

Public Document Pack



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Wednesday 22 June 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 30 June 2016**.

(A coach will depart the Town Hall, at 9.00am 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 James Homewood
Councillor Christine Iredale
Councillor Manisha Roma Kaushik
Councillor Musarrat Khan
Councillor Bernard McGuin
Councillor Mohammad Sarwar
Councillor Ken Sims
Councillor Mohan Sokhal
Councillor Sheikh Ullah
Councillor Rob Walker
Councillor Linda Wilkinson

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
L Holmes
N Patrick

Green

K Allison
A Cooper

Independent

T Lyons
Edgar Holroyd-
Doveton
C Greaves

Labour

G Asif
F Fadia
E Firth
C Scott

Liberal Democrat

R Eastwood
J Lawson
A Marchington

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

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

2: Interests and Lobbying

1 - 2

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.

3: 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.

4: 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.

5: Public Question Time

The Committee will hear any questions from the general public.

6: Site Visit - Application 2016/90066

Erection of 8 dwellings with parking on land to rear of Lindley Working Men's Club, Blackthorn Drive, Lindley, Huddersfield

Estimated time of arrival at site – 9.15am

Contact – Farzana Tabasum, Planning Officer

Wards

Affected: Lindley

7: Site Visit - Application 2015/92993

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

Estimated time of arrival at site – 10.05am

Contact – Farzana Tabasum, Planning Officer

Wards

Affected: Holme Valley South

8: Site Visit - Application 2016/90477

Alterations to convert outbuilding to holiday accommodation at 1 Wheat Close, Holmbridge, Holmfirth

Estimated time of arrival at site – 10.40am

Contact – Beatrice Kunaka, Senior Planner

Wards

Affected: Holme Valley South

9: Site Visit - Application 2016/91193

Erection of 8 detached dwelling with integral garage (modified projects) at plot 19 Honley Head Lane, Honley, Holmfirth.

Estimated time of arrival at site – 11.10am

Contact – William Simcock, Planning Officer

Wards

Affected: Holme Valley North

10: Local Planning Authority Appeals

3 - 30

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: Greenhead; Holme Valley North

11: Planning Applications

31 - 198

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 Monday 27 June 2016. To pre-register, please contact scrutiny.governance@kirklees.gov.uk or phone 01484 221000 and ask for the Governance Team.

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.

Appeal Decision

Site visit made on 11th April 2016

by Jonathan G King BA(Hons) DipTP MRTPI

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

Decision date: 03 May 2016

Appeal Ref: APP/Z4718/W/15/3140324

Land adjacent to the Spotted Cow public house, New Hey Road, Salendine Nook, Huddersfield HD3 3FG

- 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 Mr & Mrs G Jolley against the decision of Kirklees Council.
 - The application Ref 2015/60/90452/W was refused by notice dated 12th June 2015.
 - The development proposed is residential development (outline) and access.
-

Decision

1. I allow the appeal and grant outline permission for residential development and access on land adjacent to the Spotted Cow public house, New Hey Road, Salendine Nook, Huddersfield HD3 3FG, subject to the conditions included in the annex to this decision.

Background and procedural matters

2. The application was described as follows when it was initially submitted and determined: *Outline Planning Application is for a residential scheme comprising 22 dwellings, associated car parking, access, landscaping and garages. The Outline Application will reserve all matters except for access and layout. The proposal comprises a mix of residential types and sizes which will incorporate 2 two-bedroom semi-detached homes, 13 Three-bedroom semi-detached and terraced homes, 4 four-bedroom semi-detached homes and 3 four-bedroom detached homes.*
3. The application as submitted was in outline but with approval also sought for access and layout, with the remaining matters reserved.
4. Five reasons for refusal were given in the decision notice relating, briefly, to: the effect of the proposed development on the character and appearance of the area; its effect on trees; the safety of the living conditions for future occupiers; the effect on matters of biodiversity interest; and the potential for flood risk.

5. Subsequent to the making of the appeal, the appellants have indicated that the layout of the development should be removed from consideration, so that it should proceed solely in relation to the principle of development and access, with all other matters reserved. The Council is content to proceed on this basis, and so am I.
6. An amended description of the development has been agreed between the main parties: *Outline Planning Permission for Residential Development with Access agreed*. I have used this as the basis of the description of the development in the preamble to this decision. The parties agreed that there should be no reference to the number of dwellings sought or permitted.
7. For the avoidance of doubt, the parties have agreed that the only plan that remains to be considered is drawing No N-YK-1453-3T-FIGURE 2 Revision 02, dated 15th July 2014 and entitled *Ghost island right turn lane and visibility at proposed access*. In addition to the access being shown, it also indicates the "red line" boundary of the site.

Main Issues

8. The main issues in this case are:
 - (a) whether the use of the site for residential development is appropriate in principle; and
 - (b) the effect of the proposed access on highway safety and the free flow of traffic.

Reasons

9. From the outset, the Council has indicated that it raises no objection to an outline approval for residential use or to the proposed access, subject to a number of conditions being imposed. The Council acknowledges that removal of the initially proposed layout from consideration at outline stage has overcome all of the detailed reasons for refusal. In its appeal statement it makes no submissions concerning the reasons for refusal; and has since stated that it does not intend to rely on, or provide any evidence in relation to them.
10. The site is located fronting New Hey Road which is a main arterial road, carrying the A640 westwards from the centre of Huddersfield towards the M62 motorway. It is a broad road which incorporates cycle lanes, and a number of ghost islands with right-turning facilities. Level with the site is a pedestrian refuge, and there is a bus stop on the frontage. The site is presently vacant and unused, being mostly covered by rough vegetation and the remains of some hard surfacing, formerly tennis courts. To the west is the cemetery and grounds of the large Salendine Nook Baptist Church, a Grade II listed building, while on the other side is a boarded up former public house. The site is roughly flat but to the rear, beyond a line of trees covered by Tree Preservation Orders, an area of undeveloped land rises. Along its frontage is a stone wall with trees behind. Opposite are open air recreational facilities, with a short terrace of housing at the eastern end.

The principle of development

11. The Council has no objection to the principle of residential development on the site, as it is allocated for that use under allocation No H8.60 in the Kirklees Unitary Development Plan (UDP). It considers that the site is in a sustainable location that benefits from good transport links and access to facilities and amenities. Subject to the imposition of appropriate conditions and any reference to a specific number of dwellings numbers being omitted from any decision, it is content for permission to be granted.
12. I agree that the site is sustainably located with respect to access to transport and facilities. I am satisfied that it would be possible to achieve an acceptable layout that incorporated the protected trees, provided that development was set back sufficiently from them. With care, many of the trees on the frontage could probably also be retained, other than where affected by the proposed access. I agree with the Council's conservation officer that the setting of the church would not be harmed. I have reviewed all of the consultation responses contained in the Council's committee report, together with the public representations made at that time, but I have been given no reason to believe that the site is not suitable for housing development in principle. No public representations have been made with respect to the appeal.

Highways and access

13. New Hey Road is busy, but it is straight and broad with good visibility. The position of the proposed main access point, about one third of the way along the frontage from the east, has, I understand, been negotiated with the Council's highways officers. It is considered acceptable, subject to conditions, including the implementation of off-site works to ensure vehicles may turn in and out safely. The submitted plan shows a ghost island, a turning-right lane and visibility splays.
14. I am satisfied that the proposed access would be suitable and not lead to any unacceptable harm to highway safety or to the free flow of traffic.

Conditions

15. The Council has put forward a suite of suggested conditions which in its opinion should be imposed in the event that the appeal is allowed. The appellants are content with all but two: (12) relating to the provision of a ventilation scheme to be applied to dwellings on plots adjacent to New Hey Road in the interests of noise attenuation; and (19) relating to the provision of electric charging points.
16. As to the first, I understand the Council's concern that dwellings close to the main road will be subject to traffic noise. This is accepted in the noise report submitted with the application, which describes the road as the dominant noise source affecting the site. The condition has been

requested by the Council's Environmental Services based on an assessment of that report relating to the layout submitted, which concluded that background ventilation could be achieved within the interior sound requirements by using acoustic trickle vents to bedroom windows and conventional trickle vents elsewhere. As that layout has been withdrawn I am not in position to say whether these conclusions would hold true for any other layout that may be submitted in due course, or whether the ventilation measures recommended would be appropriate. In these circumstances, I see nothing unreasonable in the Council's condition. I am satisfied that it meets the requirements of paragraph 206 of the National Planning Policy Framework (NPPF) (ie it is necessary in the interests of providing satisfactory living conditions for future occupiers, which is relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects). I am aware that ventilation may be considered under the Building Regulations, but I do not consider it prudent to rely on the provisions of other legislation, the purpose of which differs from that of planning.

17. With respect to charging points, in the absence of a submitted layout I agree with the Council that the condition should cover the possibility of the dwellings having their own garages or having communal parking areas. The condition relating to the provision of charging points should cover both eventualities. I consider the condition to comply with the tests set out in the NPPF.
18. Conditions 1 - 4 cover the usual time limits for commencement and submission of reserved matters. The remainder mostly require the submission of details of various matters not addressed in the outline application, as follows: (5) the provision of public open space, relating to requirements of UDP Policy H18; (6) the provision of affordable housing, relating to the requirements of UDP Policy H10; (7) (8) (9) & (10) concerning the treatment of contaminated ground in the interests of preventing pollution; (11) implementation of a noise attenuation scheme, in order to protect the amenity of future residents; (13) (14) & (15) concerning the provision of foul and surface water drainage, in order to prevent pollution and flooding; (16) & (17) to ensure provision of appropriate visibility splays and a right turn lane into the site; and (18) to enhance wildlife habitat in the interests of biodiversity.
19. I consider all are reasonable and necessary in the interests of good planning. However, I have amended the wording of some to improve enforceability and conciseness. In particular, I have brought conditions (5) and (6) into line with the others that prohibit commencement of development until an action has been undertaken simply by referring to commencement of development rather than "material operations". In original condition (5) I have removed reference to the public open space being provided and maintained "in perpetuity" as that may be practically unenforceable. It will be for the parties to negotiate appropriate arrangements. The Council will have the reasonable opportunity to refuse to agree to any that in its view are unsatisfactory.

20. For simplicity, I have combined the 3 conditions relating to drainage into a single condition (14). As original condition (17) involves the carrying out of work outside the site, it should be worded in the "Grampian" format. I have revised it accordingly. In original condition (19) I have removed reference to the circuitry ratings for the electrical charging points as I consider this to be too detailed and unnecessary. I have instead added a requirement for a specification to be agreed.
21. For the avoidance of doubt, I have also imposed a condition (new condition (5) identifying the site plan; and required the detailed scheme of highway works to be submitted under original condition (17) to be in broad conformity with what is shown on that plan.

Conclusion

22. Subject to the conditions set out in the annex to this decision, I am satisfied that residential development of the appeal site and the access to it as proposed is acceptable. The appeal may be allowed.

Jonathan G King

Inspector

Annex

Conditions

NB, In these conditions, the Local Planning Authority is referred to as "the LPA"

1. Approval of the details of the layout, scale, appearance and landscaping of the site (hereinafter called the 'reserved matters') shall be obtained from the LPA in writing before any development is commenced.
2. Plans and particulars of the reserved matters referred to in Condition 1 shall be submitted in writing to the LPA and shall be carried out as approved.
3. Application for approval of any reserved matter shall be made to the LPA before the expiration of three years from the date of this decision.
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. This permission relates to the site shown edged red on drawing number N-YK1453-3T-FIGURE 2 Revision 02, dated 15th July 2014 and to the access to New Hey Road, the ghost island, right turn lane and visibility splays shown thereon.
6. Development shall not commence until arrangements for the provision of public open space to serve the development in accordance with the requirements of Policy H18 of the Council's Unitary Development Plan have been submitted to and agreed in writing by the LPA. 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 use; and
 - (d) maintenance of the public open space.
7. Development shall not commence until arrangements for the provision of affordable housing within the development in accordance with the requirements of Policy H10 of the Council's Unitary Development Plan and the Council's Supplementary Planning Guidance (The Provision of Affordable Housing in New Housing Developments) have been submitted to and agreed in writing by the LPA. 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 affordable housing units to be provided;
 - (c) the timescale for the implementation and completion of the affordable housing units; and
 - (d) the mechanism for ensuring that the affordable housing units remain affordable for both the initial and subsequent occupiers.

8. Development shall not commence until a Phase II Intrusive Site Investigation Report (ISIR) has been submitted to and approved in writing by the LPA.
9. Where site remediation is recommended in the ISIR approved pursuant to condition 8, development shall not commence until a Remediation Strategy (RS) has been submitted to and approved in writing by the LPA. The RS shall include a timetable for the implementation and completion of the approved remediation measures.
10. Remediation of the site shall be carried out and completed in accordance with the RS approved pursuant to condition 9. In the event that remediation is unable to proceed in accordance with the approved RS, or contamination not previously considered [in either the Preliminary Risk Assessment or the ISIR] is identified or encountered on site, all works on site (save for site investigation works) shall cease immediately and the LPA shall be notified in writing within 2 working days. Unless otherwise agreed in writing with the LPA, works shall not recommence until proposed revisions to the RS have been submitted to and approved in writing by the LPA.
11. Following completion of any measures identified in the approved RS or any approved revised RS, a Validation Report shall be submitted to the LPA. Unless otherwise agreed in writing with the LPA, no part of the site shall be brought into use until such time as the RS and a Validation Report in respect of those remediation measures has been approved in writing by the LPA.
12. Before development is first brought into use, all works which form part of the sound attenuation scheme, as specified in the noise report dated 15th July 2014 by S & D Garrit Ltd shall be completed and written evidence to demonstrate that the specified noise levels have been achieved shall be submitted to and approved in writing by the LPA.
13. Before development commences, a ventilation scheme to show how habitable room windows to plots adjacent to New Hey Road shall be ventilated without the need to open windows shall be submitted to and approved in writing by the LPA. All works that form part of the approved scheme shall be completed prior to occupation of the relevant plots.
14. No development shall take place until details of the proposed means of separate disposal of foul and surface water drainage, including details of any balancing and off-site works, have been submitted to and approved in writing by the LPA. Unless otherwise agreed in writing by the LPA, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works, and no buildings shall be occupied or brought into use prior to the completion of the approved foul drainage works.
15. Before development commences, the wall to the site frontage shall be set back to the rear of the proposed 2.4m x 43m visibility splays indicated on drawing number N-YK1453-3T-FIGURE 2 Revision 02, dated 15th July 2014. The splays shall be cleared of all obstruction to visibility and tarmac surfaced to current standards in accordance with details that have previously been approved in writing by the LPA.
16. Prior to development commencing, a detailed scheme for the provision of a right turn lane from New Hey Road into the site with associated signing and white lining shall be submitted to and approved in writing by the LPA in broad conformity with drawing number N-YK1453-3T-FIGURE 2 Revision 02, dated

15th July 2014. The scheme shall include construction specifications, white lining, signing, drainage works and surface finishes together with an independent Safety Audit covering all aspects of the work. Unless otherwise agreed in writing by the LPA, no part of the development shall be brought into use until all of the approved works have been fully implemented.

17. Prior to the commencement of development, details of a bio-diversity habitat enhancement scheme shall be submitted for the written approval of the LPA. The scheme shall include details and potential locations for bat / bird roost opportunities within the new development and surrounding retained trees. The approved scheme shall be implemented prior to the first occupation of any dwellings / plots containing such opportunities.
18. Prior to occupation of any dwellings, electric vehicle recharging points shall be installed for each dwelling with a garage and / or 1 point for every 10 dwellings with communal car parking in accordance with a specification which shall first have been submitted to and agreed in writing by the LPA.

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Appeal Decision

Site visit made on 3 May 2016

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

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

Decision date: 1st June 2016

Appeal Ref: APP/Z4718/W/16/3144377

Land off Miry Lane, Netherthong, West Yorkshire HD9 3UQ

- 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 Steven Buttershaw and Kust Schramm against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2014/60/92737/W, dated 29 August 2014, was refused by notice dated 26 August 2015.
 - The development proposed is the formation of a new site access and the construction of five detached dwellings.
-

Decision

1. The appeal is allowed and outline planning permission is granted for the erection of 5 dwellings at Land adjacent to No 8 Miry Lane, Netherthong, Holmfirth HD9 3UQ in accordance with the terms of the application, Ref 2014/60/92737/W, dated 29 August 2014, subject to the attached schedule of conditions.

Procedural matters

2. The application was made in outline with all matters apart from access and layout reserved for future determination. Drawings showing indicative site layout were submitted with the application which indicate that the site is capable of accommodating five dwellings. I have had regard to these in the determination of this appeal.
3. The Council changed the description and location of the development of application ref: 2014/60/92737/W to 'Outline application for erection of 5 dwellings' at 'Land adjacent to No 8 Miry Lane, Netherthong, Holmfirth HD9 3UQ'. This is an accurate description and location of the development and it is, therefore, the basis on which I have determined this appeal.
4. A completed planning obligation was submitted under section 106 of the Town & Country Planning Act 1990 (s106). This is a Unilateral Undertaking which provides for the landscaping, management and subsequent transfer of land adjacent to the northern boundary of the site to a Management Company or Nature Conservation Charity for continued use as Public Open Space. I have had regard to this Unilateral Undertaking in the determination of this appeal.

Main Issues

5. The main issues are:

- The effect on highway safety.
- The effect of the proposed access on the character and appearance of the area having particular regard to the setting of the Netherthong Conservation Area.

Reasons

Highway safety

6. The appeal site comprises approximately the southern part of an existing field with countryside to the north and west and residential development to the south and east. The development proposed is an outline application for five dwellings with all matters other than access and layout reserved for future determination.
7. Access would be off Miry Lane which reduces in width to a single carriageway as it extends northwards passed No 8 Miry Lane and has a relatively steep gradient along the site frontage. The proposal would involve the widening of Miry Lane to 4.5m from the access position to the point where the road widens in vicinity of No 8. A 1.5m wide footway is also proposed to extend from the access and run along the eastern edge of the proposed widened section of Miry Lane to join the exiting footway in the vicinity of No 8.
8. The officer's report to Committee when the application was presented for determination acknowledges that Miry lane is lightly trafficked and that due to geometry constraints vehicle speeds are low. From observations at my site visit I concur with this view.
9. The Council indicate that the proposed access road would afford a 2.4m ('X' distance) x 43m ('Y' Distance) visibility splay onto Miry Lane which is the Manual for Streets (MfS) standard access visibility and is based on stopping sight distance calculations. However, the Council also indicate that the proposed 'Y' is based on access being level and as such the distance does not take into account the gradient of Miry Lane. Using the MfS adjustment the 'Y' distance should be 57m.
10. The position of the access junction on an inclined road is not unusual of semi-rural environments. Given the undulating nature of the land in the vicinity of Netherthong I observed that several other small scale residential developments also take access off inclined roads.
11. Although the 'Y' distance would be slightly less than that recommended in MfS, given the general low levels of traffic on this part of Miry Lane, the relatively low level of vehicular movements that would be generated by the proposal and the existing low vehicular speeds, in my view, vehicles entering Miry Lane would have adequate visibility in both directions. Consequently, I do not consider that the proposed junction visibility would result in a demonstrable detrimental impact on highway safety.
12. The Council indicate that swept path analysis indicates that large vehicles exiting the proposed junction onto Miry Lane would cross the opposite side of the carriageway and cite a refuse vehicle as an example. Whilst this may be

the case, given my findings on the adequacy of the visibility at the junction and the relatively low frequency of large vehicles that are likely to be associated with a small scale development of five dwellings, I do consider that this matter would constitute a sustainable highway safety reason on which to dismiss this appeal.

13. The Council have also indicated that the access road into the development would be retained as a private driveway and that the approach to the junction with Miry Lane would be approximately 1 in 14 (7%). As such, any deterioration in the road surface resulting in a reduction in skid resistance would make it more difficult for vehicles to stop at the junction. Given the relatively low levels of traffic generated by the proposal and the short length of private driveway within the site, vehicle speeds and movements on the driveway would likely be low. In such circumstances, whilst it may take many years for the driveway to deteriorate to the extent that skid resistance is compromised, I am of the view that the occupants of the proposed dwellings would become aware of such deterioration and take either appropriate corrective driver action or maintenance action. In any event, given the likely long period of time before any such deterioration may, or may not, manifest I do not consider that this matter would constitute a sustainable highway safety reason sufficient to dismiss this appeal.
14. The existing highway network in Netherthong is relatively narrow in parts due to the historic pattern of development of the village. Given the relatively large size of the village, in my view, the limited number of additional vehicles associated with a development of five dwellings would not materially impact on the overall volume of traffic using the local network to the extent that highway safety would be compromised. Whilst the Council have cited an example of a refuse vehicle entering and exiting an area not previously accessed, such vehicles would already be using the local network.
15. Moreover, the appellant indicated that the Council had granted outline planning permission for residential development on the site with access from St Mary's Way. Whilst I have no conclusive evidence to confirm this, several local residents also refer to the existence of such planning permission but that it is also subject to the completion of a planning obligation. I have no information to indicate whether the planning obligation has been completed. Nevertheless, it appears to me that vehicles associated with the use of an access from St Mary's Way would also use the same local highway network through the village. As such there would be no material difference on the wider network between vehicles using the wider network that accessed the site via St Mary's Way and those accessed via Miry Lane.
16. Several local residents have also referred to a previous appeal for residential development on land off St Mary's Avenue (Ref: APP/Z4718/A/14/2219016) which also involved traffic using Miry Lane to access the site. I note my colleague Inspector in that case also found no convincing evidence that the proposal would increase traffic flows to the extent it would significantly exacerbate the existing situation and present an impediment to highway safety. I have no evidence to indicate any material changes in circumstances to Miry Lane or the highway network around the village since the Inspectors decision on that appeal to suggest that there should be a different conclusion on highway safety matters in this case.

17. Taking the above matters into consideration, I do not consider that the proposed development would have a detrimental effect on highway safety. It would not therefore conflict with Saved Policy T10 of the Kirklees Unitary Development Plan (Revised 2007) (UDP). This policy seeks, amongst other things, to ensure that new development does not create or add to highway safety problems.

Character and appearance

18. The appeal site is located close to the Netherthong Conservation Area. Whilst I have no evidence of the precise boundary of the conservation area the submitted evidence indicates that this lies to the south and excludes both the site and the part of Miry Lane that would be subject to the proposed widening and access works. Notwithstanding the matters for consideration in this appeal, from the evidence before me it would appear that the Council have accepted that the principle of residential development on the appeal site is acceptable and as a consequence the area in the vicinity of the conservation area would be subject to change.
19. The access works would involve the loss of part of a holly hedge an elder and a sycamore tree together with a small section of stone walling that appeared at my site visit to be substantially overgrown with ivy. I have taken into account the views of the Councils Arboricultural Officer in the Officer's report which indicated that these trees are not included in a protected group of trees and although provide some amenity value, this is limited. I concur with the views of the Arboricultural Officer.
20. The proposal indicates that substantial woodland planting would occur in the area proposed as POS to the north of the site and landscaping with indigenous planting to the western and eastern boundaries of the site. Whilst there would undoubtedly be some localised change to this small part of Miry Lane in my view this is offset by the compensatory mitigation planting which would provide a semi-natural buffer between the new development and the existing hedge line on Miry Lane.
21. Although a small section of Miry Lane would be widened, the eastern side of the road would be subject to substantial indigenous planting and stone wall replacement in the visibility splay which would help to maintain its rural character. Consequently, I do not consider that this localised change would be of an extent that would cause any significant harm to the character and appearance of the area or to the setting of the nearby conservation area.
22. For these reasons, the proposed development would preserve the character and appearance of the Conservation Area as a whole in accordance with section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would accord with paragraphs 131 and 132 of the National Planning Policy Framework (the Framework). As a result there would be no conflict with Policies BE1(i) and BE2(iv) of the UDP. These policies, amongst other things, require new development to be of good quality design to retain a sense of local identity and that existing and proposed landscape features are incorporated as an integral part of the proposal.

Other matters

23. The Council have raised concerns that the gradient of the proposed footway into the site from Miry Lane may be too steep for wheelchair users. The Council indicate that the gradient over a 12 metre stretch is 1 in 14 (7%) and as a general rule a gradient of 1 in 12 (8%) should be used as a maximum. In my view, the gradient of the proposed access road and footway is reflective of that which exists on the footways in many Pennine villages as a consequence of the characteristic topography of such areas. It appears to me that the gradient of the proposed access road would actually be less steep than that which the Council indicate is used as a norm. Consequently, I have attached little weight to this matter.
24. Local residents have raised concerns regarding the drainage and flooding. I note that the Council's Strategic Drainage Officers have indicated that additional information submitted by the appellant during the determination of the planning application was sufficient to demonstrate that, subject to the imposition of suitable drainage conditions, the site can be adequately drained during both construction and on completion without risk to surrounding properties. Given the importance of this matter, and for the reasons explained below, I have attached all of the Council's suggested drainage conditions. I am therefore satisfied that these matters need not preclude the development.
25. My attention has also been drawn to the effect of the proposal on local wildlife. The comments of the Council's Biodiversity Officer are relevant in this regard who advises that the site is improved grassland and is of little ecological interest. Moreover, it is further advised that the removal of the short strip of hedge to accommodate the access would be compensated by the proposed planting and mitigation works. I therefore conclude that the impact of the proposal on local wildlife would be limited and would be offset by the proposed mitigation measures which can be secured by condition and the submitted Unilateral Undertaking.
26. Local residents have referred to the fact that planning permission has already been granted for residential development on the site subject to the completion of a Section 106 Agreement with access proposed off St Mary's Way. For the reasons explained above, I have no information regarding this permission, whether the s106 has been completed or indeed whether the permission has actually been issued. However, the fact that planning permission may have been granted for an alternative access is not a matter in itself to dismiss this appeal on that ground. I am obliged to determine this appeal on the basis of the information before me and the consideration of its planning merits. Accordingly, I have attached limited weight to this matter.

Unilateral Undertaking and Conditions

27. The planning officer's report to committee when the application was presented for determination identified that Policy H18 of the UDP requires the provision of POS on housing sites of more than 0.4 hectares or more at a ratio of 30 sq m per dwelling. Although the area of land to the north is well in excess of the 150 sq m of POS the appellant confirmed a willingness to enter into a planning obligation that provides for the identified land to the north to be made available as POS.

28. The Unilateral Undertaking would provide for the landscaping, maintenance, and public access to the land immediately to the north of the site for use as POS. For any weight to be given to this the provisions need to be in accordance with the tests set out in paragraph 204 of the National Planning Policy Framework (the Framework). Given the provisions of Policy H18 of the UDP, the Unilateral Undertaking would enable the requirements of the policy to be met. Consequently I find that the Unilateral Undertaking would meet the tests in the Framework.
29. The Council has suggested a number of planning conditions which I have considered against the advice given in paragraph 206 of the Framework and the guidance contained in the section on 'Use of Planning Conditions' in the government's Planning Practice Guidance. As a result, I have amended some of them for clarity and eliminated some for the reasons set out below.
30. In addition to the standard conditions for outline applications, I have imposed a condition requiring that the development is carried out in accordance with the approved plans in so far as they relate to the layout and means of access. This is for the avoidance of doubt and in the interests of proper planning. In the interests of protecting the living conditions of the occupants of nearby properties I have imposed a condition relating to working hours.
31. Although the submitted plans show the position of the access I agree that a more detailed scheme which details the construction works proposed to Miry Lane including structural calculations and details of any retaining structures is required in the interests of highway safety. For the same reason, adequate provision is also required within the curtilage of the proposed dwellings for the surfacing of vehicular parking and access areas and a requirement to maintain the visibility sight line at the junction with Miry Lane.
32. To safeguard trees, those shown in the arboricultural assessment should be protected and managed. Given the semi-rural locality of the site I agree that a condition is required to provide bat roosting and bird nesting facilities. Given that landscaping would be subject to reserved matters, the suggested condition is not necessary. The landscaping scheme for the proposed area of Public Open Space (POS) is provided in the submitted Unilateral Undertaking. However, in the interests of protecting the living conditions of the occupants of adjacent properties I agree that a condition requiring the provision of suitable boundary treatment is necessary.
33. To avoid the risk of flooding both during and post construction surface water drainage needs to be controlled and managed where possible through sustainable drainage techniques. As the application is in outline form, control of permitted development would be unnecessary at this stage. Although there is no evidence of contamination at this stage, I agree that a condition is necessary to suitably remediate the site in the event that this is encountered during the course of construction works.

Conclusion

34. For the above reasons, and taking into account all other matters raised, I conclude that the appeal should be allowed.

Stephen Normington

INSPECTOR

CONDITIONS SCHEDULE

- 1) Details of the appearance, landscaping and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development is commenced and the development shall be undertaken in accordance with the approved details.
- 2) Application for the approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 3711/01/A; 1405401B; 3711/03/G and 3711/04.
- 5) Engineering or construction works shall not take place outside of 07.30 hours to 18.00 hours Mondays to Fridays and 08.00 hours to 13.00 hours on Saturdays and not at any time on Sundays or Bank or National Holidays.
- 6) Notwithstanding the details shown on the approved plan No 1405401B, construction work shall not commence until a scheme detailing the widening of Miry Lane to 4.8m and the provision of a 1.5m wide footway, construction specification, retaining walls, surfacing, drainage, kerbing and street lighting and associated highway works together with an independent safety audit covering all aspects of work has been submitted and approved in writing by the local planning authority. The dwellings shall not be occupied until the approved scheme has been implemented. The works comprised in the approved scheme shall thereafter be retained.
- 7) No construction work shall take place until details of the siting, design, structural calculations and material to be used in the construction of retaining walls/ structures near or abutting highways have been submitted to and approved in writing by the local planning authority. The dwellings shall not be occupied until the approved works have been completed in accordance with the approved details.
- 8) Prior to the occupation of the hereby approved dwellings all new areas indicated to be used for vehicular access and parking for the approved dwellings as shown on drawing no. 03 Rev G shall have been laid out with a hardened and drained surface in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 as amended or superseded by 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, kept free of obstructions and available for the use as vehicular access and parking areas throughout the lifetime of the development.
- 9) The dwellings shall not be occupied until sightlines of 2.4m x 43m have been cleared of all obstructions to visibility exceeding 1m in height and retained as such at all times.

- 10) The development shall be undertaken in accordance with the advice and directions (recommendations) contained in the Arboricultural Assessment reference No 14106MS. Works defined in this Assessment shall be implemented and maintained throughout the construction phase and any works so identified for retention shall be retained thereafter.
- 11) Details of bat roost features in the form of a Schweglar type 1FR bat box or similar and bird nesting features in the form of woodcrete swift boxes, to be incorporated integral to the new dwellings shall be submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details before the dwellings are first occupied and shall thereafter be retained.
- 12) Development shall not commence until a scheme detailing foul, surface water and land drainage, (sustainable drainage assessment, 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 and approved in writing by the Local Planning Authority. None of the dwellings shall be occupied until such approved drainage scheme has been provided on the site to serve the development or each agreed phasing of the development to which the dwellings relate and shall thereafter be retained.
- 13) The site shall be developed with separate systems of drainage for foul and surface water on and off site.
- 14) Where infiltration techniques are not viable or carry an unacceptable risk as a means of draining surface water, the 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 the 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. Volumes in excess of those generated by the critical 1 in 30 year event, up to and including the critical 1 in 100 year events, with an appropriate allowance for climate change, shall be stored on site in areas to be approved in writing by the local planning authority. 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 in accordance with the approved details. approved maintenance and management scheme shall be implemented and adhered to at all times.
- 15) The development shall not commence until an assessment of the effects of 1 in 100 year storm events with an additional allowance for climate change, blockage scenarios and exceedance event, on drainage infrastructure and surface water runoff (overland flows) pre and post development between the development and the surrounding area, in both directions, has been submitted to and approved in writing by the local planning authority. The dwellings shall not be occupied until the works comprising the approved scheme have been completed and such approved scheme shall be retained thereafter.

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

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

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

18) Prior to the first occupation of the dwellings a scheme detailing boundary treatments for the whole site shall be submitted to and approved in writing by the Local Planning Authority. This shall include a 2.1m high screen/fence along the full length of the northern boundary, above finished ground levels. The dwellings shall not be occupied until the works comprising the approved scheme have been completed and shall thereafter be retained as such.

20) In the event that contamination not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all works on site (save for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 working days. Unless otherwise agreed in writing with the local planning authority, works on site shall not recommence until either (a) a Remediation Strategy has been submitted to and approved in writing by the local planning authority or (b) the local planning authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy. Following completion of any measures identified in the approved Remediation Strategy a Validation Report shall be submitted to the local planning authority. Unless otherwise agreed in writing with the local planning authority, no part of the site shall be brought into use until such time as the whole site has been remediated in accordance with the approved Remediation Strategy and a Validation Report in respect of those works has been approved in writing by the local planning authority.

Appeal Decisions

Site visit made on 3 May 2016

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

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

Decision date: 10 May 2016

Appeal A: ref. APP/Z4718/D/16/3146148
45 Clara Street, Fartown, Huddersfield HD1 6EN

- 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 Mohammed Hameed against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2015/62/93625/W, dated 9 November 2015, was refused by notice dated 11 January 2016.
 - The development proposed is two storey plus basement front extension.
-

Appeal B: ref. APP/Z4718/D/16/3146154
47 Clara Street, Fartown, Huddersfield HD1 6EN

- 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 Zahid Hameed against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2015/62/93626/W, dated 9 November 2015, was refused by notice dated 11 January 2016.
 - The development proposed is two storey plus basement front extension.
-

Decisions

Appeal A: ref. APP/Z4718/D/16/3146148

1. The appeal is dismissed.

Appeal A: ref. APP/Z4718/D/16/3146154

2. The appeal is dismissed.

Procedural Matters

3. These appeals relate to adjoining properties with proposed matching designed front extensions. They have the same submission plans and the same reason for refusal. Consequently, I have dealt with them both in this one decision letter.
4. The Council changed the description of the development in planning application Nos 2015/62/93625/W and 2015/62/93626/W to 'erection of front extensions with dormer'. I consider that this description more accurately reflects the development proposed.

Main Issue

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

Reasons

6. The appeal properties comprise of an end terrace and a mid terrace stone built two storey dwellings that form part of a prominent 'L' shaped block located at the junction of Clara Street and Honoria Street. Together with the side elevation of No 7 Honoria Street, they form the part of the block that fronts Clara Street and are of similar design and fenestration. Clara Street is predominantly comprised of relative uniformly designed two storey terraced properties. The appeal properties have a similar building line, eaves height and ridge height to other properties on this part of the street.
7. The appeal properties are of single room width and depth and have a basement converted to a kitchen and a loft converted to a bedroom. The proposal is to extend the front elevation by approximately 2.7m and continue the roof slope down over the extension to facilitate the insertion of a small dormer in the roof. The ceiling heights of the ground floor and first floor would be lowered in order to create sufficient room height in the loft.
8. The proposals would result in a front projection that extends beyond the well established building line on this part of the street. There would be a distinct visible lowering of the window frames and eaves height with the consequence that the uniformity of the fenestration of this part of the block would be lost. I accept that the windows of No 7 that front Clara Street are side windows. Nevertheless in the context of views along Clara Street these are seen as fenestration elements that have synergy with the adjoining appeal properties and as such any significant changes in their alignment and appearance would be visibly noticeable. The combination of these factors would mean that the extensions would appear unacceptably at odds with the adjoining property at No 7. As such, they would form an incongruous addition to this part of the block.
9. The proposals would result in the dwellings having a larger expanse of roof and much reduced front façade than other properties on the street. In addition they would have a front projection beyond that of the adjoining property. This which would be an alien feature in this part of the street scene given the relatively uniform design of the other terraced properties that predominantly have a common front façade alignment. Consequently the uniformity of the street as a whole would be interrupted by the proposed extensions to a prominent part of the street. As such the proposals would not be in keeping with the surrounding development and would have a detrimental impact on the relatively uniform character and appearance of the street.
10. The appellant drew my attention to the property at the other end of the street comprising No 1E which has been constructed in front of the established building line. However, this property appears to be a recently constructed detached property that is sited adjacent to a smaller block of terraced properties (Nos 1A–1D) of similar construction age and design style. I have no evidence to indicate the circumstances which led to these proposals being considered acceptable. However, they are relatively recently constructed dwellings as oppose to extensions and as such they are not representative of

the circumstances in this appeal. Consequently I have determined these appeals on their own merits and I have attached little weight to his matter.

11. I have some sympathy with the appellants' desires to improve the living conditions of the occupants of the existing properties. However, this does not outweigh the harm that I have found that the appeal proposals would cause to the character and appearance of the area.
12. I therefore conclude that the proposed developments would harm the character and appearance of the host dwelling and the street scene. They would be contrary to Saved Policies D2, BE1, BE2, BE13 and BE14 of the Kirklees Unitary Development Plan (1999). These policies, amongst other things, require extensions to be in keeping with surrounding development, not prejudice the visual amenity of the area and respect the design features of the existing house and buildings.

Conclusions

13. For the above reasons, and taking into account all other matters raised, I conclude that the appeals should be dismissed.

Stephen Normington

INSPECTOR

Appeal Decision

Site visit made on 27 May 2016

by Elaine Gray MA(Hons) MSc IHBC

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

Decision date: 15 June 2016

Appeal Ref: APP/Z4718/W/16/3146262
392 Bradley Road, Bradley, Huddersfield HD2 1PU

- 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 Mr B Hirst and C Adamson against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2015/60/92507/W, dated 6 August 2015, was refused by notice dated 18 December 2015.
 - The development proposed is two bungalows.
-

Decision

1. The appeal is dismissed.

Main Issue

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

Reasons

3. The appeal site is located within a predominantly residential area. The surrounding area is characterised in the main by detached dwellings set in spacious grounds, with gardens to the front and larger plots to the rear. Mature planting and trees form a natural backdrop to the houses, contributing to the pleasant, suburban appearance of the area.
4. The proposal would divide the back gardens of 392 and 394 Bradley Road, and create two new detached dwellings, with a new drive formed immediately adjacent to No 392. The application was made in outline, but it is confirmed that the new buildings will be bungalows.
5. Photomontages have been submitted to show the visual impact the development would have on the street scene. From the road, the garages and corners of the new buildings would be visible through the gap between Nos 392 and 394, and the eastern-most dwelling would also be seen along the existing driveway of No 392. Although single storey, the structures would be clearly visible from the street, and their presence would indicate a departure from the characteristic layout of the area, whereby dwellings sit individually in their plots. The new dwellings would sit uncomfortably within the backdrops of Nos 392 and 394, thus harming the character of the street scene.

