

# Public Document Pack



**Service Director – Legal, Governance and  
Commissioning**

**Julie Muscroft**

Governance and Democratic Services

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HD1 2TG

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Wednesday 23 August 2017

## Notice of Meeting

Dear Member

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

The **Planning Sub-Committee (Huddersfield Area)** will meet in the **Council Chamber - Town Hall, Huddersfield** at **1.00 pm** on **Thursday 31 August 2017**.

(A coach will depart the Town Hall, at 10.00am 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 and will be available to view via the Council's website.

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**

**Service Director – Legal, Governance and Commissioning**

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 James Homewood  
Councillor Bernard McGuin  
Councillor Mohammad Sarwar  
Councillor Ken Sims  
Councillor Mohan Sokhal  
Councillor Sheikh Ullah  
Councillor Rob Walker  
Councillor Linda Wilkinson  
Councillor Andrew Marchington

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

### **Substitutes Panel**

#### **Conservative**

B Armer  
N Patrick  
G Wilson  
J Taylor  
D Firth

#### **Green**

K Allison  
A Cooper

#### **Independent**

C Greaves

#### **Labour**

E Firth  
S Hall  
C Scott  
S Pandor

#### **Liberal Democrat**

J Lawson  
A Pinnock

# Agenda

## Reports or Explanatory Notes Attached

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### Pages

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

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

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

1 - 8

To approve the Minutes of the meeting of the Committee held on 20 July 2017.

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

9 - 10

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

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

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

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#### 5:     **Deputations/Petitions**

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

In accordance with Council Procedure Rule 10 (2), Members of the Public should provide at least 24 hours' notice of presenting a deputation.

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## **6: Public Question Time**

The Committee will hear any questions from the general public.

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## **7: Site Visit - Application No: 2017/91081**

Erection of 4no. B1/B8 (Business/Storage & Distribution) units with associated plant store and hardstandings Tandem Way, Fenay Bridge, Huddersfield.

Estimated time of arrival at site: 10.15am.

Contact Officer: Glenn Wakefield, Planning Services

### **Wards**

**Affected:** Almondbury

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## **8: Site Visit - Application No: 2017/91361**

Erection of 39 dwellings and associated landscaping Land at, Cross Lane, Scholes, Holmfirth.

Estimated time of arrival at site: 10.50am.

Contact Officer: Matthew Woodward, Planning Services

### **Wards**

**Affected:** Holme Valley South

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## **9: Site Visit - Application No: 2017/90516**

Reserved matters pursuant to outline permission 2015/91726 for erection of 10 dwellings Land adjacent to 38, Broad Lane, Upperthong, Holmfirth.

Estimated time of arrival at Site: 11.15am.

Contact Officer: Neil Bearcroft, Planning Services

### **Wards**

**Affected:** Holme Valley South

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## **10: Site Visit - Application No: 2017/91555**

Formation of driveway through ground floor of 35/37, alterations to form flat above and change of use of land to form parking and turning area 35, Upper Mount Street, Lockwood, Huddersfield.

Estimated time of arrival at site: 11.40am.

Contact Officer: Nick Hirst, Planning Services

### **Wards**

**Affected:** Crosland Moor and Netherton

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

11 - 24

The Sub Committee will receive a report detailing the outcome of appeals against decisions of the Local Planning Authority, as submitted to the Secretary of State.

Contact: Teresa Harlow, Planning Services

### **Wards**

**Affected:** Newsome

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## **12: Application for Extinguishment of Claimed Footpaths at Clayton Fields, Edgerton Road, and Provision of Alternative Routes**

25 - 74

The Planning Sub-Committee will consider an application for an order to extinguish claimed public footpath rights over land at Clayton Fields and to provide alternative pedestrian routes.

Contact Officer: Giles Cheetham, Public Rights of Way.

### **Wards**

**Affected:** Greenhead

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## **Planning Applications**

75 - 78

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

Please note that any members of the public who wish to speak at the meeting must register no later than 5.00pm (for phone requests) or 11:59pm (for email requests) on Tuesday 29 August 2017.

To pre-register, please contact [richard.dunne@kirklees.gov.uk](mailto:richard.dunne@kirklees.gov.uk) or phone Richard Dunne on 01484 221000 (Extension 74995)

An update, providing further information on applications on matters raised after the publication of the Agenda, will be added to the web Agenda.

**13: Planning Application - Application No: 2017/91361** 79 - 110

Erection of 39 dwellings and associated landscaping Land at, Cross Lane, Scholes, Holmfirth.

Contact Officer: Matthew Woodward, Planning Services.

**Wards**

**Affected:** Holme Valley South

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**14: Planning Application - Application No: 2017/90602** 111 - 124

Demolition of existing public house and erection of 26no. dwellings Land Adjacent to Spotted Cow Public House, New Hey Road, Salendine Nook, Huddersfield.

Contact Officer: Bill Topping, Planning Services.

**Wards**

**Affected:** Lindley

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**15: Planning Application - Application No: 2017/91173** 125 - 136

Reserved matters application for erection of 16 dwellings pursuant to outline permission 2015/90507 for outline application for residential development (within a Conservation Area) Land off, Carr Top Lane, Golcar, Huddersfield.

Contact Officer: Bill Topping, Planning Services.

**Wards**

**Affected:** Golcar

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**16: Planning Application - Application No: 2017/90516** 137 - 148

Reserved matters pursuant to outline permission 2015/91726 for erection of 10 dwellings Land adjacent to 38, Broad Lane, Upperthong, Holmfirth.

Contact Officer: Neil Bearcroft, Planning Services.

**Wards**

**Affected:** Holme Valley South

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**17: Planning Application - Application No: 2017/91081** 149 - 164

Erection of 4no. B1/B8 (Business/Storage & Distribution) units with associated plant store and hardstandings Tandem Way, Fenay Bridge, Huddersfield.

Contact Officer: Glenn Wakefield, Planning Services.

**Wards**

**Affected:** Almondbury

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**18: Planning Application - Application No: 2017/91555** 165 - 172

Formation of driveway through ground floor of 35/37, alterations to form flat above and change of use of land to form parking and turning area 35, Upper Mount Street, Lockwood, Huddersfield.

Contact Officer: Nick Hirst, Planning Services

**Wards**

**Affected:** Crosland Moor and Netherton

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**Planning Update** 173 - 178

The update report on applications under consideration will be added to the web agenda prior to the meeting.

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Contact Officer: Richard Dunne

## KIRKLEES COUNCIL

### PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)

**Thursday 20th July 2017**

Present: Councillor Terry Lyons (Chair)  
Councillor Bernard McGuin  
Councillor Mohammad Sarwar  
Councillor Ken Sims  
Councillor Mohan Sokhal  
Councillor Sheikh Ullah  
Councillor Rob Walker  
Councillor Linda Wilkinson  
Councillor Andrew Marchington  
Cllr S Hall

Apologies: Councillor Donna Bellamy

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

Councillor Steve Hall substituted for Councillor James Homewood.

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

The minutes of the meeting held on 22 June 2017 be approved as a correct record.

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

Councillor Wilkinson declared she had been lobbied on application 2013/93746.

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

All items were taken in public session.

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

No deputations or petitions were received.

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

No questions were asked.

**7 Site Visit - Application No: 2015/92291**

Site visit undertaken.

**8 Site Visit - Application No: 2013/93746**

Site visit undertaken.

**9 Site Visit - Application No: 2014/90001**

Site visit undertaken.

**10 Site Visit - Application No: 2017/91308**

Site visit undertaken.

**11 Site Visit - Application No: 2016/93249**

Site visit undertaken.

**12 Site Visit - Application No: 2017/91173**

Site visit undertaken.

**13 Site Visit - Application No: 2017/90602**

Site visit undertaken.

**14 Local Planning Authority Appeals**

That the report be noted.

**15 Planning Application - Application No: 2016/92203**

The Sub-Committee gave consideration to Planning Application 2016/92203 Demolition of existing dwelling and erection of 2 detached dwellings with integral garages 65, Colders Lane, Meltham, Holmfirth.

**RESOLVED –**

Delegate approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions contained within the considered report and the update list including

1. The standard 3 year deadline for commencement of development.
2. Development to be in accordance with the approved plans.
3. Samples of facing and roofing materials to be inspected and approved.
4. All side facing windows in the new dwellings to be obscurely glazed and non-opening except for the kitchen windows which can be screened.

5. No additional windows to be formed in the side elevations of the dwelling on Plot 1.
6. Details of boundary treatment for side boundaries to be submitted and provided before first occupation.
7. The removal of permitted development rights for extensions or outbuildings on Plot 1.
8. All the parking and turning arrangements, for the new dwellings, shown on the site plan, to be formed before either new dwelling first occupied and thereafter retained without obstruction.
9. Parking spaces to have permeable surfacing.
10. Shared bin collection point to be provided.
12. Garages not to be converted to living accommodation.
13. Provision of electric vehicle charging points.
14. A scheme for the parking and unloading of construction vehicles and protection of public path users during development works to be submitted to and approved in writing before development commences.
15. Colders Lane pre-construction condition survey and method statement.
16. Colders Lane post-construction condition survey, including list of repairs.

A Recorded Vote was taken in accordance with Council Procedure Rule 42 (5) as follows:

For: Councillors S Hall, Marchington, McGuin, Sarwar, Sims, Sokhal, Ullah, Walker and Wilkinson (9 Votes).

Against: (0 vote)

Abstained: Councillor Lyons

## **16 Planning Application - Application No:2017/90642**

The Sub-Committee gave consideration to Planning Application 2017/90642  
Erection of rear and side extensions 46, Meltham Road, Honley, Holmfirth.

Under the provisions of Council Procedure Rule 37, the Committee received a representation from David McGowan (applicant).

### **RESOLVED –**

Delegate approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions contained within the considered report including:

1. A 3 year time limit to commence development.
2. Development to be carried out in accordance with the approved plans.
3. Materials to match existing dwelling.
4. Removal of Permitted Development rights for outbuildings.
5. Side facing WC window to be obscurely glazed

A Recorded Vote was taken in accordance with Council Procedure Rule 42 (5) as follows:

For: Councillors S Hall, Lyons, Marchington, McGuin, Sarwar, Sims, Sokhal, Ullah, Walker and Wilkinson (10 Votes).

Against: (0 vote)

**17 Planning Application - Application No: 2013/93746**

The Sub-Committee gave consideration to Planning Application 2013/93746 Partial Demolition of existing Listed Building and erection of 1no. A1 retail store and 2no units (A1/A2/A3 use class) at ground floor and offices (B1 use class) at first floor level with associated parking, servicing and landscaping (Within a Conservation Area) 43, Northgate, Almondbury, Huddersfield.

Under the provisions of Council Procedure Rule 37, the Committee received representations from Dimitris Papadimitriou and Jean Doherty (Objectors) and Richard Wood (Agent). Under the provisions of Council Procedure Rule 36 (1) the Committee received a representation from Cllr Bernard McGuin (Local Ward Member).

**RESOLVED –**

- 1) Delegate approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to negotiate further amendments to the submitted scheme to ensure that the parking spaces along the proposed access are altered/removed in order that vehicles can be safely accommodated within the site and complete the list of conditions contained within the considered report and the update list including:
  1. A 3 year time limit to commence development.
  2. Development to be accordance with the submitted plans.
  3. The method of demolition.
  4. A schedule of works for the repair of the building.
  5. Materials to be agreed, including surface of new courtyard.
  6. Roof plan to be provided.
  7. Details of the boundary treatments.
  8. Details of use for Unit B and C to be provided prior to occupation and retained thereafter.
  9. Parking to be laid out prior to use commencing.
  10. Limit to hours of use of units.
  11. Limit hours of use of courtyard area to between hours of 0800 and 1800 (outdoor seating area).
  12. Details of odour abatement equipment.
  13. Submission and implementation of remediation strategy (contaminated land).
  14. Foul, surface water and land drainage details to be provided.
  15. Landscaping details.
  16. Gate/fencing details concerning Unit C and No55 Northgate.
  17. Bat boxes to be installed.
  18. Details of crossing point on Northgate to be provided.
  19. Construction Management Plan.
  20. Details of air conditioning and refrigeration units.

## **Planning Sub-Committee (Huddersfield Area) - 20 July 2017**

21. Restriction on deliveries to between 0730-1800 Monday to Friday and 0800-1300 Saturdays.
22. Provision of electric vehicle charging points.
23. Details of finished floor levels to be provided.
24. Details of bin collection area to be provided.

2) An additional condition that a timescale for the repairs to the listed buildings is provided to ensure that these take place at an appropriate stage of the construction process.

A Recorded Vote was taken in accordance with Council Procedure Rule 42 (5) as follows:

For: Councillors S Hall, Lyons, Marchington, Sarwar, Sims, Sokhal, Ullah, Walker and Wilkinson (9 Votes).

Against: (0 vote)

### **18 Planning Application - Application No: 2014/90001**

The Sub-Committee gave consideration to Planning Application 2014/90001 Listed Building Consent for partial demolition of a building (within a Conservation Area) 43, Northgate, Almondbury, Huddersfield.

Under the provisions of Council Procedure Rule 36 (1) the Committee received a representation from Cllr Bernard McGuin (Local Ward Member).

#### **RESOLVED –**

Delegate approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions contained within the considered report including:

1. A 3 year time limit to commence development.
2. Development to be in accordance with the submitted plans.
3. Method of demolition.
4. Schedule of works for the repair of the building.
5. Materials to be agreed.
6. Roof plan to be provided

A Recorded Vote was taken in accordance with Council Procedure Rule 42 (5) as follows:

For: Councillors S Hall, Lyons, Marchington, Sarwar, Sims, Sokhal, Ullah, Walker and Wilkinson (9 Votes).

Against: (0 vote)

**19 Planning Application - Application No: 2017/91173**

The Sub-Committee gave consideration to Planning Application 2017/91173 Reserved matters application for erection of 19 dwellings pursuant to outline permission 2015/90507 for outline application for residential development (within a Conservation Area) Land off, Carr Top Lane, Golcar, Huddersfield.

Under the provisions of Council Procedure Rule 37, the Committee received a representation Mark Noblet (objector) and Carl Stott (Agent). Under the provisions of Council Procedure Rule 36 (1) the Committee received a representation from Cllr Hilary Richards (Local Ward Member).

**RESOLVED –**

Consideration of the application be deferred to allow officers to discuss with the applicants amendments to the scale and layout of the development

A Recorded Vote was taken in accordance with Council Procedure Rule 42 (5) as follows:

For: Councillors S Hall, Lyons, McGuin, Sarwar, Sims, Sokhal, Ullah and Walker (8 Votes).

Against: (0 vote)

Abstained: Councillors Marchington and Wilkinson

**20 Planning Application - Application No: 2017/90602**

The Sub-Committee gave consideration to Planning Application 2017/90602 Demolition of existing public house and erection of 26no. dwellings land adjacent to Spotted Cow Public House, New Hey Road, Salendine Nook, Huddersfield.

**RESOLVED –**

Consideration of the application be deferred at the request of the applicant due to a potential amendment to the layout of the scheme.

A Recorded Vote was taken in accordance with Council Procedure Rule 42 (5) as follows:

For: Councillors S Hall, Lyons, McGuin, Sarwar, Sims, Sokhal, Ullah, Walker and Wilkinson (9 Votes).

Against: (0 vote)

Abstained: Councillor Marchington.

**21 Planning Application - Application No: 2016/93249**

The Sub-Committee gave consideration to Planning Application 2016/93249 Erection of garden store, decking, sauna and single storey extension 55, Church Lane, South Crosland, Huddersfield.

Under the provisions of Council Procedure Rule 37, the Committee received a representation from David Storrie (Agent).

**RESOLVED –**

That the application be approved subject to the delegation of authority to the Head of Strategic Investment to include the imposition of all necessary and appropriate conditions.

This was contrary to the Officer's recommendation although a requirement of the approval is that officers negotiate the removal of the outbuilding and the rear extension from the development and include a condition to remove permitted development rights. This is in order to comply with green belt policy.

A Recorded Vote was taken in accordance with Council Procedure Rule 42 (5) as follows:

For: Councillors S Hall, Lyons, Marchington, McGuin, Sarwar, Sims, Sokhal, Ullah, Walker and Wilkinson (10 Votes).

Against: (0 vote)

**22 Planning Application - Application No: 2015/92291**

The Sub-Committee gave consideration to Planning Application 2015/92291 Variation of condition 3 (extractor flue) on previous permission 2012/92279 for change of use from newsagent (A1) to hot food takeaway (A5) and installation of flue 48, Bradley Road, Bradley, Huddersfield.

Under the provisions of Council Procedure Rule 37, the Committee received a representation from David Storrie (Agent).

**RESOLVED –**

Delegate approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions contained within the considered report including:

1. The use hereby permitted shall not begin until the arrangements for air treatment and extraction detailed in the supporting information from M and M Metal Fabrications, including technical data sheet from Northern Fan Supplies submitted - 29th June 2017, and including the flue shown on the approved drawings, have been installed in complete accordance with these details. Such works shall thereafter be retained, operated at all times when the takeaway is in use and maintained in accordance with the manufacturer's instructions.

2. No activities shall be carried out on the premises, including deliveries to or dispatches from the premises or service to customers outside the hours of 10:00 to 23:30 on any day.
3. The external flue shall be retained in a matt black painted finish for the lifetime of the development.

A Recorded Vote was taken in accordance with Council Procedure Rule 42 (5) as follows:

For: Councillors S Hall, Lyons, Marchington, McGuin, Sarwar, Sims, Sokhal, Ullah, Walker and Wilkinson (10 Votes).

Against: (0 vote)

## **23 Planning Application - Application No: 2017/91308**

The Sub-Committee gave consideration to Planning Application 2017/91308 Erection of extensions to dwelling, erection of garden room to rear of existing garage and extension to patio area Ridgewood, Oakes Avenue, Brockholes, Holmfirth.

Under the provisions of Council Procedure Rule 37, the Committee received a representation from Brian Haywood (Objector).

### **RESOLVED –**

- 1) Delegate approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions contained within the considered report including:
  1. A 3 year time limit to commence development.
  2. The development shall be carried out in complete accordance with the approved plans.
  3. The walling and roofing materials (where relevant) to the single storey front, side and rear extensions to the main dwelling house shall be constructed from materials to match.
  4. The new parking space to the front of the dwelling to be constructed/surfaced in accordance with national guidance on the permeable surfacing of front gardens
- 2) The inclusion of the following two additional conditions:
  - a) The removal of all permitted development rights.
  - b) That a scheme demonstrating the disposal of surface water drainage from the garden room be submitted for approval.

A Recorded Vote was taken in accordance with Council Procedure Rule 42 (5) as follows:

For: Councillors S Hall, Lyons, Marchington, McGuin, Sarwar, Sims, Sokhal, Ullah, Walker and Wilkinson (10 Votes).

Against: (0 vote)



## KIRKLEES COUNCIL

### DECLARATION OF INTERESTS AND LOBBYING

Planning Sub-Committee/Strategic Planning Committee

Name of Councillor

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

#### LOBBYING

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

Signed: .....

Dated: .....

## NOTES

### Disclosable Pecuniary Interests

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

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

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

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

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

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

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

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

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

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

(b) either -

the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

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

### Lobbying

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

**Name of meeting: PLANNING SUB-COMMITTEE (HUDDERSFIELD)**

**Date: 31 AUGUST 2017**

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

The purpose of the report is to inform Members of planning appeal decisions received in the Huddersfield area since the last Sub-Committee meeting.

<b>Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?</b>	<b>Not applicable</b>
<b>Key Decision - Is it in the <a href="#">Council's Forward Plan (key decisions and private reports)</a>?</b>	<b>No</b>
<b>The Decision - Is it eligible for "call in" by Scrutiny?</b>	<b>No</b>
<b>Date signed off by Service Director - Economy, Regeneration &amp; Culture</b>	<b>Paul Kemp 21 August 2017</b>
<b>Is it also signed off by the Assistant Director for Financial Management, IT, Risk and Performance?</b>	<b>No financial implications</b>
<b>Is it also signed off by the Assistant Director - Legal Governance and Monitoring?</b>	<b>No legal implications</b>
<b>Cabinet member portfolio</b>	<b>Economy (Strategic Planning, Regeneration &amp; Transport) (Councillor P McBride)</b>

**Electoral wards affected: Newsome;**

**Ward councillors consulted: No**

**Public or private:**

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## **1. Summary**

This report is for information only. It summarises the decisions of the Planning Inspectorate, in respect of appeals submitted against the decision of the Local Planning Authority. Appended to this Item are the Inspector's decision letters. These set out detailed reasoning to justify the decisions taken.

## **2. Information to note: The appeal decision received are as follows:-**

- 2.1** 2016/60/91479/W - Outline application for erection of 22 dwellings at Hart Street, Newsome, Huddersfield, HD4 6LS. (Sub-Committee in accordance with Officer recommendation) (Allowed)

**3. Implications for the Council**

**3.1 There will be no impact on the four main priority areas listed below**

- Early Intervention and Prevention (EIP)
- Economic Resilience (ER)
- Improving outcomes for Children
- Reducing demand of services

**4. Consultees and their opinions**

Not applicable, the report is for information only

**5. Next steps**

Not applicable, the report is for information only

**6. Officer recommendations and reasons**

To note

**7. Cabinet portfolio holder recommendation**

Not applicable

**8. Contact officer**

Mathias Franklin –Development Management Group Leader (01484 221000) [mathias.franklin@kirklees.gov.uk](mailto:mathias.franklin@kirklees.gov.uk)

**9. Background Papers and History of Decisions**

Not applicable

**10. Service Director responsible**

Paul Kemp

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# Appeal Decision

Site visit made on 11 July 2017

**by G J Fort BA PGDip LLM MCD MRTPI**

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

**Decision date: 17 August 2017**

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**Appeal Ref: APP/Z4718/W/17/3173711**

**Development Site, Hart Street, Huddersfield, West Yorkshire HD4 6LS**

- 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 Martin Devey FRICS (Benjamin Bentley & Partners) against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2016/60/91479/E, dated 24 May 2016, was refused by notice dated 20 January 2017.
  - The development proposed is residential development of 22 units.
- 

## Decision

1. The appeal is allowed and outline planning permission is granted for residential development of 22 units at Development Site, Hart Street, Huddersfield, West Yorkshire HD4 6LS in accordance with the terms of the application, Ref 2016/60/91479/E, dated 24 May 2016, subject to the conditions in the schedule to this decision below.

## Procedural Matters

2. The application that led to this appeal was in outline with all matters reserved. I have considered the appeal on this basis and have treated the submitted plans as merely illustrative insofar as they relate to the reserved matters.
3. In the banner heading above, I have used an abbreviated version of the description of the development taken from the planning application form<sup>1</sup>. This is because the outline status of the proposal is clear from elsewhere within the banner heading.
4. The Supreme Court judgement regarding *Suffolk Coastal District Council v Hopkins Homes Ltd and SSCLG, Richborough Estates Partnership LLP and SSCLG v Cheshire East Borough Council* [2017] UKSC 37 (hereafter "Suffolk Coastal") was given on 10 May 2017. As the content of that judgement contained matters material to the current appeal I sought comments on it from the parties. I received comments from the Council and appellant in respect of this judgement. Consequently, I consider that no prejudice would occur to any party as a result of me taking the *Suffolk Coastal* judgement into account in my assessment of the planning merits of the appeal.

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<sup>1</sup> Which reads "Outline application with all matters reserved for residential development of 22 units"

## Main Issues

5. The main issues in this appeal are firstly, the effects of the proposed development on the character and appearance of the area; secondly, its effects on the biodiversity of the site; and thirdly, the effect of other considerations including housing land supply, on the overall planning balance.

## Reasons

### *Character and appearance*

6. The appeal site comprises a broadly rectangular, more or less level space; at its front towards Newsome Road is an area of open space, which a previous appeal decision<sup>2</sup> regarding the site identified as having a former use as allotments. At the back and covering the bulk of the appeal site are two large rectangular reservoirs, of an engineered character, which were apparently used in association with the Newsome Mill building to their rear. Within its south west boundary, a line of tall mature trees, subject to a Tree Preservation Order<sup>3</sup> are of a scale and presence that contribute a pleasant verdant character to the area.
7. Bounded tightly by industrial and residential development to the north-west, the appeal site is flanked by Naomi Road, Newsome Road and Hart Street on its other sides, which are lined in the main by dwellings of varying characters, including terraces and semi-detached properties of differing styles and scales. The appeal scheme would see the development of 22 dwellings on the site with an indicative access point from Hart Street.
8. The Inspector in their previous appeal decision relating to the site considered that the element of open land it contains provided valuable visual relief in an otherwise fairly densely developed urban area. At my visit I saw that, notwithstanding its current overgrown state, this is still the case, the semi-natural character of the site being a pleasant contrast to its relatively tightly developed immediate environs.
9. I have taken into account the material submitted by the appellant relating to the status of the site for the purposes of the development plan, noting that it is unallocated and thus not Green Belt or Urban Green Space. Moreover, the findings of the Council's *Open Space Study 2015: Open Space Assessment Report 2015 (Revised 2016)* (the Study) have been drawn to my attention. The Study concluded, in relation to the appeal site, that: "The current provision of natural and semi-natural greenspace in the ward is above the minimum benchmark standard. Consider change of use." I am mindful also of the material submitted by the appellant that shows the proximity of the Green Belt to the site, and locations of accessible open spaces in the environs of Newsome. However, these matters, taken together, merely demonstrate the quantity of green space in the wider area, and that the current use of the appeal site does not meet a functional need for recreational facilities or open space within Newsome.
10. As a result, I consider these matters do not establish that the appeal site's intrinsic character or contribution to the wider character and appearance of the area is diminished. Moreover, it does not follow from the Study's

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<sup>2</sup> APP/Z4718/A/09/2100513/NWF

<sup>3</sup> Newsome Road/Naomi Road Newsome Tree Preservation Order No 18 1995

recommendation of consideration of a change of use that this necessarily entails residential or any other built development of the site. Similarly, the fact that the appeal site is in private rather than public ownership does not diminish its contribution to the area's character and appearance.

11. I note also the Strategic Housing Land Availability Assessment extracts in relation to the site supplied by the appellant, which identify the land as suitable for housing development. However, this document merely takes into account the environmental, policy and local constraints affecting the site, and does not constitute a fully-fledged assessment of a housing proposal in planning terms.
12. Whilst the formerly dismissed appeal at the site concerned a proposal for 28 dwellings and more amenity space could be provided as part of the current appeal scheme, I consider that the quantity of development proposed, including the housing itself, any outbuildings, boundary treatments and access arrangements would reduce the open character of the site. This would diminish the visual relief and verdant character that it imparts to its immediate environs and serve to add considerable density to the streetscene.
13. In this regard the proposed development would cause harm to the character and appearance of the area and would therefore conflict with Policies D1, D2 (vii) and NE6 of the Kirklees Unitary Development Plan (adopted March 1999/ Revised September 2007) (the UDP). Taken together, and amongst other things, these policies seek to ensure that development does not prejudice the character of its surroundings, or lead to the loss of water areas and valuable open land within towns.

### *Biodiversity*

14. Policy D2 (viii) of the UDP establishes that development should not prejudice wildlife interests. The National Planning Policy Framework (the Framework) requires the planning system to contribute to and enhance the natural and local environment by, amongst other matters, minimising impacts on biodiversity and providing net gains in biodiversity where possible<sup>4</sup>.
15. Whilst I note that the Council consider the water bodies to be a habitat of principal importance for the purposes of section 41 of the Natural Environment and Rural Communities Act 2006, I have been provided with no substantive evidence to demonstrate how it meets the relevant criteria in these regards, beyond the size of the ponds. I note references to an emerging development plan policy regarding habitats of principal importance. However, in this regard I am mindful of paragraph 216 of the Framework, and due to the relatively early stage of plan preparation, taken together with a lack of substantive evidence regarding whether there are any unresolved objections in relation to the policy, I attach it only modest weight in the overall planning balance in this instance.
16. Moreover, I have taken account of the previously dismissed appeal in these regards, which found no adverse biodiversity effects, and have also been mindful of the Ecological Appraisal<sup>5</sup> of the site (the Appraisal), which found that the reservoirs are a sub-optimal habitat for white-clawed crayfish<sup>6</sup>. Whilst the

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<sup>4</sup> At paragraph 109

<sup>5</sup> Prepared by Ecus Ltd. Dated October 2016

<sup>6</sup> A protected species under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and the Habitat Regulations 2010

Appraisal concluded that further survey work was needed to establish conclusively that white-clawed crayfish were not present at the site, given the low potential for this, combined with their confirmed absence at the time of the previous appeal, I consider that this is a matter that could be addressed by condition relating to biodiversity mitigation.

17. Furthermore, I note that in general the Appraisal found the habitats present on the appeal site to be of importance to nature conservation at the site level only and that a nocturnal bat survey recorded a low level of foraging and commuting activity by pipistrelle bats. I also consider that mitigation measures for common amphibians that may be present at the site could be controlled by condition. Whilst I note concerns that the Appraisal was not carried out during the optimal period for the presence of nesting birds, I am mindful of its recommendations regarding the timing of any site clearance and construction work. Consequently, I consider that mitigation in these regards could be controlled by a suitably worded condition.
18. Therefore, the evidence before me does not indicate that the proposed development would lead to materially harmful impacts to the biodiversity of the site and in this regard would not conflict with the Framework and Policy D2 (viii) of the UDP insofar as they seek to ensure, amongst other matters, that development does not prejudice wildlife interests and contributes to and enhances the natural and local environment.

#### *Other Considerations*

19. The Council cannot demonstrate a deliverable 5 year supply of housing land. Accordingly, I am mindful of paragraph 49 of the Framework, which 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". In this instance, paragraph 14 of the Framework is engaged, which states that for decision-taking this means permission should be granted unless "the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate that development should be restricted."
20. As the policies referred to in footnote 9 of the Framework, which indicate that development should be restricted, relate to, amongst other things, sites protected under the Birds and Habitats Directive and/or Sites of Special Scientific Interest, and Local Green Space, I consider that none of these apply to the current appeal. For the purposes of the Framework, sustainable development comprises economic, social and environmental dimensions, and I have assessed the benefits advanced on behalf of the proposed development in these terms.
21. Whilst I have not been supplied with a precise figure of the housing land supply shortfall, I have taken into account the contents of the e-mail from the Council to the appellant dated 24 February 2017, which establishes that only a 2.45 year supply can be demonstrated. I have also had regard to a recent appeal decision<sup>7</sup> referred to me by the appellant concerning a site within the district wherein the Council identified the housing supply situation as "acute and

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<sup>7</sup> APP/Z4718/W/16/3147937 dated 15 February 2017



- chronic". Moreover, I have been supplied with no substantive evidence by the Council to suggest that measures are being taken to remedy this shortfall.
22. Consequently, in helping to reduce this shortfall, the provision of additional housing units weighs in favour of the proposed development, and contributes to the Framework objective of boosting the supply of housing. New homes would deliver social and economic benefits, both during construction of the scheme, and from the potential increase of spending in local shops and services arising from its occupants thereafter. I have also been supplied with an estimate of the level of New Homes Bonus that the Council would be eligible to receive should the scheme come forward. Moreover, the appeal site is in an accessible location, close to local services and a regularly serviced bus route, which weighs in its favour in terms of its social sustainability.
23. I am mindful of the outline nature of the proposal, and I have been supplied with no layout plans, aside from the broad brush Access Plan<sup>8</sup>, to demonstrate that the proposed quantity of development could be accommodated within the confines of the site given the constraint created by the protected trees. I note that the appeal site could provide a proportion of affordable housing. However, I am aware of the appellant's caveat that this would be subject to viability, and thus the quantity of units delivered is uncertain at this stage. Nevertheless, I am mindful that the condition suggested by the Council could secure a proportion of affordable dwellings on the site; and consequently, this would be a considerable social benefit.
24. Thus despite of the uncertainties regarding the precise number of both market and affordable units that could be accommodated, given the housing supply situation in the Borough, residential development of the appeal site and its attendant economic and social benefits attract significant weight in favour of the appeal scheme in the overall planning balance.
25. I readily accept that the reservoir element of the site is previously developed land, and that its redevelopment would meet the Framework objective of directing development to such sites. This is a matter that attracts moderate weight in favour of the scheme in the overall planning balance. Whilst the removal of these water bodies, which are of considerable depth, could improve the safety of the site, I saw at my site visit that it was adequately fenced off, and I have been supplied with no substantive evidence of any accidents in relation to the ponds. As a result this aspect of the proposed development attracts only the most modest weight in its favour.
26. I have taken into account the heritage aspects of the reservoirs, and I note that the Council accepts that they are neither curtilage listed structures for the purposes of the Planning (Listed Buildings and Conservation Areas) Act 1990, nor within the setting of the listed mill to the rear. I note also the Council's Officer Report which states that due to their separation from the Mill that the water bodies have little significance as non-designated heritage assets. I am aware too that the water bodies are not mentioned within the listing description of the Mill, and I am conscious of references to an English Heritage report, which considered that the physical separation of the water bodies from the Mill, and the limited architectural interest of the ponds indicated that they were unsuitable for listing. I note also that there were no objections from statutory consultees in relation to the proposed development of the reservoir element of

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<sup>8</sup> Dated April 2016

the appeal site. However, these considerations only point to a lack of harm to heritage interests rather than a positive benefit of the scheme in this regard and therefore have only a neutral effect on the overall planning balance.

27. I saw at my site visit that the Mill had been subject to fire damage and I am mindful of the appellant's comment that due to this the development of the appeal site would contribute to the vitality of the area. However, it is not clear how the development of the appeal site would serve to mitigate the damage to this listed building; and, as a consequence, this is a matter that weighs in favour of the proposed development only to the most marginal of degrees. Whilst I note comments from interested parties regarding the current condition of the Mill, and its planning history, these matters have only a limited bearing on my assessment of the planning merits of the appeal scheme.
28. The undeveloped part of the site was formerly used as allotments. However, I am cognisant that the land has not been in this use for a considerable period of time. As such the proposed development would not lead to a harmful reduction in the availability of allotments in the local area. However, this matter does not constitute a positive benefit of the scheme and thus affects the overall planning balance in only a neutral manner.
29. I note comments from third parties regarding the water bodies existing at the site, their potential contribution to management of flood risk in the wider area, and their current functional relationship to watercourses within their surroundings. However, the appeal site is within Flood Zone 1, and thus at a low risk of flooding. Moreover, I note that there were no objections to the scheme from Yorkshire Water with regard to drainage matters. Whilst I note references to earlier flood events, the appellant's submitted Flood Risk Assessment establishes that this was due to localised blockages of pipes, which have subsequently been addressed. Accordingly, I consider that a suitably worded condition would adequately control the drainage and flooding aspects of the proposed development, and that the proposed removal of the water bodies would cause no significant harm in this regard. However, this is again a matter that has only a neutral effect on the overall planning balance.
30. I am mindful of comments regarding the proposed development's effects on the living conditions of the occupants of adjacent properties. However, the site layout plan as submitted is only indicative, and I consider that issues of privacy, lighting and outlook are all matters relevant to a detailed consideration of the reserved matters. Access arrangements for the maintenance of properties adjacent to the appeal site are essentially private matters that have only limited bearing on the consideration of the planning merits of a proposal. As a consequence these matters have not weighed against the proposed development to any material degree.
31. Access and layout are not matters for detailed consideration at this stage. However, I note that there were no objections to the scheme and its indicative access point from the local highway authority. Moreover, it has not been established that the site could not accommodate the parking associated with its residential development. Whilst the proposed access point could reduce on-street parking in its immediate environs, I consider that the limited scale of this reduction would be unlikely to result in significant harm to the amenity of the occupants of adjacent properties, or to highway safety more generally. Moreover, there is no substantive evidence before me to suggest that the local

road network could not accommodate the traffic associated with the proposed development. Taking these matters together, I consider that the proposed development could facilitate a safe and suitable access to the site, and that severe cumulative impacts of the development on the transport network would not arise. Accordingly, these considerations do not weigh against the proposed development in the overall planning balance. In arriving at this view, and whilst mindful of planned developments elsewhere in the area, I am cognisant that the previously refused appeal concerning the site for a development proposal of 28 units found no adverse impacts to highway safety or the free flow of traffic.

32. I note references to a Draft Newsome Ward Neighbourhood Plan, and draft policies therein, which seek, amongst other things, a site allocation to retain the water bodies on the appeal site. However, due to the early stage of plan preparation and a lack of detail supplied in regard to the amount of outstanding objections to the emerging plan this is a consideration which carries only modest weight against the appeal scheme in this instance.
33. I have not been supplied with any substantive evidence to suggest that residential development of the appeal site would cause a significant detrimental effect to the air quality of its surroundings, and I note the lack of objections on the part of the Council's environmental health department in this regard. Accordingly, this is a matter that does not weigh against the appeal scheme to any material degree.
34. I have had regard to third party comments suggesting alternative uses for the site including a potential role in local food growing. However, the deliverability of these has not been demonstrated, and I am mindful that the site is within private ownership. Consequently, this is not a matter that weighs against the appeal scheme to any material degree.
35. I have considered the comments regarding the health benefits of green space in urban areas, and the appeal site in particular; however, I have been referred to no substantive evidence that supports this view. I note also that interested parties consider that the space has social benefits facilitating interaction with wildlife and other members of the community as a result of the scheme and that the topography of the local area means that some other open spaces are less accessible. The residential development of the site would undoubtedly reduce its potential in these regards. However, the private ownership of the site, combined with the Study's findings in regards to the over-supply of semi-natural green space such as this within the Newsome ward lead me to attach only modest weight to these matters in the overall planning balance.
36. Whilst mindful of comments that the proposed development could lead to additional pressure on the local area's infrastructure and services, the evidential basis of this view is not before me. Consequently, it has not been established that the proposed development would lead to harmful effects in this regard, and this is a matter that does not weigh against the scheme in the overall planning balance.

