

# Public Document Pack



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Monday 21 March 2016

## 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 31 March 2016**.

(A coach will depart the Town Hall, at 9.20am 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**

T Lyons  
Edgar Holroyd-  
Doveton  
C Greaves

#### **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.

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**2: Minutes of previous meeting**

1 - 16

To approve the Minutes of the meeting of the Committee held on 18 February 2016.

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**3: Interests and Lobbying**

17 - 18

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.

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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.

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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.

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## **6: Site Visit - Application 2015/93052**

Erection of detached dwelling and new entrance gates (listed building) at Fenay Lodge, Thorpe Lane, Almondbury, Huddersfield

Estimated time of arrival at site - 9.30am

Contact - Adam Walker, Planning Officer

### **Wards**

**Affected:** Almondbury

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## **7: Site Visit - Application 2015/92993**

Outline application for erection of residential development at land off, Butt Lane, Hepworth, Holmfirth.

Estimated time of arrival at site - 10.00am

Contact - Farzana Tabasum, Planning Officer

### **Wards**

**Affected:** Holme Valley South

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**8: Site Visit - Application 2016/90010**

Variation Condition 4 (opening hours) on previous permission 2009/93008 for change of use from bakery to pizza take-away (within a conservation area) at Master Pizza Bar, 75 Huddersfield Road, Holmfirth

Estimated time of arrival at site - 10.35am

Contact - William Simcock, Planning Officer

**Wards**

**Affected:** Holme Valley South

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**9: Site Visit - Application 2015/94008**

Reserved matters application for erection of 18 dwellings pursuant to appeal no APP/Z4718/A/12/2180238 at land to rear of 101 to 111 Banks Road, Linthwaite, Huddersfield.

Estimated time of arrival at site - 11.00am

Contact - Louise Clarke, Planning Officer

**Wards**

**Affected:** Colne Valley

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**10: Site Visit - Application 2015/92227**

Erection of 19 single storey dwellings including development of associated access and hard and soft landscaping at land to rear of Row Street, Crosland Moor, Huddersfield.

Estimated time of arrival at site - 11.20am

Contact - Louise Clarke, Planning Officer

**Wards**

**Affected:** Crosland Moor and Netherton

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## **11: Site Visit - Application 2015/92802**

Modified proposals for erection of extensions and boundary treatment at 9 Prince Wood Lane, Birkby, Huddersfield.

Estimated time of arrival at site - 11.45am

Contact - Nick Hirst, Planning Officer

### **Wards**

**Affected:** Lindley

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## **12: Local Planning Authority Appeals**

19 - 48

The Sub Committee will receive a report setting out decisions of the Planning Inspectorate in respect of appeals submitted against the decision of the Local Planning Authority.

Contact: Teresa Harlow, Development Control

### **Wards**

**Affected:** Almondbury; Ashbrow; Colne Valley; Crosland Moor and Nett Valley North

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## **13: Planning Applications**

49 - 188

The 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 register no later than 5.00pm (for phone requests) or 11:59pm (for email requests) on Tuesday 29 March 2016. To pre-register, please contact [richard.dunne@kirklees.gov.uk](mailto:richard.dunne@kirklees.gov.uk) or phone 01484 221000 (extension 74995)

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## **14: Exclusion of the Public**

To resolve that under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act.

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## **15: Application 2015/92227 - Land to rear of Row Street, Crosland Moor, Huddersfield**

189 -  
190

Private appendix in relation to Application 2015/92227 included in Agenda Item 13.

This information is to be taken in private because it contains commercially sensitive information, including information about a third party. The public interest in maintaining the exemption which would protect the interests of the Council and the company concerned, outweighs the public interest in disclosing the information and providing greater openness in the Council's decision making.

Contact: Steve Hopwood, Planning Services

### **Wards**

**Affected:** Crosland Moor and Netherton

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Contact Officer: Richard Dunne

## KIRKLEES COUNCIL

### PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)

**Thursday 18th February 2016**

Present: Councillor Terry Lyons (Chair)  
Councillor Donna Bellamy  
Councillor Donald Firth  
Councillor Mark Hemingway  
Councillor Musarrat Khan  
Councillor Amanda Pinnock  
Councillor Ken Sims  
Councillor Mohan Sokhal  
Councillor John Taylor  
Councillor Linda Wilkinson  
Councillor Eric Firth  
Councillor John Lawson  
Councillor Sheikh Ullah

Apologies: Councillor Mohammad Sarwar  
Councillor Molly Walton

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

Councillor E Firth substituted for Councillor J Calvert

Councillor S Ullah substituted for Councillor C Pattison

Councillor J Lawson substituted for Councillor A Marchington

#### **2 Minutes of previous meeting**

**RESOLVED** - That the Minutes of the meeting of the Committee held on 7 January 2016 be approved as a correct record.

#### **3 Interests and Lobbying**

In connection with item 12 - Planning Applications, Members declared interests and identified planning applications in which they had been lobbied as follows:

Councillor Hemingway declared that he had been lobbied on Application 2015/92802.

Councillor Sims declared that he had been lobbied on Application 2015/93246.

## Planning Sub-Committee (Huddersfield Area) - 18 February 2016

Councillors Bellamy and D Firth declared an 'other' interest in Application 2015/93246 on the grounds that they were Members of the Holme Valley Parish Council.

Councillor Lyons declared an 'other' interest in Applications 2015/91640 and 2015/92638 on the grounds that he was a Member of Meltham Town Council.

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

All items on the Agenda were taken in public session.

### 5 **Deputations/Petitions**

No deputations or petitions were received.

### 6 **Public Question Time**

No questions were asked.

### 7 **Site Visit - Application 2015/93121**

Site visit undertaken.

### 8 **Site Visit - Application 2015/91640**

Site visit undertaken.

### 9 **Site Visit - Application 2015/92638**

Site visit undertaken.

### 10 **Site Visit - Application 2015/93282**

Site visit undertaken.

### 11 **Local Planning Authority Appeals**

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

### 12 **Planning Applications**

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

- (a) Application 2015/91640 - Outline application for residential development at Mill Moor Road, Meltham, Holmfirth - Susan Wilson (objector), Councillor Holroyd-Doveton (Local Ward Councillor) and David Storrie (agent speaking on behalf of the applicant)
- (b) Application 2015/92638 - Erection of 2 pairs of semi-detached dwellings (4 no. new dwellings) at Land at Station Road, Meltham, Holmfirth - Leigh Ogden (Highways Consultant speaking in support of the application)
- (c) Application 2015/92205 - Outline application for single dwelling at Land off, Round Ings Road, Outlane, Huddersfield - Andrew Keeling (agent)

- (d) Application 2015/93246 - Demolition of detached garage and erection of extension at Wildspur Cottage, 33, Sheffield Road, New Mill, Holmfirth - Mark Pearson (applicant)

**RESOLVED** - That the Applications under the Planning Act included in the list submitted for consideration by the Sub Committee be determined as now indicated and that the schedule of decisions be circulated to Members.

**13 Exclusion of the Public**

**RESOLVED** - That acting under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act, as specifically stated in the undermentioned Minute.

**14 Consideration of the taking of enforcement action against the erection of a first floor conservatory and decked area - 'Bar 10', 10 Lidget Street, Lindley, Huddersfield**

The report contained details of the unauthorised erection of a first floor conservatory and decking area, implications for the Council and officer recommendations and reasons.

**RESOLVED** - That enforcement action be pursued and that the occupier be given 6 months to comply with the enforcement notice.

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**KIRKLEES COUNCIL**  
**LIST OF PLANNING APPLICATIONS DECIDED BY**  
**PLANNING SUB-COMMITTEE (HUDDERSFIELD)**  
**18 FEBRUARY 2016**

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

2015/91640

Conroy Homes Ltd - Outline application for residential development - Mill Moor Road, Meltham, Holmfirth, HD9 5LW

CONDITIONAL OUTLINE APPROVAL SUBJECT TO DELEGATION TO OFFICERS TO:

(i) SECURE A S106 OBLIGATION FOR THE FUTURE MAINTENANCE OF THE PROPOSED SURFACE WATER DRAINAGE INFRASTRUCTURE

(ii) SECURE A UNILATERAL UNDERTAKING (S106 OBLIGATION) OR IMPOSE SUITABLE CONDITIONS FOR THE PROVISION OF AFFORDABLE HOUSING AND EDUCATION CONTRIBUTIONS AS NECESSARY

(iii) IMPOSE ALL NECESSARY AND APPROPRIATE CONDITIONS

(iv) SUBJECT TO THERE BEING NO SUBSTANTIVE CHANGE THAT WOULD ALTER THE RECOMMENDATION, ISSUE THE DECISION NOTICE.

A RECORDED VOTE WAS TAKEN IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 42(5) AS FOLLOWS;

FOR: Councillors Bellamy, D Firth, E Firth, Hemingway, Khan, Lawson, Lyons, AU Pinnock, Sokhal, J Taylor, Ullah and Wilkinson (12 Votes)

AGAINST: (0 Votes)

ABSTAINED: Councillor Sims

2015/92638

A Pogson & S Lockwood, Abacus Stone Sales - Erection of 2 pairs of semi-detached dwellings (4 no. new dwellings) - Land at Station Road, Meltham, Holmfirth, HD9 4NL

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 approved plans and specifications schedule except as may be required by other conditions which shall in all cases take precedence.

(3) Samples of all external facing and roofing materials shall be submitted to and approved in writing by the Local Planning Authority before the superstructure of the dwellings commences

**APPLICATION NO.**

2015/92638 Cont'd

**DESCRIPTION, LOCATION OF PROPOSAL AND DECISION**

and the development shall be implemented in accordance with the approved details.

(4) A scheme detailing the layout, construction and specification of the highway works as shown on approved drawing number 802/101 comprising:

(a) works at the site access with Station Road;

(b) 1.2m wide footway at the northern flank of Station Road, as indicated on the drawing;

(c) widening and surfacing of Station Road to 4.8m width, as indicated on the drawing; and

(d) provision of a turning facility sufficient to accommodate an 11.6m long refuse vehicle within the application site

(e) new lighting columns to Station Road

(f) relaying of stone setts as indicated on the drawing

and all associated highway works, and the appropriate Road Safety Audit, shall be submitted to and approved in writing by the Local Planning Authority before development commences.

The scheme shall include construction specifications, kerbing, white lining, signing, and surface finishes. The development shall not be brought into use until all the works under the approved scheme have been carried out and completed in accordance with the approved scheme and retained thereafter.

(5) 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 buildings or extensions included within Classes A, B, C and E of Part 1, Schedule 2 to that Order shall be carried out within the application site boundary without the prior written consent of the Local Planning Authority.

(6) The development shall not be brought into use until the areas to be used for turning and external parking as indicated on the approved site plan have been laid out with a hardened and drained surface. The surfacing shall be 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 2015 as amended (or any Order revoking or re-enacting that Order with or without modification) these areas shall be so retained, free of obstructions and available for the parking and turning of vehicles.

(7) Notwithstanding the submitted plans, details of all retaining walls for the development, showing their location, height and facing materials, shall be submitted to and approved in writing by the Local Planning Authority before development

**APPLICATION NO.**

2015/92638 Cont'd

**DESCRIPTION, LOCATION OF PROPOSAL AND DECISION**

commences. The retaining walls shall be erected in accordance of the approved details and thereafter retained.

(8) A scheme demonstrating an adequately designed soakaway for an effective means of drainage of surface water on this development/site shall be submitted to and approved in writing by the Local Planning Authority before development commences. The scheme shall include percolation tests in accordance with BRE Digest 365 along with calculations demonstrating that the designed soakaways can store a critical 1 in 30 year storm event and can empty by 50% within 24 hours. Where soakaways are proven not to be an effective means of draining surface water, an alternative surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority before development commences. The dwellings shall not be occupied until the works comprising the approved scheme have been completed. The drainage scheme shall thereafter be retained.

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

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

(11) Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 10, 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.

(12) Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 11. 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



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

2015/92638 Cont'd

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) One electric vehicle recharging point shall be installed within the dedicated parking area or integral garage for each of the approved dwellings before the dwelling to which the recharging point relates is first occupied. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. The electric vehicle charging points so installed shall thereafter be retained.

(15) A total of 4 bat boxes, in the form of a Schwegler type 1FR/2FR or similar, shall be installed on the exterior of the development hereby approved. The boxes shall be located on an elevation with an easterly, westerly or southerly aspect, at least 4 metres above ground level and not directly above any doors or windows. The bat boxes shall be provided before the 4th dwelling is occupied and thereafter retained.

(16) A total of two woodcrete sparrow terrace nest boxes and two nest boxes suitable for swifts shall be installed on the exterior of the development hereby approved. The boxes shall be located on the north facing elevation of the buildings at least 3m above ground level and not directly above any doors or windows. The boxes shall be provided before the 4th dwelling is occupied and thereafter retained.

(17) A woodcrete nest box suitable for starlings shall be mounted on two of the mature protected trees that are contiguous to the southern boundary of the application site and indicated on the proposed overall site plan (2901(0-)15 Rev B). The boxes shall be mounted at least 4m above ground level and above a clear stem. The boxes shall be provided before the 4<sup>th</sup> dwelling is occupied and thereafter retained.

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

2015/92638 Cont'd

(18) All new street lighting shall be designed so as to minimise light spill outside of the application site boundary. Details of the design measures to minimise light spill shall be submitted to and approved in writing by the Local Planning Authority before the street lighting is installed. The lighting shall be installed in accordance with the approved details before the dwellings are occupied and thereafter retained.

(19) Notwithstanding the submitted details, a landscaping scheme for the site based upon native species shall be submitted to and approved in writing by the Local Planning Authority before any of the dwellings hereby approved is first occupied. The approved landscaping scheme shall be implemented in full no later than the first available planting season after the first occupation of the third dwelling and, from its completion, shall be maintained for a period of five years. If, within this period, any tree, shrub or hedge shall die, become diseased or be removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives its written consent to any variation.

(20) A scheme detailing the proposed boundary treatment for the part of the application site which is currently used as grazing land shall be submitted to and approved in writing by the Local Planning Authority before any of the dwellings hereby approved are first occupied. The works comprising the approved scheme shall be completed prior to the dwellings first being occupied and shall be retained thereafter.

(21) Notwithstanding the provisions of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order (with or without modification)), no boundary walls or fences shall be erected that would impede or obstruct the free movement of hedgehogs.

(22) 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.

(23) Details of any works to the protected trees which abut and / or overhang the access to the site which are necessary to construct the development shall be submitted to and approved in writing by the Local Planning Authority prior to the work being carried out and shall be carried out to British Standard 3998. All

APPLICATION NO.	DESCRIPTION, LOCATION OF PROPOSAL AND DECISION
2015/92638 Cont'd	<p>works to the protected trees shall be carried out in accordance with the approved details.</p> <p>A RECORDED VOTE WAS TAKEN IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 42(5) AS FOLLOWS;</p> <p>FOR: Councillors Bellamy, D Firth, E Firth, Hemingway, Khan, Lawson, Lyons, AU Pinnock, Sokhal, Sims, J Taylor, Ullah and Wilkinson (13 Votes)</p> <p>AGAINST: (0 Votes)</p>
2015/92205	<p>Mr R Barber - Outline application for single dwelling - Land off, Round Ings Road, Outlane, Huddersfield, HD3 3FQ</p> <p>CONDITIONAL OUTLINE PERMISSION</p> <p>A RECORDED VOTE WAS TAKEN IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 42(5) AS FOLLOWS;</p> <p>FOR: Councillors Bellamy, D Firth, E Firth, Hemingway, Khan, Lawson, Lyons, AU Pinnock, Sokhal, Sims, J Taylor and Ullah (12 Votes)</p> <p>AGAINST: Councillor Wilkinson (1 Vote)</p>
2015/93282	<p>D Hair - Erection of detached dwelling with integral garage - Plot 19, Honey Head Lane, Honley, Holmfirth, HD9 6RW</p> <p>CONDITIONAL FULL PERMISSION</p> <p>(1) The development hereby permitted shall be begun within three years of the date of this permission.</p> <p>(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.</p> <p>(3) Finished ground floor level shall be no higher than those shown on the approved sectional drawing (148.3m above Ordnance Datum Level).</p> <p>(4) The site shall be developed by means of a separate system of foul and surface water drainage before the dwelling is first occupied.</p> <p>(5) No piped discharge of surface water from the application site shall take place until a scheme of surface water drainage works have completed, in accordance with details to be first submitted</p>

**APPLICATION NO.**

2015/93282 Cont'd

**DESCRIPTION, LOCATION OF PROPOSAL AND DECISION**

to and approved in writing by the Local Planning Authority.

(6) The walling materials shall be regularly coursed natural stone. Samples of all facing and roofing materials shall be submitted to or inspected on site by, and approved on writing by, the Local Planning Authority before the superstructure of the dwelling commences. The development shall be carried out using the approved materials.

(7) Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification) no new door or window openings other than those expressly authorised by this permission shall be constructed in the external north side wall of the dwelling at ground floor level at any time, and the door in the north side elevation shall either be solid or fitted with obscure glazing only.

(8) Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification including paragraph A.1(ea)), no extensions or outbuildings shall be erected, altered or constructed within the land edged in red on the approved location plan without full planning permission having been first obtained from the Local Planning Authority.

(9) Notwithstanding the provisions of section 55(2)(a)(i) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification) the integral garage shall be retained as such and shall not be converted to living accommodation.

(10) All areas to be used for the parking and turning of motor vehicles shown on the proposed block plan dated 21-Jan-2016 shall be laid out with a hardened and drained surface in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13<sup>th</sup> May 2009 (ISBN 9781409804864) as amended or any successor guidance before the dwelling is first occupied. 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) these areas shall be so retained, free of obstructions thereafter.

(11) Details of fencing or other boundary treatments for the proposed dwelling shall be submitted to and approved in writing

**APPLICATION NO.**

2015/93282 Cont'd

**DESCRIPTION, LOCATION OF PROPOSAL AND DECISION**

by the Local Planning Authority before the dwelling is first occupied and the approved scheme of boundary treatments shall be implemented in full before the dwelling is first occupied. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order), the boundary treatments shall thereafter be retained.

(12) The landscaping scheme shown on the approved plans shall be implemented before first occupation of the dwelling, and shall be maintained for a period of five years from the completion of planting works. The green shaded areas shall be grass or other soft landscaping, the red shaded areas shall be laid with natural stone flags or block paving.

(13) The external parking area shall have a minimum width of 4.8m.

(14) One electric vehicle recharging point shall be installed within the dedicated parking area or integral garage for the approved dwelling before the dwelling is first occupied. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. The electric vehicle charging points so installed shall thereafter be retained.

**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: 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.

A RECORDED VOTE WAS TAKEN IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 42(5) AS FOLLOWS:

FOR: Councillors Bellamy, D Firth, E Firth, Hemingway, Khan, Lawson, Lyons, AU Pinnock, Sokhal, Sims, J Taylor, Ullah and Wilkinson (13 Votes)

AGAINST: (0 Votes)

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

2015/93121

Mr & Mrs J & K Hyde - Erection of first floor extension over garage - 19, Kistvaen Gardens, Meltham, Holmfirth, HD9 5NQ

**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 schedule 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 external walls and roofing materials of the extension hereby approved shall in all respects match those used in the construction of the existing building.

**A RECORDED VOTE WAS TAKEN IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 42(5) AS FOLLOWS:**

FOR: Councillors Bellamy, D Firth, E Firth, Hemingway, Khan, Lawson, Lyons, AU Pinnock, Sokhal, Sims, J Taylor, Ullah and Wilkinson (13 Votes)

AGAINST: (0 Votes)

2015/92802

Mr L Johal - Modified proposals for erection of extensions and boundary treatment - 9, Prince Wood Lane, Birkby, Huddersfield, HD2 2DG

**DEFER CONSIDERATION OF THE APPLICATION TO ALLOW THE SUB COMMITTEE TO UNDERTAKE A SITE VISIT**

**A RECORDED VOTE WAS TAKEN IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 42(5) AS FOLLOWS:**

FOR: Councillors Bellamy, D Firth, E Firth, Hemingway, Khan, Lawson, Lyons, AU Pinnock, Sokhal, Sims, J Taylor, Ullah and Wilkinson (13 Votes)

AGAINST: (0 Votes)

2015/93246

M Pearson - Demolition of detached garage and erection of extension - Wildspur Cottage, 33, Sheffield Road, New Mill, Holmfirth, HD9 7ES

**CONDITIONAL FULL PERMISSION**

**A RECORDED VOTE WAS TAKEN IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 42(5) AS FOLLOWS:**

APPLICATION NO.	DESCRIPTION, LOCATION OF PROPOSAL AND DECISION
2015/93246 Cont'd	<p>FOR: Councillors Bellamy, D Firth, E Firth, Hemingway, Khan, Lyons, AU Pinnock, Sokhal, Sims, J Taylor and Ullah (11 Votes)</p> <p>AGAINST: Lawson and Wilkinson (2 Votes)</p>
2015/93107	<p>N Boothroyd &amp; G Watson - Erection of extensions - 42, St Pauls Road, Kirkheaton, Huddersfield, HD5 0EX</p> <p>CONDITIONAL FULL APPROVAL</p> <p>(1) The development shall be begun not later than the expiration of three years beginning with the date on which permission is granted.</p> <p>(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.</p> <p>(3) The external walls of the extensions hereby approved shall be brick which in all respects matches that of the existing property. The extensions shall be thereafter retained in this material.</p> <p>(4) The external roofing materials of the extensions and front dormer hereby approved shall be concrete tiles which match those of the existing property. This roofing material shall be thereafter retained.</p> <p>A RECORDED VOTE WAS TAKEN IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 42(5) AS FOLLOWS:</p> <p>FOR: Councillors Bellamy, D Firth, E Firth, Hemingway, Khan, Lawson, Lyons, AU Pinnock, Sokhal, Sims, J Taylor Ullah and Wilkinson (13 Votes)</p> <p>AGAINST: (0 Votes)</p>

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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: 31 MARCH 2016**

**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	18 March 2016 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. S. Hall

Electoral [wards](#) affected: Colne Valley; Almondbury; Ashbrow; Crosland Moor and Netherton; Holme Valley North;  
 Ward councillors consulted: No

**Public or private: Public**

1. **Purpose of report**  
For information
2. **Key points**
  - 2.1 2014/60/93692/W - Outline application for erection of 2 dwellings at Land Adjacent, 720, New Hey Road, Outlane, Huddersfield, HD3 3YQ. (Sub-Committee in accordance with Officer recommendation ) (Dismissed)
  - 2.2 2015/62/90851/W - Erection of detached dwelling, formation of new access and demolition of existing concrete garage serving 124 Rowley Lane and the erection of attached replacement garage at 124, Rowley Lane, Lepton, Huddersfield, HD8 0EJ. (Officer) (Dismissed)
  - 2.3 2015/62/91455/W - Erection of storage building at Shepherds Thorn Lane, Bradley, Huddersfield, HD6 3TU. (Officer) (Dismissed)

- 2.4 2015/62/91541/W - Erection of detached dwelling at Adj, 1, Yew Green Avenue, Lockwood, Huddersfield, HD4 5EW. (Officer) (Dismissed)
- 2.5 2015/62/91317/W - Erection of detached dwelling with integral garage at rear of 17, Darnley Close, Meltham, Holmfirth, HD9 4BT. (Officer) (Allowed)
- 2.6 2015/62/90804/W - Erection of detached dwelling at Carlin Farms, Oldfield Road, Honley, Holmfirth, HD9 6RN. (Officer) (Dismissed)
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**

## Appeal Decision

Site visit made on 23 February 2016

**by V Lucas-Gosnold LLB MCD MRTPI**

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

**Decision date: 8 March 2016**

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**Appeal Ref: APP/Z4718/W/15/3129492**

**720 New Hey Road, Outlane, Huddersfield, Kirlees, HD3 3YQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Queenscourt Development against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2014/60/93692/W dated 26 November 2014, was refused by notice dated 10 April 2015.
  - The development proposed is 2 no. executive luxury family homes.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The original application was submitted in outline with all matters reserved for determination at a later stage. I shall deal with the appeal on that basis.

### Main Issues

3. The main issues are:
  - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
  - The effect of the development proposed on the openness and character of the Green Belt;
  - Whether future occupants of the development proposed would have acceptable living conditions with particular regard to air quality and noise; and
  - If the proposal would be inappropriate development 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 it.

### Reasons

*Whether inappropriate*

4. The appeal site is within the Green Belt. The appeal proposal would see the construction of two dwellings. Several planning applications for different types

- of development on the appeal site have previously been refused planning permission by the Council for reasons similar to those given for the refusal of this appeal proposal.
5. Policy D13 of the Kirklees Unitary Development Plan (UDP) states that within existing settlements in the Green Belt infill development will normally be permitted were: i. The site is small, normally sufficient for not more than two dwellings, and within an otherwise continuously built-up frontage, or ii. The site is small and largely surrounded by development, and iii. No detriment will be caused to adjoining occupiers of land or to the character of the surrounding area.
  6. Paragraph 89 of the National Planning Policy Framework (Framework) states that the construction of new buildings should be regarded as inappropriate in the Green Belt. The paragraph goes on to list exceptions to this, including limited infilling in villages.
  7. Whilst paragraph 89 of the Framework does not specifically define the meaning of 'infill development' for the purposes of Green Belt policy, the local policy approach in seeking to permit limited infill within villages in the Green Belt is generally consistent with that of the Framework. I therefore attach weight to policy D13 in my determination of this appeal in accordance with paragraph 215 of the Framework.
  8. The appeal site is a steeply sloping area of greenfield land that is partly open heathland and partly covered by trees. The site is adjacent to the M62 motorway and is accessed off the junction 23 slip road from a small section of New Hey Road.
  9. There is a row of residential dwellings close to the site. However the appeal site is situated at the end of the existing development between the houses and the M62. There are no dwellings or buildings situated to the east of the site and open fields lie directly to the north. The appeal site is not therefore within an otherwise continually built up frontage nor surrounded by development.
  10. The main built up area of Outlane village lies to the south east of the appeal site further along the main A640 road. The appeal site is seen as visually and functionally separate from the main built up area of the village due to the separation distances involved, the fact that it is set back behind the main road and the presence of intervening open space.
  11. Whilst I note that there is a pub and a youth training centre within walking distance from the appeal site, future occupants would be required to travel to Outlane or other nearby settlements in order to meet their day to day needs. Although the Design and Access Statement submitted with the application indicates that transportation routes and other local facilities such as shops and local schools are present, no specific examples are identified nor the distance that future occupants of the proposed dwellings would need to travel in order to access them.
  12. The total area of the site is approximately 1.13 acres. Although due to the constraints of the site the appellant states that only 0.16 hectares is developable, the overall site area is large. Although I note that the appellant has indicated that large, luxury family homes have been proposed due to financial viability, the appeal site would be capable of physically

- accommodating more than two dwellings. The appeal site is not therefore small for the purposes of policy D13 of the UDP.
13. For these reasons, I consider that the development proposed would not represent limited infilling in a village for the purposes of policy D13 of the UDP or paragraph 89 of the Framework.
  14. Openness is an essential characteristic of the Green Belt. It can be considered as meaning an absence of built or otherwise urbanising development. The appeal site is currently free from visible signs of built development. Therefore in seeking to construct two dwellings on the site, the appeal proposal would by definition be harmful to the openness of the Green Belt. I note that the scale of this proposal has been reduced from that of a previous apartment scheme proposed at the site. However that was refused by the Council for reasons including the harm to openness that would occur. Therefore the reduced scale of this appeal proposal when compared to that previously refused cannot be considered a benefit.
  15. The appeal site, being free from development, has an open and rural appearance that serves as a visual barrier between the housing along this part of New Hey Road and the surrounding busy road network. Although I am mindful that the proposal was submitted in outline with all matters reserved, the information submitted with the appeal does indicate that two large, three storey family homes are proposed. This would not reflect the modest scale of the existing two storey semi-detached and terraced dwellings close to the appeal site. The proposal would therefore be harmful to the character and visual amenity of the Green Belt at this point. For these reasons, I consider that the appeal proposal would fail to safeguard the countryside from encroachment and would therefore conflict with one of the purposes of including land with the Green Belt (paragraph 80 of the Framework refers).
  16. I note the appellant's reference to the inclusion of the appeal site is a Strategic Housing Land Availability Assessment undertaken by the Council. However, as indicated by the Council this assessment was done on a policy neutral and therefore did not take into account the appeal sites Green Belt designation which is a relevant consideration that I must take account of. Whether or not the appellant considers that the appeal site should not be designated as Green Belt, the fact remains that it is and the relevant local and national policies therefore apply.
  17. Drawing matters together, I conclude that the development proposed would not amount to limited infilling in a village for the purposes of local or national Green Belt policy. The proposal would therefore conflict with policy D13 of the UDP and paragraph 89 of the Framework. The development proposed would therefore be inappropriate development in the Green Belt in this regard. The proposal would also be harmful to the openness of the Green Belt and would conflict with one of the purposes of including land within it.

*Living conditions of future occupants*

18. A noise report and air quality report was submitted with the original application in light of the proximity of the appeal site to the M62 motorway.

19. The noise report states that the general noise climate for the site is traffic noise from the M62 and that traffic noise is high and constant through the day with little respite. The actual measurements ranged between 40 and 110dB.
20. The report refers to guidance which recommends internal noise levels to achieve reasonable resting/sleeping conditions for occupants of dwellings. For living rooms 30dB is judged as 'good' with 40dB being 'reasonable'. For bedrooms, 30 dB is assessed as 'good' with 35dB being 'reasonable'. The report states that general daytime outdoor noise levels should be less than 55dB to prevent significant annoyance.
21. The air quality report refers to various National and European guidance, standards and objectives regarding air quality. The report states that a site visit was carried out and that existing conditions showed acceptable air quality. However, no specific measurements or empirical evidence on which this assessment is based is before me.
22. Both reports refer to suitable mitigation measures that could be secured to address noise and air quality issues. These include the installation of enhanced glazing, with windows preferably closed (with an option to be openable), mechanical ventilation and by designing a suitable layout of the internal accommodation proposed. Landscaping is also proposed where additional evergreen trees would supplement existing trees between the appeal site and the motorway so as to act as a barrier to mitigate both noise and air quality impacts.
23. It may well be possible to incorporate design measures into the proposed dwellings to mitigate some of the noise and air quality issues as a result of the proximity of the appeal site to the M62. However, no specific evidence is before me to show what anticipated noise levels within the internal accommodation could be achieved if these measures were implemented. Furthermore, no specific evidence is before me that shows what the air quality measurements were that were taken at the site and what levels might be expected within the dwellings proposed even taking into account the mitigation measures referred to.
24. In such circumstances, I cannot be certain that the living conditions for future occupants would be acceptable. It is also likely that future occupants would wish to open windows in their living rooms or bedrooms, particularly during the summer to benefit from additional fresh air and natural ventilation. Should this occur, then they would be exposed to the traffic noise and air quality issues associated with the nearby motorway.
25. I am also mindful that when using their rear garden areas, options for mitigation measures to alleviate the effects of the motorway in order to provide acceptable living conditions for future occupants are limited. No specific evidence has been provided to show what practical effect the proposed landscaping would have and whether this would successfully mitigate noise or air quality concerns. It is therefore uncertain as to whether future occupants could use their garden areas to relax in without experiencing the unacceptable effects of noise or air quality issues on their living conditions. Even if the rear gardens were to be laid out at the furthest point from the motorway, they would still be close to it.



26. The appeal site is also occupied by an area of acid grassland / heathland which has been identified as being a habitat of principal importance for ecological purposes. This habitat is situated where it has been indicated that the additional evergreen trees that are intended to act as a noise and air quality buffer would be planted. The Council's ecologist has raised concerns that the proposed conifer planting would not be appropriate or conducive to maintaining this habitat. Landscaping is a matter reserved for determination at a later stage, however the provision of some form of landscaping barrier does form part of the package of mitigation measures proposed to ensure that the living conditions of future occupants would be acceptable. There is therefore some uncertainty as to whether the additional landscaping proposed could be incorporated into the appeal scheme in order to successfully achieve the intended effect.
27. Any reduction in emissions that may be achieved in the future as a result of the implementation air quality targets is equally uncertain and cannot reasonably be considered to act as direct mitigation measures for this proposal.
28. The reports go on to state that as the application was submitted in outline, a detailed noise and impact assessment can be carried out to address any concerns at a later date. However, whether the proposal would provide acceptable living conditions for future occupants does form part of the assessment as to whether or not the principal of the development proposed would be acceptable. It is therefore a relevant consideration before me at this stage.
29. Information submitted with the appeal also refers to the existing dwellings along New Hey Lane and that there are Victoria terraced homes closer to the M62 than the appeal site. On that basis, both reports state that other proposals have therefore been considered to be acceptable with regards to noise and air quality issues. However, the existing houses to which the report refers will have been constructed prior to the motorway. This situation is not therefore directly comparable with the appeal site.
30. Accordingly, I conclude that the development proposed would not provide acceptable living conditions for future occupants, with particular regard to noise and air quality. The proposal would therefore conflict with policy EP4 of the UDP which states that proposals for noise sensitive development in proximity to existing sources of noise, will be considered taking into account the effects of existing noise levels on the occupiers of the proposed noise sensitive development. The proposal would also conflict with paragraphs 17 and 109 of the Framework which state, among other things, that planning should always seek to secure a good standard of amenity for all future occupants of land and buildings; and prevent new development from being adversely affected by unacceptable levels of air or noise pollution.

*Other considerations*

31. I acknowledge that the appellant seeks a financially viable use for the site and attach limited weight in favour of this consideration.
32. The appellant has referred to the housing land supply situation in the Council area and that there is a demand for executive homes. The appeal proposal would contribute two additional dwellings to the supply. However, the presumption in favour of sustainable development as set out paragraph 14 of

the Framework states that this applies except where specific policies indicate that development should be restricted for example, land designated as Green Belt (footnote 9). This is not therefore a matter that weighs in favour of the appeal proposal.