6. The provision of the new access to the development would require the removal of a section of stone wall and hedging to the front of No 392. Whereas the frontages of the adjacent dwellings are characterised by low walls, gates and mature planting, the proposal would create a wider, more sterile access without any means of enclosure. The new drive would thus appear out of keeping with the immediate surroundings.
7. Taking these factors in combination, I find that the proposal would be an uncharacteristic and incongruous form of development which would unacceptably harm the character and appearance of the surrounding area.
8. I conclude that the proposal would conflict with Policy BE1 of the Kirklees Unitary Development Plan (UDP, September 2007), insofar as it seeks to preserve visual amenity and the character of the surroundings, UDP Policy BE2, insofar as it requires development to be in keeping with the surroundings in terms of layout, and UDP Policy D2, which, amongst other things, also seeks to preserve visual amenity and the character of the surroundings.
9. I agree that the location of the appeal site is, in principle, sustainable for housing development. The Council is unable to demonstrate a five year housing land supply, and therefore the contribution of two dwellings is to be given weight. However, the National Planning Policy Framework sets out that a core element of sustainability is the impact on the built environment. As they are not relevant policies for the supply of housing land, UDP Policies BE1, BE2 and D2 are not rendered out of date by the lack of a five year housing land supply. Therefore, I consider that the modest contribution of two dwellings to the housing supply would be insufficient to outweigh the visual harm and conflict with policy identified.
10. My attention has been drawn to the property to the west of the appeal site, which was granted planning permission in 2006. I do not have the full details of the circumstances that led to this proposal being accepted, and I cannot be sure that they represent a direct parallel to the appeal proposal. In any event, this previous decision cannot justify the harm I have identified.
11. For the reasons above, and taking all other matters into account, I therefore conclude that the appeal should be dismissed.

Elaine Gray

Inspector

Appeal Decision

Site visit made on 27 May 2016

by Elaine Gray MA(Hons) MSc IHBC

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

Decision date: 15 June 2016

Appeal Ref: APP/Z4718/W/16/3147057

Video Tech, 2 Cross Church Street, Huddersfield HD1 2PT

- 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 Mohammed Akram against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2015/62/92055/W, dated 25 June 2015, was refused by notice dated 1 October 2015.
 - The development proposed is creation of a taxi booking office.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on the safety of vehicular and pedestrian traffic in the vicinity, and whether the proposal would be likely to increase opportunities for crime, disorder and anti-social behaviour in the town centre.

Reasons

Safety of vehicular and pedestrian traffic

3. The appeal site is located within a predominantly commercial area in the town centre. Cross Church Street is a narrow one-way street with a single vehicle carriageway, a cycle lane, and parking bays and a taxi rank for Hackney carriages on the east side. Although my early afternoon site visit did not coincide with the peak morning or evening rush hours, I observed that there was a steady flow of traffic along Cross Church Street. There was a high level of on-street parking, and I also saw a number of vehicles parked in the area without authorisation.
4. The appellant proposes to operate three cars on a 24 hours a day, 7 days a week basis. The cars would be located remotely at Miln Road, which lies one mile north of the appeal site. I accept that there would be occasions when the cars would be dispatched directly to other locations in the area. Nonetheless, they would frequently be called to pick up customers from the office at 2 Cross Church Street.

5. The car parking bays close to the appeal site are unrestricted during the evenings. The appellant states that these spaces could be used by cars which had approached the office along Cross Church Street. However, these spaces were occupied at the time of my visit, and I have little doubt that they would be busy at other times, both during the day and into the evening. The appellant would not be able to control the availability of these spaces and therefore could not rely on them for business purposes. If a car arrived to pick up a customer, and was unable to use a designated parking space, the driver would either have to wait on the carriageway, or pull to one side of the road, thus potentially obstructing road users and/or putting pedestrians at risk.
6. The appellant states that vehicles could access the site via Kirkgate, when restrictions were not in force. However, there is a bus stop immediately outside No 2, and there would be nowhere for taxis to pull off the carriageway whilst collecting customers. Therefore, cars stopping in this area, particularly so close to the Cross Church Street junction, would also be hazardous to pedestrians and other road users.
7. I therefore conclude that the proposal would unacceptably compromise the safety of vehicular and pedestrian traffic in the vicinity. It would therefore conflict with Policy T10 of the Kirkless Unitary Development Plan (UDP, September 2007), insofar as it resists development that would materially add to highway safety problems.

Crime, disorder and anti-social behaviour

8. Concerns have been raised regarding the potential effect of the proposal on crime, disorder and anti-social behaviour in the area. West Yorkshire Police state that Cross Church Street is one of the worst areas in the town centre for crime and disorder relating to the night-time economy. They have voiced concerns that the proposal would draw additional people and vehicles to an area that already suffers from the problems associated with high levels of congestion.
9. On my visit, I saw that there would be ample space inside the premises for customers to wait, which the appellant contends would alleviate the potential of more people lingering on the street. However, customers could not be compelled to use this facility, and some might choose to wait for their taxi outside in any case, thus compounding the problem.
10. I accept that customers would be unlikely to come from different parts of town to get a taxi from the appeal site. However, those within a convenient distance would do so, thus inevitably concentrating greater numbers of people within the area whilst using the service. The development would thus unacceptably increase the potential for crime, disorder and anti-social behaviour in the area.
11. On this issue, I therefore conclude that the proposal would fail to comply with paragraph 69 of the National Planning Policy Framework, which, amongst other objectives, seeks to achieve safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.
12. The appellant has suggested a number of safety measures, including the installation of CCTV and the employment of taxi marshals at the busiest times. However, in view of the extent of the problems already experienced in Cross

Church Street, such measures, although welcome, would not overcome my concerns regarding the proposal.

13. My attention has been drawn to the temporary permission which was granted in 2011 for a taxi office at 11 Cross Church Street, although I understand that this permission was not implemented. The appellant highlights a number of differences between that proposal and the scheme before me. I accept that the circumstances of the cases are not directly comparable, but this has not led me to a different conclusion, and I have considered the appeal scheme on its own merits.
14. I accept that the proposal would provide employment and contribute to the town's economy, which is an important local and national policy objective. However, this benefit would not outweigh the harm I have identified above.
15. The appellant would be willing to accept the grant of a temporary permission for the development, in recognition of the concerns raised. However, in view of the serious problems that exist in the area, and the potential of the proposal to add to these, a temporary permission would not be appropriate in this instance.

Other Matters

16. The property at No 2 is a grade II listed building, and therefore I am required to have special regard to the desirability of its preservation. As the scheme is for a change of use, and does not propose any operational development that would affect the character or appearance of the listed building, I conclude that the duty would be satisfied in this instance.
17. The appeal site also lies in the Huddersfield Town Centre Conservation Area (CA), and so I am required to have special regard to the desirability of preserving or enhancing the character or appearance of the conservation area. Again, the proposal would not affect the character or appearance of the CA, and so this duty is satisfied.

Conclusion

18. For the reasons above, and taking all other matters into consideration, I conclude that the appeal should fail.

Elaine Gray

Inspector

Name of meeting: **PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)**
 Date: **30 JUNE 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 Council's Forward Plan ?	No
Is it eligible for "call in" by Scrutiny ?	No
Date signed off by <u>Director</u> & name	20 June 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 portfolio	N/A

Electoral [wards](#) affected: Lindley; Holme Valley South; Greenhead; Ashbrow; Newsome;
 Ward councillors consulted: No

Public or private: Public

-
1. **Purpose of report**
For information
 2. **Key points**
 - 2.1 2015/60/90452/W - Outline application for erection of 22 dwellings and garages, and formation of associated car parking, access and landscaping at Land Adjacent to Spotted Cow, New Hey Road, Salendine Nook, Huddersfield, HD3 4GP. (Sub-Committee in accordance with officer recommendation). (Allowed (but details of layout removed from consideration during the course of the appeal))
 - 2.2 2014/60/92737/W - Outline application for erection of 5 dwellings adj, 8, Miry Lane, Netherthong, Holmfirth, HD9 3UQ. (Sub-Committee contrary to officer recommendation) (Allowed)

- 2.3 2015/62/93625/W & 2015/62/93626/W - Erection of front extensions with dormer at 45 & 47 Clara Street, Fartown, Huddersfield, HD1 6EN. (Officer) (Dismissed)
- 2.4 2015/60/92507/W - Outline application for erection of two dwellings at rear of 392/394, Bradley Road, Bradley, Huddersfield, HD2 1PU. (Officer) (Dismissed)
- 2.5 2015/62/92055/W - Change of use of shop to taxi booking office (Listed Building within a Conservation Area) at Video Tech, 2, Cross Church Street, Huddersfield, HD1 2PT. (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

KIRKLEES COUNCIL

PLANNING SERVICE

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

30-Jun-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 9th November 2015 and 1st 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 27th March 2012, the Planning Practice Guidance Suite (PPGS) launched 6th 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 6th 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.

Contents

Application No: 2015/92433.....	10
Type of application: 70m - REMOVAL/VARIATION OF CONDITION	
Proposal: Variation of conditions 2 (time scale) and 17 (land form/surface restoration) on previous permission 99/90597 for restoration of mineral workings with imported controlled wastes; construction of new road and site access; ancillary processing and use of minerals arising from engineering and site development works; processing, sorting, composting and re-cycling of wastes and all other associated engineering operations	
Location: Laneside Quarry, Bellstring Lane, Upper Hopton, Mirfield, WF14 8BP	
Ward: Dalton Ward	
Applicant: Tony Barry, Casey Environ	
Agent: Anne Mosquera, Civitas Planning Limited	
Target Date: 31-Jul-2016	
Recommendation: RMC - REMOVAL OR MODIFICATION OF CONDITION(S) SUBJECT TO THE DELEGATION OF AUTHORITY TO OFFICERS	
Application No: 2016/90066.....	60
Type of application: 62 - FULL APPLICATION	
Proposal: Erection of 8 dwellings with parking	
Location: Land to Rear of Lindley WMC, Blackthorn Drive, Lindley, Huddersfield, HD3 3RR	
Ward: Lindley Ward	
Applicant: S Armitage, Armitage Developments UK Ltd	
Agent: Dan Heneghan, Farrar Bamforth Associates	
Target Date: 17-May-2016	
Recommendation: FC - CONDITIONAL FULL PERMISSION	
Application No: 2016/90477.....	81
Type of application: 62 - FULL APPLICATION	
Proposal: Alterations to convert outbuilding to holiday accommodation	
Location: adj 1, Wheat Close, Holmbridge, Holmfirth, HD9 2QL	
Ward: Holme Valley South Ward	
Applicant: D Trueman	
Agent: Andy Rushby, Assent Planning Consultancy Ltd	
Target Date: 03-Jun-2016	
Recommendation: ASD-CONDITIONAL FULL APPROVAL SUBJECT TO THE DELEGATION OF AUTHORITY TO OFFICERS	

Application No: 2015/92993.....	94
Type of application: 60 - OUTLINE APPLICATION	
Proposal: Outline application for erection of residential development	
Location: land off, Butt Lane, Hepworth, Holmfirth, HD9 1HT	
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	
Application No: 2016/90373.....	111
Type of application: 62 - FULL APPLICATION	
Proposal: Change of use of 1st floor room to taxi office	
Location: Pink Fusion Lounge, Sheffield Road, New Mill, Holmfirth, HD9 7JT	
Ward: Holme Valley South Ward	
Applicant: Mr Mohammed Abaidullah	
Agent: P F Holleworth	
Target Date: 13-May-2016	
Recommendation: FC - CONDITIONAL FULL PERMISSION	
Application No: 2015/93861	122
Type of application: 62m - FULL APPLICATION	
Proposal: Erection of 28 dwellings and engineering operations	
Location: land off, Millmoor Road, Meltham, Holmfirth	
Ward: Holme Valley North Ward	
Applicant: J Mayo, Heywood Homes	
Agent: Andrew Keeling	
Target Date: 13-Apr-2016	
Recommendation: ASD-CONDITIONAL FULL APPROVAL SUBJECT TO THE DELEGATION OF AUTHORITY TO OFFICERS	
Application No: 2016/91193.....	145
Type of application: 62 - FULL APPLICATION	
Proposal: Erection of detached dwelling with integral garage (modified Proposals)	
Location: plot 19, Honey Head Lane, Honley, Holmfirth, HD9 6RW	
Ward: Holme Valley North Ward	
Applicant: D Hair	
Agent: Alan Davies, Northern Design Partnership	
Target Date: 10-Jun-2016	
Recommendation: FC - CONDITIONAL FULL PERMISSION	

Application No: 2016/91144..... 157
Type of application: 62HH - FULL APPLICATION
Proposal: Erection of single storey rear extension and raised patio
Location: 150, Wessenden Head Road, Meltham, Holmfirth, HD9 4HR
Ward: Holme Valley North Ward
Applicant: Mr & Mrs Lyons
Agent: Andrew Smith, Valley Properties
Target Date: 07-Jul-2016
Recommendation: FC - CONDITIONAL FULL PERMISSION

Application No: 2015/92433

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

Proposal: Variation of conditions 2 (time scale) and 17 (land form/surface restoration) on previous permission 99/90597 for restoration of mineral workings with imported controlled wastes; construction of new road and site access; ancillary processing and use of minerals arising from engineering and site development works; processing, sorting, composting and re-cycling of wastes and all other associated engineering operations

Location: Laneside Quarry, Bellstring Lane, Upper Hopton, Mirfield, WF14 8BP

Grid Ref: 418913.0 417616.0

Ward: Dalton Ward

Applicant: Tony Barry, Casey Environ

Agent: Anne Mosquera, Civitas Planning Limited

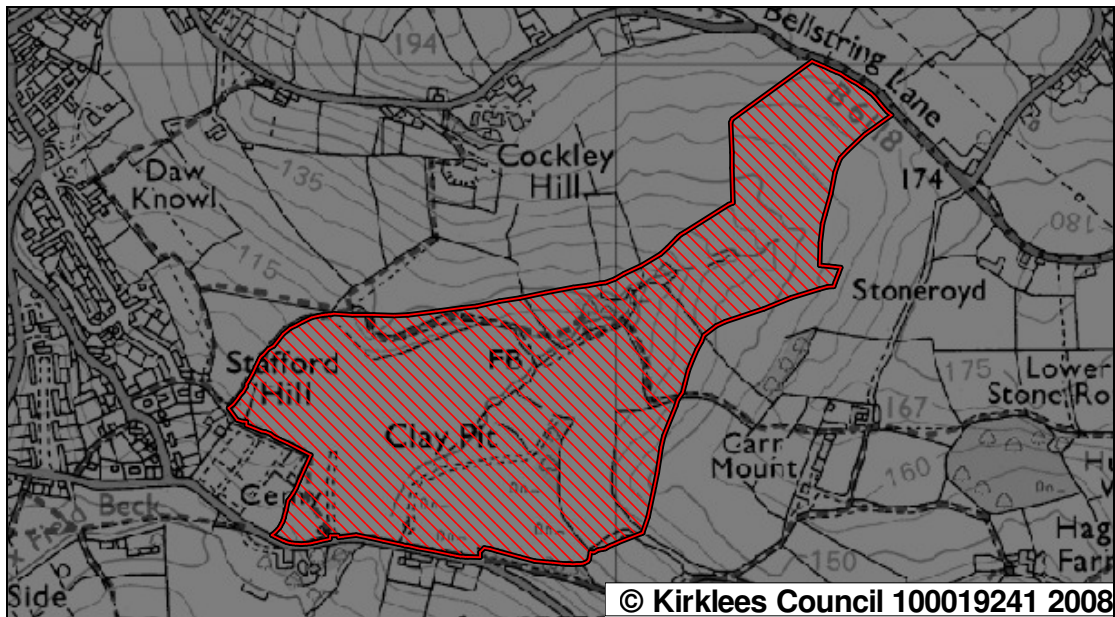
Target Date: 31-Jul-2016

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

This proposal would involve the continued import of a significant quantity of inert waste over an extended period of 10 years resulting in an average of 120 vehicle movements (60 in 60 out) per day. An additional year would then be required to complete landforming and planting associated with the final restoration of the site. Whilst it is recognised this proposal would prolong the impact on the amenity of the area, it is considered that progressive backfilling of the site combined with the existing and proposed mitigation measures would satisfactorily limit the adverse effects associated with this development. Furthermore the subsequent amended restoration of the site will provide satisfactory compensatory habitat for the local Great Crested Newt population would tie in well with the wider surrounding landscape and would provide an opportunity to significantly enhance local biodiversity through strategic planting and habitat creation. When restored this site will provide ecological connectivity with the surrounding countryside and enhanced recreational opportunities for the local community.

RECOMMENDATION: Approve removal or modification of conditions identified by the applicant subject to the delegation of authority to officers to:

- (i) Impose all necessary and appropriate conditions
- (ii) Secure a deed of variation to the existing S106 agreement which requires:
 - (a) the continued payment of an annual highways maintenance contribution until the end of the extended operational period

- (b) The upgrade of on-site wheel washing facilities and the provision of a formal road cleaning regime

(iii) and, subject to there being no substantive changes to alter this recommendation, to issue the decision notice

2. INFORMATION

This application is brought to the Huddersfield Planning Sub-Committee as this proposal seeks to amend planning conditions which, if approved, would extend the life of a strategic waste disposal site dealing with more than 50,000m³ of solid waste per annum by a total of 11 years.

PROPOSAL/SITE DESCRIPTION

Site description

The application site is an operational landfill and is located approximately 1 kilometre south east of Kirkheaton on land which originally operated as a mineral working with associated brickworks. The site is bounded to the south by Laneside, to the west by a cemetery and pastureland and to the north and east by open pastureland. The site is crossed by public rights of way which currently allow access across and around the site. The site occupies approximately 32.2 hectares of land of which a significant proportion has received waste in the form of excavation soils and demolition rubble. Access to the site is gained via a purpose built haul road which adjoins Bellstring Lane and runs for approximately 750m south west to the operational areas of the site. The general topography of the site sees it rise steeply by approximately 80 metres from the south to the north east.

Proposal

Planning permission 99/90597 for restoration of mineral workings with imported controlled wastes; construction of new road and site access; ancillary processing and use of minerals arising from engineering and site development works; processing, sorting, composting and re-cycling of wastes and all other associated engineering operations was approved on 08/09/2000. The aforementioned planning permission was granted subject to 67 planning conditions copies of which are included in appendix 1 attached to this report.

The applicant has made an application under Section 73 of the Town and Country planning Act 1990 to amend planning conditions 2 and 17 of planning permission 99/90597. The details of these conditions and why their variation is required are described as follows:

2. Use of the site for the deposit of waste shall be completed within 12 years of the date of commencement of operations on the site and the application site shall be restored for use for agriculture, woodland and amenity within 13 years of the date of commencement of operations or within 12 months of the achievement of final levels in accordance with condition 17 below, whichever is the earlier.

The applicant has requested the condition be amended to read:

“Use of the site for the deposit of waste shall be completed within 10 years from the date of grant of planning permission and the application site shall be restored for use for agriculture, woodland and amenity within 11 years of the date of grant of planning permission or within 12 months of achievement of permitted final levels in accordance with condition 17 below, whichever is the earlier”

17. Unless otherwise approved in writing by the local Planning Authority, final post settlement landform and surface restoration levels shall accord with the landform shown on approved post settlement drawings Nos. G110-009 and G110-008 and the finished restored contours shown on approved post settlement drawing No. G110-10 Rev . 1. To that end no landfilling shall be commenced until a scheme of final pre-settlement waste deposit levels and (including allowance for anticipated settlement and final cover) has been submitted to and approved in writing by the Local Planning Authority. When those levels have been achieved, No further waste deposit will be allowed other than final capping cover, the provision for minor infilling to prevent ponding and to ensure satisfactory surface drainage.

The applicant has requested the condition be amended to read:

“Unless otherwise approved in writing by the Local Planning Authority, final post settlement landform and surface restoration levels shall accord with the finished restored contours shown on approved post settlement drawing No G110-203-Rev2”

Following the granting of planning application 99/90597, the applicant discovered a significant population of Great Crested Newts at this site. These are a European protected species and therefore measures to protect the newts had to be implemented at the site. This first required the creation of compensatory habitat i.e. the formation of suitable ponds and hibernacula, the capture and removal of newts to the new habitat areas and the subsequent prevention of the newts returning to the operational areas of the site. These measures had a serious impact on the activities which could take place on site as the site’s ecologist would only allow access to areas of the site once they were completely clear of the newts. As a consequence, whilst it was originally envisaged the site would be fully completed within 13 years of the commencement of the development, only a relatively modest proportion of the development has been carried out so far.

Essentially the application to vary the aforementioned conditions is designed to address the affects that dealing with the on-site newt population has had on this development and therefore seeks to:

- Extend the life of the waste disposal element of the extant planning permission by a further 10 years in order to complete the development

- Following the completion of the extended period of tipping operations, allowing a further year to complete land forming and site restoration works
- Regularise the formation of the new mitigation ponds around the periphery of the site which did not form part of the original approved planning permission.

The applicant has provided information in support of this application as part of an Environmental Impact Assessment (EIA) which the applicant considers provides justification as to why this proposal is acceptable. To summarise, the issues addressed in the EIA are listed as follows:

- Land stability
- Pollution/contamination prevention
- Ecology
- Improved habitat provision
- Noise
- Dust and Air Quality
- Hydrogeology and Hydrology
- Landscape and Visual Impact
- Highways

Section 73 of the Town and Country Planning Act 1990 allows the Local Planning Authority to review the existing planning conditions and update, revise, add to or delete redundant conditions as part of the assessment of the planning application. Since the granting of planning permission 99/90597, a number of conditions have been discharged or have become redundant and it is proposed to delete or reword those conditions as follows:

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission. Written notification of the date of commencement of development shall be sent to the Local Planning Authority within 7 days of such commencement. **Delete, no longer required as the development has commenced.**

5. The vehicular access referred to in Condition 4 above shall be constructed in accordance with a scheme submitted for the prior agreement in writing of the Local Planning Authority. Unless otherwise agreed by the Local Planning Authority the submitted scheme shall:

(a) include the proposals detailed in approved drawing Nos G110-004. Rev.2 (Proposed New Road), G110-031 (Sections Through Access Road) and G110-005 (Access Road Profile) except that 15 metre radii shall be provided at the access road junction with Bellstring Lane; the access road for the first 25 metres measured from the southern channel line of Bellstring lane shall be 7.5 metres wide and thereafter 6 metres wide with passing places provided at suitable points of inter-visibility; the gradient of the access road for 30 metres measured back from the southern channel line of Bellstring Lane shall not be

greater than 1 in 40; the sight line visibility splays on either side of the access road junction with Bellstring Lane shall be 4.5 x 120 metres; the first 200 metres of the access road measured from the southern channel line of Bellstring Lane shall be hard surfaced and sealed with tarmac and the remainder hard surfaced and sealed, the first 150 metres of the access road measured from the southern channel of Bellstring Lane shall be kerbed on either side up to and including the site office/weighbridge indicated or approved on amended application drawing No. G110-004.Rev 2 and provision made along the remainder of the access road to the site to constrain HGV drivers to use only the running surface of the road and lay-bys and avoid use of the verges.

(b) provide detail proposals for the construction of the new access road including dimensions and materials to be used for the construction of the sub-base, the running surface, sealing of the surface and drainage of surface water and its disposal. Materials which would adversely affect local visual amenity in a rural location such as ochre coloured bricks, ochre coloured brick rubble or ochre coloured discard should not be used for construction of the running surface or subsequent maintenance of the running surface.

(c) provide details and cross-sections of proposed noise baffle berms to be constructed adjacent the access road where necessary to ensure that use of the access road by site traffic does not breach the noise limit in Condition 50 below.

(d) provide detail proposals for grading, soiling and establishment of grass sward on the noise baffle mounts.

(e) provide plans and elevations for any structures, buildings or gates to be provided with the access road, including details of proposed construction materials and design.

(f) drainage arrangements.

Delete as the access road details have been approved and satisfactorily implemented

6. Reword as follows – The site access road as indicated on drawing No. G110 -004. Rev. 2 shall be maintained in a good state of repair and kept clean and free of mud and other debris. Verges and baffle mounds to the access road, shall be maintained free of weeds and rank vegetation.

8. Reword as follows – The diversion of the watercourse crossing the site shall be carried out in accordance with the following plans and documents:

Stream Diversion G110 – 063

Typical Sections to Stream Diversion G110 – 064

Stream Diversion Longitudinal Section G110 – 065

Balancing Pond detail G110 - 066

Revised Planting Proposals G110 – 202 Rev. 3

Amended Final Restoration G110 – 203 Rev. 2

9. Tree and scrub and hedge planting proposed on application drawing No. G110-004 Rev 2 shall be implemented in accordance with the specification set out in amended application drawing No. G110-011 Rev 2 during the first available planting season after completion of construction of the site access

road. The planting season is from 1 November until 31 March of the following year. **Delete as planting required has been agreed and carried out.**

10. **Reword as follows** - Tree and scrub and hedge planting proposed on application drawing No. G110-007 shall be implemented in accordance with the specification set out in amended application drawing No. G110-011 Rev 2 and in accordance with a revised timetable which shall be submitted to and agreed in writing by the Local Planning Authority within 3 months of the date of this approval.

11. **Reword as follows** – Other than excavation soils and demolition rubble, waste shall not be imported to or deposited on the site until Condition Nos. 56, 57, 60 and 63 have been complied with.

25. **Reword as follows** – Except as specified in condition XX below, the site shall be progressively restored for agriculture, woodland and amenity use in accordance with the following plans and documents:

Pre-operation mitigation measures G110 - 007 Rev.1
Revised Planting Proposals G110 – 202 Rev 3
Amended Final Restoration G110 – 203 Rev. 2
Fencing Type 1 1200mm Stockproof G110 – 040
Fencing Type 4 2400mm Palisade G110 – 042
Field Gate 4.0 Galvanised Steel G100- 044
Waymarking post and Finger post G110 -045
Signboard 1200 x 800mm G110 – 046
Stile G110 – 047
Signboard 600 x 400mm G110 – 048
Kissing Gate G110 – 049
Fencing Type 6 1000mm Post and Wire G110 – 50
Cycle Gateway with Sand Trap G110 – 51

42. **Reword as follows** – Within 3 months of the date of the permission hereby approved a scheme detailing existing and proposed surface water management measures shall be submitted in writing to and approved by the Local Planning Authority. The approved scheme shall be retained throughout the life of the development.

43. **Reword as follows** – Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of the interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses shall be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank overflow pipes outlets shall be detailed to discharge downwards into the bund.

51. **Reword as follows** – The site shall be operated in accordance with the noise monitoring scheme Ref. AJB/JMS/P1300 and subsequent amendment approved on 6 MARCH 2002.

55. **Reword as follows** – The site shall be operated in accordance with the following dust suppression measures:

- Mobile water bowsers shall be used when airborne dust is generated on site
- dust suppression chemicals shall be used when necessary
- All plant used on site shall have upward facing exhausts
- All heavy plant used on site shall be equipped with radiator deflector plates
- The movement of soils, overburden and the deposit of waste on site shall be suspended when the local wind speed exceeds 20 metres per second and is blowing in the direction of any residential premises within 1000 metres of the area of operation
- An on-site anemometer shall be provided and maintained in good order
- Dust suppression or collection equipment shall be used on any drilling rig used on site
- Effective wheel, tyre and chassis cleaning equipment shall be provided at the site exit
- Complaints about dust and nuisance incidents shall be recorded

56. **Reword as follows** - Emission of windblown litter from the landfill site shall be prevented in accordance with a scheme which shall be submitted to and approved in writing by the Local Planning Authority prior to the deposit of any waste (other than excavation soils or demolition rubble) on the site. The submitted scheme shall, inter alia, provide for:

- daily covering of waste deposited on the site with clean soil or other suitable material
- suspension of waste disposal/treatment operations on the site when local wind speed exceeds 20 metres per second
- regular recovery and disposal of any fugitive litter.

57. **Reword as follows** - Other than the deposit of excavation soils and demolition rubble, no landfilling shall be commenced until a scheme for keeping the site free of scavenging birds has been submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be implemented during the hours of daylight throughout the life of the site unless otherwise agreed in writing by the Local Planning Authority.

60. **Reword as follows** - Landfill gas generated by the waste deposited at the site shall be controlled and utilised only in accordance with a scheme submitted prior to the deposit of any non-inert waste on the site for the approval of the Local Planning Authority. The submitted scheme shall be designed and installed in accordance with best practice and guidance from the Department for Environment Food and Rural Affairs and its Agencies: -

(i) to minimise the likelihood of gas collection pipework and extraction well failure and the need for replacement and maintenance of pipes and wells which would adversely affect the restoration of the site.

(ii) to minimise interference with the afteruse of the site for agriculture, woodland and amenity.

(iii) to prevent odour nuisance from landfill gas vents.

The submitted scheme shall provide for, inter alia:

(i) scaled plan(s) which locate monitoring stations and wells, extraction wells, well heads/manifolds, collection pipework, flares and generating stations and access to installations and plant;

(ii) indication of which installations are above ground and elevations for above ground installations:

(iii) method statements for the installation of gas collection/extraction and control systems; and for the subsequent replacement of failed wells and collection pipes.

(iv) a programme of works which provides for the installation of collection pipework and extraction wells prior to the spreading of restoration soils on the site.

XX - **Additional Condition** - The site shall be operated at all times in accordance with the following HGV controls:

- HGVs entering or leaving the site shall not exceed an average of 120 vehicles a day at the site (i.e. 60 in and 60 out) for a 5.5 day working week when measured over one calendar month.
- A maximum of 220 (i.e. 110 in and 110 out) HGV may enter or leave the site on any one working day. This figure shall be reduced to 110 (i.e. 55 in and 55 out) on a Saturday.
- A record of HGV movements entering the site for landfill purposes shall be kept on site and shall be made available to the LPA when requested.

XX – **Additional Condition** – Notwithstanding the approved restoration planting details contained in plan G110 – 202 Rev. 3 the following species shall not be planted on site and shall be replaced by a mixture of other appropriate substitute species indicated in the aforementioned plan:

Grey Alder (*Alnus Incana*)
Ash (*Fraxinus Excelsior*)
Blackberry (*Rubus Fruticosus*)
Dewbury (*Rubus Caesius*)
Burnet Rose (*Rosa Pimpinellifolia*)

XX - **Additional Condition** – Notwithstanding the management programme described in the supporting Habitat Management Plan, all hedges planted as part of the approved restoration scheme shall only be trimmed or pruned during the month of February.

XX – **Additional Condition** - Prior to the felling of any trees on site a survey shall be carried out by a qualified ecologist to establish whether the trees provide roosting habitat for bats. If bat roosts are found works in the vicinity must cease immediately and the advice of a licenced bat worker sought.

Members should also note that the term unless otherwise agreed in wiring by the Local Planning Authority has been deleted from all the original conditions as this phrase is no longer acceptable when drafting planning conditions.

4. BACKGROUND AND HISTORY

The site has a history of quarrying, mining, brick making and landfilling. Fireclay and coal were extracted in the late 1800's and early 1900's, followed by quarrying for brick making materials for the onsite Brickworks. During the 1970's and 1980's the Brickworks was demolished and its site and the south east section of the quarry was used for the landfilling of household, industrial, commercial and other waste by West Yorkshire Metropolitan County Council. Some quarrying has taken place since the 1980's and currently in the form of extraction for engineering purposes only. During the last 12 years the site has been used to deposit a significant quantity of demolition and excavation wastes. However, the remaining unused landfill capacity of the site is still substantial (approximately 1.4 million cubic metres).

The following planning applications and formal notices are considered relevant to this proposal:

KI 1545 – Work brickearth and fireclay by opencast methods (Granted)

75/06514 – Outline application for the erection of brick manufacturing plant and ancillary works (Granted)

78/03910 – Erection of brickearth manufacturing plant and ancillary works (Granted)

99/90597 – Restoration of mineral workings with imported controlled wastes; construction of new road and site access; ancillary processing and use of minerals arising from engineering and site development works; processing, sorting, composting and re-cycling of wastes and all other associated engineering operations (Granted)

2002/93369 - Variation of condition 55 relating to the submission of a scheme and programme of measures for the suppression of dust on previous application 99/62/90597/W0 for restoration of mineral workings etc. Granted

Breach of Conditions Notice - 232 (BCN) – requiring compliance with condition 7 of planning permission 99/90597 which requires that the wheels and chassis of vehicles leaving the site are cleaned to prevent mud and debris reaching the highway.

5. PLANNING POLICY

The statutory development plan comprises the Unitary Development Plan (UDP). This report will refer only to those policies 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 process is underway and the public consultation on the draft local plan took place from 9th November 2015 to 1st February 2016.

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 and national planning policy and guidance”.

The majority of the site is allocated as an active mineral working within the adopted UDP with the smaller part falling within a wider area of Green Belt and it is considered that the following policies and documents are relevant to this application:

Unitary Development Plan

M3 – Development of sites for the extraction of minerals

EP4 – Noise sensitive development

EP6 – Noise generating development

EP11 – Ecological Landscaping

T10 – Requires that new development does not detrimentally affect highway safety

R13 – Development affecting public rights of way

WD1 – Indicates that land will be made available for storage and transfer, treatment and recycling and final disposal of waste within the district
WD5– Disposal of waste to landfill

National Policy Documents

NPPF Section 1. Building a strong, competitive economy
NPPF Section 9. Protecting Green Belt land
NPPF Section 11. Conserving and enhancing the natural environment
NPPF Section 15 Facilitating the Sustainable use of Minerals
Planning Practice Guidance – Waste
National Planning Policy for Waste

6. CONSULTATION RESPONSES

K.C. Highways – No objection in principle but has requested that the following be considered as part of any subsequent grant of planning permission:

- Improved wheel washing wheel washing facilities and the provision of satisfactory road cleaning measures
- The continuation of the annual highway maintenance payment
- The inclusion of planning conditions which require:
 - (i) HGV movements to be limited to 60 in and 60 out (120 in total) per day
 - (ii) A scheme detailing vehicle routeing, workers parking facilities and the use of adequate wheel washing facilities

K.C. Environmental Health – No objections

K.C. Environment Unit – No objections subject to the following:

- The mitigation, compensation and enhancement measures indicated in the supporting ecological assessment are implemented
- The following tree and scrub species are not planted Grey Alder, Ash, Blackberry, Dewberry and Burnet Rose.
- A requirement that planted hedges are cut in February to allow wildlife access to any remaining berries

K.C. PROW Team – No objections in principle but has highlighted the need to regularise existing footpath diversions

K.C. Strategic Waste – No objections

K.C. Strategic Drainage – No objection subject to all existing conditions relating to surface water management being carried forward to the new permission

K.C. Trees Officer – No objections

Environment Agency – No objections

Natural England – No objections

Coal Authority – No objections

Yorkshire Water – No objections.

The Yorkshire and Humber Waste Technical Advisory Body (YHWTAB), of which Kirklees is a member, has produced a memorandum of understanding which encourages member Waste Planning Authorities (WPAs) receiving applications affecting strategic waste disposal sites (throughput of 75,000 TPA) to consult the other member LPAs. Due to the significant remaining capacity of this site and likely throughput of waste it constitutes such a strategic site. Therefore WPAs from the YHWTAB were consulted and the following responses were received.

North Yorkshire County Council – No objections

Hull City Council – No objections

Bradford Metropolitan Council – No response

York City Council - No response

Leeds City Council - No response

Yorkshire Dales National Park - No response

Wakefield Metropolitan Council - No response

North Lincolnshire District Council - No response

East Riding District Council - No response

Barnsley Metropolitan Council - No response

Northeast Lincolnshire District Council - No response

Calderdale Metropolitan Council - No response

Sheffield City Council - No response

Rotherham Metropolitan Council - No response

7. REPRESENTATIONS

This application was publicised by the posting of 14 site notices (inc. 7 EIA notices) in the vicinity of the site, the mailing of 42 neighbourhood notification letters and an advertisement, in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, in the Huddersfield Examiner. This resulted in the submission of 8 letters of representation being received. The concerns raised can be summarised as follows:

- A period of less than 10 years to complete tipping at the site should be imposed
- Allowing the site to continue with unrestricted heavy vehicle movements for a further 10 years will lead to highway safety problems on Bellstring Lane.
- The site has not been operated in accordance with existing planning conditions and so an extension of time should not be allowed.
- Noise from operations on site in the vicinity of Orchard Close has caused disturbance in the past.
- Site security is poor and in the past has led to fires being started.
- Dust from the site is a constant problem.
- Proposals to divert the stream and overfill the associated valley are unacceptable.
- Whilst public Rights of Way have been diverted on site, the routes do not correspond to the approved diversion orders.
- The restored site should be formally recognised as a wildlife site or Country Park.
- The formation of a new access road to the site is unacceptable.

Kirkburton Parish Council was consulted with regard to this proposal and responded as follows:

“The Parish Council objects to this proposed variation in the conditions unless the matter of the path is resolved as part of the planning process.”

8. ASSESSMENT

General Principle:

It is considered that the principle of developing this site for the disposal of waste was established by the earlier grant of planning permissions and the likely impacts associated with the use of the site in this way were fully considered at that time. This assessment will therefore concentrate on the implications of updating, varying, adding to and deleting the conditions as set out previously in this report. Having said this, as a considerable period has elapsed since the original grant of planning permission, it is considered appropriate to briefly outline current local and national planning policy guidance with regard to the importance of this type of facility and the significance of this particular site.