#### *The planning balance*

37. Taken together, the delivery of market and affordable housing; the employment and other economic activity generated during its construction; the contribution to spending in the local economy more generally; and the

accessible location of the appeal site comprise social and economic benefits that attract significant weight in the appeal scheme's favour. Whilst the harm the appeal scheme would cause to the character and appearance of the area is a matter of material weight, it clearly does not significantly and demonstrably outweigh these benefits. Moreover, for the reasons given above, no other objections advanced against the appeal scheme, taken individually or together, are of a weight sufficient to significantly and demonstrably outweigh its benefits. Accordingly, I conclude that the proposed development would therefore comprise sustainable development for the purposes of the Framework.

38. In arriving at this view, I am mindful of the appeal decision<sup>9</sup> referred to me by the Council; however, that related to a development proposal comprising a considerably lower number of dwellings on a site designated as 'Urban Greenspace' by the UDP, and in any event each scheme needs to be assessed on its own planning merits.
39. Accordingly, in this instance the significant weight of the material considerations advanced in favour of the scheme, and its concomitant compliance with the Framework, outweigh its conflicts with the development plan in terms of Policies D1, D2 (vii) and NE6 of the UDP; and in terms of its conflict with the site allocation from the emerging neighbourhood plan.

### **Conditions**

40. I have assessed the list of suggested conditions submitted by the Council against the tests given in paragraph 206 of the Framework, which states that they should only be imposed where they are necessary; relevant to planning and the development to be permitted; enforceable; precise; and reasonable in all other respects. I have amended the wording of the conditions attached where necessary in the interests of clarity and precision.
41. In order to comply with the Town and Country Planning Act 1990 (as amended) I have attached the standard implementation conditions relating to outline permissions. I have specified the approved plan in the interests of certainty.
42. Due to the contribution that the open character of the site currently makes to the character of the area, and to comply with the relevant policies of the UDP, I consider it necessary in the interests of the character and appearance of the area, and the residential amenity of the future occupants of the proposed development to attach a condition requiring arrangements for public open space to be submitted to and approved by the Council. This is of necessity a pre-commencement condition to ensure that the development makes appropriate provision in these regards.
43. I am conscious of the outline nature of the application and the lack of certainty regarding the quantity of development that could come forward as a result of site constraints. As a consequence, I consider in this exceptional instance that a pre-commencement condition requiring submission to the Council of a scheme for the provision of affordable housing is justified. This is necessary to ensure that the proposed development makes adequate arrangements in these regards to comply with development plan requirements.

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<sup>9</sup> APP/Z4718/W/16/3166268

44. Given the current nature of the site I consider it necessary to attach a condition requiring a biodiversity habitat enhancement scheme to be submitted prior to development commencing; however, I have amended this to include details of mitigation measures as suggested by the appellant. This is of necessity a pre-commencement condition to ensure that development makes appropriate arrangements in these regards.
45. The proposed development would result in the removal of a considerable area of water on the site. I have therefore attached a condition to ensure that the development of the site is adequately drained to ensure that flood risk is not increased within its environs. This is of necessity a pre-commencement condition to ensure that development progresses in line with the approved details. I have attached a pre-commencement condition relating to the sewage disposal arrangements to ensure that the development makes appropriate arrangements in these regards.
46. I have been supplied with no substantive evidence to suggest that the site has the potential to be contaminated, but am mindful of the functional relationship with the Mill to its rear, particularly the water bodies on the site. As a consequence, I have attached a condition relating to contaminated land, but this is scaled-back and simplified from the suite of conditions suggested by the Council.
47. As the landscaping and layout of the site are reserved matters I consider that conditions relating the protection of retained trees on the site are more relevant to a detailed assessment of those matters.
48. A condition regarding the provision of electrical charging points would form part of a consideration of the layout of the site, and as a consequence I consider that this could form part of that future reserved matters application.

### **Conclusion**

49. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should succeed.

*G J Fort*

INSPECTOR

### **Schedule of Conditions**

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of 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 plan: Site Location Plan Dwg No: AD3.
- 5) No development shall take place until a scheme for the provision of affordable housing as part of the development shall have been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2: Glossary of National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:
  - i) the numbers, type, tenure and location on the site of the affordable housing provision to be made;
  - ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
  - iii) the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord involved;
  - iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

The affordable housing shall be retained in accordance with the approved scheme.

- 6) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the



course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 21 days of the report being completed and approved in writing by the local planning authority.

- 7) Notwithstanding condition 4 no development shall take place until details of the on-site mitigation and biodiversity enhancement and of off-site nature and water conservation measures have been submitted to and approved in writing by the local planning authority. The scheme shall include measures for the mitigation of biodiversity impacts of the development hereby approved and details of measures to encourage biodiversity within the site, including potential locations for bird and bat roosting opportunities. Development shall be carried out in accordance with the approved details.
- 8) Notwithstanding condition 4 no development shall take place until details of the arrangements for the provision of public open space to serve the development in accordance with the requirements of Policy H18 of the Council's UDP have been submitted to and approved in writing by the local planning authority. The details shall include the following matters
  - i) The layout and disposition of the public open space
  - ii) the timescale for the implementation and completion of the works to provide the public open space
  - iii) the mechanism for ensuring that the public open space will be available for the public in perpetuity
  - iv) maintenance of the public open space in perpetuity.

Development shall be carried out in accordance with the approved details.

- 9) No dwelling hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
  - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - ii) include a timetable for its implementation; and,
  - iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by

any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

- 10) None of the dwellings hereby permitted shall be occupied until works for the disposal of sewage shall have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.



**Name of meeting:** Planning sub-committee (Huddersfield Area)

**Date:** 31 August 2017

**Title of report:** Application for extinguishment of claimed public footpaths at Clayton Fields, Edgerton Road, and provision of alternative routes. Town & Country Planning Act 1990, section 257.

**Purpose of report:** **Members are asked to consider** an application for an order to extinguish claimed public footpath rights over land at Clayton Fields and to provide alternative pedestrian routes. The claimed routes to be extinguished, which are the subject of definitive map modification order applications, and the alternative routes are shown on appended plans. **Members are asked to make a decision** on making the order and seeking its confirmation.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not applicable
Key Decision - Is it in the <a href="#">Council's Forward Plan (key decisions and private reports?)</a>	Not applicable If yes also give date it was registered
The Decision - Is it eligible for call in by Scrutiny?	No – council committee
Date signed off by <u>Director</u> & name  Is it also signed off by the Assistant Director for Financial Management, IT, Risk and Performance?  Is it also signed off by the Assistant Director (Legal Governance and Commissioning)?	Naz Parkar 17 August 2017  Yes: Philip Deighton on behalf of Debbie Hogg 17 August 2017  Yes: Julie Muscroft 15 August 2017
Cabinet member <a href="#">portfolio</a>	N/A

**Electoral wards affected:** Greenhead

**Ward councillors consulted:** Cllrs. M Sokhal, C Pattison & S Ullah: 1 June 2017.

**Public or private:** Public

## 1. Summary

- 1.1 The council received an application from Seddon Homes Limited and Paddico (267) Limited for an order, to extinguish the claimed public rights of way and to provide alternative pedestrian routes, under section 257, Town & Country Planning Act 1990.
- 1.2 The proposals in the application for the order would be in accordance with planning consent for residential development. Outline planning consent has been granted under 2014/93014 and reserved matters consent granted under 2017/90190.
- 1.3 The land at Clayton Fields off Edgerton Road is subject to seven applications for definitive map modification orders to be made by the council. Six of these DMMO applications seek the recording of public footpaths across the site and the seventh concerns the claim for an increase in recorded width of recorded public footpath Hud/345 along the west of the site.
- 1.4 Two definitive map modification order ("DMMO") applications claiming the existence of public footpaths across the land were made in 1996. When the land was registered as a (town and village) green by the council in 1996, these two DMMO applications were held in abeyance. The registration of the Clayton Fields land as a village green was declared invalid by decision of the Supreme Court in 2014. After that court decision, which had the effect of removing the protection afforded the land as a registered green, a further five DMMO applications have been received by the council, all relating to the land at Clayton Fields. These applications have not been determined by the council. Mr Magee is joint applicant of the 1996 applications and Mr Adamson is named applicant in the five more recent DMMO applications. They have both contributed to the preliminary consultation process, in writing and at meetings.
- 1.5 To facilitate the development in accordance with the above planning consents, an application for an order to be made under section 257 has been received. The joint applicants are the current landowner and prospective owner/developer. If an order is made, confirmed and brought into force in accordance with this section 257 application, all the DMMO application routes within the site would be dealt with and the routes shown in the planning consent layout would be provided and recorded as public footpaths. These routes are shown in plans 1 (indicating the claimed routes to be extinguished) & 2 (new footpath routes to be provided) appended to the report. Appended Plan 3 indicates the claimed routes over the site layout in the relevant planning consent. Appendix F contains seven plans of claimed routes (six proposed to be extinguished), showing each of the claimed routes as submitted with the seven DMMO applications.

- 1.6 Parts of DMMO claimed paths 30 and 185 lie outside the site, linking points L & D on Plan 1 to the public footpath 345 to the north, over council-owned land. Treatment of these parts would be separate.
- 1.7 The applicants note in their application papers, *“The applicants are ready to start construction of the consented scheme on the Site but are aware of a number of alleged footpaths which cross the Site. The purpose of this application is to stop up any alleged pedestrian public rights of way that exist on the site to enable construction of the development to start. This will secure the delivery of much needed new homes for the area. These new footpaths will connect into the local footpath and highway network, and will provide links to local schools, bus routes and the town centre. The new routes will improve local pedestrian links for both residents of the new development, and existing local people.”*
- 1.8 The informal preliminary consultation on the section 257 application attracted numerous objections, detailed in Section 4 below. These include concerns on the retention of routes, environmental matters and provision of additional routes. The applicants invited objectors to a meeting on site to discuss the application, which was attended by a number of objectors and two ward councillors, Cllr Sokhal & Cllr Ullah.
- 1.9 As the prospective developer, Seddon Homes, agreed to a further meeting at council offices with the representatives of the objectors, who are also the applicants for the DMMO claims mentioned above and are part of Clayton Fields Action Group. Council officers and the same two ward councillors also attended. Seddon looked at various requests put to them by objectors to amend the layout of the development, and any resultant planning requirements were also discussed.
- 1.10 Seddon then met the CFAG representative on site again, after pegging out various features on the ground. It became apparent to Seddon that the attempts at reaching a compromise agreeable to the various parties were unsuccessful, and Seddon confirmed this to officers.
- 1.11 The council received a copy of a letter from CFAG to Seddon which *“look[ed] forward to continuing to resolve these issues”*. However, Seddon considered that Mr Adamson, for CFAG, had refused to accept what Seddon may have been prepared to offer.
- 1.12 In the absence of any agreed compromise, which may have resulted in the withdrawal of all PROW applications (section 257 and DMMO), the current section 257 application is put before sub-committee for consideration.
- 1.13 CFAG’s chair has formally requested that the council suspend this s257 application process pending re-opening of public access to the fields from Deveron Grove, stating that part of the applicants’ application declaration is false, as claimed route

186 is blocked at Deveron Grove. The author, Mr Adamson, asked for the request letter of 7 August 2017 to be appended to this report (App E).

- 1.14 Mr Adamson has also made formal representations under Schedule 14 of the Wildlife & Countryside Act 1981 to the Secretary of State asking him to direct the council to determine the DMMO application 183. This request, against the council's delay in deciding whether to make a DMMO, concerns just one of the five DMMO applications at the site made by Mr Adamson. As noted above, if this s257 application by the landholder and the developer is successful, claimed pedestrian rights over DMMO route 183 would be extinguished.
- 1.15 If this section 257 application is successful, it would address claimed public rights in the seven DMMO applications as far as they affect the development site, so it is not considered necessary to determine the DMMO applications before considering this section 257 application. If the DMMO applications were determined and were all successful, resulting in the formal recording in the definitive map and statement of the claimed routes, then a section 257 application similar to this current one would likely result.
- 1.16 Officers will have to respond to the request for a direction for DMMO file 183, which would include and be influenced by the sub-committee decision on this report.
- 1.17 Officers informed concerned members of the public both before and since the section 257 application, that they would not be looking to take enforcement action against the reported blockage of the claimed route at Deveron Grove.
- 1.18 If members refuse the application, or this proposal to deal with the DMMO application routes by making a public path order fails further along in the process, then the council would still be obliged to determine the seven DMMO applications.
- 1.19 If members approve the making of an order under section 257, it would be advertised and if any objections are made and not withdrawn, the council could not confirm the order. Opposed orders could only be confirmed by the Secretary of State at DEFRA, which may involve a public inquiry.

## **2. Information required to take a decision**

- 2.1 Section 257 of the Town & Country Planning Act 1990 gives an authority the power to divert or extinguish footpaths, bridleways or restricted byways if it is satisfied that it is necessary to do so in order to enable development be carried out in accordance with planning permission granted under Part III (of the Act).
- 2.2 Account must be taken of the effect of the order on those entitled to rights which would be extinguished.

- 2.3 Circular 1/09 is guidance published by DEFRA for local authorities regarding PROW matters. Section 7 deals with planning and PROWs.
- 2.4 Paragraph 7.15 states: *“The local planning authority should not question the merits of planning permission when considering whether to make or confirm an order, but nor should they make an order purely on the grounds that planning permission has been granted. That planning permission has been granted does not mean that the public right of way will therefore automatically be diverted or stopped up. Having granted planning permission for a development affecting a right of way however, an authority must have good reasons to justify a decision either not to make or not to confirm an order. The disadvantages or loss likely to arise as a result of the stopping up or diversion of the way to members of the public generally or to persons whose properties adjoin or are near the existing highway should be weighed against the advantages of the proposed order.”*
- 2.5 The section 257 application is a proposal put forward by the applicants in accordance with, and based on, the planning consents granted for the site. Members are asked whether this application proposal fulfils the relevant section 257 criteria and to determine whether the council makes the order applied for. It is not a question of whether a different layout or a different provision of paths identified by third parties is possible or would be preferable to others.
- 2.6 Option 1 is to decide to refuse the application to make the order.
- 2.7 Option 2 is to authorise the Assistant Director of Legal, Governance & Commissioning to make an order under section 257 of the Town & Country Planning Act 1990 **and only to confirm it if unopposed**, but to defer its decision on sending any opposed order to the Secretary of State at DEFRA.
- 2.8 Option 3 is to authorise the Assistant Director of Legal, Governance & Commissioning **to make and seek confirmation** an order under section 257 of the Town & Country Planning Act 1990. This would authorise confirmation of the order by the council if unopposed, or seeking confirmation of an opposed order by forwarding it to the Secretary of State to confirm.

### 3. Implications for the Council

#### 3.1 Early Intervention and Prevention (EIP)

- 3.1.1 Providing better facilities for physical activity works towards local and national aims of healthy living.

#### 3.2 Economic Resilience (ER)

- 3.2.1 There is an indirect impact of a welcoming environment which helps promote and retain inward investment

### **3.3 Improving Outcomes for Children**

- 3.3.1 See 3.1.1

### **3.4 Reducing demand of services**

- 3.4.1 See 3.5.

### **3.5 Other (e.g. Legal/Financial or Human Resources)**

- 3.5.1 The Council receives applications to change public rights of way, in this case to facilitate development already granted planning consent.
- 3.5.2 The Council may make orders which propose to change public rights of way and may recharge its costs of dealing with applications and making orders, as appropriate.
- 3.5.3 Any person may make an objection or representation to the order.
- 3.5.4 The council may choose to forward an opposed order to the Secretary of State at DEFRA ("SoS") to determine or may abandon it. If an order is forwarded, any such objection would be considered by an inspector appointed by the Secretary of State, who may or may not confirm the order. The council recharges the costs of applications to the applicant as appropriate, but the council may not recharge the costs incurred by it in the process of determination of an opposed order by DEFRA. The council would have to cover its own costs of forwarding the order to DEFRA and its costs associated with that decision process, potentially including a public inquiry.
- 3.5.5 If the council confirms its own orders, or after an order has been confirmed by the SoS, the council may recharge its costs of concluding the order process, including bringing an order into force.
- 3.5.6 Development proposals, including those given planning consent, may depend on the making and coming into force of public path orders, such as those changing or extinguishing public rights of way. Without such PROW orders, development may well be delayed, prevented or rendered unviable, with the subsequent effects on matters such as the local economy and provision of homes.

## 4 Consultees and their opinions

- 4.1 The public rights of way unit undertook an informal preliminary consultation which included notices posted on site and maintained for 4 weeks, and correspondence with statutory consultees, interested parties including utility companies, user groups and St Patricks School, as well as ward councillors.
- 4.2 During this consultation process ward councillors have not expressed an opinion in favour or against the application. Cllr Sokhal and Cllr Ullah attended two meetings with the applicants and objectors arranged through the PROW office.
- 4.3 Those respondents raising concerns or objections about the proposal were invited by officers, on behalf of the applicants, to attend a site meeting.
- 4.4 At the site meeting, Seddon, the joint applicants and prospective developers of the site, agreed to further meetings with some of the objectors and then put forward their response to the objectors' requests at a subsequent meeting back on site. Seddon report that Clayton Fields Action Group did not find the Seddon proposals acceptable, so a compromise was not reached.
- 4.5 The council received various responses during the preliminary consultation, which are appended at App A1 and A2.
- 4.6 Two responses (C & D) were asking if Hud/345 public footpath from Edgerton Road to St Patricks School was to be lost, which it is not.
- 4.7 Concerned responses/objections came from Clayton Fields Action Group ("CFAG"), Marsh Community Forum, St Patricks School and the others appear to have been from local residents.
- 4.8 A number of grounds for objection were raised:
  - 4.8.1 The loss of the claimed routes, particularly route DMMO 183 (Shown in appendix F and between Points G-H on Plan 1).
  - 4.8.2 The existing paths should be retained.
  - 4.8.3 The existing routes have been used by many people for a long time.
  - 4.8.4 The housing development should incorporate the existing paths.
  - 4.8.5 Loss of existing woodland and habitat if the proposal goes ahead.
  - 4.8.6 Japanese knotweed on site.
  - 4.8.7 Much of the proposed alternatives footpath routes would become footways on estate roads, not separate paths.
- 4.9 Also, objectors state that the proposed Woodland Walk (route Y-Z on Plan 2):
  - 4.9.1 is unsatisfactory and unacceptable,
  - 4.9.2 can never be built,
  - 4.9.3 is preposterous and unnecessary
  - 4.9.4 would be difficult to construct

- 4.9.5 will be hard to negotiate
  - 4.9.6 will not be maintained adequately,
  - 4.9.7 will be impassable to disabled people,
  - 4.9.8 will be dangerous,
  - 4.9.9 has not been subject of a detailed construction specification,
  - 4.9.10 should run above the line of the tree canopy,
  - 4.9.11 should be considered individually in comparison to route DMMO 183 and not within the whole site package of changes.
  - 4.9.12 will not be built by the landowner.
- 4.10 Further concerns raised during the preliminary consultation included:
- 4.10.1 A different site layout with different and additional paths could be provided and would be better.
  - 4.10.2 The land carrying route DMMO 183 and the site's public open space and the council's allotment lands nearby could be transferred as a community asset to a trust and accepted by CFAG.
  - 4.10.3 An additional route could be accommodated across the developed site on the sewer easement line.
- 4.11 St Patrick's School sought the provision of additional off-road routes for pedestrian use and noted the devastation that has already taken place to wildlife. The school also seeks improvement of the footbridge carrying footpath Hud/345 over Clayton Dike, due to the effect of the large volume of water in periods of heavy rain.
- 4.12 No objections were received at this informal stage from any PROW statutory consultees or user groups, which would be consulted if an order is made.
- 4.13 Officers asked for comments from the council's ecology officer (in planning) on the contents of the consultation replies. The full ecology officer response is appended at App B. The Ecology officer stated: *"Potential ecological effects and requirements for mitigation have been considered as part of the outline and reserved matters planning applications for the wider development. Where required, conditions have been attached to the reserved matters permission to ensure the LPA is able to influence details of the means of creating the Woodland Walk and management of the retained habitats. These conditions also require the developer to manage non-native invasive species (including Japanese knotweed) in an appropriate manner. It is my understanding that the ecological issues raised have already been considered as part of the previous permissions and should not be revisited as part of the Section 257 application."*
- 4.14 **Officers would note** that the PROW unit had sought improvement of the public footpath 345 footbridge near St Patrick's school through the planning process for the



development, but no such contribution was secured during the planning application process.

- 4.15 The consultation process attracted replies from utility companies, with the applicants being asked to contact them regarding any proposed works.
- 4.16 The Police Architectural Liaison Officer had no adverse comments.
- 4.17 No response was received from Peak & Northern Footpath Society, Open Spaces Society, Auto Cycle Union, CTC, Huddersfield Rucksack Club, Byways & Bridleways Trust, Kirklees Bridleways Group, Huddersfield Ramblers, KC allotments officer, WY Police, WY Fire, WYAS, WYPTE, MYCCI, Road Haulage Association, National Grid, KCOM, Yorkshire Water, BT, NTL, & YEDL.
- 4.18 The applicants were asked for their observations on the consultation replies. The applicants' comments on the consultation responses are appended at App C. The applicants' original statement in support of their application is appended at App D.
- 4.19 **Officers would note** that the route of claimed route 183, as identified in that DMMO application form plan at App F, which is subject of concern in the preliminary consultation, is actually north of much of the proposed garden areas of plots 25-34 as identified on appended Plan 3 between points G & H. Some objectors do not wish this route to be moved, but many, including the applicant have identified it as running outside the proposed gardens, towards Clayton Dike.
- 4.20 **Officers would note** that the Woodland Walk provision is required in the planning consent by condition, and would have to be satisfactorily provided and signed-off prior to the requested section 257 order being brought into force.
- 4.21 **Officers would note** that matters raised about the development of the site and impact on the claimed routes were raised during the planning process, and considered by the council as the local planning authority in their decisions.
- 4.22 **Officers would note** the extent of provision of pedestrian access across the developed site shown in appended Plan 2, with connections provided between all the access points to the site identified in the DMMO applications (i.e. three links west to footpath 345, plus links to Queens Road, Deveron Grove, Edgerton Road & one link north within the site towards Clayton Dike/footpath 345). These do include some pedestrian links along footways on the proposed estate road, but also other off-road link routes, routes across public open space and the Clayton Dike Woodland Walk. Footpath 345 which currently has a recorded width of 1.2 metres will be protected and enhanced by recording additional width, which has been welcomed by CFAG's representative. This shown in detail in Plan 4, both the additional width and the extinguishment of any rights beyond that addition, affecting the proposed plots etc.

- 4.23 **Officers would note** that Seddon Homes considered the request to relocate the Woodland Walk within the development, but their suggestion that it may be moved to the line at the rear of plots 25-34, was not acceptable to CFAG's representative, who is also the applicant to five of the seven DMMO applications for the site.
- 4.24 **Officers would note** that the proposed section 257 order applied for would deal with all the routes within the site that are subject of the seven DMMO applications. It would extinguish six of them and record additional footpath width for the other, as well as creating numerous alternative pedestrian routes. A small length of claimed footpath, outside the development site on council land, would still be outstanding and is subject of two of the DMMO applications – the parts of DMMO claims 30 & 185 north of point L & D on Plan 3. Those short DMMO claimed path parts would still need to be dealt with even if the section 257 order is made, confirmed and brought into force. The council may choose to dedicate a link path over its land if required at a later stage.
- 4.25 **Officers note** that CFAG's representative has asked the council to suspend action on this application. The access from Deveron Grove is not currently recorded as a public footpath and the owner has already indicated to CFAG that they are not looking to open it at present. Officers do not consider it to be reasonable to suspend this application because a landowner has not opened this claimed route, even if the applicants' undertaking indicates otherwise.

## **5 Next steps**

- 5.1 If an order is made, it would be advertised and notice served.
- 5.2 If the order is unopposed the council may confirm it.
- 5.3 If any objections are duly made and not withdrawn, the council may forward the order to the Secretary of State at DEFRA seeking its confirmation. Alternatively, the council may decide to abandon the order.
- 5.4 If members decide to authorise the making of an order, but do not authorise officers to seek confirmation by the Secretary of State of an opposed order, a further decision would then be required on:
- 5.4.1 any objections that are received, and
  - 5.4.2 potential referral of the order (if opposed) back to the Secretary of State, or
  - 5.4.3 abandonment of an opposed order.
- 5.5 If sub-committee refuses the application, the order is not made. There is no appeal right for the applicant against a refusal.

**6. Officer recommendations and reasons**

- 6.1 Officers recommend that members choose option 3 at 2.8 above and give authority to the Assistant Director, Legal, Governance and Commissioning to make and seek confirmation of an order under s257 of the Town & Country Planning Act 1990.
- 6.2 On balance, officers consider that the relevant criteria at 2.1 and 2.2 above are satisfied, and that the benefits of the order would outweigh any negative effect on the public rights. As a whole, the proposed pedestrian provision within the site is appropriate.

**7. Cabinet portfolio holder's recommendations**

- 7.1 Not applicable

**8. Contact officer**

Giles Cheetham, Definitive Map Officer, Public Rights of Way

**9. Background Papers**

872/6/EXT/Clayton Fields

DMMO applications 30, 31, 183, 184, 185, 186 & 187.

Planning files e.g. 2014/93014 & 2017/90190

Appendices:

Plan 1 Claimed DMMO routes to be extinguished

Plan 2 Proposed routes to be created and provided as part of the development

Plan 3 Indicative routes to be extinguished shown over site layout

Plan 4 – proposals near footpath Hud/345 – extra width and extinguishment.

A1 & A2 – Preliminary consultation responses

B - Council ecology officer comments on preliminary consultation responses.

C – Applicant comments on consultation responses

D – Applicant application statement

E – CFAG letter of 7 August 2017 requesting suspension of the s257 application.

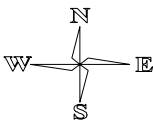
F – 6 Routes to be extinguished and one to be widened (DMMO 187). Plan of each of the claimed routes, submitted with each of the 7 DMMO applications.

**10. Assistant Director responsible**

Joanne Bartholomew, Service Director: Commercial, Regulatory & Operational Services, Place Directorate

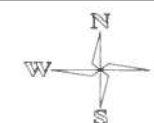
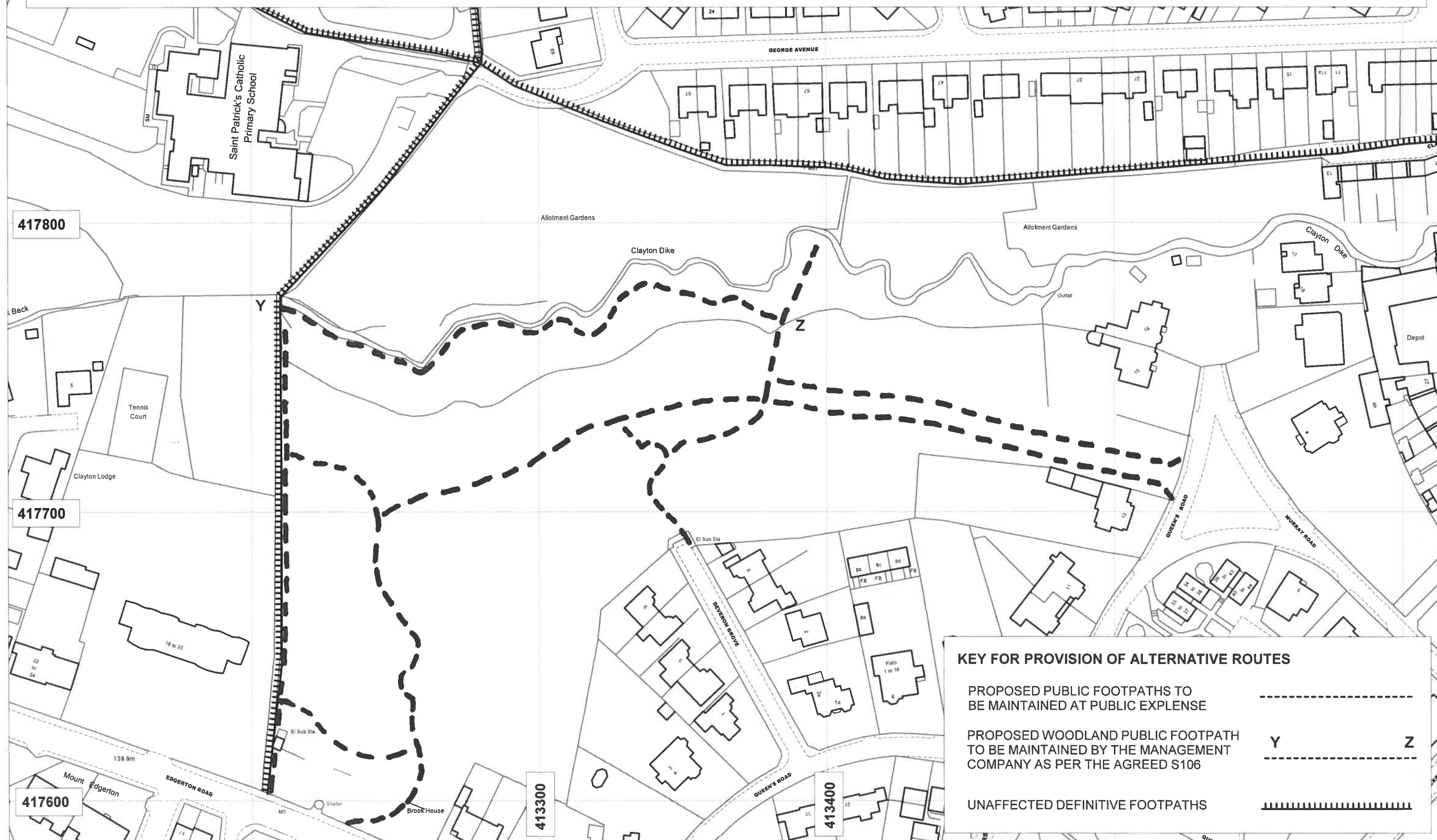
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# Proposed stopping up of footpaths at Clayton Field, Edgerton, Huddersfield and provision of alternative routes. Town & Country Planning Act 1990, Section 257.



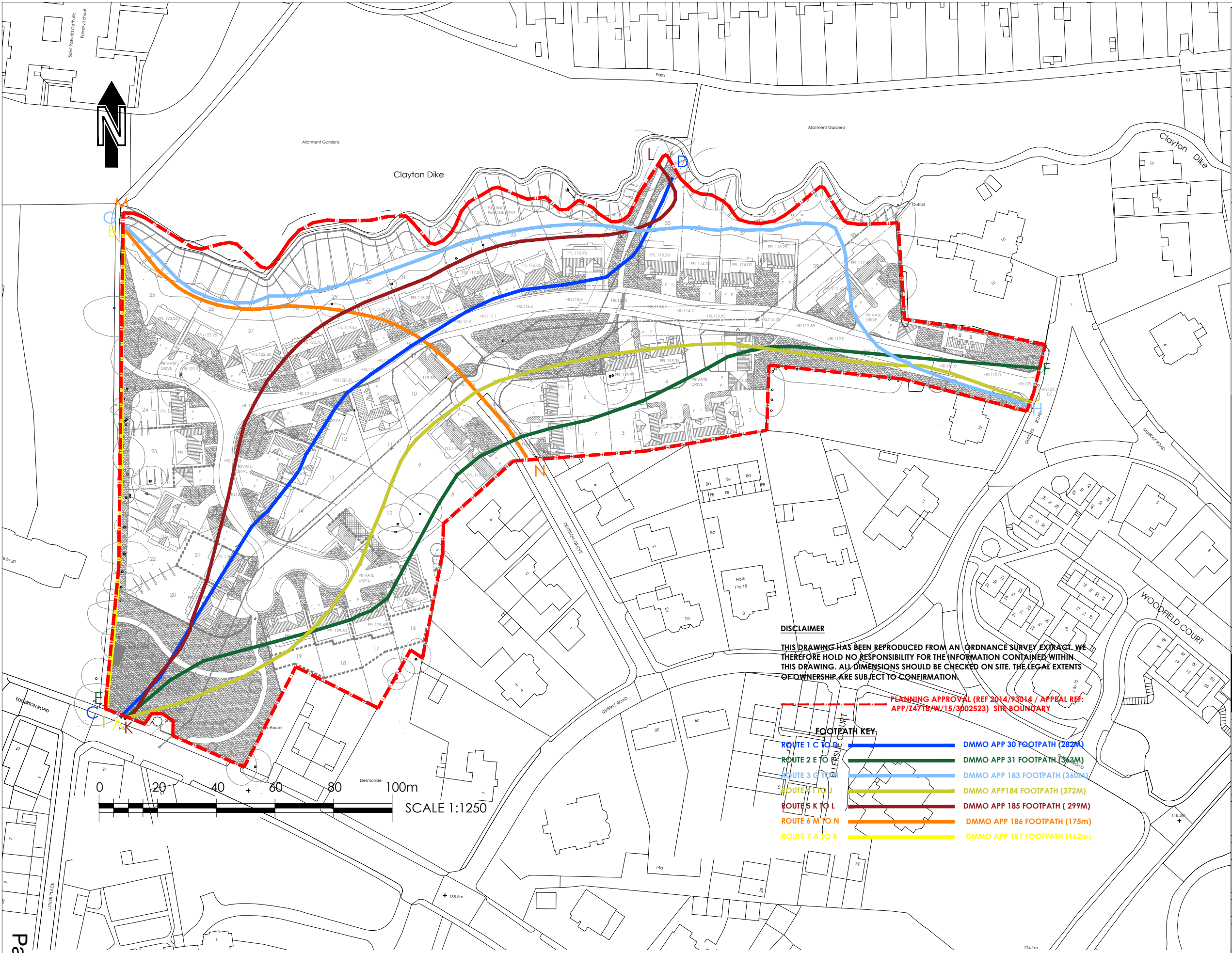
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**Proposed stopping up of footpaths at Clayton Field, Edgerton, Huddersfield and provision of alternative routes.  
Town & Country Planning Act 1990, Section 257.**



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**ADDITIONAL NOTES**

ALL WORK TO BE CARRIED OUT IN ACCORDANCE WITH THE BUILDING REGULATIONS AND THE REQUIREMENTS OF THE LOCAL AUTHORITY

A	UPDATES TO FOOTPATHS	BC	JC	22.08.17
REV	DESCRIPTION	DRWN	CHKD	DATE



CLIENT  
PROSPECT ESTATES/ SEDDON HOMES

PROJECT  
CLAYTON FIELDS, EDGERTON, HUDDERSFIELD.

TITLE  
PLAN 4 - CLAIMED FOOTPATHS TO BE STOPPED UP OVER THE APPROVED LAYOUT

SCALE 1/1250 @ A3 DATE 07/17

DRAWING NO. 1414 - 163 REVISION A

DRAWN BY OS PLAN CHECKED BY -

PURPOSE OF ISSUE  
☒ PLANNING ☐ BUILDING REGS ☐ TENDER  
☐ APPROVAL ☐ COMMENT ☐ CONSTRUCTION

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PLANNING APPROVAL (REF 2014/93014 / APPEAL REF: APP/Z4718/W/15/3002523) SITE BOUNDARY

**FOOTPATH KEY**

ROUTE 1 C TO D	DMMO APP 30 FOOTPATH (282M)
ROUTE 2 E TO J	DMMO APP 31 FOOTPATH (363M)
ROUTE 3 G TO I	DMMO APP 183 FOOTPATH (360M)
ROUTE 4 I TO J	DMMO APP 184 FOOTPATH (372M)
ROUTE 5 K TO L	DMMO APP 185 FOOTPATH ( 299M)
ROUTE 6 M TO N	DMMO APP 186 FOOTPATH (175m)
ROUTE 7 A TO B	DMMO APP 187 FOOTPATH (162m)

Page 4

ADDITIONAL COMMENTS DENOTED ON DWG AREA AS (CDM)

DM 2015	PERCEIVED SIGNIFICANT RESIDUAL RISKS THAT ARE EITHER / OR ANY COMBINATION OF THE FOLLOWING : NOT OBVIOUS ■ UNUSUAL ■ DIFFICULT TO MANAGE
AREA	CONSTRUCTION
	USE
	MAINTENANCE
	DECOMMISSION

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CONFIRMATION OF RELEVANT TITLE.

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A	YELLOW HATCH AMENDED TO SUIT PLANNERS COMMENTS	JT	-	11.08.17
REV	DESCRIPTION	DRWN	CHKD	DATE



CLIENT **PROSPECT ESTATES/ SEDDON HOMES**

PROJECT  
CLAYTON FIELDS, EDGERTON,  
HUDDERSFIELD.