33. Notwithstanding the appellant's comments in the grounds of appeal, the Council did not object to the proposal due to highway safety concerns or parking provision, subject to conditions. Based on the information before me the proposal would be acceptable with regard to highway safety, access, parking provision, drainage, infrastructure provision, climate change mitigation and the living conditions of neighbouring occupants. Whilst the proposal would therefore comply with some local elements of the relevant UDP policies in this regard, these are all neutral considerations whereby a lack of harm does not weigh in favour of the appeal scheme.
34. As landscaping and layout are reserved matters, it may be possible to design a suitable scheme to ensure that the proposal would not be harmful to the ecology present at the site. This is also a neutral consideration.
35. Although the site may have no specific use and is steeply sloping, it is a greenfield site and outside of a clearly defined urban area. It is therefore not clear to me in what way the proposal would contribute to urban regeneration objectives.
36. Even though previous development proposals on the appeal site have been refused permission by the Council, there is no specific evidence before me to indicate that the Council officer did not determine the original application to which this appeal relates on its own merits.

### **Conclusion**

37. By reason of the proposed construction of a new building outside of an existing village, the proposal would be inappropriate development in the Green Belt and would not meet the definition of infill development in the Green Belt for the purposes of policy D13 of the UDP. It would also conflict with paragraph 89 of the Framework. The proposal would also be harmful to the openness of the Green Belt and would conflict with one of the purposes of including land within it. Substantial weight should be given to any harm to the Green Belt according to the Framework (paragraph 88).
38. I have also concluded that the development proposed would not provide acceptable living conditions for future occupants, with regard to noise and air quality. The proposal therefore conflicts with policy EP4 of the UDP and paragraphs 17 and 109 of the Framework. This adds to the Green Belt harm that I have identified.
39. There are also several neutral factors that I have acknowledged in my decision where a lack of harm does not weigh in favour of the appeal proposal. Furthermore, whilst the proposal would provide two additional dwellings this would be in a Green Belt location where National policy indicates that development should be restricted.
40. On the other hand, I give limited weight to the appellants wish to secure a financially viable scheme for the appeal site.

41. I conclude that this other consideration does not clearly outweigh the totality of harm I have identified. Accordingly, very special circumstances necessary to justify the development do not exist and the proposal would conflict with policies D13 and EP4 of the UDP and paragraphs 17, 88, 89 and 109 of the Framework overall.

42. For the reasons given above, I conclude that the appeal should be dismissed.

*V Lucas-Gosnold*

INSPECTOR

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## Appeal Decision

Site visit made on 26 January 2016

**by Roy Merrett BSc(Hons) DipTP MRTPI**

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

**Decision date: 23 February 2016**

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**Appeal Ref: APP/Z4718/W/15/3136213**

**The Old Vicarage, 124 Rowley Lane, Lepton, Huddersfield HD8 0EJ**

- 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 D Herrick against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2015/62/90851/W, dated 14 February 2015, was refused by notice dated 11 September 2015.
  - The development proposed is erection of detached dwelling and rebuilding of garage.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the development on:
  - i) the character and appearance of the area, including the setting of St. John's Church which is listed Grade II,
  - ii) the living conditions of the residents of 124A Rowley Lane in terms of outlook and,
  - iii) highway safety.

### Reasons

#### *Character and Appearance*

3. The varied scale and appearance of buildings along Rowley Lane dilutes any strong sense of visual uniformity in the street scene. Notwithstanding this there is a clear contrast in scale, layout and appearance between the Old Vicarage with St. John's Church behind and the more recent residential development in the surrounding area.
4. The appeal site is part of the spacious and verdant setting of St. John's Church and the Old Vicarage and contributes a sense of proportion to these larger buildings. By comparison the wider area is predominantly made up of various types of smaller, relatively modern dwellings on more compact plots.
5. I acknowledge that the proposed use of stone and slate tiles would be in keeping with the traditional materials used in the construction of the donor property, church and adjacent bungalow. In addition, the dwelling would not

tend to dominate its plot with reasonably sized private amenity areas to the front and rear and space between the building and side boundaries. However, the site characteristics mean that the scale and position of the dwelling would appear as an imposing development harmful to the open spacious setting of the church and Old Vicarage.

6. I have a statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the setting of the nearby Grade II listed building of St. John's Church. However for clarification I disagree with the Council that the listing extends to the Old Vicarage, as it appears to me that this building lies outside the curtilage of the church.
7. It is clear that the special interest of the listed church lies in its architecture. The height and mass of the church tower and its associated buildings make it a strong and imposing landmark on the edge of the settlement.
8. The church and Old Vicarage are large buildings, centred in their respective plots with spacious surroundings and lines of mature boundary trees.
9. From Rowley Lane across the appeal site a significant portion of the church is visible with the rooflines of the various component parts of the building falling progressively forward from the summit of the tower in the background. This tiered relationship of the rooflines framed by mature trees with the smaller Old Vicarage building in the foreground creates a visually deep and elegant vista. This view makes a very important contribution to the setting of the listed building from which the significance of the church can be appreciated.
10. The location and scale of the proposed dwelling would obscure a substantial amount of this view, whilst appearing to cramp the immediate open surroundings of the church. Accordingly it would fail to preserve the setting of the listed building and result in less than substantial harm to the asset.
11. The National Planning Policy Framework (the Framework) advises that great weight should be given to the conservation of heritage assets. Where less than substantial harm is identified to the significance of a designated heritage asset, it requires that the harm is weighed against the public benefits of the proposal. In this case the development would provide a unit of additional living accommodation. However, a single unit would make only a very small contribution to the supply and choice of housing and would not be sufficient to outweigh the harm I have identified.
12. The development would therefore be in conflict with Policies BE1, BE2 and D2 of the Kirklees Unitary Development Plan 2007 (UDP) and with the Framework which seek to promote good quality design that responds to local character and identity and avoids over-development.
13. I have no reason to disagree with the Council that the proposed replacement garage to the donor property would be acceptable in visual terms.

#### *Living Conditions*

14. The gable elevation of the dwelling would be close to the side of the adjacent bungalow, No 124A. There are various windows in the side of the bungalow and whilst one would be offset from the footprint of the dwelling, and another

appears to be fitted with obscured glazing there would be potential for residents to look directly onto the gable elevation from a remaining window.

15. Whilst it was not clear from my site visit or from the information before me which areas are served by the side windows and whether they would be classed as 'habitable' rooms, having regard to the proximity, height and scale of the proposal I have no reason to disagree with the Council that the development would result in an overbearing impact that would be harmful to outlook for residents of the bungalow.
16. Accordingly the development would conflict with Policies BE1, BE12 and D2 of the UDP and the Framework which seek to avoid over-development and secure separation between buildings and a good standard of amenity for existing residents.

#### *Highway Safety*

17. I acknowledge that the Council is concerned about the capacity of the site to accommodate sufficient off-street car parking and turning space in the interests of highway safety due to the limited size of the proposed integral garage. However from the information provided it seems to me that that the garage would be of a size capable of accommodating many types of car.
18. Notwithstanding this there would be sufficient space at the front of the property to enable off-street parking for three vehicles, as sought by the Council, whilst allowing for a turning area to ensure vehicles were able to leave in forward gear.
19. The development would not therefore result in highway safety issues and would not be in conflict with Policies T10 and T19 of the UDP.

#### *Other Matters*

20. In support of his case the appellant has referred to an identical dwelling to that proposed being permitted on a different site. I have no reason to doubt this statement, however it does not justify the harm I have identified in this case to the character and appearance of the area and setting of the listed building.
21. Furthermore I acknowledge that there is a nearby bus stop that may encourage future occupiers to use public transport which would be in the interests of environmental sustainability. However, similarly, this would not outweigh the harm I have identified above.

#### **Conclusion**

22. I have not found harm in terms of highway safety. I have also taken into account that the development would provide a new family house. However, these factors are outweighed by my negative findings relating to the character and appearance of the area and the setting of the listed building. I have also found harm to the living conditions of existing residents. Consequently, having had regard to all other matters raised, I conclude that the appeal should not succeed.

*Roy Merrett*

INSPECTOR

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# Appeal Decision

Site visit made on 21 January 2016

**by William Fieldhouse BA (Hons) MA MRTPI**

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

**Decision date: 10 February 2016**

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**Appeal Ref: APP/Z4718/W/15/3138826**

**Shepherds Thorn Lane, Bradley, Brighouse HD6 3TU**

- 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 D Lofthouse against the decision of Kirklees Metropolitan Borough Council.
  - The application ref 2015/62/91455/W, dated 12 May 2015, was refused by notice dated 9 October 2015.
  - The development proposed is the erection of a storage building.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The appellant advises that an earlier application for prior approval for a storage building on the site had been rejected by the Council on the grounds that the use of the building would not be for "forestry" and would not therefore benefit from permitted development rights. Hence the submission of the planning application that ultimately led to this appeal.
3. The appellant also advises that the site has been used in conjunction with his forestry and arboricultural business for around 12 years. He controls and works in several acres of woodland near the site, and carries out tree surgery and other arboricultural activities within a three mile radius. The building would be used to securely store a trailer, digger, wood-chipper, cherry-picker and other machinery, plant, equipment and materials for the business. On the basis of the information before me, I agree with the Council that the storage use would be associated with arboricultural activities that go beyond "forestry". Furthermore, in the absence of a planning permission or lawful development certificate relating to the site, or any other definitive information, I have to regard the use, and existing structures on the land, as being unauthorised.

## Main Issues

4. There is no doubt that the site is in the Green Belt, and therefore the main issues are:
  - whether the proposal is inappropriate development for the purposes of national and development plan policy relating to Green Belts;
  - the effect that the proposal would have on the openness of the area; and

- if the proposal represents inappropriate development in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

## **Reasons**

### *The Site, its Surroundings, and the Proposal*

5. The appeal relates to a small field in the countryside to the east of a rural lane from where access is provided via an unadopted track. In one corner stands a shed constructed of timber and metal sheeting, and two substantial metal storage containers. To the north is woodland; to the east Bradley Wood Scout Camp and Jubilee Centre; and to the south, largely hidden by a tree belt and rising ground, the M62 motorway.
6. The proposal would entail the removal of the existing shed and containers and the erection of a secure storage building constructed of green profiled steel sheeting approximately 12 metres long, 8 metres wide, and 5.5 metres to the roof ridge.

### *Whether the Development would be Inappropriate in the Green Belt*

7. There are no relevant extant development plan policies relating to this issue. However, the National Planning Policy Framework ("NPPF") makes it clear that development in the Green Belt should be regarded as being inappropriate other than for a number of defined purposes<sup>1</sup>. These include the erection of buildings for agriculture and forestry, and the replacement of a building provided the new building is in the same use and not materially larger than the one it replaces.
8. The Council is of the opinion that the proposal would be inappropriate development in the Green Belt, and this is accepted by the appellant. As I have already found that the building would not be used solely for "forestry", and that the existing building and containers on the site are unauthorised, I agree with this assessment as the proposal would not represent one of the exceptions referred to in NPPF paragraph 89.
9. I therefore conclude on this issue that the proposal would represent inappropriate development for the purposes of national planning policy which, by definition, would be harmful to the Green Belt and should not be approved except in very special circumstances<sup>2</sup>.

### *Openness of the Green Belt*

10. Openness is an essential characteristic of Green Belts<sup>3</sup> that is largely dependent on the quantity of built development in the area in question. Given that the existing building and containers are unauthorised, there is a reasonable prospect that they would have to be removed if that were deemed to be appropriate by the Council.

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<sup>1</sup> NPPF paragraph 89.

<sup>2</sup> NPPF paragraph 87.

<sup>3</sup> NPPF paragraph 79.



11. On the other hand, if planning permission were to be granted for the current proposal it would result in a permanent building on the site. Whilst this would not be excessive in scale for its intended purpose, nor visually prominent, it would mean that the site would be less open in the long term than could otherwise be the case. Furthermore, even if the existing building and containers were considered to be permanent structures to be replaced, the proposal would have a larger footprint according to the submitted block plan. This, and the height of the proposal, would mean that it would have a greater impact on openness than the existing structures.
12. I conclude on this issue that the proposal would lead to a material loss of openness to the area, thereby undermining one of the essential characteristics of Green Belts as defined in the NPPF.

*Other Considerations*

13. Vehicles, machinery, equipment and materials required for the appellant's arboricultural and forestry business are partially stored in the existing open-fronted shed and containers on the site, and partially at home meaning that additional time has to be spent at the start and end of each working day. The proposal would allow everything to be stored in one place thereby improving operational efficiency, and also provide a covered area where an apprentice or additional worker could receive the rigorous training that is required for tree surgeons. It would also provide space to store woodchip meaning that it could be sold as a biomass product, generating additional revenue for the business.
14. The appellant advises that as the existing storage facilities on site are not secure, logs are often stolen and machinery damaged. Due to the lack of space in the existing shed, the cherry-picker has to be stored on a trailer meaning that it could be easily stolen. Whilst an alarm is fitted, this is activated around five times every week and the appellant has had to frequently confront intruders, some of whom have been armed with guns and crow bars. Incidents have been reported to the police, but security problems persist meaning that the appellant is, quite understandably, seriously concerned for his health and safety. He is also worried that someone could set fire to the logs, thereby putting the wider area at risk.
15. The proposal would, therefore, support a rural business and contribute positively to the economy of the area, objectives that are encouraged by the NPPF. Furthermore, the proposal would improve the security of the site, and thereby reduce financial costs associated with theft and vandalism, and, importantly, be likely to reduce the frequency of such events which would have significant benefits in terms of the health and safety of the appellant. I attach considerable weight to the social and economic benefits that the proposal would be likely to deliver in these respects.
16. The appellant has investigated potential alternative means of obtaining a secure storage building for his business. However, he has been unable to find any suitable premises close to his woodland and customers, and in any case he considers that the cost of renting a light industrial unit with a yard would be disproportionate to the turnover of the business. Whilst I have no reason to doubt that it would be economically advantageous to erect the proposed building rather than rent or buy an alternative, I have only limited information

about the implications for the viability of the business meaning that I can attach only limited weight to this financial benefit to the appellant.

17. The appellant has spent a considerable amount of money tidying up the site, and implemented landscaping and ecological improvements. If permission were to be granted, additional environmental enhancements would be made. Whilst this would be beneficial, given the scale of the proposal and site, additional landscaping could only be required to be limited in nature. The building itself would be of a type that is typically found in rural areas, and sited such that it would not be at all prominent in the wider landscape. It would however, as I have already found, detract from the largely open nature of the countryside.

#### *Overall Assessment*

18. The proposal, by supporting an established rural business and enhancing security, would deliver significant social and economic benefits. Whilst these would be limited in scale, given the circumstances that I have described I attach considerable weight to them. The proposal could also deliver some environmental benefits through additional landscaping, although these would be limited.
19. However, I have found that the proposal would be inappropriate in the Green Belt, and that it would be likely to materially harm the openness of the area. The substantial harm that this would cause would not be clearly outweighed by the benefits that I have identified, and therefore very special circumstances to justify the proposal do not exist<sup>4</sup>.

#### **Conclusion**

20. For the reasons given above, I conclude, on balance, that the appeal should be dismissed.

*William Fieldhouse*

INSPECTOR

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<sup>4</sup> NPPF paragraph 88.

## Appeal Decision

Site visit made on 29 December 2015

**by Elizabeth Pleasant BSc(Hons)DipTP MRTPI**

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

**Decision date: 12 February 2016**

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**Appeal Ref: APP/Z4718/W/15/3133875**

**1 Yew Green Avenue, Huddersfield HD4 5EW**

- 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 Inderpaul Singh Birk against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2015/62/91541/W, dated 1 May 2015, was refused by notice dated 14 July 2015.
  - The development proposed is new detached residential dwelling.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in this case are the effect on:
  - The living conditions of 23, 25 & 27 Yew Green Road, with particular regard to outlook and sunlight; and
  - The character and appearance of the area.

### Reasons

#### *Living conditions*

3. The proposed dwelling would be sited approximately a metre and a half away from the boundary of the site where it adjoins the rear back yard/amenity areas of the neighbouring residential terrace on Yew Green Road. The rear elevations of Nos. 25 and 27, which include habitable room windows at ground and first floor level, would face the flank wall of the appeal proposal. In addition No 23 Yew Green Road forms one half of a back to back property and thus its entire windows also face directly onto the proposed dwelling's flank wall.
4. Policy BE12 of the Kirklees Unitary Development Plan, 1999 (UDP) advises that new dwellings should be designed to provide privacy and open space for their occupants, and physical separation from adjacent property and land. It normally requires, and pertinent to this appeal, a minimum separation distance of 12m between a habitable room window of a dwelling and a blank wall or a wall containing the window of a non habitable room. It also advises that 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 any adjacent properties.
5. The flank wall of the proposed dwelling, which has a single first floor bathroom window in it, would be at its closest some 8.5m away from the rear elevation and facing habitable room windows of 23 Yew Green Road. This distance increases by approximately a metre where the site adjoins the rear of Nos. 25 and 27. There would be no significant difference between the properties ground floor level. The proposed dwelling has been designed with a hipped roof and provides a cat slide roof and dormer to the projecting rear element to try and minimise its bulk and massing. However, given its proximity to No 23 in particular, whose sole aspect is towards the appeal site, it is considered that the proposed dwelling would dominant the outlook from this property and be overbearing to its occupants. Furthermore, the proposed dwelling would be sited directly to the south of Nos. 23, 25 and 27. I noted on my site visit that the existing dwelling, 1 Yew Green Avenue already casts a shadow over the amenity areas of these properties. It is therefore reasonable to expect that the proposed dwelling, which would be sited in much closer proximity to them, would result in significant overshadowing of these properties.
  6. I have considered the appellant's reference to Bradford Council's Household Supplementary Planning Document. However, the appeal site lies within Huddersfield, and I can therefore only consider the proposal in accordance with Kirklees Council's development plan. Furthermore, each proposal must be considered on its own merits and on the basis of the application plans which were before the Council when they made their decision. It is those which form the basis of this appeal.
  7. My attention has been drawn to the relationship between other properties on Yew Green Avenue; however I did not see any that were directly comparable to the proposal before me. Although the appellant does not consider the external areas to Nos. 25 and 27 to be formal garden areas and to have little privacy, they do provide valuable outdoor space for sitting, playing and drying clothes as well as parking cars. I consider that the occupants of these properties are entitled to have a reasonable level of outlook and access to sunlight. The absence of objections from the existing occupants of these properties to the proposed development, nor the modest increase in privacy that it may provide to their rear gardens, does not justify the significant harm I have identified in terms of effect on their living conditions.
  8. I therefore conclude that the proposal would cause significant and demonstrable harm to the living conditions of Nos. 23, 25 and 27 Yew Green Road, by reason of loss of outlook and sunlight. It would be contrary to Policies BE12 and D2 of the UDP which seek to ensure that new development does not prejudice residential amenity and which are consistent with one of the core planning principles of the National Planning Policy Framework (the Framework), which seeks to provide a good standard of amenity for all existing and future occupants of land and buildings.

*Character and appearance*

9. Yew Green Avenue is a small cul-de-sac of predominantly semi-detached houses, with a couple of short terraces and a single detached infill property. The majority of the properties have hipped roofs and parking is provided on

driveways to the front or side of the properties. The properties have a fairly consistent building line and plot width.

10. The appeal proposal is for a detached dwelling which would be similar in height to the neighbouring property, 1 Yew Green Avenue and sited immediately adjacent to it. The proposal has been designed with a hipped roof and projecting front bay windows to reflect the design characteristics of the existing properties in Yew Green Avenue. Although the plot tapers in width towards the rear of the site, it has a frontage similar in width to the majority of the properties on the cul-de-sac. Given the mix of properties on the street it is not considered that the proposal would be out of character, neither would it appear cramped. Furthermore, the presence of the existing terrace on the corner of Yew Green Avenue and Yew Green Road, obscures views of the site as you enter the street so that it would not be a dominant feature in the street scene as a whole.
11. I conclude that the proposal would not cause significant harm to the character or appearance of the area and would not therefore conflict with Policies BE1 (i) (ii) or D2 of the UDP together with Section 7 of the Framework, which seek to provide a good standard of design and protect the character of the area and local identity.

### **Conclusion**

12. Although I have found that the proposal would not adversely affect the character or appearance of the area, I have found that the development would have a significant and harmful effect on the living conditions of the occupiers of 23, 25 & 27 Yew Green Road. Therefore, for the reasons given above, and having regard to all other matters raised, the appeal is dismissed.

*Elizabeth Pleasant*

INSPECTOR

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## Appeal Decision

Site visit made on 26 January 2016

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

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

**Decision date: 10<sup>th</sup> March 2016**

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**Appeal Ref: APP/Z4718/W/15/3139811**

**Rear of 17 Darnley Close, Meltham, Holmfirth, HD9 4BT**

- 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 Mrs Chris Smith against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2015/62/91317/W, dated 30 April 2015, was refused by notice dated 17 November 2015.
  - The development proposed is a detached dwelling with integral garage.
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### Decision

1. The appeal is allowed and planning permission is granted for a detached dwelling with integral garage at the rear of 17 Darnley Close, Meltham, Holmfirth, HD9 4BT in accordance with the terms of the application, Ref 2015/62/91317/W, dated 30 April 2015, subject to the conditions in the schedule at the end of this decision.

### Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

### Reasons

3. The appeal relates to a section of garden at the rear of 17 Darnley Close. As part of the proposal a new access would be formed from Mill Bank Road and a detached house erected in between Bank Cottage and Upper Mount. Due to the significant change in level part of the existing retaining wall would be removed in order to create a new driveway and lower ground-floor garage.
4. Although the retaining wall is a distinctive feature of Mill Bank Road it does not extend the full length of the street. Instead, the adjacent terraced row has been cut into the hillside as evidenced by the exposed stone at the rear of no.12. The retaining wall is also fragmented by Bank Cottage which has a broadly level access onto the street and a driveway leading to raised land behind. As a result, whilst this part of the street has remained largely unchanged since the mid-1800s, the partial loss of a section of the retaining wall would not detract from its appearance. On the contrary, by building into the hillside the proposal would reflect some of the examples of Victorian engineering which characterise the immediate surrounding area.

5. In addition to the significant level change between the garden and the roadside there is also a natural fall along Mill Bank Road from south-west to north-east. Accordingly, Bank Cottage steps down to 12 Upper Mount, which in turn is higher than no.11 and so on. However, the submitted streetscene drawings illustrate that this relationship would be maintained by ensuring that the eaves and ridge height of the appeal scheme would sit slightly lower than the adjacent cottage. In doing so the continual reduction in buildings heights, which is a feature of the streetscene, would be largely preserved. Although the step-down to Upper Mount would be pronounced, based on the evidence provided by the appellant, which includes a 3D assessment, I am not persuaded that this would necessarily be a harmful or incongruous addition.
6. Furthermore, due to the change in level the garage would be cut into the side of the site whilst the majority of first-floor living space would be contained within the roof space. Despite having accommodation across three floors the main bulk and mass of the dwelling would therefore be broadly level with the ground surrounding it and the proposal would have the appearance of a 1.5-storey house from public vantage points further up and down the street. For these reasons, when compared to the size of Bank Cottage and Upper Mount I consider that the height and scale of the dwelling would adequately reflect its surroundings. The final ground and finished floor levels could also be controlled and enforced by a suitably worded planning condition to ensure that the development sits comfortably in the side of the sloping site.
7. In terms of its width the proposal would not extend up to the site boundary on either side. Instead, a gap of between roughly 0.9m and almost 2m would be maintained, with the principal access taken down the side of the dwelling. It would also be set-back from the roadside behind a large driveway and the front elevation includes a generous recess which would help to further break up its size, scale and bulk. Moreover, due to the area of garden at the side of Bank Cottage, and the embankment adjacent to no.12 a reasonable degree of separation would be maintained between the appeal scheme and its immediate neighbours.
8. In summary therefore, because the eaves and ridge heights of the scheme would be slightly lower than Bank Cottage, combined with the inclusion of accommodation in the roof space, the set-back from the roadside, recessed front elevation and the separation from properties on either side, I consider that the proposal would not appear cramped or out of proportion.
9. Concerns have also been raised that the design is not in keeping with local heritage and would result in the loss of green space when there are several former industrial sites available nearby. However, despite the use of modern materials such as glazing and render, the front elevation and garage surrounds would be primarily constructed from coursed stone. Subject to the use of high quality appropriate local materials the design would therefore provide a modern family dwelling whilst managing to successfully reflect its more traditional context. Furthermore, because the appeal site forms part of a garden set above the roadside, and given the large wooded area broadly opposite the site, the erection of a dwelling in this location would not result in the loss of an important area of green open space. There is also nothing to substantiate comments that brownfield land is available close by, or that the principle of development would conflict with any local or national planning policies.

10. I therefore conclude that the proposal would be visually attractive and its split-level design, height, scale, width and proportions would not prejudice the character or appearance of the area. As a result there is no conflict with *Kirklees Unitary Development Plan (UDP)* Policies BE1 or BE2 which, amongst other things, require development to be of a good quality design which creates or retains a sense of local identity, is visually attractive and is in-keeping with its surroundings in terms of its design, materials, scale, density, layout, height, and mass. There is also no conflict with UDP Policy D2 which states that planning permission for new development will be granted provided that it does not prejudice visual amenity or the character of its surroundings. Similarly, the scheme accords with the National Planning Policy Framework ('the Framework') which seeks to secure high quality design and requires planning to take account of the different roles and character of different areas.

### **Other Matters**

11. In reaching my conclusions against the main issue I have also taken into account concerns regarding the proposal's effect on the privacy, daylight and outlook of neighbouring residents, the construction process, highway safety and car parking, the setting of the 'Bank Buildings', biodiversity and drainage.
12. It is noted that the plans include ground and first floor windows on the side elevations of the scheme facing towards Bank Cottage and Upper Mount. Nonetheless, the section of glazing directed towards Upper Mount would only serve a staircase and hallway, which, given their intended use would not cause any harmful loss of privacy in the garden below. Elsewhere bedrooms 1 and 2 would be served by rooflights and therefore non-opening or top-opening windows with obscure glazing could be used on the side elevations. This would also restrict any harmful overlooking of either adjacent property.
13. Similarly, although balconies are included in the scheme only a small area of the front garden serving Bank Cottage would be overlooked from the first floor Juliet balcony, and the existing hedge would restrict any views from the larger ground floor projection. Subject to the use of screening on the north-east facing side of the balcony, which could be secured by a planning condition, no overlooking of no.12 Upper Mount would occur.
14. In terms of the size and proximity of development to neighbouring properties the Council has not raised any concerns. At the planning application stage the Planning Officer confirmed that "*...the scale and siting of the dwelling would not lead to undue loss of light or overbearing impact.*" Due to the generous area of garden at Bank Cottage, the relative height and position of the appeal scheme and the degree of separation to Upper Mount, I find no reasons to justify a different conclusion.
15. With regard to the construction process details of ground works and retaining walls could be controlled by the Council through the approval of a Construction Method Statement prior to work commencing. This would ensure that appropriate construction practices were put in place and adhered to at all times. Although excavation of the site and construction of a dwelling would result in a significant amount of additional vehicle movements compared to the existing situation, it would only be temporary. Whilst I empathise with the disruption that would be caused it therefore does not justify refusing planning permission. Ensuring that works are carried out to appropriate standards, including Health and Safety standards, are covered by separate legislation.



16. Concerns regarding the future health and well-being of the boundary hedge with Bank Cottage have also been raised. However, the Council's Tree Officer has not objected to the scheme in terms of its effects on trees or hedgerows either on, or close to the site boundary. Details relating to their retention and protection could also be secured by a suitably worded pre-commencement planning condition.
17. In terms of highway safety the driveway would not be large enough for a vehicle to enter the site, turn around and leave in a forward gear. The visibility of approaching traffic would also be restricted by the position of the retaining wall. Nonetheless, the Council confirms that Mill Bank Road is not classified, and at the time of my mid-morning site visit traffic was very quiet. It is also noted that no.12 Upper Mount has a similar driveway leading to a garage yet no details have been provided to suggest that it has led to any safety problems or accidents in the past. In the absence of any objections from the Highways Officer I am therefore satisfied that the scheme would not prejudice safety.
18. During my site visit I also observed several spaces that were available up and down Mill Bank Road within the vicinity of the appeal site, which is primarily unrestricted. Moreover, as part of the scheme a large garage would be provided and the driveway would be able to comfortably accommodate a family car. When bearing in mind that only a single dwelling is proposed the scheme would therefore not give rise to any hazardous on-street parking or significant congestion on the local highway network, even during peak hours.
19. Reference has also been made to the Grade II listed 'Bank Buildings' located to the south of Mill Bank Road. I have therefore had special regard to the desirability of preserving or enhancing their setting. However, the large 3-storey terrace is at a much lower level to the appeal site on the other side of the road. It is also further to the south-west broadly level with Bank Cottage. Given the substantial degree of separation the scheme would not affect the setting of the Grade II listed terrace. For the same reasons there would also be no effect on the use of, or views over 'The Pleasure Grounds'.
20. Finally, no detailed evidence has been provided to indicate that any protected species would be affected by the development, or that there are any local flooding or drainage issues. The provision of bat and bird boxes would therefore provide new opportunities for wildlife on the site. Specific details of foul and surface water drainage could also be secured, controlled and enforced as part of a pre-commencement condition to ensure that no harmful flooding or other impacts on groundwater occurs.

### **Conclusion and Conditions**

21. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.
22. Aside from the standard time limit it is necessary to list the relevant plans to ensure that development is carried out as approved. In the interests of the character and appearance of the area it is also necessary to require the approval of material samples. Because this relates to the construction of the dwelling it is required prior to works starting on site. For the same reasons, and in the living conditions of adjacent residents, it is also necessary to require the approval of the finished floor and ground levels, albeit I have reworded the Council's suggested condition as drainage is covered by other requirements.

23. Although not suggested by the Council the interests of the character and appearance of the site and surrounding area, and the living conditions of neighbouring residents also necessitate a condition requiring the approval of hard and soft landscaping works, and their implementation thereafter. The condition also requires the approval of details relating to the protection of existing trees and hedgerows. Because this relates to the construction of the dwelling it is necessary to approve the details before works commence. It is also necessary for any landscaping to be replaced as required for five years.
24. Due to the significant level change and proximity of neighbouring residents the approval of a Construction Method Statement is required to address any ground works, excavation, retaining walls and boundary treatments. The nature of the condition also means that it is required prior to commencement of any development.
25. In order to prevent flooding and harmful surface water run-off details of the drainage of the site are required. However, I have reworded the Council's suggested condition by requiring the details to be approved prior to the start of development as initial construction works may relate to the provision of drainage infrastructure.
26. In the interests of highway safety a condition is necessary to ensure that the proposed access and parking area is laid out and retained free from obstruction for its intended purpose thereafter. Nonetheless, because the approval of hard surfacing and drainage are requirements of other conditions, it is not necessary to stipulate that it shall be laid out with a 'hardened and drained surface'. This also lacks precision.
27. To ensure that the biodiversity value of the site is maintained and where possible enhanced a condition is required for the erection of bat and bird boxes. For clarity I have reworded the Council's suggested condition to ensure that the measures are installed prior to the occupation of the dwelling.
28. Finally, in the interests of the living conditions of the occupants of Bank Cottage and 12 Upper Mount a condition is required in order to ensure that only obscure glazed, top or non-opening windows are installed on the side elevations at first floor level, and that no other windows are used in the future. For the same reasons, and given that there is a side-facing window on the south-west elevation of no.12, a condition is required in order to ensure that a screen is provided on the side of the ground floor balcony. Due to the position of the boundary hedge with Bank Cottage, and bearing in mind conditions relating to the retention, protection and provision of new landscaping, it is not necessary to refer to screening on both sides of the balcony.

*Matthew Birkinshaw*

INSPECTOR

### **Conditions Schedule**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan dated 30/04/15, Drawing No.1, unnumbered proposed site layout, Drawing No.2 insofar as it relates to the first floor layout, Drawing No.3 and Drawing No.4.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until details of the finished floor levels of the proposed dwelling, together with corresponding finished ground levels have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and the approved finished floor and ground levels shall be retained as such at all times thereafter.
- 5) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include the size, species and spacing of planting; areas to be grassed; any trees or hedgerows to be retained and measures for their protection; and all materials to be used for hard surfaced areas.
- 6) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to occupation of the dwelling hereby permitted or in accordance with a programme agreed with the local planning authority. Any trees or plants which, within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 7) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. Development shall be carried out in strict accordance with the Method Statement, which shall include details of all necessary ground works, excavation, retaining walls and boundary treatments. The approved retaining walls and boundary treatments shall be retained at all times thereafter.
- 8) No development shall take place until a scheme detailing foul, surface water and land drainage, (including off site works, outfalls, balancing works, plans and longitudinal sections, hydraulic calculations, phasing of drainage provision, existing drainage maintained/diverted/abandoned, and percolation tests, where appropriate) has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and the site shall be developed with separate systems of drainage for foul and surface water on and off site.

- 9) Prior to the occupation of the dwelling hereby approved the access and parking areas shall be constructed in accordance with the details shown on drawing nos.02 and 03. The approved access and parking areas shall be kept clear from obstruction and retained for their intended purposes at all times thereafter.
- 10) Prior to the occupation of the dwelling hereby approved the following measures shall have been provided:
- One bat box, in the form of a Schweglar Type 1FR bat box, or similar, installed integral to the dwelling within the site on the south-west facing wall at least 4 metres from the ground, and not located above any windows or doors; and
  - One woodcrete sparrow terrace nest box, installed integral to the dwelling within the site on the north-east facing wall at least 3 metres from the ground, and not located above any windows or doors.

The bat and bird boxes shall be retained at all times thereafter.

- 11) All first floor windows in the side elevations of the new dwelling shall be non-opening or top-opening only, and shall be fitted with obscure glazing prior to first occupation of the dwelling hereby approved. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification), only windows of this type shall be used at all times thereafter.
- 12) No development shall take place until details of screening to be used on the north-east facing side of the ground floor balcony have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details, and the balcony screening shall be retained at all times thereafter.



## Appeal Decision

Site visit made on 9 March 2016

by **P Eggleton BSc(Hons) MRTPI**

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

Decision date: 17 March 2016

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**Appeal Ref: APP/Z4718/W/15/3138243**

**Carlin Farms, Oldfield Road, Honley, Holmfirth HD9 6RN**

- 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 Carlin Farms Ltd against the decision of Kirklees Council.
  - The application Ref 2015/62/90804/W was refused by notice dated 28 May 2015.
  - The development proposed is a replacement building.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are whether the proposal would amount to inappropriate development within the Green Belt; whether there would be any other harm to the Green Belt; the effect on the character and appearance of the area; and whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

### Reasons

3. The description of development on the application form relates to a replacement building. What is proposed is a new dwelling. This would replace a range of agricultural buildings. There is a permission in place that allows part of these buildings to be converted into a dwelling.