The NPPF established that there is a presumption in favour of sustainable development. For decision making this means;

- *Approving development proposals that accord with the development plan*
- *And where the development plan is absent, silent or relevant policies are out of date, granting permission unless any adverse of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole, or specific policies in the NPPF indicate development should be restricted.*

The NPPF in paras 7 and 8 indicates that there are three dimensions to sustainable development: economic, social and environmental and the planning system needs to perform a number of roles in these respect. The roles should not be taken in isolation, because they are mutually dependent. These roles are identified as

- An economic role – which looks to contribute towards building a strong economy;
- A social role – supporting strong, vibrant and healthy communities supporting health, social and cultural wellbeing and
- An environmental role – contributing to protecting and enhancing the natural, built and historic environment.

The restoration of Laneside Quarry fulfils a strong economic role in providing a strategic site for the disposal of waste materials which cannot practically be recycled. This development also has the added benefit of facilitating the regeneration of a former brick clay mineral working which prior to the current landfilling operation had not seen any significant restoration. The on-site restoration will provide a degree of public access, provide additional recreational opportunities and enhance the local environment.

Whilst current national policy guidance sees landfilling at the bottom of the Waste Hierarchy and therefore as the least attractive method of dealing with waste, there is still a need for such facilities and this site would provide significant future capacity to deal with waste generated both within the Kirklees district and from within the wider West Yorkshire region. At present there is a declining permitted capacity for landfill across the West Yorkshire region with a number of strategic sites nearing the end of their lives. Whilst current national policy relating to waste is to steer away from landfill and recycle or re-use waste where possible, there is still insufficient capacity in these treatment areas and landfill sites will therefore need to continue in the short to medium term. This is particularly the case with regard to the restoration of former mineral working where quite often the only practical way to achieve a satisfactory restoration is via the import of waste materials.

The Council's adopted UDP contains a specific policy with regard to the disposal of waste to landfill.

UDP policy WD5 states:

Proposals for disposal of waste to landfill will be considered having regard to:

- i provision for the prevention of noise nuisance or injury to visual amenity;
- ii the mode of transport utilised to serve the site;
- iii provision for vehicle routing and access arrangements;
- iv conservation interests;
- v arrangements for phased restoration and aftercare schemes appropriate to agricultural, forestry or amenity after-use linked to a permitted period of operation;
- vi measures included in the scheme to eliminate environmental hazards from leachate and gas emissions;
- vii arrangements for the protection of natural resources such as ground water, rivers or other water bodies;
- viii the extent and duration of any past or current landfill activity in the area; and
- ix the need for landfill capacity for the relevant waste types at the location proposed.

However the above policy is over 17 years old and section ix is now at odds with the National Policy for Waste, which is the most up to date and indicates that there is no requirement for the applicant to demonstrate the need for this

existing facility. Where there is such a conflict between local and national policy documents, up to date national policy should take precedence

The area which forms the landfill element of this site is identified in the adopted Unitary Development Plan as an active mineral working and has continued to see limited extraction to produce materials required in connection with the landfill operation. Paragraph 144 of the NPPF indicates that LPAs should seek to secure the restoration and aftercare of such workings at the earliest opportunity and officers therefore consider that allowing this operation to continue would accord with the aims of the NPPF with regard to achieving the appropriate restoration of minerals sites.

It is therefore considered that the proposal to extend the life of this site and regularise the works carried out to provide alternative habitat for the local Great Crested Newt population is acceptable in principle subject to there being no conflict with UDP policy WD5 or relevant national policy guidance.

Impact on Amenity:

Visual Amenity

As the site is a mineral working and operational landfill it already has a significant visual impact on the area. The main elements associated with the site are the large unrestored quarry void, the site access road and associated site infrastructure all of which cover a significant proportion of the site. The site is screened to some extent by a combination of existing and planted vegetation, screen mounds and the local topography and therefore cannot be easily overlooked from the majority of the nearest residential properties. However, a small number of properties at Cockley Hill, which is on high ground to the north, do have extensive views across the site. Pedestrians using the adjacent PROWs to the north and west of the site can currently gain limited views of the existing site and would therefore be affected to some extent by the proposed works. However, whilst this impact would continue in the short to medium term, progressive restoration of the site to reflect the character of the surrounding landscape would help to mitigate this impact. Furthermore this proposal would not substantially change the overall concept of the site's previously approved final restoration and it is therefore considered that there would not be any significant additional impact on the visual amenity of the area. The proposal therefore accords with UDP policies M3(i) and WD5(i) and Section 11 of the NPPF.

Noise

Waste is transported to the site by heavy vehicles including open skip and tipper lorries and operations on site are carried out by heavy plant such as bulldozers and mechanical excavators. Noise is therefore generated by the vehicles themselves, during the unloading of materials and working of the waste and mineral. The site is currently controlled by planning conditions which stipulate maximum noise limits received at the nearest residential properties and require regular noise monitoring to be carried out. The noise monitoring regime was approved in 2002 and its continued operation provides a method of assessing how noise from the site impacts the nearest noise

sensitive receptors. Noise monitoring records indicate that the site has operated within the noise limits set within the original planning permission. Officers are not aware of any past breaches of the current noise level conditions and any future breaches could be adequately dealt with under the terms of the planning permission.

The applicant does not propose to change the way the site is operated and planning conditions relating to potential noise nuisance and hours of operation will be repeated should planning permission be granted. Due to the nature of the site, the enforcement of noise nuisance legislation is the responsibility of the Environment Agency under the terms of the site operator's environmental permit. The Council's Pollution and Noise Control team and the Environment Agency have been consulted and both have indicated they do not wish to raise any objections to this proposal. Consequently this proposal would accord with UDP policies EP4, EP6, M3(iii) WD5(i) and Section 11 of the NPPF with regard to potential noise nuisance.

Dust

The potential emissions to the atmosphere from backfilling operations such as those proposed at the application site are associated with possible dust arising from three main sources:-

- Vehicle movements to and from the site.
- Operational processes including unloading waste, the working and placement and compaction of waste material
- Exhaust's from operational plant/equipment.

The degree to which significant dust emissions are capable of causing nuisance can arise from a particular site depends upon various factors, including:

- Time of year and climatic conditions, with dry conditions and high wind speeds being conducive to dust generation.
- Surface characteristics, with vegetation cover making material in bunds less susceptible to dispersion

It is considered that problems associated with dust can be adequately dealt with through the implementation of measures on site which could include:

- *The use of Mobile water bowsers to damp down haul road and fill areas*
- *The use of dust suppression chemicals if necessary*
- *The use of plant which has upward facing exhausts*

- *The use of radiator deflector plates on heavy plant*
- *The suspension of movement of soils, overburden and the deposit of waste on site when the local wind speed are high*
- *The use of dust suppression or collection equipment on any drilling rig used on site*
- *The provision and effective wheel, tyre and chassis cleaning equipment at the site exit*

Such measures are required under terms of the current planning permission and it is proposed to repeat this requirement. Under such circumstances it is considered that this proposal would not conflict with UDP Policies M3(iii) and WD5(i) or policy guidance contained in Section 11 of the NPPF.

Environmental Impact:

Local Ecology/Biodiversity

The applicant has provided an EIA in support of this application which includes a comprehensive ecological assessment. This concludes that this proposal to extend the life of the site and regularise the formation of Great Crested Newt Habitat would not have any significant adverse impacts on local ecological systems and the implementation of the long term Great Crested Newt mitigation strategy, the comprehensive restoration plan and the long term habitat plan will contribute positively to the SSI resource in Kirklees. Furthermore the ongoing works involved in providing more diverse habitat opportunities for the newts and their subsequent management could provide a mechanism to allow the proliferation and dispersal of the Great Crested Newt population.

The Restoration Plan comprises the creation of native woodland habitats that are complementary to the existing and retained woodland habitats. The ecological assessment therefore concludes that, as habitat connectivity around the site will occur and the existing and new woodlands will be managed for biodiversity (and to address any adverse effects as a result of post-restoration interest impacts), the area of woodland present at the site in the long-term will buffer any adverse effects of post-restoration human interference impacts in localised areas, if indeed they become significant. It is also considered that this proposal offers an opportunity to secure the creation of habitats for the attraction of roosting bats and, UK BAP and Kirklees Priority Species and other birds.

The Council's Ecologist reviewed this assessment and, subject to the measures described previously in this report, agrees with its conclusions and has indicated support of this proposal. Due to the site's status with regard to the presence of Great Crested Newts, Natural England was consulted. Natural England has confirmed it has no objection to varying condition 2 and

17 as previously outlined. This proposal therefore accords with UDP policies M3(ii) and WD5 (iv) and national policy guidance contained in section 11 of the NPPF with regard to its impact on the local ecology of the area.

Landscape and Visual Impact

Due to the nature of the development involved, the continued operation of this site would undoubtedly continue to affect the local landscape. The applicant has therefore provided a Landscape Visual Impact Assessment (LVIA) which has considered the impact of this development on the character of the landscape and the implications of it continuing. The LVIA considered the issues relating to:

- The change in landscape character and quality
- Impact on key viewpoints and receptors
- Impact on the openness of the Green Belt

The study is based on a Zone of Theoretical Influence which extends 2 kilometres from the site and involved views taken from 24 positions within than zone.

The LVIA concluded that whilst the proposal will inevitably alter the overall landscape character of the area, it will increase the quality of the landscape resource, primarily due to the significant increase and extension of woodland and species rich grassland in the locality and through the provision of new wildlife habitats which would increase the diversity of flora and fauna within these areas. The LVIA also concluded that during the continued construction phase, whilst receptors from some Public Rights of Way and middle distance viewers will suffer some loss of visual amenity, this adverse effect will be limited in timescale and be mitigated by existing and proposed screening measures and phasing arrangements.

Consequently it is considered that whilst this proposal would result in some limited adverse impact on the character of the local landscape, this would be temporary and the long term benefits of the restored site would be beneficial and therefore enhance visual amenity in the area. It is therefore considered that this accords with UDP policies M3(i), WD5(i) and Sections 9 and 11 of the NPPF with regard to this issue.

Pollution/Contamination

The site already has measures in place to reduce the risk of nearby water courses being contaminated by activities on the site. Following negotiations with the Environment Agency, the site operator has installed a system of settlement and balancing lagoons which process water issuing from the site prior to discharge into the watercourse. Furthermore the site operator's environmental permit has required that bore holes be drilled on site to allow the quality of ground water to be monitored.

It is proposed to repeat the suite of planning conditions which are already in place with respect to water protection.

The site also has a landfill gas monitoring regime where samples are taken from various parts of the site where landfilling has taken place. The results of monitoring exercises are collated and sent to the Environment Agency to review.

The pollution/contamination monitoring systems currently in place would continue if planning permission is granted to extend the life of the site. Under such circumstances it is considered that the development would comply with UDP Policy WD5(vii) with regard to the development's potential to pollute or contaminate the local environment.

Impact on Highways Safety:

The site is accessed from a purpose built access road adjoining Bellstring Lane which is classified B6118 and links to the A62 at Bradley and the A642/A637 at Grange Moor. The site's access road is tarmacked from its junction with Bellstring Lane for approximately 200m into the site and includes a rumble strip and wheel bath.

Prolonging the use of this site will inevitably have implications for the local highway network as a result of heavy vehicles continuing to use the B6118 in order to reach the site. However, since the time of the original grant of planning permission measures, which were required under the terms of the current planning permission, have been initiated to help mitigate against the associated impact on the highway network. These measures include the creation of a Traffic Regulation Order (TRO) which now precludes heavy vehicles accessing the site other than directly via the B6118, the payment of an annual highway maintenance contribution and the provision of on-site wheel cleaning equipment.

The applicant has indicated that in order to complete this development an average of 51 deliveries of waste material would be required per day based on 280 working days per annum. Whilst the original planning permission did not condition the number of vehicles allowed to visit the site per day, the original traffic assessment indicated traffic movements would be in the region of 220 per day (110 in 110 out). The applicant therefore considers that traffic levels associated with the proposal to extend the life of the site would be well within those originally envisaged.

The Council's Highways Development Management Team has indicated that whilst it does not wish to object the proposal it does have some concerns and has made a number of recommendations as detailed above. It is therefore proposed to include a planning condition to restrict the number of vehicles to an average of 60 in 60 out per day over a 5.5 day week. This would allow some flexibility to accommodate increased levels of traffic over short periods when contractors tipping at the site are operating on a campaign basis. This

condition would introduce a level of control over vehicle movements which currently does not exist.

At present the site operator pays an annual highways maintenance contribution of £10,000 to the Council under the terms of a Section 106 agreement. At present this is capped at £150,000 and would therefore cease before the end of the proposed extended period. Whilst the site has wheel cleaning facilities, recent issues with mud being tracked onto the highway resulted in the Council issuing a BCN and it is therefore considered that existing wheel washing facilities need to be reviewed and a formalised system to clean the road when conditions require should now be considered as part of a grant of planning permission. It is therefore proposed to require the continuation of an annual highways maintenance contribution and to secure an improved wheel cleansing/road sweeping regime via a deed of variation to the associated Section 106 agreement.

The Highways DM team has also requested that a condition be imposed requiring the submission of a construction traffic management plan which provides details of routeing, workers parking facilities and the use of adequate wheel washing facilities.

However, as routeing is already restricted via the TRO, parking facilities have been provided on site and wheel washing facilities will be reviewed via a deed of variation to the associated Section 106 agreement, it is considered such a condition is not required.

Public Rights of Way (PROW) cross the site and run around its periphery. These have already been temporarily diverted where necessary to accommodate the current operation and will require continued diversion until landfill and restoration operations are completed. Formal footpath diversion orders were approved to facilitate this. However, Officers are aware that although the footpath diversions generally follow the approved routes some sections of the affected footpaths do not follow the defined diversion route. Should this planning application be approved, the applicant will need to regularise these discrepancies via a formal footpath diversion order. Following contact with the Councils PROW team, the applicant has put forward proposals to deal with this issue which officers consider are acceptable subject to them being formally agreed via public footpath diversion orders.

It is therefore considered that this proposal accords with UDP Policies M3(vi) R13, T10 with regard to its potential impact on the local highway network.

Section 106 Agreement:

As previously indicated the current operative planning permission affecting the application site is subject to a section 106 agreement. It is proposed to seek a deed of variation to that agreement to satisfactorily deal with issues which have arisen since the grant of the original planning permission. Heads of terms have been discussed with the applicant and can be summarised as follows:

Continued Highway Maintenance Contribution

It is proposed to seek an increase in the current contribution to £13,000 per annum to reflect the relative increases that have occurred since the time of the grant of the original planning permission. This would see a total of £130,000 being paid to the Council over the extended 10 years of tipping.

Upgraded wheel washing facilities

This would see the installation of additional measures to reduce the volumes of mud being tracked onto the highway. It is proposed to seek the installation of an active spray system as part of the existing on-site wheel bath facilities.

Road cleaning regime

It is proposed to formalise road cleaning arrangements to ensure that, if required, the road outside the site is cleaned by the site operator with appropriate equipment.

Others issues:

As is required under the aforementioned EIA Regulations, the National Planning Caseload Unit (NCPU) was informed of the receipt of this application. The NCPU has confirmed that it has no comments to make with regard to the proposal. The NCPU will therefore be notified once the application has been determined.

Objections:

As previously indicated 8 representations have been received in relation to this proposal. The concerns raised and responses can be summarised as follows:

A period of less than 10 years to complete tipping at the site should be imposed

Response: The site still has an unused landfill capacity of approximately 1.4 million cubic metres. The applicant has demonstrated that in order to complete the development as originally approved a further 10 years is required to import the necessary waste with a further year to complete landforming and restoration planting.

Allowing the site to continue with unrestricted heavy vehicle movements for a further 10 years will lead to highway safety problems on Bellstring Lane.

Response: This matter has been addressed in the section titled 'Impact on Highway Safety'

The site has not been operated in accordance with existing planning conditions and so an extension of time should not be allowed

Response: Failure to comply with planning conditions cannot be used as reason to refuse a planning application. Enforcement powers contained within the Town and Country Planning Act 1990 are available to LPAs to address non-compliance with planning conditions. Any alleged breaches of planning control at this site would be investigated by the Council and, if it was

considered expedient, then enforcement action would be taken to try to resolve any subsequent problems.

Noise from operations on site in the vicinity of Orchard Close has caused disturbance in the past.

Response: This matter has been addressed in the section titled 'Impact on Amenity'

Site security is poor and in the past has led to fires being started

Response: The site is fenced and covered by CCTV security cameras. Whilst it is accepted that, on occasion, security has been breached at the site, due to the size of this site and its relative remoteness it would be impossible to prevent all determined attempts to gain entry to the site. It is considered that the measures taken by the site operator are proportionate for this type of development.

Dust from the site is a constant problem

Response: This matter has been addressed in the section titled 'Impact on Amenity'

Proposals to divert the stream and overfill the associated valley are unacceptable

Response: This was approved as part of the overall scheme at the time of the original planning permission. This proposal does not provide an opportunity to revisit this element of the development.

Whilst Public Rights of Way have been diverted on site, the routes do not correspond to the approved diversion orders

Response: This matter has been addressed in the section titled 'Impact on Highway Safety'

The restored site should be formally recognised as a wildlife site or Country Park.

Response: Due to the current budgetary constraints affecting the Council, creating a country park at this site and dealing with the associated financial liabilities this entails is not an option. However, the presence of the Great Crested Newts will continue to offer the site a significant degree of protection under the Wildlife and Countryside Act 1981.

The formation of a new access road to the site is unacceptable

Response: This application does not propose new access arrangements. If planning permission is granted it will be subject to all site access being taken from existing approved access off Bellstring Lane.

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.

This proposal would involve the continued import of a significant quantity of inert waste over an extended period of 10 years resulting in an average of 120 vehicle movements (60 in 60 out) per day. An additional year would then be required to complete landforming and planting associated with the final restoration of the site. Whilst it is recognised this proposal would prolong the impact on the amenity of the area, it is considered that progressive backfilling of the site combined with the existing and proposed mitigation measures would satisfactorily limit the adverse effects associated with this development. Furthermore the subsequent amended restoration of the site will provide satisfactory compensatory habitat for the local Great Crested Newt population would tie in well with the wider surrounding landscape and would provide an opportunity to significantly enhance local biodiversity through strategic planting and habitat creation. When restored this site will provide ecological connectivity with the surrounding countryside and enhanced recreational opportunities for the local community.

On balance it is considered that the long term benefits associated with allowing this proposal would outweigh the limited detrimental effects likely to be experienced during the extended period proposed within which backfilling and land forming operations continue. Furthermore it is considered that this proposal would not have a significant detrimental impact on the amenity of the area or highway safety and would comply with both local and national policy guidance.

9. RECOMMENDATION

Approve removal or modification of conditions identified by the applicant subject to the delegation of authority to officers to:

- (i) Impose all necessary and appropriate conditions
- (ii) Secure a deed of variation to the existing S106 agreement which requires:
 - (a) the continued payment of an annual highways maintenance contribution until the end of the extended operational period
 - (b) The upgrade of on-site wheel washing facilities and the provision of a formal road cleaning regime
- (iii) and, subject to there being no substantive changes to alter this recommendation, to issue the decision notice

Conditions

TIME LIMITS

1. Use of the site for the deposit of waste shall be completed within 10 years of the date of the permission hereby approved and the application site shall be restored for use for agriculture, woodland and amenity within 11 years of the date of the permission hereby approved or within 12 months of achievement of permitted final levels in accordance with condition 15 below, whichever is the earlier.

PRIOR CESSATION

2. In the event of a cessation of waste deposit on the site before the achievement of the approved scheme referred to in Conditions Nos. 10, 15 and 23 which is for a period in excess of 18 consecutive months or the use of the site for waste disposal is discontinued for a like period, a revised scheme to include details of restoration and aftercare, shall be submitted in writing for the approval of the Local Planning Authority within 3 months of the cessation of waste deposit. The approved revised scheme shall be fully implemented, with the exception of aftercare, within 12 months of the Local Planning Authority's written approval unless otherwise agreed in writing by the Local Planning Authority.

ACCESS

3. The sole means of vehicular access to and egress from the site for the purposes of waste disposal and restoration of the site shall be as indicated on approved amended drawing No. G110-004.Rev.3.

4. The site shall be operated at all times in accordance with the following HGV controls:

- HGVs entering or leaving the site shall not exceed an average of 120 vehicles a day at the site (i.e. 60 in and 60 out) for a 5.5 day working week when measured over one calendar month.
- A maximum of 220 (i.e. 110 in and 110 out) HGV may enter or leave the site on any one working day. This figure shall be reduced to 110 (i.e. 55 in and 55 out) on a Saturday.
- A record of HGV movements entering the site for landfill purposes shall be kept on site and shall be made available to the LPA when requested.

5. The site access road as indicated on drawing No. G110 -004. Rev. 3 shall be maintained in a good state of repair and kept clean and free of mud and other debris. Verges and baffle mounds to the access road, shall be maintained free of weeds and rank vegetation.

6. No commercial vehicles shall enter the public highway from the permitted site unless their wheels and chassis have been cleaned to prevent material being deposited on the highway.

PREPARATORY WORKS/LANDSCAPING

7. The diversion of the watercourse crossing the site shall be carried out in accordance with the following plans and documents:

Stream Diversion G110 – 063

Typical Sections to Stream Diversion G110 – 064

Stream Diversion Longitudinal Section G110 – 065

Balancing Pond detail G110 - 066

Revised Planting Proposals G110 – 202 Rev. 3

Amended Final Restoration G110 – 203 Rev. 2

OPERATION OF THE SITE PHASING

8. Tree and scrub and hedge planting proposed on application drawing No. G110-007 shall be implemented in accordance with the specification set out in amended application drawing No. G110-011 Rev 2 and in accordance with a revised timetable which shall be submitted to and agreed in writing by the Local Planning Authority within 3 months of the date of this approval.

9. Waste shall not be imported to or deposited on the site until Condition Nos. 56, 57, 60 and 63 have been complied with.

10. The site shall be progressively backfilled with waste in phases in a west to east direction in accordance with the phased programme set out in approved Drawing Nos. G110-008 and G110-009 and as described in the Environmental Assessment and planning application supporting statement.

11. The developer shall notify the Local Planning Authority in writing within 14 days of the date of commencement/completion of the following:

- (i) commencement of site preparation works.
- (ii) commencement of the deposit of imported waste
- (iii) entering a new phase of waste landfill as identified on approved drawing Nos. G110- 008 and G110-009.
- (iv) completion of each waste landfill phase.
- (v) completion of restoration of each landfill site.
- (vi) completion of the landscaping/planting scheme required by Condition 8.
- (vii) completion of final restoration.
- (viii) estimated date for completion of aftercare.

LIMITS OF WASTE DEPOSIT AND FINISHED LEVELS

12. No deposit of waste shall take place outside the land bounded with a green line on approved Drawing No. G110-007 except for;
(a) soil and soil making materials for any purpose and or
(b) waste and other materials required in connection with site engineering and construction works.

13. During the operation of the landfill site, no deposit of waste shall take place other than in accordance with the Condition Nos. 10 and 12 above.

14. Before the commencement of the landfill operations in any of the phases shown on approved Drawing No. G110-008 and G110 - 009 and as described in the Environmental Statement and the planning supporting statement with the application, the limits of the area to be backfilled shall be clearly defined on site and notified to the Local Planning Authority.

15. Final post settlement landform and surface restoration levels shall accord with the finished restored contours shown on approved post settlement drawing No G110-203-Rev2”

16. As the operation approaches final pre-settlement waste deposit levels and in any case before the final grading of cover and before the spreading of subsoil, the surface levels shall be checked by competent land surveyors. Thereupon markers shall be erected to indicate the approved final levels, approved restored surface levels and any appropriate approved intermediate levels.

SOIL CONSERVATION AND SAFEGUARDING THE AGRICULTURAL INTEREST IN THE SITE

SOIL STRIPPING

17. The Local Planning Authority shall be given at least 48 hours' notice (excluding Sundays and Bank Holidays) of any intended phase of topsoil or subsoil stripping, such works to proceed only subject to their agreement.

18. All available topsoil and subsoil shall be stripped from any areas to be excavated, developed or used for the stationing of plant and buildings, storage of material, haul roads and other areas to be traversed by heavy machinery, and stored until required for restoration purposes unless otherwise approved for progressive restoration.

19. The stripping and movement of topsoil and subsoil shall only be carried out under sufficiently dry and friable conditions to avoid soil smearing and compaction and to ensure that all available soil resources are recovered.

SOIL STORAGE

20. Topsoils, subsoils and other soil making materials which are to be used for restoration, shall be stored according to their quality in separate mounds which do not overlap and in locations which have the prior agreement of the Local Planning Authority. No topsoil or subsoil shall be removed from the site.

21. Once formed, all mounds in which soils are to be stored for more than 6 months, or over the winter period, shall be grass seeded in accordance with a specification agreed beforehand with the Mineral Planning Authority, to minimise erosion and weed infestation. Any excess weeds shall be regularly controlled.

SITE MAINTENANCE

22. From commencement of the development until restoration of the site the following shall be carried out:

- (a) the maintenance of fences in stockproof condition between any areas used for development and any adjoining agricultural land
- (b) the retention of fencing around trees and hedgerows
- (c) the treatment of trees affected by disease in accordance with accepted principles of good woodland practice
- (d) all areas including stacks of soil and overburden to be kept free of weeds and all necessary steps taken to destroy weeds at an early stage of growth to prevent seeding.

RESTORATION

23. Except as specified in condition 24 below, the site shall be progressively restored for agriculture, woodland and amenity use in accordance with the following plans and documents:

Pre-operation mitigation measures G110 - 007 Rev.1
Revised Planting Proposals G110 – 202 Rev 3
Amended Final Restoration G110 – 203 Rev. 2
Fencing Type 1 1200mm Stockproof G110 – 040
Fencing Type 4 2400mm Palisade G110 – 042
Field Gate 4.0 Galvanised Steel G100- 044
Waymarking post and Finger post G110 -045
Signboard 1200 x 800mm G110 – 046
Stile G110 – 047
Signboard 600 x 400mm G110 – 048
Kissing Gate G110 – 049
Fencing Type 6 1000mm Post and Wire G110 – 50
Cycle Gateway with Sand Trap G110 – 51

24. Notwithstanding the approved restoration planting details contained in plan G110 – 202 Rev. 3 the following species shall not be planted on site and shall be replaced by a mixture of other appropriate substitute species indicated in the aforementioned plan:

Grey Alder (*Alnus Incana*)
Ash (*Fraxinus Excelsior*)
Blackberry (*Rubus Fruticosus*)
Dewbury (*Rubus Caesius*)
Burnet Rose (*Rosa Pimpinellifolia*)

25. Notwithstanding the management programme described in the supporting Habitat Management Plan, all hedges planted as part of the approved restoration scheme shall only be trimmed or pruned during the month of February.

26. After waste landfill operations including capping have been completed on any phase shown on approved drawing No. G110-008 the Local Planning Authority shall be given the opportunity (with at least 48 hours' notice excluding Sundays and Bank Holidays) to inspect the surface before further restoration work is carried out.

27. Imported soils or soil making materials and soil making materials arising from permitted engineering or minerals extraction operations on the site shall be made available for inspection by the Local Planning Authority prior to use in restoration of the site.

28. Soils stripped and stored on site, together with any soil-making materials recovered from the incoming infill waste shall only be spread when in a dry and friable condition.

29. Subsoil and soil making materials shall be re-spread in layers not exceeding 45cm thickness, and the final layer shall be cross-ripped to a depth of 400mm using a heavy duty subsoiling implement with winged tines set no wider than 600 mm apart and any non-subsoil type material or rock, boulder or stone larger than 150 mm in any dimension shall be removed from the surface and not buried within the respread soil.

30. Wherever topsoil is respread it shall be cross-ripped to alleviate compaction and any stone larger than 100 mm in any dimension shall be removed and taken away.

31. After spreading the soil all reasonable steps shall be taken to ensure that within the top 400 mm of topsoil and/or subsoil there is no:

- (a) rock, boulder, stone, wire, cable or wire rope
- (b) sterile material injurious to plant life
- (c) excessively compacted zone.

32. The spreading of soil shall only be carried out when the material and the ground which it is to be placed on are in a dry and friable condition and in sufficient time for subsoiling, cultivation and seeding to take place under dry weather conditions unless otherwise agreed in writing by the Local Planning Authority.

33. Within 3 months of the restoration of the final top layer the developer shall make available to the Local Planning Authority a plan with contours at sufficient intervals to indicate the final restored pre-settlement form of the site, together with a record of the depth and composition of the reinstated soil profiles.

34. Notwithstanding the preceding conditions, no stripping, movement, replacement or cultivation of topsoils and/or subsoils shall be carried out during the period October - March without the prior consent of, by methods and for a period agreed with, the Local Planning Authority.

35. Trees and shrubs shall be planted on the permitted site only during the months of November, December, January, February or March.

AFTERCARE

36. The period of aftercare shall commence following compliance with Condition Nos. 29 and 30 on any part of the site and shall extend for a period of 5 years effective management from the date of final restoration of the whole site, or smaller manageable blocks within the site, as confirmed in writing by the Local Planning Authority.

37. In order to allow time for consultations and any amendments to be made before a scheme is agreed, at least six months prior to commencement of aftercare on all or part of the site, outline proposals for the 5 year aftercare period shall be submitted to the Local Planning Authority. The proposals shall comprise:

(a) the outline strategy which should identify who is responsible for carrying out the aftercare, broadly outline the steps to be carried out in the aftercare period and their timing within the overall programme. All areas subject to aftercare are to be included on a map, with separate demarcation of any areas having different periods or management proposals. It should be submitted to the Local Planning Authority at least three months prior to the commencement of aftercare.

(b) The detailed annual programme covering requirements for the forthcoming year. The first detailed programme should be submitted with the outline strategy.

Aftercare proposals submitted for consideration shall comply with guidance contained in Section 6 of the Minerals Chapter of National Planning Practice Guidance

38. Subsequent detailed programmes shall be submitted annually to the Local Planning Authority for consultation not later than one month prior to the annual aftercare meeting with the Local Planning Authority to which the following parties shall also be invited:

(a) All owners of land within the site

(b) All occupiers of land within the site

(c) Representatives of other statutory bodies as appropriate

The developer shall arrange additional aftercare meetings as required by the Local Planning Authority.

39. During the final year of the aftercare period and prior to the final aftercare inspection, the developer shall prepare a report on the Physical Characteristics of the site sufficient to demonstrate to the satisfaction of the Local Planning Authority. that these have been restored, so far as it is practicable to do so, to what they were when the site was last used for agriculture.

MAINTENANCE OF HEDGES AND TREES

40. Hedges and Trees planted in accordance with any restoration scheme shall be maintained during the aftercare period in accordance with good woodland and/or agricultural practice, such maintenance to include the following:

- (a) Replacing plants which die or are lost in the subsequent planting season.
- (b) Weeding early in each growing season and as necessary thereafter to prevent the growth of plants being retarded.
- (c) Maintaining any fences around planted areas in a stockproof condition.
- (d) Appropriate measures to combat all other pests and/or diseases which significantly reduce the viability of the planting scheme.

DRAINAGE AND WATER PROTECTION

41. No development approved by this permission in respect of the land edged orange on approved application No. G110-013 shall commence until:

- (a) The application site has been subjected to a detailed scheme for the investigation and recording of contamination and remediation objectives have been determined through risk assessment, and agreed in writing by the Local Planning Authority.
- (b) Details proposals for the removal, containment or otherwise rendering harmless any contamination (the 'Reclamation Method Statement') have been submitted to and approved in writing by the Local Planning Authority including details of any proposed leachate storage or treatment facilities.
- (c) The works specified in the Reclamation Method Statement have been completed in accordance with the approved scheme.
- (d) If during reclamation works any contamination is identified that has not been considered in the Reclamation Method Statement, then remediation proposals for this material should be agreed with the Local Planning Authority.

42. Within 3 months of the date of the permission hereby approved a scheme detailing existing and proposed surface water management measures shall be submitted in writing to and approved by the Local Planning Authority. The approved scheme shall be retained throughout the life of the development.

43. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of the interconnected tanks, plus 10%. All filling points, vents, gauges and sight

glasses shall be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank overflow pipes outlets shall be detailed to discharge downwards into the bund.

44. No deposit of waste or temporary storage of waste shall take place within 4.5m of any watercourse. Under no circumstances shall waste enter any watercourse or culvert.

45. Only general, dry, commercial, industrial, household and inert waste types shall be deposited at the site.

HOURS OF OPERATION

46. Except in the event of an emergency when immediate action is required to prevent a serious environmental pollution incident from occurring or escalating and the Council is notified of the emergency within the following 24 hours, no vehicles shall enter and leave the site and no work shall take place on the site except during the following hours:

07.00 - 18.00 Monday to Friday

07.30 - 13.00 Saturday

with no working at all on Sundays or Bank Holidays.

47. HGVs carrying waste shall not enter the site any further than the site office/weighbridge on the access road shown on approved amended application drawings No. G110-004 Rev 3 except during the following hours:

07.30 - 18.00 Monday to Friday

08.00 - 13.00 Saturday

and not at all on Sundays or Bank Holidays. These hours shall be displayed at the entrance to the site off Bellstring Lane as the official opening times for the receipt of waste for disposal at the site.

48. Operations involving the stripping, storage and replacement of soil and the construction and removal of noise baffle and screen mounds and initial works adjacent the residential area of Mountain Way and Stafford Hill Lane site boundary shown on Section A-A on approved drawing No. G110 - 009 and works involved in the diversion of the watercourse crossing the site shall only be carried out between the hours of 08.00 and 18.00 Mondays to Fridays and 09.00 and 14.00 on Saturdays and for no longer than 28 days total in any calendar year unless otherwise agreed in writing by the Local Planning Authority.

49. Except in the event of an emergency when immediate action is required to prevent a serious environmental pollution incident from occurring or escalating and the Council is notified of the emergency within the following 24 hours, no servicing, maintenance and testing of plant shall be carried out at the site between 20.00 and 07.30 hours on any day and at no time on Sundays or Bank or National Holidays unless otherwise agreed in writing by the Local Planning Authority.

NOISE

50. The noise attributable to site operations excluding the operations referred to in Condition 48 above but including the flaring or conversion to electricity of landfill gas or water or leachate pumping operations shall not exceed the following levels at the location specified below:

LOCATION NOISE LEVEL - dB Laeq (1 hour) Freefield

Carr Mount Farm 45 Kirkheaton Cemetery 45 Laneside 45 Mountain Way 45

Cockley Hill Farm 47

51. The site shall be operated in accordance with the noise monitoring scheme Ref. AJB/JMS/P1300 and subsequent amendment approved on 6 MARCH 2002.

52. The results of noise monitoring required by Condition No.51 above shall be kept at the site and made available to the Local Planning Authority at all reasonable times and copies of noise monitoring results shall be made available to the Local Planning Authority on request.

53. The engines of vehicles, plant and machinery involved in the engineering, landfill and restoration operations on the site shall not be started up before 07.00 hours.

54. No plant, machinery or vehicles shall be used on the site unless fitted with silencers maintained in accordance with the manufacturer's recommendations and specification.

DUST

55. The site shall be operated in accordance with the following dust suppression measures:

- Mobile water bowsers shall be used when airborne dust is generated on site
- dust suppression chemicals shall be used when necessary
- All plant used on site shall have upward facing exhausts
- All heavy plant used on site shall be equipped with radiator deflector plates
- The movement of soils, overburden and the deposit of waste on site shall be suspended when the local wind speed exceeds 20 metres per second and is blowing in the direction of any residential premises within 1000 metres of the area of operation
- An on-site anemometer shall be provided and maintained in good order

- Dust suppression or collection equipment shall be used on any drilling rig used on site
- Effective wheel, tyre and chassis cleaning equipment shall be provided at the site exit
- Complaints about dust and nuisance incidents shall be recorded

LITTER

56. Emission of windblown litter from the landfill site shall be prevented in accordance with a scheme which shall be submitted to and approved in writing prior to the deposit of any waste (other than excavation soils or demolition rubble) on the site. The submitted scheme shall, inter alia, provide for:

- daily covering of waste deposited on the site with clean soil or other suitable material
- suspension of waste disposal/treatment operations on the site when local wind speed exceeds 20 metres per second.
- the regular recovery and disposal of any fugitive litter.

CONTROL OF SCAVENGING BIRDS

57. Other than the deposit of excavation soils and demolition rubble, no landfilling shall be commenced until a scheme for keeping the site free of scavenging birds has been submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be implemented during the hours of daylight throughout the life of the site unless otherwise agreed in writing by the Local Planning Authority.

ODOUR

58. No waste shall be burnt within the boundaries of the site and a fire at the site shall be regarded as an emergency and immediate action shall be taken to extinguish it.

PREVENTING LIGHT POLLUTION

59. The details of all external floodlighting and other illumination proposed at the site shall be submitted to and agreed in writing by the Local Planning Authority. These details shall include: height of the floodlighting posts, intensity of the lights (specified in Lux levels), spread of light including appropriate light spillage to the rear of floodlighting posts (in metres), any measures proposed to minimise the impact of floodlighting or disturbance through glare (such as shrouding) and the times when such lights will be illuminated.

LANDFILL GAS INSTALLATIONS AND SITE RESTORATION

60. Landfill gas generated by the waste deposited at the site shall be controlled and utilised only in accordance with a scheme submitted prior to the deposit of any non-inert waste on the site for the approval of the Local Planning Authority. The submitted scheme shall be designed and installed in accordance with best practice and guidance from the Department for Environment Food and Rural Affairs and its Agencies:-

(i) to minimise the likelihood of gas collection pipework and extraction well failure and the need for replacement and maintenance of pipes and wells which would adversely affect the restoration of the site.

