demonstrate acceptable arrangements for emergency vehicle servicing, and the outcome of these discussions will be reported in the update. Highway conditions are attached to the recommendation to ensure that the currently un-adopted road is brought up to adoptable standards. Subject to these conditions the application would comply with Policies T10 and T19.

### *Public Rights of Way*

The application has also been assessed by the Public Rights of Way Officer in relation to any potential impact which might occur on local footpaths. Although there is no recorded public footpath over the application site, the Council as surveying authority is in receipt of a formal application for the recording of a public footpath over the site under S53 of the Wildlife & Countryside Act 1981. The application is for a definitive map modification order ("DMMO").

Previously it was identified that there was a clear line of tread on the ground linking from the access track (Hoyle Beck Close) to the area of land to the west, which appears to be Council-owned land and includes a recreation ground with play equipment, as well as areas which were marked up with White Rose Forest markers.

If the DMMO application is successful, then a public footpath would be recorded and protected irrespective of any grant of planning consent. The applicant has been made aware of this situation, however has chosen to not include any provision of path into the development. Lack of the provision of the path is on balance considered to be acceptable in planning terms given the scale of the development. However if the application for the claimed path is subsequently successful, the landowner would need to make provision for the path at the site, and the planning permission would not override the provision of the path.

An informative note is attached to the recommendation advising the applicant of the position in respect of the claimed footpath to ensure that they are aware of the situation. The Public Rights of Way Officer has also formally written to the applicant's agent advising them of the situation.

The application is considered not to adversely affect existing PROWs in the local area and the proposed claimed path could be accommodated within a final layout if necessary. The application does not therefore conflict with Policy R13 of the UDP.

### **Drainage:**

Drainage of the site has been assessed by the Council's Strategic Drainage Officer. No objections are raised to the scheme, and the application form states that surface water will be managed via a sustainable drainage system. However the proposed plans and layout as submitted indicate that it will be discharge to the mains sewer. In light of this it is considered that further information is required to be submitted regarding the disposal of surface water, which will be secured by way of condition.

Subject to the condition proposed above and separate drainage system being provided and retained the application is considered to be acceptable in terms of drainage at the site.

### **Ecology**

The ecology value of the site has been considered in detail by the Council's Ecologist and in relation to Policies in Chapter 11 of the NPPF. Ecology matters were previously considered in detail in the outline application and the principle of development permitted with ecological enhancements.

The Ecologist has stated that ecological enhancements advised in the outline permission have been proposed in the current submission, with the provision of Swift and Bat boxes. These ecological enhancements are considered to be

acceptable and would improve local biodiversity. A condition is attached to the recommendation to ensure that these enhancements are provided in acceptable locations on the dwellings.

The submitted contaminated land report has also identified that Japanese Knotweed is located within and adjacent the application site. Japanese knotweed is an invasive plant which has an adverse impact on natural biodiversity. To ensure that it is appropriately dealt with prior to development a condition is attached to the recommendation.

Subject to this condition the proposal would have an acceptable impact on local ecology and would comply with the requirements of Policies in Chapter 11 of the NPPF.

### **Representations:**

One objection has been received, a summary of the concerns raised is set out below with a response:

- The land is used as a short cut the adjacent park and Linthwaite Clough School to the south, the proposal would remove access to the park and the school and lead to the a significantly increase time to get there. A footpath should be provided by the new development to allow access. Without the footpath link the proposal would limit access to the park

**Response:** Concerns regarding the loss of a footpath link through to Causeway Crescent are noted. The application for a definitive map modification order (“DMMO”) to account for this claimed path pending a decision is recognised. As set out above, the path is not a currently designated Public Right of Way (PROW), but the applicant has been made aware of this matter. Any planning permission would not override matters regarding the PROW. Given that layout is reserved from the application, in principle the application is considered to be acceptable.

### **Conclusion:**

In conclusion the principle of developing this area of Provisional Open Land (POL) is considered to be acceptable. The Council cannot demonstrate a deliverable housing land supply sufficient for 5 years and in accordance with the NPPF relevant policies for the supply of housing are out of date. In such circumstances no significant weight can be given to its content and, in accordance with NPPF there is a presumption in favour of sustainable development and 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*”.

It is considered that there are no adverse impacts from the proposed development that would significantly and demonstrably outweigh the benefits

of developing the site for housing. It is considered that the proposal would provide additional housing at a time of local shortage and a scheme has been devised which has an acceptable impact on highway safety, local amenity, drainage, and also provided biodiversity benefits.

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 SUBJECT TO THE DELEGATION OF AUTHORITY TO OFFICERS TO:**

- **RESOLVE OUTSTANDING HIGHWAY 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.**

Proposed 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. Development shall not commence until details of external materials to be used have been submitted to and approved in writing by the Local Planning Authority. No materials other than those approved in accordance with this condition shall be used.
4. The ecological enhancements as shown on the approved plan Dwg, No. 2014-02-03 A shall be installed in the development prior to occupation, and retained thereafter.
5. No development shall take place until details of a scheme to eradicate Japanese Knotweed on the site has been submitted to and approved in writing by the Local Planning Authority. All works which form part of the approved scheme shall be completed prior to the development first being occupied.

6. Development shall not commence until a scheme detailing separate systems of foul and surface water (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. None of the dwellings shall be occupied until such approved drainage scheme has been provided on the site to serve the development. This shall be retained thereafter.

7. 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.

8. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition 7 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.

9. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 8 development shall not commence until a Remediation Strategy has been submitted to and approved in writing by the local planning authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

10. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 9. 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.

11. 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.

12. No development shall take place until a scheme detailing the proposed adoptable road along Hoyle Beck Close from its junction with Hoyle Ing 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 an independent safety audit covering all aspects of work. Before any building is brought into use the scheme shall be completed in accordance with the scheme shown on approved plans and retained thereafter.

**Note to Applicant Regarding Claimed Footpath**

The applicant is advised that there is a for a claim for a footpath submitted to the Council affecting land within the application boundary, submitted under Schedule 14 of the Wildlife & Countryside Act 1981 (“WCA”). The “claim” is that a public footpath subsists including over land within the application site connecting from Hoyle Ing to land beyond the site, play area and onwards and that the Council should add routes to the definitive map and statement of public rights of way.

The Council, as Surveying Authority, is yet to consider this "claim". If the “claim” is successful then it would result in the recording of a public right of way. The issue of planning consent or commencement of construction on the site would have no effect on the legal existence of the public footpath. Separate formal legal process subject to separate fees would be required if there was an intention to divert or extinguish any extant public right of way. Any works undertaken affecting the alleged ways would be at the landowners'/developers' risk.

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

<b>Plan Type</b>	<b>Plan Reference</b>	<b>Revision</b>	<b>Date Received</b>
Existing Site Layout Plan	2014-02-02	-	10/2/2015
Proposed Site Layout Plan	2014-02-03D	-	2/6/2015
Design and Access Statement	-	-	10/2/2015
Contaminated Land Report – Phase 1	J2889/14/EDS	-	15/4/2015
Contaminated Land Report – Phase 2	J2899/14/E	-	10/2/2015

**Application No: 2014/93961**

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

**Proposal: *Erection of boundary fence to the existing Lindley Infant School and Lindley Junior School***

**Location: *Lindley CE VA Infant School, East Street, Lindley, Huddersfield, HD3 3NE***

**Grid Ref: 411909.0 418377.0**

**Ward: *Lindley Ward***

**Applicant: *Nicola Beaumont***

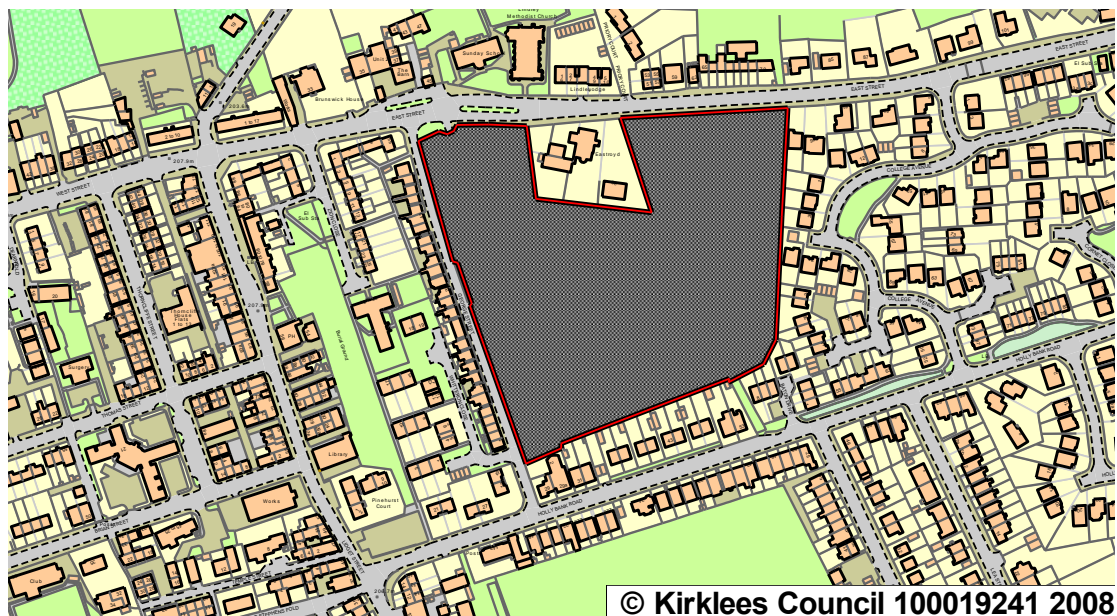
**Agent: *Simon Taylor, Brewster Bye Architects***

**Target Date: *16-Feb-2015***

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

**Link to [guidance notes for public speaking at planning committee](#) including how to pre-register your intention to speak.**

## **LOCATION PLAN**



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



## **1. SUMMARY OF APPLICATION**

This application seeks permission for the erection of a boundary fence to the existing Lindley Infant and Lindley Junior Schools.

The principle of boundary fencing is acceptable. Following amendments to the submitted scheme, in relation to the design of the fencing positioned above the existing retaining wall to George Street, the scheme can be supported.

### **RECOMMENDATION: CONDITIONAL FULL APPROVAL**

## **2. INFORMATION**

The application was presented at the Sub-Committee on 9<sup>th</sup> April 2015. The resolution was to defer the application. This was to allow the applicants an opportunity to investigate options to mitigate the impact of the fencing proposed along the western boundary of the site to George Street would have on residential and visual amenity.

The application was originally brought to the Planning Sub-Committee for determination at the request of Officers due to the finely balanced arguments between the merits of the fencing, which would safeguard school property and pupils, and impact it would have on residential and visual amenity.

The Chair of the Sub Committee confirmed that this request was in accordance with the delegation agreement.

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

Permission is sought for the erection of 3 sections of boundary fencing to both the Infant and Junior Schools.

The first length of fencing would span approximately 125 metres alongside George Street and would comprise of galvanised steel posts supporting a mesh panel fencing above the existing stone retaining wall. The design of this fence has been amended. It would still project 1.2 metres above the existing wall, totalling 2.4 metres in height, but now has a cranked design set off the top of the saddleback coping into the school grounds. This would set the fence back up to 700mm into the school grounds and would leave the front face of the wall to George Street unaffected.

The second length of fencing would be 2.4 metre high mesh fencing sited on part of the northern boundary adjacent to East Street. This would include a new vehicular access gate and pedestrian gate.

The final area of new fencing is proposed along the boundary of the site adjacent to No. 28 East Street, also to include a new vehicular access gate.

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

##### **Infant School:**

2002/93753 Formation of car park, new access, erection of fencing and gates

*Conditional Full Permission*

2003/93635 Erection of mobile classroom

*Conditional Full Permission*

2005/93562 Erection of classroom extension and access ramp, external alterations and formation of car parking bays

*Conditional Full Permission*

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

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

D3 – Urban Greenspace

BE1 – Design principles

BE2 – Quality of design

T10 – Highway safety

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

Part 7 – Requiring good design

Part 8 – Promoting healthy communities

Part 11 – Conserving and enhancing the natural environment (retaining structures)

#### **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. Highways Development Management** – no concerns relating to pedestrian or driver inter-visibility at junctions and access points

**K.C. Highways Structures** – concerned regarding future access of the wall to George Street for maintenance purposes – conditions proposed should the application be approved

#### **7. REPRESENTATIONS**

Three letters of representation received, two objections and a letter of support from the Police Community Support Officer. Ward Councillor Cahal Burke has also commented on the application. These were all received as a result of the original plans. The revised plans were not advertised.

The comments received are summarised as:

- Support aims of improving security for the site and strongly object to the proposed method
- Erecting an 8ft fence on George Street will have a severe impact on the visual amenity of the street
- A negative and obtrusive impact on the outlook for residents
- Inconsistent with existing fence around the Junior School which is unobtrusive being erected inside the school grounds and since these are several feet below level of George Street, there is no significant visual impact. Should follow this existing fence line.
- There is plenty of room inside the school grounds, and would satisfy both the schools requirements and have much less impact on residents of George Street
- Playground area enjoyed by residents outside school hours – access would be lost.
- Agree that some measures are necessary to protect the flat roof areas of the building itself but fencing the whole area is not the answer

**Comments from Police Community Support Officer (PCSO):**

- Over the years there has been copious problems in the grounds of the school
- Local youths have gained access to the grounds over the small wall surrounding the site and once inside grounds have been causing a nuisance to local residents by making noise and riding bikes and scooters on the playground and on the roof of the school and other anti-social behaviour
- Instances of damage recorded to the buildings, skips and walls
- Concerned about safety of youths playing on the roof by falling off or falling through it
- From a Police point of view, there have been many calls for service to the area due to anti-social behaviour and believe this would be greatly reduced by planning being approved
- Fence surrounding the school would stop youths entering the grounds and causing nuisance making life much more bearable for local residents and pupils

**Comments from Councillor Cahal Burke:**

- Over the years received numerous concerns and complaints from residents, local school and the neighbourhood policing team with regard to anti-social behaviour on the school site
- Many meetings have taken place to try and resolve the problems, although not ideal the only option was to erect a fence around the school site of the Junior and Infant School
- Junior School have erected a fence around their site but would prove ineffective without the Infant School doing the same

- Due to limited space, the Infant School had to look at the use of the boundary wall when erecting a fence
- Understand and sympathise with those residents who have concerns but also understand the many years of anti-social behaviour endured by many residents and the huge costs incurred by the school to pay to make repairs following damage caused by vandalism
- On balance, the fence would be a benefit to both schools and the local community to help deter anti-social behaviour and reduce the risk of criminal damage in the future

## **8. ASSESSMENT**

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

The site is allocated as Urban Greenspace and Policy D3 of the Unitary Development Plan which restricts development. Amongst other things it states that development should only be granted for proposals which are for the 'continuation or enhancement of established uses'. Given that the proposal would be for the enhancement of the school use it would be acceptable in principle. Policy D3 continues that even where a proposal is acceptable in principle this is only where it would 'protect visual amenity, wildlife value and opportunities for sport and recreation'. Visual amenity will be assessed later in the report but it is considered that the proposal as a whole would not adversely affect wildlife value or opportunities for sport and recreation.