TITLE	PLAN 2 - DMMO APP 187 - CLAIMED FOOTPATH WIDTHS TO BE STOPPED UP
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SCALE	1/1250 @ A3	DATE	07/17
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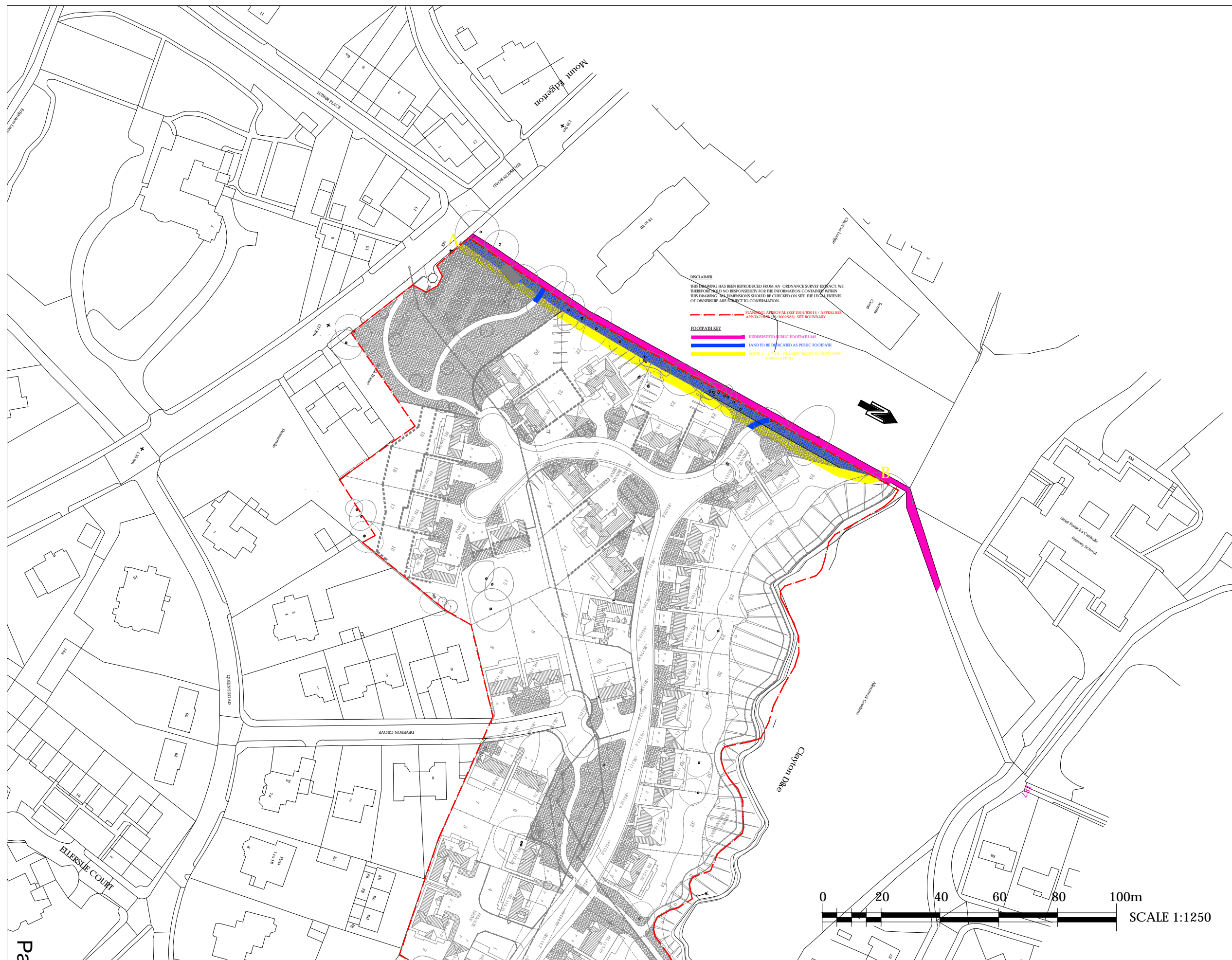
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PURPOSE OF ISSUE	
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- ☒ PLANNING      ☐ BUILDING REGS      ☐ TENDER  
☐ APPROVAL      ☐ COMMENT      ☐ CONSTRUCTION

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**AREA**

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## **App A1**

### **Clayton Fields Action Group**

See App A2

### **Marsh Community Forum**

The Council proposals for stopping up the existing footpaths at Clayton Fields were discussed at a public meeting of the Marsh Community Forum on 20 June 2017. Three councillors were present at the meeting – Cllrs Pattison, Ullah and McGuin. Cllr Sokhal sent his apologies to the meeting.

I was asked to write to the council to communicate the views of the Marsh Community Forum. I previously wrote to you in December 2016.

People present at the meeting confirmed that they have made extensive use of all seven of the claimed footpaths shown on the map prepared by Kirklees Council on 23 May 2017 and attached to this letter. It was said that use of the footpaths goes back at least 20 years and in some cases goes back as far as 30 or 40 years.

There was particular concern that claimed Public Right of Way 183 could be lost. This is the footpath that runs along Clayton Dike, adjacent to Clayton Fields and on the other side of Clayton Dike to the existing allotments. It runs along the top of the embankment above Clayton Dike and continues over to the junction of Queens Road and Murray Road. Footpath 183 was recognised and used by those present at the meeting. People felt that retaining this footpath was especially important. It would ensure that public access across Clayton Field was retained. Additionally it would mean that the existing woodland and habitat that borders Clayton Dike would be retained. The meeting called upon the council to give priority to maintaining the footpath, the existing woodland and the habitat that the woodland provides.

There was also discussion about the presence of Japanese Knotweed on the site. The concern was raised in the letter that was sent on December 2016. Is the council able to state with confidence that the owners of the site, their agents and the associated developers are dealing with the knotweed responsibly and in line with the legal requirements?

Mike Woodward  
Chair, Marsh Community Forum

### **Response E**

We wish to object to the proposals by developers to stop up footpaths at Clayton Fields.

In principle, the existing footpaths should be retained. If footpaths are to be rerouted, then they should be replaced with new earth footpaths, not paved walkways.

Path DMMO APP 183 should be retained as a matter of priority. It provides a route across the site from Queens Road to St Patrick's school. It also provides a barrier between the development & the dike & woodland canopy, which is essential to protect the wildlife habitat.

The proposed Woodland Public Footpath Y-Z on plan 2 seems a badly thought out concept. It will be difficult to construct & will form a potential safety hazard being so near the dike, and will disrupt the existing wildlife habitat. We are concerned that the developers say they will maintain it, but remain

unconvinced that this will be forthcoming. The existing footpath DMMO APP 183 requires no maintenance and is safe to use in all conditions.

Existing access across Clayton Fields must be maintained from Edgerton Road, Deveron Grove, Queens Road and the bridge at the corner of the field nearest St Patrick's school.

#### **Mr Jon Sundance**

I've walked across, over and around Clayton Fields for more than two decades, and enjoyed such immensely. The proposed development of the site and the fact that the majority of the arboreal material has already been slain, leaves me reeling.

The relocating of the main footpath along Clayton Dyke would appear not be for the benefit of those that would use it, which surly is the purpose of a footpath, yes ? Extensive works, including yet more disturbance of natural habitat would have be incurred to facilitate the construction of such. Further, both you and I know that if such a path were to be created that it wouldn't be sufficiently maintained by those responsible. See Middlemost Pond in Birkby as an example.

So, in brief, I object vehemently to such a proposal .

#### **Mr Bill Magee plus 4 others**

On initial inspection of the proposed footpath put forward by Padico, does not seem that bad but, closer inspection show that the public footpaths rights of way only follow the proposed layout of their planning application, i.e. the road access which has no bearing on the definitive public footpaths as put forwards by Clayton Fields action group for the Village green and accepted by Kirklees council.

The proposed alternative route on plan 2 of 2 between points Z and Y shows the path to run parallel with the stream, and on inspection this route is almost impossible, particularly to disables persons and dangerous. the original public footpath route on plan 1 between point B and Queens road t point H shows the acceptable route which runs at the top of the tree canopy and easily accessible by both pedestrians and disabled persons as this is a country walk and should be available to all.

Plan 1, point I to H and point C to F has been completely removed from their plan and should not be so. As I recall when we met to discuss the footpaths, along with Mike Hardy who has since passed away, that you made it quite clear that roads and their pavements could not form part of a public definitive right of way.

I can see some room for movement, but clearly the alternative proposed public footpath routs in its present form is not acceptable.

#### **Response C**

I would like to log my objection of closing Clayton Fields Footpath. My son attends Saint Patrick's School at the bottom of said footpath and I live at 28 Mitre Street. It is the route I use to walk him to and from school everyday, along with a great other parents which children attend that school. Closing this route would make the already congested George Avenue hell to try and get my son to school on time.

Has this notice been forwarded to the school, so that they can distribute it to all of it parents that require that route to be open?

#### **Response D**

It appears to me to be quite complicated. Could you please tell me if the footpath from Edgerton Road down to St. Patrick's school is affected.

**Gerry Gallagher - Kirklees Police Architectural Liaison Officer**

I have no adverse comments in respect of the proposals

**St Patricks School**

I am writing on behalf of the pupils, staff and Governing Body of St. Patrick's Catholic Primary School to express our views and concerns regarding the proposed extinguishment of publically claimed rights of way and the provision for alternative footpaths.

This is with regard to routes at Clayton Fields, Edgerton, Huddersfield HD3 3AA.

Historically the school has supported and joined in community events enjoying this very special green oasis and used the area as part of a wider curriculum resource for nature study, wildlife habitats, science and geography. School has even used the paths as a part of a cross country running and orienteering course!

First of all there has been confusion about the actual information published for public consultation and in particular the diagrams and explanations offered on the notices on the school gates. Many parents contacted school because they thought PROW 345 might be extinguished. In fact school welcomes the proposal to widen this pathway and the idea previously promised to school by Rob Cook, representing Prospect Estates, that this would include the existing mature trees and additional landscaping. However it appears that this section of land has still not yet been transferred to Highways.

Secondly the school has expressed concerns with the developer, on several occasions, about the blocked access at Deveron Grove. Clayton Fields had been formally registered as a town and village green for about seventeen years. The locked gates have created great inconvenience and considerable annoyance among parents. Why does it remain locked? The route to school was in regular use between Deveron Grove, Murray Road and Queen's Road linking to PROW345 and the path above the dyke.

Thirdly St. Patrick's School notes the proposed changes to much of the established CPRW footpath network for paved footways along the planned housing estate. There must be more scope to include more off road PROW footpaths into the development in keeping with the historically established routes and for the benefit of all. We support the CPRW183 submission and assert the retention of this route between PROW345 and Murray Road/Queens' Road. This variation is vital in preserving the small, less developed, semi woodland along the raised banking of Clayton Dyke. It could also provide a near level access for all users without any need for paving or a suggested woodland walk below, alongside the dyke.

It is a real set back to the locality that Clayton Fields is no longer designated as a town village green. That decision led to the destruction of what was a green oasis in the midst of considerable and historic urban development and a very busy road system. It was a huge loss to a vibrant local community. There now remains some opportunity to retain a ribbon of hope along the dyke. The devastation brought to wildlife has already been well documented and there continues to be clear observational evidence within the adjoining school grounds. As an example, there has been no frogspawn in our pond this spring. Our records of the first frogspawn in school stretch back over fifteen years. Never before has our recording been zero! Yet this coincides with the extensive grounds works undertaken on Clayton Fields in late 2016.

Our grounds also enjoy a rich variety of wildlife as did the Clayton Field site when it retained extensive tree cover and a variety of habitats. We regularly see, apart from what we might call the more usual garden birds, wrens, long tailed tits, nut hatches, tree creepers, bullfinches, gold crests, and owls with

occasional visits from more. Events over recent years have had a clear knock on effect observed from within school. These included the predation on nesting sites, with unprecedented initial incidents of same species birds destroying or disturbing each other's nests to set up their own.

In school we are convinced this was caused by the destruction of habitat on Clayton Fields. Substantial, committed and determined efforts are still possible to conserve and protect what little remains of these habitats before any final damage occurs.

Finally the very narrow access alongside the dyke bridge and embankment needs urgent and thoughtful consideration. In the past flash flooding has caused considerable damage. The boundary wall of the school grounds here is where the dyke begins to emerge and when there have been particularly heavy downpours school has evidenced the surprising ferocity of the water flow, diverting itself through our woodland gardens, lifting cut tree sections, pebble paths and buckling the perimeter fence before re-joining the dyke at the small bridge.

The Birkby area needs open spaces and public access to them. The footpath considerations above offer some limited recreational opportunities in what was previously much a rich, green, urban oasis. They would allow a flavour of what once existed and what was once enjoyed by so many to be retained for future generations.

#### **Response F**

I strongly oppose the recent proposal to extinguish rights of way applications across Clayton Fields; DMMO Refs 30, 31, 183, 184,185,186,187.

My argument is that the seven DMMO applications should be treated and assessed separately not extinguished as one. Each claimed right of way should be considered on its own merits; some are more important to the community than others and therefore should take precedence. This is shown by the amount of statement of use forms each CROW has.

One of the routes has shown importance to the local people by garnering at least 95 forms, photos and other relevant documentation associated with historical useage. Other claimed rights of way have shown some importance to local people and others less.

Please assess these DMMO applications separately, they were applied for separately and need to be properly processed.

#### **Response G**

The proposed footpath between point Y and point Z (The Woodland Walk') is totally unacceptable and is unwanted.

As you are aware, an application was made to recognise the importance of the footpath along the top of the embankment; DMMO Ref 183. We would like to see this footpath kept in its original location and following its current route. The ninety or so statements of use (which are now in your possession) from local people young and old would seem to indicate that this particular footpath is well used and well loved.

The proposed 'Woodland Walk' [WW] between points Y and Z is not viable for many reasons.

By nature of the area's topography, the WW will be very hard to negotiate with steps and 1 or steep slopes and will be very slippery. This will make the use of this route possible only for the able bodied;



disabled people will not be traverse it nor will the elderly I infirm. The existing footpath (ref 183) is walked by all; the elderly, mothers with prams, youngsters and wheelchair access is not a problem.

Practicality; Due to the WWs proposed location, presumably it will be prone to flooding, rot, fire damage, structural issues such as collapse or breakage and an easy target for vandalism. What measures are in place to ensure that the build and construction is substantial and future maintenance is guaranteed? A possible scenario is that the WW becomes delapidated, unused and forgotten about due to lack of funding for ongoing maintenance.

Impact of Woodland Walk to surrounding environment; According to Kirklees planning dept, the WW has to be hand built with no damage to roots and minimal damage to trees in the area. This, is frankly, impossible and insults the intelligence of those who care about the woodland. The natural wooded area is beautiful as it presently is and does not warrant any manufactured eyesore such as the WW encroaching in to it. Trees and diverse vegetation would need to be removed to facilitate construction of a footpath used as a nature walk, what sense does that make?

Cost; Has the scheme been costed? Who will pay for the expensive, unnecessary WW?.  
I have not yet seen a comprehensive structural engineering and contruction diagram I plan.

The landowner has no intention of building a Woodland Walk (this can be substantiated via a 2016 FOI request) and is only part of the proposed plans to appease local campaign groups. I have been reliably informed that an application can be made to remove the construction of the WW from the outline planning application condition schedule. If that was to be successful, where would that leave the DMMO Ref 183 application? Would it have been extinguished by then?

Mr Cheetham, I urge you to consider the reasons why the DMMO application for route 183 should be approved. It would be a huge loss for local people, many of whom do not want to trade a perfectly useable, accessable and practical footpath for a fake, man-made boardwalk through their beloved woodland.

**No response from:**

Peak & Northern Footpath Society, Open Spaces Society, Auto Cycle Union, CTC, Huddersfield Rucksack Club, Byways & Bridleways Trust, Kirklees Bridleways Group, Huddersfield Ramblers, KC allotments officer, WY Police, WY Fire, WYAS, WYPTE, MYCCI, Road Haulage Association, National Grid, KCOM, Yorkshire Water, BT, NTL, & YEDL

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Tower House  
Cemetery Road  
Edgerton  
Huddersfield  
HD1 5NF

Tel:

30.03.2017

Giles Cheetham  
Definitive Map Officer  
Public Rights of Way  
Kirklees Council  
Flint Street  
Fartown  
Huddersfield  
HD1 6LD

Dear Mr Cheetham,

Town & Country Planning Act 1990, Section 257.

Proposed stopping up of footpaths and provision of alternative footpath routes at Clayton Field[s], Edgerton,  
Huddersfield.

Consultation Response.

#### Objections:

##### Preamble

1. "Declaration and Undertaking no 2" - "We declare that the path to be stopped up is in no way obstructed and that it is fully available for use and We undertake that it will in no way be obstructed before the order comes into force" - made by Seddon Homes Limited / Paddico 267 (SH/P267) in their application form, received by Kirklees on the 26 May 2017, *is false*. Despite previous requests by Barry Sheerman MP, St. Patrick's Catholic Primary School and Clayton Fields Action Group (CFAG), the developer / landowner has continued to obstructed access to Claimed Public Right of Way (CPROW) 186 (DMMO APP 186), at the bottom of Deveron Grove, with a double locked steel gate.

2. CFAG notes that the "alternative footpath routes" in the application made by SH/P267 are predominantly on pavements along the proposed estate road. This is not apparent on the public information plans located by the Public Rights of Way unit around Clayton Fields (CF).

\*

##### Specifics

3. **The present submission does not offer a complete alternative off road footpath route for CPROW 183 (DMMO APP 183).**

3a. CPROW 183 has been continuously used as an earth path between PROW 345 and Murray Road / Queens Road since the early 1960s.

- 3b. An RAF aerial photograph (Huddersfield Library Accession no. 330054) shows much of CPROW 183 as a desire line along the bank top above Clayton Dike in 1949.
- 3c. The present CPROW 183 earth path is virtually flat and, therefore, a suitable walking, pushchair and wheel chair route for the young, old and disabled. It can also be used by cyclists.
- 3d. The proposed "Woodland Walk" ("WW"), which is routed for approximately one third of the distance of CPROW 183, parallel to it, will, if constructed (see 3h), not be flat. Therefore, it can not be used by the public in the ways described above (3c.). The "WW" is shown as Y – Z on the public notices.
- 3e. The "WW" is conditioned in the developer's Outline Planning Permission (OPP) (decision date 11 September 2015) which states that after the "WW" has been constructed: "The footpath shall be retained for public access at all times thereafter." (Condition 6.)
- 3f. We understand that full construction details of the "WW" have not (*yet?*) been submitted to Kirklees Council, as part of Prospect Estates' Reserved Matters planning application.
- 3g. We believe the topography and ground conditions make it impossible to construct and maintain the "WW" along the route submitted by the developer.
- 3h. An email sent from the land owner's / developer's architect to the planning case officer, dated 22 December 2014, states: "[...] this footpath [the "WW"] may not be realised as we have a multiple links from the site to the existing / adjacent footpath [PROW 345] making the above work abortive! As highlighted this footpath was a request by the CFAG and is being retained to try to appease them / help address the permissive footpaths issues. On the hopeful receipt of planning approval any CFAG problem causing will be removed from the design process and allow us to detail the scheme under a reserved matters application and resolve such items, if required." (My bold and underline.)
- 3i. Accommodating a flat, off road, PROW 183 within the proposed development can be done for very little expense, and would benefit everyone.
- 3j. A complete, off road, PROW 183 would be much cheaper to maintain than the "WW".
- 3k. A complete 183 route would also help to protect the woodland along Clayton Dike and its biodiversity. Conditions 13 & 14 of the developer's OPP stress the provision of "bat roosts and bird nesting boxes" and a development strategy which will avoid "loss or detriment to the wildlife habitat used by [the] said [protected] species."
- 3l. CFAG offers to accept, as a community asset transfer, the ownership of the land occupied by an optimum, off road, 183 PROW; the land stretching from 183 to the site's boundary along Clayton Dike; the area of proposed public open space adjacent to Edgerton Road; providing it is agreed by all the parties that these areas will remain, or be allowed to become, semi-wild habitats. This is CFAG's second response to the offer made by the developer, some years ago, to transfer ownership of public open space within the development site to Kirklees, or to other bodies.
- 3m. An optimum 183 route would also allow an additional, largely green, heritage rich, quiet, predominantly off road route to be created, connecting the development to Huddersfield Town centre. This could be a unique selling point.
4. There seems to be a perfectly good, off road, PROW route along the sewer easement crossing the site diagonally. No explanation has been offered as to why this has not been used to accommodate an amalgamated length of CPROW 185, 30, 184 and 31.

5. CFAG welcomes the landowner's proposed dedication of a small strip of land along the east side of PROW 345 "recorded and protected for future public enjoyment". However, it notes the transfer of this land to Highways relies on an order being made by Kirklees, which, if objections are not withdrawn, will, after a public enquiry, be determined by the Secretary of State.

**In my opinion, the slight, off road, re-routing of CPROW 183, the community asset transfer of the land cited above (31) and consideration of other, possible, PROW adjustments, will resolve CFAG's objections.**

**Everything advocated by CFAG is consistent with the emphasis on individual and community wellbeing in the Government's National Planning Policy Framework.**

I am happy for my consultation response to be given to the applicants.

Yours sincerely,

A rectangular box with a thin black border, used to redact the signature of Jonathan Adamson.

Jonathan Adamson, Chair, Clayton Fields Action Group.

Cc Barry Sheerman MP.

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## Consultation Response: Kirklees Council Conservation & Design (Biodiversity)

<b>Date</b>	<i>04/07/2017</i>
<b>Officer responding</b>	<i>Tom Stephenson</i>
<b>Application number</b>	<i>n/a</i>
<b>Purpose</b>	<i>Section 257, Town and Country Planning Act 1990</i>
<b>Location</b>	<i>Edgerton Road, Edgerton, Huddersfield, HD3 3AA</i>

### ***Assessment***

I have reviewed the representations made in relation to the above application, and have summarised the issues raised that are relevant to ecology and biodiversity as below. Any ecological issues raised that are not directly relevant to the creation of the Woodland Walk are not considered here.

- a) Presence of Japanese knotweed.
- b) Ecological effects on habitats present in the woodland.
- c) Ecological effects resulting from impacts to the function of the woodland as a buffer between development and Clayton Dike.
- d) Ecological effect on bird and bat populations resulting from impacts to habitats used by these species.

Potential ecological effects and requirements for mitigation have been considered as part of the outline and reserved matters planning applications for the wider development. Where required, conditions have been attached to the reserved matters permission to ensure the LPA is able to influence details of the means of creating the Woodland Walk and management of the retained habitats. These conditions also require the developer to manage non-native invasive species (including Japanese knotweed) in an appropriate manner.

It is my understanding that the ecological issues raised have already been considered as part of the previous permissions and should not be revisited as part of the Section 257 application.

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Giles Cheatham  
Definitive Map Officer  
Public Rights of Way  
Kirklees Council  
Flint Street  
Huddersfield  
HD1 6LB

6<sup>th</sup> July 2017

Dear Giles

Re Clayton Fields, Huddersfield – Application to stop-up footpaths under Section 257 of the Town and Country Planning Act 1990

Many thanks for sending me copies of the representation letters you have received in relation to our recent application.

Our application to stop up the alleged footpaths at Clayton Fields

Our application was made under Section 257 of the Town and Country Planning Act 1990. Section 257 states that a competent authority may by order authorise the stopping up or diversion of any footpath if they are satisfied that it is necessary to do so in order to enable development to be carried out in accordance with a planning permission. The site benefits from both outline and reserved matters approval, and details of these were provided on the application form.

For ease of reference, please find attached an updated copy of the Supporting Statement to our application, which describes both the routes to be stopped up and the new footpaths to be provided. The Statement is accompanied by 7 drawings which also show what we are proposing to do.

Our comments on the representations received

We have carefully read through the representations received and comment as follows with reference to the attached drawings.

(A) Mr Sundance

Mr Sundance says that the relocating of the main footpath along Clayton Dyke will not benefit users of the path. We are unclear as to the reasoning for this. The new footpaths to be provided on the site will be of benefit to both occupiers of the site and the wider community. The new footpaths shown coloured red on Plan 6 (attached) will be hard surfaced and lit. The woodland path (shown coloured pink on Plan 6) will be a pleasant woodland path. This is in contrast to the current position on site where the footpaths are not marked and the location of each alleged route is not visible on the ground.

The new footpaths connect into the local footpath and highway network, and will provide links to local schools, bus routes and the town centre.

Mr Sundance also queries whether the new footpaths will be adequately maintained. The new footpaths shown coloured red on Plan 6 will be dedicated as new public footpath by the landowner, so these will be maintained by the Council. The woodland path will be managed and maintained by a management company in accordance with the requirements of the Section 106 agreement for the site.

(B) Bill Magee, Jennie Magee, Lewis Magee, Matthew Magee and Clare Magee Denton

The new footpaths to be provided are shown on Plans 5 and 6 attached. Plan 5 shows the routes only, whilst Plan 6 shows the new footpaths over the development layout (which has reserved matters approval). As can be seen from the drawing, the new routes shown edged red on Plan 6 cross areas of both open space and the new footways to be provided as part of the development. A new woodland path is also proposed.

The new woodland path will be constructed and provided under the Council's supervision, and to their required standard. This is required under Condition 6 of the outline planning permission. Condition 6 says:

"Prior to the occupation of any of the dwellings hereby permitted the proposed woodland footpath adjacent to, and running alongside Clayton Dyke shall have been constructed and made available for use in accordance with details first submitted to and approved in writing by the local planning authority. The submitted details shall include:

- The width, materials, construction details and design including any retaining or supporting structures and handrails; and
- The route and its levels relative to the existing ground and river channel, and relationship to existing trees supported by accurate topographical, tree and ecological surveys.

The footpath shall be retained for public access at all times thereafter."

(C) I understand that this representation has been withdrawn.

(D) I understand that this representation has been withdrawn.

(E) Anonymous

It is necessary to stop up the routes shown in our application form in order to enable the development that has planning permission to be built. There is a pressing need for new homes to be built in the local area and this site is ready and available to meet its share of this need.

As mentioned above, the new routes to be provided cross areas of both open space and the new footways to be provided as part of the development. A new woodland path is also proposed.

A pedestrian route across the site from Queens Road to St Patrick's School will be provided as part of the development proposals. There will be a pedestrian route down Huddersfield Public Footpath 345 (which is to be retained) and then across the site west – east as shown on Plan 6.

As mentioned above, the woodland path will be constructed to the Council's specification. The construction process will be fully supervised and signed off by the Council. In terms of future maintenance, the landowner has a legal obligation (enforceable by the Council) that the woodland path must be maintained and kept open for public use.

As part of the development access across the site from Edgerton Road, Deveron Grove, Queens Road and to the bridge at the corner of the site nearest to St Patrick's School will be secured.

(F) Anonymous

As mentioned above, pedestrian routes across the site linking the local area to St Patrick's School (and other local facilities and amenities) will be maintained as part of the development proposals. Plan 6 shows the new routes to be provided and shows that the proposals provide north, south, east and west access across the site. All of the routes (except the woodland path) will be hard surfaced and lit which will ensure that the routes are available for use at all times of year, including the dark winter evenings.

(G) Anonymous

It is necessary to stop up the claimed route 183 to enable the development (as approved by the Council in the reserved matters application) to proceed. The development proposes a

package of alternative pedestrian routes through the site, which link into the existing main access points into the site (as shown on Plan 6).

It is a requirement of the outline planning permission for the site that the woodland path is constructed and made available for use by the public before any of the new houses on the site can be occupied. The new path will be constructed in accordance with a specification that will be approved by the Council and the Council will supervise the construction work. There is a legal obligation in the Section 106 agreement that the woodland path is maintained in accordance with a management and maintenance regime to be approved by the Council.

(H) Clayton Fields Action Group

It is necessary to stop up all of the claimed routes to enable the development (as approved by the Council in the reserved matters application) to proceed. The development proposes a package of alternative pedestrian routes through the site, which link into the existing main access points into the site (as shown on Plan 6). The new routes to be provided cross areas of both open space and the new footways to be provided as part of the development.

It is a requirement of the outline planning permission for the site that the woodland path is constructed and made available for use by the public before any of the new houses on the site can be occupied (Condition 6 attached to the outline permission). The new path will be constructed in accordance with a specification that will be approved by the Council and the Council will supervise the construction work. There is a legal obligation in the Section 106 agreement that the woodland path is maintained in accordance with a management and maintenance regime to be approved by the Council.

(I) Marsh Community Forum

It is necessary to stop up the claimed route 183 to enable the development (as approved by the Council in the reserved matters application) to proceed. The development proposes a package of alternative pedestrian routes through the site, which link into the existing main access points into the site (as shown on Plan 6).

Pedestrian routes across the site linking the local area to St Patrick's School (and other local facilities and amenities) will be maintained as part of the development proposals. Plan 6 shows the new routes to be provided and shows that the proposals provide north, south, east and west access across the site. All of the routes (except the woodland path) will be hard surfaced and lit which will ensure that the routes are available for use at all times of year. This is in contrast to the current position on site where the footpaths are not marked and the location of each alleged route is not visible on the ground.

(J) St Patrick's Catholic Primary School

It is necessary to stop up the claimed route 183 to enable the development (as approved by the Council in the reserved matters application) to proceed. The development proposes a package of alternative pedestrian routes through the site, which link into the existing main access points into the site (as shown on Plan 6).

Pedestrian routes across the site linking the local area to St Patrick's School (and other local facilities and amenities) will be maintained as part of the development proposals. Plan 6 shows the new routes to be provided and shows that the proposals provide north, south, east and west access across the site. All of the routes (except the woodland path) will be hard surfaced and lit which will ensure that the routes are available for use at all times of year. This is in contrast to the current position on site where the footpaths are not marked and the location of each alleged route is not visible on the ground.

I trust this is acceptable and thank you for your assistance with this matter.

Yours Sincerely

Rob Stenhouse

Development and Design Manager

Seddon Homes Ltd.

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## **Clayton Fields, Huddersfield – Statement in support of applications to stop-up footpaths under Section 257 of the Town and Country Planning Act 1990**

### **Introduction**

1. This Statement has been produced in support of an application submitted to Kirklees Council (“Council”) to stop up the following footpaths under Section 257 of the Town and Country Planning Act 1990 (“the 1990 Act”). The applications have been submitted to the Council jointly by Seddon Homes Limited and Paddico 267 Limited (“the Applicants”).
2. The application under Section 257 of the 1990 Act has been submitted to stop up the following footpaths:-
  - a. Route 1 – The route from Points “C” to “D” as shown coloured dark blue on Plan 1 attached to this Statement;
  - b. Route 2 - The route from Points “E” to “F” as shown coloured dark green on Plan 1;
  - c. Route 3 - The route from Points “G” and “H” as shown coloured light blue on Plan 1;
  - d. Route 4 - The route from Points “I” and “J” as shown coloured light green on Plan 1;
  - e. Route 5 - The route from Points “K” and “L” as shown coloured brown on Plan 1;
  - f. Route 6 – The route from Points “M” and “N” as shown coloured orange on Plan 1.
  - g. Route 7 – The route from Points “A” and “B” as shown coloured yellow on Plan 2 attached to this Statement.
3. The submission of the application is without prejudice to the Applicants’ position that they do not accept that public rights of way have been acquired over any of the routes included in the application.
4. Under Section 257 of the 1990 Act the Council has the ability to make an order authorising the diversion or stopping up of any footpath if they are satisfied that it is necessary to do so in order to enable development to be carried out in accordance with a planning permission.

### **Background to the Site**

5. Paddico (267) Limited are the owners of the site as shown edged red Plan 3 attached to this Statement (“the Site”). A copy of the registered title to the Site is provided as part of the application.
6. On 11 September 2015 outline planning permission was granted for a residential development on the Site comprising 41 new build houses and associated works (application reference 2014/93014). Reserved matters approval pursuant to this outline consent has been granted by the Council (reference 2017/90190) and a copy of the approved layout for the site is provided as Plan 3.
7. The Applicants are ready to start construction of the consented scheme on the Site but are aware of a number of alleged footpaths which cross the Site. The purpose of this application is to stop up any alleged pedestrian public rights of way that exist on the Site to enable construction of the development to start. This will secure the delivery of much needed new homes for the area.

8. The allegations relating to these footpaths is the final hurdle in starting the development and the Applicants will be in a position to start the development as soon as this issue has been resolved.
9. The new footpaths to be provided as part of the development will be of benefit to the local area. The routes shown coloured red on Plan 6 attached to this Statement will be hard surfaced and lit. The route shown coloured pink on Plan 6 will be a pleasant woodland footpath. This is in contrast to the current position on site where the footpaths are not marked and the location of the each alleged route is not visible on the ground.

#### **Summary of each stopping up applied for**

10. Routes 1 - 6 - these routes need to be stopped up to enable the houses, their gardens, open space areas and the estate roads to be constructed on the Site. The overlay plan provided as Plan 4 attached to this Statement shows how the development will be constructed over Routes 1 – 6.
11. Route 7 – pedestrian rights have been claimed over land that adjoins Huddersfield Public Footpath 345. The route of Footpath 345 is shown coloured pink on Plan 2 attached to this Statement. Pursuant to the planning consent which has been granted on the site Footpath 345 is to be widened, as shown shaded blue on Plan 2. This leaves a remaining strip of land over which pedestrian rights of way have been claimed. To ensure that the development can progress this strip of land (as shown coloured yellow on Plan 2) needs to be included in the stopping up application. The majority of this land falls within the garden boundaries of the houses to be built on the Site, whilst a small part of it will form the open space/landscaping element of the new development. Plan 2 shows Route 7 with the approved development layout also shown.

#### **Alternative routes across the Site**

12. The key access points into the Site are shown with black circles on Plan 6 attached to this Statement. The footpaths to be provided on the Site are shown coloured red and pink on Plan 6.
13. Plan 6 attached to this Statement shows the new footpaths to be provided in the context of the approved layout. This shows that the approved layout for the development provides north, south, east and west access across the Site on pavements and footpaths.
14. These new footpaths will connect into the local footpath and highway network, and will provide links to local schools, bus routes and the town centre. The new routes will improve local pedestrian links for both residents of the new development, and existing local people.
15. The footpaths shown coloured red on Plan 6 will be dedicated as new public footpath by the landowner. The footpath shown coloured pink on Plan 6 will be managed and maintained by a Management Company in accordance with the terms of the Section 106 agreement for the Site.

**Shoosmiths LLP**

**4 July 2017**



Tower House  
Cemetery Road  
Edgerton  
Huddersfield  
HD1 5NF

Tel:

07.08.2017

Giles Cheetham  
Definitive Map Officer  
Public Rights of Way  
Kirklees Council  
Flint Street  
Fartown  
Huddersfield  
HD1 6LD

Dear Mr Cheetham,

**Town & Country Planning Act 1990, Section 257.**

**Proposed stopping up of footpaths and provision of alternative footpath routes at Clayton Field[s], Edgerton, Huddersfield.**

**Application received by Kirklees Council on 26.05.2017.**

Following my notification to you in my consultation letter, dated 30.06.2017, of the false undertaking made by Seddon Homes Limited / Paddico 267 in the above application; quoted from my letter below:

"1. "Declaration and Undertaking no 2" - "We declare that the path to be stopped up is in no way obstructed and that it is fully available for use and We undertake that it will in no way be obstructed before the order comes into force" - made by Seddon Homes Limited / Paddico 267 (SH/P267) in their application form, received by Kirklees on the 26 May 2017, *is false*. Despite previous requests by Barry Sheerman MP, St. Patrick's Catholic Primary School and Clayton Fields Action Group (CFAG), the developer / landowner has continued to obstruct access to Claimed Public Right of Way (CPROW) 186 (DMMO APP 186), at the bottom of Deveron Grove, with a double locked steel gate."

And, also, following the three consultation meetings held with Seddon Homes Limited / Paddico 267 on 04.07.2017, and with Seddon Homes Limited on 07.07.2017 and 17.07.2017, I now formally request that the above application made by Seddon Homes Limited / Paddico 267 is suspended until the gate at the bottom of Deveron Grove is no longer an obstruction to the full use of Claimed Public Right of Way (CPROW) 186 (DMMO APP 186). And, once the obstruction is removed, a truthful and accurately dated application is resubmitted by the applicant.

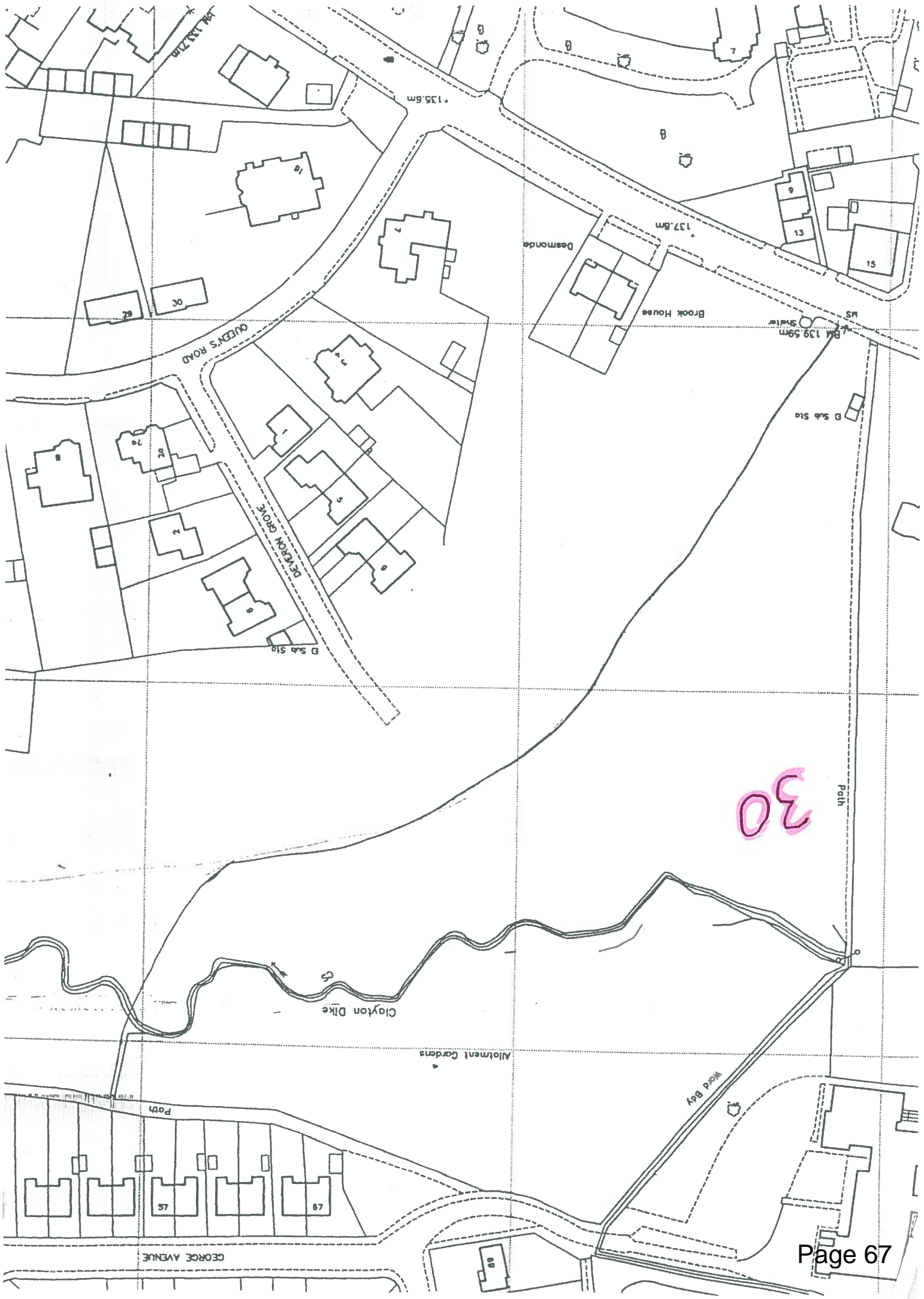
Yours sincerely,

Jonathan Adamson. Chair, Clayton Fields Action Group.