(ii) to minimise interference with the afteruse of the site for agriculture, woodland and amenity.

(iii) to prevent odour nuisance from landfill gas vents.

The submitted scheme shall provide for, inter alia:

(i) scaled plan(s) which locate monitoring stations and wells, extraction wells, well heads/manifolds, collection pipework, flares and generating stations and access to installations and plant;

(ii) indication of which installations are above ground and elevations for above ground installations;

(iii) method statements for the installation of gas collection/extraction and control systems; and for the subsequent replacement of failed wells and collection pipes.

(iv) a programme of works which provides for the installation of collection pipework and extraction wells prior to the spreading of restoration soils on the site.

61. All landfill gas extraction, collection, control and conversion installations and structures excluding those buried below 0.5 metres of restoration soils shall be removed from the site within 6 months from the date of issue of a Completion Certificate by the Environment Agency or its successor authority.

62. Landfill gas extraction and/or monitoring wells and underground collection pipes shall not be replaced unless the restoration soils which would be disturbed are in a dry and friable condition. The replacement works shall be undertaken in accordance with a method statement agreed by the Local Planning Authority and designed to prevent contamination and compaction of restoration soils and to ensure the satisfactory restoration of the area of land affected.

WASTE RECYCLING/TREATMENT

63. Waste shall not be treated/recycled, stored or re-exported from the site except in accordance with a scheme which shall be submitted to and agreed by the Local Planning Authority prior to the commencement of such operations on the site. The submitted scheme shall:

(i) describe the categories and quantities of the waste to be stored, treated/recycled and re-exported, the plant and operations required.

(ii) the location, extent and height of stockpiles and the ultimate use of the treated/recycled waste.

- (iii) indicate on a scaled plan the location and extent of land required for such operations at each phase of the development.
- (iv) describe how the operations would be screened from residential properties to the west and the south and how potential dust and odour nuisance would be avoided.

64. Any skips stored on the site shall be incidental to the landfilling of the site and shall be confined to an area which shall have been agreed in writing by the Local Planning Authority.

MISCELLANEOUS

65. All plant and machinery not in current use shall be stored in a tidy manner and all the site operator's redundant plant, machinery, vehicles and scrap shall be removed from the site.

66. A survey of levels shall be carried out and submitted to the Local Planning Authority at intervals of not less than every 12 months starting from the date on which the deposit of imported waste on land within the green line shown on approved drawing No. G110-007 operations commences.

67. From the commencement of development to the cessation of the use hereby permitted, a copy of the terms of this planning permission including all documents hereby permitted and any documents subsequently approved or agreed in accordance with this permission or amendments approved or agreed pursuant to this permission shall be on the site during working hours and shall be made known to any person(s) given responsibility for the management or control of waste activities/operations on site.

NOTE: This proposal will require the formal diversion of public rights of way crossing the site. The affected rights of way must not be obstructed or interfered with at any time, prior to, during or after works without the written authority of the local highway authority. The applicant should contact the council's public rights of way unit at Civic Centre 3, Huddersfield on 01484 225575 for further advice regarding the temporary/permanent closure or diversion of those routes to facilitate this proposal. The safety and protection of members of the public using the public footpaths must be considered at all times during the proposed works.

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

Plan Type	Reference	Version	Date Received
Application boundary	G110-002		March 1999
Site reference plan	G110-003		March 1999
Access details	G110-004	Rev 3	December 2001
Access road profile	G110-005		March 1999
Sections through access road	G110-031		
Pre-operation mitigation measures	G110-007	Rev 1	September 2001
Proposed landfill phasing programme	G110-008		March 1999
Section A-A	G110-009		March 1999
Amended Final Restoration	G110.203	Rev 2	4 September 2015
Revised Planting Plan	G110.202	Rev 3	4 September 2015
Sections	G110-015		
Environmental Statement Non-Technical Summary			4 September 2015
Environmental Statement and Associated Technical Appendices			4 September 2015
Stream Diversion Longitudinal Section	G110-065		February 2003
Stream Diversion (Typical Sections)			February 2003
Stream Diversion	G110-63		February 2003

**Conditions attached to current extant planning permission
99/62/90597/W0**

COMMENCEMENT

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission. Written notification of the date of commencement of development shall be sent to the Local Planning Authority within 7 days of such commencement.

TIME LIMITS

2. Use of the site for the deposit of waste shall be completed within 12 years of the date of commencement of operations on the site and the application site shall be restored for use for agriculture, woodland and amenity within 13 years of the date of commencement of operations or within 12 months of achievement of permitted final levels in accordance with condition 17 below, whichever is the earlier.

PRIOR CESSATION

3. In the event of a cessation of waste deposit on the site before the achievement of the approved scheme referred to in Conditions Nos. 12, 17 and 25 which is for a period in excess of 18 consecutive months or the use of the site for waste disposal is discontinued for a like period, a revised scheme to include details of restoration and aftercare, shall be submitted in writing for the approval of the Local Planning Authority within 3 months of the cessation of waste deposit. The approved revised scheme shall be fully implemented, with the exception of aftercare, within 12 months of the Local Planning Authority's written approval unless otherwise agreed in writing by the Local Planning Authority.

ACCESS

4. The sole means of vehicular access to and egress from the site for the purposes of waste disposal and restoration of the site shall be as indicated on approved amended drawing No. G110-004.Rev.2.

5. The vehicular access referred to in Condition 4 above shall be constructed in accordance with a scheme submitted for the prior agreement in writing of the Local Planning Authority. Unless otherwise agreed by the Local Planning Authority the submitted scheme shall:

(a) include the proposals detailed in approved drawing Nos G110-004. Rev.2 (Proposed New Road), G110-031 (Sections Through Access Road) and G110-005 (Access Road Profile) except that 15 metre radii shall be provided at the access road junction with Bellstring Lane; the access road for the first 25 metres measured from the southern channel line of Bellstring lane shall be 7.5 metres wide and thereafter 6 metres wide with passing places provided at suitable points of inter-visibility; the gradient of the access road for 30 metres measured back from the southern channel line of Bellstring Lane shall not be greater than 1 in 40; the sight line visibility splays on either side of the access road junction with Bellstring Lane shall be 4.5 x 120 metres; the first 200

metres of the access road measured from the southern channel line of Bellstring Lane shall be hard surfaced and sealed with tarmac and the remainder hard surfaced and sealed, the first 150 metres of the access road measured from the southern channel of Bellstring Lane shall be kerbed on either side up to and including the site office/weighbridge indicated or approved on amended application drawing No. G110-004.Rev 2 and provision made along the remainder of the access road to the site to constrain HGV drivers to use only the running surface of the road and lay-bys and avoid use of the verges.

(b) provide detail proposals for the construction of the new access road including dimensions and materials to be used for the construction of the sub-base, the running surface, sealing of the surface and drainage of surface water and its disposal. Materials which would adversely affect local visual amenity in a rural location such as ochre coloured bricks, ochre coloured brick rubble or ochre coloured discard should not be used for construction of the running surface or subsequent maintenance of the running surface.

(c) provide details and cross-sections of proposed noise baffle berms to be constructed adjacent the access road where necessary to ensure that use of the access road by site traffic does not breach the noise limit in Condition 50 below.

(d) provide detail proposals for grading, soiling and establishment of grass sward on the noise baffle mounts.

(e) provide plans and elevations for any structures, buildings or gates to be provided with the access road, including details of proposed construction materials and design.

(f) drainage arrangements.

6. The access road constructed in accordance with Condition No. 5 above shall be maintained in a good state of repair and kept clean and free of mud and other debris. Verges and baffle mounds to the access road, shall be maintained free of weeds and rank vegetation.

7. No commercial vehicles shall enter the public highway from the permitted site unless their wheels and chassis have been cleaned to prevent material being deposited on the highway.

PREPARATORY WORKS/LANDSCAPING

8. Prior to development commencing a scheme for the proposed diversion of the watercourse crossing the site detailing initial landscaping, planting and drainage works shall be submitted for the agreement of the Local Planning Authority. The submitted scheme shall include setting out proposals in plan and section form at a scale which can be accurately and reliably read, as well as a timetable for implementation. The scheme shall detail the proposed diversion of the watercourse crossing the site around the western side of the site including detail proposals to revegetate the stream bed of the diverted water course and its banks and margins to replicate and enhance the habitats and characteristics of the existing water course and its banks and margins.

OPERATION OF THE SITE PHASING

9. Tree and scrub and hedge planting proposed on application drawing No. G110-004 Rev 2 shall be implemented in accordance with the specification set out in amended application drawing No. G110-011 Rev 2 during the first

available planting season after completion of construction of the site access road. The planting season is from 1 November until 31 March of the following year.

10. Tree and scrub and hedge planting proposed on application drawing No. G110-007 shall be implemented in accordance with the specification set out in amended application drawing No. G110-011 Rev 2 in accordance with a timetable which shall be agreed prior to commencement of development.

11. Waste shall not be imported to or deposited on the site until Condition Nos. 5, 8, 16, 17, 56, 57, 60 and 63 have been complied with.

12. The site shall be progressively backfilled with waste in phases in a west to east direction in accordance with the phased programme set out in approved Drawing Nos. G110-008 and G110-009 and as described in the Environmental Assessment and planning application supporting statement, unless otherwise agreed in writing by the Local Planning Authority.

13. The developer shall notify the Local Planning Authority in writing within 14 days of the date of commencement/completion of the following:

(i) commencement of site preparation works.

(ii) commencement of the deposit of imported waste

(iii) entering a new phase of waste landfill as identified on approved drawing Nos. G110- 008 and G110-009.

(iv) completion of each waste landfill phase.

(v) completion of restoration of each landfill site.

(vi) completion of the landscaping/planting scheme required by Condition 8.

(vii) completion of final restoration.

(viii) estimated date for completion of aftercare.

LIMITS OF WASTE DEPOSIT AND FINISHED LEVELS

14. No deposit of waste shall take place outside the land bounded with a green line on approved Drawing No. G110-007 except for;

(a) soil and soil making materials for any purpose and or

(b) waste and other materials required in connection with site engineering and construction works.

15. During the operation of the landfill site, no deposit of waste shall take place other than in accordance with the Condition Nos. 12 and 14 above.

16. Before the commencement of the landfill operations in any of the phases shown on approved Drawing No. G110-008 and G110 - 009 and as described in the Environmental Statement and the planning supporting statement with the application, the limits of the area to be backfilled shall be clearly defined on site and notified to the Local Planning Authority.

17. Unless otherwise approved in writing by the Local Planning Authority, final post settlement landform and surface restoration levels shall accord with the landform shown on approved post settlement drawings Nos. G110-009 and G110-008 and the finished restored contours shown on approved post settlement drawing No. G110-010 Rev 1. To that end no landfilling shall be commenced until a scheme of final pre-settlement waste deposit levels (including allowance for anticipated settlement and final cover) has been submitted to an approved in writing by the Local Planning Authority. When those levels have been achieved, no further waste deposit will be allowed other than final capping and cover, and provision for minor infilling to prevent ponding and to ensure satisfactory surface drainage.

18. As the operation approaches final pre-settlement waste deposit levels and in any case before the final grading of cover and before the spreading of subsoil, the surface levels shall be checked by competent land surveyors. Thereupon markers shall be erected to indicate the approved final levels, approved restored surface levels and any appropriate approved intermediate levels.

SOIL CONSERVATION AND SAFEGUARDING THE AGRICULTURAL INTEREST IN THE SITE

SOIL STRIPPING

19. The Local Planning Authority shall be given at least 48 hours notice (excluding Sundays and Bank Holidays) of any intended phase of topsoil or subsoil stripping, such works to proceed only subject to their agreement.

20. All available topsoil and subsoil shall be stripped from any areas to be excavated, developed or used for the stationing of plant and buildings, storage of material, haul roads and other areas to be traversed by heavy machinery, and stored until required for restoration purposes unless otherwise approved for progressive restoration.

21. The stripping and movement of topsoil and subsoil shall only be carried out under sufficiently dry and friable conditions to avoid soil smearing and compaction and to ensure that all available soil resources are recovered.

SOIL STORAGE

22. Topsoils, subsoils and other soil making materials which are to be used for restoration, shall be stored according to their quality in separate mounds which do not overlap and in locations which have the prior agreement of the Local Planning Authority. No topsoil or subsoil shall be removed from the site.

23. Once formed, all mounds in which soils are to be stored for more than 6 months, or over the winter period, shall be grass seeded in accordance with a specification agreed beforehand with the Mineral Planning Authority, to minimise erosion and weed infestation. Any excess weeds shall be regularly controlled.

SITE MAINTENANCE

24. From commencement of the development until restoration of the site the following shall be carried out:

- (a) the maintenance of fences in stockproof condition between any areas used for development and any adjoining agricultural land
- (b) the retention of fencing around trees and hedgerows
- (c) the treatment of trees affected by disease in accordance with accepted principles of good woodland practice
- (d) all areas including stacks of soil and overburden to be kept free of weeds and all necessary steps taken to destroy weeds at an early stage of growth to prevent seeding.

RESTORATION

25. The site shall be restored for agricultural, woodland and amenity use in accordance with a scheme which shall be submitted within 6 months of the date of issue of this permission for the agreement of the Local Planning Authority or by such other date as may be agreed in writing by the Local Planning Authority. The submitted scheme shall, inter alia, provide for:

- (i) the location of areas to be restored to woodland, agriculture and the location of hedges, fences, gates and areas of natural conservation/ amenity use.
- (ii) on areas to be restored to woodland the placement of soils and soil forming materials to a depth of 1m over a synthetic cap/barrier or a depth of 1.5m over any other type of cap/barrier. The top 300mm of this layer shall be formed of subsoil or approved material only.
- (iii) on areas to be restored to agriculture the placement of clean soil making materials covered by a minimum of 200mm clean subsoil to a depth of 1m over the cap/barrier.
- (iv) proposals for interim restoration for a period not to exceed a period of three years following completion of waste deposit, capping and restoration sub soiling operations to allow initial settlement of ground levels on the landfilled site to take place unless otherwise agreed in writing by the Local Planning Authority.
- (v) a land drainage scheme for the restored land to be implemented after completion of settlement.
- (vi) the removal of the site access road and all associated permitted installations and structures such as vehicle cleansing facilities, offices, weigh bridges and sheeting bays; the restoration of the line of the site access road for use as a footpath and bridleway connecting footpath No. 10 to Bellstring Lane unless otherwise agreed in writing by the Local Planning Authority as soon as landfill and restoration operations are completed; conversion of the vehicular access from haul road onto Bellstring Lane to an access suitable for footpath/bridleway use unless otherwise agreed in writing by the Local Planning Authority.
- (vii) the design of new fences, gates and styles to be in the local style.
- (viii) the establishment of a wildflower meadow sward on areas to be restored for agriculture using a seed mixture of local provenance and application rate having the prior agreement of the Local Planning Authority.
- (ix) the completion and subsequent retention of the tree and scrub and hedge planting proposed in amended application No. G110-011 Rev 2 in accordance with the specification in the latter drawing.
- (x) programme of works.

26. After waste landfill operations including capping have been completed on any phase shown on approved drawing No. G110-008 the Local Planning Authority shall be given the opportunity (with at least 48 hours notice excluding Sundays and Bank Holidays) to inspect the surface before further restoration work is carried out.

27. Imported soils or soil making materials and soil making materials arising from permitted engineering or minerals extraction operations on the site shall be made available for inspection by the Local Planning Authority prior to use in restoration of the site.

28. Soils stripped and stored on site, together with any soil-making materials recovered from the incoming infill waste shall only be spread when in a dry and friable condition.

29. Subsoil and soil making materials shall be re-spread in layers not exceeding 45cm thickness, and the final layer shall be cross-ripped to a depth of 400mm using a heavy duty subsoiling implement with winged tines set no wider than 600 mm apart and any non subsoil type material or rock, boulder

or stone larger than 150 mm in any dimension shall be removed from the surface and not buried within the respread soil.

30. Wherever topsoil is respread it shall be cross-ripped to alleviate compaction and any stone larger than 100 mm in any dimension shall be removed and taken away.

31. After spreading the soil all reasonable steps shall be taken to ensure that within the top 400 mm of topsoil and/or subsoil there is no:

- (a) rock, boulder, stone, wire, cable or wire rope
- (b) sterile material injurious to plant life
- (c) excessively compacted zone.

32. The spreading of soil shall only be carried out when the material and the ground which it is to be placed on are in a dry and friable condition and in sufficient time for subsoiling, cultivation and seeding to take place under dry weather conditions unless otherwise agreed in writing by the Local Planning Authority.

33. Unless otherwise agreed in writing by the Local Planning Authority, within 3 months of the restoration of the final top layer the developer shall make available to the Local Planning Authority a plan with contours at sufficient intervals to indicate the final restored pre-settlement form of the site, together with a record of the depth and composition of the reinstated soil profiles.

34. Notwithstanding the preceding conditions, no stripping, movement, replacement or cultivation of topsoils and/or subsoils shall be carried out during the period October - March without the prior consent of, by methods and for a period agreed with, the Local Planning Authority.

35. Trees and shrubs shall be planted on the permitted site only during the months of November, December, January, February or March.

AFTERCARE

36. The period of aftercare shall commence following compliance with Condition Nos. 29 and 30 on any part of the site and shall extend for a period of 5 years effective management from the date of final restoration of the whole site, or smaller manageable blocks within the site, as confirmed in writing by the Local Planning Authority.

37. In order to allow time for consultations and any amendments to be made before a scheme is agreed, at least six months prior to commencement of aftercare on all or part of the site, outline proposals for the 5 year aftercare period shall be submitted to the Local Planning Authority. The proposals shall comprise:

- (a) the outline strategy which should identify who is responsible for carrying out the aftercare, broadly outline the steps to be carried out in the aftercare period and their timing within the overall programme. All areas subject to aftercare are to be included on a map, with separate demarcation of any areas having different periods or management proposals. It should be submitted to the Local Planning Authority at least three months prior to the commencement of aftercare and in the form outlined in Box 5 in DETR Minerals Planning Guidance Note 7 (Excerpt attached).
- (b) The detailed annual programme covering requirements for the forthcoming year as identified at Box 6 of DETR Minerals Planning Guidance Note 7 (Excerpt attached). The first detailed programme should be submitted with the outline strategy.

38. Subsequent detailed programmes shall be submitted annually to the Local Planning Authority for consultation not later than one month prior to the annual aftercare meeting with the Local Planning Authority to which the following parties shall also be invited:

- (a) All owners of land within the site
- (b) All occupiers of land within the site
- (c) Representatives of other statutory bodies as appropriate

The developer shall arrange additional aftercare meetings as required by the Local Planning Authority.

39. During the final year of the aftercare period and prior to the final aftercare inspection, the developer shall prepare a report on the Physical Characteristics of the site sufficient to demonstrate to the satisfaction of the Local Planning Authority that these have been restored, so far as it is practicable to do so, to what they were when the site was last used for agriculture.

MAINTENANCE OF HEDGES AND TREES

40. Hedges and Trees planted in accordance with any restoration scheme shall be maintained during the aftercare period in accordance with good woodland and/or agricultural practice, such maintenance to include the following:

- (a) Replacing plants which die or are lost in the subsequent planting season.
- (b) Weeding early in each growing season and as necessary thereafter to prevent the growth of plants being retarded.
- (c) Maintaining any fences around planted areas in a stockproof condition.
- (d) Appropriate measures to combat all other pests and/or diseases which significantly reduce the viability of the planting scheme.

DRAINAGE AND WATER PROTECTION

41. Unless otherwise agreed in writing by the Local Planning Authority no development approved by this permission in respect of the land edged orange on approved application No. G110-013 shall commence until:

- (a) The application site has been subjected to a detailed scheme for the investigation and recording of contamination and remediation objectives have been determined through risk assessment, and agreed in writing by the Local Planning Authority.
- (b) Details proposals for the removal, containment or otherwise rendering harmless any contamination (the 'Reclamation Method Statement') have been submitted to and approved in writing by the Local Planning Authority including details of any proposed leachate storage or treatment facilities.
- (c) The works specified in the Reclamation Method Statement have been completed in accordance with the approved scheme.
- (d) If during reclamation works any contamination is identified that has not been considered in the Reclamation Method Statement, then remediation proposals for this material should be agreed with the Local Planning Authority.

42. No development hereby permitted shall be brought into use unless and until a detailed scheme to accommodate surface water run-off, including that of adjacent areas dependant on the area of their own drainage, has been submitted to and approved in writing by the Local Planning Authority. No development shall take place except in accordance with the approved scheme

and plan(s). The scheme shall be retained throughout the life of the development unless otherwise agreed in writing by the Local Planning Authority.

43. Any oil, fuel, lubricant and other potential pollutants shall be handled on the site in such a manner as to prevent pollution of any watercourses or aquifer. For any liquid other than water, this shall include storage in suitable tanks and containers which shall be housed in an area surrounded by bund walls of sufficient height and construction so as to contain 110% of the total contents of all containers and associated pipework. The floor and walls of the bunded areas shall be impervious to both water and oil. The pipes should vent downwards into the bund.

44. No deposit of waste or temporary storage of waste shall take place within 4.5m of any watercourse. Under no circumstances shall waste enter any watercourse or culvert.

45. Unless otherwise agreed in writing by the Local Planning Authority in consultation with the Environment Agency only general, dry, commercial, industrial, household and inert waste types shall be deposited at the site.

HOURS OF OPERATION

46. Except in the event of an emergency when immediate action is required to prevent a serious environmental pollution incident from occurring or escalating and the Council is notified of the emergency within the following 24 hours, no vehicles shall enter and leave the site and no work shall take place on the site except during the following hours:

07.00 - 18.00 Monday to Friday

07.30 - 13.00 Saturday

with no working at all on Sundays or Bank Holidays.

47. Unless otherwise agreed in writing by the Local Planning Authority HGVs carrying waste shall not enter the site any further than the site office/weighbridge on the access road shown on approved amended application drawings No. G110-004 Rev 2 except during the following hours:

07.30 - 18.00 Monday to Friday

08.00 - 13.00 Saturday

and not at all on Sundays or Bank Holidays. These hours shall be displayed at the entrance to the site off Bellstring Lane as the official opening times for the receipt of waste for disposal at the site.

48. Operations involving the stripping, storage and replacement of soil and the construction and removal of noise baffle and screen mounds and initial works adjacent the residential area of Mountain Way and Stafford Hill Lane site boundary shown on Section A-A on approved drawing No. G110 - 009 and works involved in the diversion of the watercourse crossing the site shall only be carried out between the hours of 08.00 and 18.00 Mondays to Fridays and 09.00 and 14.00 on Saturdays and for no longer than 28 days total in any calendar year unless otherwise agreed in writing by the Local Planning Authority.

49. Except in the event of an emergency when immediate action is required to prevent a serious environmental pollution incident from occurring or escalating and the Council is notified of the emergency within the following 24 hours, no servicing, maintenance and testing of plant shall be carried out at the site between 20.00 and 07.30 hours on any day and at no time on Sundays or

Bank or National Holidays unless otherwise agreed in writing by the Local Planning Authority.

NOISE

50. The noise attributable to site operations excluding the operations referred to in Condition 48 above but including the flaring or conversion to electricity of landfill gas or water or leachate pumping operations shall not exceed the following levels at the location specified below:

LOCATION NOISE LEVEL - dB Laeq (1 hour) Freefield

Carr Mount Farm 45 Kirkheaton Cemeter 45 Laneside 45 Mountain Way 45

Cockley Hill Farm 47

51. Before development commences noise monitoring measures shall be implemented in accordance with a scheme approved by the Local Planning Authority. The submitted scheme shall include:

(i) identification of noise monitoring locations at the boundary of the site nearest to the locations outside the site referred to by Condition No. 50 above.
(ii) calculation of the noise limits at the monitoring points identified in (i) above which must not be exceeded if the requirements of Condition No. 50 are to be satisfied.

(iii) frequency of measurements which shall not be less than at 3 month intervals unless otherwise agreed in writing by the Local Planning Authority.

(iv) modelling procedures

(v) procedures to be adopted if noise limits exceed the levels specified in Condition No. 50 above.

52. The results of noise monitoring required by Condition No.51 above shall be kept at the site and made available to the Local Planning Authority at all reasonable times and copies of noise monitoring results shall be made available to the Local Planning Authority on request.

53. Unless otherwise agreed in writing by the Local Planning Authority the engines of vehicles, plant and machinery involved in the engineering, landfill and restoration operations on the site shall not be started up before 07.00 hours.

54. No plant, machinery or vehicles shall be used on the site unless fitted with silencers maintained in accordance with the manufacturers recommendations and specification.

DUST

55. No development shall take place until a scheme and programme of the measures for the suppression of dust, has been submitted to and agreed in writing by the Local Planning Authority. Unless otherwise agreed in writing by the Local Planning Authority, the scheme submitted for approval shall provide for, inter alia:

(a) The suppression of dust caused by the movement, transport and storage of soils and overburden, the transport, deposit, transfer and any other operation involved in the handling and deposit of waste on the site, and the movement and storage of any other materials.

(b) Maintenance on site of a sufficient number of water bowsers for the suppression of dust.

- (c) Maintenance on site of an adequate supply of water for the rapid filling of mobile spraying units and to ensure that the rate of application will be sufficient for the purposes of wetting the ground.
 - (d) Use of dust suppression chemicals in sprayed water, if necessary
 - (e) All plant used on site to have upward facing exhausts.
 - (f) The equipment of heavy plant with radiator deflector plates.
 - (g) Suspension of the movement of soils, overburden and the deposit of waste on site when the local wind speed exceeds 20 metres per second and is blowing in the direction of any residential premises within 1000 metres of the area of operation.
 - (h) Retention on site of an anemometer approved by the Local Planning Authority to monitor local wind speed.
 - (i) Use of efficient dust suppression or collection equipment on any drilling rig used on the site.
 - (j) Provision and use of effective wheel, tyre and chassis cleaning equipment at the site exit.
 - (k) Proposals for proactive management of dust nuisance prevention including keeping records of potential and/or actual dust incidents.
- The agreed scheme shall be implemented and complied with at all times.

LITTER

56. Emission of windblown litter from the landfill site shall be prevented in accordance with a scheme which shall be submitted prior to the deposit of waste on the site for the agreement of the Local Planning Authority. Unless otherwise agreed in writing by the Local Planning Authority the submitted scheme shall, inter alia, provide for:

- daily covering of waste deposited on the site with clean soil or other suitable material
- suspension of waste disposal/treatment operations on the site when local wind speed exceeds 20 metres per second.
- the regular recovery and disposal of any fugitive litter.

CONTROL OF SCAVENGING BIRDS

57. No landfilling shall be commenced until a scheme for keeping the site free of scavenging birds has been submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be implemented during the hours of daylight throughout the life of the site unless otherwise agreed in writing by the Local Planning Authority.

ODOUR

58. No waste shall be burnt within the boundaries of the site and a fire at the site shall be regarded as an emergency and immediate action shall be taken to extinguish it.

PREVENTING LIGHT POLLUTION

59. The details of all external floodlighting and other illumination proposed at the site shall be submitted to and agreed in writing by the Local Planning Authority. These details shall include: height of the floodlighting posts, intensity of the lights (specified in Lux levels), spread of light including appropriate light spillage to the rear of floodlighting posts (in metres), any

measures proposed to minimise the impact of floodlighting or disturbance through glare (such as shrouding) and the times when such lights will be illuminated.

LANDFILL GAS INSTALLATIONS AND SITE RESTORATION

60. Unless otherwise agreed in writing by the Local Planning Authority, landfill gas generated by the waste deposited at the site shall be controlled and utilised only in accordance with a scheme submitted prior to the deposit of waste on the site for the approval of the Local Planning Authority. The submitted scheme shall be designed and installed in accordance with best practice and guidance from the Ministry of Agriculture, Fisheries and Food and its Agencies:-

(i) to minimise the likelihood of gas collection pipework and extraction well failure and the need for replacement and maintenance of pipes and wells which would adversely affect the restoration of the site.

(ii) to minimise interference with the afteruse of the site for agriculture, woodland and amenity.

(iii) to prevent odour nuisance from landfill gas vents.

The submitted scheme shall provide for, inter alia:

(i) scaled plan(s) which locate monitoring stations and wells, extraction wells, well heads/manifolds, collection pipework, flares and generating stations and access to installations and plant;

(ii) indication of which installations are above ground and elevations for above ground installations:

(iii) method statements for the installation of gas collection/extraction and control systems; and for the subsequent replacement of failed wells and collection pipes.

(iv) a programme of works which provides for the installation of collection pipework and extraction wells prior to the spreading of restoration soils on the site.

61. All landfill gas extraction, collection, control and conversion installations and structures excluding those buried below 0.5 metres of restoration soils shall be removed from the site within 6 months from the date of issue of a Completion Certificate by the Environment Agency or its successor authority.

62. Unless otherwise agreed in writing by the Local Planning Authority landfill gas extraction and/or monitoring wells and underground collection pipes shall not be replaced unless the restoration soils which would be disturbed are in a dry and friable condition. The replacement works shall be undertaken in accordance with a method statement agreed by the Local Planning Authority and designed to prevent contamination and compaction of restoration soils and to ensure the satisfactory restoration of the area of land affected.

WASTE RECYCLING/TREATMENT

63. Unless otherwise agreed in writing by the Local Planning Authority waste shall not be treated/recycled, stored or re-exported from the site except in accordance with a scheme which shall be submitted to and agreed by the Local Planning Authority prior to the commencement of such operations on the site. The submitted scheme shall:

(i) describe the categories and quantities of the waste to be stored, treated/recycled and re-exported, the plant and operations required.

- (ii) the location, extent and height of stockpiles and the ultimate use of the treated/recycled waste.
 - (iii) indicate on a scaled plan the location and extent of land required for such operations at each phase of the development.
 - (iv) describe how the operations would be screened from residential properties to the west and the south and how potential dust and odour nuisance would be avoided.
64. Any skips stored on the site shall be incidental to the landfilling of the site and shall be confined to an area which shall have been agreed in writing by the Local Planning Authority.

MISCELLANEOUS

65. All plant and machinery not in current use shall be stored in a tidy manner and all the site operator's redundant plant, machinery, vehicles and scrap shall be removed from the site.
66. A survey of levels shall be carried out and submitted to the Local Planning Authority at intervals of not less than every 12 months starting from the date on which the deposit of imported waste on land within the green line shown on approved drawing No. G110-007 operations commences.
67. From the commencement of development to the cessation of the use hereby permitted, a copy of the terms of this planning permission including all documents hereby permitted and any documents subsequently approved or agreed in accordance with this permission or amendments approved or agreed pursuant to this permission shall be on the site during working hours and shall be made known to any person(s) given responsibility for the management or control of waste activities/operations on site.

NOTE: This planning permission shall refer to the following approved plans.
Drawing No. Title
G110-002 Application boundary
G110-003 Site reference plan
G110-004 (Rev 2) Proposed new access
G110-005 Access road profile
G110-031 Sections through access road
G110-007 Pre-operation mitigation measures
G110-008 Proposed landfill phasing programme
G110-009 Section A-A (G110-008 locates)
G110-010 (Rev 1) Final restoration
G110-011 (Rev 2) Planting plan
G110-013 Footpaths
G110-015 Sections (G100-016 locates)
G110-016 Locating the G110-015 Sections

Application No: 2016/90066

Type of application: 62 - FULL APPLICATION

Proposal: *Erection of 8 dwellings with parking*

Location: *Land to Rear of Lindley WMC, Blackthorn Drive, Lindley, Huddersfield, HD3 3RR*

Grid Ref: 411611.0 418183.0

Ward: *Lindley Ward*

Applicant: *S Armitage, Armitage Developments UK Ltd*

Agent: *Dan Heneghan, Farrar Bamforth Associates*

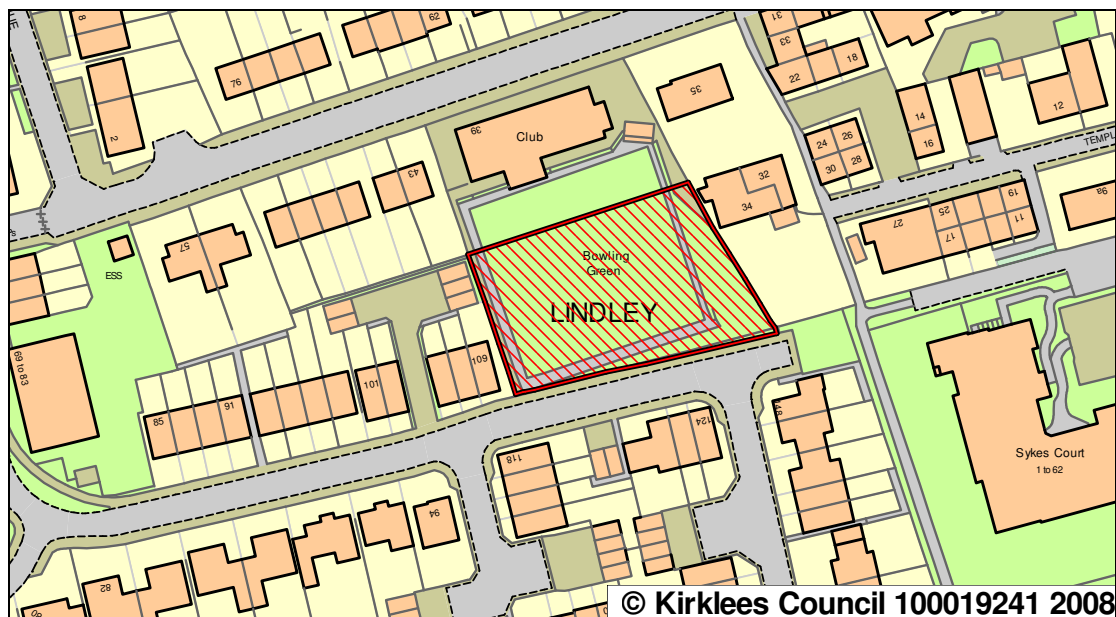
Target Date: *17-May-2016*

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

The proposal represents the loss of the bowling green at Lindley Working Men's Club and replacement with 8 dwellings. The applicant has demonstrated that there is no demand for the bowling green, and existing demand can be accommodated at other local greens.

The design of the proposal would be in keeping with the character, appearance and pattern of development in the local area and would have an acceptable impact on highway safety and drainage arrangements. The proposal would have an acceptable impact on the amenity of existing and future residents.

RECOMMENDATION: Full Conditional Approval

2. INFORMATION

The application is brought before the Huddersfield Planning Sub Committee due to the level of representations which have been received which totals 57.

3. PROPOSAL/SITE DESCRIPTION

Site

The application site forms the bowling green associated with Lindley Working Men's Club (LWMC). The site is located between Blackthorn Drive and Brian Street in the Lindley area of Huddersfield. LWMC is located to the north of the site with access off Brian Street. The bowling green has been unused for a number of years and has used as part of the outdoor amenity space associated with the LWMC. The site is flat, with the bowling green centrally positioned with a path running around the edge. A brick retaining wall is located to the west to support the new dwellings located off Blackthorn Drive. A concrete highway structure with railings is located to the south of the site to support the highway of Blackthorn Drive, with a footway provided in front. Currently a timber fence runs along the southern boundary to screen the site from Blackthorn Drive.

Surrounding the site to the south along Blackthorn Drive are a number of newly brick built three storey dwellings and associated parking, garage and amenity space. To the east is no.34 Temple Street a 2 storey detached stone built dwelling. To the west is no.109 Blackthorn Drive and the parking court associated with 105- 109 Blackthorn Drive. No. 43 Brian Street is located to the north west which is a two storey rendered property.

Proposal

The application seeks to erect 8 new dwellings in two distinctive blocks. Plots 1-4 would be a row of three storey 4 bedroom townhouses, which would be located to the east of the existing no.109 Blackthorn Drive. These dwellings would be broadly built in line with 109 and be of a similar design and scale. A new private drive would be formed centrally within the site which would lead to

a parking court which would serve plots 1-4 providing 2 spaces per dwelling with 2 visitor spaces also provided.

Plots 5-6 would be three storey 4 bedroom town houses and would be positioned to the east of the access at a slight angle and set back from Blackthorn Drive. Plots 7 and 8 would be 2 and half stories in height, would provide 3 bedrooms and would be attached to plots 5 & 6 but positioned further forward. Parking for Plots 5-8 would be provided to the front of the properties in a tandem arrangement.

The dwellings would be constructed from brick with concrete roof tiles to match similar dwellings constructed on Blackthorn Drive

4. BACKGROUND AND HISTORY

No relevant history.

5. PLANNING POLICY

The site is unallocated on the Kirklees UDP Proposal Plan.

Kirklees Unitary Development Plan

- **BE1** – Design principles
- **BE2** – Quality of design
- **BE12** - Space about buildings
- **BE23** – Crime Prevention
- **EP4** – Noise Sensitive Development
- **T10** - Highway safety
- **T19** – Parking Standards
- **D2** – Development on Land without Notation on the UDP Proposals Map
- **R7A** – Development of Open Space
- **H1** – Meeting the housing needs of the district
- **H10** – Affordable Housing
- **H12** - Arrangements for securing affordable housing

National Planning Policy Framework (NPPF)

- **NPPF1**: Building a strong competitive economy
- **NPPF6**: Delivering a wide choice of high quality homes
- **NPPF7**: Requiring good design
- **NPPF 8**: Promoting heathy communities
- **NPPF10**: Meeting the challenge of climate change, flooding and coastal change
- **NPPF 11**: conserving and enhancing the natural environment
- **Core planning principles**

Other Documents

- West Yorkshire Low Emission Strategy Planning Guidance (WLES)

Evidence Documents

- Kirklees Playing Pitch Strategy & Action Plan September (2015) – *Part of the Evidence Base for the draft Local Plan*

6. CONSULTATIONS

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

KC Highways – no objections subject to conditions.