An assessment of the impact of the proposal on visual and residential amenity will also be made taking into account Policies BE1 and BE2 of the UDP.

Post-dating the Unitary Development Plan, Paragraph 74 of the NPPF states that existing open space should not be built on. In terms of this application, as the works are for fencing which would be constructed upon and confined to the boundaries, it is considered that the proposed development would not conflict with this guidance.

Finally, under Paragraph 72 of the National Planning Policy Framework it is stated that local authorities should "*give great weight to the need to create, expand and alter schools*". This has been duly acknowledged in the assessment of this application.

### **Impact on visual and residential amenity:**

The proposal seeks permission for fencing with pedestrian and vehicular access gates at various points within the school grounds. It is now considered that all sections of fencing are acceptable. The first two sections are those that are on the boundary with East Street and to be provided at the access of the Junior School. These areas of fencing would be largely set away from residential property, save for a bungalow at 28 East Street that is partly screened from the fencing by soft landscape. Furthermore the element to the boundary with East Street would replace existing fencing and simply be of a different design and slightly increased height. In these circumstances the

fencing would accord with Policies D3, BE1 and BE2 of the Unitary Development Plan.

The element of fencing proposed on the George Street boundary would have support posts which would be set within the school grounds but has now been redesigned to allow the fence to be angled back from the wall by between 0.5-0.7 metres following the line of the existing saddleback coping. The previous scheme proposed that the fencing would be constructed above the front face of the wall to George Street.

George Street is a single lane one-way street with no footway adjacent to the retaining wall. A terrace of residential properties is located on the west side of the road. The front and principal elevation of the properties are approximately 6 metres from the existing wall. The previous scheme was considered to have a detrimental impact on both visual and residential amenity because of the height and proximity of the fencing to the boundary with George Street and the residential properties on the other side of the road.

As previously reported to sub-committee Officers approached the Agent and requested that the fencing be moved within the school grounds to assist with the security for the school whilst mitigating the impact of the height of the fence on the residents of George Street. However, the school responded that this would be impractical because:

- *The children would lose a significant amount of space from the playground leading to overcrowding.*
- *Overcrowding would lead to an increase in behaviour issues as children have less space to play. It would also lead to an increase in minor injuries and children are more likely to bump into each other and fall over*
- *The fencing would create an obstacle within the playground which the children could potentially fall into causing unnecessary injury.*
- *Siting the fencing within the grounds would create a void between the wall and the fencing which would attract litter. In order to access this area, additional gates would need to be installed at additional expense.*
- *We have very little grassed area within the school grounds and during the summer months, the children use this to sit and enjoy quiet time. This entitlement would be removed if the fencing was site in within the grounds*

*The fencing of the site is necessary to prevent any further vandalism or damage to the school which has been sustained over a long number of years. The children who attend our outstanding school deserve to have grounds which can be developed to include necessary play equipment as well as developing areas within the grounds that can support the children's learning. This is not possible at the moment due to the number of unwelcome visitors the site experiences at night and during holiday times. This also comes at a considerable cost to the school when necessary repairs have to be carried out*

*as a result of vandalism. This is money that could otherwise be spent on providing valuable resources for the children.”*

We have taken the issues raised the school into account. This includes the positive impact of a reduction of crime and anti-social behaviours. The PCSO and Cllr Burke have highlighted some of the issues facing the school and the damage unauthorised access has caused. Paragraph 69 of the NPPF states that planning decisions should promote safe and accessible environments where crime and disorder and the fear of crime do not undermine quality of life or community cohesion. Securing the grounds could improve the general amenity of nearby residents through preventing unauthorised access and providing a safe environment for the users of the school.

The loss of open space within the grounds of the school is also a material consideration and the consequence of relocating the fence would be to create an unusable area between the wall and the fence line. The fence would need to be set back into the site to avoid the existing wall creating a step to would-be intruders. This design solution would result in the loss of around 195 sq m of open space within the grounds. This would result in a small reduction in the play area for children attending the school and would result in a ‘no-mans land’ between the wall and the fence line. The affected area is a mainly a margin of grass and some benches adjacent to hard surfaced play areas.

The pros and cons for the scheme have been weighed up and the harm to the amenity of residents of George Street and visual amenity taken into account. The modifications made to the scheme by angling the fence into the school grounds and setting this back from the front face of the wall would, on balance, mitigate the impact of the fence on the local residents and the visual amenity of the area to the extent where, on balance, Officers can now support the scheme. The fence is not set within the grounds as was originally suggested by Officers but is recognised that there would be shortcomings with this solution as set out by the school. We have also taken into account para 72 of the NPPF and the great weight to be given to the need to alter schools.

As such, it is considered that the proposed development complies with Policies BE1 and BE2 of the UDP and core planning principles of the National Planning Policy Framework.

### **Highways Issues:**

It is proposed that the fence would be behind an existing retaining wall with George Street.

K.C. Highways Development Management have been formally consulted as part of the application process and raise no objections.

The Structures team have however raised concerns regarding the proposals primarily in relation to future access to the retaining wall at George Street for maintenance purposes. The wall retains the public highway. It has been requested that should the application be granted approval, a structural report

detailing the condition of the existing highway wall should be submitted. Such a condition would be reasonable and necessary taking into account guidance in Chapter 11 of the NPPF. This states that to prevent unacceptable risks from land instability planning decisions should ensure that new development is appropriate for its location.

It is also recommended by Highways that the school/Local Education Authority should arrange access to any part of the highway wall in need of essential repair/reconstruction in the future. This will be added as an advisory note as it is a requirement of the council acting as Highway Authority rather than as local planning authority.

## **REPRESENTATIONS**

The issues raised in representations have been considered as follows:

- Support aims of improving security for the site and strongly object to the proposed method

Response: Noted

- Erecting an 8ft fence on George Street will have a severe impact on the visual amenity of the street and more importantly has a negative impact on the outlook for residents

Response: This has been assessed within the impact on amenity section of this report

- View would be blighted by the fence and feel like living in a cage with living room only a few feet from fence

Response: This has been assessed within the impact on amenity section of this report

- Far from being 'unobtrusive to residents' as claimed by the school, it is difficult to see how it could be worse

Response: This has been addressed within the impact on amenity section of this report

- Inconsistent with existing fence around the Junior School which is unobtrusive being erected inside the school grounds and since these are several feet below level of George Street, there is no significant visual impact

Response: This has been addressed within the impact on amenity section of this report

- Do not object in principle and would support the application if the fence was erected within the school grounds following the established practice in the Junior School

Response: This has been addressed within the impact on amenity section of this report

- There is plenty of room inside the school grounds, and would satisfy both the schools requirements and have much less impact on residents of George Street

Response: This has been addressed within the impact on amenity section of this report

- Playground area enjoyed by families as a safe and convenient amenity area for toddlers and young children using stabilized cycles and scooters at holiday times, summer evenings and weekends

Response:

The grounds are not a 'public' facility and therefore this is not a material planning consideration.

- Also used infrequently as a football kickabout area by young children who do no damage to the school building itself

Response: The grounds are not a 'public' facility and therefore this is not a material planning consideration.

- Proposed fencing will prevent legitimate innocent leisure activity whilst having a detrimental visual impact on the area and fail to prevent deliberate criminal activity only as a challenging structure to be scaled

Response: Noted

- Agree that some measures are necessary to protect the flat roof areas of the building itself but fencing the whole area is not the answer

Response: Noted

**Comments from Police Community Support Officer:**

Response: Noted

**Conclusion:**

The finely balanced conclusion is that the proposed amendments to the scheme are considered acceptable. It is considered that the harm to the amenity of the residents of George Street and the visual amenity of the street scene is proportionate to the benefits of the scheme in providing security to the school. This also takes into account paragraph 72 of the National Planning Policy Framework.

As such, it is considered that the proposed development complies with Policies BE1 and BE2 of the Unitary Development Plan and a core planning principle of the NPPF.

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. No development to erect boundary fencing adjacent to George Street, highlighted blue on dwg no. 465/01(02)001E received 20 May 2015, shall commence until a structural report outlining the condition of the highway retaining wall which bounds the school grounds and George Street has been submitted to and approved in writing by the local planning authority. The report shall also detail the method(s) by which the approved fencing shall be erected to avoid adverse impact to the stability of the wall. Thereafter the development shall be undertaken in accordance with the findings/recommendations of the approved structural report.

**NOTE:** Please note: The boundary wall with George Street is a highway retaining wall. In future the school/education authority is advised that upon receipt of a written notice from the Highway Authority they will be required to arrange for the taking down and subsequently reinstating any section of the metal fencing which impedes access to any part/s of the highway wall in need of essential repair/reconstruction.

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	Dwg. No. 465/01(02)004 C		22 <sup>nd</sup> December 2014
Fencing detail	Dwg. No. 465/01(02)003		22 <sup>nd</sup> December 2014
Site plan	Dwg. No. 465/01(02)001 E		20 <sup>th</sup> May 2015
George Street – Section A-A	Dwg, No. 465/01(02)002 A		20 <sup>th</sup> May 2015
Supporting Statement			20 <sup>th</sup> May 2015



## 1. SUMMARY OF APPLICATION

<b>Application Details</b>		
Type of Development	Extension to industrial unit (Full Application)	
Scale of Development	Site area: 0.99 hectares	units: 1
No. Jobs Created or Retained	Unknown	
<b>Policy</b>		
UDP allocation	Unallocated	
Independent Viability Required	No	N/A
<b>Consultation/Representation</b>		
Individual Support (No.)	0	
Individual Objection (No.)	0	
Petition	N/A	N/A
Ward Member Interest	No	
Statutory Consultee Objections	No	
<b>Contributions</b>		
• <i>Affordable Housing</i>	N/A	
• <i>Education</i>	N/A	
• <i>Public Open Space</i>	N/A	
• <i>Other</i>	N/A	
<b>Other Issues</b>		
Any Council Interest?	No	
Pre-application planning advice?	No	
Pre-App Consultation Undertaken?	No	
<b>Comment on Application</b>	The application is recommended for conditional full approval.	

### RECOMMENDATION: CONDITIONAL FULL PERMISSION

## 2. INFORMATION

The proposals are brought forward to the Huddersfield Planning Sub-Committee with the agreement of the Chair of the Strategic Planning Committee.

### Site Description

The application relates to 0.99 hectares of land on an existing industrial estate, just beyond the centre of Slaithwaite village. The site is bounded by Huddersfield Narrow Canal to the south, industrial buildings to the east and a large mill to the west.

To the north is Spa Fields/New Street which provides access and beyond this are further industrial units. The site is relatively flat in nature and is surrounded by protective fencing at present. There is a belt of Protected Trees to the southern boundary of the site. Public Footpath COL/87/10 runs through part of the site.

The site currently contains 1 no. two storey industrial building which is constructed from brickwork and cladding and has a flat roof. This is roughly rectangular in shape and is towards the southern part of the site. A second, smaller building was located close to Spa Fields, but has now been demolished (approved under Ref: 2014/92868). The site was historically occupied by Hillbrook Printing.

### Proposal

The application is for full planning permission for the erection of extensions and alterations to the existing industrial unit.

The existing building falls under Use Class B2 (General Industry) and the existing floorspace is proposed to be extended from 1367 sq. metres to approx 2900 sq. metres.

The applicant has submitted amended plans which increase the footprint of the building by approx. 400sq m from that which was originally proposed.

The proposed extensions will effectively extend the building northwards and eastwards into the site and will create a dual pitched roof which will be metal clad. The walls will also be predominantly clad with powder coated panels, with some facing brickwork.

At present the roof height of the building is 6.1 metres and the proposed extensions will increase this to approximately 9 metres.

Access into the site will remain from Spa Fields and 31 (an increase from the 25 originally proposed) car parking spaces will be provided.

## **4. BACKGROUND AND HISTORY**

2014/91562 – Prior notification for demolition of office block. Withdrawn.

2014/92270 – Erection of a 2.4 metre high palisade fence to boundary and gates. Approved

2014/92868 – Prior notification for demolition of two storey office block. Approved.

## **5. PLANNING POLICY**

### Kirklees Unitary Development Plan

D2 – Development without notation  
BE1 - Design principles  
BE2 - Quality of design  
B5 – Extension to business premises  
NE9 - Retention of mature trees  
T10 - Highway safety  
T19 – Parking standards  
G6 – Contaminated land

### National Planning Policy Framework

NPPF Building a strong competitive economy (chapter 1)  
NPPF Requiring good design (chapter 7)  
NPPF Conserving and enhancing the natural environment (chapter 11)

## **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** – No objections subject to conditions.

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

**K.C. Environmental Services** – No objections subject to conditions.

**K.C. Trees** – No objection subject to an Arboricultural method statement.

**K.C. Environment Unit** – No objections subject to conditions.

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

**Yorkshire Water** – No objection.

**Environment Agency** – No objection subject to conditions.

**Health & Safety Executive** – “HSE does not advise, on safety grounds, against the granting of planning permission in this case.”

**Canal and River Trust** – Comments awaited.

## **7. REPRESENTATIONS**

The application has been advertised by neighbour letter, newspaper advertisement and site notice. This publicity period expired on 12<sup>th</sup> December 2014. No letters of representation have been received.

## **8. ASSESSMENT**

The application is for full planning permission for the erection of extensions and alterations to the existing industrial unit.

The existing building falls under Use Class B2 (General Industry) and the existing floorspace is proposed to be extended from 1367 sq. metres to approximately 2900 sq. metres.

### **General 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.

The extension of the building would encourage new occupiers to come forward, on an existing industrial estate. This would support economic growth in accordance with guidance in the NPPF. Policy B5 of the UDP also supports the expansion of business premises subject to residential and visual amenity and highway safety implications of the development. These will be assessed below.

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

The design of the proposed alterations has been considered in relation to Policies BE1, BE2 and D2 of the UDP and Policies in Chapter 7 of the NPPF. The proposed alterations and extension to the building will modernise the premises in terms of facilities provided and its overall visual appearance.

The proposed extensions and recladding a proportion of the exterior of building is considered acceptable. The building is of a functional design and is located within a well-established industrial estate. The works would provide a more modern appearance to the building, which would also meet the requirements of the prospective occupiers, and retain the local character. The only issue to control is the external appearance of the metal sheeting and brickwork in the interest of visual amenity.

No details in respect of landscaping have been submitted with the application. It is however, accepted that significant landscaping would not be required in this industrial location provided the protected trees alongside the canal are retained. This would also retain a buffer between the site and the canal to the

south. The site is already bounded by security fencing approved under an early application.

The design of the proposed works is therefore considered to be acceptable and would comply with the requirements of Policies BE1, BE2 and D2 of the UDP and Policies in Chapter 7 of the NPPF.

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

The residential amenity impact of the proposed development needs to be considered in relation to Policies EP6, B5 and Policies in Chapter 11 of the NPPF, and the application has been assessed by Environmental Services.

There are no residential properties within a significant distance of the application site and therefore the development will not lead to any detrimental impact on residential amenity. Given the nature of surrounding uses (industrial) it is considered that there will not be any detriment to occupiers of these premises.

In respect of noise, Pollution & Noise have raised no concerns.

In conclusion the proposed extension is considered to have an acceptable impact on local amenity and the development would comply with the requirements of Policies EP6, B5 and policies in the NPPF.