Cc Barry Sheerman MP.



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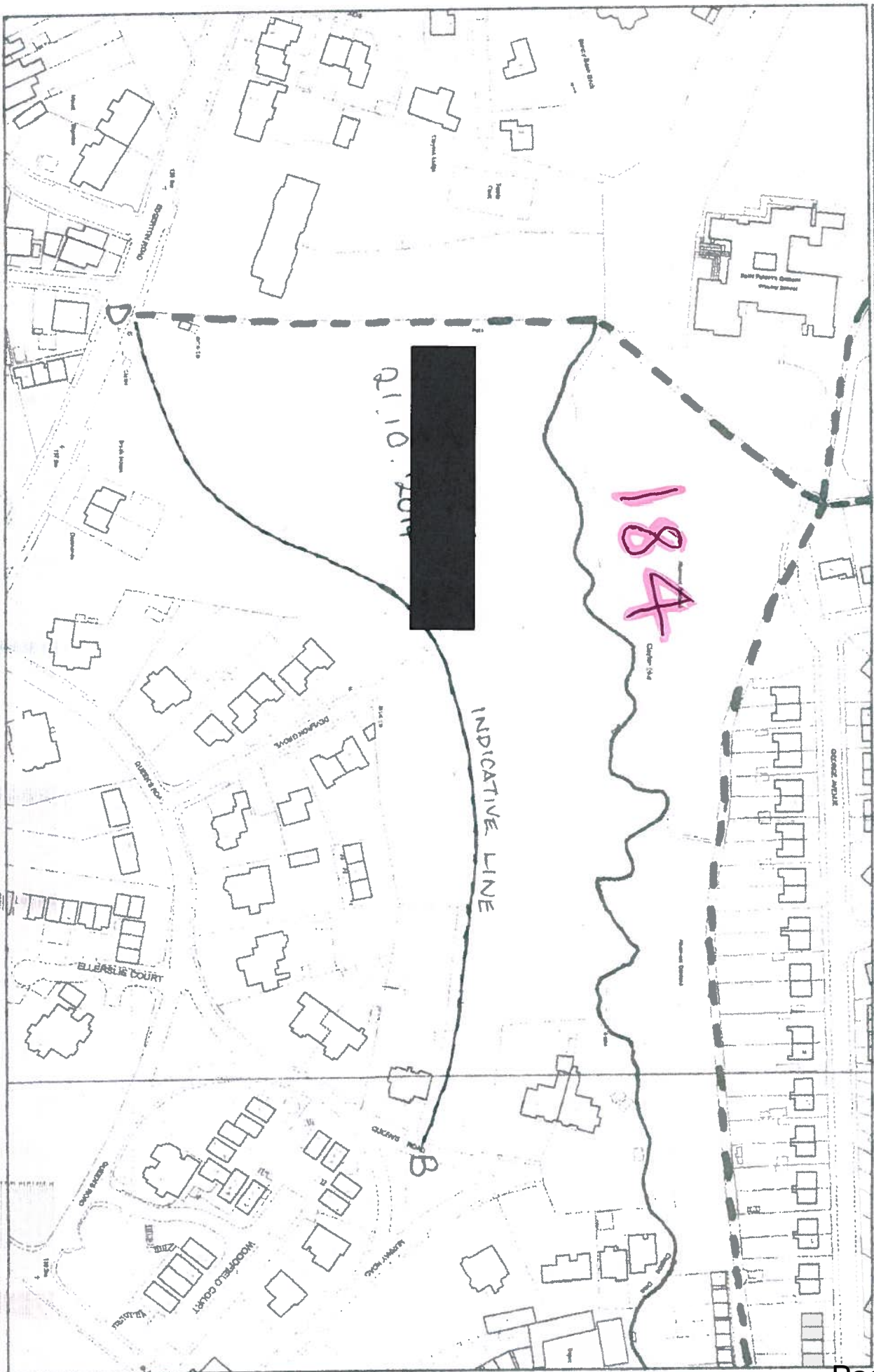
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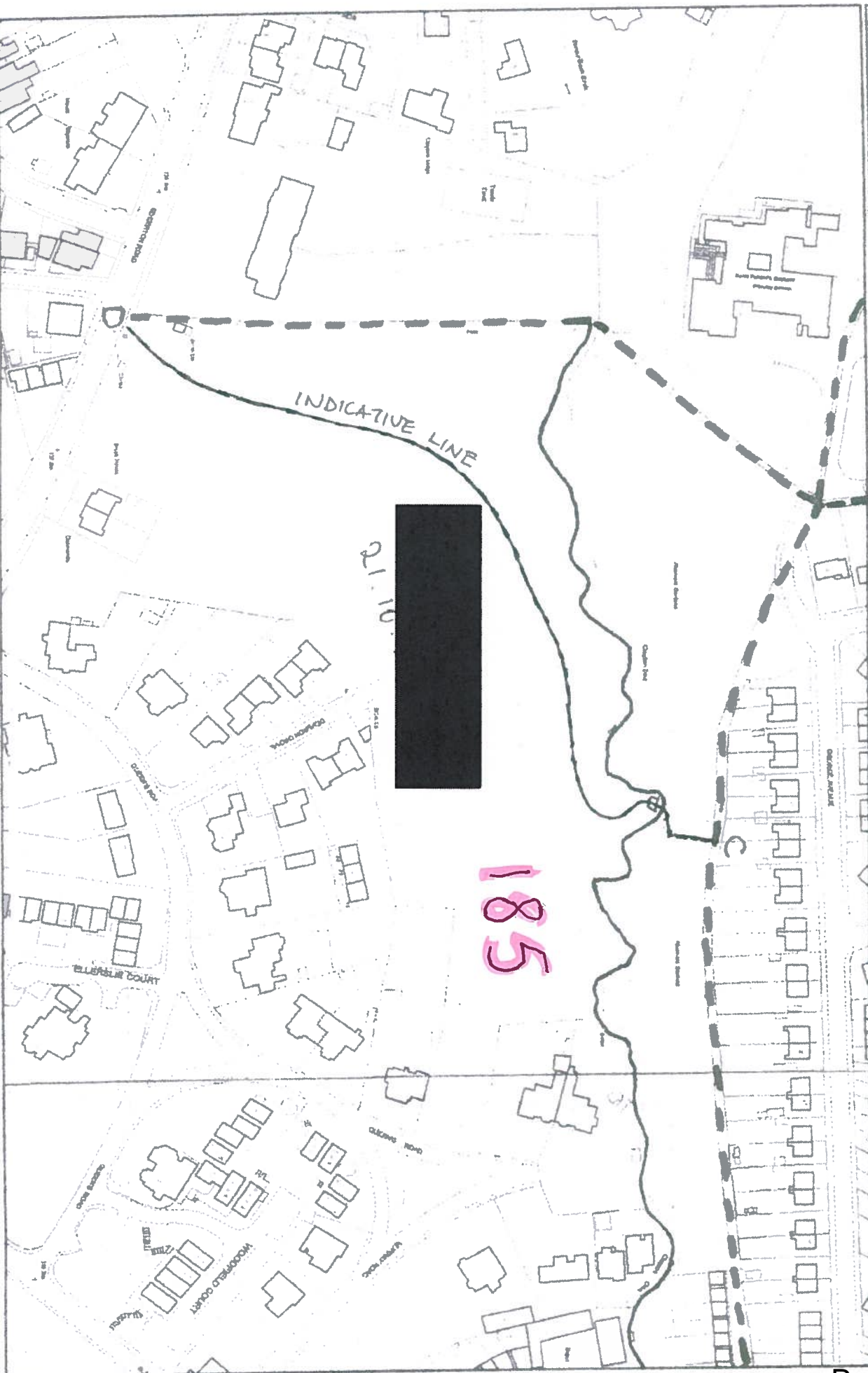


# Definitive public footpaths

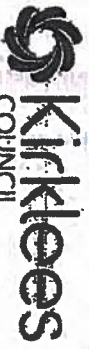
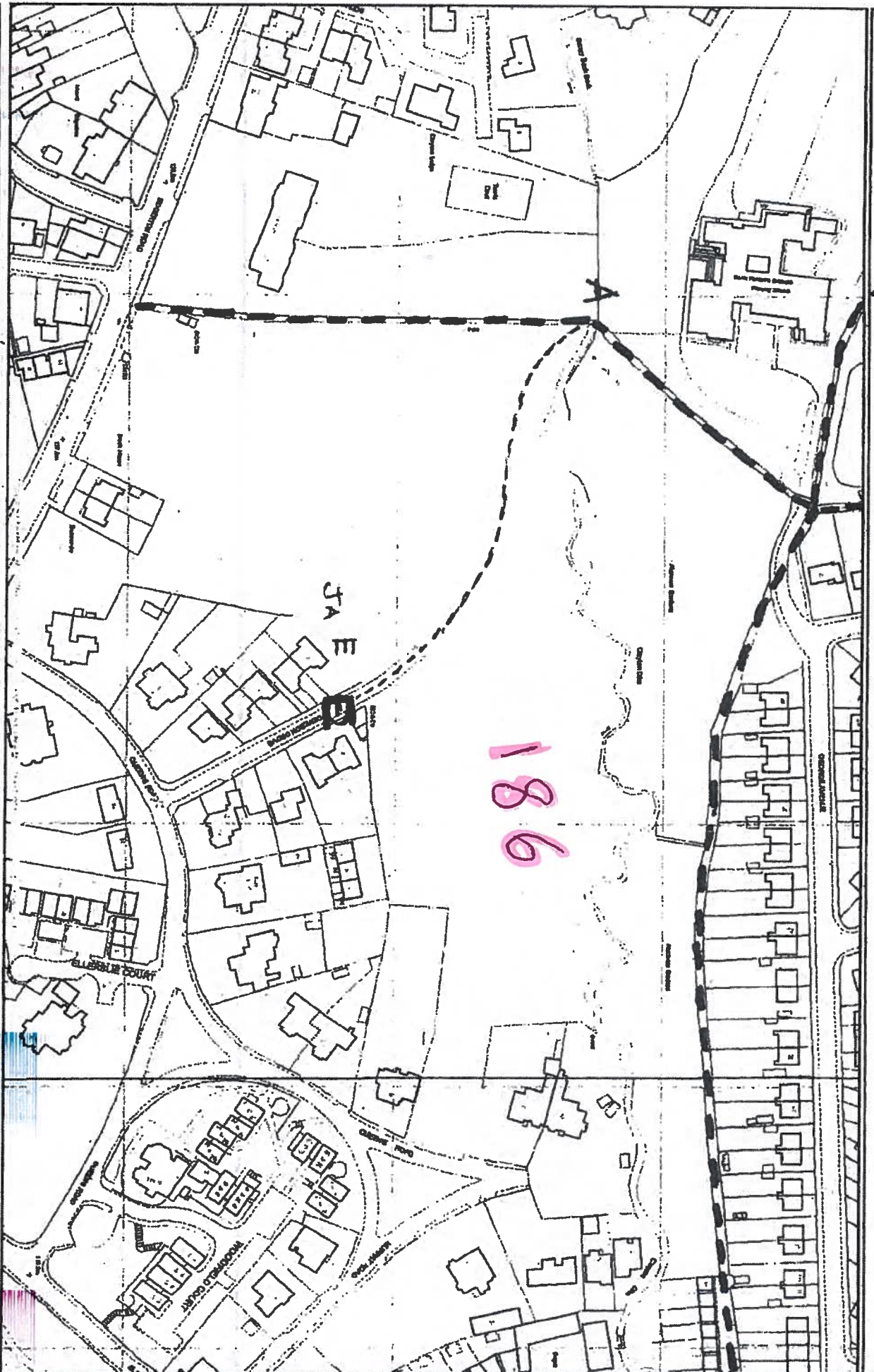




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# Definitive public footpaths - - - - -



COUNCIL

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Date 18/9/2014

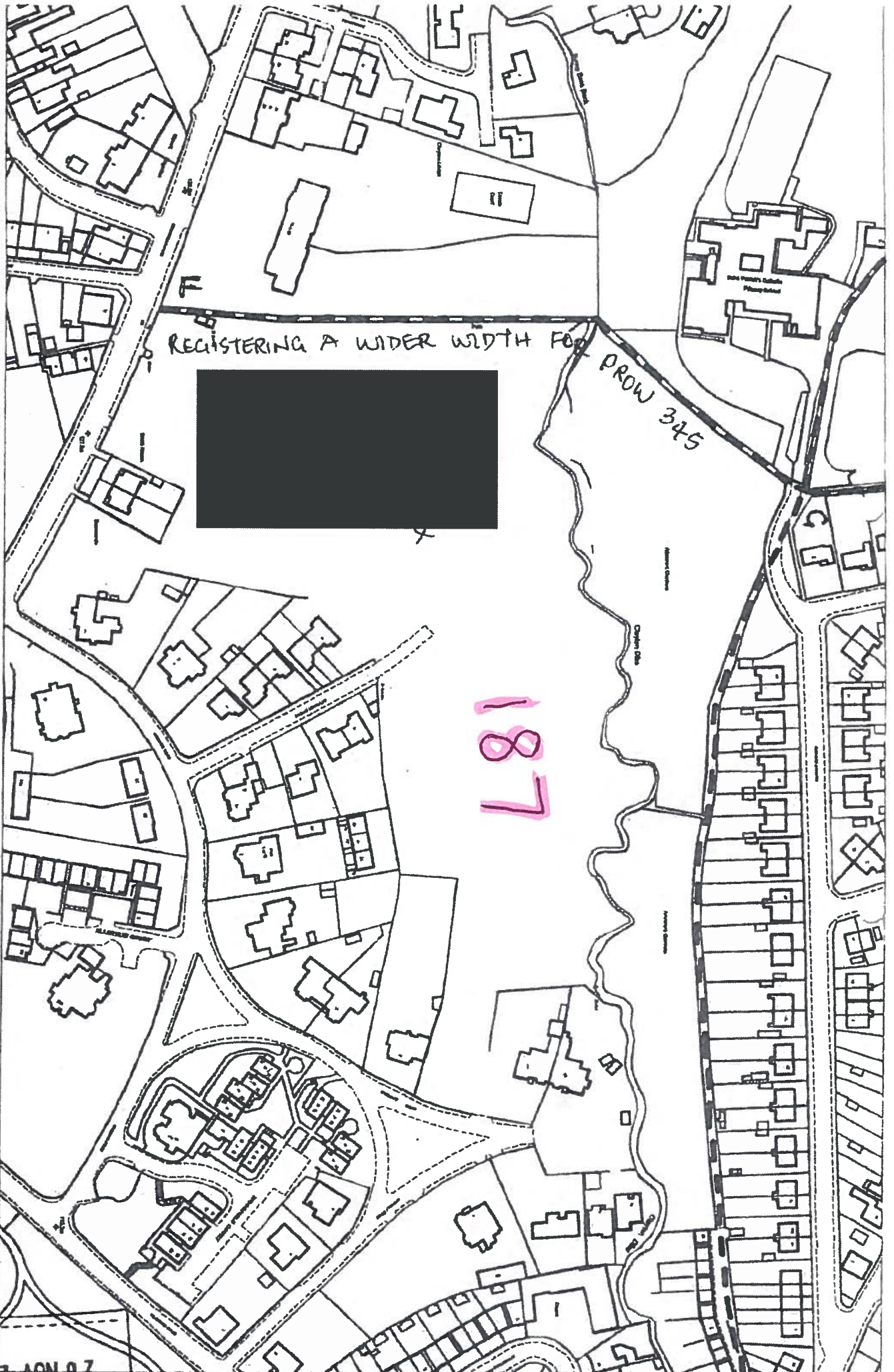




Definitive footpaths



Produced on 14 November 2014  
Scale 1 : 2000



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**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 Kirklees Unitary Development Plan (saved Policies 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 Council is currently in the process of reviewing its development plan through the production of a Local Plan. The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

### **National Policy/ Guidelines**

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

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

## **REPRESENTATIONS**

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

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

## **EQUALITY ISSUES**

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

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

In the event that a specific development proposal has particular equality implications, the report will detail how the duty to have “due regard” to them has been discharged.

## **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 NPPF 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.**

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## Report of the Head of Strategic Investment

### HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 31-Aug-2017

Subject: Planning Application 2017/91361 Erection of 39 dwellings and associated landscaping Land at, Cross Lane, Scholes, Holmfirth

#### APPLICANT

Mark Bray

#### DATE VALID

19-Apr-2017

#### TARGET DATE

19-Jul-2017

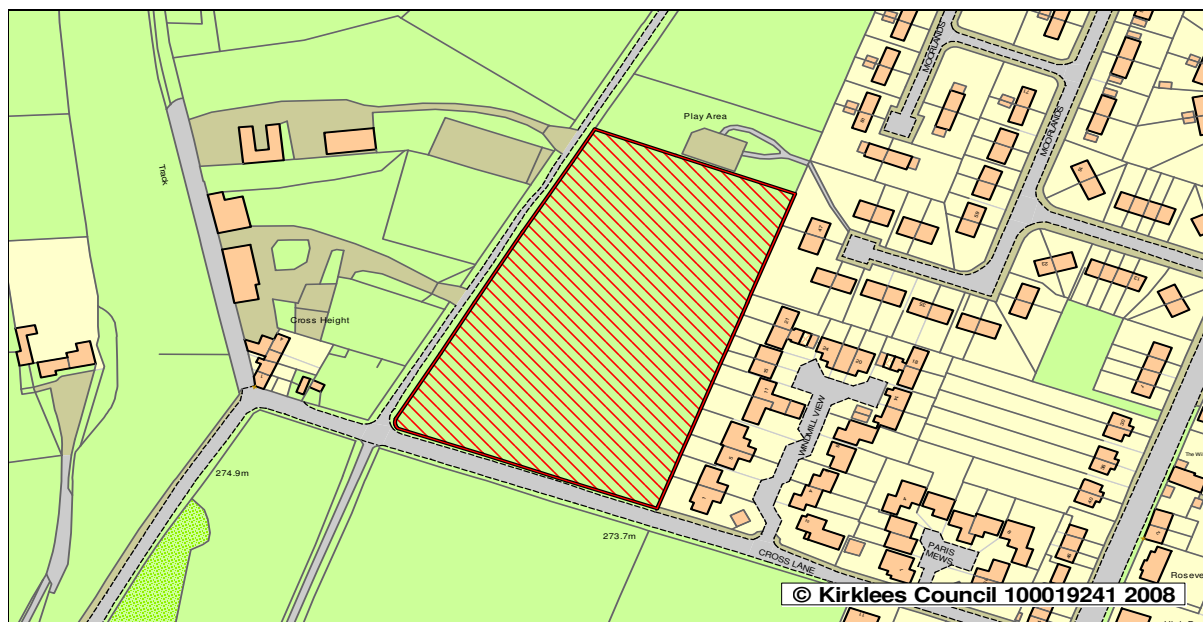
#### EXTENSION EXPIRY DATE

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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

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**Electoral Wards Affected: Holme Valley South**

Yes

Ward Members consulted

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## **RECOMMENDATION:**

DELEGATE approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions including those contained within this report and to secure a S106 agreement to cover the following matters:

The provision of affordable housing on-site comprising 4no one bedroom apartments and 4no two bedroom properties (20% of total dwellings), tenure split to be agreed.

A financial contribution towards the provision of primary school places of £51,186 which would be specifically intended for Scholes Junior and Infant School.

A financial contribution towards the provision of secondary school places of £62,055 intended for Holmfirth High School.

An off-site public open space contribution (£141,966 to be confirmed in Update Report)

Maintenance for soakaways and wildflower area.

In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Strategic Investment shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Strategic Investment is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

## **1.0 INTRODUCTION:**

- 1.1 The application is presented to Huddersfield Sub-Committee as it involves a departure from the Kirklees Unitary Development Plan (Policy D5), the development on Provisional Open Land for a scheme of less than 61 residential units.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application relates to a *circa* 1.36ha parcel of agricultural land left over to pasture located to the south west of Scholes village and beyond the edge of the existing settlement. The proposal is located on a site allocated as Provisional Open Land in the Kirklees Unitary Development Plan.



- 2.2 The site is located approximately 1km to the south of the main services and facilities located within the village of Scholes. Holmfirth lies at a distance of approximately 1.5km, New Mill 2.1km and Huddersfield Town Centre 9km.
- 2.3 The land falls from Cross Lane in a northerly direction away from the road. There is an informal footpath just beyond the northern boundary, beyond this lies a play area. Ryecroft Lane which lies to the west comprises a byway.
- 2.4 Beyond the roads to the west and south the land comprises Green Belt and open upland countryside. To the east the site adjoins housing estates which are accessed off Cross Lane and Scholes Moor Road. This housing is a mix of post-war and more modern stone units. A number of dwellings located along Moorlands and Windmill View face the application site.
- 2.5 The site generally replicates the character of the surrounding countryside. Fields are divided by dry stone walling and there are open, extensive views across undulating countryside, with limited tree cover.

### **3.0 PROPOSAL:**

- 3.1 The application is submitted in full and proposes the erection of 39 dwellings and associated landscaping. Two points of access are proposed off Cross Lane. The main access is proposed approximately 67m to the west of the access to Windmill view. It would comprise a simple T-junction access and serve 36 dwellings. Further along Cross Lane, approximately 32m from Ryecroft Lane, it is proposed to create a shared surface access off Windmill Lane which would serve 3 dwellings. No access to housing is proposed off Ryecroft Lane.
- 3.2 The proposed development involves 39 dwellings comprising 1 – 5 bedrooms. These are split as follows:
- 10% one bed homes
  - 10% two bed homes
  - 21% three bedroom homes
  - 31% four bedroom homes
  - 28% five bedroom homes

It is proposed that 8 of the units would be affordable

- 3.3 Dwellings proposed range between 2 and 2.5 storeys in height.
- 3.4 The developable area of the site would result in a density of 28 dwellings per hectare.
- 3.5 The existing dry stone wall fronting Cross Lane and Ryecroft Lane would be reinstated where it fronts the application site. Landscaping is included in the proposal and generally comprises a native mix, especially along the site boundaries.
- 3.6 Car parking would be provided within the application site for each proposed property in the form of garages, parking spaces and/or private driveways. The scheme provides 95 car parking spaces. A number of formal and

informal visitor car parking spaces are incorporated into the layout and the scheme includes one cycling parking space per property.

3.7 The application is accompanied by a scheme of off-site highway works comprising a new pedestrian footway from the site access along Cross Lane adjacent to the site. This would tie in with the existing footway on Cross Lane and Ryecroft Lane providing a footway along the whole site frontage.

3.8 In addition, the proposed development includes the following to be secured through the planning application and associated legal agreements:

- The provision of affordable housing on-site comprising 4no one bedroom apartments and 4no two bedroom properties (20% of total dwellings), tenure split to be agreed.
- A financial contribution towards the provision of primary school places of £51,186 which would be specifically intended for Scholes Junior and Infant School.
- A financial contribution towards the provision of secondary school places of £62,055 intended for Holmfirth High School.
- An off-site public open space contribution (to be confirmed in the updated Report)

#### **4.0 RELEVANT PLANNING HISTORY:**

4.1 90/03819 – Outline application for residential development – Refused. Subsequent appeal dismissed.

94/91432 – Residential development of 91 dwellings – Refused. – *this planning application was not on the application site but, rather on land further to the north off Ryecroft Lane and Sandycroft Lane.*

2016/90864 – Erection of 4no dwellings – Withdrawn.

#### **5.0 HISTORY OF NEGOTIATIONS**

5.1 The application has undergone extensive pre-application and amendments have also been sought during the course of the planning application. The scheme has been amended as follows:

- Minor changes to the layout, house types and elevations for a small number of the properties facing Ryecroft Lane in order to ensure an improved relationship with the street.
- Alterations to the rear elevation of the proposed apartment block unit.
- Additional information concerning SuDS and flood routing.
- Alterations to the landscaping in order to incorporate more native species.
- Proposed materials now comprise stone throughout the development.

#### **6.0 PLANNING POLICY:**

6.1 The statutory development plan comprises the Kirklees Unitary Development Plan (saved Policies 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 Council is currently in the process of reviewing its development plan through the production of a Local Plan. The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

D5 - Provisional Open Land  
H1 - Housing Need  
H10/12 - Affordable Housing  
H18 - Provision of Open Space  
BE1/2 - Design and the Built Environment  
BE11 - Building Materials – Natural Stone in Rural Area  
BE12 - New dwellings providing privacy and open space  
BE23 - Crime Prevention Measures  
EP10 - Energy Efficiency  
EP11 - Landscaping  
T1 - Sustainable Transport Strategy  
T10 - Highways Safety / Environmental Problems  
T16 - Pedestrian Routes  
T19 - Off Street Parking  
G6 - Contaminated Land

Kirklees Draft Local Plan Strategies and Policies (2017):

PLP3 – Location of New Development  
PLP7 – Efficient and effective use of land and buildings  
PLP11 – Housing Mix and Affordable Housing  
PLP20 – Sustainable Travel  
PLP21 – Highway safety and access  
PLP22 – Parking  
PLP24 – Design  
PLP27 – Flood Risk  
PLP28 – Drainage  
PLP30 – Biodiversity and Geodiversity  
PLP32 – Landscape  
PLP35 – Historic Environment  
PLP48 – Community facilities and services  
PLP51 – Protection and improvement of local air quality  
PLP52 – Protection and improvement of environmental quality  
PLP61 – Urban Green Space  
PLP62 – Local Green Space  
PLP63 – New Open Space

- Providing for Educational needs generated by new housing
- Interim Affordable Housing Policy
- West Yorkshire Air Quality and Emissions Technical Planning Guidance
- Kirklees Landscape Character Assessment (2015)
- Kirklees Housing Topics Paper (2017)
- Kirklees Council Housing Allocations – Accessibility Assessment (March 2015)
- Planning Practice Guidance

Many policies within the National Planning Policy Framework are relevant to this proposal and, where relevant, are referred to in the main report text.

## **7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application has been advertised in the press, by site notice and by neighbour letter as a Major Development and a Departure from the Development Plan. Amended plans have also been re-advertised. A total of 295 representations have been received which are summarised below. A response to these points is provided in the main body of this report unless otherwise stated:

- Provisional open land should not be built on until the forthcoming local plan has been adopted.
- Loss of grazing land.
- Would detract from the local landscape which attracts tourism and is a vital part of the local economy.
- The proposal adds nothing to the local amenities in circumstances where the village has recently lost the working men's club and parking area.
- It will increase commuting by private car. There are few businesses in Scholes and residents have to travel outside the district to seek employment.
- Dunford Road is single car width in some places. St Georges Road towards Totties is a major bottle neck, which only allows one car to pass at any one time and in most parts doesn't have a pavement and has a blind corner. Paris Road, Sandy Gate, Stake Lane Bank is no different. Scholes Road, towards Jackson Bridge, is another bottle neck, which only allows one car to pass at any one time and has a blind corner.
- Rycroft Lane, which runs along the side of the proposed development, is also a one car track with no pavements.
- The scale of the development has no regard to size, character and setting of the village. 20 years ago the planning inspector concluded that a development on this site would be incompatible with the size, character and setting of Scholes.

*Officer response – the application has been considered against current planning policies and the loss of this POL site has to be weighed against other factors, including the lack of 5 year housing land supply.*

- Impact on air quality for local residents.
- No plans to increase doctor's surgery and dentist capacity.

*Officer response – the UDP and emerging Local Plan sets out the type of infrastructure which development in Kirklees should consider. There is no requirement to make a contribution to GP's or dentists.*

- Plans appear to remove the only children's playground in the village.

*Officer response – the proposal does not involve the removal of the park adjacent to the site and there is a financial contribution proposed to upgrade it.*

- The village school is already full and over-subscribed.

*Officer response – the applicant proposes a financial contribution to deal with the impact on local schools in order to fund additional capacity.*

- The site is close to Morton Wood Local Wildlife Site.

*Officer response – the application has been accompanied by a habitat/ecological survey which have been assessed by the Council's biodiversity officer. No objections are raised.*

- Flood risk as the site is a flood plain.
- Prior allocation of this land for development would deny villagers their democratic right to comment on development of the site as part of the public inspection of the new Local Plan.
- Site access is in two places after a difficult bend in the road. There are often cars parked along Cross Lane which blocks pedestrian access. Turning right out of Cross Lane to Hade Edge is often difficult due to blocking views of a safe exit from the junction.
- The site should be allocated as greenspace and these representations have been made as part of the Local Plan process.
- The site absorbs an enormous amount of rain water but if the land was to be built on the water would not be able to soak into the earth and would obviously run off somewhere else. Living on Scholes Moor Road I have seen at first hand how the increasingly frequent bouts of heavy, sustained rain creates a fast flowing stream that runs down the road outside my house, the drains being unable to cope with it. The proposed development would increase the flood risk to some homes in this area and insufficient regard has been paid to this aspect, despite that fact that we have had all too many examples nationally of the effects of flooding and its impact on communities.
- Part of wider proposals to develop the surrounding land.
- The 39 houses proposed, of which only 8 are designated as affordable, have 95 allocated parking spaces, (including garages I think though this is not clear). Most households do not park in their garages, so either way 95 more vehicles every day on inadequate narrow roads, plus all the extra delivery vehicles etc.

- To approve an application on this site would disenfranchise the public who have been given a legitimate expectation that the Local Plan process would be carried through. The legal doctrine of 'legitimate expectation' protects the rights of the public in cases such as this where they have been invited into a consultation process by a public body.
- The proposed development conflicts with policy D5 of the Unitary Development Plan.
- Plans show materials stone and reconstituted stone. It is not clear. Reconstituted stone would not be appropriate in this location.

*Officer response – the scheme has been amended and now includes natural stone throughout.*

- Foul water – the application states that foul water and sewage will be connected to the main sewer at the lower end of Ryecroft Lane but this is 150mm diameter unlike the more common 230mm diameter. Have Yorkshire Water approved this plan? What if it is not approved by Yorkshire Water?
- The design does not fit in with the existing character of the village such as the stone cottages along Cross Lane. It does not harmonise with Windmill View and Paris Mews. They are not suitable for a rural village.
- Local roads are inadequate.
- Adding traffic to Holmfirth when it is already gridlocked.
- It will take away one of the few green spaces in Scholes.
- Four apartments are inappropriate. The site should include two bedroom homes available on a shared ownership basis.
- The five bedroomed homes will have two parking spaces in front of the garage and the four bedroomed houses will have one parking space in front of the garage. This means that Cross Lane will become a car park. Five bedroomed houses should have three car parking spaces.
- The developer only proposes three soakaways within the development and this is unsuitable.
- There are numerous 4 and 5 bedroom properties in the village so these properties are not needed.

*Officer response – there is no requirement for the applicant to demonstrate a 'need' for the development.*

- The development is not sustainable as it is reliant on the car.
- There are other brownfield sites available.

- There are so few amenities for children that this addition would put further strain on existing ones, not to mention altering the character of this small village to become something much larger and more bland and generic.
- Several places in the village where there are no footways and this development would add to unacceptable pedestrian safety.
- Application is in the Green Belt and is unacceptable.

*Officer response – the site does not lie in the Green Belt.*

- On the basis of the number of objections the application should be rejected.

*Officer response – the number of representations received to an application is not a reason in itself to refuse planning permission.*

- Boundary treatments plan shows a 1.8m high brick wall. This should be replaced with stone wall or existing stone wall should be reinstated. Box hedging on the site is to be allowed to grow up to 5m high, how will it be retained at 0.6m?

*Officer response – a planning condition is proposed relating to boundary treatments as no details in terms of wall materials have been provided. Officers would expect walls to be similar materials to dwellings (stone).*

- The development is out of scale with existing properties in the area.
- Street scene drawings show the site as if it was flat. Will levels on site be retained or will the land be built up?
- Trees proposed along boundary with Moorlands and Windmill Close. Block light and leaves may block drains.

*Officer response – A planning condition is proposed relating to boundary treatments.*

- Proposal should provide 1110m<sup>2</sup> of open space and this could be a strip of land adjacent to the existing park.

*Officer response – an off-site contribution is sought in this case to be secured by S106 agreement.*

- How can 200 – 300 cars be accommodated on local roads? Roads already at capacity.
- The submitted highways report suggests 30 two way car trips at peak times but this does not address the issue that roads are over capacity.
- Local area is too hilly to allow walking to services in Holmfirth.
- Supreme Court Judgment should mean that application is refused.

*Officer response – the Judgment has been considered by officers and the weight afforded to relevant policies in the Development Plan and the advice contained in the NPPF has been considered in this report.*

- There are no dormers in the vicinity of the locality.

*Officer response – there are a variety of house types on Cross Lane. The property on the corner of Cross Lane and Scholes Moor Road includes dormers to the front and rear.*

- There should be a bus stop on Cross Lane.

*Officer response – the provision of bus stops has been considered. The site is considered to lie within an acceptable walking distance of bus stops.*

- Should be a paved, possibly fenced and lit pathway across the front of plots 27-31 past plot 35 to join road in front of plot 36.

*Officer response – such a pedestrian link is not considered necessary to make the scheme acceptable in this case.*

- The proposals are claustrophobic and will damage views and the local character.
- Close to Morton Wood SSI and will cause pollution.
- Would negatively impact on quality of life of local residents.
- Construction traffic will cause damage to roads and where will vehicles park?

*Officer response – a planning condition is proposed requiring a Construction Management Plan to be submitted.*

- Inadequate lighting on supporting roads making them even more dangerous.
- Development would employ national housebuilders and would not be a local firm.
- The local school built has no spare land on which to expand.
- Poor design does not make any contribution to the area.
- The public right of way leading to the Longley Farm windmill is used heavily by dog walkers, cyclists and trekkers, all of which are at danger from extra traffic entering your proposed planning site.
- Would spoil views across the countryside and of Castle Hill.
- Urban sprawl

7.2 In addition, detailed representations have been received from Scholes Future Group who are a group representing some residents in Scholes who oppose the proposed development. They have submitted detailed representations in response to the application which can be summarised as follows:



- Decisions regarding the application now stand to be taken in light of the judgment handed down by the Supreme Court in May this year ([2017] UKSC 37) which considers the legal status of NPPF. The judgment reasserts the primacy of the statute, and indicates that NPPF is but one material consideration for purposes of decision making relating to planning applications, and is not determinative. In our view there are a good many other material considerations to be weighed in the balance. It is notable that footnote 10 to NPPF 14 itself requires such material considerations to be taken into account by those taking decisions on development proposals.
- Approval would be at odds with the current Local Plan. The application is premature, and disregards the fact that the draft Local Plan now with the Planning Inspectorate demonstrates the availability of a five-year supply of deliverable housing sites – such considerations being permitted by NPPF 216 and PPG para 14.
- Approval of the application would defeat the legitimate expectation created by KMC of community involvement in the whole process of developing the new Local Plan. It would disenfranchise the residents of Scholes as regards their continuing involvement in deciding what is to happen to the site presently included in the draft Local Plan as H297.
- Community involvement in Scholes as regards the development of the new Local Plan has been substantial, with the hundreds residents who have attended meetings and/or made comments to KMC during the development of the new Local Plan being completely opposed to what is seen as excessive and unsustainable development in the village. Scholes Future Group and many residents individually, have proposed that changes should be made to the new Local Plan such that H297, H597, and SL3359 be designated as Local Green Space.
- Approval of the application would prevent further representations as regards H297 being made during the public examination of the new Local Plan, which will take place in the near future.
- Development as proposed of H297 and the other sites in Scholes fail to satisfy many of the policy requirements within NPPF.
- As we understand matters we would have no right of appeal against approval by KMC of the application. In our view, in light of the detailed representations below, approval of the application would be sufficiently perverse at this time as to warrant an immediate request to the Local Government Ombudsman to review the matter, and for us to consider judicial review.
- In the Courts addressing the question of the scope of the ‘presumption in favour of sustainable development’ at the very outset the Court states (para 1) :

“We have the advantage of being able to approach it in the light of the recent decision of the Supreme Court, upholding the decision of this court, in *Suffolk Coastal District Council v Hopkins Homes Ltd. and Richborough Estates Partnership LLP v Cheshire East Borough Council* [2017] UKSC 37. “

Important comments are made in the course of the judgment regarding the significance of NPPF 49 & 14.

“34. Three salient passages in Holgate J.’s judgment (in paragraphs 126, 131 and 136) are these:

... [Even] if the presumption in paragraph 14 of the NPPF applies, it is nonetheless necessary to apply section 38(6) and evaluate the weight to be given to policies in the development plan (including policies for the supply of housing land which may have been deemed to be “out of date”), and this may result in a refusal of planning permission (as in [*Crane*]). ...”

On behalf of the Secretary of State in this appeal, Mr Gwion Lewis has commended that analysis to us as correct, and a true reflection of the Government’s intention in the NPPF. And in my view it is right. Three simple points can be taken from it, which I would add to those I have mentioned in paragraphs 8, 9, 13 and 22 above:

“(3)...The “presumption in favour of sustainable development” is not irrebuttable. Thus, in a case where a proposal for the development of housing is in conflict with a local plan whose policies for the supply of housing are out of date, the decision-maker is left to judge, in the particular circumstances of the case in hand, how much weight should be given to that conflict. The absence of a five-year supply of housing land will not necessarily be conclusive in favour of the grant of planning permission. This is not a matter of law. It is a matter of planning judgment (see paragraphs 70 to 74 of the judgment in *Crane*).”