#### *Inappropriateness*

4. The proposal would result in a new building in the Green Belt. The *National Planning Policy Framework* advises that new buildings should be regarded as inappropriate unless they fall within an exception set out in paragraph 89. This proposal does not fall within the scope of these exceptions. The proposal would therefore represent inappropriate development in the Green Belt.

#### *Openness*

5. The appellant has provided figures relating to the areas and volumes of the existing agricultural building and the proposed dwelling. It is clear that there would be a reduction in volume of development overall.
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6. The footprint calculations are less helpful. The dwelling would be surrounded by new surfaced areas and retaining walls. The driveway would represent a significant area of new development as would the rear patio areas. The two storey element and the substantial depth of the built form along the side boundary and close to the footpath, together with the additional retaining and enclosing walls, would result in the works overall, having a substantial perceived scale.
7. I am not persuaded that the proposal would represent a considerable reduction in the area of development. The building works and surfaced area closer to the road and the greater scale of development close to the footpath, would increase the perceived prominence of development. However, given the substantial reduction in volume, I accept that the proposal would not reduce the openness of the Green Belt. It would not therefore conflict with the fundamental aim of Green Belt policy which is to prevent urban sprawl by keeping land permanently open.

*Any other harm*

8. By stepping the development down, the two storey element of the house would have little prominence from the road. It would be quite dominant in views from the footpath to the rear because of its proximity to the rear boundary but the quality of the design would ensure that it would sit satisfactorily within the landscape. When viewed from Oldfield Road, the dwelling would have a simple design and good quality materials.
9. The attached garage would sit forward of the main building line and this would result in it being a prominent feature. The layout also involves a substantial area of drive and a large surfaced area to the side of the garage. These elements would result in the property having a very suburban appearance that would be at odds with the very rural character of this area. I find that the frontage of the property would represent poor design and would be contrary to Policies BE1 and BE2 of the Unitary Development Plan 1999 as these seek proposals that are visually attractive and in keeping with surrounding development. These policies accord with the design requirements of the *Framework*, which also advises that permission should be refused for development of poor design.

*Other matters*

10. I note the concerns with regard to the scale and costs associated with the permitted conversion of part of this range of buildings but I am not persuaded that the permission could not be implemented. Although representing a new dwelling, this proposal would offer an alternative to the existing permission. The conversion would result in a dwelling which would have little architectural quality or interest and although of more limited prominence, it would not make a positive contribution to the character of this area. This is a consideration that provides weight in favour of the principle of a new dwelling of high architectural standards and more traditional materials. The weight I afford it is however reduced given my concerns with regard to the character and appearance of the frontage of the dwelling proposed.
11. The volume of the proposed dwelling would be considerably less than that of the existing buildings. I am satisfied that conditions could provide some

controls with regard to additional development. This is a consideration that also weighs in favour of the proposal. However, given the actual area of the site that would remain developed and the perceived scale of the new works from public vantage points, although there would be some benefit, the reduction in volume would not result in a substantial benefit with regard to openness.

12. The appellant has suggested that a unilateral undertaking could be submitted to require the removal of other buildings on the holding. An undertaking has not been submitted so I have considered the proposal on the basis that only the buildings within the red line on the plans would be removed.
13. The Council accept that they are unable to identify a five-year supply of land for housing. Although not a highly sustainable location, this site is not isolated as it has development to three sides, including an accepted replacement dwelling on the adjacent site. A bus service operates along this road. In these circumstances, the addition of a new dwelling with good sustainability credentials in terms of its design, is a consideration that gains some support from the *Framework*. However, as an extant permission for a dwelling exists, this reduces the weight I afford to the contribution the proposed dwelling would make to housing provision in the area.

### *Conclusions*

14. The proposal represents inappropriate development. The *Framework* is clear that inappropriate development is, by definition, harmful to the Green Belt. Substantial weight must be given to any harm to the Green Belt. In addition, the appearance and layout in relation to the frontage would represent poor design. Accepting poor design would cumulatively result in harm to the character and appearance of the area.
15. Inappropriate development should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
16. The proposal would not result in harm to openness and would reduce the volume of development on the site. The extant permission would not result in a dwelling of the highest quality and this proposal would offer some improvements compared to that development. The proposal could also secure improved sustainability credentials compared to the permitted conversion. These considerations provide considerable weight in favour of the proposal.
17. Overall, although I have had regard to all the considerations put forward by the appellant, they do not clearly outweigh the harm from inappropriateness and the other harm I have identified. They do not therefore represent the very special circumstances necessary to justify the development. The specific policies with regard to the Green Belt, referred to in paragraph 14 of the *Framework*, indicate that development should be restricted. I therefore dismiss the appeal.

*Peter Eggleton*

INSPECTOR

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**KIRKLEES COUNCIL**

**PLANNING SERVICE**

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

**31-Mar-2016**

**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 - 01484 221000**

**NOTE: For clarification the page numbering referred to  
shall be those set out in the contents page**



**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 Local Plan will provide the evidence base for all new and retained allocations including POL. The Local Plan process will assess whether sites should be allocated for development or protected from development including whether there are exceptional circumstances to return POL sites back to Green Belt. The Local Plan process is underway and the public consultation on the draft local plan took place between 9<sup>th</sup> November 2015 and 1<sup>st</sup> February 2016.

Annex 1 of the National Planning Policy Framework explains how weight may be given to policies in emerging plans. At this point in time, the draft local plan policies and proposals are not considered to be at a sufficiently advanced stage to carry weight in decision making for individual planning applications. The Local Planning Authority must therefore rely on existing policies (saved) in the UDP, national planning policy and guidance.

#### **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**

Cabinet agreed the Development Management Charter in July 2015. This sets out how people and organisations will be enabled and encouraged to be involved in the development management process relating to planning applications.

The applications have been publicised by way of press notice, site notice and neighbour letters (as appropriate) in accordance with the Development Management Charter 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.**



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Ward: Almondbury Ward	
Applicant: J Harris	
Agent: Michael Owens, Fibre Architects Ltd	
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Location: land off, Butt Lane, Hepworth, Holmfirth, HD9 1HT	
Ward: Holme Valley South Ward	
Applicant: Acumen Designers & Architects Ltd	
Agent:	
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Location: Master Pizza Bar, 75, Huddersfield Road, Holmfirth, HD9 3AS	
Ward: Holme Valley South Ward	
Applicant: Mr A Latif	
Agent:	
Target Date: 14-Mar-2016	
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Ward: Colne Valley Ward	
Applicant: S & G Kelly C/O Agent	
Agent: Andrew Coldwell	
Target Date: 17-Mar-2016	
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Location: Land to rear of Row Street, Crosland Moor, Huddersfield, HD4 5AY	
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Applicant: Parkview Property (Lancashire) Ltd	
Agent: C Dunn, Coda Studios Ltd	
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Location: 9, Prince Wood Lane, Birkby, Huddersfield, HD2 2DG	
Ward: Lindley Ward	
Applicant: Mr L Johal	
Agent: Michael Chow, Jade3 Architecture	
Target Date: 29-Oct-2015	
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Proposal: Outline application for erection of 18 dwellings (amended access)	
Location: adj 23, Ashford Park, Golcar, Huddersfield, HD7 4RL	
Ward: Golcar Ward	
Applicant: S Wilkinson	
Agent: Robert Beal, Plan B Planning & Design Ass Ltd	
Target Date: 06-May-2016	
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Proposal: Conversion and extensions of offices and coach house to form 2 dwellings and erection of 3 dwellings	
Location: Woodville, Calf Hill Road, Thongsbridge, Holmfirth, HD9 3UB	
Ward: Holme Valley South Ward	
Applicant: Eliston Homes Ltd, c/o agent	
Agent: Acumen Designers & Architects Ltd	
Target Date: 10-Mar-2016	
Recommendation: ASD-CONDITIONAL FULL APPROVAL SUBJECT TO THE DELEGATION OF AUTHORITY TO OFFICERS	



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Location: Cupwith Reservoir, Off New Hey Road, Slaithwaite, Huddersfield  
Ward: Colne Valley Ward  
Applicant: Dartmouth, Rosscroft Ltd  
Agent: Peter Kite  
Target Date: 07-Mar-2016  
Recommendation: FC - CONDITIONAL FULL PERMISSION

**Application No: 2015/93052**

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

**Proposal: *Erection of detached dwelling and new entrance gates (Listed Building)***

**Location: *Fenay Lodge, Thorpe Lane, Almondbury, Huddersfield, HD5 8TA***

**Grid Ref: 417068.0 415384.0**

**Ward: *Almondbury Ward***

**Applicant: *J Harris***

**Agent: *Michael Owens, Fibre Architects Ltd***

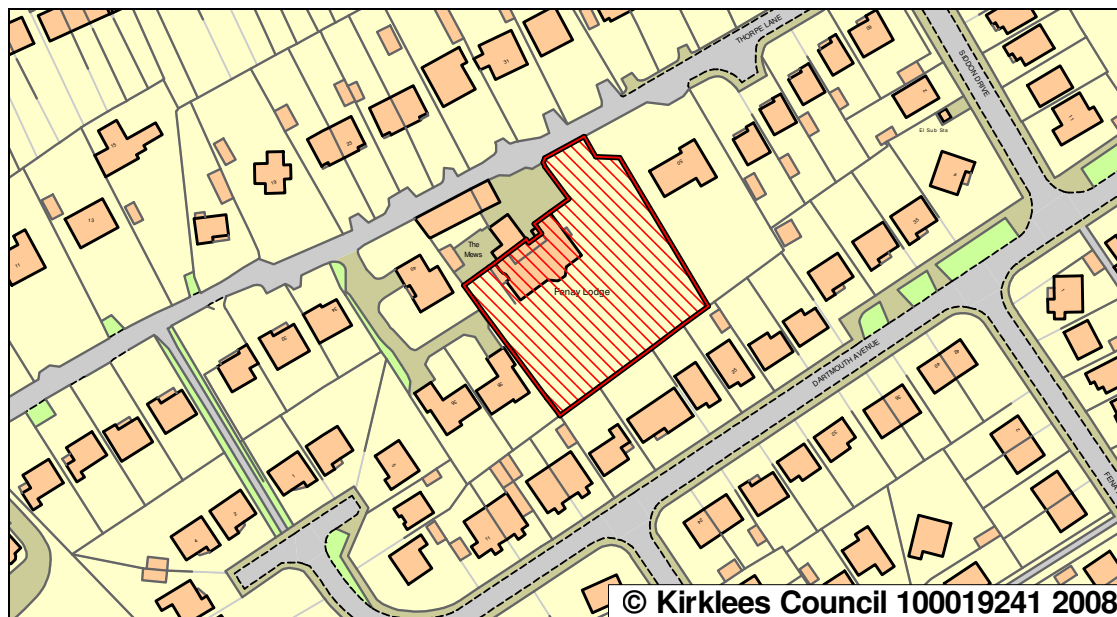
**Target Date: *30-Nov-2015***

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

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

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

## **LOCATION PLAN**



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

## **1. SUMMARY OF APPLICATION**

The scale, siting and design of the proposal are such that the impact on the setting of the listed building is mitigated to an acceptable extent. There would not be any significant impact on the visual amenity of the area and the proposal as amended would not result in any significant detriment to the amenities of adjacent property. The development would not result in any material harm to highway safety.

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

## **2. INFORMATION**

The application is brought before the Sub-Committee at the request of Councillor Hughes and Councillor Scott.

Councillor Hughes' reason for making the request is:

*"I would like to refer this application to planning committee if you are minded to approve. My reasons being:*

- 1) the new property would be overbearing to properties on Dartmouth Avenue, in particular number 21*
- 2) access into Thorpe Lane is sub-standard in terms of width and visibility*
- 3) the erosion of the grounds of Fenay Lodge"*

Councillor Scott's reason for making the request is:

*"If you are mindful to agree to this application I would respectfully request that it goes to Huddersfield planning committee on the grounds that it is not in keeping with the local area, it is in the grounds of a grade 2 listed building within the conservation area, it will be too overlooking of neighbouring properties and will detract what local sun light there is down there (ie, one garden will be in permanent shade)."*

The Chair of the Sub-Committee has confirmed that Councillor Hughes' and Councillor Scott's reasons for making their requests are valid having regard to the Councillors' Protocol for Planning Sub Committees.

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

The application is for the erection of a detached dwelling within the grounds of Fenay Lodge. The site comprises of a Grade II listed Georgian style mansion set within a substantial garden area. The proposal would be located to the rear of the existing dwelling.

The proposed dwelling would have a contemporary design consisting of two distinct blocks; a roughly rectangular shaped element at ground floor with a slightly smaller rectangular 'pod' above it situated at a right angle and overhanging the ground floor. The roof of the lower floor element would form a small terrace area to the front of the 'pod' and a sedum roof to the back. The lower floor of the dwelling would be faced in rough dressed sand stone cladding and the upper floor would be faced in dark grey zinc cladding with large glazed sections.

The dwelling would be set down within the site and would have an enclosed garden to one side and a gravel parking area to the other. Access to the property would be via the existing driveway off Thorpe Lane and the creation of a new gravelled access route within the site. New landscaping is proposed in the form a hedge to the rear site boundary and a new laurel hedge and planting to the front of the dwelling to create an informal residential boundary with Fenay Lodge.

The site lies within a residential area with numbers 19-25 Dartmouth Avenue lying at lower level to the rear, numbers 38 and 40 Thorpe Lane towards the western site boundary and number 50 Thorpe Lane to the east.

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

2015/93053 Listed Building Consent for erection of new entrance gates –  
Undetermined

2005/90042 Erection of detached dwelling and associated landscaping –  
Withdrawn

The above application was for a dwelling within the grounds of Fenay Lodge. The proposal had a modern design and was located to the rear of the listed building. Officers had concerns with the access to the site, the impact on the setting of Fenay Lodge and the impact on the amenities of neighbouring dwellings on Dartmouth Avenue. Officers intended to refuse the application on these grounds however the applicant withdrew the application prior to them receiving the decision notice.

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

##### **Development Plan:**

The site is unallocated on the UDP Proposals Map.

BE1 – Design principles  
BE2 – Quality of design  
BE11 – Materials  
BE12 – Space about buildings  
H1- Housing needs of the district  
T10 – Highway safety  
T19 – Parking standards

NE9 – Retention of mature trees

### **National Policies and Guidance:**

Paragraph 14 – Presumption in favour of sustainable development

Paragraph 17 – Core planning principles

Chapter 4 -Promoting sustainable transport.

Chapter 6 - Delivering a wide choice of high quality homes

Chapter 7 - Requiring good design

Chapter 8 - Promoting healthy communities

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

Chapter 11- Conserving and enhancing the natural environment

Chapter 12 - Conserving and enhancing the historic environment

## **6. CONSULTATIONS**

The following is a brief summary of consultee advice. Further information is contained within the assessment, where necessary.

**KC Highways Development Management** – No objections

**KC Conservation & Design** – No objections

**KC Arboricultural Officer** – No objections

**KC Environment Unit** – No objections

## **7. REPRESENTATIONS**

The application was originally advertised by site notice, neighbour notification letters and press advert.

Representations:

- 27 letters of objection received, including an objection from the Huddersfield Civic Society.
- 5 letters of support received - most of these were submitted under the associated listed building consent application for the proposed replacement entrance gates however they make reference to the erection of the new dwelling and general planning considerations.

Objections summarised as follows:

### Heritage:

- Harmful impact on the setting of Fenay Lodge
- Loss of garden to Fenay Lodge detrimental to its setting
- Design and materials inappropriate in the grounds of a listed building
- Incongruous appearance

Visual amenity:

- Detrimental impact on the visual amenity of the surrounding area
- Design and materials not in keeping with surrounding properties
- Additional development will affect the character of the area
- Overdevelopment
- Upper floor visible from Dartmouth Avenue affecting the visual amenity of the street scene

Residential amenity:

- Overlooking/loss of privacy
- Overbearing
- Visually intrusive
- Harmful to the outlook of adjacent properties
- Overshadowing
- Increased noise as a result of new parking area close to boundary and concern with headlight glare
- Concern with height of proposed hedge along boundary

Highway safety:

- Access unsuitable/substandard
- Additional traffic on Thorpe Lane
- No footpaths in vicinity of site
- Poor sightlines from access

Trees/ecology:

- Loss of trees
- Detrimental impact on biodiversity

Other matters:

- Impacts associated with the carrying out of building operations, including impact on structural integrity of boundary walls and noise
- Impact on drainage infrastructure
- Possible subsidence and impact on stability of adjacent land
- Previous application refused

Letters of support summarised as follows:

- Discreet siting of dwelling to limit impact and design is sensitive to the site
- High quality architecture
- Very limited impact on surrounding properties
- Efficient use of site
- Additional housing for Kirklees

Following the submission of amended plans the application was advertised by letters sent to all of the original objectors. This publicity expires on 23<sup>rd</sup> March 2016.

Representations: 8 objections received

- Development does not address original concerns raised in relation to the impact on the amenity of the neighbouring properties to the rear
- Loss of privacy
- Oppressive outlook/visual intrusion when viewed from neighbouring properties on Dartmouth Avenue, particularly no.21
- Detrimental impact on the setting of Fenay Lodge, including from loss of curtilage and inappropriate design and materials of proposal
- Development would block and reduce key views of the listed building
- Harm to the listed building is not outweighed by the public benefits of the development
- Huddersfield Civic Society maintain their objection
- Overdevelopment
- 'Garden grabbing'
- Increased traffic on Thorpe Lane
- Impact on highway safety
- Absence of information on finished levels
- Query new hedge planting

## **8. ASSESSMENT**

### **General principle:**

The site is on land without notation on the Unitary Development Plan (UDP) proposals map and therefore Policy D2 is applicable. Policy D2 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. Subject to these not being prejudiced, the development of the site would be acceptable in principle in relation to policy D2 of the UDP.

Paragraph 14 of the National Planning Policy Framework (NPPF) outlines a presumption in favour of sustainable development. Paragraph 14 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 Council is currently unable to demonstrate a five year housing land supply and the lack of a five-year supply, on its own, weighs in favour of the development proposed. The lack of a five-year supply also means that policies in the UDP concerning housing land are out of date.

The NPPF sets out at paragraph 49, "housing applications should be considered in the context of the presumption in favour of sustainable development." This increases the weight in favour of the development.

The site forms residential garden and is therefore classed as 'greenfield'. Whilst national planning policy encourages the use of brownfield land for development, it also makes it 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.

An application for a dwelling to the rear of Fenay Lodge was submitted under application reference 2005/90042. At that time Officers had concerns with the access to the site, the impact on the setting of Fenay Lodge and the impact on the amenities of neighbouring dwellings on Dartmouth Avenue. Officers intended to refuse the application on these grounds however the applicant withdrew the application prior to them receiving the decision notice. Matters relating to highway safety, heritage assets and residential amenity are addressed separately within this assessment.

### **Visual amenity and heritage issues:**

Policies BE1 and BE2 of the UDP are considerations in relation to design, materials and layout. The layout of buildings should respect any traditional character the area may have. New development should also respect the scale, height and design of adjoining buildings and be in keeping with the predominant character of the area. Chapter 7 of the NPPF emphasises the importance of good design.

The proposal would be located within the grounds of a grade II listed building. When making decisions on planning applications for development that affects the setting of a listed building there is a duty for local planning authorities to have special regard to the desirability of preserving this setting. In this context preservation means not harming the interests of the building as opposed to keeping it unchanged. Furthermore Chapter 12 of the NPPF states that in determining applications local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets.

The location and design of the proposed dwelling has been subject to pre-application discussion with Conservation and Design officers. It is considered that the location of the proposal, which is immediately to the rear of Fenay Lodge and physically separated from it by an existing area of lawn garden, limits the impact on the setting of the heritage asset. The impact on the listed building's setting is further mitigated by the scale and design of the proposal which is set down in relation to Fenay Lodge with the ground floor of the proposed dwelling being almost below the ground floor level of Fenay Lodge. This means that it is principally the upper floor 'pod' which would affect views of the listed building. The overall size of the proposed dwelling also gives it a subservient appearance to Fenay Lodge.

The proposed dwelling and its curtilage would be clearly distinct from Fenay Lodge as a result of its siting, the difference in levels and the proposed boundary treatment between the properties (new laurel hedge and planting). This therefore enables much of the original character of Fenay Lodge to be retained. Whilst the proposal would reduce the overall amount of curtilage



associated with the listed building, it is considered that the impact of this on the significance of the heritage asset is relatively limited because a proportionate level of curtilage around the building would be maintained.

The unique design of the proposed dwelling is considered to be a suitable approach for this development. The design, which comprises of two distinct 'blocks' on top of and at right angles to each other, combined with the palette of materials would sit comfortably alongside the historic building and allows the proposal to be 'read' as a modern addition to the site, thus avoiding an unsympathetic pastiche of the heritage asset.

In more general terms, there are two detached properties to the west of the site which are located behind 40 Thorpe Lane; the proposed dwelling broadly replicates this pattern of development and as such it is considered that the proposal would not be out of keeping with the overall character of the area. Surrounding development encompasses a mixture of designs and whilst the proposal would be distinct from any of these it is not considered that this would result in any significant harm to the visual amenity of the area, particularly because views of the dwelling within the locale would be relatively limited.

In conclusion, for the reasons outlined above it is considered that the significance of the designated heritage asset would be preserved and the proposal would not result in any significant harm to the character of the surrounding area. The application therefore accords with Policies BE1, BE2 and D2 of the UDP and chapters 7 and 12 of the NPPF.

### **Residential amenity:**

Policy BE12 of the UDP sets out the Council's policy in relation to space about buildings. New dwellings should be designed to provide privacy and open space for their occupants and physical separation from adjacent property and land. Distances less than those specified in the policy 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 main impact of the development would be on 21 Dartmouth Avenue which lies at a lower level immediately to the rear of the proposed dwelling. The rear wall of no.21 is 11.8m from the mutual boundary with its main private garden space lying in between and sloping up gently towards the application site. There were previously a number of mature trees adjacent to the boundary but these were cut down relatively recently. The existing boundary treatment mainly comprises of timber fencing.

The lower floor of the proposal would be 2m from the boundary with no.21 however this element of the proposal would be entirely screened from the neighbours view as a result of the dwelling being dug into the ground and the

proposed boundary treatment which consists of a new hedge planted adjacent to the existing fence.

Much of the upper floor of the dwelling would be visible from no.21 and Officers initially had concerns that the proximity of this element of the building would have a harmful effect on the amenities of 21 Dartmouth Avenue, particularly the rear garden. In response to these concerns, the design has been amended to increase the separation distance between the upper floor of the dwelling and the boundary with no.21; the distance has increased from 3m to 6.3m. As a result, Officers now consider that on balance the upper floor of the dwelling would not have any significant overbearing effect on the neighbour's property.

There are two windows in the rear wall of the dwelling – an en-suite window and a secondary bedroom window. These windows are 18.5m from the rear wall of no.21 and comfortably exceed the minimum recommended separation distance between habitable and non-habitable windows (12m). The secondary bedroom window would, to some extent, directly overlook the neighbour's garden where there is currently very little direct overlooking from this direction; in the circumstances a condition is recommended requiring that this window be fitted with obscure-glazing, along with the en-suite window. A restriction on the formation of the new openings in the rear elevation is recommended to preserve the neighbour's privacy in the future.

The main outlook for the proposed dwelling would be towards the south west and north east.

South west facing windows would be approximately 16m from the boundary with 38 Thorpe Lane and would be towards the rear garden of this neighbouring property and not onto any of its main windows. Some screening is also provided close to the boundary. There are not therefore considered to be any significant overlooking issues in relation to this adjacent property.

North east facing windows would be approximately 20m from the boundary with 50 Thorpe Lane and would be towards the lower part of the large rear garden of this neighbouring property. Significant screening is also provided close to the boundary. There are not therefore considered to be any significant overlooking issues in relation to this adjacent property.

The north east and south west facing windows would be at an oblique angle to the properties that are to the rear of the site on Dartmouth Avenue. The ground floor windows would be screened along the boundary and so it would only be the upper floor bedroom windows that would potentially affect privacy. Given the oblique relationship and the separation distances involved Officers do not consider that there would be any significant overlooking of the properties to the rear.

In terms of the impact on the amenity of Fenay Lodge, windows in the north west elevation would not give rise to any undue overlooking. A terrace area is

proposed to the north west elevation of the dwelling but this would be screened off by a new laurel hedge.

The design incorporates a sedum (green) roof to the rear of the ground floor block; this would have the potential to prejudice the amenities of properties on Dartmouth Avenue if it were to be used as a raised terrace/balcony area in the future. A condition is recommended to prevent the sedum roof being used as such.

The main private garden for the property is set down within the site and well screened to its boundaries. The garden area would not result in any undue harm to residential amenity.

In conclusion, it is considered the development would not result in any significant detriment to the amenities of surrounding occupiers. The application is considered to comply with Policies BE12 and D2 of the UDP.

### **Highway issues:**

Access to the site is via the existing point of access for Fenay Lodge off Thorpe Lane. A new gravel access route is to be formed off the existing driveway which would lead to a parking and turning area. The site plan also shows parking and turning space being retained for Fenay Lodge.

The scheme provides adequate parking space and turning facilities for both the existing and proposed dwellings.

Visibility onto Thorpe Lane is constrained by the height of boundary walls to each side of the access and there is very limited scope for the boundary walling to be lowered because of the listed status of the property and some of the walling being in separate ownership. Whilst sightlines are substandard, the development relates to a long established access where the intensification in its use would be modest. Furthermore, there have not been any recorded accidents within the vicinity of the access within the last 5 years which suggests that it is operating effectively. It is also to be noted that there are similar types of access onto Thorpe Lane close to the site.

Taking the above into account, on balance it is considered that the development would not result in any material harm to highway safety and the application accords with Policies T10 and D2 of the UDP.

### **Trees and ecology:**

The only protected tree within the site is to the front of Fenay Lodge and is unaffected by the development. There were previously a number of mature (unprotected) trees to the rear site boundary which have been removed. A number of existing trees are to be retained towards the south west and north east boundaries of the proposed dwelling as well as a large mature tree which would be adjacent to the new gravel access. The council's arboricultural officer has been consulted on the application and no objections have been

raised. Officers are satisfied that the application accords with Policy NE9 of the UDP.

The proposal does not involve the removal of any existing trees that would have bat roost potential and the Environment Unit considers that the overall site has limited biodiversity interest. The biodiversity of the development can be enhanced through the inclusion of bat and bird boxes, native species of planting being used for the landscaping and measures to protect the free movement of hedgehogs. It is recommended that these matters are conditioned.

#### **Air quality:**

NPPF Paragraph 109 states that “the planning system should contribute to and enhance the natural and local environment by..... preventing both new and existing development from contributing to or being put at unacceptable risk from, amongst other things, air pollution. On small new developments this can be achieved by promoting green sustainable transport through the installation of vehicle charging points. This can be secured by planning condition.

#### **Objections:**

27 objections and 1 letter of support were received in response to the plans as originally submitted. Following an amendment to the scheme which resulted in the upper floor of the dwelling being repositioned to address Officers’ concerns with the impact on residential amenity, 8 objections have been received; these include objections from 17, 21, 23 and 25 Dartmouth Avenue (to the rear of the site) which state that the amendment to the scheme has not addressed their concerns in terms of the impact on their amenity. This second round of publicity expires on 23<sup>rd</sup> March 2016 and any additional representations received will be reported to Members in the committee update.

The main thrust of the objections relates to the impact on the setting of Fenay Lodge, visual amenity concerns, the impact on residential amenity and highway safety. Specific concerns have also been raised regarding the loss of trees and the impact on biodiversity. All of these matters are addressed within this report. Of the other matters raised an Officer response is provided as follows:

#### Noise

**Officer response:** Concerns have been raised about increased noise as a result of the proposed parking area which is close to the rear site boundary. The amount of vehicular activity associated with the dwelling is likely to be very modest and as such Officers do not consider that the use of the parking area would result in any material harm to the amenity of adjacent properties. The parking spaces would be screened along the rear boundary by a new hedge which would help to mitigate the limited amount of noise generated and also block glare from headlights.

Some concern has also been raised about noise associated with construction; nuisance caused by construction noise would be dealt with under separate environmental health legislation.

#### Height of proposed hedge on rear boundary

**Officer response:** Full details of the proposed hedge have not been supplied although the elevation drawings indicate that the hedge would be approximately 3m in height. There is a gradual change in ground levels along the length of the rear boundary but the plans suggest that the hedge would generally be around 1.3m above the height of the existing boundary fence; this would screen the ground floor of the proposal as well as the garden and parking areas. It is noted that there have previously been numerous mature trees along this boundary and the hedge would be significantly lower in height than these. A condition is recommended requiring full details of the hedge in the interests of residential amenity.

#### Impact on drainage infrastructure

**Officer response:** It is proposed to connect foul and surface water drainage to a main sewer. There is a right of connection for foul drainage to main sewer and given the scale of development there are no objections to a surface water connection. The plans show a connection to the sewer in Thorpe Lane.

#### Lack of footway provision on Thorpe Lane

**Officer response:** The lack of footway provision is not considered to significantly prejudice highway safety in the context of this application. The amount of vehicular traffic likely to be generated by the development would be very low and there have been no recorded accidents within the vicinity of the site within the past 5 years. Pedestrian access for the proposed development along Thorpe Lane is affected by the lack of footway provision but this is an established situation and is not considered to be sufficient reason to justify a refusal.

#### Possible subsidence and impact on stability of adjacent land

**Officer response:** The NPPF indicates that planning decisions should take into account ground conditions and land instability. Given the scale of the proposed development and the nature of the site it is considered that adequate control over such matters would be provided through the Building Regulations regime.

#### Impact on structural integrity of boundary walls

**Officer response:** The dwelling and its garden area are reasonably well separated from the nearest stone boundary walls and it is considered that any potential impact on the structural integrity of existing boundary walls would be sufficiently controlled through the Building Regulations regime.

#### Absence of information on finished levels

**Officer response:** A condition regarding finished levels is recommended.

## **Conclusion:**

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.

The scale, siting and design of the proposal are such that the impact on the setting of the listed building can be mitigated to an acceptable extent. There would not be any significant impact on the visual amenity of the area and the proposal as amended would not result in any significant detriment to the amenities of adjacent property. The development would not result in any material harm to highway safety.

In such circumstances it is considered that there are no adverse impacts of granting permission which 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. In such circumstances the application is recommended for approval.

## **9. RECOMMENDATION**

Approve subject to the following 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. Samples of the facing materials for the dwelling hereby approved shall be submitted to and approved in writing by the Local Planning Authority before works to construct the superstructure the dwelling commence. The dwelling shall be constructed of the approved materials and thereafter retained as such.
4. Details of proposed and existing ground and floor levels from an identified datum point shall be submitted to and approved in writing by the Local Planning Authority before development commences and the development shall be implemented in full accordance with the approved details.

5. 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)), the area identified as 'sedum roof' on the approved plans shall not be used as a raised patio, terrace, balcony, roof garden or similar such amenity area at any time.

6. The bedroom and en-suite windows in the south east elevation of the dwelling (identified as 'elevation 2' on the approved plans) shall be first installed with obscure-glazing that achieves a minimum privacy level of 5. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order (with or without modification)) the glazing shall be so retained thereafter.

7. 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 (with or without modification)) no doors, windows or any other openings (apart from those expressly allowed by this permission) shall be created in the south east elevation (identified as 'elevation 2 on the approved plans) of the dwelling at any time.

8. 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 buildings or structures included within Classes A, B, C, D and E of Schedule 2 to that Order shall be carried out within the curtilage of the dwellinghouse hereby approved without the prior written consent of the Local Planning Authority.

9. Notwithstanding the submitted plans, details of the new hedge to the south eastern site boundary as identified on the approved site plan shall be submitted to and approved in writing by the Local Planning Authority before works to construct the superstructure of the dwelling commence. The hedge shall be planted in the first available planting season following the completion of the superstructure of the dwelling. Should any part of the hedge die or become seriously damaged within five years of the first occupation of the development, the affected hedge shall be replaced in the next planting season with hedge plants of similar size and the same species. The hedge shall thereafter be retained as such.

10. Details for the provision of one bat box (in the form of a Schwegler type 1FR bat box or similar) and one sparrow terrace nest box to be installed on the exterior of the dwellinghouse shall be submitted to and approved in writing by the Local Planning Authority before the practical completion of the superstructure of the dwellinghouse. The bat and bird boxes so approved shall be provided before the dwelling is first occupied and thereafter retained.

11. All new tree, shrub and hedge planting within the site shall comprise native species of plants and retained as such.

12. Boundary walls and fences shall be designed so as not to impede the free movement of hedgehogs. The boundary treatment shall thereafter be retained as such.

13. An electric vehicle recharging point shall be installed within the dedicated parking area of the approved dwelling before the dwelling is first occupied. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. The electric vehicle charging point so installed shall thereafter be retained.

14. The access, parking and turning facilities as indicated on the approved site plan shall be provided before the dwelling hereby approved is first occupied. The access, parking and turning facilities shall thereafter be retained as such.

15. Details of the proposed entrance gates shall be submitted to and approved in writing by the Local Planning Authority before works to install the entrance gates commence. The gates shall be installed in accordance with the approved details and thereafter retained.