### **Highways:**

The Council's Highway Officer has been consulted on the application and confirmed that the existing access is to be retained and 31 off-street marked out parking spaces are to be provided.

In addition, sufficient space is provided to allow internal service vehicle turning and for additional parking if needed. Vehicle turning and deliveries will be through the existing roller shutter doors on the West Elevation.

Whilst the off-street parking provision falls below the recommended UDP parking standards for this use class (for 1 space per 50sqm), it is considered that there is sufficient on-street parking available locally to accommodate the potential shortfall in parking and highways have therefore no objection.

Public Footpath COL/87/10 runs through part of the site. The Public Rights of Way Officer has raised no objections as this is unaffected by the proposed development.

The proposals are therefore considered not to have a detrimental effect on highway safety and would comply with Policy T10 of the UDP

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

The application site is partially located in Flood Zone 2 and Flood Zone 3 of the EA's Flood Map.

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

These details relate to measures set out in the Flood Risk Assessment, including finished floor levels, surface water run-off and safe routes in and out of the site.

The Environment Agency has requested that the Local Planning Authority satisfies itself that a Sequential Test has been undertaken and passed, in accordance with the NPPF and National Planning Practice Guidance.

The Sequential Test (ST) process aims to keep new development out of medium and high flood risk areas (Flood Zones 2 and 3).

Paragraph 104 of the NPPF sets out where ST's are not required and this includes applications for "minor development". Given the increase in floorspace, this proposal isn't considered to now meet that exception.

However, it is considered that there are a number of factors which are relevant to assessing whether a ST is required:

Firstly, there is an existing industrial building on the site. The proposal seeks to extend this, rather than provide an entirely new form of development. The surrounding area is dominated by industrial development and the footprint of the building, as extended, is roughly comparable with the footprint of the original two buildings (prior to one being demolished) on site.

Secondly, this building could be reoccupied if the applicant so wished, without a new application or a ST. The proposed use is (B2) is also within the same Use Class as the existing use.

Thirdly, the proposed (and existing) use of the building is classified as a 'less vulnerable' use in Planning Practice Guidance.

Lastly, the proposed development will bring significant economic benefits, through providing a modern and fit for purpose building and the resultant job creation it is likely to bring.

Taking all of these factors into account it is considered that the need for a Sequential Test is outweighed by the existing situation and the benefits of the development. In respect of safety, the recommendations of the Flood Risk Assessment are to be conditioned and this includes the identification and provision of safe routes into and out of the site.



Subject to the imposition of conditions, it is considered that the proposed development is acceptable in relation to flood risk and drainage. This would be in accordance with Chapter 10 of the NPPF.

**Trees:**

To the southern part of the application site and along the canal frontage are a group of trees subject to Preservation Orders. The Council's Arboricultural Officer has been consulted on the application and has stated that as the building will not be extended closer to the protected trees there are no objections.

A condition is required to secure an Arboricultural method statement in accordance with BS 5837, to show how the construction works will be implemented while avoiding damage to the trees. This would be in accordance with Policy NE9 of the UDP and Chapter 11 of the NPPF.

**Ecology:**

The Council's Ecology officer has been consulted on the application and stated that a Bat Survey was submitted in respect of the prior notification for demolition application in 2014. This survey established that bat roost potential was present in the building but the features were not being used by roosting bats. No further ecological survey work is required and no objections have been raised, subject to conditions.

These relate to the prevention of light spillage in to bat foraging corridors, which can be controlled by requiring a lighting scheme. In addition the provision of bat boxes (2) and starling boxes (2) are also required.

Subject to these conditions, the development is considered acceptable in respect of ecology and accords with the guidance contained within Chapter 11 of the National Planning Policy Framework.

**Objections:**

No letters of representation have been received.

**Conclusion:**

In conclusion the proposed alterations and extensions to the existing building are considered to be of an acceptable design and scale. The proposal would not be detrimental to highway safety or the amenity of local residents and would encourage economic development in an established commercial 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. 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 full permission is recommended.

## **10. 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 development shall not be brought into use until all areas indicated to be used for access, servicing and parking on the approved plans have been laid out with a hardened and drained surface in accordance with the DCLG publication 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13<sup>th</sup> May 2009. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) this surface shall be so retained, free of obstructions and available for the uses specified on the submitted/listed plan. .
4. 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. Unless otherwise agreed in writing with the local planning authority, 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.
5. Following completion of any measures identified in the approved Remediation Strategy, pursuant to Condition 4, 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 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.

6. Prior to commencement of development an Arboricultural method statement in accordance with BS 5837, shall be submitted to and approved in writing by the Local Planning Authority. This shall detail how the construction works will be implemented while avoiding damage to the tree protected by Tree Preservation Order towards the southern boundary of the application site. The development shall be undertaken in accordance with the approved scheme.

7. Before development commences a scheme which indicates the measures to be taken for the control of stray light arising (into adjacent bat foraging corridors) from the operation of artificial lighting shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the artificial lighting shall be operated in accordance with the approved scheme.

8. Prior to first occupation of the development, the following measures shall be installed:

- Two bat boxes in the form of a Schweglar type 1FQ bat box or similar - these shall be installed in the south facing elevation (adjacent to the canal and trees), at least 4 metres above ground level and not located above windows or doors.
- Two woodcrete starling boxes - these shall be erected on the remaining trees within the site, at least 3 metres from the ground.

9. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) and Letter from Flood Risk Consultancy Limited (23/12/2014) and the following mitigation measures detailed within the FRA:

- a. Finished floor levels for the proposed extension shall be set to 300mm above the existing floor level of 128.97m AOD, finished level of 129.27m AOD.
- b. Limiting the surface water run-off generated by the up to and including 1 in 100 year critical storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
- c. Identification and provision of safe route(s) into and out of the site to an appropriate safe haven.

10. The superstructure of the extended building shall not be commenced until details of the facing brickwork, insulated metal cladding and profiled metal cladding proposed for the walls and roof have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be undertaken in accordance with the details so approved.

11. 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 building shall not be occupied until such approved drainage scheme has been provided on the site to serve the development. The approved drainage scheme shall be thereafter retained.

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			17/10/14
Proposed site plan	1550 – Drawing 05 rev A		7/4/15
Proposed floor plans	1550 Drawing 03 Rev B		7/4/15
Proposed elevations	1550 drawing 04 A		7/4/15
Design & Access statement			16/10/14
Existing floor plans	1550 Drawing 01		17/10/14
Existing elevations	1550 – Drawing 2		17/10/14
Flood Risk Assessment and Letter from Flood Risk Consultancy Limited			17/12/14 and 23/12/14

# KIRKLEES METROPOLITAN COUNCIL

## PLANNING SERVICE

### UPDATE OF LIST OF PLANNING APPLICATIONS TO BE DECIDED BY PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)

11 JUNE 2015

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**APPLICATION NO: 2014/93192**

**PAGE 9**

#### **OUTLINE APPLICATION FOR ERECTION OF 2 SEMI DETACHED DWELLINGS WITH OFF ROAD PARKING**

**LAND ADJ SUDE HILL TERRACE, NEW MILL, HOLMFIRTH, HD9 7BL**

#### **Ward Member Comments**

Cllr Nigel Patrick has asked for the application to be deferred. An email from Cllr Patrick gives the reason for this as:

“Can you please ask the Chair of the Planning Sub Committee to defer the item on Sude Hill on the grounds that a ward councillor is unable to attend to speak on behalf of residents. Myself and Councillor Sims have to attend a Licensing Training day in order for us to attend Licensing Panels, and as such we are unable to be in two places at one time.

This would be very helpful”.

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**APPLICATION NO: 2015/90374**

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#### **ERECTION OF 5 DWELLINGS (WITHIN A CONSERVATION AREA)**

**HOYLE BECK CLOSE, LINTHWAITE, HUDDERSFIELD, HD7 5RB**

#### **Assessment**

##### **Contamination and Pollution**

The applicants have provided evidence that Japanese Knotweed has been removed from the site by a specialist contractor. This includes a warranty and advice about how to construct a barrier to prevent Japanese Knotweed reappearing on the site. This has been assessed by the Biodiversity Officer who considers there is no longer a requirement to condition details to be submitted for approval (see amended plans table).

The Agent has queried information in the Officers' report regarding submission of contaminated land reports. To clarify this matter we have received a Phase 1 desk study, and this is referred to in the plans table. We have also received a Phase 2 intrusive report but this does not include details of gas monitoring. Given this site is adjacent to a historical landfill site further information is required in risk assessing the ground gas at the site. The Ground Gas investigation/information should involve at least three boreholes, monitored over 6 occasions, over a 3 month period, including periods of falling pressure.

The applicants have stated that gas monitoring has taken place but the results will not be available until after the committee meeting. Whilst we are satisfied that the site can be developed it will still be necessary to impose contaminated land conditions but the final conditions may vary from those set out in the main report.

### **Highway Safety**

An amended site layout plan, ref 2014-02-03E, has been received. This indicates a potentially adoptable turning area sufficient in size to accommodate an emergency vehicle whilst retaining bin collection points. This amended layout also has a note referring to the existing access (from Hoyle Ing) being surfaced and completed to adoptable standards to create a shared surface carriageway.

KC Highways have assessed the amended plan and have no objections to this subject to the imposition of conditions regarding: surfacing of parking spaces and a scheme detailing the 'completion and reconstruction of the proposed internal adoptable estate road to form a shared surface carriageway.' The latter would require the rewording of condition 12 of the main report.

### **Recommendation**

In light of the information above the recommendation is amended to read:

#### **CONDITIONAL FULL 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.**

Amended Plans Table

<b>Plan Type</b>	<b>Plan Reference</b>	<b>Revision</b>	<b>Date Received</b>
Existing Site Layout Plan	2014-02-02	-	10/2/2015
Proposed Site Layout Plan	2014-02-03E	-	8/6/2015
Design and Access Statement	-	-	10/2/2015
Contaminated Land Report – Phase 1	J2889/14/EDS	-	15/4/2015
Contaminated Land Report – Phase 2	J2899/14/E	-	10/2/2015
Japanese Knotweed Proposal Document	JKC Ltd dated 18.9.14		9/06/2015
Japanese Knotweed Treatment Report	JKC Ltd dated 21.10.14		9/06/2015
Japanese Knotweed Completion Report	JKC Ltd dated 6.1.2015		9/06/2015
Japanese Knotweed Warranty of Work	JKC Ltd dated 18.2.15		9/06/2015

**APPLICATION NO: 2014/93217**

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**ERECTION OF EXTENSION AND ALTERATIONS TO EXISTING INDUSTRIAL UNIT**

**OAKES BUSINESS PARK LTD, NEW STREET, SLAITHWAITE, HUDDERSFIELD, HD7 5BB**

Consultations:

Comments from the Canal & Rivers Trust remain outstanding and therefore the recommendation for the application is changed to reflect this.

### Recommendation:

Conditional Full Permission subject to the delegation of authority to officers to:

- await the consultation response of the Canals and River Trust and, provided the Canal & Rivers Trust raise no material considerations,
  - impose all necessary and appropriate conditions, which may include those set out in the main report
  - issue the decision.
- 

## **ITEM 11 – APPLICATION 2014/92634**

### **Consultee Responses:**

**Kirklees Flood Management and Drainage** – The proposed layout and surface water drainage scheme are acceptable. A condition requiring some further minor details relating to the proposed drainage scheme is recommended.

An existing overflow pipe to an adjacent land owner's site is reinstated as part of the drainage works and this is welcomed.

**Kirklees Highways Development Management** – The parking spaces for plot 11, which are to be accessed off Owlars Bars Road, should have a 2m x 2m chamfered corner to each side in order to improve visibility. Alternatively, these parking spaces (and the adjacent parking for plot 10) could become tandem parking spaces accessed from within the site. An amended plan has been requested indicating either of these amendments. Subject to the submission of an amended plan the proposals are acceptable to Highways Development Management.

### **Representations:**

One representation has been received in response to the amended layout and drainage information.

The neighbour has sought assurances on their interpretation of the plans and this has been provided to them by Officers. In addition, the following issues have been raised:

- Potential impact on adjacent green corridor (including mature trees) from the carrying out of building operations.

**Officer response:** The northern edge of the site forms part of a green corridor, as allocated on the Unitary Development Plan Proposals Map. The area adjacent to this corridor is to form on-site public open space. It is however probable that construction plant and machinery will need to come in relatively close proximity to the Meltham Dyke corridor when developing plots 19-22 and also when laying out the open space. As such, a condition can be imposed requiring protective fencing to be erected alongside the dyke that will help to prevent construction plant and machinery encroaching too close to adjacent trees and vegetation along the green corridor.



- Potential impact on the listed building which sits within the site

**Officer response:** The amended site plan indicated some additional parking spaces within the curtilage of the listed building; these have subsequently been deleted. The listed building does not form part of the development scheme and Officers are satisfied that the proposals (as amended) will not prejudice the future redevelopment of the listed building.

**Updated Plans Table:**

<b>Plan / Report Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Proposed site plan	15051 (PL04) 01	A	4/6/15*
Street scene elevations	E365 (05) 01	B	13/11/14
Street scene elevations	E365 (05) 02	B	13/11/14**
Proposed site sections	E365 (06) 01	A	20/8/14
House Type B	E365 (04) 02	A	20/8/14
House Type A	E365 (04) 01	A	20/8/14
House Type D	E365 (04) 04	B	20/8/14
House Type D1	E365 (04) 05	B	20/8/14
House Type C	E365 (04) 03	C	13/11/14
Terrace floor plans	E365 (04) 06	B	4/6/15***
House Type B1 (plot 18)	E365 (04) 07	-	4/6/15
Drainage Layout	T / 15 / 1565 / CL(19)01	P7	28/5/15
Drainage Construction Details (sheet 1)	T / 15 / 1565 / CL(19)02	P2	28/5/15
Drainage Construction Details (sheet 2)	T / 15 / 1565 / CL(19)03	P1	28/5/15
Drainage Construction Details (sheet 3)	T / 15 / 1565 / CL(19)04	P1	28/5/15
Surface Water Management Plan	Prepared by Tier Consult	-	28/5/15

\* To be updated to reflect amendment to parking for plot 11 as described in the 'consultee responses' section of this Update.

\*\* To be updated to reflect removal of parking spaces to front of plots 10 and 11 as per amended site plan being considered by Members.

\*\*\* To be updated to reflect amendment to parking for plot 11 as described in main report.

**Revised Officer recommendation:**

To enable amended plans to be submitted which reflect a minor change to the parking for plots 10 and 11 the Officer recommendation is amended to:

Approve variation to condition 2 of planning permission no. 2006/93156 subject to the delegation of authority to Officers to:

- (i) obtain an amended site plan which demonstrates improved visibility for the parking spaces to plot 11 and obtain amended elevation/floor plans for plots

10 and 11 which correspond with the proposed site layout.

(ii) impose all necessary and appropriate conditions and;

(iii) issue the decision notice.

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## **ITEM 12 – APPLICATION 2014/93014**

### **Biodiversity**

As noted in the full report before Members, Officers' are satisfied that matters in respect of Biodiversity are fully resolved.