We say that the greatest possible weight has now to be given to the effect of these two important judgments. The situation regarding decision-taking on planning applications where NPPF 14 may be in point may now be summarised as follows :

The Supreme Court, [2017] UKSC 37, directs that :

- Decision-taking is governed by the statutes (para 7)
- The existing development plan should be adhered to, unless “other material considerations” indicate otherwise (again, para 7)
- NPPF as it applies to “decision-taking” on planning applications is “no more than guidance”, not determinative – only one material consideration amongst possibly many (para 21)

The Court of Appeal, [2017] EWCA Civ 893, :

- agrees with Counsel acting for the Secretary of State (end of para 34 and beginning of para 35) that :
  - even if NPPF 14 applies,
  - consideration must be given even to policies which are “out of date” per NPPF 49, and that
  - this may result in a refusal of planning permission
- advises that “presumption in favour of sustainable development” is capable of being rebutted, and
- states that : “The absence of a five year supply of housing land will not necessarily be conclusive in favour of granting permission”

Our comments below are made in light of these two judgments, which give the correct context in which any decision on the application must be taken.

*Scholes Future Group Comment on Miller's Additional Planning Policy Justification document*

We accept that NPPF 49 can trigger the operation of the second part of NPPF 14.

Looking firstly at NPPF 49, we say that it is a material consideration as regards the circumstance encompassed by NPPF 49 that KMC have delivered a new Local Plan to the Secretary of State for inspection (and in respect of which an inspector has been appointed who has started to engage with interested parties), which states at 8.22 that for the period covered by the Plan, as required by NPPF 47, : “The trajectory and phasing table demonstrate a five year supply of deliverable housing land as required by national planning policy.” We assume in light of failings with the previously submitted Plan that KMC are unlikely to have made this statement if it is flawed. The period covered by the Plan is of course 2013/14 to 2030/31.

The second bullet point of NPPF 47 carries no stipulation as to how or where local planning authorities should satisfy its requirements.

Even if NPPF 49 is engaged, its effect is to activate NPPF 14 as a material consideration in taking a decision on the Application. We note in this regard that Counsel for the Secretary of State in [2017] EWCA Civ 893 approved as a correct analysis “and a true reflection of the Government’s intention in the NPPF” the proposition that :

“[Even] if the presumption in paragraph 14 of the NPPF applies, it is nonetheless necessary to apply section 38(6) and evaluate the weight to be given to policies in the development plan (including policies for the supply of housing land which may have been deemed to be “out of date”), and this may result in a refusal of planning permission.”

Footnote 10 in NPPF renders the entire content of NPPF 14 as it applies to decision-taking subject to such material considerations as might militate against its application, and as regards the second bullet point on decision-taking the text of NPPF 14 itself imposes two further obstacles to its operation, namely where :

- a) specific NPPF policies impose restrictions on granting permission, or
- b) the benefits of granting permission are significantly and demonstrably outweighed by the adverse impacts of doing so when assessed against the policies of NPPF taken as a whole.

We have demonstrated that there are sufficient other material considerations which militate against any application at all of NPPF 14, and that in any case the Application site fails to satisfy many critical requirements in policies elsewhere in NPPF.

We are clearly at odds with Miller as to where the Planning Balance lies, but take the view that the scales come down on the side of refusal.

There are some specific comments in Miller's Additional Planning Policy Justification document where additional comment is required.

The document states more than once that : "It is relevant that the Courts have found a site which falls within the ambit of paragraph 14 of the Framework is axiomatically sustainable in policy terms" (pages 3 & 7) . We doubt this is correct – at least in light of the recent judicial comment in [2017]UKSC 37 and [2017] EWCA Civ 893.

It is clear from the Court of Appeal's comment at para 35(3) of [2017] EWCA Civ 893 that :

The "presumption in favour of sustainable development" is not irrebuttable. Thus, in a case where a proposal for the development of housing is in conflict with a local plan whose policies for the supply of housing are out of date, the decision-maker is left to judge, in the particular circumstances of the case in hand, how much weight should be given to that conflict. The absence of a five-year supply of housing land will not necessarily be conclusive in favour of the grant of planning permission."

The document claims that : "...there are no policies in the Framework which would indicate that the application should be restricted" (page 3). We believe there are in fact many, and set out our reasons in sections 6 and 7 of our original comments.

By way of example : under the heading "A Sustainable Settlement" the document refers on page 8 to the Transport Statement supporting the Application which concludes "that there are a number of services and amenities including schools that fall within the nationally acceptable and preferred walking and cycling distances from the application site. Holmfirth Town Centre is within the preferred walking and cycling distances from the application site". We have commented on this in section 7.5 of our original comments. We refer in that section to comments received from KMC Highways Development Agency which indicates clearly that neither Cinder

Hills nor Dunford Road “would be readily used by pedestrians to access local facilities apart from those in the village of Scholes itself given the topography of the area”. We include the relevant two pages from the HDA document as Appendix 1. The first two paragraphs on the second page are relevant. Route D is Dunford Road, and Route E is Cinder Hills. NPPF 38 is not therefore satisfied.

As regards the first Paragraph on page 2 of the highways document, we would say that highways have ignored what is abundantly clear to local residents – namely that road widths on Dunford Road, in Scholes, and many other places in the Holme Valley are in practice greatly reduced by the prevalence of on-street parking. We would say that Miller likewise, in its original Planning Statement, and 5 July 2017 document, in many respects have not been able to, or have chosen not to, have regard to the reality of the locations to which they refer. We have also included in Appendix 1 a copy of the second page of the highways document with yellow highlighting on those roads where either the road is actually too narrow to allow vehicles to pass, or where this is practically the case due to on-street parking. For confirmation of our views, we suggest KMC talk to some of its bus drivers travelling the 310 route.

Scholes is an outlier, on the fringe of Kirklees. Looking at, say, NPPF 17 and healthcare, we commented at 7.5 in our original comments on local difficulties in accessing healthcare, and the remoteness of hospital facilities, particularly with the transfer of A&E facilities to Halifax. Exacerbating this further is the proposal now to do away with Huddersfield Royal Infirmary and its 500 beds and replace it with a smaller 64 bed facility – so that again the major hospital facility will be in Halifax, 14 miles away.

On page 3 of the document it is said that the proposition that there are no technical issues or adverse impacts that cannot be mitigated by conditions “... is supported with no objections received from any statutory consultees..”

The Highways Development Management response of 22 June 2017 raises several issues and concludes by say that : “...there are currently details which raise a standing objection in highway terms”. We cannot see that all of these issues have yet been cleared. The issue of the electricity sub-station appears to be unresolved. Highways asked for the visitor parking near the playground access path to be removed. Whilst the designation has been removed, the spare tarmac still exists. We would suggest this area needs a different surface or fencing that discourages or prevents parking in this location.

Two postings of 27 July 2017 from Holme Valley Parish Council make clear their support for our objections. The comments also refer to an earlier objection submitted following their meeting of 8 May 2017, and which have been posted on the Application website under “Correspondence”.

Perhaps most importantly KC Strategic Drainage have a posting of 27 July 2017 on the Application website (to which we have referred in section 1 above, and to which we make further reference in section 4.5 below) which contains substantial new concerns about flood risk on the Application site.

We have shown in these and our previous comments that there are a good many material considerations which weight the Planning Balance against granting permission on this site prior to the finalisation of the new Local Plan.

*Scholes Future Group comment on Flood Risk and impact on residential amenity*

Further detailed objections have been submitted by Scholes Future Group. In summary:

The proposed increase in site levels means that the proposed structures will have an increased negative effect on both privacy, and reduction in direct sunlight for existing homes and gardens by approximately 2.5 hours.

The proposals due to existing site levels, building height and brutal massing were already overbearing and have the effect of 'walling in' neighbouring homes.

The increase in site levels up to 1.4m makes the proposed development totally insensitive to existing homes.

The flood plan doesn't appear to be viable. In an extreme event, it's design, doesn't control flood water and creates risk to; proposed dwellings, existing nearby homes and homes further afield in Scholes. In normal winter weather, the proposals 'point load' the proposed rear gardens with extra water from roof drainage SUDs and then increases the gradient of the site so that excess surface water flows directly toward existing properties, gardens and the playground.

We do not see this new drawing addressing the deep concerns from drainage officer Paul Farndale in his report dated 27/7/2017. We believe the proposals are seriously flawed and wish to register another set of objections based on all of the comments above, in addition to the objections already made by SFG.

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

Environment Agency – No comments received.

K.C Strategic Drainage - No objection subject to conditions.

K.C Highways – No Objections subject to conditions.

### **8.2 Non-statutory:**

K.C Education – Contribution of £113, 241 is required in order to mitigate for potential additional school places required at Scholes Junior and Infant School and Holmfirth High School.

K.C Strategic Housing – No objection. 4 social rent units and 4 intermediate units (1 and 2 bed) as proposed by the applicant suits the local need in Kirklees Rural West and is an acceptable offer of affordable housing.

Police Architectural Liaison Officer – No objection subject to condition relating to designing out crime.

K.C Biodiversity Officer – No objection following the submission of amended plans.

Yorkshire Water Services – No objection subject to a condition.

West Yorkshire Archaeological Advisory Services – No comments received.

K.C Conservation and Design – This is very much in line with the pre-application submission, the second amended layout. I was happy with that submission but still raised a concern over the need to have active elevations onto Ryecroft Lane. The majority of these dwellings do show active frontages apart from Plot 8 (Buttermere) so I am not suggesting that this is an issue overall.

K.C Environmental Health – No objection subject to conditions relating to land contamination and air quality.

K.C Footpaths – No objection. The wide straight link to the play area is supported, and we would look for this to be surface and secured as part of the section 38. However Prow would object to the visitor parking space in front of this link. Prow welcomes the addition of the footway to Ryecroft Lane

K.C Landscape – No objection following the submission of amended plans.

Holme Valley Parish Council – Object. Local Plan has not been finalised so this application on Provisional Open Land should be rejected. Concern that infrastructure not in place to support such a large scale development.

## **9.0 MAIN ISSUES**

Principle of Development  
Impact on Character of Surrounding Area and Landscape  
Highways and Traffic Implications  
Residential Amenity  
Flood Risk and Drainage  
Ecological Issues  
Heritage Issues  
Planning Obligations and Developer Contributions  
Other Matters  
Planning Balance

## **10.0 APPRAISAL**

### Principle of development

- 10.1 Planning law requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) is one such material consideration. The starting point in assessing any planning application is therefore, to ascertain whether or not a proposal accords with the relevant

provisions of the development plan, in this case, the saved policies in the Kirklees Unitary Development Plan, 1999 (UDP). If a planning application does not accord with the development plan, then regard should be had as to whether there are other material considerations, including the NPPF, which indicate that planning permission should be granted.

- 10.2 The NPPF is a Government statement of policy and is therefore, considered an important material consideration especially in the event that there are policies in the UDP which are out-of-date or inconsistent with the NPPF. Paragraph 215 of the NPPF reinforces that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF.
- 10.3 It is clear that the NPPF seeks to *“boost significantly the supply of housing...” (para 47)*. Para 47 then goes on to describe how local authorities should meet the full objectively assessed need for market and affordable housing. This requires a range of measures including ensuring a deliverable five year supply of housing. Para 49 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”*.
- 10.4 As evidenced in recent appeal decisions (eg. APP/Z4718/W/16/3147937 - Land off New Lane, Cleckheaton), the Council are falling foul of their requirement to ensure a five year housing land supply by a substantial margin. This is important in the context of paragraph 14 of the NPPF.
- 10.5 Para 14 of the NPPF states that for decision-taking, the presumption in favour of sustainable development means:
- Approving development proposals that accord with the development plan without delay, and
  - Where the development plan is silent, or relevant policies are out-of-date, granting planning permission unless:  
*Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework when taken as a whole; or*  
*Specific policies in the Framework indicate development should be restricted.*
- 10.6 As the Council are unable to demonstrate a 5 year housing land supply as required by para 49 of the NPPF, relevant policies relating to housing are considered to be out-of-date. Indeed, the housing land supply shortfall is substantial. Whilst the Council have submitted the Publication Draft Local Plan (PDLP) for examination which, for housing purposes, is predicated on the basis of a five year housing land supply; the Local Plan has not been through examination, nor has it been adopted. Therefore, it is currently the case that the Council are unable to identify a five year supply of specific deliverable housing sites against the requirement.



10.7 Based on the above, there is a presumption in favour of sustainable development and planning permission should only be refused where there are adverse impacts which would significantly and demonstrably outweigh the benefits.

10.8 The site is allocated as Provisional Open Land (POL) on the UDP. Therefore, policy D5 is applicable in this case:

*On sites designated as provisional open land planning permission will not be granted other than for development required in connection with established uses, changes of use to alternative open land uses or temporary uses which would not prejudice the contribution of the site to the character of its surroundings and the possibility of development in the long term.*

10.9 It is considered that policy D5 is not a policy for the supply of housing in respect of the way in which it relates to paragraph 49 of the NPPF. Therefore, policy D5 is considered to be up to date and given full weight.

10.10 The proposed development is clearly at odds with policy D5 of the UDP partly because the scheme of housing development fails to maintain the character of the land as it stands and fails to retain the open character. The proposed development constitutes a departure from the development plan.

#### *Emerging Local Plan*

10.11 In respect of the emerging Local Plan, the Publication Draft Local Plan (PDLP) was submitted to the Secretary of State on 25th April 2017 for examination in public. The site forms a housing allocation (H297) within the PDLP. Given that the PDLP has now been submitted consideration needs to be given to the weight afforded to the site's allocation in the PDLP.

10.12 The NPPF provides guidance in relation to the weight afforded to emerging local plans. Paragraph 216 states:

*From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:*

- *the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- *the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

10.13 The above is further supplemented by guidance in the Planning Practice Guidance (PPG). The PPG states that “arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. Such

*circumstances are likely, but not exclusively, to be limited to situations where both:*

*a. the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or neighbourhood planning; and*

*b. the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.*

10.14 Given the scale of the development proposed when assessed against the wider context of the PDLP the application could not be deemed to be premature as the proposed development, by virtue of its relatively small scale and strategic importance, is not considered to be central to the delivery of the Local Plan. Whilst officers do consider that the application is not premature in terms of the emerging Local Plan, it has been confirmed that given the advanced stage at which the Local Plan has progressed considerable weight should be afforded to the policies within the emerging Local Plan. However, it is also noted that the proposed housing allocation (H297) has received a substantial number of unresolved objections and this is considered to reduce the weight afforded to the housing allocation in the emerging Local Plan. In short, limited weight is afforded to the emerging housing allocation in this case.

10.15 In the PDLP the housing requirement is set out at 31,140 homes from 2013 – 31 to meet identified needs. This equates to 1730 homes per annum. The Council's current supply position is detailed in the Housing Topics Paper (2017) and this also includes the number of dwellings built since the emerging Local Plan base date of 1<sup>st</sup> April 2013. There has been persistent under-delivery:

Year	Net annual housing completions	Local Plan requirement	Completions compared to Local Plan requirement
2013/14	1,036	1,730	-694
2014/15	666	1,730	-1064
2015/16	1,142	1,730	-588
Total	2,844	5,190	-2,346

10.16 The PDLP includes the application site as a housing allocation and is therefore, a site which the Council consider appropriate for housing. It is a site which would contribute towards ongoing housing delivery in light of the five year supply requirement.

10.17 If the emerging Local Plan was to be adopted in its current form, the Council would be able to demonstrate a five year housing land supply. However, the PDLP has not been through examination and as it stands the Council is a substantial way off being able to demonstrate a five year housing land supply and housing delivery has persistently fallen short of the emerging Local Plan requirement. This triggers the presumption in favour of sustainable development as advocated by para 14 of the NPPF.

### *Other Matters of Principle*

- 10.18 Whilst the site comprises an agricultural field, it appears to fall within Grade 4 Agricultural Land. For the purposes of the NPPF it does not constitute Best and Most Versatile Agricultural Land and therefore, the loss of this agricultural land does not conflict with the requirements of the NPPF.
- 10.19 There is no evidence, nor does it appear logical to assume that, the development of this site would lead to a negative effect on tourism in the local area. The proposed development involves the extension of an existing village and overall landscape and visual effects are covered in the relevant section of this report.

### *Accessibility*

- 10.20 Much has been made by objectors about the unsustainable location of the application site. It is acknowledged that the site lies at much higher level than the nearest town centre of Holmfirth and consequently, whilst Holmfirth is within 2km of the application site, it is a steep walk/cycle into the town centre and pedestrian access is further limited by a lack of appropriate pedestrian facilities on local roads including South Lane and Cross Gate Road both of which are routes into the village from the site. There are local services within the village of Scholes such as a public house, takeaway, post office and other small businesses. Pedestrian accessibility is restricted to some extent however, by a lack of footway along small sections of Paris (the main road into the village). Nevertheless, these basic facilities would allow local residents to meet their day to day needs and whilst local roads servicing the village are by no means ideal for pedestrians, the village is by no means inaccessible to pedestrians.
- 10.21 Within 350m of the site lie bus stops which run along Scholes Moor Road. There are no significant differences in gradients between the application site and the nearest bus stops which would dissuade residents from accessing bus services. During the day time the 310 service runs every 30 minutes allowing access to Scholes, Holmfirth and Huddersfield. Services during evening and on Saturdays and Sundays are every 60 minutes.
- 10.22 It is considered that public transport access to GP's, local schools, local shops and higher education facilities could be made in less than 60 minutes and this, coupled with the regular bus services, would provide acceptable sustainable transport options for future residents. Similar conclusions have been drawn by the Council as part of the evidence to support the emerging Local Plan where the village was considered to be accessible to most services but lacking in access to employment opportunities (Kirklees Council Housing Allocations – Accessibility Assessment March 2015)
- 10.23 In order to improve accessibility from the site to local bus stops and the surrounding highway/footway network, the proposal includes a footpath which would run along the site frontage in order to link in with the existing footway on Cross Lane.

- 10.24 Employment opportunities within the local area are limited, although there are regular bus services into Huddersfield. It is accepted therefore, that based on the constraints identified above, that the site location would place some reliance on the private car and there are limitations on sustainable transport options due to location, more so than more urban sites. However, it is also considered that the site is within sufficient proximity of local services and there are public transport options which would allow future residents to meet their day to day needs without having to rely solely on the private car.

#### Impact on Character of Surrounding Area and Landscape

- 10.25 Section 11 of the NPPF sets a wide context to conserving and enhancing the natural environment and requires that valued landscapes are protected and enhanced and requires that the level of protection is commensurate with the status and importance of the landscapes.
- 10.26 Policy BE1 of the UDP requires that all development should be of good quality design such that it contributes to a built environment. Policy BE2 states, amongst other matters, that new development should be designed so that it is in keeping with any surrounding development. Policy BE11 of the UDP requires that new development should be constructed in natural stone of a similar colour and texture to that prevailing in the area. Policy PLP24 of the PDLP requires that good design to be at the core of all planning decisions.
- 10.27 The application site comprises an agricultural field given over to pasture. It is bounded on the southern side by Cross Lane and on the western side by Ryecroft Lane. On the eastern side the site is framed by existing residential development associated with properties on Windmill View which lies slightly downslope but border the site. Towards the north is a small play area, beyond which lies agricultural land.
- 10.28 The proposed development is positioned adjacent to the established edge of the existing settlement and to that extent the development would protrude into open countryside, but it would also be visible against the edge of the existing village. The immediate surroundings are notably upland and rural set within a larger area of rolling countryside. The landform rises to the west before falling away steeply towards Holmfirth. Fields within the area are enclosed by dry stone walls and tree cover is relatively sparse. There are long distance views over undulating, exposed countryside including open moorland on the distant horizon. The site lies within an area of Peak Fringe Upland Pastures in the Kirklees District Landscape Character Assessment. The site lies almost 3km from the Peak District National Park boundary.
- 10.29 Due to the topography of the surrounding land, the proposed development would sit on a slightly higher level than the existing properties on the edge of Scholes. However, the site is lower than land to the west and particularly to the south where it continues to rise towards Hade Edge. The effect of this is that the proposal would appear more prominent than the existing settlement in local views particularly to the west and north, but from mid distance and longer distance it would be visible against the backdrop of the existing built form. Whilst the site lies on land allocated as POL, land on the opposite side of Ryecroft Lane comprises Green Belt, as does most of the visible land to the south and west of the site.

- 10.30 It is clear that for users of Ryecroft Lane which is a Byway (right of way), the development would be unavoidable and would diminish the experience of users of the lane to some extent due to close the proximity of the proposed development relative to the road. However, the extent of the adverse visual impact would be limited to the first 300m of Ryecroft Lane. Beyond this the site is well screened by vegetation and a dwelling which lies in direct line of sight of the development from the northern half of Ryecroft Lane which obscures views of the site from Sandy Gate. There would be other localised views of the development where the proposals would be visible but the impact of the proposed development would largely be felt along part of Cross Lane to the south and west and a portion of Ryecroft Lane. Other footpaths, such as High Lane which lies to the west at the top of Cross Lane, would have intermittent views but those views would diminish as users walked from south to north towards Sandy Gate.
- 10.31 Much of the housing in Scholes follows Scholes Moor Road to the east of the site with small pockets of housing located off Scholes Moor Road, Paris and Chapel Gate. In almost all instances the proposed development would be largely screened by intervening topography and buildings making the impact of the development from these areas imperceptible. Most views from the existing urban area would be confined to the immediate environs of the site – the rear of properties on Moorlands and Windmill View. From the village of Scholes the land continues to fall away in an easterly direction towards the A616 and the valley bottom.
- 10.32 From the upper slopes of the opposing valley side to the east, beyond the A616, views are often obscured by intervening vegetation and topography. There would be some distant views of the site from rural lanes such as Scar Hole Lane and Tenter Hill but these views serve to evidence that the development would appear as a small extension to the existing village set against the slopes of the surrounding countryside and not visible against the skyline.
- 10.33 The applicant has amended the scheme in order to address the relationship with Ryecroft Lane. A number of properties have been turned to face Ryecroft Lane and one of the house types has been altered so as to reduce the impact of the built form on Ryecroft Lane and the wider Green Belt. The existing dry stone wall along Ryecroft Lane would be retained and made good where necessary, although there would be some elements of fencing behind the wall associated with rear gardens.
- 10.34 Officers were keen to ensure that there was no vehicular access to properties along Ryecroft Lane whilst ensure that the frontage was active. In an attempt to further soften the impact on Ryecroft Lane, there are small elements of planting along the boundary including Silver Birch, Mountain Ash and native hedgerow. Therefore, the design as proposed is considered to represent an acceptable comprise in this respect.
- 10.35 The applicant states that the scheme has been designed around the following:
- High standard of design of the proposed houses, providing architectural quality from principle views.
  - Providing focal points in the form of housing or well landscaped areas throughout the site in order to visually enhance the street scape.

- Provision of well landscaped areas including a buffer area to the northern boundary to connect with the existing play area and allow it breathing space.
- Provision of a highways design which creates low vehicle speeds as well as quieter residential areas through the use of shared driveways.
- Parking spaces are integrated into the street scene through the use of appropriate landscaping and surface treatment.
- A clear definition between the public and private realm has been provided with all properties having defensible spaces to their frontage (and side on corner positions).
- Non-apartment properties are to have individual access footpaths to rear gardens giving control and security. This also allows waste and recycling provision to be out of sight at the rear of properties.

10.36 Officers are in broad agreement that the scheme achieves the stated design objectives. The proposed layout has been designed as an outward looking development. There is a frontage onto Cross Lane and properties at the site entrance (on Cross Lane) are dual aspect. Whilst the properties facing Cross Lane are varied and include shared driveways behind Cross Lane, the existing housing stock on Cross Lane does not have a consistent appearance. A large number of properties in the local area are designed around a rigid road pattern and are relatively densely spaced. The proposed development would respect the local pattern of development and utilise an angular principal street which would act as a shared surface with a series of shared driveways running off the main internal road. Whilst dwellings proposed on the eastern edge of the site closest to Windmill View are more densely positioned and also include a block of apartments, properties towards Ryecroft Lane include more space between them giving a more permeable appearance from Ryecroft Lane in order to reduce the impact beyond the site boundary and towards the Green Belt. Each of the dwellings would be constructed of stone with stone headers and cills. Dwellings would range between 2 and 2.5 storeys reminiscent of the building heights locally. In this case a density of 28 dwellings per hectare is justifiable given the relatively rural location and the need to soften the western edge of the proposal, thus the application is considered to satisfy policy PLP7 of the PDLP in this respect. The Design and Conservation officer has assessed the proposal and raises no objection.

10.37 To summarise, the site would be changed from open countryside to an expanse of housing which would inevitably be detrimental to openness thus conflict with policy D5 of the UDP. Overall the site lies in an area adjacent to and part of the existing village. Whilst the site would be visible from close quarters, particularly Ryecroft Lane, Cross Lane and intermittently from other vantage points, the surrounding topography means that impacts from middle distance and long distance would be significantly reduced. In addition, the impact of the proposed development is mitigated to an extent by the way in which the scheme is set against the backdrop of existing housing stock. The design of the scheme means that its appearance is softer when viewed from Ryecroft Lane. Overall, despite the visual impacts identified, there would be no overriding landscape harm arising as a result of the proposal and the intrinsic character of the wider countryside in this location would not be significantly harmed.

## Highways and Traffic Implications

10.38 The scheme would comprise an access taken from Cross Lane which would link to an internal access road, and a separate access to a shared drive further along Cross Lane. Access to the shared drive would serve 3no properties. There are a number of concerns that have raised significant objections to the scheme.

10.39 Policy T10 of the Kirklees UDP states that new development will not normally be permitted if it will create or materially add to highway safety issues. Policy PLP21 of the PDLP aims to ensure that new developments do not materially add to existing highway problems or undermine the safety of all users of the network. Para 32 of the NPPF states:

*Plans and decisions should take account of whether:*

- *the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;*
- *safe and suitable access to the site can be achieved for all people; and*
- *improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*

10.40 The application has been accompanied by a Transport Statement which has been assessed by Highways DM. The Transport Statement shows that the average weekday traffic flow on Cross Lane is 1072 vehicles with up to 100 vehicles during the AM and PM peaks.

10.41 It is anticipated that the proposed development would result in approximately 27 vehicular movements during the AM peak and 30 vehicular movements during the PM peak. Given that peak hour vehicle flows on Cross Lane are relatively low, the impact on the local highway is not considered to be significant.

10.42 In terms of the impact on the wider highway network, the proposed development would see approximately 10 departures towards Holmfirth and 10 departures towards Scholes during the AM peak. Arrivals would be approximately 10 from Holmfirth and 10 from Scholes during the PM peak. It is considered that such low levels of traffic are unlikely to have a material effect on wider traffic conditions. In addition, the impact on the A616/A635 junction at New Mill would not be significant and certainly could not be described as severe in NPPF terms.

10.43 The proposed development provides 95 car parking spaces with parking to the front of driveways. The scheme also includes a variety of integral and detached garages. There are a number of formal and informal car parking spaces within the development and each property would include one cycling space. The provision is in accordance with the parking standards set out in the UDP. The proposed main site vehicular access is considered acceptable in terms of its geometric design and visibility splay achievement.

10.44 The proposed development would not directly affect any Public Rights of Way or Ryecroft Lane (Byway). The proposed development includes pedestrian links from the site along the frontage and towards Cross Lane and Ryecroft Lane. The application is considered to comply with PDLP policies PLP22 and PLP23.

10.45 It is acknowledged that the local highway network in parts is not up to modern standards and this is typical of villages within the Holme Valley. However, the site lies off Cross Lane which is a straight road with potentially good visibility in either direction. The carriageway width is perfectly adequate. Whilst it is accepted that cars park along Cross Lane and the surrounding road network, on street parking at various times of officer site visit do not appear to be a significant issue. In any event, the proposed development has been designed to ensure that cars are parked in curtilage so that there is no parking on existing highways. There is no reason why occupiers of the proposed housing could not negotiate the local highway network and parked cars on the highway as other residents do. The additional number of vehicles arising from the proposed development does not suggest that there would be any significant changes in traffic flows or queues at junctions therefore, additional conflict on the road network would be minimal. Overall, the proposed development is considered to provide acceptable access points onto Cross Lane, provide sufficient off-street parking, and ensure that traffic generation can be readily accommodated on the surrounding highway network without detriment to the safe movements of existing vehicles and pedestrians. The application is therefore, considered to comply with policy T10 of the UDP and emerging PDLP policies PLP22 and PLP23 and para 32 of the NPPF.

10.46 Residential Amenity

10.47 Para 123 of the NPPF indicates that planning policies and decisions should aim to:

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through use of conditions.

10.48 Policy BE12 of the UDP provides guidance on appropriate separate distances for dwellings. PLP24 of the PDLP requires developments to provide a high standard of amenity for future and neighbouring occupiers.

10.49 The closest residential properties are located along Moorlands and Windmill View. Generally the distance between the rear elevations of proposed dwellings facing the rear elevation of properties along Windmill View ranges between 21.5m and 24.5m. Generally gardens associated with the proposed dwellings are at least 10m in length. No's 45 and 47 Moorlands lies at a distance of approximately 18.9m from the proposed apartment block which is a two storey building. However, the application has been amended so that there are no habitable room windows at first floor level, and the proposed kitchen window at first floor level has been altered so it is high level with obscure glazing. This is sufficient to ensure compliance with policy BE12 of the UDP in order to protect the privacy of the nearest residential properties.



- 10.50 In terms of levels, the nearest properties to Moorlands and Windmill View would sit on a slightly higher level (up to 1.6m higher being the most significant level difference). However, a combination of distance, fencing and planting would ensure rear gardens of existing properties were not significantly overlooked and at these distances it is not considered that there would be a significant overshadowing or loss of light effect from the proposed development in relation to existing residential properties.
- 10.51 Overall, there is considered to be sufficient distance between the proposed dwellings so as to ensure an acceptable level of amenity for future occupiers and the proposed development by and large meets the guidance set out in policy BE12 of the UDP.
- 10.52 A number of existing properties close to the application site would see a change of outlook. However, it is an established principle of planning law that there is no right to a view. The application is considered to ensure that existing occupiers reserve sufficient standards of residential amenity. Consequently the application is considered to comply with policy BE12 of the UDP and PDLP policy PLP24 in this respect.

#### Flood Risk and Drainage

- 10.53 Para 100 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. On the basis that the site lies in Flood Zone 1 (lowest risk of flooding from rivers or the sea), a sequential test is not required in this case.
- 10.54 The submitted Flood Risk Assessment (FRA) considers the risk of flooding from various sources including rivers, groundwater, artificial sources and surface water.
- 10.55 It is proposed to utilise drainage by soakaways which will be located in rear gardens and within the highway. The Council's drainage officer has assessed the proposal and raises no objection in principle subject to the imposition of appropriate conditions. The National Planning Practice Guidance (NPPG) states that the aim of a drainage scheme should be to discharge run-off as high up the hierarchy as practicable:
- 1 – into the ground (infiltration)
  - 2 – to a surface water body
  - 3 – to a surface water sewer, highway drain, or another drainage system
  - 4 – to a combined sewer
- 10.56 In this regard, the proposal provides a scheme in accordance with the hierarchy and adheres to sustainable drainage good practice.
- 10.57 Concerns have been raised however, regarding the potential for soakaways within the site to fill and potentially flood areas of lower lying land (gardens/houses etc). Private soakaways are to be designed to 1:100 year event plus climate change but, for those on relatively flat ground, a 1:30 year design with a safety factor may be acceptable. There are no objections from the Council's drainage officer dependent on further ground testing and the

submission of a scheme demonstrating that soakaways can store a critical 1 in 30 year storm and can empty by 50% in 24 hours. A planning condition is proposed to ensure that a suitable scheme is submitted for consideration as it is envisaged this can readily be achieved.

- 10.58 In terms of period of heavy rainfall, the scheme has been designed to contain water within the site so it does not flow out onto Cross Lane. Therefore, whilst concerns have been raised by some local residents regarding flooding events in the local area, including Scholes Moor Road, the development has been designed so as not to contribute to flooding from excessive surface water run-off running down existing local roads. Objections have also been raised with regard the submitted overland flood routing plan and the impact of the development in directing water towards properties on Moorlands and Windmill View. However, the submitted details show that if a soakaway was exceeded it would surcharge the gulley first and continue down the road so as it did not come out next to properties.
- 10.59 It is also noted that flood routing has been incorporated into the layout to show what happens when there is an unusual flooding event beyond the design criteria of the drainage system as required by the NPPF or local guidance. It is considered that the scheme has included viable safe overland flood routing. The points of objection are noted however, and therefore, a condition is proposed in order to ensure that final details of flood routing are agreed.
- 10.60 In terms of foul water drainage, it is proposed to drain by gravity to the combined sewer in Ryecroft Lane. There are objections raised by some residents that the existing sewer in Ryecroft Lane is already at capacity. The planning application has been assessed by Yorkshire Water and no objections are raised. In addition they note that the submission – to discharge foul water into the combined sewer and to use soakaways for surface water – in an approach endorsed by Yorkshire Water. Connection to the Yorkshire Water infrastructure would require separate consent from them.
- 10.61 In principle the proposed development offers sustainable drainage solutions in line with those advocated by the NPPF and NPPG and PDLP policy PLP28. Initial site testing suggests that this site is suitable for soakaways. No objections are raised by the Council Drainage Engineer or Yorkshire Water, subject to the imposition of appropriate planning conditions.

#### Ecological Issues

- 10.62 UDP policy EP11 requires that application incorporate landscaping which protects/enhances the ecology of the site. Emerging Local Plan policy PLP30 states that the Council will seek to protect and enhance the biodiversity and geodiversity of Kirklees, including the range of international, national and locally designated wildlife and geological sites, habitats and species of principal importance and the Kirklees Wildlife Habitat Network.
- 10.63 The application is supported by an ecological survey. The site comprises a grazing land with limited ecological value. Habitats on the site are predominantly boundary features, mostly dry stone walls, but these have relatively limited value.

- 10.64 Three ponds lie within 500m of the site. However, the site is considered to have low value as a terrestrial habitat for amphibians and it is highly unlikely to support Great Crested Newts. The site is considered to have low value for nesting birds.
- 10.65 The application has been amended to incorporate more native species into the landscaping proposals and a wildflower mix which has been agreed by both the Landscape Officer and the Biodiversity Officer. A condition is recommended in order to ensure additional biodiversity benefits are incorporated into the scheme.

#### Heritage Issues

- 10.66 Section 66 (1) of the Listed Buildings Act states “in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”. Para’s 126-141 of the NPPF are relevant to the determination of applications affecting heritage assets.
- 10.67 The nearest Grade II listed building lies 260m to the north of the site at Ryecroft Farm. Given the distance and the boundary treatment there would be no discernible impact on the setting of this building. Within 300m to the west of the site at the junction of Cross Gate Road, Dunford Road and Hoppards Bank Road lie a number of Grade II listed buildings. Due to a change in levels between the site and these listed building; there would be no discernible impact on the listed buildings. There would be no impact on the setting of Underbank Conservation Area approximately 500m to the north west.

#### Planning Obligations and Developer Contributions

- 10.68 In accordance with para 204 of the NPPF planning obligations should only be sought where they meet the following three 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.

#### *Education Provision*

- 10.69 Para72 of the NPPF states that great weight should be given to the need to create, expand or alters schools. In line with the requirements for ‘Providing for Education Needs Generated by New Housing’ (KMC Policy Guidance), the proposed development attracts a contribution towards additional school places. In order to address the additional pressure on local schools, the Council Education section requires the following contribution:

Total of £113,241 comprising £51,186 to Scholes Junior and Infant School and £62,055 to Holmfirth High School.

### *Public Open Space*

- 10.70 Policy H18 of the UDP requires 30sqm of Public Open Space per dwelling on development sites in excess of 0.4 hectares. There is no proposed public open space provided on the site and the requirement in line with policy H18 would be 1170m<sup>2</sup>. Given that four of the units constitute 1 bed flats, the calculation has been adjusted to 1110m<sup>2</sup>. Based on the current rate/dwelling of £2300 and applying administrative costs, the development is required to provide an off-site contribution of £98,900 which is to be spent on the adjacent facility to make it more useable for ages and to broaden its provision in order to cater for the new development. In addition to this figure the development does not include on site LAP play equipment. In order to compensate for this shortfall in accordance with the UDP policy justification to H18 a further contribution of £19,262 equivalent to the laying out of equipment on site and a further £24,838 for 10 years' worth of commuted maintenance. Therefore the total POS contribution should be £141,966. At the time of writing the report the applicant had requested further clarification on the justification for this contribution. This will be supplied and an update on the POS contribution amount will be confirmed in the update report.
- 10.71 It is also noted that the site lies on the edge of an existing settlement and there are footpaths and routes into the open countryside. In accordance with para 73 of the NPPF, the scheme provides access to high quality open spaces which can make an important contribution to the health and well-being of communities.

### *Affordable Housing*

- 10.72 The Council's Interim Affordable Housing Policy requires that 20% of units are secured as affordable housing. The applicant has offered 8 affordable units on-site which is fully policy compliant. A total of 4no units would be social rent and 4 units would be intermediate.

### *Local Transport Infrastructure Mitigation and Improvements*

- 10.73 Highways works would be required in order to create the access points and install a new footway along Cross Lane. This could be done under S38 or S278 of the Highways Act.

### Other Matters

- 10.74 The application was accompanied by a phase I/II report which stated that the site was uncontaminated. Environmental Health has assessed the report and raises no objections.
- 10.75 In respect of air quality, the application has been assessed against the West Yorkshire Low Emission Strategy Planning Guidance. In accordance with the guidance the installation of 1no electric charging point is required per unit or 1 charging point per 10 spaces and this would be secured by planning condition.