KC Strategic Drainage – no objections subject to conditions.

KC Environmental Services – no objections subject to the submission of a noise report.

KC Strategic Housing – comments made in relation to affordable housing.

7. REPRESENTATIONS

Initial publicity on the application expired on: 15/2/2016.

A second round of publicity ended on 1/4/2016.

In total 57 representations have been received from 44 local residents. Of these 53 raise objections 3 are in support with 1 providing a general comment.

The objections raised for the proposal are as follows:

Highway Safety

- The proposal would have a detrimental impact on highway safety, there is insufficient off street parking for the properties along Blackthorn Drive, with vehicles parked on street and both sides of the road. There is a blind bend adjacent the children's play area and additional movements will be detrimental to users of the play area. The proposal will increase on street parking to the detriment of highway and pedestrian safety.
- The proposal would be detrimental to pedestrian safety. Vehicles already park half on the road and half on the footway making them difficult to use.
- The proposal provides insufficient parking for the properties, and the parking court and tandem parking arrangements are unlikely to be used based on experience of other such arrangements in the estate, with additional parking on street.

- Blackthorn Drive is narrow at the application site and was not designed to accommodate additional vehicles. This narrowness increases difficulties with the operation of the road, and leads to the road being congested with parked cars. This also makes it difficult for emergency services vehicles to use.
- The use of Blackthorn Drive for construction traffic would be detrimental to highway safety given the high level of park cars. There is also a weight restriction on the use of the road of 2.25 tonnes for local residents.
- The proposal would lead to the loss of a recently constructed retaining wall which supports Blackthorn Drive.
- The proposal would lead to increased traffic on roads around Lindley which would be detrimental to highway safety in the surrounding streets.
- The proposed development should be accessed off Brian Street with an access along one side of Lindley Working Men's Club. The site does not form part of Blackthorn Drive. Brian Street is a bus route and wider than Blackthorn Drive. This would resolve many of the issues such as parking and the use of Blackthorn Drive.

Amenity –

- The hours of construction should be limited to when children are at school for pedestrian safety reasons with no weekend working for amenity reasons.
- The proposed dwellings would have a detrimental overshadowing and overlooking impact to local resident on Blackthorn Drive and Temple Street and would block views and be harmful to residential amenity.
- The future occupiers of the dwellings would be subject to noise generated by Lindley Working Men's Club which would be detrimental to amenity.
- The proposal would be detrimental to the amenity of the occupiers of No.109 Blackthorn Drive. No.109 has a kitchen/living room window in the side elevation, the proposed development would block natural light to these windows and overshadow the garden. The proposal would therefore not accord with the requirements of Policy BE12 which states a distance of 12 metres should be achieved.

Design –

- The design and layout of the proposed dwellings do not fit in with the pattern of development in the local area, and the density of development is out of keeping, and the proposal represents an over development of the site.
- The provision of bin storage to the front of the properties is out of keeping with the design in the local estate, refuse vehicles will not be able to access the rear of the sites to pick up bins from the rear.

Other Matters

- Local services in Lindley such as doctors, schools are already at capacity and cannot accommodate an additional 9-36 people generated by the development.
- The need for such dwellings as proposed is questionable given the extent of development under construction at Lindley Moor.
- There is a vacant plot of land located of Brian Street which could be developed before the application site to meet the necessary housing need.
- Local residents along Blackthorn Drive pay a service charge to a management company maintain the parts of highway and surrounding open space. There is concern that the proposed development/future occupiers would not contribute to this maintenance.
- The proposal would have the potential to increase crime in the local area as there would be new points of entry/escape when committing instances of crime.
- The proposal will require large amounts of materials to be delivered to the site as infill.

The comments in support are summarised as follows:

- Lindley Working Men's Club has been open for over 100 years, and the bowling green has not been used for over 12 years. The club has over 150 members and the sale of the land will support the long term future of the club.
- The addition of a further 9 dwellings is not considered to have a detrimental impact to highway safety.
- Blackthorn Drive is not congested and there has never been an issue of congestion on the road. Any inconvenience caused by construction traffic would be temporary and not dissimilar to refuse trucks using the road. It is unlikely that there has ever been an instance when an emergency service vehicle could not get through the road.

8. ASSESSMENT

Principle:

The site is classified as being greenfield due to its last use as a bowling green, however the site is without notation on the UDP Proposals Map and Policy D2 (development of and without notation) of the UDP states "planning permission for the development ... of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]". All these considerations are addressed later in this assessment.

Five Year Land Supply

Given that the application seeks to erect 8 new dwellings it is appropriate to note the Council's five year land supply position. Currently the Council is unable to demonstrate a five year supply of deliverable housing sites. In these circumstances, in accordance with NPPF paragraph 49, "relevant policies for the supply of housing should not be considered up to date". Consequently planning applications for housing are required to be determined on the basis of the guidance in NPPF paragraph 14. This requires proposals which accord with UDP to be approved without delay or where the UDP is silent or out-of-date to grant planning permission unless the adverse impacts of doing so would 'significantly and demonstrably' outweigh the benefits in the NPPF.

Loss of Bowling Green

The application site whilst unallocated on the UDP was previously used as a bowling green which is classified as an area of open space under Policy R7A of the UDP. Policy R7A is therefore relevant along with paragraph 74 of the NPPF both of which are set out below:

R7A - Proposals to develop public open space, private playing fields or land last used as private playing fields will not be permitted unless:

- i. replacement provision of equivalent community benefit is made; or*
- ii. only the redevelopment of a small part of the site is involved and this provides the best means of retaining and enhancing sport and recreation facilities; or*
- iii. it is demonstrated that the site will not be required in the longer term for community sport, recreation or amenity use.*

All proposals should make provision for the safeguarding of visual and residential amenity and established wildlife.

74. Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
- the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.*

The applicant has detailed that the bowling green was last used in 2001 and has been used as a beer garden associated with Lindley Working Men's club since, with the site fenced off in early 2015 and not used. The applicant is therefore seeking to meet the requirements of the third criteria of policy R7A and the first bullet point of paragraph 74 that the facility is no longer required.

The applicant also contacted Sport England prior to submission to gain a view on the loss of the bowling club. However as stated in Sport England's comments to the applicant bowling greens fall outside the requirement to consult them, and they have therefore offered only general comments.

The comments by the applicant are noted, and at the case officer's site visit it was clear that the bowling green had not been in use for some time. Notwithstanding this an assessment needs to be made in relation to evidence set out in the Kirklees Playing Pitch Strategy & Action Plan (2015) (KPPSA). KPPSA forms an evidence document which has been used to inform the draft Local Plan. The application site is defined as Lindley Working Men's Club and Bowling Green in the KPPSA (ref 243), with the following assessment:

- **Current use** - suspected to have lapsed.
- **Recommended actions** - Unlikely to be required to service bowls demand. Further investigate.
- **Site recommendation** - Protect until no evidence of demand.

In light of the above assessment the applicant was asked to assess demand for crown green bowling facilities in the local area. The applicant contacted the following local bowling clubs to ascertain whether demand could be met by other facilities. The clubs contacted were as follows:

- Lindley Liberal Club, 36 Occupation Road, Lindley
 - 440 metres from the application site.
 - Plenty of availability for both team bowling and social bowling
- Lindley Bowling Club, Daisy Lea Lane, Lindley
 - 635 metres from the application site.
 - Lots of availability and bowling arranged on most evenings.
 - Currently discounted membership to entice new members
 - Social bowling very popular for new comers in the area.
- Marsh Liberal Club –
 - 1.4km from the application site.
 - No answer on two occasions, availability unknown.

Separately to the above the KPPSA provides further evidence which has detailed that all the three clubs identified above have the likely potential to accommodate additional members.

The KPPSA has also provided an assessment of supply and demand for crown green bowling greens across the district. The KPPSA details that there are 83 greens in the district, membership has generally remained static across all clubs over the last 3 years (from 2015), with vandalism highlighted as a particular issue on some sites. The KPPSA advises that existing provision should be maximised with better use of greens, and concludes by stating that it would appear that there are enough greens available for community use to accommodate both current and future demand.

In light of the findings contained in the KPPSA and the information submitted by the applicant, the loss of the bowling green at Lindley Working Men's Club is considered to be acceptable. The green has been unused for a number of years possible up to 15 years, and there are a number of other greens in the local area within a short distance of the site which have capacity to accept new members for all types of bowling. Issues of vandalism and maintenance have been highlighted as issues affecting bowling greens within the KPPSA, and the proposal would support the maximisation of other provision in the local area.

The proposal could also support the existing retention of Lindley Working Men's Club which went into administration in April 2015. The applicants supporting statement has detailed that the sale of the bowling green is necessary to support the immediate and long term future of the club which has been an active part of the community since 1911. Members should note however that there is no formal commitment to tie the sale of the site to the investment into the Working Men's Club. It is not considered necessary to do so in order to justify the planning application and therefore only minimal weight should be afforded to this matter.

In light of the above assessment the applicant has sufficiently demonstrated that the existing bowling green is no longer required, and the proposal is considered to meet the third bullet point of policy R7A and paragraph 74 of the NPPF. The principle of developing the site is in principle considered to be acceptable subject to an assessment of all other material planning considerations.

Highway Safety:

The highway impact of the development has been assessed in relation to Policies T10 and T19 of the UDP, and the scheme has been considered by the KC Highways Development Management who raise no objection.

The proposal would have access directly onto Blackthorn Drive where the highway is partly supported by a retaining wall. Blackthorn Drive is a newly adopted highway with the majority of dwellings having off street parking either on driveways or parking forecourts.

Following the submission of amended plans the application now proposes 8 dwellings with 4 dwellings having access to a rear parking area and 4 dwellings taking vehicular access directly off Blackthorn Drive. The parking provision for the development as a whole is marginally below the Council's maximum parking standards for the size of dwellings proposed. However the amended layout and parking arrangement may now allow some occasional limited overspill parking on the highway. It is considered that parking provision for this development is in line with the recently constructed housing development along Blackthorn Drive.

The access to the parking area is wide enough at 5 metres over a distance of 10 metres to support two-way traffic up to its junction with Blackthorn Drive the access into the car park is thereafter 4 metres wide. The parking layout is in line with Council standards

Taking into account the level changes between the application site and the adopted highway a condition is required to ensure any driveway gradients do not exceed 1:12. The applicant will also need the approval of the Council's Highway Structures Team for any required alterations to the existing retaining structure on Blackthorn Drive to facilitate the development.

The development can be serviced from Blackthorn Drive and all of the proposed dwellings are within the required distance from the adopted highway.

In terms of traffic generation the reduced development of 8 dwellings will not, have any substantial impact on highway capacity or road safety on the adjoining highway network.

Additional conditions are attached to the recommendation for the surfacing of the driveways and the surfacing and lining of the parking court, the submission of details for the footway crossings. The conditions are required in the interest of highway and pedestrian safety.

Subject to the above conditions the proposal would accord with the requirements of Policies T10 and T19 of the UDP.

Amenity:

Residential Amenity

The impact of the development on residential amenity needs to be considered in relation to Policies D2, EP4 and BE12 of the UDP and core planning principles of the NPPF. Furthermore the proposal has been assessed by Environmental Services due to the proximity of the site to LWMC. The closest residential properties to the proposed dwellings are along Blackthorn Drive and Temple Street. An assessment of the impact of the development on these properties is set out below.

No.109 Blackthorn Drive is the closest property to the site with the side elevation located 3.4 metres from plot 1 to the west. The side elevation of no.109 contains 3 windows, a secondary window which serves a kitchen/living room at ground floor, a landing window at the first floor and an en-suite window at the second floor. It is acknowledged that the erection of a new dwelling within 3.4 metres of no.109 would reduce natural light into these windows on the side elevation, though there would be no overlooking. The new properties would be set at a lower level than no.109 being 0.95 metres lower. Also given that these windows are secondary or serve non habitable space, and a degree of separation is provided between the properties, the impact on the amenity of the occupiers of no.109 is on balance considered to

be acceptable. Furthermore due to the new property being built in line with no.109, the proposal is not considered to lead to a detrimental overbearing or overshadowing impact to the front and rear elevations of no.109, which contains the dwelling's principal habitable windows, or the rear amenity space of this dwelling. The impact on the amenity of the occupiers of no.109 is therefore on balance considered to be acceptable.

To the south of the site no.118 is the closest property to plots 1-4, with plot 1 located within 13.4 metres of the blank side elevation of this property. The front of plots 2-4 face the garage and amenity space of properties along Blackthorn Drive. The front elevation of plots 5 & 6 are located a minimum of 21.9 metres from the front elevation of no.s 120-124 Blackthorn Drive. The front elevation of plot 7 is located 21.4 metres from the front of no. 124 and the front of plot 8 located 24.7 metres from the blank side elevation of no. 148. Given the separation distances achieved and orientation of properties as detailed above, the proposal is not considered to lead to a detrimental overshadowing or overbearing impact to these properties.

To the north east of the site no.34 Temple Street is located 4.5 metres from the north eastern corner of plot 8 which is also on lower ground. In terms of overlooking there is no direct window to window relationship between the two properties. The scale of plots 7 and 8 has been reduced through the course of the application to 2 and half storey, 1.7 metres lower than the other properties to reduce the potential for overshadowing and overbearing on no.34 when viewed from principal windows in this property facing south. The staggered and angled layout of plots 5-8 has also aided in taking the bulk of the properties away from no.34 whilst ensuring an efficient use of the site in terms of numbers of dwellings.

The separation distances set out above are considered to be sufficient to protect the amenity of existing and future occupiers. The separation distances to adjacent properties accord with the requirements of Policy BE12 in all but the relationship with no.109, where the impact is considered to be acceptable given the secondary/non habitable nature of the windows.

In terms of the amenity of future occupiers from surrounding uses, the site is within close proximity to LWMC which generates noise in the local area. Environmental Services have had a record of complaints from noise generated by the LWMC, and have therefore advised that a noise report is necessary to detail how proposed dwellings will be protected from noise generated from the LWMC. It is considered that it will be possible to mitigate the amenities of occupiers from noise from the club, both within the dwellings and when using their private amenity site. To ensure an appropriate scheme is secured it is recommended that this form a pre-commencement condition. This will be conditioned as part of the recommendation. Subject to the above the proposal would accord with the requirements of Policy EP4.

It is not considered necessary to withdraw permitted development rights for the properties given the scale of the garden spaces associated with the dwellings and the layout of the properties.

Design

The design of the proposal needs to be considered against policies D2, BE1, BE2 and BE23 of the UDP and policies in chapter 7 of the NPPF.

The proposal has been amended from that initially submitted with the number of dwellings reducing from 9 to 8, and the layout amended. The scheme now proposes a row of terraced townhouses (plots 1-4), with parking court to the rear accessed via a central access point. The 4 other properties would be positioned at a slight angle to Blackthorn Drive laid out in a staggered arrangement set further back into the site than plots 1-4.

The proposal would also lead to the existing ground level of the site being raised by approximately 1 metre at the most western end of the site for plots 1 and 2. Other changes in level would occur in line with the natural topography of the Blackthorn Drive, with plots 2 and 4 set down at a lower than plots 1 and 2. The amenity space for plots 1-4 would also be lower than the ground floor levels of the dwellings with access achieved via steps, with the gardens gradually sloping away towards the parking court.

Plots 1-4 would be constructed broadly in line with No.s 105-109 Blackthorn Drive and the layout would be in keeping with the pattern of development in the local area. The provision of a parking court to the rear would reflect similar such parking solutions used along Blackthorn Drive and those which serve no.101-109. Plots 1-4 would be of a similar size to the existing dwellings in the local area, retaining similar architectural features and be constructed from materials to match. Amenity space for the dwellings would be provided to the rear of the properties with the parking spaces well overlooked from the rear of the dwellings.

Plots 5-8 would be positioned at a slight angle to Blackthorn Drive in a staggered arrangement to take account of surrounding residential properties. As detailed above, the staggered arrangements are considered to be important to protect the amenity of no.34 Temple Street and whilst different to other properties along Blackthorn Drive are not considered to be out of keeping with the local character. Plots 5-8 would be constructed from materials to match other properties along Blackthorn Drive and the scale of the dwelling are considered to be acceptable as set out above.

In terms of crime prevention and Policy BE23, the proposal was assessed on an informal basis by the West Yorkshire Police Architectural Liaison Officer. Initially concerns were raised to the layout; however the amended scheme ensures that the layout achieves clearly defined defensible amenity space for each dwelling with the parking court for plots 1-4 well overlooked from the proposed dwellings. Parking arrangements for plots 5-8 are also well overlooked by the proposed dwellings. In terms of crime prevention the proposed layout is therefore considered to be acceptable.

To ensure that the final design/appearance of amenity space is acceptable a condition is attached to the decision notice for the submission of details of boundary treatment.

Conclusion on Amenity

In conclusion the proposal is considered to have an acceptable impact on the amenity of local residents, and the design and scale of the scheme is considered to be in keeping with the character, appearance and layout of the local area. The proposal would therefore accord with Policies D2, BE1, BE2, BE12 and BE23 of the UDP and Policies in the NPPF.

Drainage:

The drainage arrangements for the site have been assessed by the Council's Drainage Officer and in relation to policy requirements of the NPPF. The applicant has provided details of an indicative drainage layout which details that site will be drained to the public sewer. The Drainage Officer raises no objections to the proposal subject to a condition requiring the submission of final drainage details. Subject to the proposed condition it is considered that the proposal would have an acceptable impact on drainage and flood risk.

Affordable Housing:

UDP Policies H10 and H12 sets out the requirements for the provision of affordable housing, and SPD2 – Affordable Housing provides specific requirements for sites in Kirklees. However through the course of the planning application the Government's policy position in relation to affordable housing has changed following the order of the Court of Appeal dated 13 May 2016, which gives legal effect to policy set out in a Written Ministerial Statement of November 2014. This now forms part of the NPPG setting out when "infrastructure contributions through planning obligations should not be sought from developers". This is national planning policy supplementing the NPPF and given significant weight in the consideration of the application. In detail the NPPG now states that:

'contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1000sqm'

The proposal seeks permission for 8 dwellings with a total combined gross internal floorspace of 863.02 square metres. The proposal is therefore below the threshold set out in the NPPG and no contribution for affordable housing is sought.

Other Issues:

Coal Advice

The site is located in the low risk coal area, a standard advice note will be attached to the decision notice in this respect.

Ecology

In terms of ecology the site is considered to be of a low value as the site is covered in amenity grass land. An ecological assessment of the site is therefore not required, and the proposal is considered not to have an adverse impact on local ecology.

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. This is further supported by guidance in the West Yorkshire Low Emission Strategy Planning Guidance (WLES). 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.

Representations:

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

Highway Safety

- The proposal would have a detrimental impact on highway safety, there is insufficient off street parking for the properties along Blackthorn Drive, with vehicles parked on street and both sides of the road. There is a blind bend adjacent the children’s play area and additional movements will be detrimental to users of the play area. The proposal will increase on street parking to the detriment of highway and pedestrian safety.
- The proposal would be detrimental to pedestrian safety. Vehicles already park half on the road and half on the footway making them difficult to use.
- The proposal provides insufficient parking for the properties, and the parking court and tandem parking arrangements are unlikely to be used based on experience of other such arrangements in the estate, with additional parking on street.

Response: As set out above the proposal is considered to have an acceptable impact on highway and pedestrian safety. It is noted that vehicles park on both sides of Blackthorn Drive in some places, and some existing on street parking would be lost by the development. However sufficient parking is provided for the dwellings in accordance with the UDP parking standards, on street parking would be retained along Blackthorn Drive in front of plots 1-4, and the parking provision is of an acceptable design.

- Blackthorn Drive is narrow at the application site and was not designed to accommodate additional vehicles. This narrowness increases difficulties with the operation of the road, and leads to the road being congested with parked cars. This also makes it difficult for emergency services vehicles to use.

Response: Blackthorn Drive is considered to be of a sufficient standard as constructed and highway arrangements are sufficient to accommodate emergency service vehicles.

- The use of Blackthorn Drive for construction traffic would be detrimental to highway safety given the high level of park cars. There is also a weight restriction on the use of the road of 2.25 tonnes for local residents.

Response: Blackthorn Drive is an adopted public highway maintained by the Council, its use for construction access is considered to be acceptable. The weight restriction on the highway is a private matter which is included in the deeds of properties along Blackthorn Drive.

- The proposal would lead to the loss of a recently constructed retaining wall which supports Blackthorn Drive.

Response: The impact of the development on the existing highway structure has been assessed, and the impact of the development on the structure is considered to be acceptable subject to a planning condition securing detailed designs of any modifications.

- The proposal would lead to increased traffic on roads around Lindley which would be detrimental to highway safety in the surrounding streets.

Response: Given the scale of the development the proposal is not considered to lead to a materially detrimental impact on highway safety in the Lindley area.

- The proposed development should be accessed off Brian Street with an access along one side of Lindley Working Men's Club. The site does not form part of Blackthorn Drive. Brian Street is a bus route and wider than Blackthorn Drive. This would resolve many of the issues such as parking and the use of Blackthorn Drive.

Response: The applicant has not proposed the use of Brian Street for a point of access and the highway arrangements proposed are considered to be acceptable. The use of Blackthorn Drive to serve the development is considered to be acceptable.

Amenity –

- The hours of construction should be limited to when children are at school for pedestrian safety reasons with no weekend working for amenity reasons.
- The proposed dwellings would have a detrimental overshadowing and overlooking impact to local resident on Blackthorn Drive and Temple Street and would block views and be harmful to residential amenity.

Response: As set out above the proposal is considered to have an acceptable impact on the amenity of local residents. Given the scale of the development it is not considered reasonable to restrict the hours of construction to only school time. A note is however attached to the decision notice regarding hours of construction.

- The future occupiers of the dwellings would be subject to noise generated by Lindley Working Men's Club which would be detrimental to amenity.

Response: A noise report will be conditioned to be provided to detail how the future occupiers will be protected from noise from the adjacent club.

- The proposal would be detrimental to the amenity of the occupiers of No.109 Blackthorn Drive. No.109 has an open plan kitchen/living room window in the side elevation, the proposed development would block natural light to these windows and overshadow the garden. The proposal would therefore not accord with the requirements of Policy BE12 which states a distance of 12 metres should be achieved.

Response: As set out above the impact of the development on no.109 is considered, on balance, to be acceptable. The open plan kitchen/living room window is a secondary window to the room with the main aspect of the room to north.

Design –

- The design and layout of the proposed dwellings do not fit in with the pattern of development in the local area, and the density of development is out of keeping, and the proposal represents an over development of the site.

Response: As set out above the proposal is considered to be in keeping with the character and appearance of the local area.

- The provision of bin storage to the front of the properties is out of keeping with the design in the local estate, refuse vehicles will not be able to access the rear of the sites to pick up bins from the rear.

Response: The initially proposed bin storage areas have been removed from the plan, however there is scope to store the bins either to the front of all properties or to the rear of plots 1-4 and 5 and 8, with plots 6 and 7 being stored to the front. To ensure that bin storage is sufficiently dealt with a condition is attached to the recommendation.

Other Matters

- Local services in Lindley such as doctors, schools are already at capacity and cannot accommodate an additional 9-36 people generated by the development.

Response: Scale of the development would not require an education contribution and the provision of facilities such as doctors are a matter for the Local Health Authority and not an issue over which the Local Planning Authority has any control.

- The need for such dwellings as proposed is questionable given the extent of development under construction at Lindley Moor.

Response: As set out above the Council cannot demonstrate a 5 year land supply of housing and the need for housing is therefore demonstrated.

- There is a vacant plot of land located of Brian Street which could be developed before the application site to meet the necessary housing need.

Response: It is acknowledged that there are other pieces of land which could be developed in the local area, the site at Brian Street has previously had planning permission.

- Local residents along Blackthorn Drive pay a service charge to a management company maintain the parts of highway and surrounding open space. There is concern that the proposed development/future occupiers would not contribute to this maintenance.

Response: Contributions to a management company for the maintenance of part of the estate is a private legal matter between the applicant and management company.

- The proposal would have the potential to increase crime in the local area as there would be new points of entry/escape when committing instances of crime.

Response: As set out above the impact of the development on crime prevention has been assessed by Officers, and the proposal is considered to provide a safe and accessible development.

- The proposal will require large amounts of materials to be delivered to the site as infill.

Response: It is acknowledged that the proposal will required the importing of material to increase the ground level, and the applicant has provided sectional drawings of the site to demonstrate the amount material needed to increase ground levels. The increased ground levels are considered to be acceptable to officers.

The comments in support are summarised as follows:

- Lindley Working Men's Club has been open for over 100 years, and the bowling green has not been used for over 12 years. The club has over 150 members and the sale of the land could support the long term future of the club.
- The addition of a further 9 dwellings is not considered to have a detrimental impact to highway safety.
- Blackthorn Drive is not congested and there has never been an issue of congestion on the road. Any inconvenience caused by construction traffic would be temporary and not dissimilar to refuse trucks using the road. It is unlikely that there has ever been an instance when an emergency service vehicle could not get through the road.

Response: The above comments are noted in support.

Conclusion:

In conclusion the proposed loss of the bowling green at Lindley Working Men's Club is considered to be acceptable. The applicant and information contained in the Kirklees Playing Pitch Strategy and Assessment has demonstrated that there is no demand for the green, and existing demand can be accommodated at other local greens.

The design of the proposal would be in keeping with the character, appearance and pattern of development in the local area and would have an acceptable impact on highway safety and drainage arrangements. The proposal would have an acceptable impact on the amenity of existing and future residents.

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

Recommendation – Full Conditional Approval

Approval subject to the following 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 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. Construction of the superstructure of the hereby approved dwellings shall not commence until details of external materials to be used have been submitted to and approved in writing by the Local Planning Authority. No materials other than those approved in accordance with this condition shall be used.

4. The development shall not be brought into use until the car parking area and access to from Blackthorn Drive as shown on the submitted plans has been marked out, and laid out with a hardened and drained surface in accordance with the Communities and Local Government; and Environment Agencies 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or any successor guidance. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any Order revoking or re-enacting that Order) these areas shall be so retained, free of obstructions and available for the use specified on the submitted/listed plans for the lifetime of the development.

5. Before the properties are occupied driveways with a gradient not exceeding 1:12 shall be provided in accordance with details that shall be submitted to and approved in writing by the Local Planning Authority before development of the driveways commences. 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) the driveways shall be retained, free of obstructions, for the life of the property.

6. Notwithstanding the requirements of condition 10 prior to the occupation of the dwellings, a scheme detailing the boundary treatment of the all of the site shall be submitted to and approved in writing by the Local Planning Authority and the works comprising the approved scheme completed. The boundary treatment as approved shall thereafter be retained.

7. Construction of footways shall not commence until full details of the approved footway crossings have been submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until all footway crossings have been completed in accordance with the approved details.

8. Before the development commences a scheme detailing the location and cross sectional information together with the proposed design and construction for all modifications to the existing retaining wall on Blackthorn Drive to form the new access road shall be submitted to and approved by the Highway Authority in writing. The approved scheme shall be implemented prior to the commencement of the proposed development and thereafter retained during the life of the development.

9. Development shall not commence until a scheme detailing foul, surface water and land drainage, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until such approved drainage scheme has been provided on the site to serve the development and be thereafter retained.

10. Construction of the superstructure of the hereby approved dwellings shall not commence a report specifying the measures to be taken to protect the development from noise from Lindley Working Men's Club (LWMC) shall be submitted to and approved in writing by the Local Planning Authority.

The report shall

- (i) Determine the existing noise climate
- (ii) Predict the noise climate in gardens (daytime), bedrooms (night-time) and other habitable rooms of the development (this is for housing think whether there would be alternative wording for other uses)
- (iii) Detail the proposed attenuation/design necessary to protect the amenity of the occupants of the new residences (including ventilation if required).

The development shall not be occupied until all works specified in the approved report have been carried out in full and such works shall be thereafter retained.

11. Prior to occupation of the dwellings, in all residential units that have a dedicated parking area 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

12. Notwithstanding the details shown on the approved plans, before the hereby approved dwellings are occupied, details of storage and access for collection of wastes from the premises including details of screening shall be submitted to and approved in writing by the Local Planning Authority. The works comprising the approved details shall be provided before the dwellings are occupied and shall be so retained thereafter free of obstructions and available for storage thereafter.

NOTE: Hours of Construction

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:-

Plan Type	Plan Reference	Revision	Date Received
Location Plan	15-D79-01	-	13/1/2016
Topographical Survey	15-D79-02	-	13/1/2016
Proposed Site Layout Plan	15-D79-03 Rev F	-	21/6/2016
Proposed Drainage Layout	15-D79-06 Rev A	-	14/4/2016
Proposed Site Sections	15-D79-08	-	14/4/2016
Proposed Plans and Elevations Plots 1-4	15-D79-03 Rev G	-	21/6/2016
Proposed Plans and Elevations Plots 5-8	15-D79-05 Rev E	-	21/6/2016
Supporting Statement	-	-	25/2/2016
Sport England Pre App	-	-	13/1/2016
Details of Bowling Green Availability	-	-	13/1/2016

Application No: 2016/90477

Type of application: 62 - FULL APPLICATION

Proposal: Alterations to convert outbuilding to holiday accommodation

Location: adj 1, Wheat Close, Holmbridge, Holmfirth, HD9 2QL

Grid Ref: 411535.0 406485.0

Ward: Holme Valley South Ward

Applicant: D Trueman

Agent: Andy Rushby, Assent Planning Consultancy Ltd

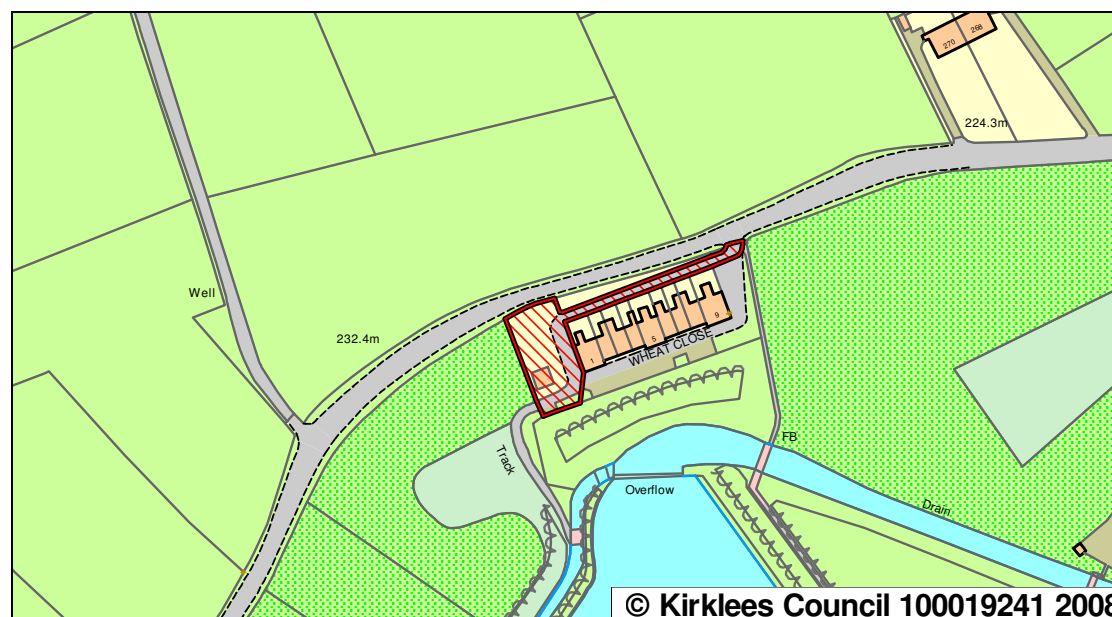
Target Date: 03-Jun-2016

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 THE APPLICATION

The application seeks planning permission to convert an existing outbuilding in the green belt into holiday accommodation. The proposal would not adversely impact upon the character of the area, the openness or character of green belt, highway safety or residential amenity.

A grant of full planning permission is recommended subject to delegation of authority to Officers to:

- 1. Secure a section 106 obligation (Unilateral Undertaking) to limit the use and periods of occupation of the building;**
- 2. Impose all necessary and reasonable conditions; and**
- 3. Subject to there being no material change in circumstances, issue the decision.**

2. INFORMATION

The application is reported to the Huddersfield Sub-Committee under the Delegation Agreement at the request of Councillor Donald Firth for the following reasons:-

- Change of use from garage to living accommodation no planning permission
- Using it as Holiday accommodation
- Lack of parking already parking at a premium, plus site lines into Woodhead Rd very poor
- Site visit required and committee decision
- Another retrospective plan

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

3. PROPOSAL/SITE DESCRIPTION

Site Description

The application site measures approximately 0.05 hectares and currently comprises a single storey detached outbuilding that is constructed in stone and designed with a gable roof that is finished in grey slate. It features a timber store and dog pen to the front elevation. There also appears to be a wooden hot tub to the front of the building. The building is located to the south of the site and to the north is some timber decking and sheds.

The site is currently in use in association with the dwelling at no. 1 Wheat Close. It is surrounded by a small woodland to the west, open undeveloped fields to the north, a row of nine terraced properties to the east and Brownhill Reservoir to the south. The terrace, along with the outbuilding, share a

common access point via Wheat Close which is taken off Woodhead Road. A public footpath (Hol/88/10) runs off Woodhead Road from the access point to the far east of the site. It is separated from the site by the existing terraced dwellings and access road. The surrounding area is of rural character and it is allocated as Green Belt land within the UDP.

Description of Proposal

The application seeks planning permission for alterations to convert the existing outbuilding into holiday accommodation.

It was originally proposed that the existing store and dog pen structure to the front of the building is replaced by an extension to facilitate the conversion. However, during the course of the application amended plans were sought to remove the proposed extension so that the proposal would not result in greater impact on the openness of the green belt in comparison to existing development on site.

The proposal now seeks to remove the existing store and dog pen to the front of the building and convert the resultant outbuilding into holiday accommodation. No additional extensions are proposed to the building and the only external alterations would be the addition of new windows and doors.

The unit would contain a single bedroom, living space, kitchen and shower room. The unit would provide internal floor space of approximately 28.9 square metres.

Access to the holiday accommodation would remain as existing, via a common access point off Woodhead Road, and one parking space would be provided to serve the accommodation in front of the building. The siting of the parking space was modified during the course of the application to address concerns raised by K.C. Highways Development Management that its previous location would obstruct what appeared to be an access track to the adjacent reservoir, south west of the site, and beyond.

4. BACKGROUND AND HISTORY

In 2000 an outline application reference 2000/92801 was submitted for the erection of 1 detached dwelling on this site which was refused on the following grounds:-

1. The site lies within an area which has received approval as Green Belt within which it is intended that new development be severely restricted. The proposal would be unrelated to any existing settlement and extend an existing isolated group of dwellings and injuriously affect the rural character of this area of high landscape value and would therefore be contrary to the provisions of Policies D8 and NE8 of the adopted Kirklees Unitary Development Plan, such development is neither appropriate to the Green Belt nor are there any special reasons why it should be permitted in this case.

2. The formation of a new vehicular access, together with the associated removal of stone walling, formation of adequate visibility splays and loss of existing landscaping would be detrimental to the appearance and openness of the Green Belt and an Area of High Landscape Value and would therefore be contrary to the provisions of Policies D8 and NE8 of the adopted Kirklees Unitary Development Plan.
3. The site lies in an isolated rural location outside walking distance of a regular bus service and the proposal is therefore considered unsustainable taking into account the advice contained in PPG13 Transport Para 3.2 relating to the avoidance of sporadic housing development in the countryside.

This application related to green field land within the green belt that had not been previously development. In addition, planning policy has changed since then, in particular the introduction of the NPPF, and the context and character of the site has also changed since. As such, this decision holds very limited weight in the determination of this application.

Following on from this refusal, historic maps indicate that a building was erected on this site in the period between 2000 and 2002. It is unlikely that this land would have been considered to be curtilage land for the dwelling at no. 1 Wheat Close and therefore the building would have required planning permission; however, there is no planning history relating to it. According to Section 171b of the Town and Country Planning Act 1990 (as amended) were there has been a breach of planning control consisting in the carrying out without planning permission of building, no enforcement action can be taken after the end of the period of four years beginning with the date on which the operations were substantially completed. Given the time that has lapsed since the building was erected, it is now immune from planning enforcement as the building operation was undertaken more than 4 years ago.

For members' information, within the letters of neighbour representation received, it has been stated that the outbuilding has been use as ancillary accommodation for approximately five years.

5. PLANNING POLICY

Kirklees Unitary Development Plan

BE1: Design Principles
BE2: Quality of Design
EP6: Development and Noise
D12A: Re-use of Buildings in the Green Belt
T10: Highway Safety

National Planning Policy Framework

Core planning principles

Part 1: Building a strong, competitive economy

Part 3: Supporting a prosperous rural economy

Part 6: Delivering a wide choice of quality homes

Part 7: Requiring good design

Part 9: Protecting green belt land

Part 10: Meeting the challenge of climate change, flooding and coastal change

Part 11: Conserving and enhancing the natural environment

6. CONSULTATIONS

K.C. Highways Development Management - No objections subject to conditions on the amended scheme.

7. REPRESENTATIONS

The original submitted scheme (comprising a front extension) was publicised by a press and a site notice and neighbours were notified; three letters of neighbour representations were received raising, in summary, the following matters:-

- Proposal would spoil rural area
- Access would be via a shared drive and proposal may increase the cost of repairs of the drive
- Property already has four cars parking and only pay one ninth of the upkeep of the drive
- Proposal would increase traffic and noise and encourage trespassing

When amendments were made to the scheme; a further two letters of neighbour representation were received raising, in summary, the following matters:-

- The application is on land that has already been refused several times before
- The garage was initially built without planning permission in the first instance
- Nothing substantial has changed to make this application any different to the application made in 2000 for a dwelling house
- Proposal would give rise to highway safety issues
- An application for a holiday let essentially is also for a "change of use" from a residential row (100%) to a commercial building and that this is inappropriate for this reason

Holme Valley Parish Council object to the application, on the grounds that this is inappropriate development and has insufficient parking. The Parish Council agreed that the garage was unsuitable for residential purposes/holiday accommodation and, therefore, the unauthorised work already carried out to combine the garages and install windows and door was a 'planning enforcement' issue. The Clerk was authorised to report the issue to the Kirklees Enforcement Officer accordingly.