This recommendation is based on the following plans and specifications schedule:-

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Design & Access Statement	Original	-	5/10/15
Location Plan / Existing Site Plan	EX01	-	5/10/15
Site Plan as Existing	EX02	-	5/10/15
Site Elevations/Sections as Existing	EX20	-	5/10/15
Proposed Site Plan	AL0002	Rev B	25/2/16
Proposed Lower Ground Floor Plan	AL0011	Rev A	25/2/16
Proposed Upper Ground Floor Plan	AL0012	Rev A	25/2/16
Site Elevations as Proposed	AL0020	Rev B	25/2/16
North East Elevation as Proposed	AL0025	Rev A	25/2/16
South East Elevation as Proposed	AL0026	Rev A	25/2/16
South West Elevation as Proposed	AL0027	Rev A	25/2/16
North West Elevation as Proposed	AL0028	Rev A	25/2/16
3D Visuals	3D Visuals	Rev A	25/2/16
Heritage Assessment	Original	-	5/10/15



**Application No: 2015/92993**

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

**Proposal: Outline application for erection of residential development**

**Location: land off, Butt Lane, Hepworth, Holmfirth, HD9 1HT**

**Grid Ref: 416538.0 407000.0**

**Ward: Holme Valley South Ward**

**Applicant: Acumen Designers & Architects Ltd**

**Agent:**

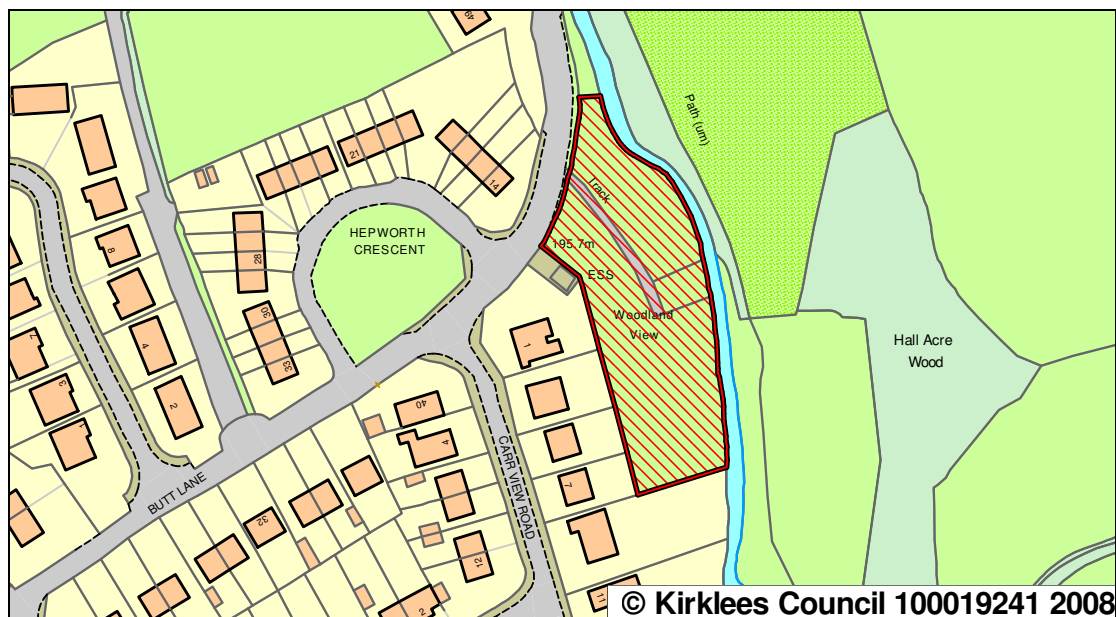
**Target Date: 27-Jan-2016**

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

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

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

## LOCATION PLAN



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

## **1. SUMMARY OF APPLICATION**

The principle of developing this site, allocated for housing in the UDP, is considered acceptable subject to conditions. The indicative plans indicate that an adequate access point to accommodate development could be achieved. Furthermore the illustrative layout details show how one scheme might be sited taking into account surrounding development. Flood risk issues have been considered in making this recommendation.

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

- i) IMPOSE ALL NECESSARY AND APPROPRIATE CONDITIONS, WHICH MAY INCLUDE THOSE AT THE END OF THE REPORT, AND**
- ii) THERE BEING NO SUBSTANTIAL CHANGE THAT WOULD ALTER THIS RECOMMENDATION, ISSUE THE DECISION NOTICE.**

## **2. INFORMATION**

The application is brought to Sub Committee at the request of Cllr Nigel Patrick who states:

“I went out on site again last week and I cannot for the life in me understand how anyone could think it was a good idea to build homes on this flood plain. Given that the planning officer is likely to recommend approval as indicated in her email below, I think it is important that this application is considered by committee in public so the public can see what is happening. That despite the recent history of flooding at this site and the damaging floods we have seen elsewhere caused by upper catchment surface water, that those in authority on whom the public rely on to protect them are prepared to allow homes to be built in a flood plain.

I would urge you all to visit the site, look at the records of flooding and flood damage and review your recommendations”.

The Chair of the Sub Committee has confirmed that Councillor Patrick’s reason for making this request is valid having regard to the Councillors’ Protocol for Planning Sub Committees.

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

### **Site description:**

The application relates to a site of approximately 0.31ha which forms part of a larger area allocated for housing on the UDP. The remainder of this housing allocation, which lies to the south west of the application site has already been built out.

The site is predominately open grass land and sloping down in the easterly direction towards Rakes Dike and mature trees which run parallel along the eastern boundary. The site is bordered by residential properties along the west boundary with the southern boundary adjoining the gardens of residential properties on Carr View Road.

**Proposal:**

The application seeks the principle of developing this site for residential development with all matters reserved for subsequent approval. Whilst, all matters are reserved an indicative layout, at the request of officers, has been submitted which indicates the potential for developing this site for 4 dwellings. The indicative access details show the site to be served off Butt Lane at the north of the site.

The application is accompanied with a design and access statement and a flood risk assessment

**4. BACKGROUND AND HISTORY**

2002/92902 – erection of four detached dwellings with integral garages - refused April 2003. See section 8 ‘assessment’ below.

**5. PLANNING POLICY**

The application site forms part of a larger area allocated for housing (H3.27) on the UDP proposals maps, which has been developed.

**Development Plan:**

- H6 – allocated housing site
- BE1 – Design principles
- BE2 – Quality of design
- BE11 – Materials
- BE12 – Space about buildings
- EP11 – Ecological landscaping
- NE9 – Retention of mature trees
- T10 – Highway safety
- T19 – parking provision

**National Policies and Guidance:**

- Delivering a wide choice of high quality homes (Section 6)
- Requiring good design (Section 7)
- Meeting the challenge of climate change, flooding and coastal change (Section 10)
- Conserving and enhancing the natural environment (Section 11)

**6. CONSULTATIONS**

**K.C. Highways Development Management** – no objections in principle, subject to conditions

**K.C. Environmental Health** - no objections, subject to conditions

**K.C. Arboricultural Officer** - no objections in principle, subject to a method statement being submitted with any future application

**K.C. Lead Local Flood Authority** - no objections subject to conditions (see assessment below)

**Environment Agency** – subject to the development being carried out in accordance with the submitted Flood Risk Assessment, no objections (see assessment below)

**Yorkshire Water** – no objections

## **7. REPRESENTATIONS**

The application has been advertised by site notice, press notice and neighbour notification letter. As a result 12 objections have been received. Below is a summary of objections raised:

Flooding and drainage issues:

- Building on a flood plain
- Land becomes heavily water logged during prolonged rainy period
- Developing this site would undermine the flood defence it currently provides to existing properties to the west
- Additional impact on the existing bridge over the beck from substantially more runoff water being directed into the beck

Response: these issues are raised in the Flood Risk Assessment accompanying the application. On consideration of this information the Environment Agency and Council's Lead Local Flood Officers are satisfied the site can be developed subject to the measures included in the Flood Risk Assessment without increasing flood risk upstream or downstream.

- River flooded and arose 6-7 metres up onto application site in 2002 and drains could not cope with extra flow
- Flood risk assessment is incorrect

Response: as noted in the assessment below these issues have been brought to the attention of the Environment Agency during the course of the application. Any further correspondence received will be reported to Members

Highway concerns:

- Poor visibility of oncoming traffic from both directions on Butt Lane, would increase hazards for both pedestrians and traffic on Butt Lane on a bend and would exasperate existing highway concerns along this stretch of Butt Lane
- Proposed access in close proximity to other drives access points onto Butt Lane

- Proposed footpath would reduce the width of an already narrow road

Response: these issues have been considered by Highway Officers, who are satisfied an adequate access point to accommodate the principle of developing this site for residential development can be achieved subject to conditions as detailed in the assessment below.

Other concerns:

- The site is in an area of green belt

Response: the site is allocated for housing and not within the green belt

- Previous reasons for refusal are still relevant
- Impinge on privacy of existing as well as proposed dwellings
- Cramming houses onto a small plot

Response: addressed in assessment below

- Electric cables extending over the application site and connected to the electric sub station, want no disturbance to this

Response: not a valid planning concern. However the developer would be responsible for resiting any overhead cables and equipment that would be affected by the development of this site

- Further pressures on school places Schools in the vicinity already to full capacity

Response: Whilst these concerns are noted they are not valid planning concerns when considering an application for a small site of less than 25 houses. This is because the scale of the development falls below the threshold for considering an education contribution under the Council's policy note.

- Previous application showed this area for garages not houses

Response: the historical application (noted below) on this site related to dwellings

- Mature protected trees on site

Response: addressed in assessment below

- Proposals will not include provision for affordable housing

Response: the current threshold for affordable housing is five dwellings. An indicative layout is submitted demonstrating how the site may be developed for four dwellings, this would be below the threshold for affordable housing. In addition it is doubtful, given the site's constraints the development of this site would exceed the threshold for affordable housing.

**Holme Valley Parish Council** - object to the application on the grounds of serious highways/access issues for traffic and pedestrians, flooding, drainage and sewerage issues. Members also have concerns regarding surface water created from the proposed development which would cause further issues.

Response: these issues are addressed in the assessment below

Ward Councillor Nigel Patrick has raised concerns regarding the development for the reasons set out in section 2.

## **8. ASSESSMENT**

### **Principle of development:**

The NPPF states that there is a presumption in favour of sustainable development which for decision-taking means 'approving development proposals that accord with the development plan without delay'. The application seeks permission for new housing on a site allocated for such purpose on the adopted development plan.

Furthermore the council cannot currently demonstrate a 5 year supply of deliverable housing sites. In these circumstances the NPPF states that "relevant policies for the supply of housing should not be considered up-to-date". Paragraph 14 states that where "relevant policies are out of date" planning permission should be granted unless "any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or specific policies in this Framework indicate development should be restricted".

It is therefore considered that, unless it is judged that there are any adverse impacts of granting permission that would significantly and demonstrably outweigh the benefits, the development proposal should be approved.

### **Previous planning history of site:**

A previous full application for the erection of 4 no. dwellings (ref 2002/92902 ) was refused in April 2003 for the following reasons:

- (1) The proposals would provide for the opportunity for previously development (greenfield) land to be developed before previously developed (brownfield) land and would therefore prejudice the presumption in the Government's Planning Policy Guidance Note (PPG3) on Housing Development, that brownfield sites should be developed before greenfield sites.
- (2) The proposal does not meet the required density for residential development contained in Planning Policy Guidance (30-50 dwellings per hectare).
- (3) The proposed means of access to Butt Lane is considered to be substandard with respect to accommodating the satisfactory and safe movement of vehicles and pedestrians.
- (4) The facilities within the site for the turning of a refuse/emergency vehicle do not satisfactorily work and will lead to vehicles reversing out of the substandard access to Butt Lane to the detriment of highway safety.
- (5) Insufficient information has been submitted to enable the implications of the proposal to be properly judged particularly having regard to flood risk, contrary to Policy D2 of the adopted Unitary Development Plan.

The first two reasons are no longer relevant given that PPG3 has been superseded. Current national planning policy in the NPPF does not require brownfield land to be developed before greenfield or specify particular density requirements for housing development.

With regards to reasons 3 and 4 the current application is submitted in outline with access reserved for subsequent approval. Nevertheless the indicative details provided indicate that it would be possible to access the site without undue harm to highway safety.

In respect of reason no. 5, the current submission includes a flood risk assessment which has been considered by both the Environment Agency and Council acting as Lead Local Flood Authority. This is considered in detail below.

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

UDP Policies BE1 and BE2 are considerations in relation to design, materials and layout. The layout of buildings, shown on this application, should respect any traditional character the area may have. Development should respect the scale, height and design of adjoining buildings/land levels and be in keeping with the predominant character of the area.

The application is submitted with all matters reserved. A full assessment of the access, layout, scale, landscaping and appearance of the proposed development would be made upon the receipt of any subsequent application for approval of reserved matters if outline permission is granted.

Given the sloping nature of the site and the adjacent residential properties, to the west, being on a higher land, this would need careful consideration on any future application. The indicative layout sets out a suggested scheme to accommodate four dwellings. Whilst these appear to show reasonable sized enclosed rear garden areas including parking provision with space for waste bins for each plot, officers are conscious of the variation in levels on site in comparison to the existing surrounding development and as such would take into account existing and proposed levels, including separation distances between properties on any subsequent application. This would be to assess the full impact on visual amenity of the area as well as to avoid any potential overbearing impact on the amenities of existing residential properties.

Notwithstanding the topography of the site Officers are of the opinion that a development on this site can be achieved without harm to visual amenity in accordance with UDP policy and the NPPF.

### **Residential amenity:**

Policy BE12 of the UDP sets out the normally recommended minimum distances between habitable and non-habitable room windows for new dwellings. New dwellings should be designed to provide privacy and open space for their occupants and physical separation from adjacent property and

land. Distances less than those specified 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.

In this instance, the layout submitted is for indicative purposes only and shows how the normal standards for space about buildings can be accommodated. Nevertheless, achieving the distances as set out in Policy BE12 alone may not be sufficient to retain the amenity of existing and future residents. Details of reserved matters would need take (amongst other things) account topography, building heights of surrounding development in relation to new dwellings and finished ground levels to avoid any potential adverse effect on the amenities of both the existing and future residents. Subject to the above, Officers are satisfied that details of layout, scale and design could be designed so as to safeguard residential amenity of future occupants as well as those that are located within close proximity to the application site in accordance with Policy BE12 of the UDP.

### **Highway issues:**

UDP Policy T10 states that “New development will not normally be permitted if it will create or materially add to highway safety or environmental problems or, in the case of development which will attract or generate a significant number of journeys, it cannot be served adequately by the existing highway network ...”. Policy T19 addresses car parking in relation to the maximum standards set out in Appendix 2 to the UDP. Guidance in the NPPF states under paragraph 32 that plans and decisions should take account of whether, amongst other things, “safe and suitable access to the site can be achieved for all people”.

Highway officers are satisfied that an adequate access point to accommodate the principle of developing this site for residential development can be achieved subject to conditions. It is advised any future application seeking approval of reserved matters for access would need to demonstrate the provision of:

- a 2m wide footway at the site frontage
- the first 10m of the access road to be 4.5m wide.
- adequate visibility splays to be commensurate with the vehicle speeds along Butt Lane
- servicing arrangements for the site to consider the 25m maximum bin carry-distance and 45m distance required for fire engine access; and
- adequate turning for vehicles within the site.

In addition the number of dwellings proposed would be assessed to ensure that the traffic generated can be accommodated on the existing highway network avoiding material impact to the safety and operation of the network or peak time congestion. This has been conveyed to the applicant/agent who accepts the requirements.



Finally, to ensure the safe operation of the surrounding road network is not unduly compromised, and in the interests of highway safety, it is considered appropriate to impose a condition requiring details of a construction management plan for the site. This would include arrangements for construction traffic to the site.

#### **Impact on mature trees:**

Policy NE9 of the UDP encourages the retention of mature trees within or adjacent to the site. The majority of the trees beyond the eastern boundary are on the opposite side of the Dike from the application site. There are also a number of mature trees to the north of the site, adjacent to the Butt Lane. The Council's Arboricultural Officer has advised any future application would need to be accompanied with a tree survey to assess the quality and potential impact on these trees from the proposed works including the widening of the road and provision of a footway along the site frontage, to accord with Policy NE9 of the UDP. In addition details of 'landscape' to be submitted as a reserved matter should contain details of existing landscape as well as that proposed.

#### **Drainage:**

The NPPF requires Local Planning Authorities to take account of climate change over the longer term, including factors such as flood risk and water supply. New development should be planned to avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure.

A flood risk assessment (FRA) accompanies the application which states the site lies in an area identified as flood zone 1 and partly within Flood Zone 2 according to the latest version of the Indicative Floodplain Map (IFM) produced by the Environment Agency. The flood risk assessment considers the risk of flooding from other sources such as:

- rivers, watercourses and overland flooding
- The potential for the development to increase flooding elsewhere through the addition of hard surfaces
- The effect of the new development on surface water run-off

The recommendations of the FRA are as follows:

- Finished floor levels to the new residential dwelling are set at a minimum of 150mm above existing ground levels in order to mitigate against localised flooding caused by heavy / intense rainfall.
- Surface water flows from the development be connected to the Existing watercourse pipe from the site at a rate of 5 litres per second

- Utilising the surface water discharge rate of 5 litres per Second discharging to the existing watercourse will not increase flood risk significantly as the attenuation system will be designed to restrict off site flows up to the 1 on 100 yr. storm plus climate change event.
- The proposed development should be designed not to affect flood routing, and as such flows/ flood routing will be maintained as per the pre-development scenario.
- Foul water discharge should connect to the combined sewer.
- The Attenuation System for the site should be designed so as to ensure no surcharging for a 1 in 2 yr. storm, no flooding for a 1 in 30 yr. plus 30% climate change and any flooding for a 1 in 100 yr. storm plus 30% climate change to remain on site but not to affect plots.

Based on the information submitted within the FRA, the Environment Agency raise no objections subject to conditions requiring the development to be carried out in complete accordance with the recommendations of the FRA and the suggested mitigation measures to provide finished floor levels to be set 150mm above ground floor levels. It is also advised that flood resilience measures are installed up to 600mm above ground levels to militate against potential flooding.

In addition the Council, as Lead Local Flood Authority (LLFA), is satisfied there would be a workable solution for surface water drainage without risk of surface water flooding on site and the surrounding area, subject to mitigation measures and the recommendations of the FRA being conditioned. However, it is strongly advised by the LLFA that site levels must not be raised, in particular along the corridor of Rakes Dike. If levels are shown to be changed at reserved matters stage a full assessment would be required to demonstrate that there will be no loss of flood plain storage.

Yorkshire Water raise no objections to the connection of foul water to the public sewer network in Butt Lane or surface water being discharged into Rakes Dike.

A number of local residents, the Parish Council and Cllr Patrick have raised strong objections in relation to developing this site which is stated to have flooded in 2002. This local information has been brought to the attention of the Environment Agency. To date no further correspondence or update relating to this matter has been received from the Environment Agency subsequent to their original consultation response. Any further correspondence will be reported to Members in the update or on the day of the Committee Meeting.

On the consultation responses to date by Environment Agency and LLFA, the principle of developing this site – in terms of flood risk - is acceptable. The applicant/agent has been made aware of the matters that would need to be addressed through conditions.

To summarise, should Members support Officers recommendation, all necessary and relevant conditions related to drainage would be imposed so that any future layout is informed by appropriate drainage details and to accord with Policy BE1(i) of the UDP and guidance in part 10 of the National Planning Policy Framework.

### **Ecological issues:**

Paragraph 118 of the NPPF states “when determining applications Local Planning Authorities should aim to conserve and enhance biodiversity” by applying a number of principles. These include the conservation and enhancement of biodiversity in and around developments. UDP Policy EP11 requests that applications for planning permission should incorporate landscaping which protects/enhances the ecology of the site. The site lies in an area which has been identified within a bat alert area.

The site is largely open grassland used for grazing, and as such unlikely to have very limited ecological value. The structures on site are also unsuitable for roosting bats. The supporting statement states the proposed development will maximise the benefit of the mature trees on the site to provide screening for the development as well as provide features in the gardens of the proposed dwellings. The majority of the trees are outside the application site, therefore unlikely to be affected and outside garden areas. Furthermore, these are likely to be used by foraging bats and form part of a local habitat network. Whilst the redevelopment is unlikely to affect these trees, as the majority of these trees are on the opposite side of the dike from the application site, where no level changes will be permitted as stated above, it is considered appropriate to enhance the biodiversity value of the site through the provision of bat and bird boxes integral to the new dwellings to accord with Policy EP11 of the UDP and guidance in the NPPF through condition.

### **Air quality:**

NPPF Paragraph 109 states that “the planning system should contribute to and enhance the natural and local environment by..... preventing both new and existing development from contributing to or being put at unacceptable risk from, amongst other things, air pollution. On small new developments this can be achieved by promoting green sustainable transport through the installation of vehicle charging points. This can be secured by planning condition.

### **Objections:**

These are addressed above.

## **Conclusion:**

To conclude the proposals are acceptable in principle, as they provide for housing development on an allocated site. All other material planning considerations, relevant UDP and national planning policy objectives are considered to be addressed, subject to Conditions.

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.

Having regard to the pattern of existing development in the area and the relevant provisions of the development plan and the National Planning Policy Framework, the principle of developing this site would be in accordance with the development plan as it is sustainable development. The proposal is therefore recommended for approval.

## **9. RECOMMENDATION**

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

- i) IMPOSE ALL NECESSARY AND APPROPRIATE CONDITIONS, WHICH MAY INCLUDE THOSE AT THE END OF THE REPORT, AND**
- ii) THERE BEING NO SUBSTANTIAL CHANGE THAT WOULD ALTER THIS RECOMMENDATION, ISSUE THE DECISION NOTICE.**

1. Approval of the details of the access, appearance, layout, 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.

2. Plans and particulars of the reserved matters referred to in Condition 1 above, relating to the access, appearance, layout, 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.

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 shall be carried out in complete accordance with the approved Flood Risk Assessment produced by AVIE Consulting Ltd reference no. P1793 dated November 2015 and shall incorporate all the proposed mitigation measures which include:

- No development in flood zone 3
- Finished floor levels to be set 150mm above ground levels
- Flood resilience measures to be installed up to 600mm above ground levels
- No ground level changes as set out in section 8 (8.1- 8.4) of the approved Flood Risk Assessment
- Overland flow routes throughout the site

before the dwellings are first occupied and thereafter retained as such at all times.

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

7. Prior to occupation of the dwellings, in all residential units that have a dedicated parking area and/or a dedicated garage, an electric vehicle recharging point shall be installed. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. The electric vehicles charging points so installed shall thereafter be retained

This recommendation is based on the following plans and specifications schedule:

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Design & Access Statement	Dated September 2015		02 <sup>nd</sup> Dec 2015
Location plan	2397 – 00A		02 <sup>nd</sup> Dec 2015
Indicative site Layout	2397 – 02A		29 <sup>th</sup> Feb 2016
Flood Risk Assessment	P1793 by AVIE Consulting Ltd		02 <sup>nd</sup> Dec 2015

**Application No: 2016/90010**

**Type of application: 70 - REMOVAL/VARIATION OF CONDITION**

**Proposal: Variation condition 4 (opening hours) on previous permission 2009/93008 for change of use from bakery to pizza take-away (within a Conservation Area)**

**Location: Master Pizza Bar, 75, Huddersfield Road, Holmfirth, HD9 3AS**

**Grid Ref: 414228.0 408361.0**

**Ward: Holme Valley South Ward**

**Applicant: Mr A Latif**

**Agent:**

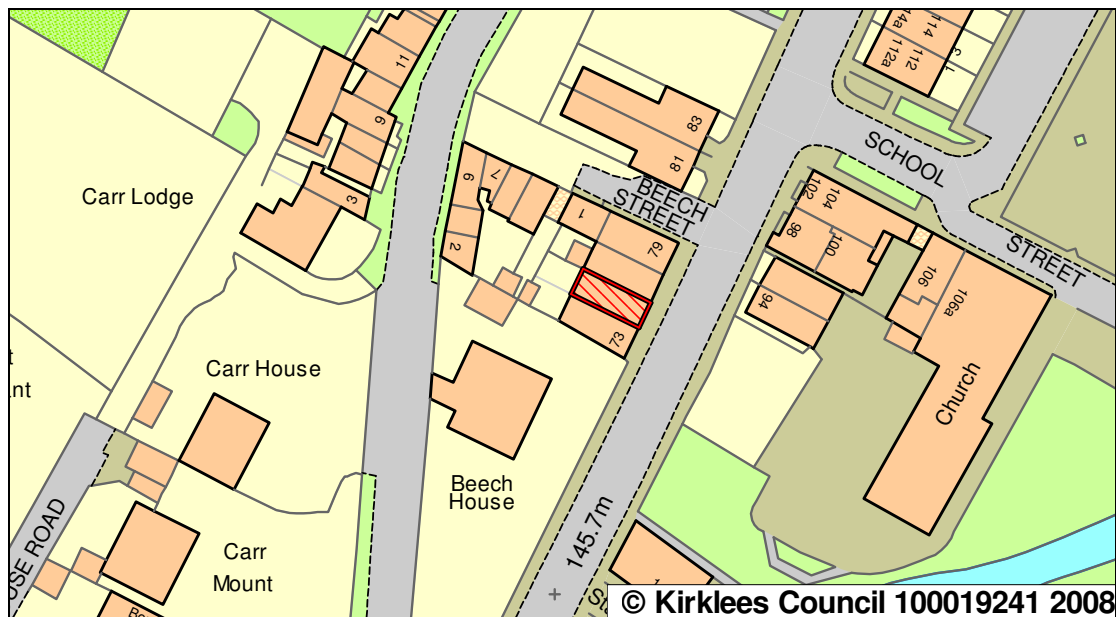
**Target Date: 14-Mar-2016**

**Recommendation: RMC - REMOVAL OR MODIFICATION OF CONDITION(S)**

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

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

## LOCATION PLAN



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

## **1. SUMMARY OF APPLICATION**

It is considered that the proposed variation of condition would not give rise to an undue loss of residential amenity; material increase in highway safety problems or anti-social behaviour.

### **RECOMMENDATION: GRANT VARIATION OF CONDITION**

## **2. INFORMATION**

The application is brought to the sub-committee for determination following a request from Councillor Nigel Patrick which states: "It is important for Committee to see how close residents live to this premises, to explain how they have been affected in the past and how they could be affected in the future."

Councillor Patrick has also requested a site visit.

The Chair of the Sub Committee has confirmed that Councillor Patrick's reason for making this request is valid having regard to the Councillors' Protocol for Planning Sub Committees.

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

### *Site*

The site consists of a ground floor pizza takeaway which occupies the second of a row of four commercial units fronting Huddersfield Road.

As regards the wider area, properties on Beech Street to the north, 81-83 Huddersfield Road across from the junction with Beech Street, Hightown Lane to the west, and on the opposite side of Huddersfield Road, are mainly residential.

### *Proposal*

The proposal is for variation of condition (4) concerning hours of opening.

The applicant wishes for the change in hours granted a 6-month temporary permission last year (ref 2014/93444), opening until midnight Friday and Saturday only, to become permanent. This would vary the wording of the condition to:

The use hereby permitted shall not be open to customers outside the hours of 1600 to 2300 Sun-Thurs, and 1600 to Midnight Fri-Sat.

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

2009/93008 – Change of use of part of bakery to hot food takeaway. Approved. Subsequent appeal against hours condition (to allow earlier opening) upheld so that the permitted hours of opening are 4pm until 11pm, seven days.

COMP/10/0445 – Enforcement complaint over non-compliance with approved hours in 2010. Breach regularised.

2011/90397 – variation of condition to allow Fri-Sat 11am until 1am, until midnight other nights. Refused. No appeal.

2012/92670 – Variation of condition (opening hours), requesting opening until 1am the following day, Fri and Sat. Refused. Appeal dismissed on the grounds of potential for noise nuisance causing loss of amenity to residential properties.

COMP/14/0094 – Enforcement complaint over non-compliance with approved hours 2014. Breach of condition notice served, breach regularised.

2014/93444 – Variation of condition (opening hours), requesting 12am midnight Fri and Sat. Granted (6-month temporary permission from 26<sup>th</sup> January 2015).

2015/92678 – Variation of condition (opening hours), requesting permanent opening to 12am midnight Fri and Sat. Refused on crime and disorder grounds following objection by West Yorkshire Police.

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

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

The site is within Holmfirth Town Centre and Conservation Area on the UDP Proposals Map.

- **BE5** – Development within Conservation Areas
- **EP4** – Noise-sensitive and noise-generating development
- **T10** – Highway safety
- **T19** – Parking standards.

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

- Section 8 – Promoting Healthy Communities
- Section 11 – Conserving and enhancing the natural environment
- Section 12 – Conserving and enhancing the historic environment

##### **Section 17 of the Crime and Disorder Act**



## **6. CONSULTATION RESPONSES**

**KC Highways Development Management** - No objections.

**KC Environmental Services** – No objections.

**Police Architectural Liaison Officer** – No objections.

**KC Licensing Services** were consulted on application 2015/92678 for an identical change in hours but had no objection.

## **7. REPRESENTATIONS**

The application has been advertised by site notice and neighbour notification. The publicity period ended 19-Feb-2016.

1 representation from a local resident (occupant of 81 Huddersfield Road, Holmfirth).

The planning related objections are as follows:

1. Our bedroom is within 10m of the site and there is an increased amount of traffic that disturbs us, also the slamming of car doors and loud car stereos. We have a 2 year old and his bedroom is also within 10m of the site.
2. The site seems to be an unofficial taxi rank, adding to the disturbance.
3. Customers and taxi drivers visiting the site are still parking outside our property and double-parking around the site.
4. The odours from the takeaway travel into our bedroom and living room.
5. Groups of young people hang around outside our home, making noise, eating and dropping litter from the takeaway.
6. Window wipers have been ripped off our car during the night, which we believe is from the added footfall hanging about outside our house.
7. The only reason we can see that the establishment would require a later opening time is to attract more people from the town centre into a more residential area, increasing the chance of vandalism and noise (this was also noted in the Inspector's decision letter of 6<sup>th</sup> June 2013 which stated that the limited benefits to vitality and viability would be significantly outweighed by the harm caused to the living conditions of neighbouring residents.)

Holme Valley Parish Council comments – Support the application subject to no concerns being raised by members of the public.

Ward Councillor Nigel Patrick – See “2: Information” above.

## **8. ASSESSMENT**

### **General Principle:**

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

**Building a strong competitive economy** – this advises that significant weight should be placed on the need to secure sustainable economic growth through the planning system.

**Conserving and enhancing the natural environment** – advises that planning policies and decisions should aim to prevent noise giving rise to significant adverse impacts on health and quality of life, while not placing unreasonable restrictions on businesses.

**Promoting Healthy Communities** - planning decisions ...should aim to achieve places which promote...safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.

**Conserving and enhancing the historic environment** – Planning decisions should conserve the significance of heritage assets including Conservation Areas.

Core Planning Principles paragraph 17: seek to secure a good standard of amenity for all existing and future occupiers of land and buildings.

As the proposal is for an extension of hours, and is not within the main retail area of the town centre, it is considered that it would have no significant economic impacts.

Within the UDP, the most relevant Policy is S14. This states that proposals for hot food takeaways will be considered having regard to provision for car parking for customers and staff, the effect on highway safety, the effect on residential amenity, the visual impact of any alterations proposed.

Also of relevance are UDP Policy EP4, which states that proposals for noise-generating uses close to existing noise-sensitive development should take into account the impact of projected noise levels, and T10, which states that applications should not be allowed if they would create or materially add to highway safety problems.

### **Impact on amenity:**

#### ***Visual amenity:***

The current application relates to a change in hours. It is therefore considered it would have no implications for the character or appearance of the Holmfirth Conservation Area, or visual amenity generally.

**Residential amenity:**

Application 2009/93008 was approved subject to a condition that:

*“The premises shall not be open to customers except between the hours of 1800 to 2300 on any day.*

*Reason: In the interests of preventing loss of amenity to residential properties in the vicinity of the site arising from noise, and in the interests of highway and pedestrian safety, and to accord with the aims of Policies S14, EP4 and T10 of the Unitary Development Plan and advice in PPG24 – Planning and Noise”.*

The original reason for not allowing the takeaway to open before 1800 was that it was considered that before this time there would be more competition for parking space and higher traffic levels, resulting in possible risks to highway safety. The applicant appealed this and the Inspector’s decision was to modify the condition to allow opening as early as 1600 hours, but with the closing time unchanged.

Two unsuccessful applications were subsequently made (see “Relevant Planning History” above) to allow later opening. An appeal was lodged on one of these applications although this sought longer hours on every day of the week (Fri-Sat 11am until 1am, until midnight other nights). This appeal was dismissed with the Inspector stating that “after 2300 hours some neighbouring residents could reasonably be expected to be asleep and the general road conditions are likely to be relatively quiet” and that at such times noise associated with customers “would be likely to result in an unacceptable increase in the levels of disturbance experienced by neighbouring residents, a number of whom do not have double glazed windows.” In addition the Inspector stated that there was no compelling evidence that the proposed extension of hours would add materially to the viability of the town centre, and that any benefits to vitality and viability would very limited and would be significantly and demonstrably outweighed by the harm caused to the living conditions of neighbouring residents.

Noise can arise from a number of factors. Potential noise sources which are difficult to control effectively include vehicles arriving and departing (including delivery vehicles and customers), engines revving, car doors slamming, car stereos, and noise from customers who may linger in the street outside while waiting to be served or while finishing their meals. These factors may give rise to loss of amenity in the case of late-opening takeaways in predominantly residential areas.

The site is on a main road leading to and from Holmfirth town centre where it is likely that there will be some traffic noise during the night. The surroundings of the site are however predominantly residential. An 11pm closing time was considered suitable at the time of the original application for change of use. The last two applications sought an extension of one hour, to midnight, and only on two days per week, which was a more modest increase than the previous requests for variation of the condition. Environmental Services recommended that a temporary variation in hours could be granted, on the

basis that no noise complaints had been made to Environmental Services up to that point and on their own observations during site visits.

A 6-month temporary permission was granted so that the impact of the additional hours could be monitored and discontinued relatively quickly if it proved to have an unacceptable impact on the amenities of surrounding residents.

During the trial period, in which the takeaway opened until midnight on Fridays and Saturdays, no noise complaints were made to either Environmental Services or Planning. Since the end of the 6-month trial period, the takeaway has reverted to its original closing time.

Given Environmental Services have not objected to the latest application, it would be difficult to substantiate a refusal based on noise arising from the operation of the business.

However, it should be noted that antisocial behaviour from customers and other individuals may also give rise to noise, which is assessed in 'other issues' below.

#### **Highway safety:**

The original reason for the condition not allowing the takeaway to open before 1800 was that it was considered that before this hour there would be more competition for parking space and higher traffic levels, resulting in possible risks to highway safety.