### **Affordable Housing/Section 106 contributions**

Following further discussions, the applicant has indicated a willingness to re-visit their position in respect of affordable housing and Section 106 contributions.

The NPPF sets out how viability should be considered and paragraph 173 states,

*“To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.”*

The applicant originally offered no affordable housing. However, a more detailed Viability Appraisal has now been submitted, setting out why they contend the development cannot deliver an affordable housing contribution.

The factors behind this are given as the substantial legal and planning fees associated with bringing a development forward on this site. This primarily relates to the applicant's defence of a village green application, which was overturned in 2014. Additional significant (and site specific) costs will also need to be met in respect of drainage and provision of retaining walls.

The applicant's appraisal has been subject to independent assessment on behalf of the Council. This includes thorough scrutiny of the residual land value, revenue return, development, finance and abnormal costs of the development.

Whilst the high cost of bringing forward and developing this site in terms of legal/planning fees, drainage and retaining walls is accepted; the Council's appraiser is of the view that the development can deliver a total 'pot' of £362,308 to cover all Section 106 matters.

In addition to an affordable housing contribution of £248,255, this includes the costs associated with: an Education Contribution, provision of residential Metro Cards and a bus priority loop system. Public Open Space is to be provided on site with a Unilateral Undertaking securing its future maintenance.

Section 106 contributions totalling £362,308 would allow for developer's profit of 20% on Gross Development Value. This is considered to be a reasonable developer's return and is within the generally accepted range, established by appeal decisions.

Based upon this position, Officers have undertaken further negotiations with the applicant. They have now confirmed that they are prepared to agree to pay the full amount of £362,308 (towards all Section 106 contributions), which the Council's consultant considers are able to be afforded by the development.

The table below details the Policy requirements in relation to the development, together with contributions agreed with the developer as set out above.

<b>Provision/Contribution</b>	<b>Requirement</b>	<b>Contributions/ Costs</b>
Affordable Housing	30% of res floor space	£248,255.25
Education Contribution	£89,547	£89,547
Public Open Space	Provided on site	Provided on site
Residential Metro Cards	£19,505.75	£19,505.75
Bus priority loops (Edgerton Road/Blacker Road junction)	£5,000	£5,000
		<b>Total: £362,308</b>

Whilst the Council primarily seeks to achieve on-site affordable housing, SPD2 allows the Council and developer to agree to a commuted sum towards the provision of affordable housing off-site. In this case a commuted sum is considered preferable given that the primary needs identified in the Strategic Housing Market Assessment are for 2 and 3 bedroom homes and primarily for social rent. The dwellings proposed by this development are for large, detached four bedroom houses, for which there is a much smaller need.

Officers' recent discussions with Registered Providers on other schemes has highlighted concern around the sustainability of a single unit (as would be the case with this site), with potential issues around affordability and under-occupancy in respect of welfare reforms. Therefore, a commuted sum is considered appropriate in this instance.

Although the development does not fully meet the requirements of SPD2 in relation to the provision of affordable housing (at 30% of floorspace), the applicant's revised offer is considered reasonable given that it is in line with the independent assessment conducted on behalf of the Council.

In addition, if the applicant was to implement the 1967 consent, no affordable housing or Section 106 contributions would be secured.

Furthermore, that historic consent would involve a more dense development (55 units as opposed to the 41 now proposed) than this current application seeks consent for. As noted in the Officer report to Committee in February 2015, the layout plan for the 1967 permission,

*“Shows a relatively unimaginative layout with minimal public open space and no public access alongside the Dyke...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 plan.”*

In the view of Officers, the benefits of this proposal being brought forward, rather than the 1967 consent, are considered to weigh heavily in favour of accepting the applicants' offer as detailed above.

Whilst the amount of affordable housing offered falls below that required by Policy H10 of the UDP and the Council's supplementary planning document, the provision of a financial contribution towards affordable housing is nevertheless secured by the development and will contribute towards meeting the identified need for affordable housing within the area.

The potential harm arising from the shortfall in the affordable housing provision from that required to meet the Council's policy needs to be weighed against the benefit of bringing forward new housing development at a time of general housing need and the lack of a 5 year housing land supply.

Officers' therefore advise that matters in relation to Viability and affordable housing are considered resolved and a reason for refusal on this basis would now be difficult to substantiate.

### **Public Comment**

Since the Sub-Committee last considered the proposal in February further comments have been received on the proposal as follows:

#### **Barry Sheerman MP**

- Supports the Clayton Fields Action Group (CFAG) to preserve as much green space and access for his constituents as possible.
- An existing footpath on top of the woodland banking should be preserved as it has been used for many years and is a wildlife haven.
- Concerned at tree removal from the banking and transfer of species elsewhere in the the site. States that Yorkshire Water are concerned that such transfer and new tree planting is inappropriate and not viable.
- Concerned that the proposal ignores the local environment which local people have fought to preserve and that there is a lack of affordable housing.

#### **Clayton Fields Action Group (CFAG)**

- The proposal will bring a greater amount of traffic to surrounding roads which are narrow and subject to pavement parking so as not to obstruct traffic flow.
- Construction traffic will need to go over pavements to negotiate the junction with Deveron Grove and Queens Road which is difficult to manoeuvre due to gradient and angle. Such traffic will be obstructed by

traffic associated with the nursery on Murray Road and the narrowness of that road.

- A childrens' nursery on Murray Road attracts parents in cars whose parking narrows the already narrow road so that large goods vehicles passing would pose a serious safety hazard.
- Construction traffic cannot negotiate the junction of Murray Road and Blacker Road due to the limited turning space available.
- Existing roads in the area are busy and congested and could not cope with the extra estimated 100+ cars traffic associated with the proposal.
- Blacker Road is very busy at both junctions from nearby new housing development.
- Edgerton Road carries standing traffic back to the junction with Queens Road at most times of day making it difficult for traffic to turn out from. This results in delays turning onto Edgerton Road from Queens Road resulting in standing traffic at that junction also. Blacker Road and Queens Road cannot cope with the increase in traffic from this proposal.
- The increase in traffic will result in increased air pollution. Air quality testing should be undertaken as part of the consideration of the planning application.
- The site is considered a wildlife haven and area of natural beauty with many species of mature trees.
- There are vacant dwellings within the District.
- The site lies in a conservation area.
- The site has diverse and abundant wildlife and plants contributing to its eco system.
- The submitted wildlife survey is flawed as it was conducted in daylight hours omitting nocturnal species.
- The proposed woodland walkway is unnecessary and impractical. It would not be open and useable to all members of the public. It would be prone to flooding, decay and vandalism and would require regular maintenance. It would be slippery and covered in moss. It would be difficult to negotiate with steep gradients and 'twisty turns' making it difficult for the elderly, disabled and prams to negotiate and should be left as a right of way rather than a footpath with the proposed walkway.
- It is argued that the well established claimed route along the top of the woodland provides a more acceptable alternative which is level, away from road pollution and is a nature trail. The retention of that route would cause minimum, if any infringement on the proposed layout. The argument that this would result in loss of privacy for existing residents "is ridiculous considering that a public footpath already borders one whole side of the site and therefore the gardens along it."
- There are ninety statements of use for this right of way along this edge of Clayton Fields "with more pending". It is argued that the site is of wider interest within the town.
- The proposed public open space within the development lies above existing sewage chambers which cannot be built on. The pos is not desirable or suitable for local people or people of the town who have previously had full and free use of the space when it was a village green.
- POS provision within the scheme should be more substantial on firm ground.

- The safety and welfare of users of the POS centrally will be jeopardised as the ground is not solid, the air around the sewage chambers and surroundings is prone to foul odour which is not pleasant or healthy.
- The proposal to replant woodland vegetation within POS is inadequate compensation for the loss habitat consisting of woodland and wildflower meadow resulting from the development.
- The need for access to the sewage chambers means that the planting would be disturbed and would not provide a permanent or substantial wildlife habitat.
- The need to set trees back from the underground chambers means that the replanting will not be woodland.
- The proposed pos fronting Edgerton Road would be subject to traffic noise and pollution so would not benefit local people and is a part of the site where house building would not be favourable.
- The beauty and history of the site demands significant action to preserve many of the natural features of the site. Most of the remaining trees and plants are mature and well established.
- Tree planting elsewhere in the site would not compensate for the loss of existing mature specimens nor would they be allowed to grow close to proposed houses.
- The overall provision for wildlife in the proposals is inadequate and not in accordance with the requirements of the National Planning Policy Framework which requires LPA “to secure biodiversity enhancement and the ecological functionality of habitat networks within the site and ensure the protection of wildlife and the habitat which supports it and secure opportunities for the enhancement of nature conservation value of the site in accordance with the National Planning Policy Framework.”
- The proposal represents a small number of properties with a handful of affordable homes which does not represent “huge gains for Kirklees Council” but will result in the loss of an beautiful natural green place of local heritage and its health benefits.

Sir John Harman

- The application should be refused in order to allow constructive dialogue between local residents, the developer and the LPA to secure an amended scheme to ‘reasonable standards of local amenity and environmental value’.

As will be seen from the previous report the Sub-Committee considered the following issues before reaching their resolution.

- The principle of development and layout.
- The ‘woodland walk’ and pedestrian links through the site.
- Road safety issues including the character of surrounding roads and junctions.
- The effect on residential amenity including air pollution and traffic noise.
- The effect on visual amenity including the character of the conservation area and tree cover.

The Sub-Committee's expressed concerns were the lack of sufficient information to enable the effect on wildlife habitat and biodiversity to be properly judged and the failure to provide affordable housing provision.

**Revised Officer recommendation and reasons:**

Following negotiations with the applicant in respect of affordable housing/viability as set out above, and the resolution of matters in respect of Biodiversity as set out in the full report; Officers consider that there is no longer any reason to substantiate a recommendation to the Inspector that the Authority would have been minded to refuse outline planning permission.

If Members agree with that view then officers will inform the Inspectorate that the Council, as local planning authority, will no longer object to the Secretary of State granting outline planning permission, subject to the conditions listed in the full report and the following correction to condition 28.

“28. Before development commences details of facilities to be provided for charging plug-in and other ultra-low emission vehicles within the curtilage of the dwellings shall be submitted to and agreed in writing with the Local Planning Authority. Such facilities shall be provided before the dwellings to which they relate are first occupied and shall be retained thereafter.”

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**Name of meeting: HUDDERSFIELD PLANNING SUB COMMITTEE**

**Date: 11<sup>th</sup> June 2015**

**Title of report: Variation condition 2 (plans) on previous permission 2006/93156 for demolition of mill and outbuildings and erection of 23 townhouses and apartments with garages (partly within curtilage of Listed Building) (planning application number 2014/92634)**

<b>Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?</b>	No
<b>Is it in the Council's Forward Plan?</b>	No
<b>Is it eligible for "call in" by Scrutiny?</b>	No
<b>Date signed off by Director &amp; name</b>	<b>Paul Kemp (Assistant Director) on behalf of Jacqui Gedman (Director) – 2/6/15</b>
<b>Is it signed off by the Director of Resources?</b>	No
<b>Is it signed off by the Assistant Director – Legal &amp; Governance?</b>	<b>Margaret Miller (Legal Manager) on behalf of Julie Muscroft (Assistant Director) – 2/6/15</b>
<b>Cabinet member portfolio</b>	<b>Cllr. Steve Hall</b>

**Electoral wards affected: Holme Valley North**

**Ward councillors consulted: Ward members are aware of the proposal**

**Public or private: Public**

## **1. Purpose of report**

This application is on the agenda as an item for Members to consider some minor changes to the scheme previously presented to Sub-Committee in January 2015 when Members resolved to approve the application, subject to the delegation of authority to Officers.

## **2. Background**

**2.1** On 16<sup>th</sup> January 2015 the Sub-Committee resolved to approve a variation of condition 2 (plans) on permission number 2006/93156 for demolition of mill and outbuildings and erection of 23 townhouses and apartments with garages. The variation reduced the number of residential units from 23 to 22 and resulted in minor changes to the site layout, house designs and some plot types. The original committee report is included at appendix 1.

**2.2** The committee resolution was:

Approve variation to condition 2 of planning permission no. 2006/93156 subject to the delegation of authority to Officers to:

(i) secure a section 106 obligation relating to the provision of on-site POS and the payment of off-site POS contributions

(ii) impose all necessary and appropriate conditions

(iii) issue the decision notice.

**2.3** The permission was to include a condition relating to a culvert which runs across the site. Details of the position, depth, size and condition of the culvert were required to ensure that the amendments to the layout would not have a detrimental impact on the culvert and thereby result in an increased risk of flooding on and off-site.

**2.4** The decision notice has not been issued however since the committee resolution the applicant has carried out some investigation works into the existing culvert. This has established that the culvert is a relatively substantial structure but is in poor condition. Its condition is such that detailed investigation works have proven to be problematical. As such, the developer has agreed with the Local Planning Authority to install a new flow pipe and reroute the watercourse in a north easterly direction across the site; this is from where the culvert enters the site at its south west corner on Mill Moor Road through to Owlbar Bars Road towards the north east corner of the site.

**2.5** As a result of the works to reroute the culverted watercourse, including achieving acceptable stand-off distances between buildings and the new flow pipe, it is necessary to make some amendments to the site layout. These are:

- Repositioning of plots 1 and 2 approximately 2.5m to the east
- Repositioning the access off Mill Moor Road approximately 2m to the east
- Amendment to the finished ground floor levels of plots 15, 16 and 19-22 to reduce the risk of flooding to these properties (in the event that the new culverted watercourse becomes blocked/is overwhelmed and results in overland flooding).

The effect of this is that the overall height of these dwellings would be increased by 145mm and 470mm for plots 15 and 16 respectively and by 30mm for plots 19-22.

- Remove the detached double garage adjacent to western site boundary and add a single attached garage to the side of plot 18

**2.6** In addition, some further minor amendments to the scheme are proposed which comprise:

- Repositioning of the electrical sub station within the site
- Two additional parking spaces formed to the rear of plot 11
- Revisions to the finished ground floor levels of the remaining dwellings following a detailed topographical survey of the site.
  - The ground floor levels of plots 1-8, 12-14 and 17-18 have been reduced. As a result, the overall height of these dwellings would be between 15mm and 515mm lower than previously indicated.
  - The finished ground floor levels of plots 9-11 have been raised slightly and this will increase the overall height of these dwellings by 85mm.

**2.7** A full updated plans table will be included within the Committee Update.

**2.8** The amendments to the application have been publicised by neighbour notification letters. The publicity period expires on 9<sup>th</sup> June 2015 and any representations received will be reported to Members in the Committee Update.

**2.9** Since the Sub-Committee resolution a new S106 agreement has been entered into regarding on and off-site public open space provision. Officers consider that this matter has been fully addressed.

### **3. Key Points**

**3.1** Members are solely considering the changes to the scheme since the committee resolution earlier this year.

**3.2** The principal amendments are necessary to reduce flood risk for future occupiers of the development as well as reducing flood risk for properties outside of the site. This is achieved by providing a new safeguarded route for the culverted watercourse through the site and incorporating further flood mitigation measures into a number of the plots.