8. ASSESSMENT

General Principle / Policy:

The NPPF provides a presumption in favour of sustainable development and policies set out in the framework taken as a whole constitute the Government's view of what sustainable development means in practice.

In part 9, the NPPF identifies protecting green belt land as one of the elements which contribute towards sustainable development. It states that the fundamental aim of green belt policy is to prevent urban sprawl by keeping land permanently open; as such, it regards the construction of new buildings and other forms of development in the green belt as inappropriate unless they fall within one of the categories set out in paragraph 89 or 90.

Paragraph 90 of the NPPF permits the re-use of buildings provided that the buildings are of permanent and substantial construction, subject to the development not prejudicing the openness of the green belt or the purposes of including land within it. Following a site inspection, the existing outbuilding appears to be in good condition and of substantial and permanent construction capable of conversion. The building is constructed in stone and designed with a slate gable roof. The alterations proposed would not prejudice its structural integrity and the elements which were not of substantial construction (timber store and dog pen) would not form part of this proposal. The development proposed would result in the reduction in scale of the existing building due to the proposed removal of the existing dog pen and store to the front elevation, reducing the impact on openness of the green belt when compared to the existing development on site. The alterations proposed to the building would not increase its size. The whole application site appears to have been in use in association with and as part of the curtilage of land serving the dwelling at no. 1 Wheat Close for a period of over ten years. The land to the north of the outbuilding comprises timber decking and sheds. Given the domesticated nature of the site, it is not considered that the proposed use, despite being commercial in nature, would result in greater impact upon the openness of the green belt. Given these considerations, it is opined that this proposal constitute appropriate development within the green belt in accordance with paragraph 90 of the NPPF.

In a recent Court of Appeal judgement, *Lee Valley Regional Park Authority v Epping Forest DC* 22 April 2016, the Judge outlined that “development that is not, in principle, “inappropriate” in the Green Belt is...development “appropriate to the Green Belt”. The judge commented that, on a sensible contextual reading of paragraphs 79 to 92 of the National Planning Policy Framework, appropriate development is not regarded as inimical to the fundamental aims or purposes of green belt designation. On that basis, he noted, appropriate development does not have to be justified by very special circumstances. In light of this, it is considered that by reason of its appropriateness in line with Paragraph 90 of the NPPF, the development proposed is not contrary to the aims and function of the green belt.

The NPPF also encourages the planning system to support sustainable economic growth in general and in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. This proposal would result in an income generating venture which, albeit on a minor scale, would contribute to the local economy. The venture would have limited impact on the character of the countryside given the domesticated nature of the existing site and the removal of the dog pen and store to the front would reduce the visual impact of building when considered from the wider open undeveloped land to the south of the site. The site is located in very close proximity to the Brownhill Reservoir thus can also support tourism in this location.

The proposal comprises development that is appropriate within the green belt and would encourage sustainable economic growth. Its location in the rural area means the proposal would support rural economy; however, the application site is relatively isolated from established residential areas and has no service provision. It is likely that the occupiers of the holiday accommodation would rely on the surrounding urban areas for provision of goods and services and therefore would be reliant on motor vehicles which would mean that the development would not contribute to mitigating climate change. However, consideration has to be given to the fact that the proposal would result in the creation of a small one bedroomed holiday accommodation, thus the number of people and vehicles likely to use the accommodation would be low. Its use as a holiday accommodation, located adjacent to the reservoir is also likely that people would be travelling from various areas to access the facility. Furthermore the structure is existing and the reuse of a substantially complete building is sustainable.

Objections have been raised that the proposal is paramount to a new dwelling within the green belt. This matter has been carefully considered given that accepting the principle of holiday accommodation in this location would mean accepting a C3 (dwelling house) use. The level of accommodation provided is small but acceptable for holiday accommodation as it would not be permanent home of the occupants and they would occupy the unit for a short period of time. However, as permanent accommodation the unit would offer a poor standard of amenity.

While the council does not have space standards, in 2015 the government provided a document titled “Technical housing standards – nationally described space standard” which set out requirements for the Gross Internal (floor) Area of new dwellings at a defined level of occupancy. It states that a one bedroomed property serving one person should at least have the floor space of at least 37 square metres and a one bedroomed property serving two persons should at least have the floor space of at least 50 square metres.

The proposed unit would have internal floor space of approximately 28.9 square metres. While space standards are purely guidance, they provide a good indication that the unit would not provide a good standard of amenity for permanent occupants. Part of the core planning principles outlined within the NPPF is the requirement for planning to always seek a good standard of amenity for all existing and future occupants of land and buildings. In addition, the use of the building for permanent residence could lead to pressure for the building to be extended which would affect the openness of the green belt. On this basis, the applicant (through the agent) has agreed to a legal agreement which will ensure that the building will stay in use solely as holiday accommodation and thus would not be used as a dwelling. The legal agreement would limit the periods of occupation for the building and excluding certain months of the year. The applicant (through) the agent has also agreed to keep occupation records of the units.

The introduction of the NPPF however does not change the statutory status of the development plan as the starting point for decision making. The application seeks planning permission for the change of use of an existing outbuilding within the green belt to a holiday accommodation.

Policy D12A of the UDP states that when planning permission is granted for the re-use of buildings in the green belt conditions will be imposed removing permitted development rights from specified areas within the associated land holding where the erection of structures permitted under the general permitted development order would prejudice the openness and established character of the green belt.

The UDP thus does not restrict the re-use of buildings provided that permitted development rights are removed where necessary and wherever possible to preserve the openness of the green belt. This application seeks change the use of an existing outbuilding into a holiday accommodation. Holiday accommodation is within the same use class C3 as residential dwellings. While a legal obligation can secure the use of the property as holiday accommodation and is not permanently occupied and used a dwellinghouse, it does not restrict permitted development rights afforded to building by virtue of its C3 use. As such, it is considered to be reasonable and necessary to restrict erection of further extensions on this site in order preserve the openness of the green belt and ensure that the development would not result in greater impact upon the openness of the green belt.

It is acknowledged that the proposal would give rise to unsustainable travel patterns for the resultant occupiers of the proposed holiday accommodation.

However, subject to controlling occupation to this use, the proposal would result in the reuse of an existing building, the provision holiday accommodation, would promote economic growth and a prosperous rural economy on a small scale, and comprises development that is acceptable within the green belt and would not compromise the existing character of the countryside. On balance, the scheme comprises of development that is not contrary to the overarching intentions of the NPPF as a whole and the benefits to be had from this proposal and its appropriateness is considered to significantly and demonstrably outweigh the harm which would result from unsustainable travel patterns. Accordingly, subject to appropriately addressing other planning matters, this proposal is acceptable in principle.

Impact on Amenity:

Apart from removing the existing timber store and dog pen to the front of the existing building, the proposal would not result in any significant alterations to the building that would alter its existing character. The elements to be removed would improve the visual amenity of the building and reduce its scale and prominence within its countryside setting. It is therefore not considered that this proposal would harm the openness or character of the green belt or the rural character of the area.

Given the above considerations the proposal is considered to be compliant with Policies BE1 and BE2 of the Kirklees Unitary Development Plan and the guidance contained within Chapter 7 and 9 of the NPPF.

Impact upon Residential Amenity:

The nearest dwelling to the proposed holiday accommodation is the host property at no. 1 Wheat Close located approximately 10.5 metres to the east of the site. The proposed holiday accommodation would directly face a section of the side gable of this property which does not include any habitable room windows. The north facing windows on the holiday accommodation would also not comprise habitable room windows as the kitchen is separated from the living space. As such, there will be no adverse overlooking or overbearing impacts to the occupiers of the existing dwelling or future occupiers of the proposed holiday accommodation.

The holiday accommodation would include a habitable room window to the rear which would retain a separation distance of approximately 1.5 metres to the boundary shared with the undeveloped adjacent land to the west. This is acceptable in the case as the land comprises a woodland and is within the green belt; thus, the likelihood of it becoming built upon are relatively slim. It is therefore considered that on balance, in this case, the reduced distances are acceptable.

As previously outlined within the “General Principle / Policy” section of this report, the existing building is small in scale and would provide very limited internal space for the occupants. However, on the basis that the proposal is for holiday accommodation and would not be a permanent home for the

occupants, the size of the accommodation proposed is considered to be acceptable. As previously discussed, a legal agreement will secure the use of the building solely as holiday accommodation.

Concerns have been raised within the letters of neighbour representation that the proposal would give rise to noise levels in the area. When considering the scale of the development proposed, it is likely that only a small number of people would be accommodated in the holiday home at any given time. As such, the proposal is unlikely to give rise to significant material increase in noise levels that would unreasonably harm the living conditions currently enjoyed by the occupiers of neighbouring properties.

Given the above considerations, this proposal would not adversely affect the amenities of the occupiers of existing properties within the vicinity and the level of amenity provided for the use proposed is acceptable subject to a legal obligation securing its use. The proposal thus complies with Policy EP4 of the UDP and the guidance contained within paragraph 17 of the NPPF.

Highway Issues:

The proposed holiday accommodation will be access off a private road which serves all the existing dwellings located along Wheat Close. One parking space is proposed to serve the development.

Objections have been received on the basis that the proposal would give rise to highway safety issues. K.C. Highways development management have considered the scheme and noted that Wheat Close not an adopted highway but it is well surfaced and maintained and there are no underlying road safety issues at the junction of Wheat Close and Woodhead Road. Accordingly, the access is acceptable. The single parking space proposed is also acceptable as it is proportionate to the development proposed. In addition, the amended location of the parking is away from the existing unadopted highway; thus, it would have no impact on existing parking provision or access. On this basis they do not have any objections to the scheme subject to a condition requiring the proposed parking to be adequately drained and surfaced; a condition which is reasonable and necessary in the interest of sustainable drainage and highway safety.

Subject to conditions, the proposal would not give rise to any highway safety issues and would comply with Policy T10 of the Kirklees Unitary Development Plan.

Other matters:

Footpath

There is a public footpath within the vicinity of the site to the east. Due to the nature of development proposed and the distance it retains (approximately 71 metres) to this footpath, this proposal is not considered to affect this footpath.

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, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.....” The West Yorkshire Low Emission Strategy Planning Guidance has been drafted to take a holistic approach to Air Quality and Planning. In this particular instance taking into account the NPPF and the WYESPG it is considered that promoting green sustainable transport could be achieved on this site by the provision of an electric vehicle charging point which can be accessed by the occupiers of the holiday accommodation. This in turn can impact on air quality in the longer term.

Representations:

The matters raised within the letters of neighbour representations have been carefully considered and are addressed below:-

Original scheme

Proposal would spoil rural area

Response: The assessment of the development proposed within the “principle of development” and “impact on amenity” section of the report concludes that the amended proposal would not adversely affect the character of the rural area.

Access would be via a shared drive and proposal may increase in the cost of repairs of the drive

Response: This is a private matter that is not material to the determination of this application.

Property already has four cars parking and only pay one ninth of the upkeep of the drive

Response: This is a private matter that is not material to the determination of this application.

Proposal would increase traffic, noise and trespassing

Response: The assessment of the development proposed within the “highway issues” and “impact upon residential amenity” section of the report concludes that the proposal would not give rise to highway safety issues no adversely affect the amenities currently enjoyed by the occupiers of neighbouring properties. With regards to trespassing it is a private matter that is not material to the determination of this application.

Amended scheme

When amendments were made to the scheme; a further two letters of neighbour representation were received raising, in summary, the following matters:-

The application is on land that has already being refused several times before.

Response: History of the application is considered however each application determined on its own merits

The garage was initially built without planning permission in the first instance.

Response: Given the time that has lapsed since the garage was erected it would now be immune from enforcement action.

Nothing substantial has changed to make this application any different to the application made in 2000 for a dwelling house

Response: This matter has been addressed within the "background and history".

Proposal would give rise to highway safety issues

Response: The assessment of the development proposed within the "highway issues" section of the report concludes that the proposal would not give rise to highway safety issues.

An application for a holiday let essentially is also for a "change of use" from a residential row (100%) to a commercial building and that this is inappropriate for this reason

Response: This matter has been addressed within the "general principle / policy" section of this report.

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

A grant of full planning permission is recommended subject to delegation of authority to Officers to:

- 1. Secure a section 106 obligation (Unilateral Undertaking) to limit the use and periods of occupation of the building;**
- 2. Impose all necessary and reasonable conditions, which may include those set out below; and**
- 3. Subject to there being no material change in circumstances, issue the decision**

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. 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 as such thereafter.
4. 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 extensions or outbuildings included within Classes A to E of Part 1 of Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority.
5. An electric vehicle recharging point shall be installed within the dedicated parking area of the approved holiday accommodation before it 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.

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

Plan Type	Reference	Version	Date Received
Location Plan	Tru.15/01		22/02/2016
Existing Topographical Plan	Tru.15/03		22/02/2016
Existing Elevations	Tru.15/05		22/02/2016
Existing Floor Plans	Tru.15/04		22/02/2016
Proposed Topographical Plan	Tru.15/08c		21/04/2016
Proposed Floor Plan	Tru.15/06b		21/04/2016
Proposed Elevations	Tru.15/07b		21/04/2016
Planning Statement			11/02/2016

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:

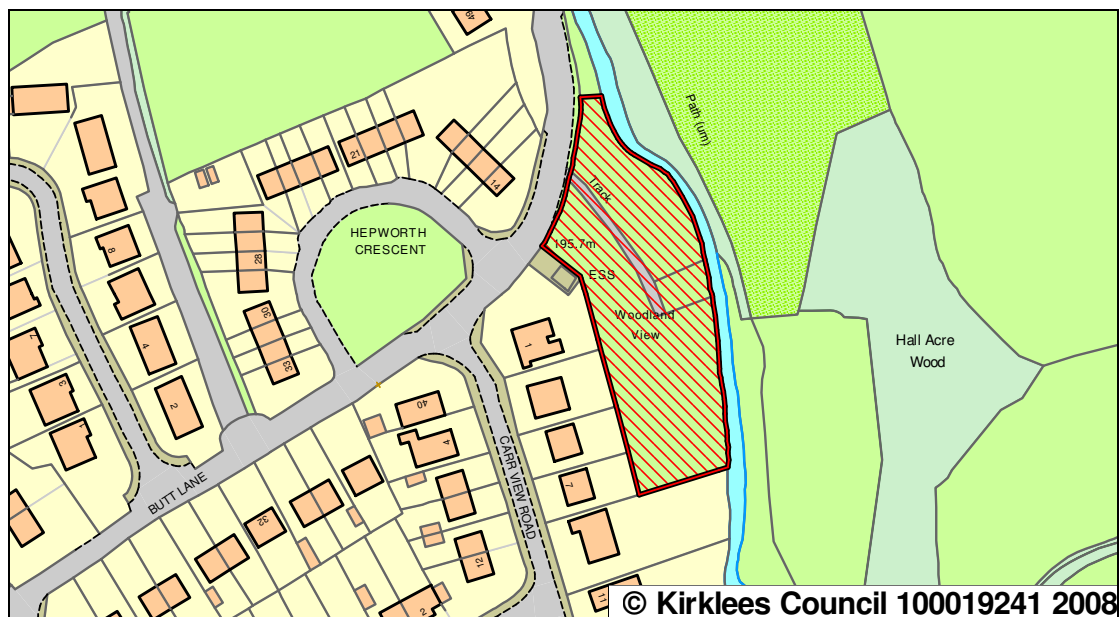
Target Date: 27-Jan-2016

**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

This application was deferred by sub-committee on 31st March to allow local residents the opportunity to submit anecdotal evidence that the site has previously flooded. The Environment Agency were made aware of this request stating 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.

The information submitted by local residents has been considered by both the Environment Agency and K.C. Lead Local Flood Authority. This is discussed in the assessment below. Subsequently, the principle of developing this site, allocated for housing in the UDP, remains 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 was initially brought to Committee on 31st March at the request of Cllr Nigel Patrick who stated:

“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 at the time confirmed that Councillor Patrick’s reason for making this request was valid having regard to the Councillors’ Protocol for Planning Sub Committees.

Following deferral of the application on 31st March, Cllr Patrick has requested another site visit be carried out as some of the Members of the Committee will be new.

The Chair of the Sub Committee has confirmed that Councillor Patrick's reason for making this request along with a further site visit is in accordance with the Councillors' Protocol for Planning Sub Committees.

Subsequently on 17th June, Cllr Patrick made further comment stating:

“the bank on the side where the houses are proposed is lower than the opposite bank at the point upstream where the dike first enters the site. That means flood water would naturally flow onto and accumulate on the side where the proposed building site is located first. If this land is raised, as it would have to be to create a level platform for the homes and the access road, with a retaining wall to the dike, then the flood water will not enter the land where the homes are proposed. Instead it will over top the other bank forcing water to flow down the road into Jackson Bridge.

The land cannot be developed without raising the level of the land, otherwise the new homes will be flooded. So regardless of what an outline plan offers us/you, we can expect proposals at reserved matters to raise and level the land with a retaining wall built along the side of the dike. If the officer recommendation is for approval then that recommendation is made knowing this is fact, and knowing such a development will lead to a loss of flood plain and increase the likelihood of homes in Jackson Bridge flooding. Personally I think with this knowledge a recommendation to approve, and subsequent approval by committee, would be an act of neglect by the planning authority.....

The public rely on both the planning authority and the Environment Agency to protect their homes from flooding. There is plenty of evidence to show that this land floods. That evidence has been ignored.

In addition we know that a condition was placed on an application for housing upstream of this site. The condition read no solid structures to be built within 9m of the edge of the dike. That was done to protect the flood plain. What happened subsequent to that was a failure to enforce with garden fences and rockeries built on the flood plain. A matter which too could well be the subject of investigation if a future flood causes damage and loss of life. That is the seriousness of this decision and the officer recommendation should take account of the consequences of any approval on health and safety; still a material planning consideration”

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, sloping downwards in an 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 is 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 how the site could potentially be developed 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. Following deferral of the application on 31st March further information in the form of existing and proposed indicative site levels together with a plan showing the Environment Agency flood plain overlay, which runs parallel to the eastern site boundary along the corridor of Rakes Dike, has been received.

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 – on consideration of the initial and further information, no objections subject to conditions (see assessment below)

Environment Agency – Based on the information currently available, it is the position of the Environment Agency that the original comments made and the conditions suggested are in accordance with NPPF and shall be maintained, unless significant evidence is submitted to dispute the Environment Agency decision, the current flood maps and the Flood Risk Assessment. No objections subject to the development being carried out in accordance with the submitted Flood Risk Assessment. (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 13 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 and the further information submitted by local residents 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 'existing' site elevations as indicated on Acumen drg. no. 2397-03 are entirely fictitious - showing raised elevations on the west bank of the stream (compared with the east bank) and sloping elevations from the site boundaries

Response: Following my own site inspections where it was obvious, in some areas, the west bank of the dike appeared higher than the east bank, I have no reason to question the sections provided. However, in the interests of completeness and accuracy, a full site topographical survey would be requested on any reserved matters application should Members approve the outline application.

- In order to achieve these idealised existing site elevations the developer would have to bring hundreds of tons of hard core and topsoil to site and reinforce and build up the west bank - and this is something they have been specifically told not to do, ie leave existing site elevations as they currently are.

Response: the agent's response to this is "I am not sure where the objector understands 100's of tonnes of fill will be needed as the indicative properties fit the existing Topology of the site and only sub based for hard surfaced areas will be needed and removal of top soil to facilitate this".

It must also be noted that the suggested conditions by both EA and LLFA would restrict the existing land levels within the site from the dike to the rear of the indicative siting to be raised. This also includes a condition withdrawing

permitted development rights for any (boundary treatment) structures to be erected along the dike.

- 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 and not garages

- Mature protected trees on site

Response: addressed in assessment below

- Proposals will not include provision for affordable housing

Response: the Council's SPD on affordable housing has a threshold of 5 dwellings for seeking a contribution towards affordable housing. However through the course of the planning application the Government's policy position in relation to affordable housing has changed following a Court of Appeal decision. This now forms part of the NPPG setting out when "infrastructure contributions through planning obligations should not be sought from developers". In detail the NPPG now states that:

'contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1000sqm'

An indicative layout is submitted demonstrating how the site may be developed for four dwellings, this would be below the threshold for affordable housing set out in the SPD and significantly below the threshold where the NPPG states contributions should not be sought. In addition it is doubtful, given the site's constraints, the development of this site would exceed the threshold for affordable housing.

In addition to the above, on 11th April further correspondence from the agent states the applicant is “concerned about misrepresentation by objectors as the land had not flooded in his lifetime and double checked with neighbours”. Accompanying this statement the applicant has provided 3 letters from local residents, stating whilst they have lived in the area, they have not witnessed nor been aware of any flooding of the site from the river.

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. Should outline planning permission be granted this would not approve the indicative layout submitted.

The additional plans showing the existing and proposed indicative section levels, demonstrates how the site could potentially be developed. The sections indicate the provision of retaining structures/under build along the rear (east) elevations of dwellings. This in turn would likely require raised terraces to the rear of dwellings and retaining structures to support the turning head of the internal access road. These are shown to vary in height from between approximately 1.75m to 3m from the existing ground levels. Retaining structures/walls are not uncommon features within this area of Holme Valley. The retaining walls/underbuild would be face east mainly internally within the site. Although these details are indicative and the submitted layout is for illustrative purposes, it may be possible to design these features so as not to detract from the characteristics of the area. However, this would need to be addressed in detail at reserved matters stage.

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 account of (amongst other things) topography, building heights of surrounding development in relation to new dwellings and finished ground levels. This is so as 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.

In addition to the above, the Environment Agency flood plain overlay also demonstrates the indicative siting/layout would be outside this flood plain. This together with the new information (sections) submitted demonstrates that the development can be accommodated within the site without the need to raise land levels along the river corridor.

With regards to anecdotal evidence submitted by the local residents, this was a DVD titled 'Holmfirth Flood July 2002' and video footage. The Environment Agency (EA) on consideration of these advise:

- the footage on the DVD shows significant overland flow in areas of Holmfirth, however, there is insufficient evidence here to suggest the proposed site at Butt Lane suffered from fluvial flooding.
- the video footage does not show fluvial flooding occurring on the indicative siting of the dwellings and shows water within the boundary of the 1 in 100 year fluvial flood map.

Furthermore the EA confirm, based on the information currently available, they have no objection to the principle of developing this site for residential development, unless significant evidence is submitted to dispute their recommendation, the current flood maps and the Flood Risk Assessment. The Environment Agency do however request to be consulted on any subsequent reserved matters application.

Based on the information submitted within the FRA and no objections from the Environment Agency it is considered the site could be developed for residential development. This is 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, including flood resilience measures to be installed up to 600mm above ground levels to militate against potential flooding.

In addition following the submission of both the additional information by the agent and local residents the Council, as Lead Local Flood Authority (LLFA), remains 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 and the EA that site levels shown beyond the indicative garden areas to the east to the corridor of Rakes Dike must not be raised. 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.

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. 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. It is considered appropriate however to enhance the biodiversity value of the site through the provision of bat and bird boxes integral to 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

8. 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 Class A, Part 2 of Schedule 2 to that Order shall be erected within Flood Zone 3 as delineated on the Environment Agency's flood-map and on the submitted drawing 'EA Flood Envelope Overlay' PF793 – SK1.

9. 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 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.

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

Plan Type	Reference	Version	Date Received
Design & Access Statement	Dated September 2015		02 nd Dec 2015
Location plan	2397 – 00A		02 nd Dec 2015
Indicative site Layout	2397 – 02A		29 th Feb 2016
Flood Risk Assessment	P1793 by AVIE Consulting Ltd		02 nd Dec 2015
Existing site sections	2397 – 03		17 th June 2016
Proposed indicative sections	2397 – 04		17 th June 2016
EA Flood Envelope overlay	P1793 –SK1		24 th May 2016

Application No: 2016/90373

Type of application: 62 - FULL APPLICATION

Proposal: Change of use of 1st floor room to taxi office

Location: Pink Fusion Lounge, Sheffield Road, New Mill, Holmfirth, HD9 7JT

Grid Ref: 416276.0 408823.0

Ward: Holme Valley South Ward

Applicant: Mr Mohammed Abaidullah

Agent: P F Holleworth

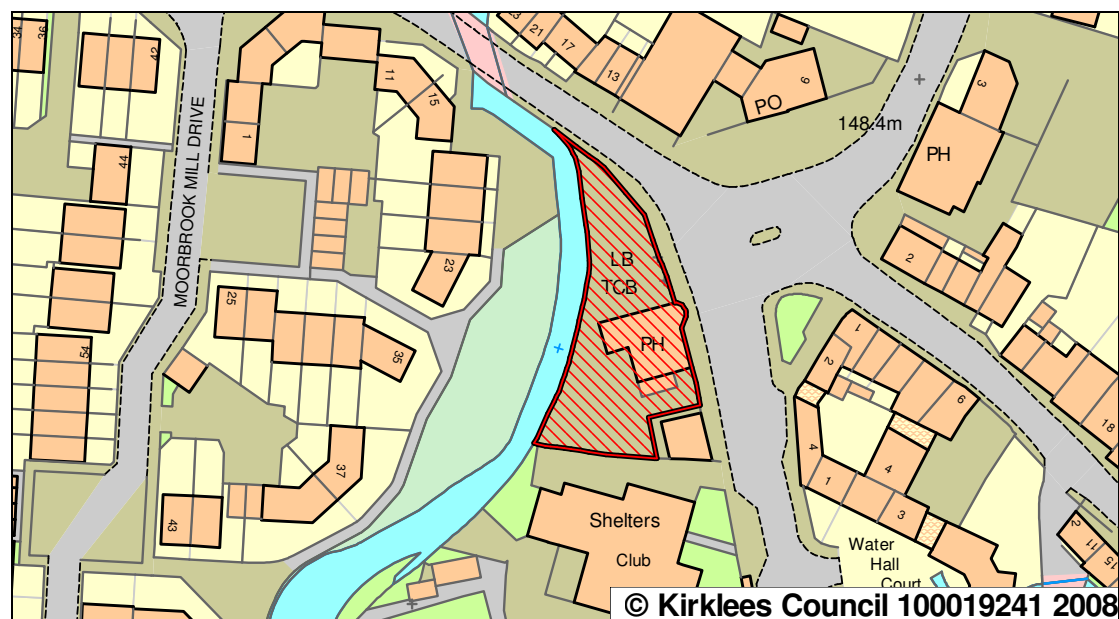
Target Date: 13-May-2016

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

The application seeks full permission to operate a taxi office following a temporary 12 month trial run to assess the impacts of the development on highway safety and residential amenity. There is no demonstrable evidence to suggest that the development has given rise to any significant or undue harm during the trial period and in such circumstances the application is considered to be acceptable.

RECOMMENDATION: CONDITIONAL FULL PERMISSION

2. INFORMATION

The application was originally brought forward to the Huddersfield Planning Sub-Committee for determination at the request of Ward Councillor Nigel Patrick. Councillor Patrick's reason for making the request was:

"My concerns are with taxis parking at the site and at other sites where they have no planning permission to park and where they have no license to park. That creates noise nuisance and highways safety issues. Once the Midlothian site is developed the taxis will have to find another site. It is unacceptable to me that planning permission can be permitted without controlling where the taxis park".

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

The application was deferred at the sub-committee meeting on 12th May 2016 for officers to liaise with Kirklees Licensing regarding the parking of taxis on the former Midlothian garage site on New Mill Road.

3. SITE DESCRIPTION/PROPOSAL

The application site is the former Duke of Leeds public house which is now used as a restaurant (Pink Fusion Lounge). The building is two storeys in height and constructed of brick with a tiled roof. There is designated parking to the north and south of the building. The application relates to a first floor room at the rear of the property; an external staircase (fire escape) at the rear of the building provides access to the first floor level.

The application seeks permission to operate a first floor room within the building as a taxi office. The taxi office has already been operating under a temporary one year permission that was allowed on appeal under application reference 2014/91811. The applicant is now seeking a permanent permission.

The application confirms that the office would operate 24-hours a day with a maximum of two staff occupying it, with occasional visits from two taxi drivers that are based in the New Mill area during their tea/comfort breaks.

4. BACKGROUND AND HISTORY

2014/91811 Change of use of 1st floor room to taxi office – Refused on highway safety grounds and appeal upheld (temporary permission granted)

5. PLANNING POLICY

Development Plan:

The site is unallocated on the UDP Proposals Map

- **D2** – land without notation on the proposals map
- **S15** – Control and administration of private hire vehicles
- **EP4** – Noise-sensitive and noise-generating development
- **T10** – Highway safety

National Policies and Guidance:

- NPPF - Core planning principles
- NPPF chapter 3 – Building a strong competitive economy
- NPPF chapter 8 – Promoting healthy communities
- NPPF chapter 11 – Conserving and enhancing the natural environment.

Other considerations:

Planning Practice Guidance

6. CONSULTATIONS

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

KC Highways Development Management – No objections

KC Environmental Services – No objections subject to conditions on the previous permission being repeated

KC Licensing – Confirm that there has been a private hire operating licence in place at the premises since the planning was granted under the name of New Mill Cars. No complaints have been received in relation to this business since planning permission was approved. No specific objections raised to the application.

Further to the committee resolution on 12th May 2016, Licensing have confirmed that they have not received complaints in the recent past regarding taxis parking at the former Midlothian garage site.

Licensing have advised that there is no legal requirement for a private hire vehicle to return to its base between fares.

7. REPRESENTATIONS

Application advertised by site notice and neighbour letters

Representations: 2 received

Representations summarised as follows:

- Application site includes land not within the applicant's ownership (Land Registry documentation has been provided to support this assertion)
- Unclear how many drivers will be operating from the site
- Increased traffic accessing the site (across a pavement) poses a danger to public safety, particularly the elderly living in nearby sheltered housing
- Increased traffic and congestion in New Mill
- Surrounding area will be 'clogged up' with taxis waiting for fares; this is already a problem at the Holmfirth Road recreation ground car park and on side roads like Greenhill Bank Road
- Pink Fusion car park is small and fills up quickly with customers
- Taxi office unsuited to this location

Holme Valley Parish Council – “Support the application”

Councillor Nigel Patrick – Councillor Patrick has raised noise and highway safety concerns in relation to taxis parking at the application site and at other sites where they do not have permission/licence to park.

Councillor Patrick has made the following comment on the application (16/3/16):

“You may have no objections (from Highways or Environmental Services) because the taxis are parking on private land at the Midlothian site and not in New Mill. The Midlothian site was approved for housing last Thursday and I expect the owners to fence off the site. So where are the taxis going to park? As far as I know they do not have a license or planning permission or consent from the owner to park at the Midlothian site. I've had complaints from residents about taxis using that site. So where will they be parking or are you not concerned about that? If you approve the application I'd like to see a condition put on it about taxi parking. There is insufficient information in the application to tell us where they intend to park. I don't want to see them parking in the middle of New Mill. I don't want to see them parking in New Mill Car Park. I want to see the parking controlled in the interests of road safety and the amenity of local residents. That's where the noise, the disturbance and the road safety issues originate.”

In addition I understand that there is a possibility that some of the land shown in the application belongs to a neighbouring property. Has that been addressed?"

8. ASSESSMENT

Update following previous committee meeting:

The application was brought before the Sub-Committee on the 12th May this year.

At that meeting Councillor Patrick reiterated his concerns that taxis associated with the applicant's business were using the former Midlothian garage on New Mill Road as a place to park in between fares and this was causing issues for local residents. The application was deferred for officers to liaise with Kirklees Licensing about this particular issue so that such further information could be considered by the Sub-Committee before making a decision.

Officers are aware that a variety of vehicles are being parked on the Midlothian site, including private hire vehicles. The site has recently been visited by a planning enforcement officer where around 4 or 5 taxis were parked at the site (all of which branded as 'Holmfirth & New Mill') along with a number of other private vehicles. The taxi drivers that were using the Midlothian site at that time confirmed that they did not have permission from the landowner to park on the land. A number of the drivers indicated that they usually leave the site before 8pm.

Licensing has confirmed that they have not received any complaints in the recent past regarding taxis parking on this vacant land. If there were specific problems being caused such as noise nuisance and disturbance then Licensing could take action against the operator.

From a planning perspective, it is considered that the current use of the site by taxis and other car owners is highly unlikely to constitute a material change of use for which planning permission would be required.

When determining this planning application it is only issues directly related to the parking arrangements for the proposed taxi booking office that can be considered. The proposed parking arrangements within the restaurant car park are considered to be acceptable in highway safety and amenity terms, subject to a condition restricting the number of taxis parking there at any one time when the restaurant is open and through the night. As such officers are of the view that there are not any justifiable grounds to refuse the application on the basis of the parking arrangements.

There is no legal requirement for private hire vehicles to return to their base in-between fares and it is not possible to seek to impose such a requirement through a planning condition because it would not meet the relevant tests for conditions, not least because it would not be enforceable.

Whilst a number of taxi drivers are using the former Midlothian garage site as an area to park (during the daytime at least) this does not provide any sufficient justification to refuse the application, for example on highway safety or residential amenity grounds. The officer recommendation is therefore unchanged. The following assessment (below) is as per the previous committee report.

Background:

Application 2014/91811 for change of use of 1st floor room to taxi office was refused in August 2014 on the following grounds:

“The application site provides insufficient parking space for the number of private hire vehicles operating from the proposed taxi office without significantly reducing the level of parking provision for the existing restaurant; this would displace vehicles associated with the restaurant to other locations and encourage indiscriminate parking on the surrounding highway network which would not be in the interests of highway safety. Further, the parking space within the application site is not guaranteed to be available at all times for the use of the private hire vehicles and consequently this is likely to lead to taxis parking on the public highway or displacing vehicles from public parking areas. The application is therefore considered to be contrary to Policies T10, S15 and D2 of the Unitary Development Plan.”

An appeal against the refusal was allowed in February 2015. This allowed a temporary 12 month permission to assess the effect of the development upon both parking/highway safety and the amenity of local residents. The permission limited the number of licensed hire vehicles parking or waiting in the car park to 2 vehicles and prevented the picking up or depositing of passengers and no waiting by passengers at the taxi office; this was in the interests of highway safety and the living conditions of local residents.

General principle:

Application 2014/91811 has established the principle of development and it is considered that the principle of development remains acceptable subject to highway safety and amenity considerations in the context of Policies D2 and S15 of the UDP.

The 12 month permission was intended as a ‘trial run’ to assess the effect of the development upon both parking/highway safety and the amenity of local residents; these are the two main issues for consideration.

It should be noted that Planning Practice Guidance advises that it will rarely be justifiable to grant a second temporary permission - further permissions should normally be granted permanently or refused if there is clear justification for doing so. Also, there is no presumption that a temporary grant of planning permission should be granted permanently.

Highway safety:

Highways Development Management has not raised any objections to the application. Consultation has been carried out with the Council's Highway Safety Team who monitor issues in the New Mill area. The only issues arising in the area are associated with itinerant parking associated with a nearby takeaway which is not associated with the taxi office. Kirklees Licensing have also confirmed that no complaints have been received since the temporary permission was granted on appeal.

Two objections have nevertheless been received in response to the publicity of the application. One of the objections raises general highway safety concerns relating to an increase in the number of vehicles accessing the site. The other objection raises more specific concerns about the surrounding area becoming 'clogged up' with taxis waiting for fares if the application is approved; the objector states that this is already a problem at the Holmfirth Road recreation ground car park and on side roads like Greenhill Bank Road – both of these locations are within the immediate vicinity of the application site. There is however nothing to suggest that the taxis referred to are associated with the applicant.

In the absence of any recorded highway problems that are directly associated with the taxi business operating from the site there are not considered to be any justifiable grounds to refuse the application on the basis of the impact on parking/highway safety. This is subject to the same limitations being imposed on the number of taxis operating from the site at any one time when the restaurant is open to the public (maximum of 2) and in relation to the picking up, depositing and waiting by passengers at the taxi office. Such restrictions would ensure that the development continues to operate on the same basis as the 'trial run' and would limit the impact on highway safety, particularly with regard to customer vehicles from the restaurant being displaced onto the surrounding highway network. In the circumstances the application is considered to comply with Polices T10, D2 and S15 of the UDP.

Amenity:

Environmental Services have been consulted and have commented that to date there have been no complaints received about the taxi business operating from this site. The Planning Service and Kirklees Licensing have also not received any complaints about the business operating from this site.

In the absence of any complaints having been received it is assumed that the taxi office is operating without causing any significant harm to the living conditions of local residents. As such there are not considered to be any justifiable grounds to refuse the application on the basis of the impact on local amenity.

Environmental Services have recommended that the conditions on the previous permission are repeated in terms of limiting the number of taxis operating from the site and preventing the picking up or depositing of passengers and no waiting by passengers at the taxi office. This would

ensure that the development continues to operate on the same basis as the 'trial run' and would limit the impact on the living conditions of nearby residents.

Condition 3 on the temporary permission restricted the number of taxis waiting at the premises to 2 no. at any one time when the restaurant is open to the public; this was to ensure that significant numbers of taxis did not regularly wait in the car park and displace customers of the restaurant onto the surrounding sections of highway. However, the appeal Inspector also commented that the risk of noise disturbance to nearby residential properties could be alleviated by limiting the number of taxis that could park in the restaurant car park at any one time, and not just when the restaurant is open to the public. Notwithstanding, the wording of the condition is such that it does not restrict the number of taxis waiting at the site when the restaurant is not open to the public, including during the night after the restaurant has closed.