## **11.0 Planning Balance**

- 11.1 The application site lies adjacent to the Scholes village boundary on an area of land allocated as Provisional Open Land on the UDP. On a point of principle, numerous objections consider that approval of the scheme would pre-determine the outcome of the emerging Local Plan. However, the Council are unable to demonstrate a five year housing land supply and the NPPF seeks to boost significantly the provision of housing. In the emerging Local Plan the site is one which is considered by the Council as suitable for housing. Approval of this application is not considered to pre-determine decisions about the scale, location or phasing of new development that are central to the emerging Local Plan.
- 11.2 It is inevitable that development on any greenfield site would mean a loss of landscape quality because there would be buildings in place of open land. There would be some impact on local views such as from Ryecroft Lane. However, the scheme has been designed so as to ensure that the impact on the surrounding countryside is reduced through the positioning and appearance of all buildings which would be built of natural stone. This coupled with the location and scale of the proposal means there would be no overriding harmful landscape and visual harm.
- 11.3 The rural nature of the village and limitations in terms of pedestrian access are acknowledged. However, the site has adequate access to public transport and forms an extension to an existing village; it is not isolated from services. There would be no unacceptable harm in relation to highway safety, drainage/flood risk, living conditions and ecology, subject to the conditions proposed. Infrastructure provision would be dealt with by a S106 Agreement where the scheme is fully compliant with policy requirements.
- 11.4 In conclusion, the tilted balance in favour of sustainable development as advocated by para14 of the NPPF is engaged in this case. There are no adverse impacts of granting planning permission which would significantly and demonstrably outweigh the benefits. Conflict with UDP policy D5 and other impacts identified are outweighed by other considerations and overall the proposal constitutes a sustainable form of development.

## **12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Strategic Investment)**

- 1. 3 years**
- 2. Approved plans**
- 3. Sample of materials**
- 4. Finished Floor Levels**
- 5. Boundary Treatments and details of materials**
- 6. Drainage soakaway details including percolation tests and demonstration of adequately sized soakaways to be submitted and agreed**
- 7. Foul, surface and land drainage details to be submitted and agreed**
- 8. Overland flood routing details to be submitted and agreed**
- 9. Temporary flood routing details to be submitted and agreed**
- 10. Report of Unexpected Contamination**
- 11. Construction Method Statement**
- 12. Remove PD rights for outbuildings and rear extensions to properties**
- 13. Habitat enhancement**
- 14. Landscaping details to be provided and to be implemented and replaced if any trees die within 5 years.**

- 15. Crime prevention**
- 16. Electric charging points**
- 17. Parking spaces prior to occupation**
- 18. Lighting Strategy**
- 19. Ecological Enhancement Strategy**

**Background Papers:**

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f91361>

Certificate of Ownership (Certificate B) – Notice served on:

P.L. Court and N.P. Pattinson 12<sup>th</sup> April 2017.

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## Report of the Head of Strategic Investment

### HUDDERSFIELD PLANNING SUB-COMMITTEE

**Date: 31-Aug-2017**

**Subject: Planning Application 2017/90602 Demolition of existing public house and erection of 26no. dwellings Land Adjacent to Spotted Cow Public House, New Hey Road, Salendine Nook, Huddersfield, HD3 3FG**

### APPLICANT

Newett Homes

### DATE VALID

14-Feb-2017

### TARGET DATE

16-May-2017

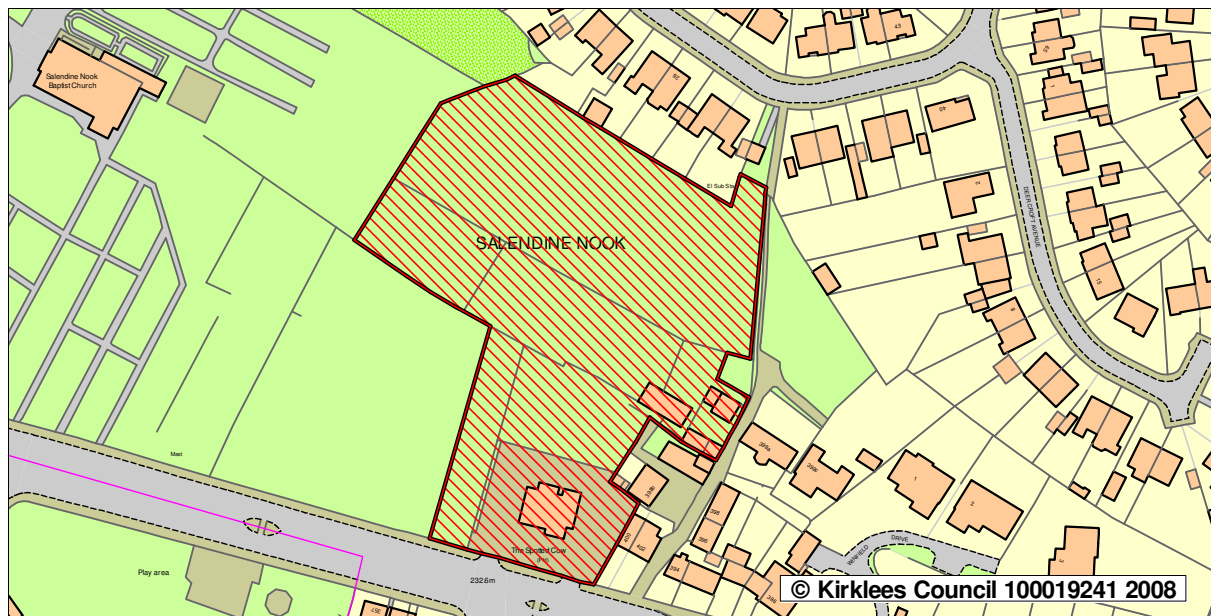
### EXTENSION EXPIRY DATE

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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**

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**Electoral Wards Affected:**    Lindley

Yes

Ward Members consulted

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## **RECOMMENDATION:**

**DELEGATE approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions including those contained within this report and to secure a S106 agreement to cover the following matters:**

- **The provision of affordable housing (four units); and**
- **The provision of an off-site contribution towards Public Open Space of £69,000; and**
- **Education contribution of £64,248.**

**In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee’s resolution then the Head of Strategic Investment shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Strategic Investment is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.**

## **1.0     INTRODUCTION**

- 1.1.   This site was originally brought to Sub Committee on 20<sup>th</sup> July 2017 as it is a site in excess of 0.5ha and, in part, represents a departure from Policy D5 of the Unitary Development Plan. Members visited the site on the morning of the meeting. It was deferred from consideration at that meeting, at the request of the applicants, as they may have wished to make alterations to the submitted layout. Subsequently the applicants wish the original layout to be considered by Members and assessed in the report to sub-committee set out below.

## **2.0     SITE AND SURROUNDINGS**

- 2.1    The application site comprises an area of 1.18 ha, located on the northern side of New Hey Road, Salendine Nook. The site includes the former public house “The Spotted Cow”, and its curtilage. The pub has been vacant for a number of years and is in a neglected state. To the west and north parcels of informal grassed open space. As such the site is part brown field and part greenfield



- 2.2 The site is flanked on the west by undeveloped greenfield land. This land is allocated for housing on the UDP, and has the benefit of an outline application for housing. To the east there is a group of dwellings set around a narrow road off New Hey Road.
- 2.3 The greenfield element of the site extends up to the rear gardens of properties on Deercroft Crescent to the north of the site, and to the west flanks the graveyard of Salendine Nook Baptist Church. The site becomes significantly steeper up to the rear of Deercroft Crescent.
- 2.4 The site is flanked by a significant number of mature trees, which are covered by a Tree Preservation Order, and there is a public footpath alongside the eastern boundary linking New Hey Road with Deercroft Crescent.
- 2.5 The Spotted Cow, and its immediate curtilage are unallocated on the UDP, and the informal parcels of open space to the rear are allocated as Provisional Open Land.

### **3.0 PROPOSAL**

- 3.1 Full permission is sought for the erection of 26 no dwellings, mainly detached properties, but with 4 pairs of semi-detached properties scattered through the layout. There are 19no. 4 bed properties and 7no. 3 bed dwellings. The dwellings are 2-storey.
- 3.2 Vehicular access is taken off New Hey Road with alterations proposed to the existing accesses to the pub car park. The initial stretch of road into the site would be an estate road which then alters to a shared carriage way, serving an extended cul-de-sac.
- 3.3 Given the site's topography extensive engineering works would be required to undertake the development, including retaining walls to the rear of Deer Croft Crescent and on the western parts of the site.
- 3.4 There is an area of greenspace indicated adjacent the access point, and fronting onto New Hey Road, resulting in the scheme being set back from New Hey Road.

### **4.0 RELEVANT PLANNING HISTORY**

- 4.1 None relevant on this site.
- 4.2 Adjacent site, 2015/90452, Outline application for erection of 22 dwellings and garages, and formation of associated car parking, access and landscaping. Allowed at appeal 3<sup>rd</sup> May 2016.

### **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 Additional information regarding the access point of New Hey Road, and the internal layout has been submitted satisfactorily addressing detailed concerns.
- 5.2 A site section across the northern end of the site has been provided clarifying the relationship and distances of any retaining structures from the public right of way that flanks the site to the east.

- 5.3 Additional drainage information has been submitted regarding the potential line of a stream at the bottom of the slope.
- 5.4 The applicants submitted a viability appraisal, which was been independently assessed. Vacant Building Credit is also applied to the existing buildings on site. The findings of the independent assessment have been considered agreed by all parties and are reflected in the S106 package in the recommendation box.

## **6.0 PLANNING POLICY**

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25<sup>th</sup> April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework. At this stage Officers consider considerable weight can be afforded to the Publication Draft Local Plan. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

The site is partly without notation and partly Provisional Open Land within the UDP. The land is again partly without notation on the Kirklees Publication Draft Local Plan (the building and its immediate curtilage). The remainder of the site is safeguarded land.

### Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 D2 Unallocated land  
D5 – Provisional Open Land  
BE1 – Design principles  
BE12 – Space about buildings  
BE23 – Crime prevention  
G6 – Land contamination  
NE9 – Retention of mature trees  
T10 –Highway safety  
T19 – Parking standards  
H10 – Affordable housing  
H18 – Provision of open space  
EP4 – Noise sensitive development

Supplementary Planning Guidance / Documents:

6.3 Supplementary Planning Document 2. “Affordable Housing”.

Councils Interim Affordable Housing policy

Education needs generated by development

6.4 Kirklees Publication Draft Local Plan, submitted for examination April 2017.

PLP1: Achieving Sustainable Development

PLP2: Place Shaping

PLP3: Location of new development

PLP6: Safeguarded Land

PLP11: Housing mix and affordable housing

PLP21: Highway safety and access

PLP22: Parking

PLP24: Design

PLP28: Drainage

PLP33: Trees

PLP49: Educational and health care needs

PLP52: Protection and improvement of environmental quality

PLP63: New open space.

National Planning Guidance:

6.5 National Planning Policy Framework:

Part 4. Promoting sustainable transport;

Part 6. Delivering a wide choice of high quality homes

Part 7. Requiring good design

Part 8. Promoting healthy communities

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

Part 11 Conserving and enhancing the natural environment.

National Planning Practice Guidance –Vacant Building Credit.

**7.0 PUBLIC/LOCAL RESPONSE**

7.1 This application was publicised by site notices, press notice and neighbour letters. Final date for receipt of representation was 14/4/17.

7.2 7 letters of objection have been received, the main points of concern being:

- The land at the rear of the site is protected from development in the Unitary Development Plan.( Response- *the POL allocation is covered by policy D3, but given the lack of a 5 year supply of deliverable housing land, the presumption in the NPPF is in favour of sustainable housing development, as such it would be difficult to sustain a refusal on this basis, and appeal decision have confirmed this*).
- Concern that no details of materials have been provided. Should use natural stone, in accordance with Policy H11 of the Kirklees Unitary Development Plan: (Response: *Conditions regarding the use of natural materials, on the front part of the site adjacent New Hey Road, are recommended*).

- Loss of green space, trees and wildlife (Response- *the trees on this site have been retained as part of the development and bio diversity enhancement measures are also recommended*).
- Scheme is over intensive and out of character with the area:( Response-*the density is just over 22 per ha, in order to retain the trees which is a modest density less than some of the neighbouring developments*).
- There are already severe traffic problems on New Hey Road, and an additional 26 dwellings and access will make the situation even worse: (Response- *A transport statement was submitted with this proposal, and amendments to the access have been agreed . The site already has 2 access points for the former pub, and also a parking and delivery area*).
- Local schools and doctors surgeries are oversubscribed: ( Response-*An Education contribution is being made on this application that accords with the request from the Education Services. The provision of GP's and health facilities is not a matter for the local planning authority, rather the local health authority*).
- The site should be reused for community benefit, either as a local recreation ground, or revive the pub use;(Response- *the application as applied for has to be determined. The former pub has been vacant for a number of years, and is deteriorating in terms of its state and appearance*).
- This type of housing ie 3 and 4 bed, is not in keeping with this area and will not fulfil housing need.( Response- *There is a variety of housing and house types in the area ,abutting and opposite the site, including detached and semi-detached properties. There is a shortfall of housing supply in the district, and this scheme will deliver 4 no affordable units towards the identified shortfall in affordable housing in this area.*).

## 8.0 CONSULTATION RESPONSES

### 8.1 Statutory:

**KC Highways** - Requested additional information and amendments to the internal layout which has been provided. Following the this there are no objection raised subject to the imposition of conditions.

**KC Strategic Drainage** - Recommend conditions

### 8.2 Non-statutory:

**KC Trees** - No objections, recommend conditions and an Arboricultural Method Statement.

**KC Environmental Health** - Recommend conditions covering unexpected remediation; Noise attenuation; and provision of electric charging points

**KC Education Services** - A financial contribution of £64,248 is required in this case. This should be secured be a Section 106 Agreement.

**KC Strategic Housing** - There is a demonstrable need for affordable housing in this area. The Interim Affordable Housing policy required 20% of numbers of units. Affordable Housing should be secured by a Section 106 Agreement

**KC Landscape and Parks** - Express concern at the potential loss of this piece of greenspace, which makes a positive contribution to the character of the area. In the event of an approval Policy H18 is applicable. In this instance an off-site payment to upgrade neighbouring play facilities would be acceptable ie £69,000.

**Police Architectural Liaison Officer-** No objections to this application.

## 9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Highways Issues
- Drainage Issues
- Bio diversity
- Environmental Issues (Noise, Air Quality and Remediation).
- Crime Prevention
- Representations not covered within the report

## 10.0 APPRAISAL

### Principle of development

- 10.1 Planning law requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) is one such material consideration. The starting point in assessing any planning application is therefore, to ascertain whether or not a proposal accords with the relevant provisions of the development plan, in this case, the saved policies in the Kirklees Unitary Development Plan, 1999 (UDP). If a planning application does not accord with the development plan, then regard should be had as to whether there are other material considerations, including the NPPF, which indicate that planning permission should be granted.
- 10.2 The NPPF is a Government statement of policy and is therefore, considered an important material consideration especially in the event that there are policies in the UDP which are out-of-date or inconsistent with the NPPF. Paragraph 215 of the NPPF reinforces that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF.
- 10.3 It is clear that the NPPF seeks to *“boost significantly the supply of housing...”* (para 47). Para 47 then goes on to describe how local authorities should meet the full objectively assessed need for market and affordable housing. This requires a range of measures including ensuring a deliverable five year supply of housing. Para 49 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”*.

- 10.4 As evidenced in recent appeal decisions (eg. APP/Z4718/W/16/3147937 - Land off New Lane, Cleckheaton), the Council are falling foul of their requirement to ensure a five year housing land supply by a substantial margin. This is important in the context of paragraph 14 of the NPPF.
- 10.5 Para 14 of the NPPF states that for decision-taking, the presumption in favour of sustainable development means:
- Approving development proposals that accord with the development plan without delay, and
  - Where the development plan is silent, or relevant policies are out-of-date, granting planning permission unless:  
*Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework when taken as a whole; or*  
*Specific policies in the Framework indicate development should be restricted.*
- 10.6 As the Council are unable to demonstrate a 5 year housing land supply as required by para 49 of the NPPF, relevant policies relating to housing are considered to be out-of-date. Indeed, the housing land supply shortfall is substantial. Whilst the Council have submitted the Publication Draft Local Plan (PDLP) for examination which, for housing purposes, is predicated on the basis of a five year housing land supply; the Local Plan has not been through examination, nor has it been adopted. Therefore, it is currently the case that the Council are unable to identify a five year supply of specific deliverable housing sites against the requirement.
- 10.7 Based on the above, there is a presumption in favour of sustainable development and planning permission should only be refused where there are adverse impacts which would significantly and demonstrably outweigh the benefits.
- 10.8 The application site comprises 2 parts. The front part of the site comprising the vacant public house and its curtilage is a brownfield site, and unallocated on both the Unitary Development Plan and the Emerging Local Plan, and residential use accords with policy and as such the presumption in favour of sustainable development in paragraph 14 of the NPPF applies, and development that accords with the development plan should be approved without delay.
- 10.9 The rear part of the site comprising some fields on a sloping site, and is allocated as Provisional Open Land (POL) on the UDP. Therefore, policy D5 is applicable in this case:
- On sites designated as provisional open land planning permission will not be granted other than for development required in connection with established uses, changes of use to alternative open land uses or temporary uses which would not prejudice the contribution of the site to the character of its surroundings and the possibility of development in the long term.*
- 10.10 It is considered that policy D5 is not a policy for the supply of housing in respect of the way in which it relates to paragraph 49 of the NPPF. Therefore, policy D5 is considered to be up to date and given full weight.

- 10.11 The proposed development is clearly at odds with policy D5 of the UDP partly because the scheme of housing development fails to maintain the character of the land as it stands and fails to retain the open character. The proposed development constitutes a departure from the development plan.

*Emerging Local Plan*

- 10.12. The rear part of the site ie the sloping fields is allocated as Safeguarded land on the Emerging Local Plan, the relevant policy being PLP6 which states:

PLP6. Safeguarded land (Land to be safeguarded for potential future development)

*Areas identified as safeguarded land will be protected from development other than that which is necessary in relation to the operation of existing uses, change of use to open land uses or temporary uses. All proposals must not prejudice the delivery of long term development on safeguarded sites*

- 10.12 In respect of the emerging Local Plan, the Publication Draft Local Plan (PDLP) was submitted to the Secretary of State on 25th April 2017 for examination in public. Given that the PDLP has now been submitted consideration needs to be given to the weight afforded to the site's allocation in the PDLP.

- 10.13 The NPPF provides guidance in relation to the weight afforded to emerging local plans. Paragraph 216 states:

*From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:*

- *the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- *the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

- 10.14 The above is further supplemented by guidance in the Planning Practice Guidance (PPG). The PPG states that “arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. Such circumstances are likely, but not exclusively, to be limited to situations where both:

*a. the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or neighbourhood planning; and*

*b. the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.*

- 10.15. The overall development comprises 26 dwellings, with only 18 of them being within the Safeguarded area, ie not so significant as to undermine the plan making process by pre determining decisions about scale, location or phasing of new development. Whilst the PDLP has been submitted to the Secretary of State, and should be afforded considerable weight, it has not been through examination, and as it stands the Council is a substantial way off being able to demonstrate a 5 year housing land supply, and housing delivery has persistently fallen short of the emerging Local Plan requirement.
- 10.16. As such limited weight can be attributed to policy PLP6 as a basis for refusing the application, and the lack of a 5 year housing land supply, triggers the presumption in favour of sustainable development as advocate in paragraph 14 of the NPPF.

#### Other relevant policies

- 10.17 The council's policies on Affordable Housing, Public Open Space and Education contributions are all relevant, given the size of the site and the number of dwellings proposed.
- 10.18 The scheme provides 26 no dwellings and, in accordance with the Interim Affordable Housing Policy, 20% of the units would be required to be affordable. This equates to 5no. units. However the site contains the former Spotted Cow PH building, which is now abandoned, and as an existing empty building on a brown field site it qualifies for consideration against the Vacant Building Credit criteria detailed in National Planning Practice Guidance. In applying the guidance procedure credit for 1 no unit is accepted, and as such the policy compliant level of affordable housing would be 4 units.
- 10.19 An off-site contribution towards improvement of existing open space areas is required ie £69,000, and an Education contribution of £64,248 is also required.
- 10.20 The applicants submitted a viability appraisal with the application, indicating that they believed the delivery of this scheme was unviable with the affordable housing contribution required. This appraisal has been independently assessed (at the expense of the applicant), and the council's independent assessor did not accept this assertion, indicating that the site could deliver the 4 affordable houses, and both the off-site POS and Education contributions and still be viable
- 10.21 The applicants have accepted this, and as such in the event of an approval a Section 106 delivering affordable housing, off site POS and Education contributions will be secured. This is set out in the recommendation.

#### Urban Design issues

- 10.22 The proposal delivers 26 no dwellings at a density of just over 22 per ha. Given the on-site constraints, particularly the numbers of mature trees, and steep slope to the rear, this is considered to be an efficient use of the land. The surrounding housing is a mixture of house types, with semi-detached to the rear on Deercroft Crescent and the opposite side of New Hey Road, and



a tight knit courtyard development immediately to the east of the site around an unmade track. As such it is considered the density is appropriate for this area which enables the retention of the protected trees on the western edge of the site that are an integral part of the character of this area.

- 10.23 The frontage onto New Hey Road includes the retention of the stone boundary wall, and the first plot is set back approx. 10m from the wall, respecting the prevailing building line, with a considerable landscaped area adjacent the protected trees that run along the length of the neighbouring site on the New Hey Road frontage. This approach respects and enhances the character of New Hey Road, which also benefits from the removal of an abandoned and neglected pub building.
- 10.24 The dwellings proposed are a mixture of detached and semi-detached, 2 no storeys in height, which is an appropriate scale. The dwellings on the rear part of the site are to be constructed on excavated development platforms. Given the steepness of the slope and the rear gardens enclosed by a substantial retaining wall this is an appropriate design solution for the site. The ridge height of these dwellings will be a similar height to the rear gardens of properties on Deercroft Crescent. As such the retaining wall will not be visible from New Hey Road and within the site.
- 10.25. The site fronts onto New Hey Road and the surrounding dwellings are predominantly built of stone. As such it is appropriate that the dwellings within the scheme nearest dwellings to New Hey Road and those that are visible from the road are built of natural stone and it is proposed to condition this.

#### Residential Amenity

- 10.26 The internal layout, and distances between dwellings and proposed garden areas, is in accordance with the Council's space about building standards, as such the residential amenity and privacy of the new dwellings is safeguarded.
- 10.27 With respect to the relationship to the nearest dwellings,( ie those to the east of the site in particular numbers 398b and 400 New Hey Road, there are no dwellings proposed to the side of no 400, with a distance of over 15 m to the gable of plot 1. No 398b New Hey Road is a detached property with an elevation that face the unmade track and also towards the site with a small yard area. The nearest new dwelling is plot 26, and this has a gable facing no 398b. As such the privacy of the 2 dwellings and their garden areas can be safeguarded with appropriate fencing and the bulk of the dwelling is not considered to have an adverse effect on the residential amenities of 398b that could justify a refusal, especially given the siting and bulk of the existing Spotted Cow PH. The relationship of Plot 20 to no. 398a New Hey Road is gable to gable with the unmade track/PROW separating them. This is considered acceptable.
- 10.28 The dwellings to the north on Deercroft Crescent are at a considerably higher level than the application site with the garden areas being level or above the ridge heights of the new dwellings. The scale, design and layout of the proposed dwelling would not lead to a material loss of amenity for occupiers of these dwellings.

- 10.29 The dwellings proposed nearest to New Hey Road are to be provided with appropriate noise attenuation to protect the future residents from road traffic noise. Noise attenuation measures will be subject to condition.

#### Highway Issues

- 10.30 The proposed residential development of 26no dwellings on land adjacent to Former Spotted Cow public house would be served off the A640 New Hey Road. The 26 Dwellings are a mixture of 14no 4 bedroom units and 12no 3 bedroom units both detached and semi-detached.
- 10.31 The proposed site access would be located at one existing eastern entrance with the other being stopped up accordingly. This access is directly onto A640 New Hey Road. The current layout on New Hey Road has been redesigned to accommodate the proposed access which includes radii and footways returned into the site and relocation of the existing traffic island.
- 10.32 In terms of the forecast traffic generation on the existing network, detailed in the Transport assessment (BWB consultants) for the development of 26 dwellings has a potential to generate 17 two way movements in the AM peak and 16 two way movements in the PM peak periods.
- 10.33 The proposed internal layout and parking provision (dwg no 1640.01 rev J) is considered acceptable in principle, subject to detailed design including approval of gradients and landscaping (both to be subject to conditions).
- 10.34 There is currently a public right of way (PROW ref HUD/367/10) running adjacent to the north east of the site. Detailed design for its retention will need to be considered along with the proposed retaining wall to support this. Both these will require approval in writing at the detailed design stage and will be subject to conditions.

#### Drainage Issues

- 10.35 The site is within Flood Zone 1 ( ie the area least likely to flood). Given the site exceeds 1ha, a Flood Risk Assessment has been provided to cover the issue of surface water drainage.
- 10.36 The applicants, in addition to the Flood Risk Assessment have produced a Drainage Strategy that is largely welcomed by the Strategic Drainage. Surface water flood routing throughout the site can be satisfactorily achieved, but will necessitate a marginal increase in floor levels for plots 2, 3, 25 and 26 which will be conditioned.
- 10.37 Additional information about the line/route of the watercourse has been provided and this will inform the drainage solution and eventual discharge rates. Clearly for the brownfield element of the site a reduction in run off rates by at least 30% should be sought and on the brown field element of the site be deliverable
- 10.38 The drainage issues on this site have been satisfactorily addressed, and can be secured by the imposition of appropriate conditions.

### Bio-diversity

- 10.39 The site itself is of no particular biodiversity value, with a derelict building and semi improved grassland. The trees on the site, and on the neighbouring site, are of value as a bat foraging area, and on the neighbouring site there is a bat roost. The retention of the trees is welcome as that foraging potential is retained. Also given the new dwellings provided on the site it is proposed to condition biodiversity enhancement opportunities for both bat and bird roosts

### Environmental Issues

- 10.40. Noise. The dwellings nearest to New Hey Road will be the subject to road traffic noise and it is proposed to condition the submission of noise attenuation measures for the 4 no dwellings nearest to New Hey Road.
- 10.41. Remediation. The applicants have submitted a Phase 1 Survey with the application, and it is acceptable that the site can be remediated and made fit to receive new residential development. Standard conditions to this effect are recommended.
- 10.42. Air Quality. Given the scale of the development, in accordance with the guidance contained in the West Yorkshire Low Emissions Strategy a condition requiring the provision of electric charging points is recommended.

### Crime Prevention

- 10.43. The Police Architectural Liaison Officer is supportive of this scheme. The layout provides for dedicated parking spaces for each dwelling and logical and defensible areas of space for each dwelling. Recommend robust boundary treatments, particularly those adjacent to the public footpath.
- 10.44. As such it is considered that the proposal satisfies the requirements of Policy BE23, of the UDP (Crime Prevention). And the guidance contained in part 8 of the NPPF "Promoting healthy communities".

## **11.0 CONCLUSION**

- 11.1. The scheme delivers new housing on a part brown field / part green field site. Given the lack of a 5 year housing supply, the presumption within the NPPF is in favour of sustainable housing developments, and this site is considered to be within a sustainable location.
- 11.2. Policy compliant contributions towards affordable housing (following independent viability assessment), POS and Education are all offered and will be secured via a Section 106 Agreement.
- 11.3. The layout and density are compatible with the area, and the site can be safely accessed from New Hey Road. Other material considerations such as drainage, noise, biodiversity and air quality, are all covered by the imposition of appropriate conditions.
- 11.4. Approval of this scheme subject to a Section 106 and appropriate conditions.

**12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Development Management)**

1. 3 year time limit for commencing conditions
2. Development to be in accordance with approved plans.
3. Landscape Scheme and maintenance (including scheme and future maintenance responsibility for the area between Plot 1 and New Hey Road).
4. Protection of trees during development
5. Samples of materials (natural stone for some dwellings close to New Hey Road)
6. Boundary treatments
7. Drainage conditions-
  - a. in accordance with FRA and Drainage Strategy;
  - b. run off rates;
  - c. surface water flood routing;
  - d. finished floor levels
8. Environmental Health –
  - a. Noise attenuation;
  - b. Remediation/ decontamination/validation of works; and
  - c. provision of electric charging points
9. Highways conditions;
  - a. right turn lane;
  - b. areas to be surfaced and drained;
  - c. internal adoptable roads ;
  - d. closure of existing access;
  - e. retention of PROW and retaining walls.
10. Removal of PD rights on some plots, including no new windows or openings
11. Construction Management Plan.
12. Bio diversity enhancement measures, bat and bird boxes

**Background Papers:**

Application and history files

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f90602>

Certificate of Ownership, Certificate B – Notice served on:

Mr Simon Rowell 13<sup>th</sup> February 2017.

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## Report of the Head of Strategic Investment

### HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 31-Aug-2017

**Subject: Planning Application 2017/91173 Reserved matters application for erection of 16 dwellings pursuant to outline permission 2015/90507 for outline application for residential development (within a Conservation Area) Land off, Carr Top Lane, Golcar, Huddersfield, HD7 4JB**

#### APPLICANT

Brierstone Carr Top Ltd.

#### DATE VALID

31-Mar-2017

#### TARGET DATE

30-Jun-2017

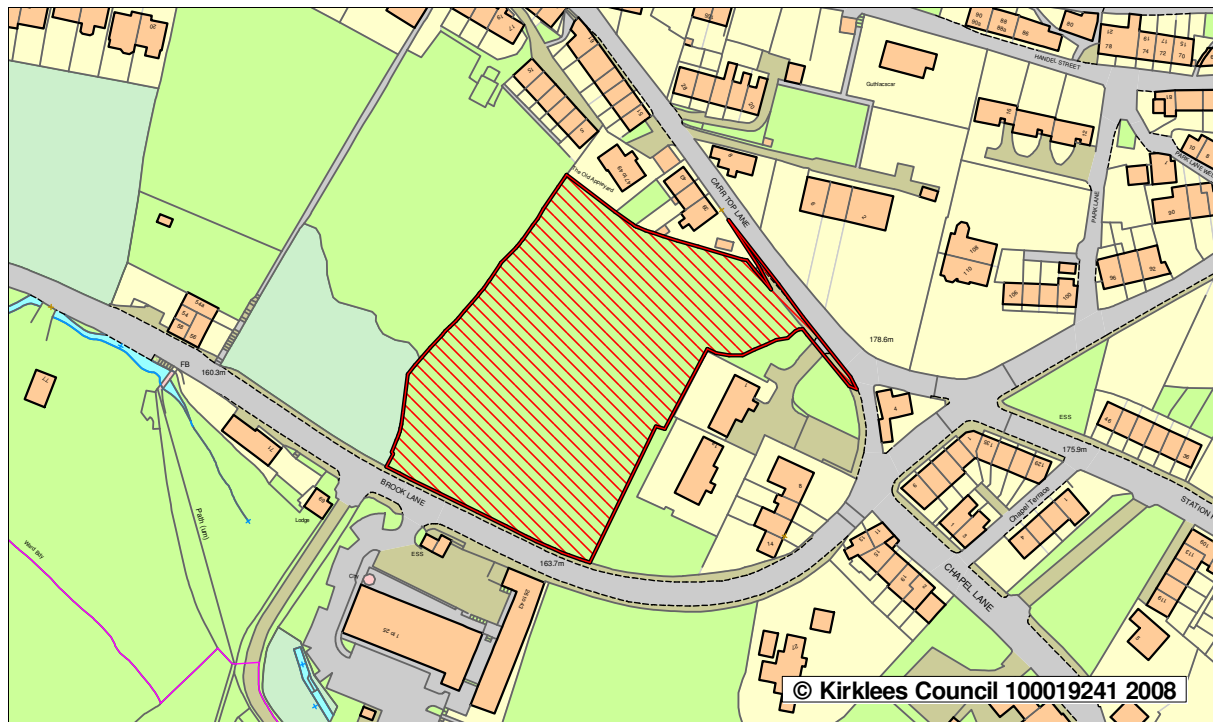
#### EXTENSION EXPIRY DATE

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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

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**Electoral Wards Affected: Golcar**

Yes

Ward Members consulted  
(referred to in report)

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**RECOMMENDATION:** Approval of Reserved Matters and issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions including those contained within this report.

## **1.0 INTRODUCTION**

- 1.1 This site has the benefit of outline planning permission for residential approval, being approved by the Huddersfield Sub Committee. At that meeting where the outline application was approved the sub-committee resolved that any detailed or reserved matters application be brought back to sub-committee for scrutiny and decision.
- 1.2 In addition Ward Member Cllr Hilary Richardson requested that the site be visited to enable proper consideration of the scheme in the context of its Conservation Area setting.
- 1.3 The application was reported to sub-committee on 20<sup>th</sup> July 2017 and members visited the site on the morning of the meeting. At the meeting members resolved to defer consideration of the application for officers to seek amendments to the scale and layout of the development. The original scheme sought approval for 19 dwellings; this has now been amended and the reserved matters submission seeks approval for 16 dwellings. The details of this amended scheme and the assessment of the reserved matters is set out below.

## **2.0 SITE DESCRIPTION**

- 2.1 The application site comprises an area of approx 0.72 ha, and is a roughly rectangular shaped site located between Carr Top Lane and Brook Lane, Golcar. The site is green field and slopes down considerably from Carr Top Lane to a wooded embankment adjacent to Brook Lane. In addition to the trees along Brook Lane, which are protected by Tree Preservation Order, there are a number of mature trees spread across this and the neighbouring land.
- 2.2 There are dwellings to the north and east of the site, and to the south on the opposite side of Brook Lane an apartment complex.

- 2.3 The site is located within the Golcar Conservation Area, and is also part of a larger Provisional Open Land allocation on the Kirklees Unitary Development Plan. This allocation extends to the west of the application site.

### **3.0 PROPOSAL**

- 3.1 This site already has the benefit of outline approval for residential development, with the point of 'access' agreed at outline stage. This application seeks approval of Reserved Matters ie Appearance; Scale; Layout and Landscaping
- 3.2 The scheme indicates 16 no dwellings, a mixture of detached and semi-properties. The proposed access point is from Carr Top Lane, and this then serves a cul-de-sac terminating in a T junction in the centre of the site. This T junction facilitates turning of service vehicles, and also an option to access the balance of the Provisional Open Land site from this access is retained.
- 3.3 The proposed dwellings are a mixture of 2 storey and 2/3 storey split level properties to accommodate the steep slope of the site. Natural stone and slate are proposed as facing and roofing materials and the design and features of the houses include smooth stone window and door surrounds and chimney features.
- 3.4 The site will be developed by creating terraced land forms, with 3 retaining structures within the site. One would be to the north, just to the rear of existing terrace on Carr Top Lane, another adjacent to plot 15 and another towards the southern end of the site, to the rear of plots 9-13, with steps down to a lower land next to the protected belt of trees which front onto Brook Lane. These structures are described as 'criblock retaining structure' on the submitted layout plan. The amended plan denotes an area of land adjacent to plot 8 as 'public open space'.

### **4.0 BACKGROUND AND HISTORY**

2015/90507 Outline approval for residential development –Approved

### **5.0 HISTORY OF NEGOTIATIONS**

- 5.1 The applicant has provided additional information regarding the existing protected trees on this site, including survey work. Cross sections across the site have been provided, and the arrangements for the existing access and service vehicle turning have been provided.
- 5.2 Detailed amendments to the access point have been provided to ensure the access can be delivered, and amendments to the garden areas relating to the TPO'd tree belt have been agreed.
- 5.3 The applicants noted the Members concerns at the last Committee, regarding the numbers of units on the site and potential overdevelopment. There was no objection to the design or style of the dwellings proposed.

- 5.4 Consequently the amended layout removed 3 no units ie plots 8,9and 10 ( a terrace of 3 dwellings) which were located towards the western edge of the site, and re-orientated the neighbouring dwelling( now plot 8). This results in a central area of open space, defined as 'public open space' on the layout plan which is overlooked by Plot 8.

## **6.0 PLANNING POLICY**

- 6.1 The statutory development plan comprises the Kirklees Unitary Development Plan (saved Policies 2007).
- 6.2 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).
- 6.3 The Council is currently in the process of reviewing its development plan through the production of a Local Plan. The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25<sup>th</sup> April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. At this stage Officers consider considerable weight can be afforded to the Publication Draft Local Plan. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

### Kirklees Unitary Development Plan.:

D5 – Provisional open land  
BE1 – Design principles  
BE2 – Quality of design  
BE5 – Preservation/enhancement of conservation areas.  
BE6 – Infill sites  
BE12 – Space about buildings  
BE23 – Crime prevention  
NE9 – Retention of mature trees  
T10 – highway safety  
EP11 – ecological landscaping

### Local Plan:

The site is allocated for housing and designated within the Golcar conservation area within the publication draft local plan as submitted for examination April 2017. The land to the west of the site is allocated as 'safeguarded land' within the draft plan.  
PLP7-Efficient and effective use of land  
PLP21 –Highways safety and access  
PLP 22 Parking  
PLP 24 Design  
PLP31 Strategic Green Infrastructure Network  
PLP33 Trees



National Planning Policy Framework

Part 4 Promoting sustainable transport

Part 6 Delivering a wide choice of high quality homes

Part 7 Requiring good design

Part 8 Promoting healthy communities

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

Part 11 Conserving and enhancing the natural environment

Part 12 Conserving and enhancing the historic environment

Other Guidance

*SPD2 Affordable Housing*

## **7. CONSULTATIONS**

### **7.1 Statutory**

**KC Highways** – the application has been revised reducing the number of dwellings from 19 to 16. In addition some detailed amendments requested, have been received, together with clarification in the entrance point easement and gradients. The plans are considered acceptable, and standard conditions are recommended

**KC Conservation and Design** - Application is well supported by a design and access statement, and is a well-considered response bearing in mind the constraints and the topography. Suggest minor alterations to siting of some plots, use of natural slate throughout, and improved materials for road treatment. There is no objection to the amended plan, the reduction in numbers and the additional space that delivers is welcomed

**KC Strategic Drainage** - Whilst drainage is not a Reserved Matter, the layout is considered to be acceptable, and a satisfactory surface water drainage solution, and surface water flood routes is not prejudiced by agreeing this layout. The detailed drainage conditions on the outline approval are still relevant, and will need to be discharged before any development of the site can commence.