The appeal decision letter

"I accept that by the nature of a hot food take-away, the majority of customers tend to travel by car and prefer to park as close as possible to the outlet. However, there are several public car parks nearby, including a large one almost opposite the site. This is a very short walking distance away and conveniently located for customers' use. The location is also a sustainable one, on the edge of the town centre, where it would not normally be expected that off-street or on-street parking next to the premises would be available as a matter of course. Frequent bus services operate on Huddersfield Road which potentially could be used by some customers."

Highways Development Management have not, at any stage objected to the principle of the takeaway opening later at night, and have no objection to the permanent extension of hours now proposed.

It is considered that it would not adversely affect highway safety.

## **Other issues:**

### *Crime and disorder:*

The NPPF states that planning decisions should aim to achieve places which promote “safe and accessible environments” where crime and disorder, and the fear of crime, do not undermine quality of life.

Section 17 of the Crime and Disorder Act states: “Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.”

Hot food takeaways, like other businesses that are open late at night, may sometimes be a focus for anti-social behaviour. In general this is more likely to be the case where there is a high concentration of such establishments and other late-night economy uses. However, if a takeaway is in a mainly residential area where there is little background noise, then even a moderate level of anti-social behaviour can be disturbing to nearby residents.

The premises are not sited within an area having a high concentration of evening economy uses. West Yorkshire Police did not express any concerns at the time of the original application for change of use to a takeaway.

West Yorkshire Police were not consulted on application 2014/93444 for the temporary extension of hours, but were consulted on the subsequent application 2015/92678. This was to consider whether the later opening hours had caused issues of anti-social behaviour in the area. The Police on that application stated they had had reports of instances of young people loitering outside the premises, resulting in incidents of low-level anti-social behaviour occurring up to and beyond the business’ closing time. The Police objected to the proposed extension of hours on the grounds that it could give rise to anti-social behaviour and disturbance affecting local residents later into the night than is already the case. The application was subsequently refused on that basis.

Since this application being refused, the local Police Inspector has had staff continue to monitor the area and is now of the opinion, having consulted with colleagues who work the area, that there has not been any increase in anti-social behaviour, reported or otherwise. Notwithstanding their earlier objection, the view of West Yorkshire Police is that they have no objection to the proposed extension of hours given the lack of calls for service.

It is considered on the basis of these comments that granting a permanent increase in hours would not conflict with guidance in the NPPF chapter 8, core planning principle paragraph 17 or with Section 17 of the Crime and Disorder Act, as set out above.

Licensing Services were consulted on application 2015/92678 and confirmed that they had had staff monitor the business and had no objection to the proposed increase in hours until midnight. They had also consulted the West Yorkshire Police Licensing Team who had no concerns.

### **Representations:**

Insofar as they have not been addressed in the assessment above, responses to the representations are set out below.

Our bedroom is within 10m of the site and there is an increased amount of traffic that disturbs us, also the slamming of car doors and loud car stereos. We have a 2 year old and his bedroom is also within 10m of the site.

**Response:** The issue of noise arising from the operation of the takeaway has been addressed in the assessment above.

The site seems to be an unofficial taxi rank, adding to the disturbance.

**Response:** Private hire vehicles parking on the public highway near the premises whilst drivers buy goods from the premises would not be a breach of planning control. Issues relating to the control of taxis would be undertaken by K.C. Licensing.

Customers and taxi drivers visiting the site are still parking outside our property and double-parking around the site.

**Response:** It is considered that it would be difficult to substantiate an argument that an additional hour of opening between 11pm and midnight would give rise to parking issues resulting in a material loss of highway safety. There are no single yellow line parking restrictions along the sections of Huddersfield Road close to the premise between 11pm – midnight.

The odours from the takeaway travel into our bedroom and living room.

**Response:** The premise has an approved air treatment system which must be operated as a condition attached to the original approval. If the extract ventilation system is not operating in accordance with this condition and/or if odour nuisance is occurring this can be investigated by Planning or Environmental Services.

Groups of young people hang around outside our home, making noise, eating and dropping litter from the takeaway.

The only reason we can see that the establishment would require a later opening time is to attract more people from the town centre into a more residential area, increasing the chance of vandalism and noise (this was also noted in the Inspector's decision letter of 6<sup>th</sup> June 2013 which stated that the limited benefits to vitality and viability would be significantly outweighed by the harm caused to the living conditions of neighbouring residents.)

**Response:** the limited extension of opening hours has been the subject of a trial period. No complaints were received by Planning or Environmental Services during that time and the Police have raised no objections to the current application on the grounds of anti-social behaviour. Given the very limited increase in hours now proposed it is considered the benefits of the

development would not be significantly outweighed by the additional activity this would create.

Window wipers have been ripped off our car during the night, which we believe is from the added footfall hanging about outside our house.

**Response:** The assertions made are unsupported by evidence that could be used to substantiate a reason for refusal.

**Conclusion:**

It is noted that a previous Planning Inspector took the view that the closing time should be no later than 11pm on any night. Although the views of a Planning Inspector are material considerations, it is also noted that the most recent refused appeal related to an extension of the closing time to 1am, not midnight, and that the more limited extension of hours until midnight has been subject to a trial period. It is considered on balance, given that no complaints have been received by Planning or Environmental Services during that time and that neither the Police nor Environmental Services have raised any objections to the current application, that it would amount to sustainable development. It is therefore recommended that variation of the original condition (4) is granted on a permanent basis.

**9. RECOMMENDATION**

**APPROVE VARIATION OF CONDITION**

1. The use hereby permitted shall not be open to customers outside the hours of 1600 to 2300 Sun-Thur, and 1600 to 0000 (midnight) Fri-Sat.
2. The kitchen extraction and ventilation system shown on drawing FT 2758/4 shall be operated in accordance with the manufacturer's instructions whenever the takeaway is in use and maintained in accordance with the manufacturer's instructions.

This recommendation is based on the following plans and specifications schedule:

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location plan			19-Nov-2014
Extraction and ventilation system	FT 2758/4		09-Apr-2010 (submitted and approved in connection with application 2009/93008)

**Application No: 2015/94008**

**Type of application: 61m - RESERVED MATTERS**

**Proposal: Reserved matters application for erection of 18 dwellings pursuant to appeal no APP/Z4718/A/12/2180238**

**Location: Land to rear of 101 to 111, Banks Road, Linthwaite, Huddersfield,**

**Grid Ref: 408519.0 413840.0**

**Ward: Colne Valley Ward**

**Applicant: S & G Kelly C/O Agent**

**Agent: Andrew Coldwell**

**Target Date: 17-Mar-2016**

**Recommendation: RM - APPROVAL OF RESERVED MATTERS**

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

## LOCATION PLAN



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



## 1. SUMMARY OF APPLICATION

<b>Application Details</b>		
Type of Development	Reserved Matters Application for 18 dwellings	
Scale of Development	18 dwellings	
No. Jobs Created or Retained	n/a	
<b>Policy</b>		
UDP allocation	Unallocated	
Independent Viability Required	No	
<b>Representation/Consultation</b>		
Individual Support (No.)	0	
Individual Objection (No.)	9	
Petition	No	
Ward Member Interest	Yes	Cllr Ridgway
Statutory Consultee Objections	No	
<b>Contributions</b>		
• <i>Affordable Housing</i>	Yes (secured by condition on outline application)	
• <i>Education</i>	N/A	
• <i>Public Open Space</i>	Yes (on site, privately maintained)	
• <i>Other</i>		
<b>Other Issues</b>		
Any Council Interest	No	
Planning Pre-Application Advice	No	
Pre-App Consultation Undertaken?	No	
<b>Comment on Application</b>	The details of the appearance and scale of the dwellings, and the details of landscaping would preserve visual and residential amenity.	

### RECOMMENDATION: GRANT APPROVAL OF RESERVED MATTERS

## 2. INFORMATION

The application is brought to Huddersfield Sub-Committee at the request of Councillor David Ridgway for the following reason:

I formally request that this application be considered by the Huddersfield Planning Committee on the basis that

1. It was originally rejected by committee and passed on appeal
2. There appear to be a number of amendments from the original decision, to the detriment of the local environment and, potentially local highways.

The Chair of the Sub Committee has confirmed that Councillor Ridgway's reason for making this request is valid having regard to the Councillors' Protocol for Planning Sub Committees.

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

#### **Site Description**

The application site comprises an area of land located to the rear of 101-111 Banks Road, Linthwaite. The access to the site is located to the north, adjacent to the apartment block which forms 101-111 Banks Road and the land gradually rises into an open area of grassland. The site is contained by an embankment to its eastern side on which there is a stand of mature trees separating it from allocated Green Belt. To the western boundary are the rear gardens which serve the dwellings which front onto Linfit Lane.

This is a predominantly residential area, with the dwellings being of various designs, scale, and materials, but to the north is a working garage, which is partly listed. Adjacent to the garage is Linfit Hall, which is grade II\* listed.

#### **Proposal**

The application seeks approval for the details of reserved matters pursuant to outline application 2011/93270. Conditional outline permission was granted at appeal for the erection of 18 dwellings. The details of access to the site and the layout of the dwellings were approved at outline stage.

This application seeks approval for details of scale and appearance of the dwellings and landscaping.

The proposed dwellings include a mix of semi-detached and terraced properties. The majority of dwellings are two storeys in height, with the exception of plots 10 and 11 which are two and a half storeys in height to accommodate an integral garage at ground floor level. It is proposed the dwellings and garages would be constructed of natural stone with artificial blue slates.

Two areas of public open space are proposed, as previously approved on the layout; one to the south east of Linfit Hall and one adjacent to the vehicular entrance towards the north east the site. The proposed landscaping works also include the provision of private amenity spaces and trees and shrub planting throughout the site. The existing tree belt on the eastern boundary will be retained.

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

2011/93270 – Outline application for the erection of 18 dwellings – Refused at Sub-Committee 8<sup>th</sup> March 2012. The reason for refusal was the loss of residential amenity resulting from the proposed access arrangements. An appeal was subsequently lodged and upheld on 1<sup>st</sup> February 2013.

2011/90345 – Outline application for the erection of 18 dwellings – Withdrawn August 2011

2010/90756 – Outline application for erection of residential development and formation of access – Withdrawn

2007/91222 – Erection of building for use to restore classic cars – Approved (and implemented)

2006/92450 – Erection of a block of 6no. apartments (Modified Proposal) – Approved (and implemented)

2005/94748 – Erection of a block of 6no. apartments – Approved

2004/95533 – Outline application for erection of 2no. dwellings - Approved

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

The site is unallocated on the Unitary Development Plan Proposals Map.

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

- BE1 – Design principles
- BE2 – Quality of design
- BE12 – Space about buildings
- NE9 – Retention of mature trees

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

- Chapter 7 – Requiring good design
- Chapter 12 – conserving and enhancing the historic environment.

#### **6. CONSULTATIONS**

**KC Conservation and Design** – No objections

## **7. REPRESENTATIONS**

As a result of the publicity of the application 9 objections have been received. The comments raised are précised below as follows:

### **Highway Safety**

- The junction of Linfit Fold and Banks Road experiences high volumes of traffic and parking. The lack of pavement causes a hazard for pedestrians and there is not enough room for two vehicles to pass on Banks Road causing a hazard to drivers.
- Existing traffic volumes are dangerous, access to Banks Road from Linfit Lane is restricted due to the tight corner onto Banks Road.
- access road is insufficient to enable HGV vehicles, fire appliances or refuse vehicles to turn. The junction fails to provide adequate visibility for oncoming vehicles and pedestrians approaching the junction from within the site.
- Adequacy of parking/loading/turning. The apartment block between the two access roads has negatively impacted on parking availability due to lack of allocated parking. Concerned grocery delivery vans and courier vehicles would find it difficult to turn into the site and would be forced to mount the pavement, potentially causing damage to neighbouring properties.
- safety of children who play on Banks Road.
- The junction of Linfit Fold and Banks Road is a busy and congested junction with parked cars reducing the width of Linfit Fold as nearby residences do not have off-street parking. Concern about the effect on a dangerous and congested road network. J B Sykes Motors generates significant traffic.
- parking situation would become untenable
- Increased traffic would increase the risk to drivers and pedestrians.

### **Residential Amenity**

- Inadequate screening / privacy
- The public open space and areas of private amenity space will impact on the privacy of tenants of Linfit Hall. Will not accept a hedgerow as a boundary.
- Concern about loss of lights
- Houses look into residents homes off Linfit Lane.

### **Impact on the grade II\* listed Linfit Hall**

- Linfit hall is a grade II\* listed building. Query whether there has been an impact assessment on the setting of this building. Query whether the development is in character with neighbouring properties.
- Linfit Hall built in the 16th century remains one of the finest architectural residencies of its period. Any new development would

significantly blight the outlook and impact on its standing in this semi rural environment and spoil the character of this building.

### **Drainage Issues**

- Recent building plots have suffered drainage problems due to the land gradient built on. If drainage systems are inadequate the flow of water would come straight down the access roads and into neighbouring properties.
- There is a natural spring within the site that runs under Linfit Hall and floods cellars after heavy rainfall. Query how will this be managed.
- No measures are shown to prevent discharge of surface water.
- Plans fail to show where foul water / sewage will be disposed to.

### **Other Issues**

- Nields Junior and Infants and Linthwaite Clough are stretched to their limits.
- Doctors surgery provision
- loss of views
- Query whether there will be a construction / traffic plan.
- displacement of wildlife and whether an ecological survey has been undertaken.
- the private water supply to Norwood runs down the field and the manhole containing the stop cock will be in the garden of Plot 1.
- noise pollution
- would neighbouring properties applying for planning permission for works to their homes be affected.
- Account has not been taken of access rights for neighbouring properties. Hanging rights for washing exist in the area proposed for public open space to the back of Linfit Hall, as well as the garden of plot 1. The planting of trees will restrict access.
- Concern about residents access for maintaining gardens, fences and trees.

## **8. ASSESSMENT**

### **Principle:**

The principle of development, along with details of the access and layout were approved as part of the appeal pursuant to application Ref 2011/ 93270. This reserved matters submission seeks approval for scale and appearance of the dwellings and landscaping details.

Cllr Ridgway has stated that 'there appear to be a number of amendments from the original decision, to the detriment of the local environment and, potentially local highways'. To clarify this matter two additional parking spaces have been provided for plots 4 and 5. These are located to the front elevations of these units. Furthermore the 2 no. visitor parking spaces

proposed north east of plot 1 have been formalised with hard surfacing. The point of access to the garages serving plots 13-15 has been slightly realigned to the access road. These changes are not considered material in the context of the original access and layout details approved.

### **Appearance and Scale of the dwellings:**

#### *a) Visual Amenity:*

The proposed dwellings include a mix of semi-detached and terraced dwellings. The majority of dwellings are two storeys in height, with the exception of plots 10 and 11 which are two and a half storeys in height to accommodate an integral garage at ground floor level.

Neighbouring properties include a mix of detached, semi-detached and terraced properties. The proposal has taken into consideration the height, layout, building line and form of existing development along the western boundary of the development site. The design has also worked with the contours of the site, and the differences throughout the site of floor levels and positioning adds visual interest. The proposed construction materials are coursed natural stone with ashlar stone cills, heads, mullions and corbels, and artificial blue slate. The proposed use of natural stone is appropriate on this site, a sample of which shall be inspected pursuant to condition 5 of the outline permission. The use of an artificial blue slate may be acceptable, but samples will have to be considered as part of condition 6.

Plots 10 and 11 back onto the wooded embankment and these properties would be two and a half storeys in height. Taking into account the context in which they would sit however, it is not considered there would be a detrimental impact on visual amenity.

#### *b) Impact on the setting of the listed buildings*

There is a statutory duty for the local planning authority, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. In this context preservation means not harming the interests of the building as opposed to keeping it unchanged. Furthermore Chapter 12 of the NPPF states that in determining applications local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets. This has been taken into account both in the assessment of the original outline application and the details of scale, appearance and landscape submitted.

There are two listed properties adjacent to the site; Linfit Hall; a Grade II\* listed vernacular stone-build former manor house now subdivided into multiple units, and the grade II listed former cruck barn which is part of the adjacent garage complex.

The impressive Linfit Hall dates from around 1600 and occupies a prominent position facing the junction of Linfit Fold / Linfit Lane, Gordon Street and Banks Road 'the junction'. Although its setting generally has been compromised particularly by the presence of the adjacent commercial garage, its setting when viewed from the junction is assisted by the backdrop of trees to the south-eastern side of the site. The site itself is said to form part of the former manorial lands of the hall. The original principal entrance to the hall is to its south east elevation contained within a two-storey gabled porch and facing the application site. A statement of significance was submitted as part of the outline stage to support the assessment of the proposed layout. The layout as approved includes an area of public open space to the south east of the hall in order to preserve its setting. This would allow open views across soft landscape to the original principal elevation of the building. Furthermore it would assist in preserving the setting of the north-west elevation of the building when looking towards the site from the junction. The Inspector considered the layout of the proposed dwellings would not unacceptably impinge on the building's setting or undermine the significance of this important heritage asset. It was considered there would be no detrimental impact on the setting of either listed building.

Notwithstanding details of layout which have been approved, it is considered the proposed scale and design of the dwellings would not have a detrimental impact on the setting of the listed buildings. This includes the cruck barn which remains part of a working garage. The dwellings, with the exception of two of the plots, would be two storey dwellings, to be constructed of natural coursed stone with ashlar cills, heads, millions and corbels.

Conservation and Design raise no objections to the design of the dwellings in respect of the impact on the setting of the grade II\* listed building, subject to the boundary treatments being of a suitable design and scale which will protect the setting of the listed building. The details of boundary treatment are to be secured through condition 7 of the outline planning permission.

*c) Residential Amenity:*

A number of concerns have been raised in the representations received regarding the impact on privacy of neighbouring dwellings. The nearest neighbouring properties to the site are 101-111 Banks Road, the sub-divided Linfit Hall, Norwood, No.37a, 39 41, 43 Linfit Lane, and Holmfield Linfit lane.

The layout of the dwellings was approved as part of the outline application and their positioning is not a matter of consideration for this application. The inspector concluded that separation, screening and the subsequent detailed design of the proposed dwellings should ensure there is adequate protection of living conditions in respect of privacy for occupiers of dwellings backing onto the site. The plots generally meet the minimum distances required to neighbouring properties specified by Policy BE12, although there is a shortfall between plots 6 and 9. This is however, internal to the development, where future occupants would be aware of these distances on purchase, and does not affect neighbouring properties. It was also concluded in the original officer

report that the proposed layout would not result in any undue overshadowing of existing dwellings or their amenity space.

It is the scale of the dwellings, and the positioning of openings that is now to be considered. In respect of an assessment of scale the dwellings, with the exception of plots 10 and 11, all dwellings would be two storeys in height. Plots 10 and 11 back onto the wooded embankment and these properties would be two and a half storeys in height. However, taking into account the significant distance to neighbouring properties, it is not considered the proposal scale of the dwellings would result in any overbearing impact.

In respect of the proposed appearance and positioning of openings, the closest relationships are as follows:

- Plot 18 is at a distance of 34 metres from No.101-111 Banks Road. It is considered the proposed positioning of the openings would not result in loss of privacy.
- Plot 1 is at a distance of over 26 metres to Linfit Hall. There would be a significant separation due to the proposed area of public open space. It is considered the positioning of openings would not result in loss of privacy.
- Plots 1 and 2 are at a distance of 16metres to Norwood at the nearest pinch point. These plots front north-west and would not have a direct relationship to the habitable room windows on the rear elevation of this property, or its conservatory. It is considered the positioning of the openings would not result in an unacceptable loss of privacy
- Plot 2 is at a distance of 15 metres from No37a Linfit Lane. Due to the orientation of this plot to this existing property there would be no material loss of privacy.
- Plot 3 is 15 metres from No.41. There are no habitable room windows proposed on the gable of No.3 and there would be no loss of privacy.
- The garages to serve plots 3-6 would be a distance of 10 metres to No.43. There would be no overbearing impact given the single storey scale of the garages.
- Plots 7 and 8 are at a distance of 21 metres from the principal rear elevation of Holmfield. There is a glazed extension on the property, screened from the application site by a shed. The impact on this glazed extension would be mitigated by appropriate screening. This would be addressed through condition 7 on the outline application. A suitable screen will prevent loss of privacy to the garden area and this glazed extension.

Most planning approvals are likely to interfere to some extent, with an adjoining occupier's enjoyment of their property. However the test is whether this is proportionate. In assessing this submission officers have taken into account the amenities of the adjoining occupiers and the fact that the new buildings will cause some interference with the enjoyment of their properties. However, given the existing approval for layout on this site it is considered that the appearance and scale of the new properties would not be unduly



harmful to the amenities of existing residents and that the grant of reserved matters is proportional.

### **Landscaping:**

This application seeks to approve details of landscaping.

In respect of soft landscaping the block plan shows the majority of trees are to be retained. New trees are shown to be planted to include native species of Blackthorn, Elder, Dog Rose, Alder, Birch, Field Maple, Rowan, Bird Cherry and Holly. This mix of native trees would enhance biodiversity and the details are considered to be acceptable. In respect of hard landscaping the proposed estate road is to be surfaced in bituminous macadam with porous paving for driveways and parking. These details are also considered to be acceptable.

No details of boundary treatments have been provided as these are covered by condition 7 of the outline and details of the proposed acoustic fence, adjacent to the rear boundary of the garage are covered by condition 23.

K.C. Parks and Recreation confirmed in the outline application that the two parcels of land shown as public open space are of adequate size for the proposed dwellings and they would be relatively visible and central enough for general amenity use. This may include one of the areas being retained for visual amenity as the gradients would not allow this to be used for any more formal use. These areas would need to be maintained by the applicant and the management scheme would need to be secured through a management plan by condition. A separate management scheme would be required for other areas of landscape proposed. As noted in the outline application, on-site provision of play equipment was not considered to be appropriate taking into account existing amenities in the vicinity of the site. The Inspector however, did not request an off-site contribution, and accordingly the provision of public open space will be that as shown on site and approved at outline stage.

### **Representations:**

Nine objections have been received. In so far as they have not been addressed above:

#### **Flood Risk Concerns:**

Flood risk was appropriately addressed as part of the outline planning stage. Conditions 12-16 adequately address all drainage issues.

#### **Highway Safety Concerns:**

The Inspector noted in the decision notice that the Council has not queried the means of access for the development in terms of capacity, safety or the ability of service and emergency vehicles to adequately access the site. The Inspector went on to say that despite concerns expressed by a number of local residents, he had no reason to disagree that these aspects are satisfactory. The access arrangements are unchanged from that approved at outline stage. Eight parking spaces would be provided for the apartment block

to the south-east of the commercial garage. These would replace the existing spaces for the apartments to the north east of the site.

Noise:

The inspector concluded that the scale of the development and the likely level of additional vehicular movement would not result in an increased level of disturbance from noise or general activity such that living conditions would be unacceptably affected.

The comments about 'hanging rights' and access rights are not material planning considerations.

**Conclusion:**

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 details of reserved matters applied for would constitute sustainable development.

**9. RECOMMENDATION**

**GRANT APPROVAL OF RESERVED MATTERS**

1. 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.

2. A comprehensive schedule of landscape maintenance, pursuant to the details indicated on plan ref 3930-13-06, shall be submitted to and approved in writing by the Local Planning Authority before the superstructure of any dwelling is first commenced. The scheme shall include the method of site improvement,

- Where relevant removal of weed species,
- ground preparation and details of new tree and shrub planting, seeding and maintenance, and
- timescales and arrangements for its implementation.

The development shall thereafter be carried out in complete accordance with the approved schedule and timescales. 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.

3. A landscape management plan for the long term maintenance of the areas of Public Open Space detailed on plan Reference 3930-13-06 shall be submitted to and approved in writing by the Local Planning Authority before the superstructure of any dwelling is commenced. The management plan shall include details of public use in perpetuity, together with any land transfers and management responsibilities. The areas of Public Open Space shall thereafter be maintained in accordance with the approved landscape management plan.

4. Notwithstanding the provisions of section 55 (2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Act or Order with or without modification) no doors, windows or other openings shall be created in the elevations or roofs of the approved dwellings.

This recommendation is based on the following plans and specifications schedule:

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan			17.12.15
House Type A	3930-13-01		17.12.15
House Type B and C	3930-13-02		17.12.15
House Types D and E	3930-13-03		17.12.15
House Types F, G and H	3930-13-04		17.12.15
House Type J	3930-13-05		17.12.15
Landscape Plan	3930-13-06		17.12.15
Site Layout Plan	3930-13-09		20.01.16
Site Sections	3930-13-08		20.01.16

**Application No: 2015/92227**

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

**Proposal: *Erection of 19 single storey dwellings including development of associated access and hard and soft landscaping***

**Location: *Land to rear of Row Street, Crosland Moor, Huddersfield, HD4 5AY***

**Grid Ref: 413225.0 415765.0**

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

**Applicant: *Parkview Property (Lancashire) Ltd***

**Agent: *C Dunn, Coda Studios Ltd***

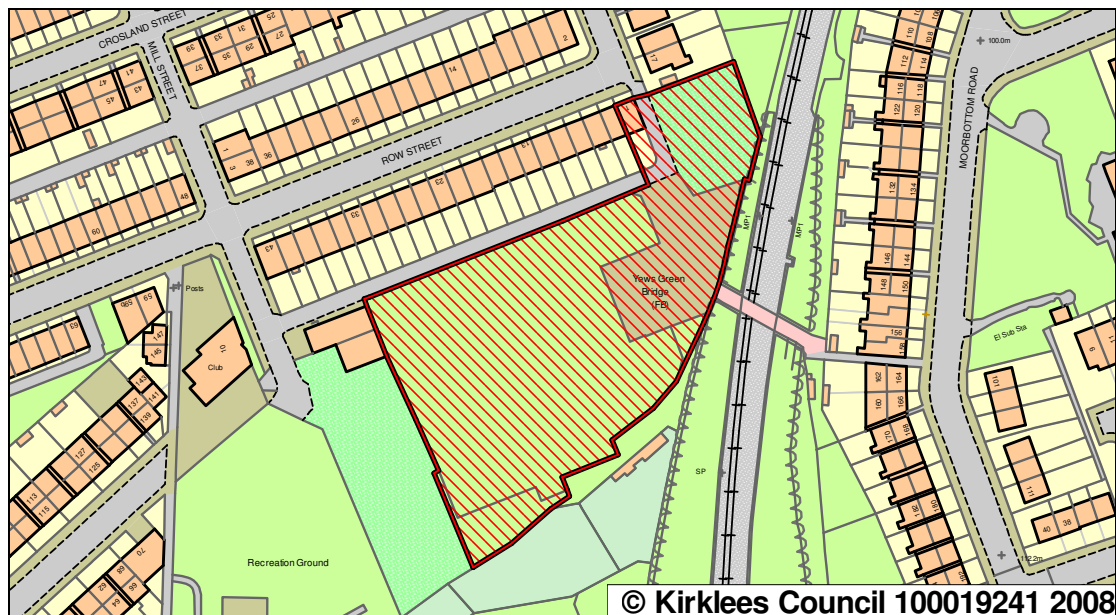
**Target Date: *09-Feb-2016***

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

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

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

## **LOCATION PLAN**



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

## 1. SUMMARY OF APPLICATION

<b>Application Details</b>		
Type of Development	Residential	
Scale of Development	19 single storey dwellings	
No. Jobs Created or Retained	n/a	
<b>Policy</b>		
UDP allocation	Unallocated	
Independent Viability Required	Yes	
<b>Representation/Consultation</b>		
Individual Support (No.)	0	
Individual Objection (No.)	2	
Petition	None	
Ward Member Interest	None	
Statutory Consultee Objections	None	
<b>Contributions</b>		
• <i>Affordable Housing</i>	Yes – 2 on site units	
• <i>Education</i>	No	
• <i>Public Open Space</i>	Yes – £5,638	
<b>Other Issues</b>		
Any Council Interest	No	
Planning Pre-Application Advice	No	
Pre-App Consultation Undertaken?	No	
<b>Comment on Application</b>	The principle of residential development on this unallocated brownfield site is considered to be acceptable. The application site can be accessed safely in highway terms and there would be no harmful effect on visual or residential amenity. Ecological matters and drainage matters can be addressed through condition. Matters relating to affordable housing and public open space can be secured through a S106 obligation.	

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

1. ENTER INTO A SECTION 106 AGREEMENT TO SECURE ON SITE AFFORDABLE HOUSING AND A FINANCIAL CONTRIBUTION TOWARDS THE PROVISION OF PUBLIC OPEN SPACE
2. IMPOSE ALL NECESSARY AND APPROPRIATE CONDITIONS WHICH MAY INCLUDE THOSE SET OUT BELOW; AND
3. SUBJECT TO THERE BEING NO SUBSTANTIVE CHANGES THAT WOULD ALTER THIS RECOMMENDATION, TO ISSUE THE DECISION NOTICE.

## **2. INFORMATION**

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

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

### **Site Description**

The application site comprises 0.62 ha of land located to the rear of Row Street at Crosland Moor. The site was previously occupied by Paddock Field Mill but has been since cleared. Planning permission was granted in 2006 and 2009 for residential development, although these permissions have since lapsed.

The site is bounded by closely spaced, terraces of properties to the north and a railway line/footbridge to the east. The west of the site is immediately adjoined by an area of unallocated land (former garage site) which itself is then bounded by a tree belt separating it -from the adjacent recreational open space further west.

The site is currently accessed from between No.1 Row Street and No.17 Row Street, to the north-eastern corner of the application site. A hard surfaced track then separates the application site from the gardens to the rear of the terraced properties (known as Row Street) and exits back onto Mill Street adjacent to No.43 Row Street. The surrounding area is predominately residential and the site is unallocated on the Unitary Development Plan Proposals Map.

### **Proposal**

The application seeks full planning permission for the erection of 19 no. detached single storey dwellings, with associated parking and landscaping.

Plot 1 would be sited to the east of the proposed internal access road, with plots 11-19 sited in a row to the north of the access road, plots 2-6 located to the south of the road, and plots 7-10 located in the south-western corner of the site perpendicular to Row Street. The layout of the properties has been designed so that each of the dwellings would have its own element of amenity space to the rear, with parking spaces provided to the front.

The proposed dwellings would be single storey, two bed dwellings, with a total height to the ridge of 5.2 metres. It is proposed the dwellings would be faced in artificial stone with artificial slate tiles for the roof. They would all be of a simple rectangular design with a gabled roof with entrance canopy.

Access to the site would be gained via the existing access, but would involve the demolition of No.1 Row Street in order to create an access width at this point of 5.5 metres, which would then extend into the site.

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

2009/92785 – Demolition of no.1 Row Street and erection of 33 dwellings with associated parking and landscaping – Section 106 Full Permission to secure affordable housing (1 plot) and the provision of a financial contribution towards educational facilities (£100,000).

2005/94809 – Demolition of 1 Row Street and erection of 31 no terrace houses – Conditional Full Permission

#### **Policy**

The site is unallocated on the Unitary Development Plan Proposals Map

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

D2 – Unallocated Land  
BE1 – Design principles  
BE2 – Quality of design  
BE12 – Space about buildings  
BE23 – crime prevention  
T10 – Highway Safety  
H10 – Affordable housing  
H12 – Arrangements for securing affordable housing  
H18 – Provision of public open space

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

Part 6 – Delivering a wide choice of high quality homes  
Part 7 –Requiring Good Design  
Part 8 – promoting healthy communities  
Part 10 – Meeting the challenge of climate change, flooding and coastal change  
Part 11 – Conserving and Enhancing the Natural Environment

#### **Access Considerations:**

The Design and Access Statement confirms the development will comply fully with all requirements of Building Regulations Approved Document 'M'. The landscaping (access routes) will be fully accessible. All doors and corridors are wide enough to allow wheelchair access.

## **6. CONSULTATIONS**

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

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

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

**K.C Ecologist** – No objections

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

**K.C Strategic Housing** – No objections

**K.C Parks and Recreation** – No objections

**K.C Lead Local Flood Authority** – No objections

**Yorkshire Water** – No objections

**Network Rail** – No objections

## **7. REPRESENTATIONS**

As a result of the application publicity two representations have been received. The planning concerns raised are précised below:

- Concern the development will impact on neighbouring properties off Row Street who own the road to the rear. Query what is happening to this road, how long construction will take as it will cause disruption from noise for a worker on permanent nights.
- Concern the impact on neighbouring properties will be significant and without digging out the site, these properties will be overlooked.

## **8. ASSESSMENT**

### **Principle:**

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



The Council cannot currently demonstrate five year supply of deliverable housing land. Consequently planning applications for housing are required to be determined on the basis of the guidance in NPPF paragraph 14.

The 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.

A proposal for nineteen single storey dwellings provides 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. There would be social gain through the provision of new housing at a time of general shortage and this proposal also includes the provision of two affordable units.

The loss of No.1 Row Street is necessary to facilitate access to the site, the dwelling is not listed, does not fall within a conservation area and does not significantly contribute to the surrounding area. Its demolition would facilitate a net gain of eighteen houses and in this case is considered to be acceptable.

National policy encourages the use of brownfield land for development, and the principle of residential development on this site has previously been established following the grant of permission for demolition of No.1 Row Street and the erection of 33 dwellings.

The site is located within a sustainable location in proximity to the local centre of Crosland Moor and it is considered the proposal for residential development amounts to sustainable development. The principle of housing development is considered to be acceptable, in accordance with the sustainability principles of the NPPF.

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

Policy T10 of the UDP sets out the matters against which new development will be assessed in terms of highway safety.

Access is proposed off Row Street, which is an adopted highway. The site access, junction geometry, parking provision and layout accords with current guidance and is considered acceptable. The site layout can accommodate the turning manoeuvres of an 11.6m refuse vehicle as shown in drawing number 103 Rev P03. It is considered that traffic generated by the proposal can be accommodated on the highway network and that it is unlikely to have a material impact on the safety and operation of the network.

The site is considered to be accessible by sustainable transport modes including walking, cycling and public transport, with the nearest bus stops located within the recommended distance from the proposed site access at Blackmoorfoot Road. The bus stops are served by bus service 328, providing a weekday frequency of 6 buses per hour in the daytime.

To encourage the use of public transport KC Highways advise that a Residential Metro card scheme be negotiated, the funding for which would be secured via Section 106 obligation. Based on the current scheme costs this would be  $19 \times \text{£}475.75 = \text{£}9,039.25$ . In this case the application has been submitted with a viability appraisal submitted. The information contained in this appraisal has confirmed that the development would not be capable of providing metro cards in addition to a proposed affordable housing contribution and a contribution to Public Open Space. This is discussed in more detail in the viability section below.