Condition 3 does not therefore significantly alleviate the risk of noise disturbance late at night and early in the morning as the number of vehicles that could park is unrestricted (in planning terms) once the restaurant closes to the public.

Information submitted with the application confirms that the office would operate 24-hours a day with a maximum of two staff occupying it, with occasional visits from two taxi drivers that are based in the New Mill area during their tea/toilet breaks.

Taking into account the appeal Inspector's commentary on residential amenity issues and the proposed use of the site by the taxi business (as described above) Officers consider that it is reasonable to re-word condition 3 so that it restricts the number of vehicles parked/waiting at the site to 2 no. when the restaurant is open to the public (on highway safety grounds) and throughout the night once the restaurant is closed (on residential amenity grounds). It is considered that a restriction up to 08:00 would be reasonable to reduce the risk of disturbance to nearby residential properties during unsociable hours once the restaurant closes. Online information indicates that the restaurant is open 17:00 to 22:30 with slightly later opening on Fridays and Saturdays (23:00).

Subject to the aforementioned conditions, the application complies with Policies D2 (v) and S15 (ii) of the UDP.

Representations:

Councillor Nigel Patrick has raised concerns around where taxis are parking. It has been suggested that there may not have been complaints about taxis associated with this business parking at the application site because they park on private land away from New Mill at the former Midlothian garage site (and are causing problems in that particular area). Councillor Patrick considers that a condition is necessary to control where taxis park because it is when taxis park in the centre of New Mill and New Mill car park when noise, disturbance

and highway safety issues arise. *(Note: Further updated comment on the issue of taxis parking at the Midlothian site is contained at the start of this report).*

Kirklees Licensing have commented that New Mill Cars are linked to Honley & Holmfirth Cars based at Queens Business Park, Huddersfield Road, Honley. Licensing Officers are of the understanding that this is where most of the applicant's vehicles wait between jobs because they have rest facilities there.

With regard to the separate site referred to by Councillor Patrick (former Midlothian garage), Licensing have confirmed that a licence is not required to park here. The licensing requirements are for the booking office, vehicle and driver. Licensing has no control over parking away from booking offices other than if it is believed a driver is "plying".

Whilst New Mill Cars, which are the taxi firm registered at the application site, operate more than two vehicles there is nothing to suggest that any more than two taxis have been using the Pink Fusion Lounge car park at any one time when the restaurant is open to the public, in accordance with the temporary permission. The application indicates that the business has two drivers based in the New Mill area which use the Pink Fusion Lounge and information from Licensing suggests that other vehicles associated with New Mill Cars park at a separate registered site in Honley.

Cars parking at other locations, such as the former Midlothian garage site, public car parks or the public highway, cannot be controlled through the planning or licensing regimes. In terms of this application it is only possible to control how the private hire business operates from the site. A planning condition which sought to control where taxis park away from the site would not meet the relevant tests for planning conditions and would not be enforceable.

The concerns raised by the two objectors have been addressed through the above assessment. It is however worth commenting that the intensification in the use of the access beyond that which takes place with the existing restaurant at the site as a result of the development is considered to be modest and not significantly detrimental to highway safety.

One of the representations queried land ownership issues. In summary it was alleged that the application site included a small area of land adjacent to a neighbouring property that was not within the ownership of the applicant or the Pink Fusion Lounge. Land Registry documentation was provided to substantiate the allegation.

This issue has been resolved through the submission of a revised location plan with an amended red line. The change to the red line is very small and involves the removal of a narrow strip of land to the side and rear of the adjacent butcher's shop. The land to the side of the butcher's shop is immediately adjacent to one of the two points of access to the site but Officers

are satisfied that the exclusion of this particular strip of land does not affect access into/out of the site because access can be achieved without having to encroach onto this area of hard surfacing. The strip of land to the rear of the butchers does not affect parking for the restaurant/taxi office.

Other matters:

Flood risk information has been submitted but as the proposal is for change of use of a first floor room and includes established car park it is not considered that there are any significant flood risk issues.

There are not considered to be any other matters that would materially affect the assessment of the application.

Conclusion:

There is no substantive evidence to suggest that the development has given rise to any significant detrimental impacts on highway safety and residential amenity during the 12 month trial period. As such, there are not considered to be any justifiable grounds to approve a further temporary permission and in the absence of any demonstrable harm having been caused Officers are of the opinion that a full permission is acceptable subject to the conditions referred to in the assessment.

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 schedule, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
3. No more than two licensed private hire vehicles or taxis in addition to a maximum of two vehicles for office based staff connected with the booking office shall park or wait in the car park at any one time during those hours when the restaurant is open to the public or between the hours of 22:30 to 08:00.

4. There shall be no picking up or depositing of passengers and no waiting by passengers at the taxi office.

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

Plan Type	Reference	Version	Date Received
Location Plan	Drawing no. 1437.1A	-	18/3/16
Site Plan	Drawing no. 1437.2	-	10/2/16
Planning Statement	-	-	10/2/16

Application No: 2015/93861

Type of application: 62m - FULL APPLICATION

Proposal: *Erection of 28 dwellings and engineering operations*

Location: *land off, Millmoor Road, Meltham, Holmfirth*

Grid Ref: 409255.0 410711.0

Ward: *Holme Valley North Ward*

Applicant: *J Mayo, Heywood Homes*

Agent: *Andrew Keeling*

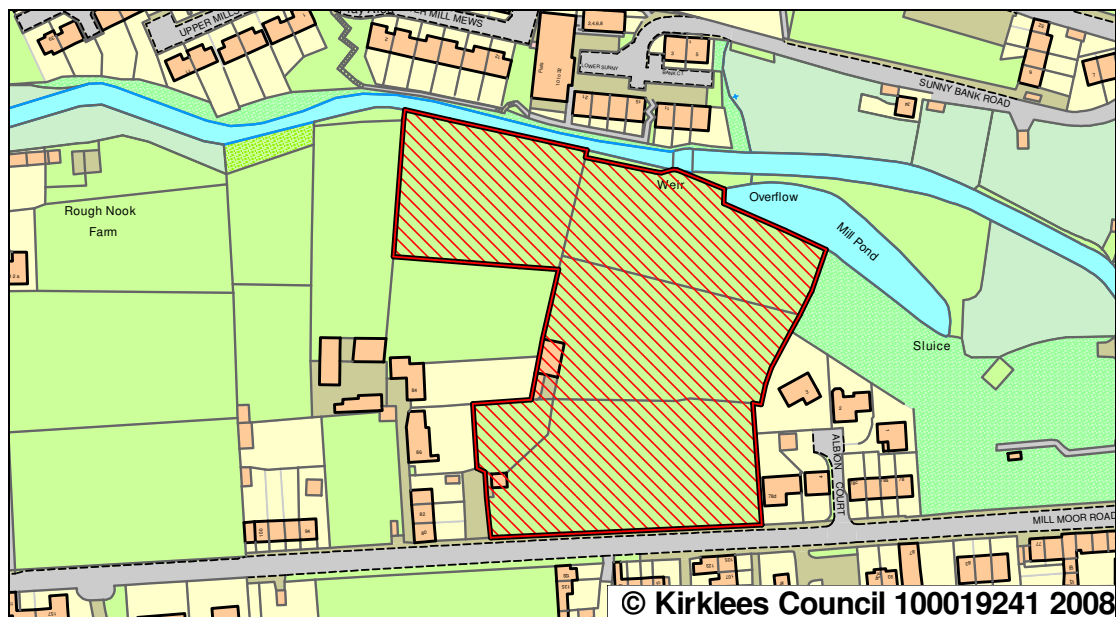
Target Date: *13-Apr-2016*

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

Application Details	
Type of Development	Full application for the erection of 28 dwellings and associated engineering operations
Scale of Development	Site area: 1.35 ha Units: 28
No. Jobs Created or Retained	N/A
Policy	
UDP allocation	Housing & Urban Greenspace
Independent Viability Required	Yes
Consultation	
Individual Support (No.)	0
Individual Objection (No.)	51
Petition	No
Ward Member Interest	No
Statutory Consultee Objections	No
Contributions	
Affordable Housing	6 on-site units
Education	Not required
Public Open Space	Off-site sum of £74,750
Other	N/A
Other Issues	
Any Council Interest?	No
Pre-application advice	No
Pre-App Consultation Undertaken?	No
Comment on Application	Proposal is for 28 dwellings on a housing allocation that has an extant outline consent for residential development. Part of the site is Urban Greenspace and this will remain as open land. No adverse impacts identified to significantly and demonstrably outweigh the benefits of the development. Significant local opposition however the development is considered to be acceptable.

2. INFORMATION

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

3. SITE DESCRIPTION

The proposal relates to agricultural grazing land situated between 78d and 80 Mill Moor Road and approximately 0.8km to the west of Meltham town centre.

The southern part of the site slopes gently downwards in an easterly direction and contains a garage and a small agricultural building. The northern part of the site falls away steeply towards Meltham Dyke and a neighbouring former mill pond.

The site is surrounded by sporadic clusters of stone built residential developments of varying ages to the south, east and west. Towards the north, on the opposite side of Metham Dyke, is further residential development.

Much of the site forms part of a housing allocation; a parcel of land to the west of the site forms the remainder of the allocation and is excluded from this application. The northern part of the site, where the land slopes steeply downwards to Meltham Dyke, is allocated as Urban Greenspace.

4. PROPOSAL

This is a full application for the erection of 28 dwellings and associated engineering operations.

The layout provides a mixture of property types with four blocks of terraced houses fronting onto Mill Moor Road and semi-detached, detached and a small row of terraced houses set within the site. The detached houses are set towards the rear.

A new access is to be formed off Mill Moor Road which will provide an estate road to serve the development. Some of the terraced properties to the front of the site have an access directly off Mill Moor Road. Each dwelling has at least two off-street parking spaces.

The dwellings are of mixed design and are proposed to be faced in natural stone and artificial slate.

5. BACKGROUND AND HISTORY

2014/91342 Outline application for residential development – Approved by Sub-Committee 16/1/16 (decision issued 24/4/16)

2000/91046 Outline application for residential development – Refused as greenfield development prejudicing the development of brownfield land under – the now superseded - Government Planning Policy Guidance, PPG 3.

The following applications for residential development are in very close proximity to the site:

2015/93847 Erection of 13 dwellings (land towards the south west on opposite side of Mill Moor Road & allocated for housing on UDP Proposals Map) – Undetermined

2015/91640 Outline application for residential development – Approved by Sub-Committee 18/2/16, decision not yet issued

6. PLANNING POLICY

Site allocation:

The southern part of the site is allocated for housing (H2.3) and the northern part of the site is allocated as Urban Greenspace.

Relevant UDP policies:

BE1 – Design principles
BE2 – Quality of design
BE12 – Space about buildings
BE23 – Crime prevention
D6 – Land adjoining green corridor
EP11 – Ecological landscaping
T10 – Highway safety
T19 – Parking standards
H1 – Housing needs of the district
H6 – Allocated housing sites
H10 – Affordable Housing
H18 – Provision of open space
NE8a – Peak District NP
G6 – Land contamination

National Planning Policy Framework:

‘Achieving Sustainable Development’
‘Core Planning Principles’
Promoting Sustainable Transport (chapter 4)
Delivering a wide choice of high quality homes (chapter 6)
Requiring good design (chapter 7)
Promoting healthy communities (chapter 8)
Conserving and enhancing the natural environment (chapter 11)
‘Decision taking’

Other Policy Considerations:

Manual for Streets (2007)

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

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

7. CONSULTATIONS

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

K.C. Highways – No objections subject to conditions

K.C. Environmental Services - No objections subject to conditions

K.C. Strategic Drainage – No objections subject to conditions (following amendments to drainage scheme)

Yorkshire Water - No objections subject to conditions

K.C. Landscape – Off-site contribution of £74,750 is required towards POS in Meltham area. Further details of the landscaping of the site are required.

K.C. Strategic Housing – There is a need for affordable housing in this housing market area. The level of affordable housing to be provided should be in accordance with SPD2, taking into account the viability of the development, as necessary.

K.C. School Organisation & Planning – No financial contribution towards school funding is not required.

WY Police Architectural Liaison Officer – Advice provided on crime prevention measures

8. REPRESENTATIONS

The application was initially advertised by neighbour letter, newspaper advertisement and site notice.
Representations: 18 received

Representations summarised as follows:

Principle:

Development on a greenfield site; brownfield sites should be developed first
Development impinge on Urban Greenspace

Visual amenity:

Density of development excessive / Overdevelopment / Cramped form of development
Urbanising effect
Dwellings out of scale and proportion to neighbouring development
Visual intrusion / eyesore
Loss of drystone wall to frontage

Residential amenity:

Loss of privacy/overlooking

Loss of light

Loss of light and privacy to 78d Mill Moor Road; request for screen fencing along the boundary

Dwellings too close to Lower Sunny Bank Court; Policy BE12 requirements insufficient due to differences in level

Overbearing to neighbouring properties

Increased noise

Air quality

Glare from headlights

Highways:

Cumulative impact of traffic on the local highway network from this and other nearby proposed/planned developments

Mill Moor Road and the centre of Meltham cannot cope with the extra traffic generated

Concerns that the parking arrangement for plots 1-3 is impractical and will lead to on-street parking

Question accuracy of submitted highways information

Individual points of access will mean reversing manoeuvres onto Mill Moor Road

Impact on on-street parking

Development relies on private car

Flood risk & drainage:

General flood risk and drainage concerns that will be exacerbated by this development

Loss of an area that provides natural drainage and replaced by hard materials

Increased flood risk to adjacent properties

Drainage infrastructure already at capacity

Meltham Dyke floods regularly and this will increase as a result of the development

No mechanism to ensure that surface water from the proposed drainage pond/reservoir is not contaminated when it discharges to the dyke

Impact on how adjacent properties drain – gardens potentially becoming waterlogged for example

Drainage pond is liable to flood and questions over maintenance of it as well as safety and amenity issues associated with it

Proposed surface water scheme unsuitable

Impact on nearby former mill pond

Ecology:

Impact on wildlife using Meltham Dike
Pollution to the dike, including from surface water run-off
Gardens encroaching into Green Corridor
Detrimental impact on the function of the Green Corridor

Other matters:

Impact on schools, doctors, dentists
Meltham being targeted for building and more so than other nearby areas
Gardens for the properties extend beyond the red line boundary pertaining to the previous outline application
Impact on structural stability of adjacent properties due to proximity of new dwellings to existing and impact on neighbouring drystone walls
Development not needed/required; other houses in the area not selling
Developer not consulted with local residents
Query area of land adjacent to plot 23

Following changes to the drainage scheme and the site layout the application was re-advertised by neighbour notification letter to all neighbours/interested parties.

Representations: 13 received

The representations reiterate the substantive concerns around the visual impact of the development, the impact of the development on residential amenity, significant drainage concerns (including impact on the nearby former mill pond), the impact on ecology (green corridor and Meltham dike) and the highways objections. The objections indicate that the revised drainage scheme remains unacceptable and specific concerns are raised about the amount of engineering operations required to install the drainage infrastructure and the potential visual impact of such works. The level and location of the affordable housing on the site is queried.

Meltham Town Council:

The Council objects to the application due to:

- Concerns over the drainage proposal which the Council feels is inadequate and the suggested solution of the pond presents a safety hazard for the occupants of the new properties, particular to children.
- Concerns over an increase in traffic and parking in this already congested area – parking restrictions on the corner of Westgate and at the junction of Matthew Lane / Mill Moor Road / The Hollow may assist with this.
- The gardens now appear to be encroaching on the green corridor

- Affordable housing is not sufficiently catered for.

9. ASSESSMENT

Principle:

The site comprises the majority of housing allocation H2.3 on the Council's Unitary Development Plan Proposals Map. Outline consent for residential development on the same parcel of land was approved by the Sub-Committee earlier this year (point of access was the only matter applied for). The principle of residential development on this part of the application site is therefore established.

The application site includes land that is allocated as Urban Greenspace on the Unitary Development Plan Proposals Map. This land lies to the north of the housing allocation and adjoins Meltham Dyke. No residential development (buildings or domestic curtilage) encroach into the Urban Greenspace. The only development within this part of the site is related to the drainage scheme and will involve engineering operations to facilitate its installation.

Policy D3 of the Unitary Development Plan (UDP) relates to applications for development on Urban Greenspace.

Policy D3 sets out at part (i) that on Urban Greenspace sites planning permission will not be granted unless the development is necessary for the continuation or enhancement of the established use(s) or involves a change of use to alternative open land uses, or would result in a specific community benefit, and, in all cases, will protect visual amenity, wildlife value and opportunities for sport and recreation.

Or, as in part (ii), the development includes an alternative provision of Urban Greenspace equivalent in both quantitative and qualitative terms to that which would be developed and reasonably accessible to existing users.

The development would not result in the loss of any Urban Greenspace because this area would be retained as a piece of open land which would remain as an embankment and form a wildflower meadow with native tree planting (public access to this land is not proposed through the application). The only development within the Urban Greenspace is the provision of a below ground drainage pipe and outfall and therefore its value as open land would not be prejudiced. A green buffer between the housing allocation and Meltham Dyke would therefore be maintained and this open land would continue to contribute to the visual amenity and biodiversity of the area. On this basis it is not considered that the application conflicts with Policy D3.

Paragraph 14 of the National Planning Policy Framework (NPPF) outlines a presumption in favour of sustainable development. For decision-taking this means 'approving development proposals that accord with the development plan without delay'.

This site is considered to be greenfield (i.e. not previously developed). The NPPF encourages the effective use of land by reusing land that has been previously developed (Brownfield land) but it does not set out a 'brownfield first' approach to development (unlike previous planning policy). Detailed assessment of the ecological impacts of the development are addressed later in this assessment but the environmental harm arising from the development of this greenfield site is clearly outweighed by the benefits to be gained from the provision of housing.

In respect of planning policies related specifically to housing in the UDP, consideration must be made as to whether these can be classed as 'up to date' following the publication of the NPPF. Paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. At present, the Council is unable to demonstrate a five-year supply of housing land and therefore the provision of new housing to meet the shortfall is a material consideration that weighs in favour of the development proposed.

In conclusion, the southern part of the site forms a site allocated for housing whereby the principle of residential development has previously been established under an extant outline consent. The part of the site which is allocated as Urban Greenspace would not be materially altered by the development and its value as open land would be retained. In the absence of a five year housing supply and any adverse impacts that would clearly and demonstrably outweigh the benefits, the principle of development is supported.

Impact on visual amenity:

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 layout provides a mixture of property types with four blocks of terraced houses fronting onto Millmoor Road, semi-detached dwellings and a small row of terraced houses in the middle of the site with large detached dwellings set towards the back. All of the properties are two storeys in height. The development would be served by a new estate road taken off Millmoor Road.

Negotiations with the agent were undertaken to secure amendments to the scheme. This was in order to give the development a less suburban appearance and better respect the character of this part of Millmoor Road, which is considered to form the start of the transition between the main built-up area of Meltham out towards the more sporadic development and open countryside to the west. The main amendments are summarised as follows:

- A reduction in the amount of off-street parking spaces to the front of plots 7-13; the parking has been moved to the rear of these plots to reduce the visual dominance of the parking spaces along this part of the site frontage. There have also been amendments to the parking layout for plots 15-22 to help to make parked vehicles less prominent when entering the site.
- The design of plots 7-14 has been altered to give these dwellings a more traditional 'Pennine cottage' appearance. These rows of terraced houses are in keeping with similar type development within the vicinity.
- The properties along the site frontage (plots 1-14) have a 30 degree roof pitch to reduce their overall massing. Plots 1-3 have also been set slightly further down to reduce the massing of plot 1 in relation to 78d Millmoor Road.
- Drystone walling is to be retained along the site frontage. The drystone walling will form a return adjacent to the access road and will enclose the parking areas for plots 2-6. This will help to maintain the semi-rural feel of the area and help to screen parking areas.
- Improvements have been made to the design of plots 15-17 and 28; openings have been added to the gable ends of the plots 3 and 4 to break up the expanse of walling and add some visual interest given their prominence in relation to the access road; rooflights have been omitted from the front of plots 1-6 to simplify the appearance of these dwellings.

Officers consider that the changes have made the development acceptable in terms of Policies BE1 and BE2 and chapter 7 of the NPPF.

In general terms Officers are satisfied with the layout and appearance of the development. There are a mixture of property types and designs throughout the development which adds variety and visual interest to the scheme. The density of the development is considered to be acceptable; there is a higher density of development towards the front of the site because these properties form terraced houses that enables this part of the development to reflect the traditional character of Mill Moor Road. This has the effect of increasing the overall density on the site. The semi-detached and detached properties are located further within the site and whilst these are relatively closely spaced it is not considered that this density of development gives rise to any unacceptable impact on the visual amenity or character of the area.

With regard to the site frontage, the design of plots 1-6 is considered to be in keeping with the more modern development to the east whilst the design of plots 7-14 is in keeping with the more traditional development to the west. The frontage dwellings have a stepped appearance graduating upwards from east to west which respects the topography of Millmoor Road.

Plots 15-28 are less prominent within the context of the site. Plots 15-21 are largely obscured by the proposed terraces to the south and the detached dwellings (plots 22-28) are generally set down from the other dwellings and views of them are largely restricted to medium to long distance vistas.

The use of natural stone and a good quality artificial slate (as proposed) will help the development to blend in with the area.

Boundary treatment includes drystone walling to the site frontage, some of the parking areas within the site as well as the facing material for the retaining wall along the boundary with the Urban Greenspace (to the rear of plots 23-28); the use of drystone walling is in keeping with the character of the area and helps to soften the visual impact of the development. Timber fencing and beach hedging is proposed to many garden boundaries where they are internal to the site; this is considered to be acceptable. Hard surfaced areas to the front of the dwellings and for the parking spaces are a mixture of concrete setts and paving; this helps to provide some visual differentiation across the development.

Some concern has been raised by Kirklees Landscaping section regarding the uniformity of tree planting as shown on the landscaping plan. Revised details of the tree planting can be agreed by condition.

The Peak District National Park lies to towards the south and west of the site. At its closest point the National Park boundary is roughly 300m away to the south west. Given this separation distance and the fact that the site is for the most part set down from the National Park land it is considered that the development would not be intrusive in views from within the National Park or have a harmful impact on views into the National Park. The application would not therefore conflict with Policy NE8a of the UDP.

There are no listed buildings within the vicinity of the site.

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.

The nearest properties to the front of the site are 105 and 123-133 Mill Moor Road which lie on the opposite side of Mill Moor Road. Numbers 105 and 133 are side-on to Mill Moor Road and contain secondary/non-habitable windows. Numbers 123-131 front onto Mill Moor Road and contain main habitable windows.

Habitable windows in no.123 Mill Moor Road are 16.5m from habitable windows in plot 3. This is a front elevation to front elevation relationship across the street and privacy in this context is not the same as when considering rear elevation and private garden areas.

Habitable windows in 125-131 Mill Moor Road are 19.5m and 21.5m from habitable windows in plots 4-7.

The above separation distances do not fully accord with Policy BE12 however the relationship between these properties is similar to existing residential development along Mill Moor Road and the proposed layout therefore maintains the established character of the streetscene. Increasing the separation distance between habitable windows would result in a form of development that would less respectfully reflect the streetscene and would be detrimental to the overall quality of the proposed development. The separation distances that are provided are considered to afford a sufficient level of privacy for existing and future occupiers and on balance existing space standards are considered to be acceptable. This also applies to the dwellings that are proposed on the separate housing allocation to the south of the application site.

The nearest properties to the rear of the site are on Lower Sunny Bank Court and lie at a lower level to the application site. Separation distances between plots 24-28 and the nearest properties on Lower Sunny Bank Court are 57-62m.

The separation distances are considered to be more than adequate to prevent any undue effects on the amenity of these occupiers and compensate for the difference in levels.

The nearest residential properties to the east of the site are 78d Mill Moor Road and 3 Albion Court.

Plot 1 would be located adjacent to 78d Mill Moor Road and would project beyond the original rear wall of this dwelling by 3m. This neighbouring dwelling has a conservatory to the rear and plot 1 would project almost in line with the conservatory. The side elevation of 78d contains two windows at ground floor level which are secondary windows to a main habitable room. Plot 1 is set up from 78d and is separated by a distance of 3.2m. Concerns have been raised by this neighbour in terms of overshadowing and overlooking.

To reduce the impact on no.78d plots 1-3 were amended so that they were set slightly further down within their plots (by 450mm). In addition, the reduction in the roof pitch of these dwellings to 30 degrees has helped to reduce the overall massing of plot 1 in relation to this neighbouring property.

The relationship between 78d and plot 1 is not unusual and whilst there would be some impact on the amount of light that the side elevation windows and

the conservatory receive at certain times of the day it is not considered that this would be so significant so as to materially harm living conditions.

Given that plot 1 projects beyond the rear wall of 78d and is set on a higher level there is the potential for any future rear extensions to have a pronounced effect on the neighbour. To this end it is recommended that permitted development rights for rear extensions are removed for plot 1 to protect the amenity of the neighbour.

The owner of 78d has requested that a screen fence is provided along the boundary to preserve their privacy. No windows are proposed in the side of plot 1 although the proximity and relative height of the curtilage for plot 1 is likely to give rise to a sense of being overlooked. It is considered that the neighbour's request is reasonable and a suitable screen fence can be secured by condition.

Windows in the rear of plot 1 would not directly overlook the rear garden of 78d and the relationship is such that there would not be a material increase in overlooking of the garden because the relationship is similar to that between 78d and 4 Albion Court.

The closest dwellings to 3 Albion Court are plots 22 and 23.

Habitable windows in the rear elevation of plot 22 are separated from the windows within the side elevation of 3 Albion Court by 22.5m and have a slightly oblique relationship. The rear elevation of plot 22 is 10.5m and 12m from the boundary with the garden of no.3. It is considered that acceptable separation between the respective dwellings is achieved.

Plot 23 is separated from 3 Albion Court by just over 13m and the dwellings are off-set from one another which gives a somewhat indirect relationship. There are no habitable windows facing towards 3 Albion Court – all of the windows in the east elevation of plot 23 are bathroom/WC windows. Officers are satisfied that the relationship would not prejudice residential amenity.

The nearest dwellings to the west of the site are 80-86 Mill Moor Road which front onto part of the western boundary. These properties are marginally set up from the application site.

Numbers 80 and 82 Mill Moor Road front onto the gable end of plot 14 at a distance of 19m and 21m. The gable end of plot 14 forms a blank elevation. This relationship is such that the amenity of 80 and 82 would not be significantly affected.

Number 86 Mill Moor Road fronts onto the rear elevations of plots 15-17. Habitable windows are separated by 24.5m which exceeds Policy BE12 requirements. The rear elevations of plots 15-17 are 9m from the main garden area belonging to no.86 and this is considered to provide sufficient separation space and privacy.

Number 84 Mill Moor Road has a more oblique relationship with the site and the nearest habitable windows are around 26m away (to plot 17). The side wall of plot 17 is around 1.5m from the boundary with the garden belonging to no.86 although this is the lower part of what is a fairly long and substantial garden. As such the impact of plot 17 on this neighbour's amenity space is somewhat limited.

The application does not wholly comply with Policy BE12 however for the reasons stated above the development would not result in any unacceptable detriment to the amenity of existing or future occupiers and is considered to be acceptable.

Access / highway safety:

The site is situated to the north of and adjoining Mill Moor Road, approximately 700m to the west of Station Street and the centre of Meltham. In terms of network hierarchy Mill Moor Road is considered to be an unclassified residential collector road connecting between Meltham and Leygards Lane which links to Wessenden Head Road and the wider highway network. In the vicinity of the site Mill Moor Road is a two-way single carriageway, with a carriageway width of around 6.5m and a pedestrian footway to the northern side. Mill Moor Road is subject to a 30mph speed limit with street lighting to main road standards.

Access onto the site from Mill Moor Road is via a simple priority junction. This point of access has previously been approved under outline consent 2014/91342.

The approved outline application was supported by a Transport Statement (TS) which considered traffic impact on the surrounding highway network including capacity assessment of the Westgate/Station Street junction. The applicant at that time was instructed to include the cumulative traffic impact of existing committed developments on that junction as well as traffic generated by the proposed development (this was done on the basis of the site accommodating 30 dwellings). These tests showed that the traffic from the development could be accommodated even with the cumulative impact of the committed developments. The TS also reviewed sustainability of the site, the site access and servicing requirements. The TS and its content were considered by the Highways Development Control Team and at that time were found to be acceptable.

This application is also supported by an addendum to the previously agreed Transport Statement which revisits the previous TS content and discusses issues such as site layout, parking, servicing provision and sustainability. The TS addendum includes information supplied from the TRICs database which predicts traffic generation.

It is accepted that the 28 dwellings as proposed would have less traffic impact in comparison to the previous assessment which was based on there being 30 dwellings on the site.

The impact of additional traffic generated by the proposed development and potential other significant sites that are likely to impact on Mill Moor Road and the critical Westgate/Station Street and Greens End Road/Station Street junctions have been included in considering traffic impact. This assessment has included a POL allocation to the west of the site, a separate allocated housing site on Mill Moor Road, a potential infill site to the west of Mill Close and extant permissions for residential development (including the former Albion Mills site and sites on Colders Lane and Matthew Lane).

The assessment indicates that the Westgate/Station Street and the Greens End Road/Station Street junctions would continue to operate within accepted parameters during the morning and evening peak periods. Officers therefore consider that the proposed development would not result in any significant detriment to the efficiency and safe use of the local highway network.

Footnote 2 of Policy H6 of the UDP, which relates to this specific housing allocation, states “off-site improvements to be carried out to the junction of Westgate and Station Street”. All infrastructure requirements pursuant to this part of footnote 2 have been fully discharged and therefore this requirement is no longer applicable.

The site can also be accessed from Leygards Lane and from Red Lane/New Bridge Road to the west. Officers do not consider that the use of these roads by a proportion of the traffic generated by the development would result in any demonstrable harm to highway safety, this includes from issues with visibility around the Leygards Lane/Mill Moor Road junction.

Visibility at the proposed access has been approved previously and remains at 2.4 x 43 metres which in this instance is acceptable. The development includes a standard footway along the front of the development on Mill Moor Road which will support the retention of the visibility splay.

The layout of the access road appears to meet this Councils standards for adoption however further detailed information is required and this can be secured by condition. The internal access arrangements for servicing are supported by swept path analysis and the turning facilities as proposed can accommodate a refuse vehicle, therefore they are acceptable. The individual driveways directly onto Mill Moor Road are also considered to be acceptable.

The parking arrangements as shown on the submitted plans are considered acceptable both in provision and location.

In terms of accessibility, the site is considered to be sustainable for the following reasons:

- The site is less than 800m from Meltham local centre offering a range of community facilities and some employment opportunities therefore is within easy walking and cycling distance;

- Mill Moor Road is on the Meltham Local Minibus Circular route. Regular buses to outlying areas including Huddersfield town centre are available from Meltham. (Source: WY Metro);
- The site is approximately 1.2km from a primary school;
- The site is approximately 1km from a health facility.

On the basis of the above criteria the site is considered to be accessible.

In summary the application is considered to comply with Policy T10 of the UDP and is acceptable in highway terms.

Ecology:

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. Under application 2014/91342 an ecological survey was carried out on the part of the application site that is allocated for housing. This established that the land consists of agriculturally improved pasture and is of very limited ecological interest. It also established that the buildings on site have no bat roost potential.

There has not been any material change in circumstances in terms of the make-up and nature of the housing allocation part of the site since application 2014/91342. It therefore remains the case that this land is of very limited ecological interest.

In terms of the Urban Greenspace, this part of the site is likely to have more ecological value, particularly as it adjoins Meltham Dyke which is a ‘Green Corridor’ on the UDP Proposals Map.

The proposal does not involve building on the Urban Greenspace and nor will the curtilage of any of the proposed dwellings encroach onto it. Drainage infrastructure in the form of an oversized pipe will be formed below ground and then the land will be restored and landscaped to form a spring wildflower meadow with individual native species of trees and a native woodland tree belt adjacent to the dyke. It is therefore considered that the development would not prejudice the ecological value of the Urban Greenspace.

As the site adjoins a Green Corridor Policy D6 of the UDP is relevant. This states that proposals on such sites will be considered having regard to their impact on: plants within the corridor and animals using it; any watercourse; visual quality of the corridor; public access along the corridor; and the physical continuity of the corridor. It is necessary for this development to ensure that planning permission will not normally be granted unless it can be demonstrated that the green corridor can be safeguarded.

In addition to the above, a footnote to this specific housing allocation stipulates that the adjacent Green Corridor is to be safeguarded and enhanced.

The proposed dwellings are set up from Meltham Dyke and separated by a distance of around 40m. It is therefore considered that the dwellings would not have any significant impact on the function of the Green Corridor. With regard to development operations in close proximity to the Green Corridor, an underground pipe would approach the dyke at the northwest corner of the application site and a pre-cast concrete outfall formed adjacent to the dyke for surface water to be discharged into the watercourse at a restricted rate (full details to be agreed by conditions). The scope of the works adjacent to the corridor is very limited and would not result in any undue harm to flora and fauna along this part of the corridor or its visual quality. The works would also not disrupt the corridor's physical continuity.

It is not considered that water discharging into the dyke at a restricted rate would prejudice the function of the corridor as an aquatic environment. Surface water from many other residential properties/developments along Mill Moor Road is known to enter Meltham Dyke via local drainage networks such as culverted watercourses and so the principle of surface water discharging into the dyke in this area is long established. The additional water entering the dyke would not be so significant so as to materially affect the function of the dyke as a green corridor and the nature of the water would be the same as that already entering the dyke from existing residential development on Mill Moor Road.

A condition is recommended requiring a method statement for the construction of the drainage system where it is closest to the dyke to ensure that the works are carried out sensitively and the site restored appropriately.

On the basis of the above the Green Corridor would be safeguarded.

The footnote to the housing allocation also requires enhancement of the corridor. It is considered that this is satisfied through the landscaping scheme which will result in wildflower meadow and native tree planting being provided adjacent to the dyke. This will help to support biodiversity.

To compensate and provide enhancement measures for the development (in line with NPPF paragraph 118 – conserving and enhancing biodiversity) the installation of bird boxes and bat tubes on the dwellings can be secured by condition, as well as measures to allow the free movement across boundaries of animals such as hedgehogs (e.g. raised fences).

It is considered that the application accords with Policy EP11 of the UDP and guidance in chapter 11 of the NPPF.

Flood risk & drainage:

Negotiations have taken place between the developer and Kirklees Flood Management and Drainage officers as there were concerns with the scheme as originally proposed. Kirklees Flood Management and Drainage consider the revised drainage scheme to be acceptable.

The revised surface water drainage scheme involves an oversized below ground pipe that provides capacity for storage and which will discharge to an adjacent watercourse at a restricted rate. Access for maintenance of this drainage infrastructure is provided to the front and side of plot 23; this would form an undeveloped strip of land. A condition restricting any development over this area of the site is recommended to maintain access.

The drainage scheme also includes rainwater harvesting from the roof areas of a proportion of the dwellings (40%) and all private hardstanding areas within the site will drain via permeable paving. Overall approximately 50% of the site will drain via either permeable paving or rainwater harvesting systems before entering the surface water drainage system; this also provides for an element of water quality management.

Foul waste will discharge to a main sewer in Mill Moor Road.

Provisional information on overland flow routing across the site has been provided and is accepted in principle.

Kirklees Flood Management and Drainage support the application subject to conditions relating to the detailed design of the drainage scheme, detailed overland flow routing proposals and a temporary drainage plan for the construction phase. A S106 agreement has been recommended for the future maintenance and management of the surface water drainage system in the event that it is not adopted by Yorkshire Water.

On the basis of the advice from Flood Management and Drainage the application is considered to comply with Policy BE1 of the UDP and guidance in the NPPF.

S106 matters/contributions:

Affordable housing provision:

UDP policies H10 and H12 set out that the provision of affordable housing is a material consideration and that where secured, it must be retained. The Council's SPD on affordable housing is being introduced on a phased basis. The intention is to secure 30% of the capacity of greenfield sites of 5 or more dwellings as affordable housing. Paragraph 50 of the NPPF promotes the use of policies to meet the need for affordable housing on-site.

The development exceeds the threshold for affordable housing provision.

The developer has offered 6 units within the scheme for affordable housing provision; these are terraced properties at the front of the site. Information relating to the viability of the development has also been submitted to justify the level of affordable housing provision, which is below the SPD2 requirement.

The viability information has been independently assessed and this assessment has concluded that the affordable housing offer is fair and reasonable. Officers have reviewed the independent assessment and concur with its conclusion.

The affordable units are to be secured by S106.

Public Open Space:

The site area is over 0.4 hectares and as such the proposal triggers a requirement to provide public open space (UDP policy H4). An off-site sum of £74,750 towards play provision within the Meltham ward is required and is to be secured by S106. For the purposes of the CIL, it is not necessary to specify the site/project which the money will be spent on because the pooled threshold for contributions in the Meltham ward has not been reached.

Education provision:

Kirklees Council's School Organisation & Planning team has advised that a financial contribution towards school funding is not required.

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 to medium sized 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.

Other issues:

The proposals do not include part of the UDP housing allocation adjoining the site to the west. This land is not accessible from the highway. The proposed site layout allows for access to this adjoining land by way of the 6.5m wide private road/driveway to the front of plots 26-28. The remainder of the housing allocation would therefore not be prejudiced by this development.

Although no land contamination is recorded or suspected in this location, Environmental Services recommend conditions requiring basic surveys along with intrusive investigations and remediation in the unlikely event any contamination is identified.

Representations:

18 objections were received in response to the plans as originally submitted. Following the submission of amended drainage information and amendments to the site layout and dwelling design the application was re-advertised and 12 representations were received.

The representations are summarised as section 8 of this report. The main points of objection relate to the principle of development, the visual and residential amenity impacts, the effect on ecology with particular regard to Meltham dike and the adjacent green corridor, the impact on the local highway network and the effect on local drainage and flood risk. All these matters are addressed within this assessment.