### **7.2 Non-Statutory**

**KC Trees** - Had initially expressed concerns regarding the relationship of the garden areas for plots 12-16 of the scheme on the southern part of the site. Amended plans and solution have been submitted to address this issue subject to condition.

**Police Architectural Liaison Officer** - No objections to this development.

**KC Strategic Housing-** Affordable housing is required on this development in accordance with the Interim Affordable Housing Policy ie 20% of units. This is the subject of a condition on the outline approval, and will be secured via a Section 106, through the discharge of condition process.

**KC Landscaping-** Have agreed the principle of an off-site contribution in this case, and that will be secured via a Section 106 through the discharge of condition process. Indicated at outline stage the site was in an important location and the tree cover was an important landscape feature in the area, which should be retained as part of any detailed scheme.

**KC Ecology-** Landscape Management Plan was recommended at the outline stage, and is conditioned. the management of the landscaped areas for both visual and bio diversity purposes, will be covered in that management scheme.

## 8.0 REPRESENTATIONS

8.1 This application has been publicised by site notices, press notice and neighbour letters. 10 letters of objection have been received the main points of concern being:

- The surrounding roads are narrow and very busy, an additional 19 dwellings will exacerbate an already unacceptable situation, concern that the proposed access is unsafe, including to accommodate vehicles during the period of construction; (*Response- The site already has the benefit of outline permission, and access is approved. The scheme contains adequate parking within the site. A construction management plan is proposed to be conditioned*)
- There is already pressure on local facilities eg doctors and school places; (*Response- The application is for Reserved Matters, and the numbers proposed do not trigger the need for an Education contribution. The provision of GP'S and health facilities is not a planning consideration, rather that of the local health authority*).
- A better use for this site in the Conservation area, would be a community space eg allotments; (*Response- The site is in private ownership and does not benefit from public access, also it is allocated as housing on the Local Plan*)
- Neighbouring properties in the Heritage Mills conversion will be overlooked and over shadowed; (*Response- The properties in Heritage Mills are screened from the development by the protected tree belt along Brook Lane, there will be no overlooking from any part of the site.*)
- The scheme represents overdevelopment of the site, resulting in cramped form of development, out of character with the Conservation Area. (*Response- The layout, and the impact on the Conservation Area are discussed at in the Appraisal below*).
- Scheme is not in keeping with the dwellings in the conservation area, which should be protected. (*Response: Natural stone and slate are to be used, and the house styles incorporate design features from the surrounding area. the dwellings have been designed to accommodate a steep slope, consistent with a number of surrounding properties in this part of Golcar*).
- The development would have an adverse impact on wildlife. (*Response: The elements of the site that are of greatest wildlife value are the trees, in particular the tree belt, which is retained. There is also a requirement for a Landscape Management Plan on the outline approval.*)

- Constitutes an overdevelopment of the site and loss of open space  
(Response- *This matter is dealt with in the Appraisal, and the site already has the benefit of a residential approval, and allocation*).
- Loss of amenity to local residents, 3-storey houses would look into the rear of existing properties and the activities associated with the occupation of the site such as car headlights and noise.(Response- *the dwellings are split level , because of the slope, and the orientation is away from the nearest dwellings on Carr Top Lane. the dwellings closest to existing dwellings on Carr Top Lane to the east, are 2 storey not 3.*
- Impact on natural water drainage.(Response-*The satisfactory drainage of the site is subject to a condition on the outline approval*).
- Outline permission for 16 was excessively overcrowded, 19 is even more so.  
Response: the layout and scale of development, as amended to 16 dwellings, are considered acceptable for the reasons set out in the report.
- Detrimental impact on habitat, and loss of wildlife;  
Response: the Ecology officer raises no objections to the proposal related to impact on biodiversity, there is a landscape management plan condition on the outline application and a proposed condition regarding biodiversity enhancement opportunities in the recommendation to members in the main report.
- TPO trees on the southern boundary will be under threat in the future;  
Response: the amended plans received would improving the long-term viability of protected trees by separating them from domestic curtilage.
- Highways survey for outline is now obsolete, given 3 extra dwellings;  
Response: matters related to access were approved at outline stage. The number of dwellings proposed has been reduced to 16.
- Plot 16 is too close to no 1a, Carr Top Lane - loss of privacy, a full boundary/ fence plan needs submitting.  
Response: details of boundary treatment are shown on the layout plan. However, further details are required for the north east boundary to delineate where all sections of the 1.8m screen walls and fences will be sited. Furthermore following the recent receipt of amended plans there are no clear details of the boundary treatment proposed to separate the garden areas of plots 9-13 from the wooded bank of protected trees. For these reasons a condition is recommended.

## 9. ASSESSMENT

### Principle of the development

#### Layout

#### Scale

#### Appearance

#### Landscaping

#### Other matters including representations not addressed within the report

- 9.1 The principle of development on this site has already been agreed, as has the access. This application seeks approval of Reserved Matters which are Layout, Scale, Appearance and Landscaping.

## 9.2 **Layout**

The amended scheme delivers 16 dwellings at a density of approx. 22 per ha (a significant reduction from the previous 27 per ha) which is considered to be a satisfactory density on this site given site constraints and the density of development in the wider area. The surrounding area contains a number of different house types and sizes, ranging from terraced properties close to the back edge of the road, for example on Carr Top Lane, to large detached properties immediately adjacent the site. The common factor is the fact that dwellings are designed to accommodate the steeply sloping topography within the neighbouring area, which is a Conservation Area, this means that retaining structures are common, and often houses are split level.

9.3 Given the limited site frontage onto Carr Top Lane, which is the only point of access, a cul-de-sac is the logical form of development, with dwellings on a series of development platforms, running parallel to the slope on the northern and southern ends of the site, with dwellings in between stepping down the slope in the same manner as the neighbouring detached houses.

9.4 The detached dwelling adjacent the entrance faces onto Carr Top Lane providing appropriate frontage to the scheme (plot 1) and plots 14-16 are to be positioned close to the back edge of the access road, giving a closer more enclosed feel, characteristic of this part of Golcar.

9.5. Central to the site is a significant area of public open space, which will be grassed and planted. The detail of the planting and its maintenance can be dealt with via planning condition (this is approximately where the 3 deleted plots were previously located). The neighbouring dwelling plot 8 faces towards the open space, as do nearly all the proposed dwellings within the site. As such the new open space benefits from excellent natural supervision, and is a benefit to each of the dwellings with easy access both visually and physically. It also results in a more spacious character within the site, which are considered to address any previous concerns regarding excessive density or over development. The arrangements for the provision and future maintenance of this area of public open space are regulated by condition 5 of the outline planning permission.

9.6 The layout is in accordance with the council's space about building standards, and there is not considered to be any adverse effect on the residential amenities of neighbouring dwellings.

9.7 The majority of the trees on the top part of the site are retained, and the substantial tree belt on the southern boundary is indicated to be retained. This belt of trees apart from being valuable in itself, is an integral feature in the Conservation Area, and its retention is welcome, and essential to any acceptable layout/landscape scheme.

## 9.8 **Scale and Appearance**

The dwellings are a mixture of detached and semi-detached this is a mix which is reflected in the surrounding area. Given the site's topography a significant number of the units to the north and south ends of the site are 2/3 no. story split level properties, the remainder being 2-storey. This is an appropriate scale and style of development for this site which is consistent with the character of the Conservation Area, and this part of Golcar.

- 9.9 The use of natural stone throughout is proposed, with natural slate also to be conditioned. The individual house types incorporate features from the area including smooth stone window and door surrounds, chimney features, and a vertical emphasis for the fenestration.
- 9.10 **Landscaping**
- 9.11 The amended scheme for 16 dwellings delivers an improved landscape scheme across the site. Aside from providing soft landscaped shrub areas within the site which break up the parking areas and additional tree planting particularly around the access point and in front gardens, a new significant public open space area, central to the site (roughly where the 3 deleted houses were previously located) is provided. This new area of POS, is to be grassed and planted, and is within an integral location to the whole of the site, being viewed from all the dwellings, and in relation to each of the dwellings and as one moves through the site. The additional landscaped area significantly improves the sense of openness within the site. This together with appropriate range of hardstanding materials, varying across the site in colour and texture, provide a variety and visual interest within the site.
- 9.12 The Landscape scheme also incorporates the important existing protected trees on the site, in particular the 2 large trees on the NW boundary, and the Woodland TPO belt on the southern boundary that front onto Brook Lane. The woodland TPO belt, is a very important and integral feature, not just for this site but for the whole conservation area and its retention is imperative along with the importance of its future maintenance.
- 9.13 On the Outline approval, there is a condition requiring the submission of a Landscape Management Plan for the entire site. Concern had initially been expressed at the provision of dedicated "lower garden" areas for plots 9-13 given the very close proximity to the trees, the potential for shading and damage through provision of garden sheds etc and the subsequent pressure to undertake works to these trees that would be likely to ensue
- 9.14 The applicant has agreed an amended scheme in this respect which shortens the gardens and 'fences off' this area. Whilst this area will still be in the ownership of the new occupiers, its maintenance will be as part of a larger area including a green swathe of land on the western side of the site that includes another 2 TPO'd trees.
- 9.15 As such the Landscape details submitted are considered to be acceptable, and also capable of being maintained and safeguarded for the long term, through the Landscape Management condition on the Outline approval and the requirement to secure public open space under condition 5 of the outline approval

## **10.0 Other Issues including representations not covered within the report**

- 10.1 The site already has the benefit of an outline residential permission, with approved access. There are a significant number of pre-commencement conditions on the Outline approval that will still need to be satisfactorily discharged before any development commences. Aside from technical conditions such as highways and drainage, there are also conditions covering the provision of affordable housing and, as previously set out, public open space to be agreed.
- 10.2 Whilst the technical conditions (highways and drainage) have still to be discharged, the layout needs not to prejudice the satisfactory discharge if those condition as well as delivering an appropriate design, layout and landscape solution for the site. It is considered that the layout will not prejudice satisfactory drainage and highways solutions.

## **11.0 CONCLUSION**

- 11.1. The Reserved Matters submitted are considered to be satisfactory and would deliver a development of significant quality, appropriate for the site's setting within the Conservation Area thereby preserving or enhancing the character and appearance of this part of the Conservation Area. The safeguarding of the TPO'd trees around the site is a significant contributor to the quality of the scheme.
- 11.2. As such approval of Reserved Matters with appropriate conditions is recommended.

## **12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Strategic Investment)**

1. Development carried out in accordance with approved plans
2. Samples of materials to be submitted and agreed ( to include retaining structures.)
3. Protection of trees during construction; Construction Method statement
4. Highway conditions- internal adoptable roads; gradients; visibility; provision and future maintenance of parking
5. Construction Management Plan
6. Provision of bio diversity enhancement opportunities.
7. Arboricultural method statement
8. Details of any additional tree works during construction to be submitted and approved before being carried out.
9. Details of all boundary treatments, including that to separate site from 1 and 1A Carr Top Lane and the domestic curtilage of plots 9-13 from the wooded banking to the south of the site.

10. Details of the planting specifications along with the long term maintenance arrangements for the area of 'Public Open Space' provided on site as shown on the approved plan

**Background Papers:**

Application and history files.

[http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/filedownload.aspx?application\\_number=2017/91173&file\\_reference=634722](http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/filedownload.aspx?application_number=2017/91173&file_reference=634722)

Certificate of Ownership – no certificate of ownership required for reserved matters submission.

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## Report of the Head of Strategic Investment

### HUDDERSFIELD PLANNING SUB-COMMITTEE

**Date: 31-Aug-2017**

**Subject: Planning Application 2017/90516 Reserved matters pursuant to outline permission 2015/91726 for erection of 10 dwellings Land adjacent to 38, Broad Lane, Upperthong, Holmfirth, HD9 3XE**

#### **APPLICANT**

Lower Edge  
Developments Ltd

#### **DATE VALID**

22-Feb-2017

#### **TARGET DATE**

24-May-2017

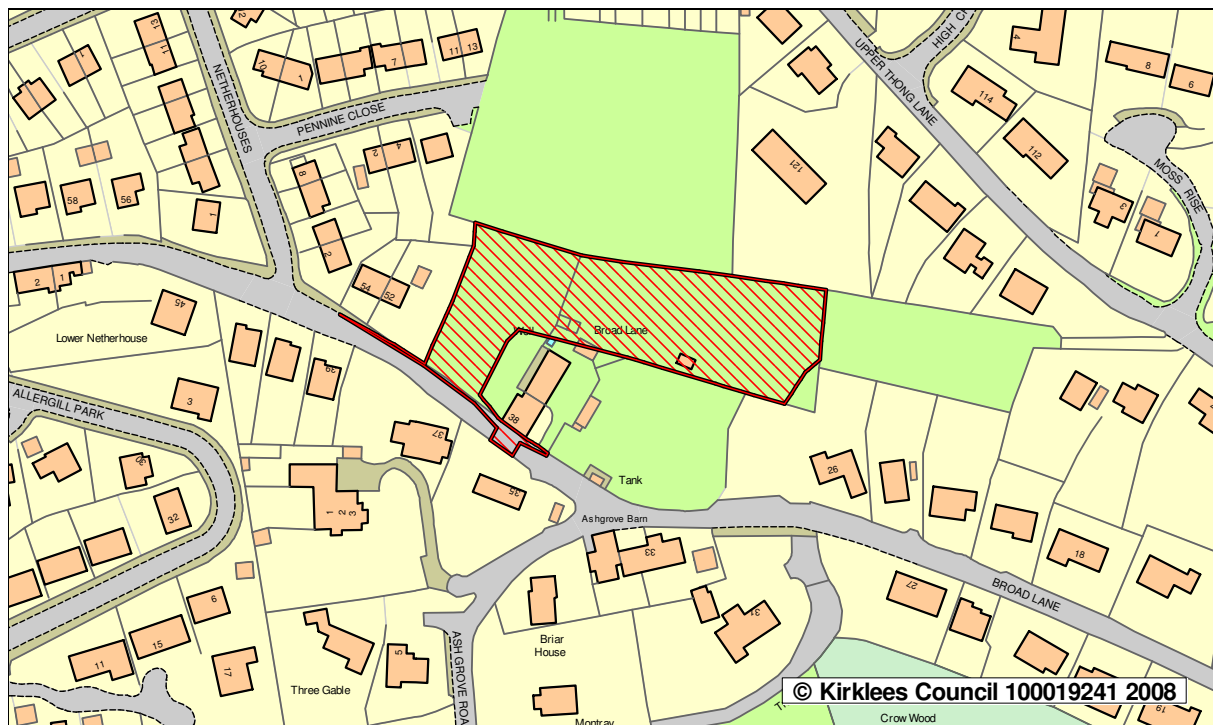
#### **EXTENSION EXPIRY DATE**

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

#### **LOCATION PLAN**



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

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**Electoral Wards Affected: Holme Valley South**

Yes

Ward Members consulted  
(referred to in report)

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**RECOMMENDATION:**

DELEGATE approval of the reserved matters and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions including those contained within this report

**1.0 INTRODUCTION:**

- 1.1 The application is brought before the Sub Committee at the request of Councillor Nigel Patrick. Councillor Patrick's reason for the request is:

*"I consider the number of dwellings proposed to be an over intensification of the site which would generate too much additional traffic on Broad Lane. Broad Lane is substandard and well used and the impact of the proposals along with other piecemeal development within Upperthong will have a detrimental impact on the local road network, including the already substandard access onto Greenfield Road. There is a capacity issue and a growing potential for accidents including collisions with pedestrians. I do not think the highways proposals submitted as part of the scheme address these issues"*

- 1.2 The Chair of the committee has confirmed that Councillor Patrick's reason is valid having regard to the Councillors' Protocol for Planning Sub Committees.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The site comprises an 'L' shaped parcel of overgrown scrub and grassland that wraps around 38 Broad Lane on two sides; 38 Broad Lane is a dilapidated listed building with an extant permission for redevelopment into three dwellings.
- 2.2 The site slopes down from north to south (towards Broad Lane) as well as from west to east. It is part of a Provisional Open Land (POL) allocation on the Unitary Development Plan (UDP). The remainder of the POL allocation includes the former grazing fields to the north of the site which are currently being developed for residential (27 dwellings) under application 2013/93879. The POL allocation also includes a parcel of land located between 26 and 38 Broad Lane which has outline consent for the erection of three dwellings (2015/91661), as well as a small area of land to the east of the application site.

- 2.3 The site lies in a predominantly residential area with established residential development to the south, west and east. There is a nursery to the south east of the site.

### **3.0 PROPOSAL:**

- 3.1 This is a reserved matters submission pursuant to outline application 2015/91726 for the erection of residential development.
- 3.2 The outline consent approved the main point of access off Broad Lane and the current application is seeking approval of the layout, scale, appearance and landscaping of the site.
- 3.3 The total number of dwellings was not agreed at outline stage and the proposed layout provides for 10 detached dwellings. The dwellings are set along an internal estate road and section of private shared drive.
- 3.4 All of the dwellings are split level, reflecting the topography of the site. Plot 1 is two storeys to the front and single storey at the rear and the remainder are three storeys at the front and two storeys to the rear.
- 3.5 The dwellings have a consistent design which is a variation on a theme. The design incorporates projecting front gables and canopy features. All of the properties have pitched roofs and include an integral garage. Some of the dwellings have a single storey projecting element at the rear. The proposed facing materials are natural stone walls and dark grey tiles. The dwellings include stone heads, mullions, cills, corbels and dentils.
- 3.6 Boundary treatment is mixture of dry stone walling and timber fencing with a hedge to the eastern boundary. The only soft landscaping is provided by the gardens to the individual plots.

### **4.0 RELEVANT PLANNING HISTORY:**

#### Application site:

2015/90516 Erection of residential development - Approved by the Sub Committee

#### Adjoining land to the north and part of same POL allocation:

2013/93879 Erection of 27 dwellings – Approved by the Sub Committee

2015/92560 Erection of dwellings (modified proposal plots 24-27) of planning permission 2013/93879 – Approved

2016/93599 Variation of condition 2 (plans and specifications) on previous permission 2013/93879 for erection of 27 dwellings – Approved

This development is currently under construction.

Adjoining land to the south and part of same POL allocation:

2015/91661 Outline application for the erection of 3 dwellings – Approved by the Sub Committee.

2017/92249 Reserved matters application for erection of 3 dwellings pursuant to outline permission 2015/91661 – Undetermined

38 Broad Lane (listed building adjacent to the site):

2015/91303 Partial demolition and rebuilding of existing buildings with extensions and alterations to form 3 no. dwellings (Listed Building) – Approved

**5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 There have been slight modifications to the area around the access and the off-site highway works to address a discrepancy on the plans approved at outline stage.
- 5.2 The applicant/agent was made aware of Councillor Patrick's concerns with the number of dwellings and impact on highway safety. In response an updated transport assessment was submitted.

**6.0 PLANNING POLICY:**

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25<sup>th</sup> April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

6.2 Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

The site is allocated as Provisional Open Land on the UDP Proposals Map.

D5 – Provisional Open Land (POL)

BE1 – Design principles

BE2 – Design of new development

BE11 – Materials

BE12 – Space about buildings

EP11 – Integral landscaping scheme to protect/enhance ecology

T10 – Highway safety considerations

T16 – provision of safe, convenient and pleasant pedestrian routes

T19 – Off-street parking standards

6.3 Kirklees Publication Draft Local Plan Policies: Submitted for examination April 2017:

The site is without allocation or designation within the PDLP

PLP1 Presumption in favour of sustainable development  
PLP7 Efficient and effective use of land and buildings  
PLP21 Highway safety and access  
PLP22 Parking  
PLP24 Design  
PLP27 Flood Risk  
PLP28 Drainage  
PLP32 Landscape  
PLP35 Historic Environment

6.4 Supplementary Planning Guidance / Documents:

Planning Practice Guidance  
Interim affordable housing policy

6.5 National Planning Guidance:

National Planning Policy Framework  
'Achieving Sustainable Development'  
'Core Planning Principles'  
Section 6 – Delivering a wide choice of high quality homes  
Section 7 – Requiring good design  
Section 8 – Promoting healthy communities  
Section 10 – Meeting the challenge of climate change, flooding and coastal change  
Section 11 – Conserving and enhancing the natural environment  
Section 12 – Conserving and enhancing the historic environment  
'Decision taking'

**7.0 PUBLIC/LOCAL RESPONSE:**

7.1 Three representations received in response to the publicity of the application.  
Summary of comments provided as follows:

- The land immediately to the east of the developed will become land-locked and request that access is provided.
- Development will add more traffic to an already congested road in Broad Lane with no pavements.
- Proposed access is directly opposite a neighbour's access where there are staff who park their cars on Broad lane directly outside our property every weekday. This would be a major issue for cars going in and out of the proposed new access road and also traffic on Broad Lane for either direction.
- Broad Lane is a main school route for parents and children who walk to school it is already bordering on being dangerous with the lack of public pavements and with the large new housing development that is under construction above this proposed location, this is adding even more traffic to Broad Lane so any further houses and the additional traffic that this will bring is not welcome for safety reasons alone.

- There is already a severe bottleneck in this location on Broad Lane with it being such a narrow part of the road and there are no pavements which means pedestrians have to walk on the road which is a risk and this should be taken into account before anything is granted for this development.
- The application proposes a reduction of the width of Broad Lane and the introduction of a 'priority arrangement' for vehicles. This raises a number of concerns:
  - Both the proposed narrowing of the road and the construction of an intermittent footway will increase the risk of vehicles hitting the boundary wall of 35 Broad Lane which is built at a significantly lower level.
  - Insufficient visibility of the proposed priority arrangement for vehicles turning out of Ash Grove Road.
  - Not convinced that heavy vehicles, such as those serving the housing developments and the numerous large delivery vans will be able to pass safely, especially if there are pedestrians on the proposed footway.
  - Counter intuitive to take road space away from an already constrained network whilst at the same time permitting development, which in itself would add additional traffic to the network.
- Visitors park on Broad Lane. The reduction of the carriageway to single width will make such parking impossible. Safe alternative parking is not available in the vicinity due to the unmarked T junction between Ash Grove Road and Broad Lane and the frontage taken up by the parking bay for the children's nursery, which as a consequence precludes on-road parking.
- The proposed footway will be partially located on the exposed bare rock which forms the foundation of 38 Broad Lane and any excavation may undermine these foundations (the sidewall of 38 Broad Lane is built directly onto Broad Lane).
- The application proposes a Priority sign to be located adjacent to the entrance of our property. We are concerned on safety grounds that the sign will impede our existing sight line when leaving our property by car. We are also concerned that this sign plus any other signage will represent visual intrusion in an area of the village that retains some of the original character of a Pennine village.
- The location plan for the application shows the outline of a speed platform on Broad Lane. Concerned that the noise of vehicles slowing down will affect a front facing bedroom. Unclear from the application documents whether this speed platform is proposed by the developer or not.
- Development will hem in the Grade 2 Listed farmhouse to the west and north and threaten the character of the listed property. In addition, building further properties close to this existing building may preclude suitable access that would be required when the farmhouse is eventually developed. At the very least it would be worth considering a condition whereby the necessary work to the farmhouse should be completed prior to work on any proposed new buildings.

**7.2 Holme Valley Parish Council:** "Object to the application on highways grounds; the access road should be one continuous adopted road, not split into Estate Road and Private Drive, plus concerns that no provision for parking for any visitors on private drive (as too narrow)".

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

**Kirklees Highways Development Management** – No objections

**Kirklees Flood Management & Drainage** - No objections

### **8.2 Non-statutory:**

**Kirklees Conservation & Design** – No objection in principle. The materials need to be agreed at some stage. Landscaping plans offer no planting and are not acceptable.

## **9.0 MAIN ISSUES**

- Layout
- Scale
- Appearance
- Landscaping
- Highway matters
- Drainage
- Other matters
- Representations

## **10.0 APPRAISAL**

### Layout:

- 10.1 The proposed layout provides ten detached dwellings. Nine of the dwellings are set towards the back of the site and form a linear row of development with the tenth dwelling being off-set and positioned close to the access.
- 10.2 The density of development equates to 28.1 dwellings per hectare. By way of context, Policy PLP7 of the emerging Local Plan states that developments should achieve a net density of at least 35 dwellings per hectare (where appropriate). The NPPF also states that planning decisions should aim to ensure that the potential of a site to accommodate development is optimised.
- 10.3 On balance the density of the development is considered acceptable. The number of dwellings makes an efficient use of the land whilst maintaining an adequate degree of openness within the built form and the density and layout are comparable to the detached dwellings being built on the adjacent land to the north.
- 10.4 The layout also provides acceptable separation distances to existing and planned neighbouring dwellings.
- 10.5 The separation distances to the new dwellings to the north, which are set up from the site, exceed Policy BE12 requirements. There is also an existing building very close to the northern boundary at the rear of plot 10 but evidence suggests that this is a substantial outbuilding associated with 121/121B Upperthong Lane and is not a dwellinghouse; as such officers do not have any significant concerns with this relationship.

- 10.6 To the east of the site is a parcel of land that is part of the same POL allocation. The closest dwelling is plot 10 and there are no habitable windows within the side elevation of the dwelling that would unduly prejudice the development potential of this land. Further upper floor windows in the side elevation would be restricted by the General Permitted Development Order.
- 10.7 To the south of the site is another part of the POL allocation which has outline consent for three dwellings and a reserved matters application that includes details of layout and scale is under consideration by the Local Planning Authority. The relationship between the prospective developments is acceptable and meets Policy BE12 requirements.
- 10.8 To the west of the site is 52 Broad Lane. The rear wall of plot 1 faces onto the side garden of this property at a distance of about 1m and is separated by a low hedge which would not screen the windows. The gable end of 52 Broad Lane is approximately 15.5m from plot 1 and contains non-habitable or secondary windows. The rear of plot 1 contains a mixture of non-habitable and habitable windows comprising bathroom, landing, study/bedroom and a secondary lounge window.
- 10.9 The window to window relationship is considered to be acceptable. The separation distance and slightly oblique relationship to the habitable windows within plot 1 mean that privacy of existing and future occupiers would not be significantly compromised. There would however be a very close relationship between habitable windows and the neighbour's side garden which gives rise to some concerns. The neighbour's main private amenity space is to the rear and the large side garden is quite open and already overlooked from the public highway. The windows would however introduce a sense of close overlooking and likewise the privacy of the future occupiers of plot 1 would also be affected. As such it is considered that measures to address this are put in place either through obscure glazing or boundary screening.
- 10.10 The layout is considered to provide a reasonable degree of openness around the listed building which helps to preserve its setting and the significance of this designated heritage asset.
- 10.11 In summary the layout of the site is considered to be acceptable and accords with Policies BE1, BE2 and BE12 of the UDP. The number of dwellings

Scale:

- 10.12 The row of nine properties to the north of the site would all be three storeys to the front and two at the rear reflecting the steeply sloping nature of the site. Beyond these dwellings the land rises upwards and is being developed for housing which provides the backdrop to the proposals. The scale of the three dwellings proposed under reserved matters application 2017/92249 also have a three storey frontage.
- 10.13 Given the topography of the area the scale of plots 2-9 is considered to be acceptable and would sit comfortably within the site's context.



10.14 Plot 1 is two storeys to the front and single storey at the rear. This dwelling most closely relates to the adjacent listed building and is immediately adjacent to 52 Broad Lane. The scale of this building is such that it helps to respect the setting of the listed building. Only the upper floor of plot 1 would be visible from 52 Broad Lane which mitigates the impact on this neighbour's amenity space.

10.15 In respect of 'scale' the application is considered to comply with Policies BE1, BE2 and D2 of the UDP and guidance in the NPPF.

Appearance:

10.16 There is a mixture of building designs within the surrounding area. In terms of the proposals there is a consistent design approach across the development with slight variations across a theme. The dwellings include a variety of architectural detailing such as a dentil course and stone heads, cills and mullions to the windows, which enhances their appearance.

10.17 The walls of the dwellings would be constructed of natural stone which is appropriate given that the development will form the setting for the listed building. A dark grey tile is proposed for the roofs and this is acceptable subject to approval of a sample.

10.18 In respect of 'appearance' the application is considered to comply with Policies BE1, BE2 and D2 of the UDP and guidance in the NPPF.

Landscaping:

10.19 The only areas of soft landscaping are those provided by the private garden areas. The Conservation & Design officer has raised concerns with the lack of landscaping however the constraints of the site in terms of its layout and topography would make providing any meaningful landscaping difficult and so on balance the scheme is considered acceptable as proposed.

10.20 In terms of boundary treatment, dry stone walling would be retained along much of the external boundaries including along the frontage (as required by outline consent) and around plot 1. This helps to retain some of the existing character of the area and respects the setting of the listed building. The timber fencing between the plot boundaries is acceptable.

10.21 The development does not trigger a requirement for public open space.

Highways:

10.22 The point of access has already been approved under the outline consent. Highways Development Management consider the internal access, parking and turning arrangements to be acceptable. The application is considered to comply with Policy T10.

Drainage:

10.23 The details have been assessed by Kirklees Flood Management and Drainage and it is considered that the layout would not prejudice flood risk on or off the site.

Other matters:

- 10.24 The number of dwellings does not trigger an affordable housing contribution.

Representations:

- 10.25 Three representations have been received. The main concerns raised relate to highway matters and these have been considered under the outline application (which approved access) as well as this reserved matters submission and are deemed to be acceptable.
- 10.26 A neighbouring land owner has raised concern that a parcel of POL to the east will become land-locked. The agent has responded as follows on this issue:

*"It's impossible to access this land from the application site due to the steepness of the gradient and there is currently no access to it from the site. This land would throw up space about dwelling and overlooking issues and as a result would possibly only take one house which, as a percentage of the number of houses proposed and constructed on the remaining POL land is very small indeed. Anyway, it currently has its own access off Upperthong Lane so is not landlocked."*

There does appear to be an access to the land off Upperthong Lane and so the development would not sterilise future development on the land in question. The proposed layout does however provide a 'theoretical' access to the POL to the east, albeit one which would require gaining rights of access across the private drive and obtaining a ransom strip. The agent's comments on the practical challenges of achieving an access from the site in terms of the gradient are nevertheless likely to be correct.

## **11.0 CONCLUSION**

- 11.1 The density of the development is considered to be acceptable having regard to the need to make efficient use of land and in the context of surrounding development. The scheme provides an acceptable layout, scale and design which would not unduly harm the visual amenity or character of the area and would preserve the setting of the adjacent listed building.
- 11.2 Whilst soft landscaping within the site is limited to the front and rear gardens only on balance this is accepted. The site also provides adequate parking and turning facilities such that highway safety would not be unduly prejudiced.

## **12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Strategic Investment**

1. Development in accordance with approved plans
2. Boundary treatment/obscure glazing to address residential amenity issue at the rear of plot 1
3. Approval of samples of materials (natural stone and dark grey tile)

### **Background Papers:**

Application and history files.

Website link to be inserted here

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f90516>

Certificate of Ownership – Certificate A signed on outline application

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## Report of the Head of Strategic Investment

### HUDDERSFIELD PLANNING SUB-COMMITTEE

**Date:** 31-Aug-2017

**Subject:** Planning Application 2017/91081 Erection of 4no. B1/B8 (Business/Storage & Distribution) units with associated plant store and hardstandings Tandem Way, Fenay Bridge, Huddersfield, HD5 0AL

#### APPLICANT

Richard Butterfield

#### DATE VALID

29-Mar-2017

#### TARGET DATE

28-Jun-2017

#### EXTENSION EXPIRY DATE

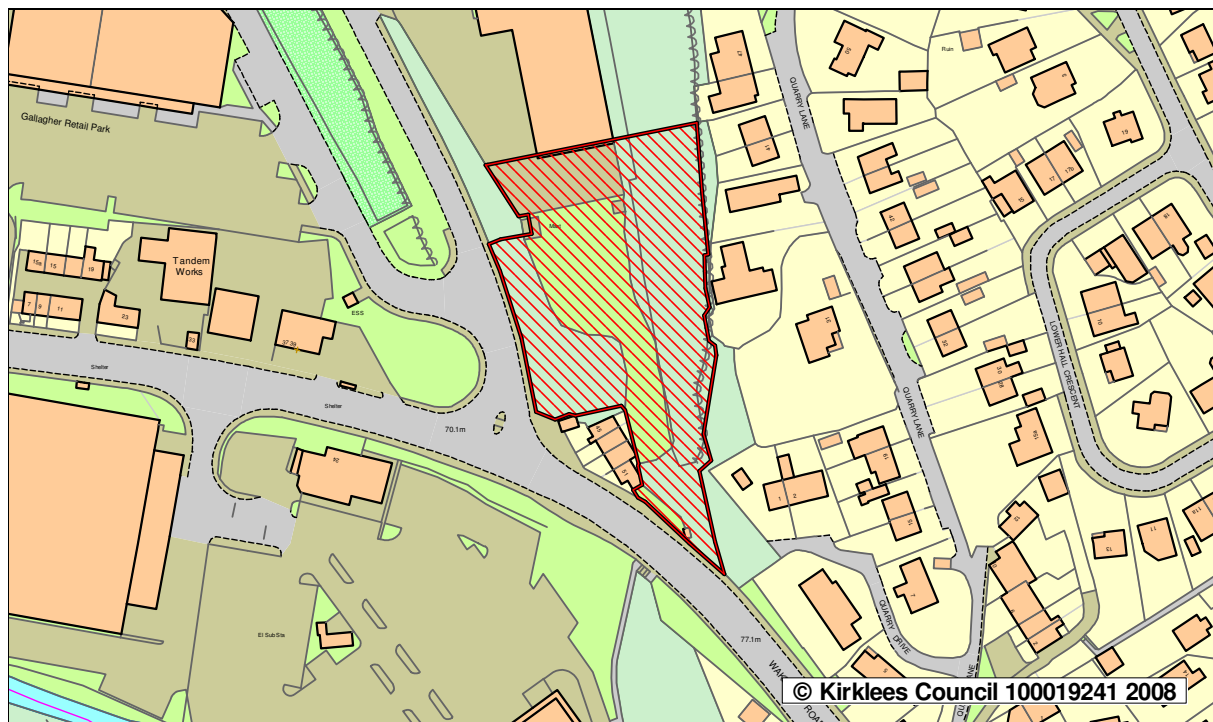
31-Jul-2017

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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**

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**Electoral Wards Affected:** Almondbury

Yes

Ward Members consulted

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**RECOMMENDATION:**

DELEGATE approval of this application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions including those contained within this report and to secure a Section 106 agreement from the applicant confirming a financial contribution of £5,000 towards the upgrade of an existing pedestrian crossing on Wakefield Road.

In the circumstances where the Section 106 agreement has not been submitted within 3 months of the date of the Committee's resolution then the Head of Strategic Investment shall consider whether planning permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Strategic Investment is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers

**1.0 INTRODUCTION:**

- 1.1 This application is been brought to the planning sub-committee for determination following a request from Cllr McGuin who indicated in an e-mail dated 20/06/17 the following:

*"I have seen problems with traffic in the area.*

*1. The area is in danger of overdevelopment.*

*2. Worry about effects on residents on Wakefield Road who will be underneath this development*

*3. Residents on Quarry Lane may be affected by development below them"*

- 1.2 The Chair of the Sub Committee has confirmed that Cllr. McGuin's request is valid having regard to the Councillor's Protocol for Planning Committees and Delegation Agreement.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site measures approximately 0.48ha and is located approximately 1.8 km north east of the centre of Almondbury within a wider concentration of commercial uses which includes manufacturing, retail and leisure uses. This commercial setting separates concentrations of residential uses to the east at Lascelles Hall and to the west at Waterloo. The area therefore has a mixed commercial/residential character. The closest

residential properties to the site border the south western boundary of the site off Wakefield Road and the eastern boundary off Quarry Lane. The residential properties off Wakefield Road are at a lower level and those off Quarry Lane are at a significantly higher level than the site. The site forms part of a former railway line and is therefore relatively level and effectively forms an extension to existing commercial premises to the north.

2.2 The site is located within an area which is without notation in the Council's adopted Unitary Development Plan. The site has previously been cleared of vegetation and the resultant landform presents a level area of land. The site originally formed part of a railway branch line which has seen significant commercial development since it was closed.

2.3 Access to the site would be gained via Tandem Way, a two lane highway, which adjoins Wakefield Road and serves several commercial premises in this area.

### **3.0 PROPOSAL:**

3.1 The application proposes 4no. new Class B1/B8 (business/storage & distribution) units and a covered plant store. The development would comprise 4 linked units with a remote plant store on the southern boundary of the site.

3.2 The new buildings would vary in size but all contain office and welfare facilities. The dimensions of each have been summarised in the following table:

Unit No.	Length (m)	Width (m)	Height to Ridge (m)	Floor space (sq. ft)
1	17.40	16.00	7.50	2900
2	14.10	16.00	7.50	2360
3	13.90	16.00	7.50	2325
4	16.70	14.00	7.50	2410
Plant Store	11.00	10.00 (widest point)	5.40 (highest point)	1033

3.3 The applicant has indicated that the site would be accessed via an existing access point onto Tandem Way which currently serves an adjacent commercial use. This access provides adequate arrangements for heavy goods vehicles to enter and leave the site.