To conclude; access arrangements, servicing arrangement and layout accord with current guidance and are considered acceptable to serve a development of the scale proposed. Conditions are suggested to include a scheme detailing the layout, construction and specification of the highway works at the site access junction with Row Street, a schedule of the means of access to the site for construction traffic, appropriate surfacing and draining of vehicle parking areas, and a detailed scheme for the proposed estate road. Subject to conditions, highways issues are addressed.

### **Layout and Appearance:**

Policies BE1 and BE2 are considerations in relation to design and layout. The layout follows the linear form of development which characterises the local area and which has been approved as part of the previous two applications. Each dwelling would have sufficient amenity space, and would achieve the requisite distances to neighbouring properties and to the boundaries of the site to ensure the privacy of existing and future occupants is maintained. The density of development is approximately 40 dwellings per hectare which is considered to be an efficient use of the land.

The layout has been designed with crime prevention measures in mind. The West Yorkshire Police Liaison officer (PALO) initially raised concern about a proposal for remote parking spaces at the north east boundary of the site adjacent to the entrance as such spaces would be easily accessible and would not be overlooked. These spaces have now been omitted and the proposed layout allows for good surveillance of all parking areas. Appropriate boundary treatments will be conditioned and as such the proposal is considered to comply with Policy BE23 of the UDP.

The proposed single storey dwellings would provide for a greater housing mix within the area and taking into account the topography of the site and its relationship to neighbouring properties, would be the most suitable scale of residential development on this site. The proposed dwellings are simple in

their design, and it is considered the use of a good quality artificial stone and slate would be acceptable here, in an area where neighbouring properties comprise a mix of stone and brick construction. Samples would be approved through condition. Details of in-curtilage bin storage is also required to ensure that this does not appear unsightly in the completed scheme and so that it is appropriate for the use of future occupiers.

The development is required to provide public open space at a rate of 30 sq. metres per dwelling in accordance with Policy H18 of the UDP.

There is an informal area of open space shown within the layout to the north of plot 1, however this space is to the edge of the development and wouldn't benefit from natural surveillance. Taking into account the proximity of the nearby recreation ground, it is considered that an off-site contribution to improve facilities would be more appropriate in this case.

Arrangements for the maintenance of the informal area of open space and landscaping within the layout will be secured by condition.

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

UDP Policy D2 requires the effect on residential amenity to be considered and policy BE12 sets out the normally recommended minimum distances between habitable and non-habitable room windows of existing and proposed dwellings.

The nearest residential properties which would be affected by the development are No.1- 43 Row Street along the northern boundary of the site, and No.17 Row Street adjacent to the north-eastern corner of the site. Concerns have been raised in the representations received that the impact on neighbouring properties will be significant, and that without digging out the site, neighbouring properties will be overlooked.

The application site is raised above the ground level of neighbouring properties off Row Street. The proposed layout would achieve a distance of over 21 metres from the proposed dwellings to existing properties off Row Street, and would meet the minimum requirements of policy BE12 of the UDP. Some properties off Row Street have extended to the rear, however, taking into account that the proposed properties are to be single storey, and that the layout would include suitable boundary treatment (to be secured through condition) it is considered there would not be a detrimental overlooking impact. Although the application site is higher than existing residential development to the north, it is considered that as single storey dwellings there would be no detrimental overbearing impact.

There would not be a detrimental impact on residential amenity and the proposal would accord with policy D2 of the UDP.

## **Ecological Issues:**

UDP Policy EP11 requests that applications for planning permission should incorporate landscaping which protects/enhances the ecology of the site. The site includes areas of scrub and a dwelling which will be demolished and is surrounded by trees/woodland. Accordingly, an ecological survey and assessment was requested to ascertain the quality of habitats present, assess the impact of the development, and to give consideration to appropriate mitigation.

An ecological survey and bat survey have been submitted. The bat survey has established that No.1 Row Street, which is in active use and a good state of repair, has a low potential to support a bat roost. It has also established that there are no features on site which would support bat roosts.

The ecological survey has identified that the main habitat area within the site is of low ecological value, with small pockets of habitat of moderate ecological value. It proposes mitigation measures to include the provision of a landscape enhancement plan which includes suitable new shrub and tree planting with a diverse mix of native and non-native species. It also recommends that new trees and a native species hedge be added along the southern boundary, to link to off-site semi-natural broadleaved woodland and to replace the loss of dense scrub.

The Council's Ecologist having considered the ecology survey raises no objections to the principle of development, subject to the provision of a biodiversity and enhancement plan retaining the area of tree cover in the north-eastern corner of the site as habitat. A revised detailed landscape plan which provides for this will be required by condition. This will also require a greater mix of native tree and shrub species to provide greater wildlife benefit, together with details of bat and bird boxes.

Subject to appropriate conditions, ecological issues are addressed.

## **Flood Risk and Drainage Issues:**

The NPPF sets out the responsibilities for Local Planning Authorities in determining planning applications, including flood risk assessments taking climate change into account and the application of the sequential approach. This site is located within main river flood zone 1. It is however, vulnerable to surface water flood risk.

The sloping nature of the site and its proximity to terraced houses with a history of cellar flooding has ruled out infiltration techniques to address surface water drainage. There is no known watercourse to connect to and a connection to public combined sewer, together with a conventional attenuation tank is accepted. Drainage and flood routing plans have been submitted, defining the road network as the conduit for flood routing. Finished floor levels are 150mm above surrounding ground levels including that of parking areas which in turn have a slight check above the road.

A management company will be required to maintain and renew the drainage system in accordance with an agreed plan, until such time as it is adopted by a statutory body. This will be secured through a condition. Conditions are also suggested that the development be constructed in accordance with the proposed overland flood route, and that calculations detailing the 1 in 1 in 30 and 1 in 100 + 30% rainfall events are provided to demonstrate that the site has mitigated against flood risk.

Yorkshire Water has no objection to the proposed separate systems of drainage on site and the combined off-site, the proposed amount of domestic foul water to be discharged to the public combined water sewer, the proposed amount of curtilage surface water to be discharged to the public combined sewer (at a restricted rate of 3 litres/second) and the proposal points of discharge of foul and surface water to the respective sewers.

Drainage issues can be addressed through conditions.

### **Contaminated Land:**

A phase I and phase II report by FWS Consultants Ltd have been submitted with the application. This site is recorded as potentially contaminated due to past industrial uses. The reports are dated 2005 and are too old to be accepted in their current form. Accordingly, the reports will need to be updated to reflect new standards, to be secured through condition. Subject to conditions matters of contamination can be addressed.

### **Impact on the Adjacent Railway Infrastructure:**

There is an active rail line in a cutting to the east of the site. Access to a footbridge (Yews Green Bridge) linking Row Street to Moorbottom Road in Thornton Lodge is located within the application site. Network Rail has no objection in principle to the development, which retains within the layout access to the existing footbridge. In the interests of the safety, operational needs and integrity of the railway however, a number of conditions are suggested. These include that all drainage must be directed away from Network Rail property, that all operations are carried out in a safe manner with a method statement to be submitted for approval, that a trespass proof fence is erected adjacent to Network Rail property, and that appropriate soundproofing is carried out. Approval is also required of details of any external lighting and landscaping. Subject to conditions, these matters are addressed.

It is noted drainage details have already been submitted and there is not need to repeat a condition.

### **Viability / Section 106 Contributions:**

UDP Policies H10 and H12 set out the requirements for the provision of affordable housing. For sites of 5 dwellings or more an affordable housing contribution should be sought. As this is a brownfield site, the contribution would be 15% of the total floor space of the development, which in this case equates to 3 dwellings.

The development is also required to provide public open space at a rate of 30 sq. metres per dwelling in accordance with Policy H18 of the UDP. Taking into account the proximity of the nearby recreation ground, it is considered that an off-site contribution would be appropriate in this case, which is estimated at a figure of £50,600.

The applicant has submitted a viability appraisal in support of the application which contends that the development cannot sustain Section 106 contributions.

The appraisal has been independently assessed on behalf of the Council. The conclusion of the assessment is that the development can provide two affordable units together with a residual contribution of £5,638 towards public open space/ other S106 contributions.

Through negotiation, the applicant has confirmed a willingness to accept these terms and accordingly it is proposed that the application be delegated to officers to secure the provision of two on-site affordable units for rent and for the balance of £5,638 to be secured towards the improvement of off-site Public Open Space (POS), with no contribution towards provide Metro cards. The POS contribution would be for May Street Recreation Ground located west of the application site.

### **Representations:**

Two representations have been received. In so far as they have not been addressed above:

Concern the development will impact on neighbouring properties off Row Street who own the road to the rear. Query what is happening to this road, how long construction will take as it will cause disruption from noise for a worker on permanent nights

**Response:** The road to the rear of the properties will be retained. To minimise noise disturbance a footnote will be included about construction operating times. It is appreciated there may be some disruption for a resident who works permanent nights, however this is unavoidable during the period of construction.

## **Conclusion:**

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**

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

- 1. ENTER INTO A SECTION 106 AGREEMENT TO SECURE ON SITE AFFORDABLE HOUSING AND A FINANCIAL CONTRIBUTION TOWARDS THE IMPROVEMENT OF OFF-SITE PUBLIC OPEN SPACE**
- 2. IMPOSE ALL NECESSARY AND APPROPRIATE CONDITIONS WHICH MAY INCLUDE THOSE SET OUT BELOW; AND**
- 3. SUBJECT TO THERE BEING NO SUBSTANTIVE CHANGES THAT WOULD ALTER THIS RECOMMENDATION, TO ISSUE THE DECISION NOTICE.**

### **Conditions:**

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 schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
3. Samples of all facing and roofing materials shall be submitted to and approved in writing by the Local Planning Authority before works to erect the superstructure of any dwelling commence. Thereafter the development shall be constructed of the approved materials.
4. Details of the siting, design and materials to be used in the construction of walls or fences for boundaries, screens or retaining walls for the dwellings shall be submitted to and approved in writing by the Local Planning Authority before works to construct the superstructure of any dwelling commence. The approved walls/fences shall then be erected before any of the dwellings hereby approved are first occupied and shall thereafter be retained.

5. Details of a trespass proof fence to be sited along the boundary adjacent to the railway, to include details of provision for future maintenance and renewal, shall be submitted to and approved in writing by the Local Planning Authority before works to construct the superstructure of any dwelling commence. The approved fence shall then be erected before first occupation of any of the dwellings and be retained.

6. Development shall not commence until a scheme detailing the layout, construction and specification of the highway works at the site access junction with Row Street (with reference to drawing no. 2320-002 Rev D) and all associated highway works together with the appropriate Road Safety Audit, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until all the works under the approved scheme have been carried out and completed in accordance with the approved scheme and retained thereafter.

7. 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.

8. 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 retained thereafter.

9. 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 drawing number 2320-002 Rev D) 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.

10. 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.

11. Where further investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition 10 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.



12. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 11 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.

13. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 12. 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.

14. 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.

15. The development shall be constructed in accordance with Overland Flood Route Location Plan Ref C614-101-P03 to include flood routing from blockages and exceedance events in the road network, finished floor levels set at 150mm above driveway levels adjacent to the property, and no driveways sloping towards property.

16. Development shall not commence until calculations are provided to support a drainage scheme detailing surface water drainage, (including the 1 in 1, 1 in 30, and 1 in 100 year + rainfall events, demonstrating that the site has mitigated flood risk) have been submitted to and approved in writing by the Local Planning Authority. None of the dwellings shall be first occupied until such approved drainage scheme has been provided on the site to serve the development or each agreed phasing of the development to which the dwellings relate and thereafter retained.

17. Details of how the drainage system will be maintained and renewed until such time as it is adopted by a statutory body shall be submitted to and approved in writing by the Local Planning Authority before works to construct the superstructure of any dwelling commences. Thereafter the development shall be undertaken in accordance with the approved details and be maintained.

18. A Biodiversity Mitigation and Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority before development is commenced. The development shall thereafter be carried out in accordance with the details approved.

19. A scheme detailing any external lighting shall be submitted to and approved in writing by the Local Planning Authority before works to construct the superstructure of any dwelling commences. Thereafter the external lighting shall be installed in accordance with the approved details and be retained.

20. Details of storage and access for collection of wastes shall be submitted to and approved in writing by the Local Planning Authority before works to construct the superstructure of any dwelling commences. Thereafter the works comprising the approved details shall be provided before first occupation of any dwelling and be retained free of obstructions.

21. Development shall not commence until a scheme detailing landscaping, tree/shrub planting, including the indication of all existing trees and hedgerows on and adjoining the site, details of any to be retained, together with measures for their protection in the course of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail the phasing of the landscaping and planting. Thereafter the works comprising the approved scheme shall be implemented in accordance with the approved phasing.

22. A comprehensive schedule of maintenance of the informal open space and all landscaping works, pursuant to the details indicated on plan ref 2320-002 Rev D shall be submitted to and approved in writing by the Local Planning Authority before the superstructure of any dwelling is first commenced. The scheme shall include the method of site improvement,

- Where relevant removal of weed species,
- ground preparation and details of new tree and shrub planting, seeding and maintenance, and
- timescales and arrangements for its implementation.

The development shall thereafter be carried out in complete accordance with the approved schedule and timescales. 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.

23. Notwithstanding the provisions of section 55 (2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Act or Order with or without modification) no development included within Classes B or C of Part 1 of Schedule 2 to that Order shall be carried out.

**NOTE: Advice from Network Rail**

Drainage

All surface and foul water arising from the proposed works must be collected and diverted away from Network Rail property. In the absence of detailed plans all soakaways must be located so as to discharge away from the railway infrastructure. The following points need to be addressed:

1. There should be no increase to average or peak flows of surface water run off leading towards Network Rail assets, including earthworks, bridges and culverts.
2. All surface water run-off and sewage effluent should be handled in accordance with Local Council and Water Company regulations.
3. Attenuation should be included as necessary to protect the existing surface water drainage systems from any increase in average or peak loadings due to normal and extreme rainfall events.
4. Attenuation ponds, next to the railway, should be designed by a competent specialist engineer and should include adequate storm capacity and overflow arrangements such that there is no risk of flooding of the adjacent railway line during either normal or exceptional rainfall events.

It is expected that the preparation and implementation of a surface water drainage strategy addressing the above points will be conditioned as part of any approval.

Fail Safe Use of Crane and Plant

All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.

Excavations/Earthworks

All excavations/ earthworks carried out in the vicinity of Network Rail property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried

out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Project Manager should be undertaken. Network Rail will not accept any liability for any settlement, disturbance or damage caused to any development by failure of the railway infrastructure nor for any noise or vibration arising from the normal use and/or maintenance of the operational railway. No right of support is given or can be claimed from Network Rail's infrastructure or railway land.

#### Security of Mutual Boundary

Security of the railway boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Project Manager.

#### Fencing

Although the existing NR fence is adequate in preventing trespass there will inevitably be pressure from the new residents to soften or even attempt to alter its appearance. It should be noted that our fence should not be altered or moved in any way and nothing should be put in place to prevent us from maintaining our boundary fence as we are obliged to do so in law. It is our experience that most developments seek to provide their own boundary enclosure so as to avoid such future problems. It would also help to reduce the impact of railway noise. We would advise that the developer should provide a trespass proof fence adjacent to Network Rail's boundary (minimum 1.8m high) and make provision for its future maintenance and renewal. Network Rail's existing fencing / wall must not be removed or damaged.

#### Method Statements/Fail Safe/Possessions

Method statements may require to be submitted to Network Rail's Asset Protection Project Manager at the below address for approval prior to works commencing on site. This should include an outline of the proposed method of construction, risk assessment in relation to the railway and construction traffic management plan. Where appropriate an asset protection agreement will have to be entered into. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. "possession" which must be booked via Network Rail's Asset Protection Project Manager and are subject to a minimum prior notice period for booking of 20 weeks. Generally if excavations/piling/buildings are to be located within 10m of the railway boundary a method statement should be submitted for NR approval.

#### OPE

Once planning permission has been granted and at least six weeks prior to works commencing on site the Asset Protection Project Manager (OPE) MUST be contacted, contact details as below. The OPE will require to see any method statements/drawings relating to any excavation, drainage, demolition, lighting and building work or any works to be carried out on site that may affect the safety, operation, integrity and access to the railway.

### Vibro-impact Machinery

Where vibro-compaction machinery is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement

### Scaffolding

Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed.

### Two Metre Boundary

Consideration should be given to ensure that the construction and subsequent maintenance can be carried out to any proposed buildings or structures without adversely affecting the safety of, or encroaching upon Network Rail's adjacent land, and therefore all/any building should be situated at least 2 metres from Network Rail's boundary. This will allow construction and future maintenance to be carried out from the applicant's land, thus reducing the probability of provision and costs of railway look-out protection, supervision and other facilities necessary when working from or on railway land. Particularly plot 2 on the plans provided looks to be proposed within this distance from the railway boundary.

### Encroachment

The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail and its infrastructure or undermine or damage or adversely affect any railway land and structures. There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail air-space and no encroachment of foundations onto Network Rail land and soil. There must be no physical encroachment of any foundations onto Network Rail land. Any future maintenance must be conducted solely within the applicant's land ownership. Should the applicant require access to Network Rail land then must seek approval from the Network Rail Asset Protection Team. Any unauthorised access to Network Rail land or air-space is an act of trespass and we would remind the council that this is a criminal offence (s55 British Transport Commission Act 1949). Should the applicant be granted access to Network Rail land then they will be liable for all costs incurred in facilitating the proposal.

### Noise/Soundproofing

The Developer should be aware that any development for residential use adjacent to an operational railway may result in neighbour issues arising. Consequently every endeavour should be made by the developer to provide adequate soundproofing for each dwelling. Please note that in a

worst case scenario there could be trains running 24 hours a day and the soundproofing should take this into account.

#### Trees/Shrubs/Landscaping

Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. We would wish to be involved in the approval of any landscaping scheme adjacent to the railway. Where landscaping is proposed as part of an application adjacent to the railway it will be necessary for details of the landscaping to be known and approved to ensure it does not impact upon the railway infrastructure. Any hedge planted adjacent to Network Rail's boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing. Lists of trees that are permitted and those that are not permitted are provided below and these should be added to any tree planting conditions:

#### Acceptable:

Birch (*Betula*), Crab Apple (*Malus Sylvestris*), Field Maple (*Acer Campestre*), Bird Cherry (*Prunus Padus*), Wild Pear (*Pyrs Communis*), Fir Trees – Pines (*Pinus*), Hawthorne (*Cretaegus*), Mountain Ash – Whitebeams (*Sorbus*), False Acacia (*Robinia*), Willow Shrubs (*Shrubby Salix*), Thuja Plicatata "Zebrina"

#### Not Acceptable:

Acer (*Acer pseudoplatanus*), Aspen – Poplar (*Populus*), Small-leaved Lime (*Tilia Cordata*), Sycamore – Norway Maple (*Acer*), Horse Chestnut (*Aesculus Hippocastanum*), Sweet Chestnut (*Castanea Sativa*), Ash (*Fraxinus excelsior*), Black poplar (*Populus nigra var, betulifolia*), Lombardy Poplar (*Populus nigra var, italica*), Large-leaved lime (*Tilia platyphyllos*), Common lime (*Tilia x europea*)

A comprehensive list of permitted tree species is available upon request.

#### Lighting

Where new lighting is to be erected adjacent to the operational railway the potential for train drivers to be dazzled must be eliminated. In addition the location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. Detail of any external lighting should be provided as a condition if not already indicated on the application.

#### Access to Railway

All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development. Access over the adjacent footbridge should remain unobstructed at all times both during and after construction.

Network Rail is required to recover all reasonable costs associated with facilitating these works.

**NOTE:** The Biodiversity Mitigation and Enhancement Plan, pursuant to condition 18, shall include a landscape enhancement plan identifying habitats to be retained and additional planting to develop habitat networks through the planting of native trees, shrubs and wildflowers, details of how it will not impact upon the railway infrastructure, details of how guidance on vegetation clearance and building demolition, the erection of an appropriate number of bat and bird boxes, installed integral to new dwellings and on trees within the site and details of any artificial lighting. Fencing should be designed not to impede or obstruct the free movement of hedgehogs within the beyond the site.

**NOTE :** It is brought to the Applicants' notice that the Highway Development Manager, Highway Service, Flint Street, Fartown, Huddersfield HD1 6LG must be contacted to discuss road adoption arrangements under Section 38 of the Highways Act 1980.

**NOTE:** The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer (Kirklees Street Scene: 01484 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.

**NOTE:** 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 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.

This recommendation is based on the following plans and specifications schedule:-

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Design & Access Statement	n/a		28.07.15
Location Plan	1598-001		28.07.15
Block Plan	2320-002	D	10.03.16
Swept path Analysis	103 Rev P03		10.11.15
Proposed Plans and Elevations Type 01	2320-003		28.07.15
Proposed Plans and Elevations	2320-004		28.07.15
Proposed Plans and Elevations Type 02	2320-005		28.07.15
Proposed Plans and Elevations Type 02 A	2320-006		28.07.15
Proposed Plans and Elevations Type 03	2320-007		28.07.15
Proposed Plans and Elevations Type 03-A	2320-008		28.07.15
Ecological Appraisal		B	20.01.16
Phase I Habitat Survey Plan	RCM 01	A	20.01.16
Bat Survey			17.12.15
Overland Flood Route Location Plan	101	P03	10.11.15
External Works Drainage General Arrangement Plan	100	P03	10.11.15
Proposed SUDS Strategic GA Plan	102	P03	10.11.15
Phase 1 Contaminated Land Report	905A/March 2005		28.07.15
Phase II Contaminated Land Report	1004/July 2005		28..07.15



**Application No: 2015/92802**

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

**Proposal: Modified proposals for erection of extensions and boundary treatment**

**Location: 9, Prince Wood Lane, Birkby, Huddersfield, HD2 2DG**

**Grid Ref: 412396.0 418654.0**

**Ward: Lindley Ward**

**Applicant: Mr L Johal**

**Agent: Michael Chow, Jade3 Architecture**

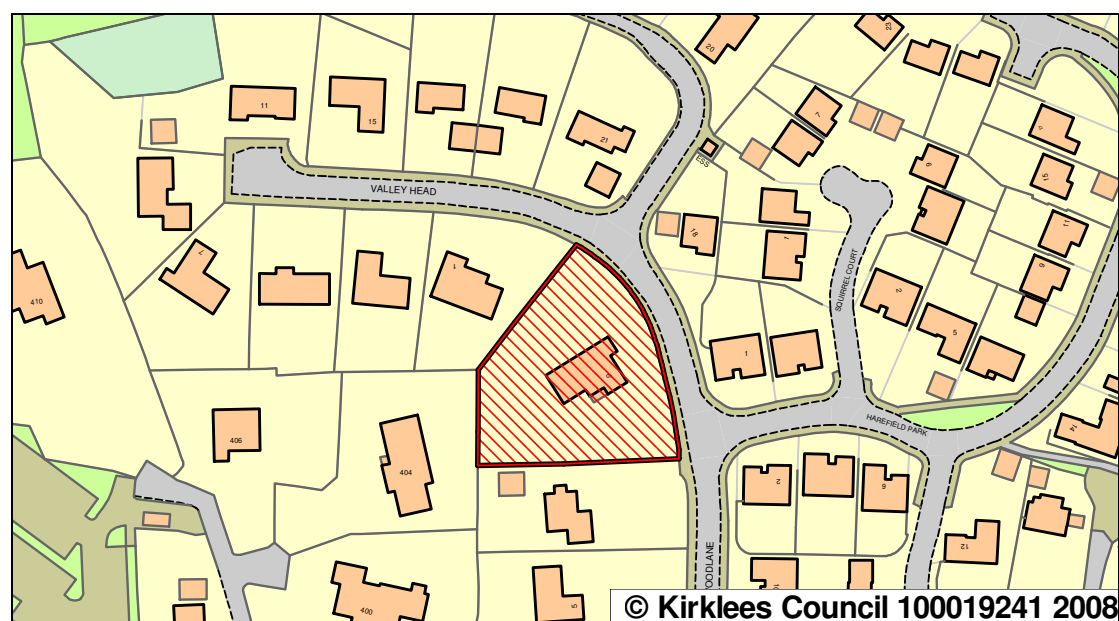
**Target Date: 29-Oct-2015**

**Recommendation: FC - CONDITIONAL FULL PERMISSION**

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

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

## LOCATION PLAN



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

## **1. SUMMARY OF APPLICATION**

### **CONDITIONAL FULL PERMISSION**

Following the submission of amended plans, the boundary treatment is considered to be acceptable and would be in keeping with the character of the street scene. This is compliant with Policies D2, BE1 and BE2 of the Unitary Development Plan and policies within the National Planning Policy Framework.

## **2. INFORMATION**

The application was originally brought before the Huddersfield Area Planning Sub-Committee due to the significant level of representation. This is in accordance with the council's scheme of delegation.

The application was presented to the sub-committee on 18<sup>th</sup> February where members deferred consideration of the application to undertake a site visit.

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

9 Prince Wood Lane, Birkby is a detached property sited within a large garden. Access is taken from a central point along Prince Wood Lane via a driveway leading to a turning area and integral double garage. The site slopes gently upwards from Prince Wood Lane to the western boundary. The orientation of the property presents its eastern side elevation to the roadside. The original dwelling was constructed from random stone with a tiled roof. Construction works are currently being undertaken to extend and modify the property pursuant to planning permission no 2014/93935.

The existing boundary treatment with Prince Wood Lane consists of a low stone retaining wall, around 0.9m in height with fencing and hedges to the other boundaries. This form of boundary treatment is consistent with other properties along Prince Wood lane.

The surrounding area is wholly residential being made of detached dwellings in spacious plots.

### **Description of Proposal**

The planning application has been submitted as seeking modifications to a previously approved scheme. The previous permission granted alterations and extensions to all elevations of the original property. This development has been implemented and construction works are continuing on site.

The 'modification' to that previous scheme is the proposed alteration to both boundary treatment and the point of access to Prince Wood Lane. The proposal seeks to relocate the vehicular access to a more southern point along the site frontage. The application also seeks a gate and railings along the existing wall (1.3 metres in height) supported by 4 no. stone piers (1.5

metres in height). The new access point would have an electronically operated gate of 1.3 metres in height. It is also indicated that the piers to each side of the access would have feature lighting discreetly located at the rear of the piers with the lighting feature internal to the application site.

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

2014/93935 – erection of extensions, approved and implemented.

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

The site is Unallocated Land on the Unitary Development Plan Proposals Map.

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

- **D2** – Unallocated land
- **BE1** – Design principles
- **BE2** – Quality of design
- **T10** – Highway Safety.

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

- Chapter 7 – Requiring good design

#### **6. CONSULTATIONS**

**K.C. Conservation and Design (Urban Design)** – no objection

**K.C. Highways Development Management** – no objections subject to conditions

#### **7. REPRESENTATIONS**

The application was advertised by site notice and neighbour notification letter. The amended plans were also advertised by site notice and neighbour notification letter with the period of publicity expiring 8<sup>th</sup> February 2016. As a result 24 representations were received from 11 properties; 23 objecting to the development and one in support. The representations received are summarised below:

##### **Visual Impact:**

- The modified proposals to the existing boundary wall are not in keeping with others in Prince Wood Lane, Valley Head and Harefield Park and will detract significantly from the visual amenity of the area, which is open plan.
- All the other houses in the area have open plan frontage, low walls at the front or hedges, this development would not be in keeping with this.

- The illumination of the pillars would worsen the visual image at night and would make a negative statement for energy conservation.
- The design of the boundary treatment would make the site look like an intimidating compound.
- The lights on each stone pillar are also a source of light pollution and are not appropriate on a suburban lane.
- The large and robust gates and ornamental eagles are simply not appropriate an out of place. (ornamental eagles have now been deleted)
- Hard landscaping replacing planting would be detrimental to the environment.
- The combination of the proposed boundary treatment together with the previously approved extensions does not fit in with any other property in this area and adversely affects the street scene.

### **Road Safety Issues:**

- the relocated entrance would severely disadvantage other road users and residents by creating a crossroads effect with the Harefield Park junction and increase a road safety hazard.
- This part of the road is not lightly trafficked . Given the increase in size of the property there will be an increase in the level of traffic and parking particularly on the bend.
- The addition of gates would significantly increase the hazard caused by vehicles waiting on Prince Wood Lane for the gates to open in order to enter the property. This would be contrary to UDP Policies D2 and T10.
- Placing fencing will make viewing the blind corner from Valley Head very difficult and hazardous. The railings viewed in a certain way are not "see through" but appear solid when aligned. Therefore there would be a detrimental effect on visibility.
- Multiple back lights on the pillars will be distracting for residents driving to their homes.
- Stationary traffic waiting to enter electric gates at a junction and blind corner with railings that block vision when aligned as they look solid is dangerous

### **Other Issues**

- Erection of several balconies will invade the privacy of neighbouring occupants.
- Creation of the pond will lead to drainage issues/ overflows which could impact neighbouring occupants
- Covenants on the deeds state "nor shall anything be done thereon which may be or grow to be a nuisance annoyance damage disturbance or danger to the neighbourhood".
- Trees have been felled as a result of development will these be replanted.
- Approval will set a precedent and allow the eventual transformation of the road into one of high security gated homes rather than the open, neighbourly place it now is.

## **In Support**

- The re-alignment of the driveway entrance would be beneficial to highway safety
- The boundary treatment would secure the site and reduce the potential for burglaries
- The amended plans are more aesthetically pleasing and would not look out of keeping.

## **8. ASSESSMENT**

### **Principle of development:**

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.

The general principle of making alterations to a property is assessed against Policies BE1, BE2, of the Unitary Development Plan and advice within Chapter 7 of the National Planning Policy Framework regarding design. Highway safety issues will be considered against Policy T10 of the UDP. All these require, in general, balanced considerations of visual and residential amenity, highway safety and other relevant material considerations.

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

9 Prince Wood Lane is sited in a prominent location within the street scene. The dwelling, as now extended, is comfortably accommodated in the spacious plot and is in keeping with the character of the wider area. A distinctive characteristic of the area is the ‘open plan’ appearance of the road frontage. The most prevalent form of boundary treatment at the back edge of the footway is low stone retaining walls. These provide open vistas to the dwellings and the soft landscaping which surround the properties. These form an important unifying theme to the street scene.

The original plans incorporated higher railings, multiple stone piers, decorative features on top of some piers with significant lighting. It was considered that the development would appear incongruous and unduly prominent with the street scene. Negotiations have taken place with the Agent to reduce the height and simplify the design of the scheme. The amended scheme forms the basis of this assessment. These plans have reduced the height of the railings to 1.3 metres with the total height of the piers being 1.5 metres, the globe lights and decorative eagles have been removed and replaced with feature lighting to each gate pier and the design of the railings and gate simplified.

It is considered that the proposal as amended has overcome the visual harm of the original scheme. The reduced height and simplified design would no longer be obtrusive and would retain the open vista of the estate without causing undue harm to the character and appearance of the street scene.

For the reasons set out above the proposed development complies with Unitary Development Plan Policies D2, BE1 and BE2 and policies in the National Planning Policy Framework. In combination and amongst other matters, these policies seek to secure development which is appropriate in townscape terms; the first requiring development to be of good quality design such that it contributes to a built environment which 'creates or retains a sense of local identity' and is 'visually attractive'.

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

With regard to residential amenity, the impact of the extensions was assessed within the previously approved scheme. With specific regard to the boundary treatment, it is not considered that the boundary railings, gate piers or lighting would have a detrimental impact on residential amenity, in accordance with Policy D2 of the Unitary Development Plan.

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

With regard to highway safety, Highways Development Management were formally consulted as part of the application process and have commented that Prince Wood Lane is part of the adopted highway with a traditional estate road layout consisting of footways and street lighting and given the residential nature of the road, driven speeds are relatively low. It was considered that being a non through route and lightly trafficked, the proposed boundary wall treatment would not have a significant detrimental impact on highway safety and the internal arrangements are also considered adequate to serve the development. A condition relating to the surfacing of the hardstanding areas is requested to be included on the decision notice.

#### **Other matters:**

The original application took into account the location of the site within the 'Bat Alert' layer. As such, consultation was carried out with the Council's Biodiversity Officer. The site was reviewed and it was confirmed that the building appears to be well-sealed and was unlikely to support bats. The cautionary footnote attached to the previous permission would not be necessary on the current application.

#### **Representations:**

24 letters of representation were received. Insofar as the matters contained within the representations have not already been addressed in the report they are responded to below:

- Erection of several balconies will invade the privacy of neighbouring occupants.

Response: The impact on residential amenity was assessed within the previously approved scheme.

- Creation of the pond will lead to drainage issues/ overflows which could impact neighbouring occupants

Response: This was considered within the previously approved scheme

- Covenants on the deeds state “nor shall anything be done thereon which may be or grow to be a nuisance annoyance damage disturbance or danger to the neighbourhood”.

Response: The covenants on the deeds are not a matter the Local Planning Authority can be involved in

- Trees have been felled as a result of development will these be replanted.

Response: The trees are not covered by a Tree Preservation Order and therefore can be removed without consent

- Approval will set a precedent and allow the eventual transformation of the road into one of high security gated homes rather than the open, neighbourly place it now is.

Response: Each planning application is assessed upon its own merits. Amendments were sought to the originally submitted scheme to overcome concerns related to the visual impact of the development.

#### **In Support:**

- The re-alignment of the driveway entrance would be beneficial to highway safety

Response: Noted

- The boundary treatment would secure the site and reduce the potential for burglaries

Response: Noted

- The amended plans are more aesthetically pleasing and would not look out of keeping.

Response: Noted

#### **Conclusion:**

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 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 hardstanding 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 13<sup>th</sup> May 2009 as amended or any successor guidance; 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 shall be so retained.
4. Notwithstanding the submitted plans, the gate piers to all sides shall be externally faced in natural stone to harmonise with the existing boundary wall.
5. The railings and gates shall have a factory applied painted/powder coated black finish and retained as such thereafter.