**3.3** The scale and nature of the proposed changes are such that their impact, either individually or cumulatively, would not significantly alter the overall appearance of the development and would not have any materially greater

effect on the amenity of neighbouring properties than the development already approved by the sub committee. Furthermore, the amendments do not materially alter the assessment of the application from highway safety perspective.

**3.4** Officers consider that the application remains in accordance with the relevant Unitary Development Plan and National Planning Policy Framework policies, as set out in the original committee report (see appendix 1).

#### **4. Implications for the Council**

**4.1** The main implication in considering this application is the potential for an award of costs in a subsequent planning appeal, following a refusal of consent. Costs may be awarded on the grounds of unreasonable behaviour which would include refusing to grant an application which has previously been approved or which is the subject of an extant permission, where there has been no material change in circumstances to justify the refusal.

#### **5. Consultees and their opinion**

**5.1** Kirklees Flood Management and Drainage have been directly involved with negotiations with the applicant prior to the amended plans being submitted. Kirklees Flood Management and Drainage have been formally consulted on the amendments and their comments will be provided to Members in the Committee Update.

#### **6. Officer recommendations and reasons**

**6.1** Officers consider that the proposed amendments are acceptable because the proposals would not result in any significant detrimental impacts. The changes to the scheme do not materially alter the previous assessment of the application.

**6.2** The Officer recommendation is:

Approve variation to condition 2 of planning permission no. 2006/93156 subject to the delegation of authority to Officers to:

- (i) impose all necessary and appropriate conditions
- (ii) issue the decision notice

Note: The permission would be subject to the S106 agreement dated 17<sup>th</sup> April 2015 which provides for on and off-site open space.

#### **7. Cabinet portfolio holder recommendation**

Cllr. Steve Hall has not been consulted on this application because it is not a strategically significant application and the proposed amendments are relatively minor.

**8. Contact officer and relevant papers**

a. Adam Walker – Planner – Tel: 01484 221000  
[adam.walker@kirklees.gov.uk](mailto:adam.walker@kirklees.gov.uk)

b. Simon Taylor – Head of Development Management – Tel: 01484 221000  
[simon.taylor@kirklees.gov.uk](mailto:simon.taylor@kirklees.gov.uk)

**9. Assistant Director responsible**

Paul Kemp – Assistant Director, Investment and Regeneration (Acting) –  
01484 221000 – [paul.kemp@kirklees.gov.uk](mailto:paul.kemp@kirklees.gov.uk)

## APPENDIX 1: ORIGINAL COMMITTEE REPORT

### LOCATION PLAN



Map not to scale – for identification purposes only

<b>Application Details</b>		
Type of Development	Variation of condition 2 on previous application 2006/93156 for erection of 23 residential units	
Scale of Development	Site area: 0.53ha	Units: 22
No. Jobs Created or Retained	N/A	
<b>Policy</b>		
UDP allocation	Part land without notation / part Urban Greenspace	
Independent Viability Required	No	
<b>Consultation</b>		
Individual Support (No.)	1	
Individual Objection (No.)	4	
Petition	No	
Ward Member Interest	No	
Statutory Consultee Objections	No	
<b>Contributions</b>		
Affordable Housing	N/A	
Education	N/A	
Public Open Space	On-site general amenity POS provision + maintenance & £6,700 off-site POS contribution	
Other	N/A	
<b>Other Issues</b>		
Any Council Interest?	No	
Pre-application advice	No	
Pre-App Consultation Undertaken?	No	
<b>Comment on Application</b>	Minor changes to layout , house designs, and some plot types. Reduction to 22 units. No objections subject to imposition of similar conditions to those previously imposed, together with a Deed of Variation to secure the same Section 106 contributions as the 2006 permission.	

## **1. INFORMATION**

The proposals are brought forward to the Sub Committee for determination in accordance with the Council's Scheme of Delegation, as the site is over 0.5 hectares in area.

## **2. SITE DESCRIPTION**

The proposal relates to the site of the former five storey Victorian Mill situated on a 0.53 hectare site fronting Mill Moor Road, approximately 500 metres west of Meltham town centre. The site also contains a former early C19th

cottage which is listed and pre-dates the mill, but is currently in a very poor state of repair. The previous and current planning application excludes the listed building, as it has been subject to separate applications for Listed Building Consent.

The land drops away towards the rear of the site and is bounded by Meltham Dyke to the north and Owler Bars Road / The Hollow to the east. A small, recently constructed residential development site abuts the western boundary of the site.

### **3. PROPOSAL**

The original proposals have the benefit of full planning permission for the demolition of the existing mill and the erection of 23 residential units. The area allocated as Urban Greenspace at the rear of the site is proposed to be left as Public Open Space, while the listed cottage has previously been granted Listed Building Consent to be renovated back to a habitable dwelling, giving 24 residential units in total. 48 parking spaces are proposed and all but three of the units are proposed to be accessed from Mill Moor Road, the remainder (including the listed cottage) being served from Owler Bar Road / The Hollow.

These proposals have been implemented by way of partial construction of the access from Owler Bar Road / The Hollow

The current proposals seek to vary Condition 2 :

“The development hereby permitted shall be carried out in complete accordance with the approved plans and specifications except as may be required by other conditions.”

The variations seek to:

- Reduce the plot nos from 23 to 22.
- Change the parking arrangements, such as placing additional parking spaces directly off Mill Moor Road to the front of Plots 1-2 & 10-11.
- Increase heights of Plots 7-9 by 1m.
- Increase heights of Plots 19-22 by 0.5m.
- Remove stone roof tabling and kneelers from all plots.
- Reposition and re-number plots' 10-12 (now 10-11), 15-16 (now 14) & 22-24 (now 19-22)
- Removal of front door canopies.

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

2006/93156 – planning application for demolition of mill and erection of 23 residential units - approved

### **5. PLANNING POLICY**

**Site allocation:**



The site is part allocated as 'land without notation' and part 'Urban Greenspace', while the adjoining Meltham Dyke is allocated as a Green Corridor

**Relevant UDP policies:**

D2 - development involving 'land without notation' - to consider residential amenity, visual amenity, highway safety etc.

D3 – urban greenspace

BE2 - design of new development

BE11 - use of natural stone

BE12 - space about building standards

H18 - provision of Public Open Space on sites over 0.4 hectares

T10 - highway safety

T19 - off-street parking standards

**National Planning Policy Framework:**

‘Achieving Sustainable Development’

‘Core Planning Principles’

Delivering a wide choice of high quality homes (chapter 6)

Requiring good design (chapter 7)

Conserving and enhancing the natural environment (chapter 11)

Conserving and enhancing the historic environment (chapter 12)

‘Decision taking’

**Other Policy Considerations:**

Manual for Streets (2007)

**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** – no objections subject to conditions

**K.C. Conservation & Design** – no objections

**K.C. Trees** – no objections

**7. REPRESENTATIONS**

The application has been advertised by neighbour letter, newspaper advertisement and site notice. Four letters of objection have been received, the comments of which may be summarised as follows:

- Too many small interconnected properties of 3 storeys, not in keeping with surrounding properties.
- Concerns about impact on local road network, in particular the junction with Westgate and Station Road.
- The plans for four properties to access / egress from Owler Bars Road should not be allowed.
- Too many properties at 23 units – overloading medical, transport and educational resources. Strain on already crumbling infrastructure.
- Parking issues on Mill Moor Road will be exacerbated. More parking from surrounding residents when snow is forecast.
- Concerns about drainage difficulties / complications on the site and the impact this may have on the adjacent Green Corridor if not adequately addressed.

Meltham Town Council:

Support.

**8. ASSESSMENT**

**Principle:**

The principle of allowing this variation of condition application is acceptable, in accordance with legislation under Section 73 of the Town & Country Planning Act 1990 (as amended) and Government advice in dealing with material alterations to existing planning permissions.

**Design and visual amenity:**

Although some of the original decorative design-enhancing features have been removed from the proposals (e.g. door canopies and roof tabling / kneelers), the overall design of the development (natural stone) remains in keeping with the West Yorkshire vernacular style and safeguards the setting of the listed cottage.

Additional windows were requested for plots' 19 & 22 to ensure better natural surveillance and views from these plots: the plans were changed accordingly.

**Residential amenity:**

Following changes to the plans to move plots' 17 & 18 away from a neighbouring property and alter the positions / sizes of windows on plots 11, the proposals comply with the normally recommended minimum separation distances as set out in Policy BE12, and would not cause any other significantly detrimental problems in terms of privacy / residential amenity matters.

**Highway safety:**

Highway Services raised concerns about some of the proposed changes to layout when the current revisions were first submitted, however following amendments, Officers are now, on balance, satisfied with the plans.

Some changes to the conditions are recommended to reflect the amendments and also updated guidance in Manual for Streets, however the recommendations for conditioning the implementation of Metro cards and improved bus stops cannot be taken into account within the scope of this application, as they were not sought in relation to the original planning permission which has been implemented.

**Other issues:**

Government guidance on dealing with variation of condition (Section 73) applications states:

“As a section 73 application cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission. If the original permission was subject to a planning obligation then this may need to be the subject of a deed of variation.”

In this case, the original planning permission has already been implemented and the conditions from the 2006 application need to be revised in light of this although there would be no restriction placed on the timescale for the commencement of development. Some conditions are proposed to be reworded and new pre commencement requirements in relation to the new layout.

The Section 106 agreement relating to the provision of on-site POS and the payment of off-site POS contributions will however need to be subject to a deed of variation agreement prior to the issuing of any new planning permission.

At the time of the original planning application affordable housing did not fall to be considered because the total number of dwellings was below the threshold for an affordable housing contribution – as set out in the Council’s Supplementary Planning Guidance on affordable housing as was applicable at the time.

Whilst the development would now meet the threshold for an affordable housing contribution under the Council’s Supplementary Planning Document 2, it is not considered that this application for relatively minor changes to the approved plans can be used to seek to secure an affordable housing contribution. There is an extant permission in place which can be implemented and it would be unreasonable to impose an obligation on the applicant which was not applicable when the original application was considered. One of the uses of the Section 73 process is to seek minor material amendments to a planning permission and this is what the applicant is seeking to achieve. It is not the purpose of the Section 73 process to reconsider the principle of development.

Objectors have raised numerous issues that fall outside the scope of this application (such as highway capacity, drainage etc) because the only issues to be considered relate to the proposed changes to the original planning permission and any issues arising from such changes. It is not the purpose of the Section 73 process to reconsider the principle of development. This application seeks only to alter the approved plans.

### **Conclusion:**

The proposed minor changes to layout, house designs, and some plot types are considered to be acceptable. No objections subject to imposition of similar conditions to those previously imposed, together with a Deed of Variation to secure the same Section 106 contributions as the 2006 permission.

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 in this instance.

## **10. RECOMMENDATION**

**APPROVE VARIATION TO CONDITION 2 of planning permission no. 2006/93156 subject to the delegation of authority to officers to:**

- **Secure a deed of variation to the Section 106 Agreement relating to the provision of on-site POS and the payment of off-site POS contributions**
- **Impose all necessary and appropriate conditions**
- **Issue the decision notice.**

1. The development hereby permitted shall be carried out in complete accordance with the approved plans and specifications except as may be required by other conditions.

2. The buildings shall be constructed of regular coursed natural stone.

3. Development shall not commence until a scheme detailing measures to protect the trees and/or other areas of vegetation as indicated on drawing no. E365 (04) 100E has been submitted to and approved in writing by the Local Planning Authority. No until the works comprising the approved scheme have been completed, these shall be retained and maintained throughout the construction phase.

4. The approved landscaping scheme shall be implemented in accordance with a schedule to be submitted to and approved in writing by the Local Planning Authority before development commences. 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 written consent to any variation.

5. The site shall be developed by means of a separate system of drainage for foul and surface water.

6. Any new finished floor levels associated with this approval shall be set no lower than 186.0m AOD.

7. Prior to the development being brought into use, the approved private vehicle parking areas shall be surfaced and drained 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 superseded; and thereafter retained.

8. Notwithstanding the detail as shown on the approved plan E365(04)100E, a scheme detailing the construction specification and layout of:

The site access (including 2.4m x 43.0m visibility splays) with Mill Moor Lane;

6.0m radius to western flank of Owlars Bars Road's junction with Mill Moor Road;

Vehicular footway crossings along the site frontage with Mill Moor Road

2.0m wide along the site frontage with Owlars Bars Road

including all associated highway works, and appropriate Road Safety Audit shall be submitted to and approved in writing by the Local Planning Authority before development commences. No part of the development shall be brought into use until the approved scheme has been implemented. Thereafter, the implemented scheme shall be retained.

**Note:** 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.

9. Notwithstanding the details shown on the approved plan E365(04)100E, a scheme detailing construction specification and layout of the internal estate road (to an adoptable highways standard) and turning area to accommodate a 11.6m refuse collection vehicle, including all associated highway works, and appropriate Road Safety Audit shall be submitted to and approved in writing by the Local Planning Authority before development commences. No part of the development shall be brought into use until the approved scheme has been implemented. Thereafter, the implemented scheme shall be retained.

10. With reference to the approved plan E365(04)100E, nothing shall be built, erected, or grown 1.0m above the height of the adjacent carriageway along site frontage with Mill Moor Road 2.4m set back from the kerb line.

11. The development shall not be brought into use until a 2.4m x 43.0m westerly visibility splay from the junction of Owlars Bars Road along Mill Moor Road level with its footway and constructed to a highways adoptable standard has been provided. The visibility splay shall be retained thereafter.

12. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 18 of planning permission 2006/93156. 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.

13. 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.

14. No development shall take place until details of the siting, design and materials to be used in the construction of walls or fences for boundaries, screens or retaining walls have been approved in writing by the Local Planning Authority. The approved walls/fences shall be erected before the development hereby approved is occupied/brought into use and shall thereafter be maintained.

15. No development shall take place until a soft landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be biased towards native tree, shrub and hedge species. The approved scheme shall be carried out during the first planting, seeding or management season following the commencement of development, or as otherwise may be agreed in writing by the Local Planning Authority. All specimens which die within a five year period shall be replaced on a like for like basis.

16. No development shall take place until a sample roofing tile has been

submitted to and approved in writing by the Local Planning Authority, and the development shall be constructed of the approved materials.

**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, Flint Street, Fartown, Huddersfield (Kirklees Street Care: 01484 221000) 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 and reports:-

<b>Plan / Report Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Proposed site plan	E365 (04) 100	E	08/12/14
Street scene elevations	E365 (05) 01	B	13/11/14
Street scene elevations	E365 (05) 02	B	13/11/14
Proposed site sections	E365 (06) 01	A	20/8/14
House Type B	E365 (04) 02	A	20/8/14
House Type A	E365 (04) 01	A	20/8/14
House Type D	E365 (04) 04	B	20/8/14
House Type D1	E365 (04) 05	B	20/8/14
House Type C	E365 (04) 03	C	13/11/14
Terrace floor plans	E365 (04) 06	B	13/11/14

## **APPENDIX 2: UPDATE TO ORIGINAL COMMITTEE REPORT**

**APPLICATION NO: 2014/92634**

**PAGE 57**

### **VARIATION CONDITION 2 (PLANS) ON PREVIOUS PERMISSION 2006/93156 FOR DEMOLITION OF MILL AND OUTBUILDINGS AND ERECTION OF 23 TOWNHOUSES AND APARTMENTS WITH GARAGES (PARTLY WITHIN CURTILAGE OF LISTED BUILDING)**

**FORMER ALBION MILLS, MILL MOOR ROAD, MELTHAM, HOLMFIRTH,  
HD9 5JY**

#### **Comment on drainage and flood risk issues:**

Information submitted by the same applicant under a separate planning application for residential development on the site (ref 2009/92292) shows a culvert crossing the site. The proposed amendments to the approved scheme involve an alteration to the site layout and, based on the indicated position of the culvert, the proposal means that there will be a greater amount of built development closer to the line of the culvert. For example plot 1 will be 0.2m closer, plot 18 on the current plan (equivalent to plot 17 on original plan) will be approximately 0.8m closer and a detached double garage will be built fully over the culvert.