Of the other matters raised a response is provided as follows:

Impact on schools, doctors, dentists

Response: An education contribution is not required in this instance. The provision of medical services is a matter for medical providers and is unrelated to the planning process although it is likely to be influenced by changes in local population levels.

Meltham being targeted for building and more so than other nearby areas

Response: The LPA has no control over where developers choose to submit applications.

Gardens for the properties extend beyond the red line boundary pertaining to the previous outline application

Response: This is a stand-alone application and the red line boundary is not bound by that on the outline consent

Impact on structural stability of adjacent properties due to proximity of new dwellings to existing and impact on neighbouring drystone walls

Response: It is considered that this matter can be adequately addressed through the building regulations regime.

Development not needed/required; other houses in the area not selling

Response: This is not a material planning consideration.

Developer not consulted with local residents

Response: There is no formal requirement for an applicant to carry out pre-application consultation on applications such as this.

Conclusion:

The application is for 28 dwellings on land that is allocated for housing. The site includes an area of Urban Greenspace but this would remain as open land. The development would not unduly harm the visual amenity and character of the area or the amenity of nearby residents. The development would not result in any material detriment to highway safety and the ecology

of the site and the adjacent Green Corridor would be safeguarded. The development would deliver valuable affordable housing provision on the site and a significant financial contribution towards public open space/play provision within the wider Meltham area.

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

10. RECOMMENDATION

APPROVE SUBJECT TO THE DELEGATION OF AUTHORITY TO OFFICERS TO:

- 1. SECURE A S106 OBLIGATION FOR THE FUTURE MAINTENANCE OF THE PROPOSED SURFACE WATER DRAINAGE INFRASTRUCTURE**
- 2. SECURE A UNILATERAL UNDERTAKING (S106 OBLIGATION) FOR THE PROVISION OF AFFORDABLE HOUSING AND PUBLIC OPEN SPACE AS DETAILED IN THE REPORT**
- 3. IMPOSE ALL NECESSARY AND APPROPRIATE CONDITIONS THAT MAY INCLUDE SOME OR ALL OF THOSE MATTERS SET OUT IN THIS REPORT, AND**
- 4. SUBJECT TO THERE BEING NO SUBSTANTIVE CHANGE THAT WOULD ALTER THIS RECOMMENDATION, ISSUE THE DECISION NOTICE.**

Matters to be covered by conditions:

- Approval of samples of facing materials
- Re-use of existing drystone wall to the front of the site
- Details of a scheme for foul, surface water and land drainage (including off site works, outfalls, balancing works, plans and longitudinal sections, hydraulic calculations) based on the revised drainage proposals
- Details of a scheme for overland flood routing

- Details of a scheme for temporary surface water drainage provision during construction
- Restriction on building operations within the cross-hatched area adjacent plot 23 to maintain access to the drainage infrastructure on the northern part of the site
- Details of the pre-cast concrete outfall that is to discharge surface water from the development into Meltham Dike
- Method statement for the construction of the drainage system where it is closest to Meltham Dike
- Provision of bat and bird boxes on the dwellings
- Measures to allow free movement of hedgehogs
- Removal of permitted development rights for extensions to the rear of plot 1 to protect the amenity of 78d Mill Moor Road
- Screen fence to be provided along the western boundary of plot 1 to protect the amenity of 78d Mill Moor Road
- Electric vehicle charging points within parking spaces/garages
- Contaminated land investigation reports and site remediation in the event that contamination is found
- Scheme to demonstrate unrestricted vehicular access to the remainder of the housing allocation
- Provision of visibility splay
- Details of the internal adoptable estate road
- Permeable surfacing to private areas of hard surfacing
- Revised details for tree planting so that the layout is less uniform
- Details of the native species to be used for the planting

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

Plan Type	Reference	Version	Date Received
Design & Access Statement	-	-	22/12/15
Location Plan & Existing Site Plan/Topographical Survey	-	-	22/12/15
Site Layout	1601 / 26	-	22/12/15
Site Sections	1601 / 16	-	22/12/15
Street Scene Elevation Sketch	-	-	22/12/15
Plots 1- 3 Floor Plans & Elevations	1601 / 02	Rev B	1/4/16
Plots 4-6 Floor Plans & Elevations	1601 / 03	Rev B	1/4/16
Plots 7-10 Floor Plans & Elevations	1601 / 04	-	1/4/16
Plots 11- 14 Floor Plans & Elevations	1601 / 05	-	1/4/16
Plots 15- 17 Floor Plans & Elevations	1601 / 06	Rev A	1/3/16
Plots 18-21 Floor Plans & Elevations	1601 / 07	Rev A	1/3/16
Plot 22 Floor Plans & Elevations	1601 / 08	Rev A	1/3/16
Plot 23 Floor Plans & Elevations	1601 / 09	-	22/12/15
Plot 24 Floor Plans & Elevations	1601 / 10	-	22/12/15
Plot 25 Floor Plans & Elevations	1601 / 11	-	22/12/15
Plot 26 Floor Plans & Elevations	1601 / 12	-	22/12/15
Plot 27 Floor Plans & Elevations	1601 / 13	-	22/12/15
Plot 28 Floor Plans & Elevations	1601 / 14	Rev A	1/3/16
Landscaping Plan	1607-1	Rev E	1/4/16
Drainage Layout (sheet 1 of 2)	-	-	4/4/16
Drainage Layout (sheet 2 of 2)	-	-	4/4/16
Flood Route Plan	-	-	4/4/16
Area Plan & Microdrainage References	-	-	4/4/16
Preliminary Drainage Calculations	-	-	4/4/16
Transport Statement	-	-	22/12/15
Transport Assessment	-	-	22/12/15
Supporting Statement	-	-	22/12/15

Application No: 2016/91193

Type of application: 62 - FULL APPLICATION

Proposal: *Erection of detached dwelling with integral garage (modified Proposals)*

Location: *plot 19, Honey Head Lane, Honley, Holmfirth, HD9 6RW*

Grid Ref: 413534.0 411244.0

Ward: *Holme Valley North Ward*

Applicant: *D Hair*

Agent: *Alan Davies, Northern Design Partnership*

Target Date: *10-Jun-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

The proposed development would be appropriate in terms of its scale, layout, and design. It would provide safe and satisfactory parking and access arrangements. In terms of its impact on established residential development it would not be significantly differ from the originally approved dwelling which could still be implemented.

It is considered that the proposal would amount to sustainable development.

RECOMMENDATION: CONDITIONAL FULL PERMISSION

2. INFORMATION

The application is brought to the sub-committee for determination following a request from Councillor Charles Greaves which states:

“My comments are that the existing PP relates to an estate development and that the relaxations on distances given in this PP relate to the estate development. This application is for a single dwelling and it should be assessed as new.

I believe it should be a committee decision as to whether to grant a relaxation in Policy BE12, and that it is essential that the design and build materials of this new property exactly matches the neighbouring estate properties that have been built.”

And a request by Councillor Edgar Holroyd-Doveton which states:

“In reference to the above planning application. If you are minded to recommend acceptance can I ask that the above go to the planning committee and that there is a site visit. The basis for doing so is the planning reason of requiring suitable clearance. Specifically Policy BE 12 where there should be a pathway of 1metre on both sides of a house.”

The Chair of the Sub Committee has confirmed that Councillor Greaves’ and Councillor Holroyd-Doveton’s reasons for making this request are valid having regard to the Councillors’ Protocol for Planning Sub Committees.

3. PROPOSAL/SITE DESCRIPTION

Site

The site comprises a plot of land which is currently forms part of the residential garden for no. 43 Honey Head Lane.

It is located within a modern housing estate which was approved under application 99/93218. This development has been largely completed except for a few plots, including this application site and Plot 20 to the south. To the north the site is bounded by two dwellings, both two-storey, which are no. 45 and 43 Honey Head Lane, to the east by undeveloped land which is part of

the Green Belt, and to the west by Plot 21, upon which a two-storey house is being built and is nearing completion.

Proposal

The proposal is for the erection of a detached dwelling with an integral single garage. The dwelling would have its main elevation facing west.

It would measure 9m in width. The main, two-storey part would measure 9.3m from front to back, with an additional single-storey projection at the rear adding a further 3.0m, making 12.3m altogether. There would also be a small two-storey projection at the front of 1.3m incorporating a porch and en-suite facility. Total height from finished floor level to ridge would be 8.35m. It would have a single integral garage and two external parking spaces. Materials are to be natural stone and artificial stone slates.

The proposed dwelling would maintain 1.0m from the northern, or lower boundary, 800mm from the southern or upper boundary and an average of 7.2m from the rear boundary.

The design and siting are almost exactly the same as on the previous approval, 2015/93282, which was also approved at Sub-Committee in accordance with officer recommendation. The differences are the slight increase in roof pitch and the fact that it would be built close to existing ground levels instead of the levels being reduced to accommodate the new build.

4. BACKGROUND AND HISTORY

99/93218 – Erection of 34 dwellings with garages. Approved and largely completed, although with some amended house types and a few plots still to be developed.

2015/93282 – Erection of a single detached dwelling. Approved by Huddersfield Sub-Committee in accordance with officers' recommendation.

5. PLANNING POLICY

Kirklees Unitary Development Plan (UDP)

The site is allocated for housing on the UDP Proposals Map.

- **BE1** – Design principles
- **BE2** – Quality of design
- **BE12** – Space about buildings
- **T10** – Highway safety
- **T19** – Parking standards

National Planning Policy Framework (NPPF)

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

It is considered that the proposal does not raise any issues under the Equalities Act.

6. CONSULTATION RESPONSES

No consultations were considered necessary in this instance. KC Highways Development Management were consulted on the previous application and had no objections provided there is space to park two vehicles externally, which is shown on the site plan.

7. REPRESENTATIONS

The application has been advertised by site notice and neighbour notification. The publicity period ended 31st May 2016.

One letter of representation received, from a consultant acting on behalf of the occupants of 45 Honey Head Lane. The concerns raised are:

1. Overbearing oppressive impact due to effect on outlook;
2. Obstruction to sunlight;
3. These matters would be compounded by the fact that the proposals fail to comply with the 12m normally recommended standard for habitable rooms facing blank walls as set out in UDP Policy BE12.

Comments from Ward Councillors Greaves and Holroyd-Doveton– see “Information” above.

Holme Valley Parish Council comments – Support the application

8. ASSESSMENT

General Principle:

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

Requiring good design – Developments should function well and add to the overall quality of the area, establish a strong sense of place, optimise the

potential of the site to accommodate development, create safe and accessible environments, and be visually attractive.

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.

Within the UDP, the most relevant policies are BE1 and BE2 (development should be visually attractive and respect the character of its surroundings), and T10 and T19 (development should not create or materially add to highway safety problems, and parking should be provided taking into consideration the standards in UDP appendix 2).

It should be noted that there is an extant, partially-implemented permission for the erection of 34 dwellings (99/93218) including one on the current plot. The dwelling proposed under application 99/93218, which could still be lawfully built, would be 8.7m in width by 9.0m in length, with a ridge height of 8.0m and with an integral garage. According to the approved Section 38 plan for the original estate layout approved under the 1999 application, finished floor level for this dwelling would have been 1.95m higher than the floor level for Plot 18 (now no. 45) and 1.5m higher than for Plot 17 (now no. 43) , the completed neighbouring dwellings to the north.

In addition there is the fall-back position of implementing permission 2015/93282 and these will both be taken into account in the assessment of the proposal.

Impact on amenity:

Visual amenity:

The proposed dwelling would have a relatively large footprint for the plot size. This however would be the same footprint as for the recently approved application 2015/93282.

In assessing application 2015/93282, officers placed considerable weight on the fall-back position of implementing the original permission 99/93218. This did not remove permitted development rights for extensions, so that future occupiers could subsequently have added a 3m, or even 4m single-storey extension at a later date without planning permission. The fall-back position of implementing 99/93218 still exists.

On the current scheme, proposed roof pitch has been increased from 30 to 33 degrees and the height (measured from finished ground floor level) from 8.1 to 8.35m. The main difference between this proposal and the 2015/93282, apart from the slight increase in roof pitch and height, is in the finished ground and floor levels. In permission 2015/93282, some excavation would have been carried out so that finished floor level would have been only 300mm higher than floor level in the two established dwellings to the north, nos. 43 and 45. The current proposal would have finished floor level 1.25m higher

than in no. 45. It should be noted however that the approved Section 38 (highway adoption) plan for the original scheme, 99/93218, showed an even greater disparity in ground levels, with the dwelling on plot 19 being 1.95m higher than Plot 18 (now no. 45). It is considered therefore that, as now proposed, it would not be any more prominent in the street scene than if the original 99/93218 scheme has been implemented in full.

It is considered that taking into account all factors – the 300mm increase in length and width, the 3.0m single-storey projection which could have been built under permitted development rights, and the very minor increase in floor to ridge height of 250mm – the dwelling now proposed would not be significantly different in its visual impact than the dwelling approved as part of the 99/93218 scheme.

In summary it is considered that the dwelling would respect the appearance and character of its surroundings. Subject to walling and roofing materials matching those on neighbouring plots, which can be ensured by a condition requiring a sample of the intended roofing material, it would therefore comply with the aims of Policies BE1 and BE2 of the UDP and guidance in Chapter 7 and of the NPPF.

It is also recommended that permitted development rights should be withdrawn for any further extensions to protect visual and residential amenity given the increased dimensions from those on the originally approved dwelling.

Residential amenity:

There is a valid permission for this plot as part of the wider 99/93218 permission. As this permission is still live, a dwelling could be built on this plot in accordance with the siting and design shown on the original scheme.

The previous proposal 2015/93282 was considered against this fall-back position. It was noted by officers at the time that it would not be fully compliant with minimum distances, including the 12.0m recommended minimum distance between a habitable room window and a blank wall specifically in relation to nos. 43 and 45 to the north. The approved scheme 99/93218, however, also fell short of BE12 standards in similar ways. In summary the main differences between the 1999 and 2015 proposals were, in so far as they relate to nos. 43 and 45, were:

- The separation distance between the new dwelling and no. 45 had been increased by 400mm compared with the original 1999 layout;
- The new dwelling would only be 250mm closer to no. 43 (the applicant's dwelling) compared with the original 1999 layout;
- The house designs for the original plots 17 and 18 (now nos. 43 and 45) had already been switched from the original approved layout by permission 2011/91401. This means that there would be less of an

“overlap” with no. 45’s rear elevation than would have been the case if the original 1999 had been implemented in full – approximately 3m compared to 6m. Correspondingly there would be more overlap with the rear elevation of no. 43, the applicant’s property.

- Ground levels for the proposed development plot had been substantially reduced.

For the current application, the first three points still apply as the layout is the same. The main difference between the 2015 scheme and the current one, apart from the slight increase in roof pitch and height, is that finished ground and floor levels would be much closer to those approved for the 1999 scheme. The current proposal shows finished floor level 1.25m higher than those in no. 45. On the approved Section 38 (highway adoption) plan for the original scheme, 99/93218, showed an even larger disparity in finished floor levels, with the dwelling on plot 19 being 1.95m higher than Plot 18 (now no. 45) and 1.5m higher than Plot 17 (now no. 43). The difference in finished ground levels between the 1999, 2015 and current application are shown on a number of ‘street scene’ sections submitted.

Taking all the above factors into account, including the 250mm increase in floor to ridge height, it is considered that the proposed dwelling would still have a lesser impact on the amenities of no. 45 than if the 1999 permission had been implemented in full. It might have a very slightly increased impact on the amenities of no. 43 because of its being closer to their facing elevation and overlapping it more, but even this would be mitigated by the fact that the difference in floor levels between the two properties would not be as large as would have been the case under the original approved Section 38 plan, so that ridge height in relation to no. 43 would be the same as under the original approved scheme.

Policy BE12 also specifies a minimum requirement of 10.5m between a habitable room window and adjacent undeveloped land. The rear elevation of the proposed dwelling would maintain a distance of between 7.0 and 7.5m from the rear boundary. From the main rear wall, it would be between 10m and 10.5m. This is exactly the same as on the approved 2015/93282 scheme, and again it should be noted that permitted development rights were not removed under the original 1999 scheme, so that a ground floor extension could have been built projecting up to 4m and coming even closer to the rear boundary. Furthermore ground floor windows can be screened from this land. Policy BE12 states that distances less than those specified in the policy can be accepted where permanent screening would overcome the detriment to potential development of neighbouring land. The neighbouring land is Green Belt in the adopted UDP. In these circumstances it is considered that an average 10.25m distance from upper floor habitable room windows to the boundary, and the screening of ground floor windows to the rear boundary is acceptable.

Policy BE12 also advises that 1.5m should normally be maintained between any wall of a new dwelling and adjacent land. This allows access around

dwellings. In this instance, the distance would be 1.0m and 800mm on the north and south side respectively. This is very similar to the original scheme, which only showed 1.0m each side, and the 2015 approval, which showed a gap of 1.0m and 700mm respectively. It is considered that given the two alternative fall-back positions, failure to comply with the 1.5m standard in BE12 would not amount to a reason for refusal.

In summary it is considered that taking into account the fall-back position of the two extant permissions for this plot, the proposed development would not be unduly harmful to residential amenity.

The site plan shows a screen fence of 1.8m in height be erected to the side boundaries. The erection and subsequent retention of fencing should be required by condition in order to protect privacy and development potential of land. As a further precautionary measure no window or door openings should be added to the northern elevation. In view of the height of the dwelling relative to nos. 43-45 even if additional windows were obscurely glazed they could be intrusive and the height of the fence might not screen ground floor windows.

Impact on ecology:

The site in its present form is considered to have very little biodiversity value as it has no trees or shrubs. It is maintained lawn/grass. The site is not within the bat alert layer. It is considered that the development would have no adverse impact on ecology, trees, or habitats for bats or other protected species.

Highway safety:

Appendix 2 of the UDP recommends that maximum parking provision for a dwelling house should be 2 spaces if gross floor area is under 140 sq m, and 3 spaces if it is over 140 sq m. The dwelling as proposed is above the threshold level at which consideration should be given to providing a third parking space. The layout as proposed shows a driveway of 5.0m width which is sufficient to park 2 vehicles side by side, as well as an internal garage of standard dimensions. This would provide a total of 3 spaces, which is one more than on the originally approved scheme.

Subject to the provision of a driveway of sufficient width for two vehicles being conditioned and the retention of the integral garage, it is considered that the proposed development would accord with the aims of Policies T10 and T19 of the UDP.

Other issues:

The original permission for 34 dwellings was subject to a condition that the site must be drained by separate surface and foul water drainage systems and that no piped discharge of surface water shall take place until the required surface water drainage works have been completed in accordance

with details to be submitted and approved in writing. In accordance with current practice, it is not considered necessary to require drainage details to be submitted and approved as this proposal is for a single dwelling only and drainage is covered by Building Regulations.

It should be conditioned that a landscaping scheme is submitted and that the scheme is implemented before first occupation and retained for a period of at least five years.

A Section 106 agreement which was entered into in the context of the original 34-dwelling application. This was to provide public recreational open space within the estate. All the relevant works have now been completed, so a further or supplemental Section 106 agreement will not be required in this instance.

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

Representations:

Objections based on concerns about visual and residential amenity have been addressed in the main part of the assessment but are highlighted below together with responses to other issues raised.

1. Overbearing oppressive impact due to effect on outlook;

Response: The scale of the proposed dwelling is only slightly bigger than the one approved under the original application for 34 dwellings. For the reasons set out under “Residential amenity” above, it would, if anything, have less of an impact on the outlook from no. 45 than if the original scheme had been fully implemented.

2. Obstruction to sunlight;

Response: The relationship between the proposed dwelling and no. 45 would be similar in most respects to the 99/93218 layout. There would be some potential for sunlight obstruction as Plot 19 is to the south of no. 45 but for the reasons set out in detail under “Residential amenity” above it is considered that this would not be any greater than that which would have occurred had the approved 99/93218 scheme being implemented in full.

3. These matters would be compounded by the fact that the proposals fail to comply with the 12m normally recommended standard for habitable rooms facing blank walls as set out in UDP Policy BE12.

Response: This issue has been examined in depth in “Residential amenity” above. It is noted that the original scheme, 99/93218, which is a live permission and could still be implemented, did not fully comply with the recommended minimum distances including those between Plot 19 and the neighbouring plots to the north, and that the current proposal is not significantly different.

Councillor Charles Greaves:

My comments are that the existing PP relates to an estate development and that the relaxations on distances given in this PP relate to the estate development. This application is for a single dwelling and it should be assessed as new. I believe it should be a Committee decision as to whether to grant a relaxation in Policy BE12, and that it is essential that the design and build materials of this new property exactly matches the neighbouring estate properties that have been built.”

Response: This proposal has been assessed taking into account the fall-back position of implementing the dwelling approved under application 99/93218 and this should be granted considerable weight. A suitable condition can be imposed to ensure that materials match neighbouring dwellings on Honey Head Lane.

Councillor Edgar Holroyd-Doveton:

In reference to the above planning application. If you are minded to recommend acceptance can I ask that the above go to the planning committee and that there is a site visit. The basis for doing so is the planning reason of requiring suitable clearance. Specifically Policy BE 12 where there should be a pathway of 1metre on both sides of a house.

Response:

Policy BE12 recommends that a gap of 1.5m should be left between the wall of a new dwelling and the boundary of any adjacent undeveloped land. The main purpose of this is to ensure that the development potential of neighbouring land is not adversely affected. The original scheme only showed 1.0m each side. The 2015 approval showed a gap of 1.0m and 700mm respectively. It is considered that given the two alternative fall-back positions, failure to comply with the recommended 1.5m distance would not amount to a reason for refusal.

Conclusion:

It is considered that subject to conditions on materials, the provision of parking, and landscaping the proposal would amount to sustainable development. It is therefore recommended that conditional permission is granted.

9. RECOMMENDATION

CONDITIONAL FULL PERMISSION

Conditions

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

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
3. Finished ground floor level shall be no higher than those shown on the approved sectional drawing (149.25m above Ordnance Datum Level).
4. 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.
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 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.
6. 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.
7. 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.
8. All areas to be used for the parking and turning of motor vehicles shown on the proposed site plan 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 13th 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.

9. Notwithstanding the details on the approved site plan, details of fencing and other boundary treatments for the proposed dwelling shall be submitted to and approved in writing 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.

10. Before the dwelling is first occupied, a scheme detailing landscaping of the site shall be submitted to and approved in writing by the Local Planning Authority. The works comprising the approved scheme shall be implemented before first occupation of the dwelling. The approved landscaping scheme shall, from its completion, be maintained for a period of five years. If, within this period, any tree, shrub or hedge shall die, become diseased or be removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives its written consent to any variation.

11. The external parking area shall have a minimum width of 4.8m.

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.

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

Plan Type	Reference	Version	Date Received
Location plan			15-Apr-2016
Proposed site plan	1643 - 02		07-Jun-2016
Proposed floor plans and elevations	1623 - 02		08-Jun-2016
Proposed street scene section and floor levels 2016	1623 - 04		07-Jun-2016
Proposed street scene section and floor levels 2015	1623 - 04		15-Jun-2016
Proposed street scene section and floor levels 1999	1623 - 04		15-Jun-2016

Application No: 2016/91144

Type of application: 62HH - FULL APPLICATION

Proposal: *Erection of single storey rear extension and raised patio*

Location: 150, Wessenden Head Road, Meltham, Holmfirth, HD9 4HR

Grid Ref: 409645.0 410268.0

Ward: *Holme Valley North Ward*

Applicant: *Mr & Mrs Lyons*

Agent: *Andrew Smith, Valley Properties*

Target Date: *07-Jul-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

The application seeks permission for the erection of an extension to an existing dwelling. The principle of development is considered acceptable. The development would not materially harm visual or residential amenity.

Officers recommend approval of the scheme.

RECOMMENDATION: CONDITIONAL FULL PERMISSION

2. INFORMATION

The application is brought to Sub-Committee as it has been submitted by a Councillor Terry Lyons in a personal capacity. This is in accordance with the Council's Scheme of Delegation.

3. SITE / PROPOSAL DESCRIPTION

Site Description

The application site consists of a two storey mid terrace dwelling, faced in stone to the front elevation and red brickwork to the rear. The roof covering is blue slate. The dwelling has not been previously extended, but as part of the original structure has a single storey element projection from the rear elevation. This is around half the width of the dwelling. In addition to a small front yard, the dwelling benefits from a long but narrow rear garden.

The area is residential in nature. The properties on the terrace row share a common design and appearance. Some retain original attached coal sheds to their rear elevations. Several have single storey rear extensions of varying designs. Land levels slope downwards from south-west to north-east, leading the terrace to have a stepped arrangement and the gardens on lower ground levels than the dwellings. No.150 is adjoined to no.152 to the south-west and no.148 to the north-east.

Description of Proposal

Permission is sought for the erection of a single storey rear extension and raised patio. It is to replace the existing projecting structure, which has been partly demolished.

The extension is to project 3.3m and be 4.7m wide. It is to have a lean-to roof. The eaves are to be 3.35m and the ridge 4.7m. Openings would comprise three full height glazed panels and two rooflights. The extension is to be faced in brickwork, with grey interlocking concrete tiles on the roof.

The patio is to project a further 1.3m from the extension, and be 3.2m wide, centrally placed. It is to have a floor level 1.1m high, and a balustrade height of 2.25m. It is to be timber construction.

4. BACKGROUND AND HISTORY

No.150 has no recorded planning history. It would appear at some point no.150's original coal shed was converted into a kitchen.

No.142

99/90560: Erection of single storey extension – Conditional Full Permission (Implemented)

No.144

2008/90213: Erection of single storey extension (modified proposal) – Conditional Full Permission (Implemented)

5. PLANNING POLICY

Kirklees Unitary Development Plan

- **D2** – Sites without notation
- **BE1** – Design principles
- **BE2** – Quality of design
- **BE13** – Extensions to dwellings (design principles)
- **BE14** – Extensions to dwellings (scale)

National Policies and Guidance

- **Paragraph 17** – Core Planning Principles
- **Chapter 7** – Requiring good design

6. CONSULTATIONS

No consultations were required.

7. REPRESENTATIONS

The application has been advertised by site notice and neighbour notification letter. The final publicity date expired 20.05.2016.

One letter of representation was received, in objection to the proposal. The following concerns were raised:

- Raised concerns of potential damage to neighbouring property through the delivery of materials via Popley Butts (the access track to the site's rear)
- States the track is unsuitable for heavy loads, which will cause damage to the track. Cites examples of previous development causing damage to the track and his wall, at his expense.

- *'We would expect that if the development goes ahead, then materials will be decanted on Wessenden Head Road and then conveyed along the track in small quantities. There is no good reason why potential damage to our property should occur if this is made a condition of approval'*

Meltham Town Council: The Council supports the application.

8. ASSESSMENT

The following matters are considered in the assessment below –

- 1) Principle of development
- 2) Impact on visual amenity
- 3) Impact on residential amenity
- 4) Impact on highway safety
- 5) Other matters
- 6) Representations
- 7) Conclusion

Principle of development:

The site is without notation on the UDP Proposals Map where Policy D2 (development of land without notation) applies. Policy D2 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 extending and making alterations to a property are assessed against Policies BE1, BE2, BE13 and BE14 of the Unitary Development Plan and advice within Chapter 7 of the National Planning Policy Framework regarding design. These require, in general, balanced considerations of visual and residential amenity, highway safety and other relevant material considerations. Provided the extension complies with these policies the principle of development will be acceptable.

Impact on visual amenity:

A single storey rear extension is sought to a mid-terrace dwelling. The scale and layout of the extension is considered acceptable, being in keeping with neighbouring rear extensions.

The extension is to be faced in brick matching that of the host building, which is acceptable. The roof is to be concrete tiles, as opposed to slate on the main building. Given that the roof will not be seen directly alongside the main roof's slate tiles, and is relatively small scale, it is not considered the use of concrete tiles would impact upon the building or area's visual amenity.

The extension's openings, the bi-folding glazed door and Rooflights, are considered a suitable design. The timber patio is considered to have an acceptable visual impact.

It is considered that the proposal will have an acceptable visual impact on the host building, and within the context of the wider area. The proposed development is deemed to comply with Policies BE1, BE2, BE13 and BE14 of the UDP and Chapter 7 of the NPPF.

Impact on residential amenity:

The rear extension will project along the shared boundary with no.152 to the south-west and no.148 to the north-east. As the extension is to be located on a north facing elevation there would be no undue overshadowing of adjoining properties.

Both no.148 and no.152 have projecting structures close to the boundary with no.150. No.148's appears to be a coal shed. The coal shed will prevent a view out of no.148's only ground floor window towards the proposed extension, preventing overbearing upon the window.

No.152 has a bay window immediately adjacent to no.150's existing flat roofed rear extension. At present this window has a glazed side elevation facing the blank side wall of no.150's existing rear extension. Thus the bay window has no outlook from this side elevation. Despite the proposed extension being higher than the existing extension, the proposal will not change the existing arrangement of the bay window facing a blank side elevation. As there will be no material change, there is considered no material harm caused.

None of the extension's openings will provide harmful overlooking towards neighbouring land.

In regards to the raised patio, as it is set in by 0.75m from the extension's side elevations, it will not be readily visible from the dwellings of the attached neighbours. Because of this it will cause no overbearing. For the same reason the patio will not permit overlooking towards the rear elevations of the neighbouring dwellings. It will permit views overlooking neighbouring gardens; however these will not be materially different to the existing outlook from no.150's rear windows and garden. As the patio will not introduce a new outlook, there is considered no detrimental impact to the amenity of neighbouring residents.

The proposal is deemed to have an acceptable impact on residential amenity, and complies with policies D2 and BE14.

Impact on highway safety:

The proposal is considered to have no impact upon Highway Safety.

Other matters:

There are no other matters relevant for consideration.

Representations:

- Raised concerns of potential damage to his property, which neighbours the site, through the delivery of materials via Popley Butts (the access track to the site's rear)
- States the track is unsuitable for heavy loads, which will cause damage to the track. Cites examples of previous development causing damage to the track and his wall, at his expense.
- *'We would expect that if the development goes ahead, then materials will be decanted on Wessenden Head Road and then conveyed along the track in small quantities. There is no good reason why potential damage to our property should occur if this is made a condition of approval'*

Response: Given the scale and nature of the development these concerns are not considered material planning considerations. Any damage caused during the development would be a private legal matter between the developer, applicant and third party. Given this, the requested condition cannot be imposed as it would fail the NPPF's six tests for conditions.

Meltham Town Council: The Council supports the application.

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 Local and National Planning Policies 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 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 of the extension hereby approved shall in all respects match those used in the construction of the existing building.

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

Plan Type	Reference	Version	Date Received
Location Plan	LP01		12.04.2016
Grouped Plans and Elevations	2016/014/01		12.04.2016

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KIRKLEES METROPOLITAN COUNCIL

PLANNING SERVICE

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

30 JUNE 2016

APPLICATION NO: 2016/90066

PAGE 60

ERECTION OF 8 DWELLINGS WITH PARKING

LAND TO REAR OF LINDLEY WMC, BLACKTHORN DRIVE, LINDLEY,
HUDDERSFIELD, HD3 3RR

Conditions

Minor rewording of conditions 8 and 10

8. Before the development commences a scheme detailing the location and cross sectional information together with the proposed design and construction for all modifications to the existing retaining wall on Blackthorn Drive to form the new access road shall be submitted to and approved by the *Local Planning Authority* in writing. The approved scheme shall be implemented prior to the commencement of the proposed development and thereafter retained during the life of the development.

10. Construction of the superstructure of the hereby approved dwellings shall not commence *until* a report specifying the measures to be taken to protect the development from noise from Lindley Working Men's Club (LWMC) *has been* submitted to and approved in writing by the Local Planning Authority. The report shall

- (i) Determine the existing noise climate
- (ii) Predict the noise climate in gardens (daytime), bedrooms (night-time) and other habitable rooms of the development (this is for housing think whether there would be alternative wording for other uses)
- (iii) Detail the proposed attenuation/design necessary to protect the amenity of the occupants of the new residences (including ventilation if required).

The development shall not be occupied until all works specified in the approved report have been carried out in full and such works shall be thereafter retained.

Plans

Correction to one of the plan reference numbers within the plans list to reflect the accurate drawing no. 15-D79-04 Rev F, proposed site layout plan.

ERECTION OF 28 DWELLINGS AND ENGINEERING OPERATIONS**LAND OFF, MILLMOOR ROAD, MELTHAM, HOLMFIRTH**

Ward Councillor Charles Greaves has requested that the application be deferred until the next sub-committee meeting in order to allow sufficient time for all objections to be submitted and fully considered, and for the committee to undertake a site visit which may assist the committee in gaining a fuller understanding of residents' concerns.

In response, the amended plans and information – which include changes to the proposed drainage scheme and alterations to the design and layout – were publicised in advance of the preparation of the committee report and all representations received have been taken into account when assessing the application and making the officer recommendation.

Officers are aware that there are particular concerns with the suitability of the revised drainage scheme and its impact on Meltham Dyke which forms a Green Corridor on the UDP Proposals Map.

Kirklees Flood Management and Drainage have agreed in principle the proposed surface water drainage strategy but full details are to be secured by condition, as referred to in the main report. Officers are satisfied that the site can be adequately drained and flood risk adequately mitigated.

Part of the drainage concerns relate to the engineering operations necessary to install the oversized pipe and its outfall within the steeply sloping area of Urban Greenspace. It is recognised that there will be a degree of backfilling required following excavations to install the drainage infrastructure. This area would then be landscaped to form a wildflower meadow and details of the finished levels of this part of the site can be secured by condition. Details of the outfall are also to be required by condition.

Concerns have also been raised about the proposed formation of a swale. It is important to note that the swale is not part of the surface water attenuation system and is instead an attempt to further mitigate flood risk as part of the flood routing within the development site in a worst case scenario. The swale would allow for surface water to be stored and released slowly in the event of a major storm event where road gullies could become overloaded for example. Details of the swale would be provided by condition but it is not anticipated that it would result in a feature that significantly affected the visual amenity of the area.

The proposed use of permeable paving and rainwater harvesting has been questioned in the context of its impact on surface water attenuation. Kirklees Flood Management and Drainage discount such measures when calculating the attenuation needed for a development (in this case the size of the pipe). This is because such permeable paving and rainwater harvesting cannot be relied upon throughout the lifetime of a development.

Updated plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Design & Access Statement	-	-	22/12/15
Location Plan & Existing Site Plan/Topographical Survey	-	-	22/12/15
Site Layout	1601 / 26	-	1/4/16
Site Layout	1601 / 01	-	22/6/16
Site Sections	1601 / 16	-	1/4/16
Street Scene Elevation Sketch	-	-	4/4/16
Plots 1- 3 Floor Plans & Elevations	1601 / 02	Rev B	1/4/16
Plots 4-6 Floor Plans & Elevations	1601 / 03	Rev B	1/4/16
Plots 7-10 Floor Plans & Elevations	1601 / 04	-	1/4/16
Plots 11- 14 Floor Plans & Elevations	1601 / 05	-	1/4/16
Plots 15- 17 Floor Plans & Elevations	1601 / 06	Rev A	1/3/16
Plots 18-21 Floor Plans & Elevations	1601 / 07	Rev A	1/3/16
Plot 22 Floor Plans & Elevations	1601 / 08	Rev A	1/3/16
Plot 23 Floor Plans & Elevations	1601 / 09	-	22/12/15
Plot 24 Floor Plans & Elevations	1601 / 10	-	22/12/15
Plot 25 Floor Plans & Elevations	1601 / 11	-	22/12/15
Plot 26 Floor Plans & Elevations	1601 / 12	-	22/12/15
Plot 27 Floor Plans & Elevations	1601 / 13	-	22/12/15
Plot 28 Floor Plans & Elevations	1601 / 14	Rev A	1/3/16
Landscaping Plan	1607-1	Rev E	22/6/16
Drainage Layout (sheet 1 of 2)	-	-	1/4/16
Drainage Layout (sheet 2 of 2)	-	-	1/4/16
Flood Route Plan	-	-	1/4/16
Area Plan & Microdrainage References	-	-	1/4/16
Preliminary Drainage Calculations	-	-	1/4/16
Transport Statement	-	-	22/12/15
Transport Assessment	-	-	22/12/15
Supporting Statement	-	-	22/12/15

**ERECTION OF DETACHED DWELLING WITH INTEGRAL GARAGE
(MODIFIED PROPOSALS)****PLOT 19, HONEY HEAD LANE, HONLEY, HOLMFIRTH, HD9 6RW**

Comparison table between planning applications for a detached dwelling on Plot 19

Application No.	1999/93218	2015/93282	2016/91193
height of dwelling to ridge	8.0m	8.1m	8.35m
Distance from boundary with nos. 43/45	1.0m	1.0m	1.0m
Finished floor level above Ordnance Datum	149.50	148.30	149.25
Finished floor level compared with no 43	+1.5m	+0.3m	+1.25m
Finished floor level compared with no 45	+1.95m	+0.3m	+1.25m
Distance between main north side elevation of new dwelling and rear elevation of no. 43	10.2m	9.95m	9.95m
Distance between main north side elevation of new dwelling and rear elevation of no. 45	10.2m	10.6m	10.6m
Distance from boundary with Plot 20	1.0m	0.7m	0.8m

ERECTION OF SINGLE STOREY REAR EXTENSION AND RAISED PATIO**150, WESSENDEN HEAD ROAD, MELTHAM, HOLMFIRTH, HD9 4HR**

Additional information has been submitted from the applicant in response to the single representation received:

'With regard to concerns expressed regarding the track being unsuitable for heavy loads. I can assure you that there will be no materials whatsoever being delivered along the track at the rear of 150. All deliveries will be delivered at the front of the house to serve the rear. It would be more than hard work to allow deliveries at the rear and have to negotiate up the path and climb the steps to the build, when going through the house is so simple and easier.'