This recommendation is based on the following plans and specifications schedule:

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Existing location plan	Dwg. No. 104		29 <sup>th</sup> October 2015
Existing site plan	Dwg. No. 105		29 <sup>th</sup> October 2015
Existing boundary wall treatment	Dwg. No. 252		29 <sup>th</sup> October 2015
Existing site plan	Dwg. No. 250		29 <sup>th</sup> October 2015
Existing floor plans	Dwg. No. 107		29 <sup>th</sup> October 2015
Existing and proposed front elevation	Dwg. No. 136 – Rev: A		29 <sup>th</sup> October 2015
Existing and proposed side elevation	Dwg. No. 137 – Rev: A		29 <sup>th</sup> October 2015
Existing and proposed side elevation 1	Dwg. No. 138 – Rev: A		29 <sup>th</sup> October 2015
Existing and proposed rear elevation	Dwg. No. 139 – Rev: A		29 <sup>th</sup> October 2015
Proposed ground floor plan	Dwg. No 130 – Rev: A		29 <sup>th</sup> October 2015
Proposed first floor plan	Dwg. No. 131 – Rev: A		29 <sup>th</sup> October 2015
Existing and proposed boundary wall	Dwg. No. 257 – Rev: D		13 <sup>th</sup> January 2016
Proposed site plan	Dwg. No. 251 – Rev: C		13 <sup>th</sup> January 2016
Proposed boundary wall elevations	Dwg. No. 255 – Rev: D		13 <sup>th</sup> January 2016

**Application No: 2016/90383**

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

**Proposal: Outline application for erection of 18 dwellings (amended access)**

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

**Grid Ref: 409555.0 416286.0**

**Ward: Golcar Ward**

**Applicant: S Wilkinson**

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

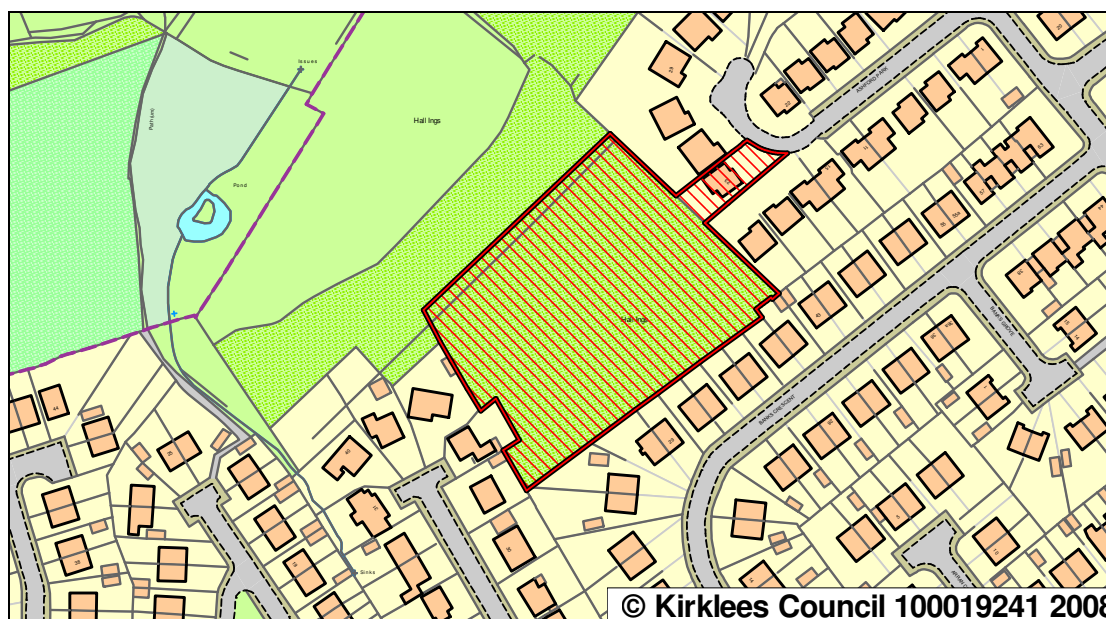
**Target Date: 06-May-2016**

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

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

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

## LOCATION PLAN



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

## 1. SUMMARY OF APPLICATION

Scale of Development	0.54 ha	
No. Jobs Created or Retained	N/A	
<b>Policy</b>		
UDP allocation	D2 Unallocated	
Independent Viability Required	N/A	
<b>Representation/Consultation</b>		
Individual Support (No.)	11	
Individual objections	7	
Petition	No	
Ward Member Interest	Cllr Richards	
Statutory Consultee Objections	None	
<b>Contributions</b>		
• <i>Affordable Housing</i>	To be secured by condition	
• <i>Education</i>	N/A	
• <i>Public Open Space</i>	To be secured by condition	
• <i>Other</i>	N/A	
<b>Other Issues</b>		
Any Council Interest?	N/A	
Planning Pre-application advice?	None	
Pre-App Consultation Undertaken?	No	
<b>Comment on Application</b>	<p>The proposal is for a residential development on unallocated land on the UDP as such there is no objection in principle. The Council is currently unable to demonstrate a 5 year supply of deliverable housing land and this development would assist in addressing that shortfall.</p> <p>The site is considered to be in a sustainable location, access and layout issues are acceptable. Matters of bio diversity and drainage can be satisfactorily dealt with via condition.</p>	

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

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

## **2. INFORMATION**

This application is brought to Committee in accordance with the Council's agreed scheme of delegation as the site is in excess of 0.5ha.

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

### **Site**

The application site comprises an area of approx. 0.70 ha and is a green field site, except for the built form of No 23 Ashford Park, with substantial tree coverage to the northern edge of the site. The site slopes down from NW to SE and is part of a larger hillside. It is principally rough scrubland. There are dwellings to 3 sides of the site. These are Ashford Park to the east, Banks Crescent to the south and Banks Avenue to the west.

The application site also includes No 23 Ashford Park which is proposed to be demolished to facilitate access to the site.

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

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

### **Proposal**

Outline planning permission is sought for residential development with access and layout to be considered. For clarification the application seeks permission for 18 houses although the description of development publicised stated this was for 17 dwellings.

Access is proposed off Ashford Park and involves the demolition of No 23. The submitted layout comprises 18 no dwellings; 14 detached and 4 semi-detached, that are laid out around a cul-de-sac.

This is a resubmission on a site where a previous application for 19 dwellings was refused and a subsequent appeal dismissed. The previous application did not include the demolition of no. 23 Ashford Park.

## **4. BACKGROUND AND HISTORY**

2014/91243 Outline application for residential development and new access—refused at sub-committee for the following reason:

*“The access to the site would be detrimental to highway safety and residential amenity by reason of:*

*(i) its restricted width adjacent to no 23, Ashford Park which would result in potential conflict to highway users due to reversing and turning manoeuvres within and without the site on Ashford Park; and*

*(ii) its proximity to the front elevations of no's 17-21, Ashford Park, and the activity associated with its use, which would result in material loss of residential amenity to the occupiers of these properties.*

*To approve this application would be contrary to Policy D2 (iv) (v) of the Kirklees Unitary Development Plan”*

The applicant appealed against the Council's decision, the appeal was subsequently dismissed. Whilst the Inspector considered the proposed access arrangements would not have a detrimental effect on highway safety on Ashford Park he concurred with the Council that the access would have a harmful effect on the living conditions of the occupiers of 17, 19 and 21 Ashford Park. This was with particular regard to noise and disturbance.

## **5. PLANNING POLICY**

### **Kirklees Unitary Development Plan**

D2 – Unallocated land  
BE1 – Design principles  
BE2 – Quality of design  
BE12 – Space about buildings  
G6 – Land contamination  
T10 – Highway safety  
T19 – Parking standards  
NE9 – Retention of mature trees  
H10 – Affordable housing  
H18 – Provision of open space  
EP11 – Ecological landscaping

### **National Planning Policy Framework**

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

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

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

## **6. CONSULTATIONS**

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

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

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

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

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

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

**KC Strategic Drainage (Lead Local Flood Authority)** - Normal surface water drainage will not be sufficient on this site, and soakaways are not appropriate. Any alternative, including the option of deep bored soakaways, would need to be proven to be acceptable and future maintenance delivered as part of the approval. Concerned whether such a system could be delivered and adequately maintained.

**Yorkshire Water** - No objections, recommend conditions in the event of an approval. Confirm that the submission drainage solutions is dealt with via a hierarchical process, i.e. preferred systems of sustainable drainage may not be suitable in some cases, in which case alternative schemes are produced down the hierarchy. The framing of their recommended conditions is in the Grampian form, i.e. the requirement that any details are agreed prior to any development taking place, and have indicated that they would accept surface water discharge into their system if necessary.

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

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

**Police Architectural Liaison Officer** - No adverse comments on this proposal. Would require to be consulted on the reserved matters application,

and recommend robust boundary fencing for reasons of security, between dwellings.

## **7. REPRESENTATIONS**

This application has been advertised by press notice, site notices and neighbour letters. To date 18 representations have been received. Of these 7 object to the scheme. Objections thus far are summarised as:

- Loss of outlook for surrounding residents
- Drainage problems which would need to be suitably secured and made up to adoption standards
- Impact on ecology of site
- The proposed access is narrow and could be a danger to pedestrians
- New access road would impede visibility for existing residents of 17, 19 and 21 Ashford Park.
- No details of height of new access or boundary treatment adjacent new access. If not suitable could adversely affect the privacy of adjacent residents at 17, 19, 21 and 25 Ashford Park.
- Noise and traffic pollution as a result of the development and construction
- Where would children play
- Access and additional traffic will be a danger to children on the estate
- Loss of privacy to surrounding residents
- The new access road, verge and fences would need a maintenance agreement
- Car parking on Ashford park is already over subscribed
- Houses should be stone not brick
- Concerns about structural stability to nearby houses as a result of proposed access
- Should be comprehensive construction management plan (representations suggest what this should contain)
- The access and roads within the new development should have speed humps
- Should remove permitted development rights for extensions and conversion of garages to habitable accommodation.

Objections which cannot be taken into account as material considerations:

- Adding clauses to the deeds of new properties similar to those existing on the current estate
- Imposing a series of fines on the developers and future residents eg for parking on private drives
- Loss of view
- Loss of value of property
- Doctors and schools are over subscribed
- The development would contravene the deeds of the existing estate
- Need new grit boxes

In addition 7 letters of support have been received the main points in favour being:

- The development would help meet current demand for housing
- The development is in accordance with the NPPF as well as providing a range of housing to meet peoples' needs
- Would make provision for travel by sustainable means
- Schools and businesses would benefit from new residents
- Sustainable location for new housing
- Jobs during period of construction will help economy
- The development would provide an element of affordable housing.

Cllr Hilary Richards:

*'It is with a heavy heart that this I read this planning application. It solves the problem of admission to the site by knocking down a perfectly good home.*

*That said, I recognise the only reason the planning inspector had for rejecting the previous application was the proposed access to the site. I have to accept the developer is now providing a solution to this issue that is further from the houses that will be passed when accessing the site. As long as this new way of accessing the site is accepted it means there is no barrier left to the development of this site for housing.*

*I would hope however that the stringent drainage pre-conditions placed on this site will be enforced and ensure this results in Yorkshire Water allowing the work to be joined to their pipes. This will result in Yorkshire Water becoming responsible for taking water away from the site once the drains are adopted by this company.*

*Finally I would ask that permitted development rights are removed from the houses on the bottom side of this site that overlook existing properties so as to ensure some ongoing privacy, especially as most of the overlooked homes are bungalows'.*

## **8. ASSESSMENT**

### **General Principle:**

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

- The implementation of the plan;
- The avoidance of over development;
- The conservation of energy;
- Highway safety;



- Residential amenity;
- Visual amenity;
- The character of the surroundings;
- Wildlife interests; and the efficient operation of existing and planned infrastructure.

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

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

Paragraph 49 of the NPPF indicates that housing applications should be considered in the context of the presumption in favour of sustainable development. The site is considered to be in a sustainable location in terms of access to services and facilities and to public transport.

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

Given the size of the site policies relating to Affordable Housing (H10) and Public Open Space (H18) are applicable.

Arrangements for the provision of affordable housing in accordance with policy H10 and the Council's supplementary planning document SPD2 can be secured by way of condition.

Policy H18 relates to the provision of public open space and requires a provision of 30 sq m per dwelling. KC Parks & Landscape advise that in this instance, a financial contribution to improve existing off site open space in lieu of provision on site should be sought. This can be secured by way of condition.

As the proposal is for less than 25 dwellings this falls below the threshold to consider education contributions under the Council's published guidance.

In considering the appeal against the Council's refusal of planning permission for the previous application (2014/91243) the Inspector concluded that “the appeal scheme would not be harmful to highway safety on Ashford Park and therefore partially compliant with saved policy D2 of the UDP. The appeal proposal would also make a modest contribution towards boosting the supply of housing in the area in a relatively sustainable location. However, I consider the benefits of the proposal would not significantly and demonstrably outweigh

the harm I have identified to living conditions of the occupiers of 17, 19 and 21 Ashford Park.”

### **Highways Issues:**

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

It is proposed to erect a total of 18 dwellings comprising 14 detached houses and 4 semi-detached houses and a replacement garage within the site. The site is situated to the south west of Ashford Park and is currently an open field of overgrown grass and scrub. The site has no highway frontage and is effectively land locked. It is surrounded on three sides by residential development. The land to the north west of the site is owned by the applicant but does not form part of the application. This land rises steeply up towards Scapegoat Hill and is much more overgrown and with limited access.

The proposed access is from Ashford Park and would be facilitated by the demolition of the existing detached house, no 23.

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

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

#### Access

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

#### Internal Layout

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

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

### Parking

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

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

### **Impact on Amenity:**

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

### Visual Amenity

As stated above the principle of residential development is considered acceptable on this site as is the density and mix of dwellings proposed. This is an outline application with access and layout to be considered, matters of scale, landscaping and appearance will all be reserved matters to be considered under a separate application.

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

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

### Residential Amenity

In terms of the Council's space about buildings standards, the separation distances between the dwellings proposed and those existing on Banks Crescent and Banks Avenue accord with the Council's space about building standards set out in policy BE12.

There are a number of rear extensions to properties on Banks Crescent. Given the limited garden areas these are within 3-4m of the boundary with the

application site. As such, whilst the separation distances in these cases will be less than 21m, the provision of a boundary fence will act to prevent direct line of sight between dwellings.

The application site to the rear of Banks Crescent is at a slightly higher level and as such, in addition to boundary screening, it is proposed to remove permitted development rights for extensions to dwellings on Plots 13-19. This would also extend to dormer windows, but not to garden curtilage buildings such as sheds.

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

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

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

### **Bio Diversity:**

The application is accompanied by a Phase 1 Extended Habitat Survey that has been extended with further work undertaken and a plan detailing mitigation measures submitted.

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

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

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

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

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

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

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

### **Drainage:**

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

It is accepted that the neighbouring properties have experienced some surface water run off problems and that parts of the site are marshy. However this is the current situation and if the development were not to proceed the existing drainage issues would remain unresolved.

This is an outline application and the imposition of drainage conditions would be reasonable and appropriate. A drainage strategy will need to be developed for the site that should consider SUDS and soakaways options before alternative solutions. Also, given that the applicant owns a much larger area of land on the hillside adjacent, there could be an opportunity to deliver some betterment of the existing situation by imposition of condition.

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

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

### **Air quality:**

NPPF Paragraph 109 states that “the planning system should contribute to and enhance the natural and local environment by..... preventing both new and existing development from contributing to or being put at unacceptable risk from, amongst other things, air pollution. On relatively small new developments this can be achieved by promoting green sustainable transport through the installation of vehicle charging points. This can be secured by planning condition.

### **Objections:**

There are a number of common themes to the objections which are detailed and addressed below:

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

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

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

*The trees on this site and neighbouring land have been protected by a Tree Preservation Order which has now been confirmed, as such they are safeguarded which is an improvement upon the previous situation. The Habitat Management Plan for this site and the neighbouring area will be secured by condition as part of this application.*

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

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

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

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

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

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

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

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

### **Conclusion:**

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

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

As such on balance this application is recommended for approval.

### **9. RECOMMENDATION**

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

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

**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 is commenced.

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

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

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

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

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

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

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



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

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

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

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

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

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

13. Development shall not commence until a scheme detailing measures to protect the trees and/or other areas of vegetation as indicated on drawing no. LDS/002 E has been submitted to and approved in writing by the Local Planning Authority. Development shall not commence until the works comprising the approved scheme have been completed, these shall be retained and maintained throughout the construction phase.

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

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

16. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 as amended (or any Order revoking or re-enacting that Order) no development included within Schedule 2, Part 1:

- Classes A, B and C for Plots 12-18, and
- Classes A and E for Plots 1- 5

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

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

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

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

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

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

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

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

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

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

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

24. Prior to occupation of the dwellings, in all residential units that have a dedicated parking area and/or a dedicated garage, an electric vehicle recharging point shall be installed. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. In residential units that have unallocated parking spaces then before occupation of these units at least one electric vehicle recharging point per ten properties with the above specification shall be installed.

This recommendation is based on the following plans and specifications schedule:

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Drainage Statement			Jan 2016
Habitat Management Plan	BI ecology 008_14/RE02-001		21/10/2014
Transport Note	Bryan G Hall Ref 16-111-001.02		Jan 2016
Location (Title) Plan			Jan 2016
Existing site plan	LDS 1996/001		Jan 2016
Proposed site layout	LDS 1996/002		Jan 2016
Existing site entrance	LDS/1996/003		Jan 2016
Proposed site entrance	LDS/1996/004		Jan 2016

**Application No: 2015/93001**

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

**Proposal: Conversion and extensions of offices and coach house to form 2 dwellings and erection of 3 dwellings**

**Location: Woodville, Calf Hill Road, Thongsbridge, Holmfirth, HD9 3UB**

**Grid Ref: 414727.0 410007.0**

**Ward: Holme Valley South Ward**

**Applicant: Eliston Homes Ltd, c/o agent**

**Agent: Acumen Designers & Architects Ltd**

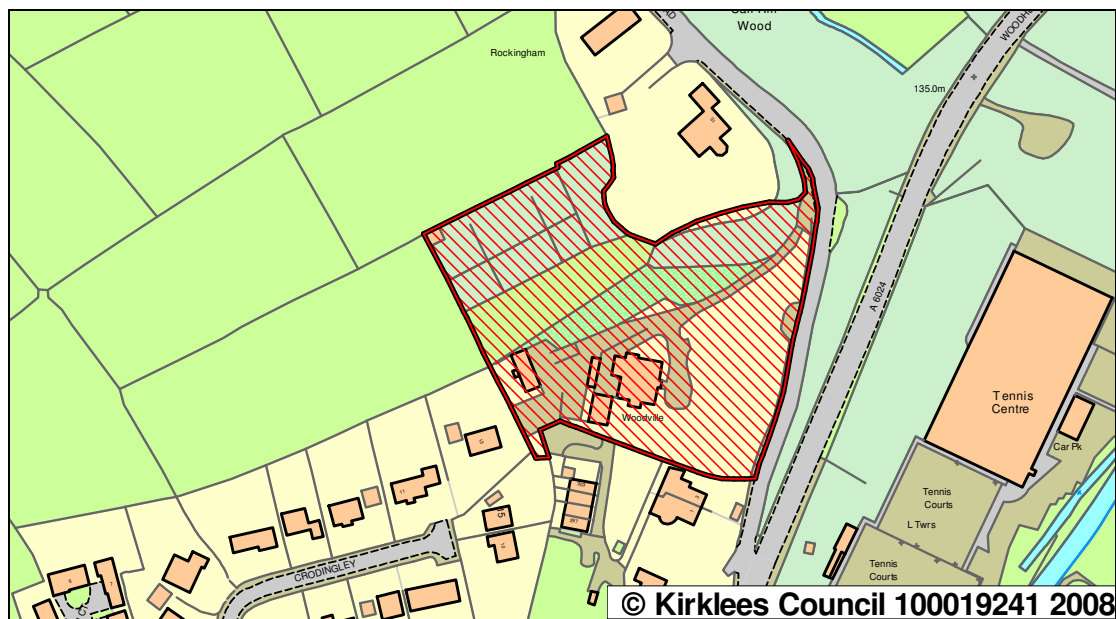
**Target Date: 10-Mar-2016**

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

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

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

## LOCATION PLAN



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

## **1. SUMMARY OF APPLICATION**

The site is without allocation on the UDP. Plans and information have been submitted to demonstrate that the proposals can be accommodated on site without adverse impact on the long term viability of protected trees. This includes access and drainage proposals. In addition all other material considerations, including the ecology/biodiversity, highways and amenity issues, have been considered. Subject to conditions and appropriate mitigation measures to enhance the biodiversity of the site, the proposals are considered acceptable.

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

**i) IMPOSE ALL NECESSARY AND APPROPRIATE CONDITIONS, WHICH  
MAY INCLUDE THOSE AT THE END OF THE REPORT, AND**

**ii) THERE BEING NO SUBSTANTIAL CHANGE THAT WOULD ALTER  
THIS RECOMMENDATION, ISSUE THE DECISION NOTICE**

## **2. INFORMATION**

This application is brought to sub-committee as it is for development on a site in excess of 0.5ha.

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

The application relates to a site of approximately 1.20ha in area. There are two buildings in the south west area of the site. The principal building 'Woodville' is a large Georgian house (last used as business premises) and a coach house which would have previously served the main house.

There are two vehicular access points to the site from Calf Hill Road along the eastern boundary of the site. Land levels vary within the site with the higher, northern part, being separated from the remainder of the site by a high retaining structure. The northern part of the site comprises mainly overgrown scrub along with mature protected 'TPO' trees along part of the northern boundary. There are also trees benefiting from a TPO within the south east corner along the road frontage, southern boundary of the site as well as internally within the site. Residential properties exist north east, south and west of the site with an area of open land to the north-west.

The application as now amended, is for the conversion and extension of offices (main house) and coach house to form two dwellings and erection of three dwellings. The coach house is proposed to have a three storey extension including garaging on the lower ground floor. The three new detached dwellings with detached garages are shown to be sited on the

northern half of the site. These, along with the coach house, are proposed to be served by a new internal access road extending from the existing northern vehicular access point from Calf Hill Road. This would involve regrading of land internally within the site and widening of part of the footway to improve visibility to the site. Woodville would be served by the existing southern access point from Calf Hill Road.

The main building (Woodville) would be altered by removing the existing conservatory and replacing with a terrace and a small orangery extension by infilling a small void on the ground floor. A detached triple garage is also proposed to serve Woodville, which is shown to be sited north east of the property.

It is intended to externally face the new dwellings, garages and extension to the coach house in natural stone and render with artificial blue roof slates.

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

None relevant

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

The site is Unallocated on the UDP Proposals Map.

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

D2 –residential & visual amenity & highway safety

B4 – Change of use of land and buildings last used for business or industry

BE1 – Design principles

BE2 – Quality of design

BE12 – Space about buildings

EP11 – Ecological landscaping

NE9 – Retention of mature trees

H8 – conversion to residential use

H10 – Affordable housing

H18 – Provision of open space

T10 – Highway safety

T19 – Parking standards

##### **National Policies and Guidance:**

Chapter 4 - Promoting sustainable transport

Chapter 6 - Delivering a wide choice of high quality homes

Chapter 7 - Requiring good design

Chapter 8 - Promoting healthy communities

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

Chapter 11 - Conserving and enhancing the natural environment.

##### **Other Policy Considerations:**

Supplementary Planning Document 2 - Affordable Housing

## **6. CONSULTATIONS**

**K C Highways Development Management** – no objections subject to conditions

**K C Environmental Services**– no objections subject to conditions

**KC Arboricultural Officer** — no objections subject to conditioning the works to be carried out in accordance with the amended Arboricultural method statement and plans which indicate the proposals to be carried out without adverse impact on the long term viability of protected trees.

**K.C. Ecology & Biodiversity Officer**– no objections on receipt of further information and subject to conditions

**KC Lead Local Flood Authority (Strategic Drainage)** — no objections subject to conditions

## **7. REPRESENTATIONS**

None received

Holme Valley Parish Council “support the application subject to Highways”

## **8. ASSESSMENT**

### **General Principle:**

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.

The site, in part represents a previously developed (brownfield) site given the existing buildings, areas of hardstanding and its most recent use has been for an established business purposes. One of the core planning principles of the NPPF is to “*encourage the effective use of land by reusing land that has been previously developed ...*” The site also has areas of undeveloped/open land therefore classed as ‘greenfield’. Whilst national planning policy encourages the use of brownfield land for development, it also makes it 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.

The Council cannot currently demonstrate a 5 year supply of deliverable housing sites. In these circumstances the NPPF states that “relevant policies for the supply of housing should not be considered up-to-date”. Paragraph 14 of the National Planning Policy Framework (NPPF) outlines a presumption in



favour of sustainable development. Paragraph 14 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”.

It is therefore considered that, unless it is judged that there are any adverse impacts of granting permission that would significantly and demonstrably outweigh the benefits, that the proposal should be approved.

The issues to be taken into account include the loss of an established employment site under Policy B4. In support of this the applicant, in his supporting information, states the proposals are reverting back to their original residential use and that the location is not in a sustainable location for employment. Further information has been received stating the established business relocated to new premises at Unit F, Bridge Mills, Huddersfield Road, Holmfirth, HD9 3TW. This retained a number of jobs. In light of this, the principle of developing this site for new dwellings and converting the existing buildings to two further residential units is considered acceptable and would accord with Policies B4 and H8 of the UDP. Furthermore this would meet the requirement of chapter 6 of the NPPF to encourage the delivery of a wider choice of high quality homes.

Other material considerations assessed below include the design of the development and its impact on amenity, highway safety, ecology and protected trees.

### **Contributions:**

#### **Affordable Housing**

On submission of the initial plans the proposals was for 4 new dwellings and conversion/extension of the existing two existing buildings. The proposals have been amended omitting plot no. 1, to avoid adverse impact on the protected trees in the south east corner of the site. The agent/ applicant has also been advised the proposals would trigger the provision for affordable housing as the threshold for affordable housing is 5 dwellings. The applicant has agreed in writing for a condition being imposed whereby affordable housing/contributions would be sought in accordance with Policy H10 of the UDP and Supplemental Planning Document 2 (SPD2).

#### **Public Open Space (POS)**

With reference to POS, and in accordance with UDP Policy H18, the site is over 0.4ha and as such would require appropriate on site public open space provision. However, given the site's constraints, levels and protected trees, officers consider an on-site POS provision would be inappropriate. In light of this an off-site contribution would be sought towards improving the existing play facilities in the vicinity. This would be for either Woodlands recreation ground at Thongsbridge, the recreation ground off Miry Lane or the recreation ground and play area adjacent Netherthong Primary School. These are

located proximate to the site and are appropriately equipped facilities to serve new and existing residents.

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

The design of a new development is a key consideration for the proposal. A detailed assessment needs to be made in respect of the design and scale of the new and extended buildings and their impact on the character of the local area and local amenity. The NPPF provides guidance in respect of design in fourth bullet point of the 12 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, which 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 proposals are for large detached dwellings with detached garages within the northern part of the site. Given their siting and design, on the higher part of the site, they would appear prominent from within the site. The extension to the coach house would also be substantial. Nonetheless, given the overall size of the site, the difference in levels within the site in comparison to the topography of the surrounding area and tree coverage, the proposed new dwellings would unlikely to be seen from public viewpoints along Calf Hill Road. The new dwellings and the extension to the coach house would be more noticeable from the cul-de-sac 'Crodingley' to the west. These properties are set at a lower level than the application site. The submitted sections demonstrate the likely impact on visual amenity on the surroundings and following a site inspection officers are satisfied the proposed siting and scale would not adversely affect the visual amenity of the surrounding area.

Turning to the potential impact on the adjoining green belt area, the protected trees along part of the north west boundary would retain a natural landscaped barrier and separation to this area. To enhance this and to provide a soft edge to the full length of this boundary adjoining the green belt, it would be reasonable to condition a requirement for a landscape scheme and withdraw permitted development rights for any structures/extensions. This would also ensure the external amenity area for each plot would be retained at an acceptable size and ensure a general transition is retained between the urban developed area and openness of the green belt.

With regards to the design, the proposed new dwellings are of substantial scale. They would, to some degree, relate to the vernacular of the existing building Woodville having steep pitched roofs, protruding gables and openings with a strong vertical emphasis. This is mirrored in the design of the detached garages which have smaller gable features to a first floor store, steeped hipped roofs and decorative vent features. Furthermore, notwithstanding the details on the application form, the applicant is agreeable to externally face the new dwellings, garages and extension to the coach house in natural stone and not render. In view of the above, the proposals would retain a sense of local identity and considered to have incorporated a sensitive approach taking into account, land levels and visual amenity of the surrounding area, in accordance with the guidance in the NPPF and UDP Policies BE1 and BE2.

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

Policy BE12 of the UDP sets out the normally recommended minimum distances between habitable and non-habitable room windows for new dwellings. New dwellings should be designed to provide privacy and open space for their occupants and physical separation from adjacent property and land. Distances less than those specified 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.

In this instance, the layout submitted would on the whole achieve the distances as set out in Policy BE12. A distance of 9m would be achieved between the northern boundary and plot no. 3, in part. Whilst, this falls short of 1.5m from the recommended distance as set out in Policy BE12, this is considered acceptable, given the adjoining land is allocated as green belt and unlikely to be developed in the near future.

Turning to the coach house extension, this would be at an oblique angle with the nearest property no. 13 Crodingley and no. 303 Calf Hill Road is set down considerably to the south. The proposed extension would have openings in the rear elevation facing no. 303 Calf Hill Road. However, given this property is set down considerably there would be no adverse impact from overbearing nor loss of privacy as there appears to be no principal habitable room opening in the elevations facing the application site.

The extensions to the coach house would include a balcony above the lower ground floor garaging. This would overlook internally within the site and the main building Woodville to the east, which also does not appear to have any principal habitable room openings. Officers are satisfied that the proposed layout would safeguard the residential amenity of future occupants as well as those that are located within close proximity to the application site in accordance with Policies D2 and BE12 of the UDP.

## **Highway Issues:**

The impact of the proposed redevelopment on highway safety has been assessed in conjunction with the Highways Officer in relation to Policies T10 and T19 of the UDP.

Highway Officers have made the following assessment:

The application seeks permission for conversion of extensions of Woodville offices and Coach House to form two dwellings and erection of three dwellings, at Woodville, located off Calf Hill Road, Thongsbridge, Holmfirth. The proposed site layout plan is indicated in drawing number 2381-29 Rev A prepared by Acumen Designers & Architects Ltd.

### **Access:**

Access to the site is proposed via two existing accesses off Calf Hill Road. Calf Hill Road is a two-way single carriageway with a footway provided at the western flank.

The northernmost access will serve the Coach House conversion and the three new dwellings, while the southernmost access will serve the Woodville conversion. Drawing 967-02 Rev G prepared by PAH Highway Consultants for the purpose of showing proposed highway improvements which include:

- Widening of the footway along the western flank at Calf Hill Road to improve visibility in both directions at the northernmost access; and
- Alteration of existing gradient to achieve the proposed ground level at the bottom of the proposed new drive serving the three new dwellings plus the Coach House conversion.

The Transport Statement prepared by PAH Highway Consultants indicates that the southernmost access which will be used by the Woodville conversion including the new garage will be hard surfaced to a standard to be agreed with the Local Planning Authority.

The applicant has undertaken a Stage 1 Road Safety Audit for the proposed realignment at the northernmost access to the site.

In addition, the applicant undertook speed surveys at Calf Hill Road to ensure adequate visibility splays are provided at the northern site access. Drawing 967-02 (superseded drawing) indicates that visibility splays of 2.4m x 23.6m and 2.4m x 24.2m to the left and right can be achieved. These visibility splays do not accord to the requirement as set out by Manual for Street for the recorded speed of 25mph and 26mph respectively.

However, Highways Development Management (HDM) considers that this is an improvement from the existing situation (2.4m x 17m and 2.4m x 12.7m respectively), which has been supporting the existing use at the site that had associated with more traffic than is associated with the proposed development, and is therefore considered acceptable.

**Layout and Parking:**

The parking provision for the proposed site is in accordance with Policy T19 and therefore is considered acceptable. Swept path analysis has been undertaken to ensure that servicing arrangements at the proposed site can be accommodated. Highway works shown on drawing 967-02 Rev G indicates that an 11.6m long refuse vehicle and a fire engine would safely serve the three dwellings off the new drive and the Coach House conversion. Servicing of the Woodville conversion will be via the southernmost access off Calf Hill Road.

**Traffic generation:**

Assessment using the industry standard TRICS database indicates that the development is forecast to generate around 4 and 4 two-way vehicle movements respectively in the AM peak and PM peak periods.

The traffic generation that would have been associated with the previous uses would have been more than the above trip generation that is likely to be generated by the proposed dwellings.

Highways DM consider that this level of traffic generation add to that the proposed improvements to the local network can be accommodated on the local highway network.

**Accessibility:**Bus

The nearest bus stops are located on the Huddersfield Road within the recommended walking distance to public transport facilities. These provide up to 4 buses per hour to the local large towns of Huddersfield and Holmfirth.

Pedestrians

The proposals include widening of the existing footway at the western flank of Calf Hill Road.

To conclude, on balance, access, layout, parking and servicing arrangements accord with current guidance and are considered acceptable to serve a development of the scale proposed. It is considered that traffic generated by the proposal can be accommodated on the highway network and that it is unlikely to have a material impact on the safety and operation of the network and accord with UDP Policies T10 and T19 of the UDP.

**Ecology and Trees:**

UDP Policy EP11 requests that applications for planning permission should incorporate landscaping which protects/enhances the ecology of the site.

Paragraph 118 of the NPPF states “when determining applications Local Planning Authorities should aim to conserve and enhance biodiversity” by applying a number of principles. These include the conservation and enhancement of biodiversity in and around developments. It is noted some of the trees and clearance to part of the site (southeast) took place prior to the application being received or the trees on site being protected by TPO.

The initial bat survey and preliminary ecological appraisal accompanying the application identified 2 roost sites in a building a freestanding wall on the site. Also, at least 5 species of bat were recorded at the site during the surveys. The habitats within the site were overall considered to be of 'moderate' ecological value. During the course of the application further ecological assessment was carried out in accordance with the advice of the Service's Ecology & Biodiversity Officer's to include the nature of the habitats on the ground, a phase 1 map habitat survey and a full evaluation of the trees on site.