The proposed amendment to the layout therefore has a material impact on the culvert – and consequently broader drainage and flood risk issues – and as such it is necessary to take this into account in the decision-making process.

The size, depth and condition of the culvert is unknown and so the amendment to the layout in the western part of the site can not be fully considered until such information on the culvert has been assessed by Kirklees Strategic Drainage. To address this matter, an additional condition is recommended requiring details of the culvert; this information is to include confirmation of its position and details of its depth, size and condition. This is to ensure that the layout does not have a detrimental impact on the culvert and thereby result in an increased risk of flooding on and off site, and accord with guidance in the NPPF.

It is to be noted that under English Common Law the riparian owner holds the responsibility for maintaining any watercourse which passes through his boundary. This means that the responsibility of maintaining the culvert currently lies with the applicant and future owners of the land (the individual owners of the dwellings) would assume responsibility.

#### **Representations:**

Two additional representations have been received from one of the existing objectors. These representations are summarised, and responded to, as follows:



- There is a culvert running through the site and further investigation of the impact of the development on the culvert is required. Detailed information on the culvert has previously been requested by the Local Planning Authority on a separate application on this site however to date this has not been provided by the applicant (reference application 2013/90154 for extension of time to implement outline application 2009/92292 for erection of 17 dwellings – application undetermined). Such information should be required under the current application which is being considered by the sub-committee. There are concerns that there will be off-site drainage problems resulting from development's impact on the culvert. Consent from the Environment Agency is required under the Land Drainage Act 1991 before any alteration of the culvert takes place and the Environment Agency should be consulted on this application.

**Officer response:** The issues raised have largely been addressed through the comment on drainage and flood risk issues within the Update. The culvert is classified as an ordinary watercourse and for the purposes of this planning application responsibility for the assessment of risk management lies with Kirklees Council in its capacity as Lead Local Flood Authority. The Land Drainage Act 1991 has been amended by the Flood and Water Management Act 2010 and this confirms that consent is required to obstruct or alter a culvert from the drainage board concerned – in this case Kirklees Strategic Drainage.

- The objector also states that they have a right-of-way through the site between some adjacent land and Owlars Bars Road. Road corridor space is included on the layout plan but it does not explicitly indicate the right of way.

**Officer response:** There is no requirement for private rights of way to be indicated on the approved plans and the objector acknowledges that the right of way is not prejudiced by the development.

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**Name of meeting: PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)**  
**Date: 11<sup>TH</sup> JUNE 2015**

**Title of report: Planning Application 2014/60/93014/W – Land at Edgerton Road / Queens Road, Edgerton. Proposed residential development comprising 41no dwellings and associated works.**

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Is it in the <a href="#">Council's Forward Plan</a> ?	No
Is it eligible for "call in" by <a href="#">Scrutiny</a> ?	No
Date signed off by <u>Director</u> & name	Paul Kemp– 2 <sup>nd</sup> June 2015
Is it signed off by the Director of Resources?	No financial implications
Is it signed off by the Acting Assistant Director - Legal & Governance?	Margaret Miller – 2 <sup>nd</sup> June 2015
Cabinet member <a href="#">portfolio</a>	Cllr. P. McBride

**Electoral [wards](#) affected: Greenhead**  
**Ward councillors consulted: No**

**Public or private: Public**

**1. Purpose of report**

1.1 For the Area Planning Sub-Committee to review the reasons they would have been minded to refuse outline planning permission in the light of further information submitted by the applicant subsequent to their resolution.

**2. Key points**

2.1 Planning application 2014/60/93014 is the subject of an appeal to the Secretary of State against non-determination by this Authority. The application was considered by the Planning Sub-Committee (Huddersfield Area) on 26<sup>th</sup> February 2015. Members resolved that the Secretary of State be informed that this Authority would have been minded to refuse outline 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.*

Copies of the report to Sub-Committee and the Update are attached to this report for information.

- 2.2 The appeal will be by Informal Hearing scheduled for Tuesday 16<sup>th</sup> June 2015.
- 2.3 Subsequent to the Sub-Committee meeting discussions have been continuing with the applicant to resolve Members' concerns.
- 2.4 An amended layout has been submitted showing part of the central area of public open space will be landscaped with plants typical of the woodland habitat. The applicant submitted a Woodland Assessment informed by a further survey on 23<sup>rd</sup> April 2015. This has been assessed by the Council's Biodiversity officer and West Yorkshire Ecology.
- 2.5 The Council's Biodiversity officer notes that one of the reasons for previously recommending refusal of the application was because of a lack of information about the quality and extent of the woodland habitat. Having now received survey information about the woodland he confirms the following:
  1. The woodland does not meet the criteria for Local Wildlife Site designation in the Local plan although it is of a type W10 Lowland Deciduous Woodland.
  2. There is a discrepancy in the woodland boundary between the plan submitted as part of the application and the woodland boundary as identified on the ground following further survey work. This has been established through identifying vegetation characteristics of the ground flora.
  3. The actual woodland boundary extends into the proposed development footprint at a point where two oak trees are proposed for removal in Plot 32 as marked on the plan.
  4. Taking into account the circumstances, it is unlikely that the loss of this small area of woodland would be grounds for refusal providing there is scope to compensate for this loss.
  5. That loss can be compensated for through the creation of woodland and plant translocations in the open space as proposed, along with further native tree species landscaping across the site.

- 2.6 The Biodiversity Officer confirms that it is possible to create a habitat around the sewer easements crossing the site as the planting will be more open than blanket tree cover.
- 2.7 Bat activity surveys will be undertaken to establish if any roosts exist within the woodland trees and their foraging patterns. However, the development is unlikely to impact on any roost features and there is a high level of confidence that appropriate mitigation measures can be put in place (eg sensitive lighting schemes, appropriate tree management, additional bat boxes). This can be dealt with by condition.
- 2.8 The woodland planting proposed for the public open space is acceptable as it would compensate for the loss of part of the nearby woodland habitat as a result of the development. It will involve the translocation of specified plant species from the woodland area to be lost into the new area of woodland. This is over and above any other landscaping or requirements for the site. The detailed planting can be the conditioned.
- 2.9 A management plan for the woodland will be required and the aim of this will be to enhance the biodiversity of existing and new woodland areas, including removal of invasive species.
- 2.10 In such circumstances officers consider that the previous concerns on biodiversity grounds have been overcome.
- 2.11 With regard to the applicant's failure to provide affordable housing as part of the proposal, since the application was reported to the Planning Sub-Committee (Huddersfield Area) on 26<sup>th</sup> February 2015, the applicant has indicated a willingness to re-visit this position. They have submitted a significantly more detailed viability appraisal which has been independently scrutinised on behalf of the Council. Discussions with the applicant are currently in progress to clarify this assessment and Officers' are expecting that a clear position on this issue can be reported to the Committee at the meeting.

### **3. Implications for the Council**

- 3.1 None

### **4. Consultees and their opinions**

- 4.1 The Biodiversity officer raises no objections to the revised proposals subject to conditions.

### **5. Next steps**

Not applicable

### **6. Officer recommendations and reasons**

Subject to current negotiations being satisfactorily concluded which provide an acceptable contribution for affordable housing; officers consider that there is no longer any reason to substantiate a recommendation to the Inspector to refuse outline planning permission. If Members agree with that view then Officers will inform the

Inspectorate that the Local Planning Authority will no longer object to the Secretary of State granting outline planning permission subject to the following conditions.

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

**Reason** No details of the matter referred to having been submitted they are reserved for the subsequent approval in writing of the Local Planning Authority.

2. Plans and particulars of the reserved matters referred to in Condition 1 above, relating to the appearance, scale and 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.

**Reason:** Pursuant to section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

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.

**Reason:** Pursuant to section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

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.

**Reason:** Pursuant to section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

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 including the woodland along the northern boundary of the site up to the channel of the Dyke 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.
- e) the retention or relocation within the open space of existing colonies of 'autumn crocus'.

**Reason:** To ensure the provision of open space to serve the development and in accordance with Policy H18 of the Council's Unitary Development Plan

6. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) by Eastwood & Partners, dated August 2014 Ref: PR/LEM37278-002 and the following mitigation measures detailed within the FRA:

- a) Limiting the surface water run-off generated by up to and including 1 in 100 year critical storm so that it will not exceed the run off from the undeveloped site and not increase the risk of flooding off-site.

The mitigation measures shall be fully implemented prior to the occupation of the dwellings hereby approved and subsequently in accordance with the timing/phasing arrangements embodied within the scheme or within any other period as may be subsequently agreed in writing by the local planning authority.

**Reason:** To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site in accordance with the National Planning Policy Framework.

7. Notwithstanding the submitted details before the occupation of any dwellings on plots 25-35 inclusive as shown on drawing no 1414-101 rev Q hereby approved details of the woodland path to the rear of plots 25 – 34 and the side of plots 34 & 35 shall be submitted to and agreed in writing by the Local Planning Authority. These details shall cover the following matters:

- a) Width, materials, construction details and design including any retaining or supporting structures and handrails;
- b) The route and its levels relative to existing ground and river channel and relationship to existing trees supported by accurate topographical and tree and ecological surveys; and
- c) The means by which the path shall be retained for public access and retained in perpetuity

The path shall be fully implemented in accordance with the agreed details before the occupation of any dwellings on plots 25-35 inclusive and retained for public access thereafter.

**Reason:** In the interests of visual and residential amenity and to ensure that protected trees, the river channel and the woodland habitat are not adversely affected in accordance with Unitary Development Plan policies NE9 and R13 and the National Planning Policy Framework .

8. No building or other obstruction shall be located over or within five metres either side of the centre line of the sewers which cross the site.

**Reason:** In order to allow sufficient access for maintenance and repair at all times and to accord with Policy BE D2 (ix) of the Unitary Development Plan.

9. Development shall not commence until a scheme detailing separate foul, surface water treatment, foul and surface water drainage 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) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be phased, so as to include details of when, during the development of the site, the drainage will be installed. The development shall be carried out in accordance with that phased scheme and no dwellings within each phase shall be occupied prior to completion of the agreed scheme, the scheme shall be retained thereafter whilst the site is occupied.

**Reason:** To ensure that the site can be satisfactorily drained and to reduce the risk of flooding to the proposed and existing development and occupants in accordance with the National Planning Policy Framework.

10. Development shall not commence until a scheme restricting the rate of surface water discharge from the site to a maximum of 5 litres per second per hectare (3.5l/s where retaining wall drainage is implemented throughout the site) has been submitted to and approved in writing by Local Planning Authority. The drainage scheme shall be assessed and designed to attenuate flows generated by the critical 1 in 100 year storm event, with an appropriate allowance for climate change on drainage infrastructure, blockage scenarios and exceedance events, and surface water run-off pre and post development between the development and the surrounding area, in both directions, together with a scheme for the mitigation of any identified effects. The scheme shall include a detailed maintenance and management regime for the storage facility including the flow restriction. The scheme shall be phased, so as to include details of when, during the development of the site, the attenuation and flow restriction will be installed. The development shall be carried out in accordance with that phased scheme. No dwellings shall be occupied until the works comprising the approved scheme have been completed and such approved scheme shall be retained thereafter throughout the lifetime of the development.

**Reason:** To ensure that the site can be satisfactorily drained and to reduce the risk of flooding to the proposed and existing development and occupants in accordance with the National Planning Policy Framework.

11. 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.

**Reason:** To ensure that the site can be satisfactorily drained and to reduce the risk of flooding to the proposed and existing development and occupants in accordance with the National Planning Policy Framework.

12. Development shall not commence until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase 1 Desk Study Report) has been submitted to and approved in writing by the Local Planning Authority.

**Reason** To ensure the safe occupation of the site in accordance with policy G6 of the Unitary Development Plan and the National Planning Policy Framework.

13. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition 12 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.



**Reason** To ensure the safe occupation of the site in accordance with policy G6 of the Unitary Development Plan and the National Planning Policy Framework.

14. Where further intrusive investigation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 13 development shall not commence until a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

**Reason** To ensure the safe occupation of the site in accordance with policy G6 of the Unitary Development Plan and the National Planning Policy Framework..

15. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 14. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered in 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.

**Reason** To ensure the safe occupation of the site in accordance with policy G6 of the Unitary Development Plan and the National Planning Policy Framework.

16. 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.

**Reason** To ensure the safe occupation of the site in accordance with policy G6 of the Unitary Development Plan and the National Planning Policy Framework.

17. 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. Unless otherwise agreed in writing with the local planning authority, 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 agreed in writing with 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.

18. Details of any permanent lighting scheme to the roads and footpaths together with temporary lighting during the construction phase shall be designed to minimise light spillage into woodland and other habitat within the site and such details shall be submitted to and approved in writing with the Local Planning Authority before installation and the development shall not be lit otherwise than in complete accordance with the agreed scheme.

**Reason:** To secure biodiversity enhancement, to protect key foraging corridors for bats and other artificial light sensitive species and secure the ecological functionality of habitat networks within the site and ensure the protection of wildlife and the habitat which supports it and secure opportunities for the enhancement of the nature conservation value of the site in accordance with the National Planning Policy Framework

19. The woodland footpath shown on drawing no 1414-101 rev Q shall not be artificially lit.

**Reason:** To secure biodiversity enhancement and the ecological functionality of habitat networks within the site and ensure the protection of wildlife and the habitat which supports it and secure opportunities for the enhancement of the nature conservation value of the site in accordance with the National Planning Policy Framework

20. A scheme for the provision of bat roost and bird nest boxes located integral to the buildings and on retained trees within the development shall be submitted to and approved in writing with the Local Planning Authority before any dwellings are occupied; such scheme shall include the timing of provision and the retention of the installed features thereafter.

**Reason:** To secure biodiversity enhancement and the ecological functionality of habitat networks within the site and ensure the protection of wildlife and the habitat which supports it and secure opportunities for the enhancement of the nature conservation value of the site in accordance with the National Planning Policy Framework

21. Notwithstanding the submitted plans and information, an Arboricultural Method Statement, in accordance with British BS 5837, shall be submitted and approved in writing by the Local Planning Authority before development commences. The method statement shall include details on how the construction work will be undertaken with minimal damage to the adjacent protected trees and their roots. Thereafter, the development shall be carried out in complete accordance with the Arboricultural Method Statement.

**Reason:** So as to protect to viability of the protected mature trees and woodland within close proximity to the application site and to accord with Policy NE9 of the Unitary Development Plan and the NPPF.

22. Notwithstanding the submitted plan 'Proposed Woodland Footpath and Woodland Pruning Works Diagram no pruning or felling of trees within the

woodland canopy shall take place unless otherwise agreed in writing with the Local Planning Authority

**Reason:** So as to protect to viability of the protected mature trees and woodland within close proximity to the application site and to accord with Policy NE9 of the Unitary Development Plan and the NPPF.

23. No development shall take place until a comprehensive written mitigation strategy detailing how the development shall be completed without harm to any bat species and without loss or detriment to the wildlife habitat used by the said species, has been submitted to and approved by the Local Planning Authority. The development shall then be carried out in accordance with the approved method statement.

**Reason:** To secure biodiversity enhancement and the ecological functionality of habitat networks within the site and ensure the protection of wildlife and the habitat which supports it and secure opportunities for the enhancement of the nature conservation value of the site in accordance with the National Planning Policy Framework

24. Before the development commences a landscape and woodland management plan detailing the arrangements for long term protection of all landscaped and woodland areas within the site including those areas outside residential curtilages and phasing arrangements for its implementation to enhance biodiversity interest across the site shall be submitted to and approved in writing by the Local Planning Authority and retained thereafter.

**Reason:** To secure biodiversity enhancement and the ecological functionality of habitat networks within the site and ensure the protection of wildlife and the habitat which supports it and secure opportunities for the enhancement of the nature conservation value of the site in accordance with the National Planning Policy Framework

25. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order (with or without modification)) no development included within Classes A, B, E of Part 1 or Class A of Part 2 of Schedule 2 to that Order shall be carried out within the curtilages of plots 25-40 inclusive as shown on the approved drawing no1414-101 rev S at any time.

**Reason:** In the interests of visual amenity to prevent close overlooking of adjacent properties in accordance with Unitary Development Plan policy BE12; to ensure the protection of trees within the site in accordance with Policy NE9 of the Unitary Development Plan and to protect the functionality of the woodland habitat all in accordance with the National Planning Policy Framework

26. No development shall take place until details of a scheme to eradicate Japanese Knotweed, Giant Hogweed and other invasive plant species has been submitted to and approved in writing by the Local Planning Authority. All works which form part of the approved scheme shall be completed prior to the development first being occupied.

**Reason:** To secure biodiversity enhancement and the ecological functionality of habitat networks within the site and ensure the protection of wildlife and the habitat which supports it and secure opportunities for the enhancement of the nature conservation value of the site in accordance with the National Planning Policy Framework

27. Before the development is commenced an acoustic report specifying the measures to be taken to protect the occupiers of the development from road traffic noise on Edgerton Road shall be submitted to and approved in writing with the Local Planning Authority. The report shall

- (i) Determine the existing noise climate
- (ii) Predict the noise climate in gardens (daytime), bedrooms (night-time) and other habitable rooms of the development
- (iii) Detail the proposed attenuation/design necessary to protect the amenity of the occupants of the new residences (including ventilation if required).

The development shall not be occupied until all works specified in the approved report have been carried out in full and such works shall be thereafter retained.

**Reason:** To prevent noise nuisance to future occupiers of the site in accordance with Unitary development plan policy EP4 and in accordance with the National Planning Policy Framework

28. Before development commences details of facilities to be provided for charging plug in and other ultra-low emission vehicles within the curtilage of dwellings shall be submitted to and approved in writing with the local Planning Authority. Before first occupation of any dwellings on the development; the facilities shall be provided before the dwellings to which they relate are occupied and retained thereafter.

**Reason:** In the interests of protecting air quality in accordance the National Planning Policy Framework.

29. Prior to the development being brought into use, the approved vehicle parking areas shall be surfaced and drained in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or superseded; and thereafter retained throughout the occupation of the dwellings .

**Reason:** In the interests of road safety and the reduction of flood risk to comply with policy T10 of the Kirklees Unitary Development Plan and in accordance with the National Planning Policy Framework.

30. Notwithstanding the submitted details prior to development commencing a detailed scheme for the proposed estate road shall be submitted to and approved in writing by the Local Planning Authority. The scheme (as shown for indicative purposes only on Drawing No. 1414-101 Rev. Q) shall include full sections with suitable gradients and vertical curves, traffic calming, drainage works, street lighting, lining, surface finishes, together with an independent Road Safety Audit covering all aspects of the work. Before any building is brought into use the scheme shall be completed in accordance with the approved details and retained thereafter.

**Reason:** In the interests of road safety and to comply with policy T10 of the Kirklees Unitary Development Plan.

31. Notwithstanding the submitted details no development shall take place until a scheme detailing full sections, visibility splays of 2.4m x 25m, construction specifications, drainage works, lighting, white lining, and surface

finishes, and associated highway works, at the junction of the proposed estate road and Queen's Road, together with an independent Road Safety Audit covering all aspects of the works has been submitted and approved in writing by the Local Planning Authority. No building shall be brought into use until the works to provide the junction have been completed in accordance with the approved details and thereafter retained.

**Reason:** In the interests of road safety and to comply with policy T10 of the Kirklees Unitary Development Plan.

32. Prior to construction commencing, a schedule of the means of access to the site for construction traffic shall be submitted to and approved in writing by the Local Planning Authority. The schedule shall include the point of access for construction traffic, details of the times of use of the access, the routing of construction traffic to and from the site, construction workers parking facilities and the provision, use and retention of adequate wheel washing facilities within the site. Thereafter all construction arrangements shall be carried out in accordance with the approved schedule throughout the period of construction.

**Reason:** In the interests of road safety and to comply with policy T10 of the Kirklees Unitary Development Plan.

33. The landscaping details required under conditions 1 and 2 shall include the translocation of specified woodland plant species from the existing woodland area within the site to the proposed public open space as shown on drawing no 1414-101 rev S hereby approved.

**Reason** To secure biodiversity enhancement and the ecological functionality of habitat networks within the site and ensure the protection of wildlife and the habitat which supports it and secure opportunities for the enhancement of the nature conservation value of the site in accordance with the National Planning Policy Framework

This recommendation is based on the following plans:

Plan	Ref	Received
Location plan	1414-100	8 October 2014
Site / (Layout) plan	1414-101 rev S	08 May 2015
Topographical Survey	3998 –rev O	8 October 2014
Planning & Heritage Statement	September 2014 1458/RL/PHS	21 October 2014
Design & Access statement	Loroc Architects 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	1458/RL/CCS September 2014	30 September 2014
Transport assessment	8226-001-02 – 18th September 2014	21 October 2014
Arboricultural Report & Impact Assessment	11854/AJB	2 October 2014

Surface Water Drainage Statement	37278	26 November 2014
Indicative flood routing	Eastwood & Partners 37278/SK02 rev A	05 February 2015
Woodland Path Method Statement	JCA Ltd 11854/AJB	23 February 2015
Vehicle tracking plan	Sanderson 8226-002 rev C	12 February 2015
Highway longitudinal sections	8226-001	12 January 2015
Affordable Supplementary statement	February 2015	18 February 2015
Proposed woodland footpath and woodland pruning works diagram	JCA Limited	12 <sup>th</sup> February 2015
Indicative surface water storage	Eastwood & Partners 37278/SK01 rev A	05 February 2015
Woodland Assessment Report	Whicher Wildlife 150377 22 April 2015	23 April 2015
Woodland Survey Notes	Whicher Wildlife	22 April 2015
Viability Assessment Report	Savills 21 April 2015	21 April 2015

7. **Cabinet portfolio holder recommendation**  
Not applicable
8. **Contact officer and relevant papers**  
Simon Taylor – Head of Development Management
9. **Director responsible**  
Jacqui Gedman

**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**

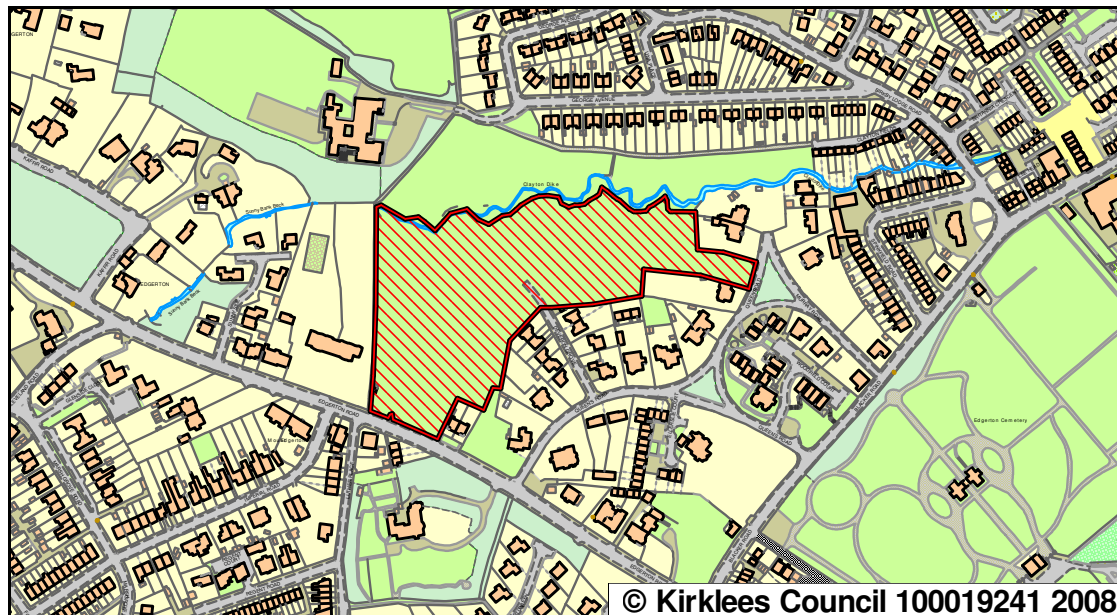
**Applicant: Rob Cooke, Prospect Estates Ltd**

**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 41 no 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, no 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 an 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





# KIRKLEES METROPOLITAN COUNCIL

## PLANNING SERVICE

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

#### PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)

26 FEBRUARY 2015

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APPLICATION NO: 2014/93014

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### OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT COMPRISING OF 41NO. NEW DWELLINGS PLUS ASSOCIATED WORKS (WITHIN A CONSERVATION AREA)

#### EDGERTON ROAD, EDGERTON, HUDDERSFIELD, HD3 3AA

##### Affordable Housing

The applicant argues in a recently submitted letter that the principle of development has been established on the site by the 1967 extant planning permission, is supported by its allocation on the UDP and has been accepted by Officers and in public documents e.g the Inspector's report on the UDP and a Supreme Court judgement.

The applicant argues that

*"The fall back position of the extant permission... has to be given significant weight in the decision making process and the 1967 planning permission represents a strong and overriding consideration.... the 1967 permission has no requirement for affordable housing and the applicant is quite prepared to build this scheme out should it come to it. However, this would be of no benefit to either the Council or local residents as it would not bring the improvements to the local environment that the current scheme proposals would do".*

The applicant states that in pre-application discussions with Planning Officers he was advised that in the light of the fall back position of the 1967 permission a pragmatic approach would be taken regarding S106 requirements in an alternative scheme particularly where this would deliver a more sympathetic layout and design with greater opportunities to retain trees and open space. The applicant considers that the Authority is now ignoring that advice which would represent unreasonable behaviour potentially leading to an application for costs being made as part of the current appeal process should it need to be progressed.

The applicant argues that the design and layout of the current scheme is much improved from the 1967 permission. It is argued that they have provided significantly more public open space (POS) than required under UDP policy, partly in response to requests from local residents and partly in response to officers who believed that an increase in POS *"was of greater significance balanced against any affordable housing requirement, taking into account the views of residents."*

The applicant repeats that affordable housing provision on or off-site is not financially viable as demonstrated in the recently submitted appraisal. However, in the applicant's letter received on 24<sup>th</sup> February 2015 the applicant offers one affordable unit at plot 41, "*which is of a size such that it could potentially be sub-divided into two units in the future, along with presenting the entire one acre of POS adjacent to Edgerton Road to the Council.*" The applicant argues that such provision along with payment of the required education contribution "*provides a significant contribution by the applicant to the local authority particularly when balancing against the 1967 development.*"

Officer comment:

The site is eligible for consideration for affordable housing provision. The current Strategic Housing Market Assessment ('SHMA', 2012) evidences the need for 1455 new affordable homes per year across Kirklees, which is a figure greater than the recent annual delivery across all tenures.

The Huddersfield housing market area requires 524 new affordable homes per year and the headline house types required comprise 2 and 3 bed homes. There is also a need for smaller, and larger accommodation. The general tenure breakdown is for 2/3 social rented, and 1/3 intermediate housing as defined in the NPPF.

As a greenfield site, the adopted SPD2 would be looking to secure 30% of the gross internal floorspace of the development on site. However, the proposed development does not address the principal district wide need for affordable housing and consequently Officers would need to undertake further discussions with the developer and potential Registered Housing providers about achieving on-site provision and other mechanisms available to secure provision in the locality.

The applicant has confirmed that the proposal does not include affordable housing provision. An 'Affordable Supplementary Statement' (ASS) was only received on 18<sup>th</sup> February 2015. This has been considered in conjunction with the previously submitted 'Affordable Housing Statement Supporting Application'(AHSSA) received on 10<sup>th</sup> October 2014 and information in the 'Planning & Heritage Statement' received on 8<sup>th</sup> October 2014 which are referred to in the Committee report.

Officers have assessed this report and consider that it is not sufficiently detailed to enable them to allow a full analysis of the argument for a nil affordable housing provision.

- The report lacks a sufficient detail on full development costs.
- Reported build costs are high for a greenfield site and further information would be required on this.
- Details are required of the allowances for profit and policy requirements such as affordable housing, education and public open space.
- The appraisal factors in a pre-determined profit however, this needs to be arrived at through the analysis rather than inputted from the start.

- The document does not reflect the requirements of the SPD2 and DCLG guidance on 'Section 106 affordable housing requirements – review and Appeal' (April 2013) which set out specific detailed requirements of costs and significant elements of those costs. There is no information on the costs of the elements of the scheme e.g. landscaping, road surfacing...etc as well as professional fees.
- There is no detail how the proposed property values have been arrived at or how.
- The analysis does not programme contingency costs.

Members are advised that this is a superficial analysis of the applicant's Statement. In normal circumstances officers would commission an independent assessor to review it in more depth. This is not possible in this instance given the date of receipt and the restricted timescales.

The ASS takes into account that the applicant will pay the education contribution as specifically requested in the consultation response from Education Service. The figure also includes a payment for public open space but it is not clear where the figure has come from.

Officers consider that the Appraisal is not comprehensive enough to justify not requiring the affordable housing requirements under SPD2. The document has been examined in the light of Planning Practice Guidance on Viability and Decision Taking.

Officers retain the opinion that in the absence of agreement to provide affordable housing the proposal is considered to be contrary to policy H10 of the Unitary Development Plan and the NPPF.

The applicant's offer of one unit with the potential for sub-division is noted and Members may wish to express their view on this offer to the Inspector. Plot 41 is a detached coach house type. Planning permission would be required to change the proposed house type to two flats or convert in the future.