Section 7 of the updated preliminary ecological appraisal sets out guidance on how suitable habitat management should be undertaken within the retained woodland area, to facilitate enhancements for biodiversity, and reinstate the ecological value of the site. More importantly Section 7 highlights mitigation and enhancement measures for bats in the existing main house, proposed dwellings and within the remaining woodland to support roosting bat species. Subject to these mitigation and enhancement measures, along with works outlined in section 10 of the bat emergence Survey by Brindle & Green, being incorporated (to be conditioned) into the proposed development this would facilitate enhancements for biodiversity and reinstate some of the ecological value of the site. This would satisfy the requirements of the NPPF and Policy EP11 of the UDP.

Impact on protected trees:

UDP Policy NE9 seeks to retain mature trees on development sites. The importance of retaining trees is also highlighted in paragraph 118 of the NPPF which states that "planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including . . . the loss of aged or veteran trees . . . unless the need for, and benefits of, the development in that location clearly outweigh the loss".

The Council's Arboricultural Officer confirmed that a Tree Protection Order (TPO) has been recently served on the site. The TPO does not prevent the development of this site but ensures the longterm viability of the remaining trees are properly considered, given the extra pressures this development will put on them, in particular the creation of a new access road, new drainage proposals within the site and for construction traffic, should planning permission be granted.

It is noted works had commenced on site to provide the new internal access road prior to the formal receipt of the application and prior to the serving of the TPO. Since the receipt of the application, works appear to have ceased on site.

Following a site inspection and in light of a tree survey, the applicant was advised to amend the plans to ensure the proposed access road was not widened further than currently on site as this is within the root protection zones of the trees. This has also resulted in alterations to the proposed drainage routing and siting of the attenuation tank in the southern part of the site. On assessment of the amended Arboricultural Method Statement ref: no.

12755/AB/TT received 18<sup>th</sup> March 2016, the Service's Arboricultural Officer confirms, the drainage routing and the provision of the new internal access road as shown on drawing nos. P1842-02 Rev C (drainage), 2381-29A (site plan) and 967/02 Rev G (highway) visibility/tracking should not have a significant adverse impact on the protected trees.

On balance, and following receipt of the amended plans/ information omitting plot no. 1 and altering drainage arrangements, the development would not affect the long term viability nor result in the unacceptable loss of the remaining protected trees. Subject to the proposals being carried out in accordance with the submitted amended Arboricultural Method Statement and amended plans, the proposals would comply with Policy NE9 of the UDP as well as national guidance in the NPPF.

### **Drainage Issues:**

The NPPF requires Local Planning Authorities to take account of climate change over the longer term, including factors such as flood risk and water supply. New development should be planned to avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure.

Given the topography/levels and underlying strata being thinly bedded siltstone and mudstone within the site, also to avoid the risk of re-emergence across the site, soakaways has been discounted. The alternative drainage proposals as shown on drawing no. P1842-02, which discharges to the combined sewer at a restricted rate with attenuation measures to be incorporated have been accepted by Yorkshire Water who raise no objection in principle to:

- 1) The proposed separate systems of drainage on site with combined off-site
- 2) The anticipated amount of domestic foul water to be discharged to the public combined water sewer
- 3) The proposed amount of curtilage surface water to be discharged to the public combined sewer (at a restricted rate of 14 (fourteen) litres/second)
- 4) The proposed point(s) of discharge of foul and surface water to the respective public sewer submitted on drawing P1842-02 Rev C received 16<sup>th</sup> March 2016 that has been prepared by Avie.

In view of the above consultation responses, the proposals can be conditioned to be carried out and completed in accordance with these submitted drainage proposals, prior to occupation of any of the dwellings.

Subject to the imposition of appropriate drainage conditions, it is considered the site can be adequately accommodated in accordance with advice in the NPPF.

**Air quality:**

NPPF Paragraph 109 states that “the planning system should contribute to and enhance the natural and local environment by..... preventing both new and existing development from contributing to or being put at unacceptable risk from, amongst other things, air pollution. On small new developments this can be achieved by promoting green sustainable transport through the installation of vehicle charging points. This can be secured by planning condition.

**Objections:**

None received

**Conclusion:**

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.

Subject to conditions, there would be no materially harmful effect on highway safety, visual or residential amenity, drainage or ecology.

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

**i) IMPOSE ALL NECESSARY AND APPROPRIATE CONDITIONS, WHICH MAY INCLUDE THOSE AT THE END OF THE REPORT, AND**

**ii) THERE BEING NO SUBSTANTIAL CHANGE THAT WOULD ALTER THIS RECOMMENDATION, ISSUE THE DECISION NOTICE**

(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 schedule 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 dwellings, garages and extension to the existing buildings hereby approved shall be faced in regular coursed natural stone. A sample of the stone to be used shall be left on site for inspection and approval in writing by the Local Planning Authority before works to construct the superstructure of any of the dwellings, garages or extensions commences. The development shall be completed in accordance with the approved sample and thereafter retained as such.

(4) A sample of the external roofing material to be used on the dwellings, garages and extensions shall be left on site for inspection and approval in writing by the Local Planning Authority before works to construct the roofs of any of the dwellings, garages or extensions commences. The development shall be completed in accordance with the approved sample and thereafter retained as such..

(5) 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 with or without modification) no development included within Classes A, B, C, D and E of Part 1 of Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority.

(6) The development shall not be brought into use until visibility splays of 2.4m x 23.6m to the left and 2.4m x 24.2m to the right at the site access junction in which there shall be no obstruction to visibility above the level of the adjacent footway as indicated on drawing number 967/02 Rev G have been provided and thereafter retained .

(7) Development shall not commence until a scheme detailing the layout, construction and specification of the highway works; at the northernmost site access junction with Calf Hill Road Lane (with reference to drawing no. 927-02 Rev G) and hard surfacing works at the southernmost access and all associated highway works, and the appropriate Road Safety Audit, has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out and completed in accordance with all the approved works prior to the occupation of the hereby approved dwellings and retained thereafter

(8) 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.

(9) The development shall not be brought into use until all areas indicated to be used for access and parking areas have been laid out with a hardened and drained surface in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13<sup>th</sup> May 2009 as amended or any successor guidance. 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) those areas shall be so retained, free of obstructions and available for the use(s) specified on the submitted/listed plan(s) thereafter.

(10) The development shall be completed in accordance with the advice and directions (recommendations) contained in the Arboricultural Assessment and Method Statement, reference: JCA LTD 12755/AB/TT. These shall be implemented and maintained throughout the construction phase and retained thereafter.

(11) Before first occupation, the developer shall provide written and/or photographic evidence to the Local Planning Authority to demonstrate that the arboricultural supervision specified sections 2.2, 3.1, 4.1, 4.2, 4.3 and 4.5 of the Arboricultural Assessment and Method Statement, reference JCA LTD 12755/AB/TT, referred to in condition 10 was undertaken. The development shall not be brought into use until this evidence has been approved in writing by the Local Planning Authority.

(12) Details of any additional tree works required during the construction phase that is not identified within the Arboricultural Assessment and Method Statement, reference: JCA LTD 2755/AB/TT shall be submitted to and approved in writing by the Local Planning Authority prior to the work being carried out. The works shall thereafter be carried out in complete accordance with the approved details.

(13) The hereby approved development shall be carried out in complete accordance with the drainage proposals including discharge rates at a restricted rate of 14 (fourteen) litres/second) as shown on drawing no. P1842 – 02 Rev C prior to the occupation of any of the dwellings and thereafter maintained and managed in accordance with these details.

(14) Details of a landscaping scheme to include new planting along the northeast and north west boundaries of the site to incorporate native species, in accordance with Section 7 (7.4) of the Preliminary Ecological Appraisal and other species with details of density/numbers and planting height shall be submitted to and approved in writing by the Local Planning Authority.

(15) Any planting, seeding or tree management works forming part of the landscaping scheme referred to in Condition 14 shall be carried out during the first planting, seeding or management season following the commencement of construction, or as otherwise may be approved in writing by the Local Planning Authority, and shall be maintained for a period of five years from the completion of planting works. All specimens which die within this period shall be replaced with like for like species

(16) The development including any associated site preparation works shall be carried out in complete accordance with the full recommendations and guidance requirements as set out in Section 7 of the updated Preliminary Ecological Appraisal ref. no. BG16.119 dated February 2016 (received 4<sup>th</sup> March 2016) and section 10 of the Bat Emergence Survey by Brindle & Green ref. no. BG15.167.1

(17) Prior to occupation of the dwellings, in all residential units that have a dedicated parking area and/or a dedicated garage, an electric vehicle recharging point shall be installed. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. The electric vehicles charging points so installed shall thereafter be retained

This recommendation is based on the following plans and specifications schedule:

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Design & Access Statement			4 <sup>th</sup> March 2016
Topographical Survey	2381 - 20		4 <sup>th</sup> March 2016
Arboricultural Assessment and Method Statement	JCA 12755/AB/TT		18 <sup>th</sup> March 2016
Preliminary Ecological Appraisal	ref. no. BG16.119 dated February 2016		4 <sup>th</sup> March 2016
Bat Emergence Survey	BG15.167.1		4 <sup>th</sup> March 2016
B4 Statement & further information	Ref 77-15.05 & email		09 <sup>th</sup> March 2016
Proposed site plan	2381-29A		11 <sup>th</sup> March 2016
Proposed highway works	967 – 02 Rev G		10 <sup>th</sup> March 2016
Drainage Proposals	P1842 – 02 Rev C		16 <sup>th</sup> March 2016
Existing floor plans (Woodville & Coach House)	2381 -21		4 <sup>th</sup> March 2016
Existing elevations (Woodville & Coach House)	2381 -22		4 <sup>th</sup> March 2016
Proposed floor plans (Woodville)	2381 -23		4 <sup>th</sup> March 2016
Proposed elevations (Woodville)	2381 -24		4 <sup>th</sup> March 2016
Proposed floor plans & elevations (Coach House)	2381 -25		4 <sup>th</sup> March 2016
Proposed garages (plots 2,3 & 4)	2381 -27		4 <sup>th</sup> March 2016
Proposed garage floor and elevation drawing (Woodville)	2381 -28		4 <sup>th</sup> March 2016
House type A	2381 -26		4 <sup>th</sup> March 2016
House type B			4 <sup>th</sup> March 2016
Proposed site sections (1 of 2)	2381 -30		4 <sup>th</sup> March 2016
Proposed site sections (2 of 2)	2381 -31		4 <sup>th</sup> March 2016

**Application No: 2015/93534**

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

**Proposal: Install a fixed sill and widen existing over flow channel to statutorily define the reservoir capacity just below 25,000 cubic meters**

**Location: Cupwith Reservoir, Off New Hey Road, Slaithwaite, Huddersfield**

**Grid Ref: 403854.0 414262.0**

**Ward: Colne Valley Ward**

**Applicant: Dartmouth, Rosscroft Ltd**

**Agent: Peter Kite**

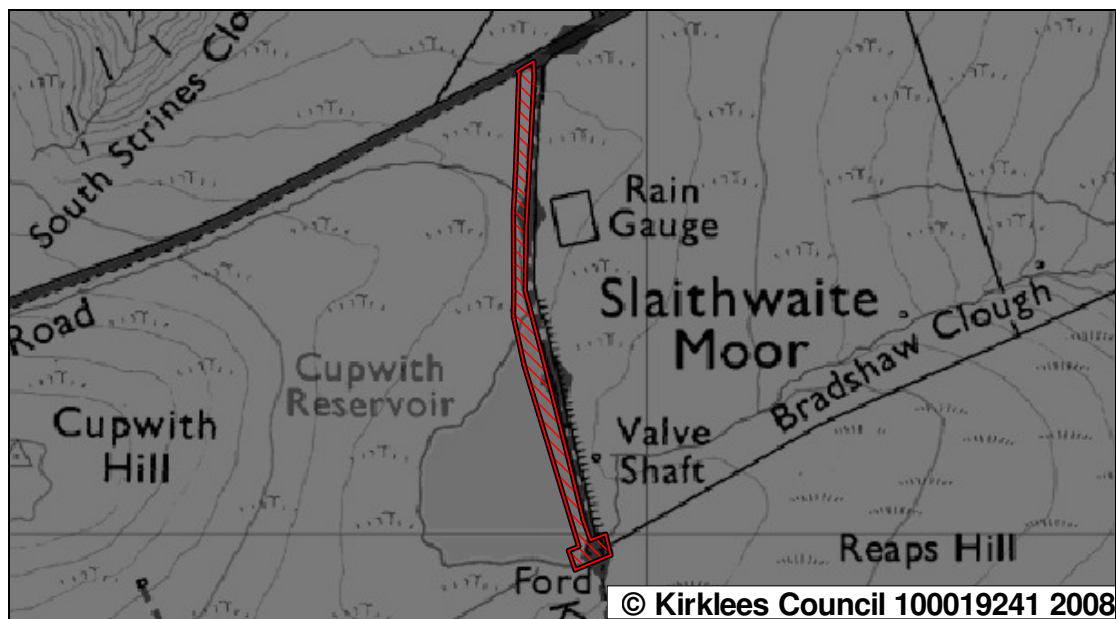
**Target Date: 07-Mar-2016**

**Recommendation: FC - CONDITIONAL FULL PERMISSION**

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

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

## LOCATION PLAN



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

## 1. SUMMARY OF APPLICATION

<b>Application Details</b>		
Type of Development	Engineering Operations	
Scale of Development	Site area 1.2ha	
No. Jobs Created or Retained	N/A	
<b>Policy</b>		
UDP allocation	Green Belt	
Independent Viability Required	N/A	
<b>Representation/Consultation</b>		
Individual Support (No.)	0	
Individual Objection (No.)	0	
Petition	0	
Ward Member Interest	None	
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	No	
Planning Pre-Application Advice	Yes	
Pre-App Consultation Undertaken?	No	
<b>Comment on Application</b>	It is considered that this proposal is acceptable subject to appropriate planning conditions	

## RECOMMENDATION: CONDITIONAL FULL PERMISSION

## 2. INFORMATION

This application is brought to committee as the site exceeds 0.5ha

## 3. PROPOSAL/SITE DESCRIPTION

The application site relates to an existing overspill at the south eastern corner of a redundant reservoir and associated access track which occupies an area of approximately 1.2 ha and is located on high ground off New Hey Road approximately 3 kilometres north of the centre of Marsden. The area surrounding the site is sparsely populated open moorland which is allocated

as Green Belt in the adopted Unitary Development Plan and lies immediately adjacent to the South Pennines of Special Protection area and Special Area of Conservation. Public Right of Way (PROW) Col/187/60 is located immediately adjacent to the eastern shore of the reservoir and runs along the top of the retaining embankment.

A survey of the reservoir carried out on behalf of the Environment Agency identified specific safety issues and made recommendations under Section 10(6) of the reservoirs Act 1975. These recommendations were to either:

- Repair most severely eroded areas of the upstream face and crest
- Repair the overflow channel walls
- Weir blocks to be set at 383.80m AOD in the overflow channel bed
- Scour Valve to be made operable
- A gauge board to be installed in the overflow channel

or carry out works to enable the discontinuance of the reservoir under Section 13 of the above mentioned act.

The applicant has decided to discontinue the reservoir by reducing the volume of water retained to less than 25,000m<sup>3</sup>. This would involve carrying out engineering operations to the existing outflow channel involving:

- Widening the overflow channel from its current width of approx. 1m to 2.2m
- Lowering the outlet sill level to AOD 383.40m

This would allow the reservoir to overflow at a lower level so ensuring its capacity remained below the 25000m<sup>3</sup> threshold.

Members should note that the draining of a water body such as a reservoir is not development and so would not require planning permission. Consequently water from this reservoir could be pumped out without any reference to Kirklees Council. However, implementing the works described above constitutes an engineering operation for which planning permission is required and, based on the appeal decision described in the next section of this report, it is considered that the associated effect on the reservoir and the subsequent impact on the landscape character of the area constitutes a material consideration. In her report the planning Inspector indicated that the reservoir is an attractive feature which is an interesting local landmark making a positive enhancement to the scenic landscape.

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

The reservoir was constructed in the 1800's to improve the water supply to local mills in the Slaithwaite area and not to provide a source of drinking water. Consequently the reservoir has been redundant for many years.

The following previous planning applications are relevant to this proposal:

2012/62/90344 - Discontinuation of the reservoir by reduction in capacity of overflow level (Refused 31 January 2013) this decision was the subject of an appeal to the Planning Inspectorate which was subsequently dismissed. The Inspector concluded that the proposal would see a reduction in the surface area of the adjacent reservoir by approximately one third and that this would be harmful to the appearance and landscape character of the area and that due to the proximity of local footpath networks this harmful effect would be experienced by a significant number of people.

2013/92035 - Discontinuation of the reservoir by reduction in capacity of overflow level. This application addressed the concerns raised with regard to the previous application in that it sought to reduce the capacity of the reservoir to 25,000m<sup>3</sup> not 10,000m<sup>3</sup>. This would not therefore reduce the surface area of the reservoir as significantly as the original proposal. (resolution to approve subject to the applicant providing a Unilateral Agreement at the Huddersfield planning sub-committee on 17/10/2016). This agreement was to require the applicant to notify the council prior to any further reduction of reservoir water levels beyond the initial reduction of 25,000m<sup>3</sup>. This agreement was not provided and the application therefore remains undetermined.

## **5. PLANNING POLICY**

### Kirklees Unitary Development Plan (UDP)

The site is allocated as Green Belt in the Council's adopted Unitary Development Plan and it is considered that the following policies and documents are relevant to this application:

BE1 – Design Principles  
R13 – Development affecting public rights of way  
T10 – Highway safety

### National Planning Policy Framework

NPPF 9 – Protecting Green Belt Land  
NPPF 11 – Conserving and Enhancing the Natural Environment

### Other Policy/Legislative Considerations

Wildlife & Countryside Act 1981 (as amended) and Conservation of Habitats and Species Regulations 2010 (as amended),

Habitats and Wild Birds Directives

## **6. CONSULTATION RESPONSES**

**KC Highways Development Management** – No objections subject to planning conditions which require:



(i) before development commences written agreement is received from the Council's Public Rights of Way (PROW) section regarding:

- The length of footpath COL/187 to be used to access the site
- The submission of a scheme to deal with any repairs to the footpath following construction works
- The completion of the agreed repair works

(ii) The submission of a scheme detailing:

- Hours of construction work
- Hours of delivery
- Location of any site management offices
- Location of materials storage compound
- Construction workers car parking areas
- Location and type of wheel cleaning facilities
- Details of any directional signage

**West Yorkshire Ecology (WYE)** – Initially raised the following concerns:

- Lowering the level of the reservoir could have a detrimental impact on the adjacent blanket bog
- The works involved should not be carried out during the bird nesting season as local populations of Golden Plover would be adversely affected.
- The “appropriate seed mix” proposed in the restoration of the site is too vague and should be of local provenance from a location agreed with Natural England.

However, following further discussions with the applicant, WYE has indicated that it generally supports the proposal but is seeking advice from Natural England to ensure that the suggested mitigation measures would not conflict with ongoing conservation works. Final comments from WYE will be reported later in the update.

**Natural England** - No objections

## **7. REPRESENTATIONS**

This application was advertised in the Huddersfield Daily Examiner and by the posting of 2 site notices in the vicinity of the site. No representations have been received with regard to this proposal.

## **8. ASSESSMENT**

### **Principle of development:**

The application site lies within an area which is allocated as Green Belt in the adopted Unitary Development Plan. Consequently as indicated in the National Planning Policy Framework (NPPF) the proposed development should maintain the openness of the Green Belt or, if not, it has to be demonstrated that 'very special circumstances apply' to clearly outweigh the harm caused by reason of inappropriateness and any other harm.

The proposal falls within the definition of engineering operations within the Green Belt which the NPPF indicates are not inappropriate development providing such operations preserve the openness of the Green Belt. Due to the limited nature of the works involved it is considered that this proposal would not adversely affect the openness of the Green Belt and this development is therefore acceptable in principle. This is subject to there being no conflict with other relevant local or national policy guidance.

### **Impact on visual amenity and landscape character:**

The sensitivity of a landscape to accommodate change varies according to the existing landscape, the nature of the proposed development and the type of change being proposed. In general terms areas of high landscape quality are more sensitive to change than areas of lesser quality and value. The assessment of sensitivity is assessed against the value, quality and capacity of the landscape.

The application site is located on high ground which forms part of a wider area of open moorland. The surrounding landscape is characterised by its open undeveloped nature and the reservoir is visible at close quarters from nearby PROW networks, although longer distance views are limited due to the local topography.

The proposed reduction in the reservoir's capacity to just below 25,000m<sup>3</sup> would see the current area of open water reduced only slightly from 34,000m<sup>2</sup> to 31,000m<sup>2</sup>.

As previously indicated long distance views of the site are screened but the proposed development lies relatively close to PROWs which represent sensitive receptors. However, it is considered that whilst visible from these receptors and although there is little doubt that the proposal would result in a change in the character of the landscape in the immediate vicinity of the site, it is considered that that the overall impact of this development within the

wider landscape setting would be moderate. It is therefore considered that this proposal accords with UDP policy BE1 with respect to its impact on visual amenity and landscape character and is consistent with policy advice contained within Section 9 of the NPPF.

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

This application site is relatively remote, the nearest residential properties are isolated and a considerable distance from the site, the nearest being approximately 750 metres to the east. These properties do not directly overlook the site and due to the distance between them and the site it is considered that this proposal would not adversely affect the residential amenity of the occupants.

### **Impacts on protected species and ecology:**

The application site is immediately adjacent to the South Pennines Special Protection Area (SPA) and Special Area of Conservation (SAC) which is a European designated Natura 2000 site and therefore falls under the umbrella of the European Council Directive 92/43/EEC on the conservation of wild fauna and flora. This site is of international importance for its breeding bird assemblage (including Annex 1 Qualifying Species) and is part of the Natura 2000 Europe wide network of protected sites with a strict system of legal protection. It is therefore important that the potential effects of this development on associated habitat and wildlife using this area are fully considered. The applicant has provided an ecological assessment in support of the application which concludes that this proposal would not impact significantly on local ecological systems and the Council has carried out an Appropriate Assessment which concluded;

*“..this development is unlikely to have any significant adverse impact on the integrity of the South Pennine Moors SPA/SAC. We also conclude overall, there will be a slight net benefit through the improved habitat for common sandpiper and a measure to help reduce current human disturbance around the reservoir shoreline. Consequently, it is our view that this development will also have no ‘in combination affects’. There are, therefore, no legal grounds, under Regulation 61 of the Conservation Regulations 2010 why this development cannot be consented with the appropriate mitigation measures conditioned.”*

Bearing in mind this development would be much less intrusive than the previous proposals at the site and the potential impact of those schemes on the local ecology has already been thoroughly examined, Officers consider that any impact on local ecological systems can be adequately mitigated against via the submission of a suitable restoration scheme prior to development commencing. Natural England has echoed the view that this proposal is less intrusive than the previous proposals and that this scheme will not adversely affect the integrity of the SPA/SAC. As previously outlined WYE has indicated support in general for this proposal but is seeking guidance on the proposed mitigation measures from Natural England before

making its final comments. It is therefore considered that subject there being no significant adverse comments being received from WYE, this proposal would accord with guidance contained in Section 11 of the NPPF with regard to its potential impact on local ecological systems and the area's biodiversity.

**Impact on public rights of way/highway safety:**

The development would be located a considerable distance from the nearest vehicular highway (New Hey Road) which, at its nearest point, would be approximately 600 metres from the boundary with the highway. Temporary access would be required via an existing access track which runs to the reservoir and adjoins New Hey Road. It is considered that this track would provide a suitable access for construction traffic subject to its satisfactory reinstatement following completion of the works. The nearest PROW (Col/187/60) runs along the route of the above described track and along the top of the reservoir's retaining bank running north to south before linking with other PROWs to the south of the application site. The proposed works may therefore require the temporary closure/diversion of the footpath. This would require a temporary diversion/closure order under the Highways Act prior to the commencement of the works. The Council's Highways Development Management Team does not object to the proposal subject measures to ensure that the condition of the above footpath is not degraded.

It is therefore considered that this proposal would not present a hazard to highway safety or significantly inconvenience users of nearby PROWs and therefore does not conflict with UDP policies R13 and T10.

**Objections:**

No representations have been received with regard to this proposal.

**Conclusion:**

This proposal would result in a relatively limited reduction in the area of the current reservoir and it is considered that subject to the inclusion of specific planning conditions to control operations during the alterations to the existing overflow system, the level of the reservoir and the subsequent restoration of the site, this proposal would not have a significant adverse impact on the local ecology of the area. Furthermore the proposal would not detrimentally affect residential/ visual amenity, landscape character or highway safety.

**9. RECOMMENDATION**

**CONDITIONAL FULL PERMISSION**

**Conditions**

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 with the plans and specifications schedule listed in this decision notice except as may be required by other conditions attached to this permission, which in all cases shall take precedence.

3. No development shall commence until a joint condition survey involving the applicant and the Council's Public Rights of Way Team has been carried out and agreed in writing by the Local Planning Authority. This survey shall identify the existing condition of Public Right of Way (PROW) Col/187/60 and the extent of the PROW to be used to access the site.

4. Within one month of the completion of the construction works a further joint survey between the parties identified in condition 3 shall be carried out and the results agreed in writing by the Local Planning Authority. This survey shall establish:

- The resultant condition of the PROW Col/187/60 following construction.
- Any necessary remedial works required to restore PROW Col/187/60 to its condition prior to construction works

All remedial works identified in the approved survey shall be fully implemented and completed within one month of the date of approval.

5. No development shall take place until a landscape/restoration scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following information:

- Detail, extent and type of new planting (NB planting to be of native species)
- details of maintenance regimes
- details of any new habitat created on site
- details of treatment of site boundaries and/or buffers around water bodies
- details of management responsibilities
- Remediation measures for any areas of semi-natural habitat damaged during construction works

The approved landscape/restoration scheme shall be implemented within the first available planting season following the commencement of development

6. No development shall commence until a construction plan has been submitted to and approved in writing by the Local planning Authority. The construction plan shall include the following information:

- Hours of construction work and delivery of materials
- Location of any site management facilities
- Any car parking facilities for construction workers
- Wheel cleaning facilities

- Method of preventing spillages from vehicles, plant and equipment
- Details of any warning or directional signage

The approved construction plan shall be implemented in full before development commences and shall be kept in place, operated and adhered to at all times until the development is completed.

7. No development shall take place at the site within the bird nesting season (March to August)

**Notes:**

This recommendation is based on the following plans and specifications schedule:

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan	291217-002A	P2	11/01/2016
Proposed Works	46.01A		11/01/2016
Updated Phase 1 Habitat and Water Vole Assessment			11/01/2016
Updated Appropriate Assessment			11/01/2016
Annual Reservoir Water Levels 2011 -2015			11/01/2016

# KIRKLEES METROPOLITAN COUNCIL

## PLANNING SERVICE

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

31 MARCH 2016

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**APPLICATION NO: 2015/93052**

**PAGE 10**

#### **ERECTION OF DETACHED DWELLING AND NEW ENTRANCE GATES (LISTED BUILDING)**

**FENAY LODGE, THORPE LANE, ALMONDBURY, HUDDERSFIELD, HD5  
8TA**

Four additional representations have been received in response to the publicity of the amended plans. Two of the representations indicate that the amendment to the scheme has not sufficiently addressed initial concerns with the impact on residential amenity. All of the representations reiterate concerns with the impact on the listed building and highway safety.

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**APPLICATION NO: 2015/92993**

**PAGE 25**

#### **OUTLINE APPLICATION FOR ERECTION OF RESIDENTIAL DEVELOPMENT**

**LAND OFF, BUTT LANE, HEPWORTH, HOLMFIRTH, HD9 1HT**

##### **Additional Plans**

Existing site sections and an indicative section plan through the site have been submitted. These demonstrate the existing levels and proposed level changes through the site to accommodate the indicative layout.

##### **Drainage**

Ward Cllrs Ken Sims and Nigel Patrick have requested the application be deferred to provide the opportunity to submit anecdotal evidence from local residents indicating there has been historic flooding at the application site.

The Environment Agency are aware of this request and have stated that they would wish to be re-consulted to assess this information when received and prior to any decision being made on the planning application by Sub-Committee.

## **RECOMMENDATION**

In light of the drainage issues raised, and the request of the Environment Agency to be re-consulted on the application, officers request that this application be **DEFERRED** from consideration at this meeting. This is to provide the opportunity for information to be submitted, considered by the Environment Agency and included in a future committee report.

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**APPLICATION NO: 2016/90010**

**PAGE 38**

**VARIATION CONDITION 4 (OPENING HOURS) ON PREVIOUS PERMISSION 2009/93008 FOR CHANGE OF USE FROM BAKERY TO PIZZA TAKE-AWAY (WITHIN A CONSERVATION AREA)**

**MASTER PIZZA BAR, 75, HUDDERSFIELD ROAD, HOLMFIRTH, HD9 3AS**

### **REPRESENTATIONS**

The application was publicised by advertisement in the Huddersfield Examiner as well as by neighbour notification and site notice.

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**APPLICATION NO: 2015/94008**

**PAGE 48**

**RESERVED MATTERS APPLICATION FOR ERECTION OF 18 DWELLINGS PURSANT TO APPEAL NO APP/Z4718/A/12/2180238**

**LAND TO REAR OF 101 TO 111, BANKS ROAD, LINTHWAITE, HUDDERSFIELD,**

### **Revised Condition**

3. A landscape management plan for the accessibility and long term maintenance of the areas of Public Open Space detailed on plan Reference 3930-13-06 shall be submitted to and approved in writing by the Local Planning Authority before the superstructure of any dwelling is commenced. The management plan shall include details of public use in perpetuity, together with any land transfers and management responsibilities. The areas of Public Open Space shall thereafter be maintained in accordance with the approved landscape management plan.

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**ERECTION OF 19 SINGLE STOREY DWELLINGS INCLUDING  
DEVELOPMENT OF ASSOCIATED ACCESS AND HARD AND SOFT  
LANDSCAPING**

**LAND TO REAR OF ROW STREET, CROSLAND MOOR, HUDDERSFIELD,  
HD4 5AY**

**Section 106 Contributions / Viability**

The applicant has agreed to provide two affordable units for rent and £5,638 to be offered as a contribution towards the improvement of off-site Public Open Space for existing recreational facilities at May Street. This provides for a 20% developer profit which is an acknowledged industry standard.

Officers have sought to negotiate an increased level of contribution towards the improvement of off-site POS through a reduced level of developer profit

The developer advises that they are unwilling to re-enter into negotiation at this stage.

The application is recommended for approval on the basis that a 20% profit is considered to be a reasonable return to the developer.

**Additional Condition**

24. A landscape management plan for the long term maintenance of the area of informal open space, pursuant to the details indicated on plan ref 2320-002 Rev D shall be submitted to and approved in writing by the Local Planning Authority before the superstructure of any dwelling is commenced. The management plan shall include details of maintenance in perpetuity, together with any land transfers and management responsibilities. The area of informal open space shall thereafter be maintained in accordance with the approved landscape management plan.

**OUTLINE APPLICATION FOR ERECTION OF 18 DWELLINGS (AMENDED  
ACCESS)**

**ADJ 23, ASHFORD PARK, GOLCAR, HUDDERSFIELD, HD7 4RL**

**Revised plans**

Updated plans have been received the changes are;

- An increase in the height of the rear boundary fence between no 25 Ashford Park and the new access road; and
- The extension of the boundary wall between the front of no 25 Ashford Park and the new access road.

These changes are in line with suggestions from the neighbours at no 25 in their representations.

Updated plans:

Proposed site plan	LDS 1996/001 rev A	received 29/3/16.
Propose site entrance	LDS 1996/004 rev A	received 29/3/16.

**Highways –clarification regarding “Internal Layout” and “Parking” on p.98.**

The site access referred to is that proposed before the current application sought the demolition of no. 23 Ashford Park. The proposed access to serve the current application is a 5m wide carriageway with a 1.2 m wide footway to the south. This will be provided following the demolition of the existing dwelling no 23.

As no. 23 is to be demolished there is no requirement to provide any compensatory parking for that property.

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**CONVERSION AND EXTENSIONS OF OFFICES AND COACH HOUSE TO FORM 2 DWELLINGS AND ERECTION OF 3 DWELLINGS**

**WOODVILLE, CALF HILL ROAD, THONGSBRIDGE, HOLMFIRTH, HD9 3UB**

**Revised plans**

Plan no. 967/02 Rev G which is referred to in draft condition nos. 6 and 7 in the agenda has been amended to include the visibility splays. As such the relevant conditions will be amended and updated to reflect the most updated plan and for highway works to be carried out in accordance with the submitted

- 1) Stage 1 Road Safety Audit carried out by TZ Consulting Engineers on the 16th January 2016,
- 2) Designers Response produced by PAH Highway Consultants dated 21/01/2016 and
- 3) Highway statement ref no. 967/May 2015

and any other highway works not associated at this stage of the submitted road safety audit.

The plans/tables list will be also amended to include the above three documents

**INSTALL A FIXED SILL AND WIDEN EXISTING OVER FLOW CHANNEL TO STATUTORILY DEFINE THE RESERVOIR CAPACITY JUST BELOW 25,000 CUBIC METERS****CUPWITH RESERVOIR, OFF NEW HEY ROAD, SLAITHWAITE, HUDDERSFIELD**

Members should note that since the publication of the committee report associated with this proposal West Yorkshire Ecology have confirmed that, following discussions with Natural England, it considers the proposed ecological mitigation measures are acceptable subject to the inclusion of a planning condition to require further details of the measures affecting existing grips feeding the reservoir. It is therefore proposed to amend the condition 5 to read as follows:

5. No development shall take place until a landscape/restoration scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following information:

- detail, extent and type of new planting (NB planting to be of native species)
- details of maintenance regimes
- details of any new habitat created on site
- details of treatment of site boundaries and/or buffers around water bodies
- details of the position of existing grips feeding the reservoir and the proposed method of grip blocking
- baseline hydrological and botanical data on the area likely to be affected as a result of grip blocking
- details of proposals to monitor the impact of grip blocking once this has been completed
- details of management responsibilities
- remediation measures for any areas of semi-natural habitat damaged during construction works

The approved landscape/restoration scheme shall be implemented within the first available planting season following the commencement of development

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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