The applicant has previously made a provisional offer to provide eight affordable houses on the site of the proposed public open space fronting Edgerton Road. He has been informed that this is a significant departure from the current proposals which would require further publicity and consultation. The reduction in the public open space provision within the development would be a material consideration affecting the balance of such consideration. In such circumstances this would not be acceptable as an amendment to the current proposal and would require a fresh planning permission either in its own right or for the scheme as a whole.

Officers fully accept that the current scheme represents a significant improvement on the 1967 permission and that the applicant has made positive efforts to meet policy and public requirements. The applicant's submitted viability appraisal has also been carefully considered. However, the lack of affordable housing provision where local need has been demonstrated is clearly contrary to UDP policy and the NPPF. In such circumstances Officers have no option but to advise Members to recommend the Inspector to refuse planning permission and dismiss the appeal.

### Education contribution

The applicant has confirmed that he is willing to accept a requirement to pay the education contribution. In such circumstances this reason for refusal is now removed from the recommendation. However, this would need to be secured through a S106 agreement and the Inspector will be advised of the need for this prior to the issue of an permission should he/she be minded to allow the appeal.

### Biodiversity

Officers consider that the lack of an ecological assessment does not allow the effects on biodiversity to be properly judged. This is contrary to the need to conserve and enhance biodiversity stated in NPPF paragraph 118 and in such circumstances NPPF paragraph 14 leads to the requirement to refuse planning permission.

Since the publication of the Sub-Committee agenda report the applicant has submitted a letter in support of his stance on biodiversity issues. The letter states that the site has been subject to numerous surveys and no issues have been revealed as part of this work. The applicant argues that pre-application discussions revealed that a Phase 1 ecology survey needed to be carried out and submitted with the application and that this was submitted.

The applicant states that the most recent surveys were carried out in August 2014 and argues that this forms a reasonable assessment “on which a professional judgement can properly be reached that no bats are present on the site and that there will be no impact on bats.” The applicant believes that a condition could be imposed on a planning permission to require updated surveys in the appropriate season before development commences. The applicant states that NPPF advises LPAs to take a pragmatic approach to ecological issues to fulfil statutory obligations whilst minimising delay and avoiding unnecessary burdens on applicants.

The applicant believes that Officer’s requirement for the ecological assessment at this stage prior to determination of the application rather than imposing a condition is contrary to NPPF advice and British Standard Code of Practice for Planning & Development which enables planning conditions to be imposed to enable a positive recommendation to be made on the application. The applicant argues that

*“this would be a perfectly reasonable approach particularly when taking into account that no works would be carried out to the trees that the authority is concerned about, whereas with the 1967 fall-back permission those trees would be affected.....such an approach would not involve deferring consideration of impacts on protected species but would simply involve updating survey information to confirm the professional judgement already reached prior to the grant of permission that there will be no adverse impacts.”*

The applicant has now suggested that a condition could be imposed reserving a decision on that part of the layout where habitats could be affected. It is argued that this would enable the submission of additional surveys and details to be submitted as reserved matters in the future. The applicant argues that the 1967 permission would have a significantly greater impact.

In response to the applicant's opinion that this matter can be resolved by condition, essentially officers' reasoning is that an ecological assessment of the woodland habitat is required in order to judge the value of the habitat and offer any appropriate mitigation measures. This document would be given weight in the final consideration of the proposal. Its conclusions may allow concerns to be overcome by the imposition of appropriate conditions or they may lead to a request for further information such as a bat survey which would be necessary prior to determination of the application.

National Planning Practice Guidance 'Natural Environment' (para 016) notes that "An ecological survey will be necessary in advance of a planning application if the type and location of development are such that the impact on biodiversity may be significant *and existing information is lacking or inadequate*" (*Officers italics*). The relevant point here is that without such an assessment Officers are unable to establish the suspected value of the habitat.

With regard to the possible presence on site of bats, a protected species, officers consider that there is a reasonable likelihood of bat roosts being present as the proposal lies with the wider 'bat alert' GIS layer based on the general characteristics favoured by bats. Secondly the site is in an area of semi-natural habitat networks that provide good foraging opportunities for bats.

Natural England advice is that:

- The Local Planning Authority (LPA) should not grant planning permission where it does not have sufficient information to assess the impact on protected species.
- Surveys to determine the impact of proposals on protected species should not be conditioned. This information must be provided prior to determination.

In such circumstances a bat roost potential survey should be undertaken of the trees to be removed or potentially affected as a result of the development to inform the wider ecological assessment. This can be undertaken in winter but needs to be undertaken prior to the determination of the planning application. If that survey and data search establishes that the trees have negligible roost potential and/or it can be confirmed without doubt that no bats use the site and/or works will not affect roost features then no further survey work would be required and the application can progress with the standard precautionary note "if any bats are found work must cease immediately...."

If the bat roost potential survey establishes that the trees have low roost potential then the application may still be determined and bat activity surveys may be conditioned to be undertaken between the months of May-August and survey reports submitted to and approved by the LPA before development starts. The underlying principle is that it will be relatively easy to mitigate the loss of minor roosts within a development and the LPA can be confident that the 3 tests laid down in the Conservation of Species & Habitat Regulations 2010 can be met. Those tests are:

1. If there is a genuine need for the activity or it meets a purpose of preserving public health or public safety.
2. There are no satisfactory alternatives to delivering and meeting the need in the way proposed.
3. That there will be no adverse effect on the conservation status of the species concerned.

A brief statement should be produced in the initial survey report how the 3 tests will be met.

If it is established that the building has moderate to high roost potential then bat activity surveys will need to be carried out pre-determination. These should be carried out between mid-May and mid-August and will enable the application to be determined with the benefit of full information about use how the site is used by bats in accordance with Natural England advice.

This approach is supported by Case Law.

The applicant's suggestion to reserve layout where trees are affected is noted. This is considered impractical. The application is for a specific number of dwellings and it is not clear whether the offer is to allow any lost dwellings to be replaced in the remainder of the site where the layout has been approved, requiring a further alteration, or whether they would simply be relocated in the vacant, possibly smaller space. This introduces considerable uncertainty into the scheme and it is considered that this would fail the test of reasonableness of a planning condition.

With regard to the applicant's latest letter, the survey report submitted to the Authority is the Phase 1 Habitat Survey. Officers are not aware of the other 'numerous' surveys referred to. The purpose of the Phase 1 survey is to establish the habitats types present at the site and, any other ecological issues which require further more detailed investigations. In this case the survey report established the need for bat roost potential surveys of the trees to be felled. This is in the 'Recommendations' section of the report.

The Phase 1 survey report does not mention the presence of Lowland Deciduous Woodland at the site which is a Habitat of Principal Importance (or Priority Habitat). Indeed it is the most significant habitat at the site. This should have been picked up as a target note along with a recommendation to carry out more detailed vegetation surveys to establish the value of the woodland habitat. There was no such recommendation in the report.

One possible outcome of further survey work is that this woodland could be of Local Wildlife Site value, in which case Officers would wish to see the woodland protected from development and that includes a buffer to prevent indirect impacts. However, the value of the woodland is unknown because it has not been surveyed. If conditional consent was issued for this proposal on the basis of no information, including the layout, it is difficult to see how the decision could be reversed to avoid impacts on the woodland.

## Tree Preservation Order

For clarification the current TPO on site TPO 01/15 has now been confirmed following the expiry of the publicity period on 25<sup>th</sup> February 2015 and the receipt of no objections.

On 19<sup>th</sup> February 2015 the applicant submitted a revised Woodland Path Method Statement. This provides a little more details than the letter previously submitted namely:

- Two trees would be required to be felled along the footpath route however, one is leaning at 45 degrees and the other is a heavily suppressed specimen.
- Selective pruning will be required for head clearance.
- The path will follow existing contours to minimise excavation and be surfaced in wooden decking.

Trees and Footpaths Officers have previously raised no objections in principle to the footpath subject to a condition requiring the submission of further detailed plans. The method statement does not change officers' views.

## Concerns at the way the application has been processed and the potential use of conditions

The applicant has raised concerns at the length of time the Authority has taken to determine the application. He has also expressed concern at the late requests for information and that such requests and the final recommendation is contrary to advice given in pre-application discussion. Officers offer the following comments in response to this concern.

Firstly it is stressed that the applicant did not directly enter into formal pre-application discussion regarding this site although the applicant, as landowner, was present at meetings. The request for a pre-application view came from a major housebuilder which withdrew from discussions before a formal response was issued.

The need for a viability appraisal addressing affordable housing requirements and the likely need for a contribution to meet education needs generated by the development were raised with the developer at pre-application stage and prior to validation of the application. At the same time the applicant was advised that the indicative layout included a proposed footpath through the woodland area adjacent to Clayton Dyke. It was noted that the layout proposed that the existing woodland be cut back to the top of the existing embankment. It was stated that this had not been agreed with the applicant in pre app discussions and would not be supported by the Council's Tree Officer. The applicant was advised to submit documents, in particular a viability appraisal addressing all these three issues before the application was validated.

The applicant's response regarding affordable housing was to submit the statement reported in the main report that he was unwilling to provide this as it was not a requirement of the 1967 permission. In such circumstances, whilst Officers did not necessarily endorse this justification, there was no reason not to validate and progress the application and it was registered on 8<sup>th</sup> October 2014.

Officers have repeatedly updated the applicant in a timely manner upon the receipt of consultation responses. In particular the need for a detailed response on the requirements for affordable housing and education provision, details of the woodland walk, agreed amendments to the layout to meet Yorkshire Water requirements, a biodiversity assessment have been raised throughout the consideration period.

Officers have entered into pre-application discussions with the applicant. This is a useful process to improve the efficiency and effectiveness of the Planning application system for all parties and is recommended in the NPPF. Clearly it is important that the decision on the subsequent planning application should, as far as reasonably possible be consistent with the pre-application advice. However, Officers consider that they are, as previously promised, taking a pragmatic attitude to the normal policy requirement for affordable housing in the light of the benefits offered by the current proposal. However, at no point have Officers stated that they would accept no affordable housing contribution.

Officers fully accept that the proposal represents a positive response by the applicant to provide a development which fits in with the character of the surrounding area and which has sought to accommodate the comments of local residents following a pre-submission discussions, particularly the provision of the woodland walk. In particular the proposal is low density to reflect the character of the conservation area, dwellings have been kept away from the woodland canopy and it provides on-site public open space in excess of the UDP policy requirements. Officers accept that this may prejudice the viability of affordable housing however, the viability appraisal is insufficiently detailed to illustrate this particularly given the significant weight which the provision of affordable housing carries in the decision.

### Highways

As noted in the Sub-Committee report Highway officers recommend that a S106 agreement is secured to achieve residential metrocards for occupiers. Members are advised that this can be achieved by condition which will be recommended to the Inspector in the event that he/she allows the appeal.

Similarly the Highways officer requires a financial contribution to provide a scheme for the improvement of bus flows along the A629 corridor through the provision of bus loops at the Edgerton Road / Blacker Road junction. The applicant has been made aware of this requirement but has not included these requirements in the submitted viability appraisal. The Inspector will be advised that this Authority would seek this requirement through a S106 Agreement which will also cover the education contributions.



### Other issues

The applicant has provided a layout stamped approved in 1967 over which he has overlaid a topographical survey. This layout is the same as that shown on the plan already on the Council's records. However, there is no LPA reference and the date stamped approved is one day later than the date of the decision notice. Officers consider that this additional information is relevant to the consideration of the application but does not add to the limited weight to be given to the 1967 planning permission assessed in the Officer report to Members.

The Planning Policy Group Leader has received correspondence from the Clayton Fields Action Group proposing a Local Green Space (LGS) on the land 'adjacent to the stream and excluded from the dwellings (to be) made available for open space' referred to in the 1967 permission and decision notice. This is in accordance with provisions in the National Planning Policy Framework on or adjacent to the application site.

This would be progressed through the Local Plan process and further information will be required need in order to consider a LGS proposal fully. However, this will not be resolved until significantly after the Sub-Committee meeting, the deadline for submission of the Authority's Appeal Statement to the Inspectorate and the appeal decision itself. It is not considered that the proposed LGS by the residents carries any weight in members' consideration of the application.

### Further public comment

Since the Committee report was published two further letters have been received from Clayton Fields Action Group (CFAG) and a former member / local resident respectively. The letter from CFAG has previously been circulated to Members in accordance with the group's wishes. The letter may be summarised as follows:

- Many users of the site, St Patrick's School and Barry Sheerman MP support the current applications for claimed footpath routes across the site. It is recognised that the applicant has tried to accommodate some of these routes in the layout.
- The claim provides evidence for a route from the bridge over Clayton Dyke (at the north western point of the site) to Queens Road / Murray road (the north eastern point of the site) along the full extent of the woodland. The registration of this route will conserve the full extent of the woodland area along Clayton Dyke as a semi-natural open space accessible to all.
- CFAG have offered to take on ownership and maintenance of the woodland area along Clayton Dyke but it must be the full length and above the embankment. (The current proposal is for a path along part of the woodland only and within the woodland along the embankment and valley floor.)

- CFAG argue that the footpath corridor can be accommodated in the layout. It can then continue to Murray Road by steps into Edgerton Cemetery and then to Huddersfield creating an attractive 'green' mostly off- road pedestrian route compensating the community for the loss of Clayton Fields and benefiting the wider community.
- CFAG have applied for the designation of the woodland corridor as a Local Green Space (see above) and this should be an additional reason to refuse planning permission.
- CFAG have additional concerns
  - At the protection of 'buffer zones' along PROW 345 from future development.
  - The protection and routing of the claimed footpath link between plots 24 & 25 to St Patrick's School.
  - Mature trees should be provided on Edgerton Road in the proposed public open space to add to the main road corridor.

The second letter supports the development subject to the LPA's right to condition any permission to reach a compromise with the developer to balance the viability of the scheme with the need to accommodate woodland, infrastructure and footpaths. The writer is concerned that the Inspector will be less sensitive to these local issues.

### Conclusion

The applicant argues that

*"The submitted scheme is a modern attractive sensitive development which has been worked up in co-operation with Officers over many months and following extensive public consultation. With its significant amounts of open space, footpaths and modern design and materials it is a vast improvement on the fall back position of the 1967 permission."*

In making their recommendation Officers have determined, on balance, that the proposal is sustainable development in the light of the three roles identified in paragraph 7 of the National Planning Policy Framework. The proposal has then been assessed against NPPF paragraph 14 which states the presumption in favour of sustainable development 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 material considerations dictate otherwise.*(Officers italics)

Officers fully acknowledge the positive steps taken by the applicant to present a more acceptable and improved alternative to the 1967 planning permission. It is recognised that in doing so the applicant has taken on board some of requirements of local residents and the advice of Planning officers. However, the lack of affordable housing provision is contrary to UDP policy H10 and the NPPF and the failure to provide adequate information on the value of the woodland habitat preventing an accurate judgement of the impact of the development on it is contrary to the NPPF. These constitute significant material considerations and in Officers view those material considerations carry sufficient weight to significantly and demonstrably outweigh the presumption in favour of sustainable development.

Members are asked to note that the layout which their resolution will refer to is revQ which has superseded rev N as listed in the plans table on the agenda report. They are also asked to note that the details have been supplemented by further submission on highway detail and the Affordable Housing Supplementary Statement.

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