3.4 The site would provide 16 off street car parking spaces (including 4 disabled spaces) and, in order to service the commercial uses, HGV manoeuvring arrangements within the site.

### **4.0 RELEVANT PLANNING HISTORY:**

2003/92429 – Telecoms Notification for installation of radio equipment housing and replacement 3g/2g combined antennas at existing base station (approved 30.06.03)

2004/93773 - Erection of factory extension (approved 10.11.04)

2010/92429 - Installation of 3 no. 02 antennas and 02 flexi unit within existing Vodafone equipment cabinet (refused 29.03.10)

2013/93590 - Telecommunication Notification for erection of replacement 15m monopole mast with 3 tri-band antennas and installation of 3 RRUs with associated ancillary development (approved 13.01.14)

## **5.0 HISTORY OF NEGOTIATIONS:**

5.1 During the assessment of this application and as a result of concerns raised in consultation responses, the following were secured through negotiations with the applicant.

- The submission of an ecological assessment
- The submission of a noise assessment
- Amendments to the design of the development to address concerns raised by Highways DM regarding parking and turning facilities.
- Changes in the design of the units to include a greater element of brickwork on the visible elevations of the development in order to reflect the design of adjacent buildings.
- The inclusion of green/living roofs on all the proposed buildings to enhance local biodiversity and mitigate the impacts on visual amenity

## **6.0 PLANNING POLICY:**

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25<sup>th</sup> April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

### **6.2 Kirklees Unitary Development Plan (UDP) Saved Policies 2007:**

D2 – Unallocated Land  
B1 – Employment Needs  
BE1 – Design principles  
BE2 – Quality of design  
EP4 – Noise generating development  
EP6 – Taking into account existing and predicted noise levels  
G6 – Land contamination



T10 – Highway safety  
T19 – Parking standards

### 6.3 National Planning Guidance:

NPPF Section 1. Building a strong, competitive economy  
NPPF Section 7 Requiring Good Design  
NPPF Section 10 Meeting the Challenge of Climate Change, Flooding and Coastal Change  
NPPF Section 11. Conserving and enhancing the natural environment  
Core Planning Principles

### 6.4 Kirklees Publication Draft Local Plan (KPDLP): Submitted for examination April 2017

PLP1 – Presumption in favour of sustainable development  
PLP3 – Location of new development  
PLP 6 - Safeguarded land (Land to be safeguarded for potential future development)  
PLP7 – Efficient and effective use of land and buildings  
PLP8 – Safeguarding employment land and premises  
PLP19 – Strategic transport infrastructure  
PLP 21 – Highway safety and access  
PLP24 – Design  
PLP27 – Flood risk  
PLP28 - Drainage  
PLP 30 – Biodiversity and Geodiversity  
PLP51 – Protection and improvement of local air quality  
PLP52 – Protection and improvement of environmental quality

### 6.5 Other Planning Guidance

West Yorkshire Low Emission Strategy Planning Guidance

## 7.0 **PUBLIC/LOCAL RESPONSE:**

7.1 This application was publicised by the erection of 4 site notices in the vicinity of the site the mailing of 12 neighbourhood notification letters and an advertisement in the Huddersfield Examiner. This resulted in 1 representation from a member of the public being received with regard to this proposal and the issues raised can be summarised as follows:

- The development would adversely affect the visual amenity of the area and the outlook from residential properties on Quarry Lane.
- The applicant cleared most of the site of vegetation before this application was submitted therefore avoiding any potential development constraints.
- The scale of this proposal does not assimilate well with existing site buildings.
- The proposal would result in noise nuisance being experienced by the nearest residential properties.

- The proposal would compromise highway safety in the area
- The proposed materials would not reflect existing development in this area

Kirkburton Parish Council was consulted regarding this proposal but has not commented.

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

Highways DM – No objection subject to the inclusion of the following planning conditions:

(i) No development 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 highway have been approved in writing by the Highways Structures. Thereafter the development shall not be brought into use until the approved works have been constructed. The said works shall be maintained throughout the life time of the development.

(ii) The units shall not be occupied until cycle storage facilities have been provided in accordance with details that have been approved in writing by the Local Planning Authority. The approved facilities shall be retained throughout the lifetime of the development.

(iii) Before the development commences a scheme detailing the cross sectional information together with the proposed design and construction details for any modifications to the existing embankment/ retaining wall adjacent to the A642 Wakefield Road and Tandem Way to construct the new development shall be submitted to and approved by the Highway Authority in writing. The details shall include a design statement, all necessary ground investigations on which design assumptions are based on, method statements for both temporary and permanent works and removal of any bulk excavations, a full slope stability analysis together with structural calculations and all associated safety measures for the protection of adjacent public highway. All highway retaining structures shall be designed and constructed in accordance with the approved details and shall be so maintained throughout the life of the development unless otherwise agreed in writing by the Highways Structures Section.

(iv) Prior to the development being brought into use the areas to be used by vehicles and/or pedestrians have been surfaced and drained in accordance with details that have previously been approved in writing by the Local Planning Authority.

## 8.2 Non-statutory:

K.C. Environmental Health – No objection subject to planning conditions which require:

- The implementation of a phase II contaminated land report and satisfactory remediation measures if required
- Hours of operation being restricted to 07:00 to 22:00 Mon to Sat
- The installation of vehicle charging points in 10% of vehicle parking spaces on site.
- The provision of a travel plan which seeks to reduce vehicle emissions

K.C. Biodiversity Officer – No objection subject to the inclusion of planning conditions which require:

- (i) Details of artificial lighting and measures to protect local bat populations
- (ii) Details of the proposed ecological mitigation and enhancement measures

K.C. Arboriculture Officer – No objections

K.C. Strategic Drainage – No objections subject to the inclusion of the following planning conditions:

(i) Development shall not commence until a scheme detailing foul and surface water drainage, (including outfalls, balancing works, plans and longitudinal sections, hydraulic calculations, existing drainage to be maintained/diverted/abandoned) has been submitted to and approved in writing by the Local Planning Authority. None of the buildings 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 buildings relate and thereafter retained.

(ii) Development shall not commence until a scheme restricting the rate of surface water discharge from the site to a maximum of 3 *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. Volumes above the critical 1 in 30 year storm event, up to and including the critical 1 in 100 year storm event, with a 20% 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. The approved scheme including maintenance and management regime shall be retained thereafter.

Yorkshire Water – No objection subject to the inclusion of the following planning condition:

(i) No development shall take place until details of the proposed means of disposal of surface water drainage, including details of any balancing works and off-site works, have been submitted to and approved by the local planning authority. Furthermore, unless otherwise approved in writing by the local planning authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works.

## **9.0 MAIN ISSUES**

- Principle of development
- Local amenity issues
- Highway issues
- Drainage issues
- Biodiversity
- Contamination
- Air Quality
- Representations

## **10.0 APPRAISAL**

### Principle of development

10.1 The application site is without notation on the UDP proposals map and it is therefore considered that the principal UDP policy determining the suitability of this proposal is D2 which indicates that development on such land will be permitted provided that the proposals do not prejudice:

- i the implementation of proposals in the plan;
- ii the avoidance of over-development;
- iii the conservation of energy;
- iv highway safety;
- v residential amenity;
- vi visual amenity;
- vii the character of the surroundings;
- viii wildlife interests; and
- ix the efficient operation of existing and planned infrastructure.

10.2 The National Planning Policy Framework makes it clear that the Government is committed to securing economic growth through the planning process and to help achieve this paragraph 20 of the NPPF states:

“.....local planning authorities should plan pro-actively to meet the development needs of business and support an economy fit for the 21<sup>st</sup> century.”

This is reflected in Policy B1 of the UDP which indicates that the employment needs of the district will be met by providing land to accommodate the requirements of new and existing businesses.

- 10.3 As this proposal would positively contribute towards the local economy in terms of jobs and investment, it is therefore considered that, subject to this proposal not compromising the key sustainable development principles set out in the NPPF or the issues set out in UDP policy D2 above, this proposal is acceptable in principle.
- 10.4 Due to the stage the emerging Local Plan has reached with regard to the examination process, it must now be given considerable weight in the consideration of planning applications. The implications of this proposal on the emerging plan must therefore be considered. The emerging local plan identifies this site as safeguarded employment land. It is considered that this proposal would not conflict with this allocation as the development would result in the creation of jobs in the area and would therefore accord with KPDL policy PLP 8. The land is also identified as a potential link in the Council's core pedestrian and cycle riding network in the emerging local plan. However, an existing building already obstructs this proposed route and it would be relatively easy to provide this link by using Tandem Way as indicated in the Unitary Development Plan. Consequently it is considered that this proposal would not compromise the Council's aspirations to provide this pedestrian/cycle route during the local plan period and therefore accords with KPDL policy PLP 19.
- 10.5 Local Amenity Issues
- 10.6 UDP Policies BE1 and BE2 are considerations in relation to design, materials and layout. Section 7 of the NPPF indicates that good design is a key aspect of sustainable development and that poorly designed development should be refused.
- 10.7 The area surrounding the application site exhibits a variety of architectural styles both contemporary and more traditional involving the use of different facing materials including stone, brick and metal cladding. Commercial premises in the immediate vicinity of the site include buildings constructed from materials similar to this proposal.
- 10.8 The proposed buildings are of a functional, contemporary design making use of materials which are fairly typical for this type of development. Although higher than the building immediately adjacent to the north of this proposal, they are the height of two storey buildings and their scale would be similar to others in the immediate vicinity. Furthermore, following negotiations, the applicant has agreed to include a significant element of brickwork in the elevations of the units and living roofs on all the proposed buildings. This would mitigate against their impact on the visual amenity of the area. Officers therefore consider that this development would not be out of keeping within the wider setting which, as indicated, includes similar buildings. It is therefore considered that this proposal would not appear as a discordant feature within the area and would not detrimentally affect visual amenity. Consequently it would therefore accord with policies BE1 or BE2 of the UDP, Policy PLP24 of the KPDL and national policy guidance contained in Section 7 of the NPPF.
- 10.9 This proposal would result in a substantial development on a site that, due to local topography, is prominent within the local landscape. However, the site is screened to some extent by mature vegetation along its western and southern boundaries which would act to reduce the impact of the development when

viewed from Wakefield Road both at close quarters and at greater distance from the west.

- 10.10 The site is located within an area that has a mixed commercial/residential character and forms part of a wider belt of commercial uses that divide concentrations of residential development to the east and west. The closest residential properties bound the site to the south off Wakefield Road and to the east off Quarry Lane.
- 10.11 The residential properties on Wakefield Road are at a lower level and, due to their orientation and the surrounding topography, do not overlook the application site. There is a substantial retaining wall to the rear of these properties that would have been originally associated with the railway. However, residential properties off Quarry Lane to the east, which are at a higher level, can overlook the site. The ground level of the site is approximately 11m lower than the ground level of the residential properties off Quarry Lane and the recent removal of vegetation on the steep embankment which lies between the proposed development and the residential properties off Quarry Lane has increased the potential to overlook the site. However, this impact could be mitigated by the strategic planting of additional vegetation along this embankment, which is within the applicant's control. It is therefore proposed to include a planning condition requiring the submission of landscaping details for approval should planning permission be granted.
- 10.12 This proposal has the potential to generate noise which could adversely affect the nearest residential properties to this site. In accordance with UDP policy EP6 the applicant has provided a noise assessment which has established the existing noise climate in the vicinity of the site and predicts the noise levels likely to be generated by this development.
- 10.13 The noise survey concludes that, once occupied, the noise associated with this proposal would not increase noise levels beyond the existing baseline levels as a result of site activities, service yard use or fixed plant operations. Consequently there would be no significant loss of amenity due to noise resulting from this development and the proposal would therefore accord with UDP policies D2, EP6, Policy PLP24 of the KPDLP and Section 11 of the NPPF with regard to its potential impact on the nearest noise sensitive properties.
- 10.14 Highway issues
- 10.15 The site is served by an existing access road (Tandem Way) which provides adequate facilities for two HGVs to pass within the site. The applicant proposes to use this access extending the use of a private drive through an existing industrial complex to serve the development. This would provide additional off street car parking spaces (16) and additional turning facilities to serve the development proposed.
- 10.16 It is considered that the proposed access, parking and manoeuvring arrangements are adequate for a development of this nature. Officers consider that subject to the inclusion of planning conditions to control the issues detailed in paragraph 8.1, the proposal would accord with UDP policies T10 and T19 and KPDLP policy PLP 21 with regard to the potential impact this development would have on the local highway network.

- 10.17 As indicated above the site straddles the proposed route of a core pedestrian and cycleway identified in the emerging local plan. However it is considered that as this route is already obstructed by an adjacent building it is likely that a diversion along Tandem Way would be necessary to implement route during the plan period.
- 10.18 The applicant has indicated a willingness to provide a financial contribution of £5,000 towards upgrading an existing crossing point on Wakefield Road to allow cycles to cross at that point should the cycleway be implemented during the plan period. This would be secured by means of a Section 106 Obligation submitted as a Unilateral Undertaking.
- 10.19 Drainage and flood risk issues
- 10.20 The application site is located within Flood Zone 1 and is therefore at very low risk of flooding. It is therefore considered that this proposal would not have any significant detrimental impact on water regimes in the vicinity as a result of flooding.
- 10.21 The applicant proposes to drain the site using a connection to an existing sewer. Whilst this is a possible solution, there is the potential to include sustainable drainage techniques to deal with surface water drainage. It is therefore proposed to require the submission of a detailed drainage scheme prior to the development commencing via an appropriately worded planning condition.
- 10.22 It is therefore considered that this proposal would accord with KDLP policies PLP27 & 28 Section 10 of the NPPF with regard to drainage and potential flood risk.
- 10.23 Biodiversity
- 10.24 The site forms part of a former railway line which has been left vacant for many years and therefore naturally regenerated. However, much of this vegetation was cleared earlier this year. Having said this, officers consider that the site still has the potential to provide habitat opportunities for a variety of animal and plant species.
- 10.25 An ecological appraisal of the site has been submitted in support of this application which concluded that there would be no impact on bat roosts, Great Crested Newts, Badgers or other European or UK protected Species. Furthermore the appraisal concludes that, whilst this proposal would have direct impact on recently disturbed ruderal vegetation, which is not significant at local level, there would be no direct impact on scrub and broadleaved woodland as this would be retained.
- 10.26 The applicant has indicated a willingness to include measures to enhance local biodiversity such as the provision of living roofs in the design of all the buildings associated with this development and the erection of a variety of bird and bat boxes around the site to enhance habitat opportunities for local wildlife.

10.27 It is therefore considered that any detrimental impact on local biodiversity caused by this development can be satisfactorily compensated for and the sensitive development of the site provides an opportunity to enhance local biodiversity. Consequently this proposal accords with UDP policy D2, KPDLP policy PLP 30 and Section 11 of the NPPF with regard to its potential effect on local ecology.

#### 10.28 Contamination issues

10.29 Due to the history of the site, it is possible that the site could be contaminated and would therefore require satisfactory remediation during development. The applicant has carried out a Phase 1 contamination report which recommends intrusive investigations to ascertain whether site contamination is an issue.

10.30 Should planning permission be granted it is proposed to include a suite of planning conditions requiring that prior to development commencing an intrusive site investigation is carried out and that adequate remediation measures are implemented to deal with any contamination found. Subject to these measures it is considered that this proposal would accord with UDP policy G6, KPDLP policy PLP 52 and Section 11 of the NPPF with regard to potential contamination resulting from the development of the site.

#### 10.31 Air quality

10.32 This development has been assessed in accordance with the West Yorkshire Low Emission Strategy Planning Guidance. The size of the development is more than that of prescribed values set out in this document. This proposal is therefore regarded as a 'medium development' for the purposes of the above document. In order to offset the potential damage to air quality as a result of this proposal it is proposed to seek, via planning condition, the following:

- The installation of 1 charging point in 10% of parking spaces
- A Travel Plan which includes: mechanisms for discouraging high emission vehicle use and encouraging modal shift (i.e. public transport, cycling and walking) as well as the uptake of low emission fuels and technologies.

10.33 Officers consider that subject to the measures outlined above, this proposal would accord with KPDLP policy PLP 51 and Section 11 of the NPPF with regard to any detrimental impact on air quality associated with this development.

#### 10.34 Representations

A representation from a member of the public has been received with regard to this proposal, the issues raised and associated responses are summarised as follows:

The development would adversely affect the visual amenity of the area and the outlook from residential properties on Quarry Lane.

**Response:** This matter has been addressed in the section of the report titled "Local Amenity Issues"



The applicant cleared most of the site of vegetation before this application was submitted therefore avoiding any potential development constraints.

**Response:** The vegetation on this site did not benefit from any formal protection and its removal prior to the planning application being submitted did not require any consent from the council.

The scale of this proposal does not assimilate well with existing site buildings.

**Response:** This matter has been addressed in the section of the report titled "Local Amenity Issues"

The proposal would result in noise nuisance being experienced by the nearest residential properties.

**Response:** This matter has been addressed in the section of the report titled "Local Amenity Issues"

The proposal would compromise highway safety in the area

**Response:** This matter has been addressed in the section of the report titled "Highways Issues"

The proposed materials would not reflect existing development in this area

**Response:** This matter has been addressed in the section of the report titled "Local Amenity Issues"

As previously indicated, Cllr. McGuin raised the following concerns regarding this proposal

*"I have seen problems with traffic in the area."*

**Response:** This matter has been addressed in the section of the report titled "Highways Issues"

*"The area is in danger of overdevelopment"*

**Response:** Whilst the area has seen a number of commercial developments in recent years, each case must be dealt with on its merits and the fact that other commercial development has been carried out cannot in itself act as a bar to other proposals.

*"Worry about effects on residents on Wakefield Road who will be underneath this development"*

**Response:** This matter has been addressed in the section of the report titled "Local Amenity Issues"

*"Residents on Quarry Lane may be affected by development below them"*

**Response:** This matter has been addressed in the section of the report titled "Local Amenity Issues"

## **11.0 CONCLUSION**

- 11.1 The proposal would have the potential to allow new business to locate within the Kirklees area. The design of the proposed new units is considered to be satisfactory and it is considered that the development would not appear as incongruous within this particular setting, which has similar structures within close proximity.

- 11.2 The development is served by existing access arrangements and provides adequate parking and vehicle manoeuvring facilities within the site and it is therefore considered that it would not adversely affect the local highway network. Noise generated by the development will not exceed the current baseline noise levels and would not therefore have a significant additional detrimental impact on the nearest residential properties. Furthermore whilst this proposal would have a limited impact on the area's local ecology, the mitigation measures proposed would result in enhancements to local biodiversity.
- 11.3 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.
- 11.4 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.

**12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Strategic Investment)**

1. Standard 3 years to implement permission
2. Standard condition requiring development to accord with approved plans
3. No development on the buildings superstructure until samples of facing and roofing materials have been approved.
4. Development not to be brought into use until areas to be used by vehicles/pedestrians have been surfaced and drained
5. Development not to be brought into use until vehicle turning facilities have been implemented.
6. The submission of a scheme providing drainage details for the site.
7. The submission of a scheme restricting surface water discharge from the site to 3 litres per second
8. The implementation of an intrusive contaminated land survey.
9. The submission of a site remediation strategy if required
10. Implementation of site remediation strategy if required
11. Submission of remediation validation if required
12. Hours of operation restricted to 07:00 to 22:00 Mon. to Sat.
13. The installation of electric vehicle charging points
14. The submission of a travel plan

15. The submission of details with regard to retaining walls close to or abutting the highway
16. Details of cycle storage facilities
17. The submission of a scheme detailing the design and construction details of alterations to the existing embankment/retaining walls adjacent to the A642
18. The submission of an ecological design strategy which provides details of the means of installing green/living roofs on the site buildings and of the bird and bat boxes to be erected.
19. The submission and approval of a landscaping scheme (including maintenance arrangements)
20. The submission of a scheme indicating how the site will be artificially lit to ensure the protection of local bat populations.

**Background Papers:**

Application and history files.

Website link - <http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f91081>

Certificate of Ownership – Certificate A signed: 23 March 2017

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## Report of the Head of Strategic Investment

### HUDDERSFIELD PLANNING SUB-COMMITTEE

**Date:** 31-Aug-2017

**Subject:** Planning Application 2017/91555 Formation of driveway through ground floor of 35/37, alterations to form flat above and change of use of land to form parking and turning area 35, Upper Mount Street, Lockwood, Huddersfield, HD1 3RX

#### APPLICANT

J and M Hussain

#### DATE VALID

12-May-2017

#### TARGET DATE

07-Jul-2017

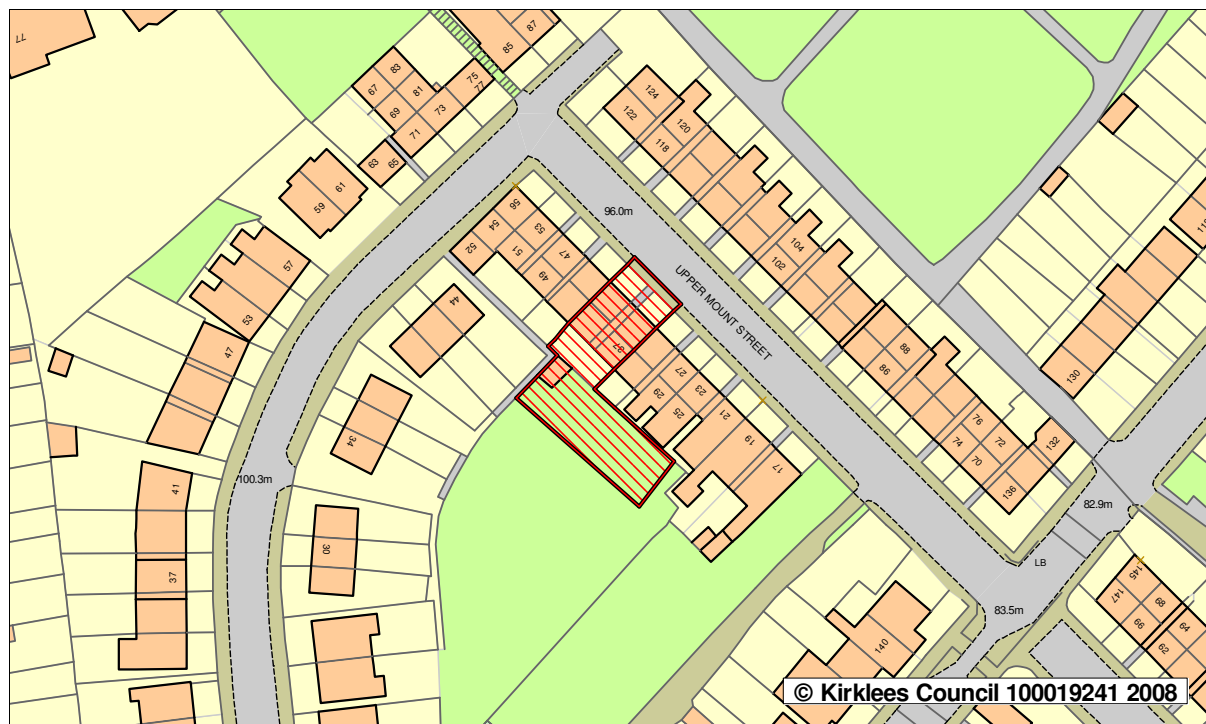
#### EXTENSION EXPIRY DATE

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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**

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**Electoral Wards Affected:    Crosland Moor and Netherton**

No

Ward Members consulted

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**RECOMMENDATION: REFUSE**

**1. The comings and goings associated with the use of the driveway and parking spaces would result in a level of disturbance that would not retain a good standard of amenity for existing occupiers of neighbouring dwellings, in particular those to the south east of the application site. This would be contrary to a core planning principle of the NPPF, Policy D2 (v) of the UDP and Policy PLP24 (b.) of the Publication Draft Local Plan.**

**2. The formation of the driveway through the ground floor of the host dwelling would appear incongruous in the Upper Mount Street streetscene, disrupting the strong linear character of stepped terraced properties which presently exists. This would be detrimental to visual amenity and would not accord with Policies D2 (vi, vii) and BE1(i, ii) of the Unitary Development Plan, advice within paragraph 64 of the National Planning Policy Framework and Policy PLP 24 (a.) of the Publication Draft Local Plan**

**1.1     INTRODUCTION:**

The application site is reported to Sub-Committee at the request of Councillor Manisha Kaushik with the following reason:

*“Please note that members are to consider the impact on visual, residential and highway safety with a site visit”*

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

**2.0     SITE AND SURROUNDINGS:**

- 2.1     The application site relates to nos.35/37 and 39 Upper Mount Street together with an area of open land to the rear of these properties. The open land also extends south east beyond the rear of nos. 31/33, 29 and 23/25 Upper Mount Street. Physical works are proposed to no. 35/37 Upper Mount Street. This property is a two storey mid-terraced property. It is set along a steeply sloping street and has an area of hardstanding to the front and small yard to the rear which is accessed from a passageway between No’s 35/37 and No. 39 Upper Mount Street which are both through terraces. The area beyond the rear yard of the property is set up slightly from the ground level of the property itself and

is currently scrub land. The wider area is predominantly residential with a number of the properties within Upper Mount Street being back-to-back dwellinghouses. The internal layout of the host property, based on the existing floor plans, also indicates that the property was formerly a back-to-back property.

### **3.0 PROPOSAL:**

- 3.1 Permission is sought for the formation of a driveway through the ground floor of No. 35/37, alterations to form a flat above and the change of use of land to form a parking and turning area.
- 3.2 The formation of the driveway through the ground floor of the property would be completed by removing the entire ground floor accommodation and creating an opening which would be 3.4 metres in width and 3.4 metres in height.
- 3.3 The alterations to form the flat above would involve the relocation of one of the staircases into the existing passageway and creating a kitchen, lounge, bedroom and bathroom at first floor and two further bedrooms, a bathroom and a store within the loft space.
- 3.4 The change of use relates to a tract of land to the rear of the property accessed by the proposed driveway. It is proposed this would become a turning area and 4 marked out parking space. The 4 no. parking spaces would be sited directly to the rear of no. 31/33.
- 3.5 It is proposed that the materials used in the external alterations would be stone with the parking area and driveway to be tarmac.
- 3.6 In order to form the driveway through the existing dwelling it would be necessary to infill an existing cellar to the new drive level or possibly construct a pre-cast concrete post and beams, on loadbearing wall/beams to prevent additional thrust on the party walls.

### **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 Within the land to the rear of property:

2004/94754 Use of land for siting storage container, for use as workshop/storage, erection of detached garage and formation of vehicular access

Refused – 1) garage and storage due to their design and materials of construction would be injurious to the visual amenity of the area; and

2) insufficient information to enable the implications of the proposal to be properly judged, particularly having regard to the potential of noise generation from the workshop and associated car manoeuvres

4.3 Within the land to the rear of the property:

2005/90127 Use of land for siting storage container, for use as workshop/storage, erection of detached garage and formation of vehicular access

Refused – 1) design, siting and construction materials of storage container would be injurious to the visual and residential amenity of the area; and  
2) insufficient information to enable the implications of the proposal to be properly judged, particularly having regard to the potential of noise generation from the workshop and associated car manoeuvres – Appeal dismissed

**5.0 HISTORY OF NEGOTIATIONS:**

5.1 In terms of the formation of the driveway, this was subject of informal pre-application discussion. It was informally advised at that time this form of development raised concerns regarding visual amenity and highway safety.

5.2 During the course of the application amended plans were sought with regard to the front elevation as it appeared on the site visit that the ground level was lower than shown on plan. Also, further amended plans were received which demonstrates roof lights within both the front and rear elevation for the proposed bedrooms.

5.3 Additional plans were received at the request of the Case Officer with regards to site sections due to the topography of the area.

**6.0 PLANNING POLICY:**

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25<sup>th</sup> April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

6.2 The land is without allocation/designation within the Unitary Development Plan and Kirklees Publication Draft Local Plan.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.3 D2 – Unallocated Land  
BE1 – Design principles  
BE2 – Quality of design  
EP4 – Noise sensitive development  
T10 – Highway safety  
T19 – Parking standards



- 6.4 PLP1 – Presumption in favour of sustainable development  
PLP2 – Place shaping  
PLP24 – Design

National Planning Guidance:

- 6.4 Chapter 7 – Requiring good design

**7.0 PUBLIC/LOCAL RESPONSE:**

- 7.1 The Council advertised the application by site notice and neighbour notification letters which expired on 14<sup>th</sup> June 2017 – no letters of representation regarding the proposed development have been received.

**8.0 CONSULTATION RESPONSES:**

- 8.1 **Statutory:** None

- 8.2 **Non-statutory:**

K.C. Highways Development Management – no objection subject to conditions

K.C. Environmental Services – no objection

**9.0 MAIN ISSUES**

- Principle of development
- Visual amenity
- Residential amenity
- Highway issues
- Representations
- Other matters

**10.0 APPRAISAL**

Principle of development

- 10.1 The site is without notation on the UDP where Policy D2 (development of land without notation) states “planning permission for the development.....of land and buildings without specific notation on the proposal 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 report.

- 10.2 The general principle of making alterations to a property are assessed against Policies BE1 and BE2 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. In addition Policy PLP24 of the Publication Draft Local Plan sets out a variety of design considerations to take into account in the assessment of a planning application.

#### Visual amenity

- 10.3 There are three elements to the development proposed. Firstly, to create a driveway through the ground floor of the property, secondly the creation of a flat above and thirdly, the formation of a parking area to the rear of the site.
- 10.4 In respect of the formation of the driveway, and ensuing alterations to the existing dwelling, the applicant has submitted supporting information. This provides examples of similar forms of development elsewhere within Kirklees. It is not a matter of dispute that such openings exist elsewhere but principally these were formed concurrently with the development of which they form part, leading to shared yards that again form part of the original development. This is not the case at Upper Mount Street which features long terraced rows on a steep incline with no existing similar forms of development and no shared yards to the rear of the properties currently accessible by vehicles. It is therefore considered that to create such a large and high opening within the dwelling, both at the front and rear of the property would be visually intrusive and incongruous within the street scene and wider area which would be contrary to Policies D2 and BE1 of the UDP and paragraph 64 (design) of the NPPF.
- 10.5 Notwithstanding the above, the alterations to the existing dwelling to form a flat would involve minimal changes to the remaining building. The only visible alterations would be changing the existing passage opening to a door and the insertion of rooflights. These elements are not to be considered acceptable in accordance with Policies D2, BE1 and BE2 of the Unitary Development Plan and advice within the National Planning Policy Framework.
- 10.6 The proposed parking area to the rear appears involves creating a hardsurface and some limited regrading works. Whilst this would introduce a new feature, close to the front of those properties which are only single aspect, the creation of this surface would not be detrimental to visual amenity in its own right, notwithstanding the impact on residential amenity.
- 10.7 Taking into account all the above, it is considered that the proposed formation of the driveway (when taken in isolation) is not acceptable in terms of visual amenity due to its incongruous appearance which would disrupt the linear appearance of the Upper Mount Street, to the detriment of amenity which would not accord with Policies D2, BE1 of the Unitary Development Plan and advice within the National Planning Policy Framework. Furthermore the development would not accord with emerging policy PLP24 of the PDLP which states that proposals should promote good design by ensuring (amongst other things) 'the form, layout and details of all development respects and enhances the character of the townscape...'

### Residential Amenity

- 10.8 The properties which would be potentially affected by the proposed development would be the host dwellings and also the neighbouring properties to the south east. The impact would be the activity associated with the driveway and parking area. The rear aspect of the properties, and in part the principal elevation of neighbouring property which is single aspect (no. 29), presently overlook a wide area of disused land which is currently undisturbed. The proposal would formalise this land to utilise it for parking
- 10.9 Whilst no objections have been raised by Environmental Services, it is considered that the impact from the comings and goings associated with the driveway and parking area would not retain a good standard of amenity for neighbouring properties. The existing dwellings, not associated with the application site, have only small yard areas with there being a gap of approx.. 4 metres between the rear of nos. 31/33 Upper Mount Street and the parking spaces and no 29, a single aspect property, almost abutting parking space no. 4.
- 10.10 Although dwellings fronting Upper Mount Street itself already experience vehicle traffic and manoeuvring, the current proposal would introduce cars passing through a driveway enclosed by residential properties to both sides and above. Whilst no details have been submitted as the use of the parking spaces there are concerns regarding the intensification of the proposed traffic movements. The land to the rear of the dwellings is currently quiet and the activity and proximity of the use to other properties is considered not to improve the character of the area.
- 10.11 With regards to the proposed roof lights, whilst these would be openings to habitable room windows, these would not require Planning Permission in their own right and due to being within the roof slope of the dwelling, are not considered to be detrimental to residential amenity,
- 10.12 Taking into account all the above, it is considered that the formation of the driveway and parking spaces would not retain a good standard of amenity for existing occupiers of neighbouring dwellings. This would be contrary to a core planning principle of the NPPF and Policy D2 of the UDP. Furthermore it would be contrary to emerging Policy PLP24 of the PDLP in that it would not 'provide a high standard of amenity for...neighbouring properties'. It is recognised that the proposal could reduce the demand for on street parking along Upper Mount Street but this would not overcome the objection to the development on the grounds of residential amenity.

### Highway issues

- 10.13 In terms of highway issues, the Highways Development Management team were formally consulted. No objections have been raised on the grounds of highway safety subject to the imposition of conditions relating to sight lines and the marking and draining of bays. As such, and considered in isolation, the development would comply with Policies D2 and T10 of the UDP.

- 10.14 Amended plans have been received on 16<sup>th</sup> August 2017 which demonstrates that there is an existing dropped kerb at the site. This is acknowledged together with the fact that off street parking takes place to the front of the property.

#### Representations

- 10.15 No representations received

#### Other Matters

- 10.16 There are no other matters for consideration.

### **11.0 CONCLUSION**

- 11.1 There are concerns related to the impact of the development upon residential and visual amenity, as outlined in the report above.
- 11.2. The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute what sustainable development means in practice.
- 11.3. The application has been assessed against relevant policies in the development plan, the emerging local plan and other material considerations. It is considered that the development proposals do not accord with the development plan, the emerging development plan or national policy set out in the NPPF. For these reasons the application is recommended for refusal.

#### **Background Papers:**

Application file.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f91555>

Certificate of Ownership, Certificate B dated 12<sup>th</sup> May 2017  
Notice served on:

Mr S Hussain 39 Upper Mount Street Lockwood  
Mr I Hussain 33 Upper Mount Street Lockwood  
Kirklees Council Civic Centre 3 (Physical Resources and Procurement)

## KIRKLEES METROPOLITAN COUNCIL

### PLANNING SERVICE

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

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

31 AUGUST 2017

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#### Item 12 – Page 25

**Application for extinguishment of claimed public footpaths at Clayton Fields, Edgerton Road and provision of alternative routes. Town & Country Planning Act 1990, section 257.**

Officers note that Mr J Adamson, the Chair of Clayton Fields Action Group, has requested copies of 12 letters to be included in the officer report. His CFAG letter of request of 24 August is included in this update and lists the 12 letters. Details of Mr Adamson's address have been retained in this letter excepting the telephone number. The letters are correspondence between Mr Adamson and various parties (Kirklees Council PROW, the s257 joint applicants Seddon, the Planning Inspectorate rights of way team) generally concerning the DMMO applications, his DMMO direction request, the s257 application form, Seddon/CFAG discussions on the s257 proposals & the CFAG request for the council to suspend its consideration of this s257 application. Mr Adamson has provided KC PROW with copies of his correspondence with third parties. Officers note that the report before members refers to these matters and the letters are filed in the background papers available to members, with the CFAG response provided by Mr Adamson to the preliminary consultation on the s257 application in the appendices to the report. Mr Adamson was informed by letter of 18 August that his request of 15 August for a copy of the s257 application without redaction of applicant signatures has been referred to the council's Information Access Team.

Tower House  
Cemetery Road  
Edgerton  
Huddersfield  
HD1 5NF

24.08.2017

Giles Cheetham  
Definitive Map Officer  
Public Rights of Way  
Kirklees Council  
Flint Street  
Fartown  
Huddersfield  
HD1 6LD



Dear Mr Cheetham,

**Sub-committee meeting scheduled for 31<sup>st</sup> August 2017 to determine the following application.**

**Town & Country Planning Act 1990, Section 257.**

**Application for "Closure or Diversion of Public Path" received from Seddon Homes Limited and Paddico (267) Limited by Kirklees Council on 26.05.2017.**

Thank you for your letter dated 11 August 2017.

Following a number of telephone conversations with the Public Rights of Way (PROW) unit I would like to ensure the following letters are included in your report to the sub-committee. I have already provided copies of the letters cited below to the PROW unit. I would also like a copy of this letter to be included, which I cite at the end of the following chronological list:

Letter to Giles Cheetham, dated 30.06.2017; letter to Rob Stenhouse, and enclosures, dated 25.07.2017; reply from Rob Stenhouse to Mr J Adamson, dated 26.07.2017; letter to Rob Stenhouse, signed Jonathan Adamson, Jenny Magee and William Magee, dated 01.08.2017; letter to Giles Cheetham, dated 07.08.2017; reply from Giles Cheetham, dated 11.08.2017; letter to the Planning Inspectorate, Definitive Map and Public Right of Way Orders, dated 12.08.2017; letter to the Planning Inspectorate, Definitive Map and Public Right of Way Orders, dated 14.08.2017; letter to Giles Cheetham, dated 15.08.2017; reply from Yvonne Oddy (Mrs) The Planning Inspectorate, Rights of Way Section, dated 15.08.2017; letter to Yvonne Oddy (Mrs) The Planning Inspectorate, Rights of Way Section, with enclosure, dated 22.08.2017; this letter, to Giles Cheetham, dated 24.08.2017.

**I HAVE STILL NOT RECEIVED A SIGNED (UNREDACTED) COPY OF THE ABOVE APPLICATION FORM, REQUESTED IN MY LETTER TO YOU DATED 15.08.2017. I AM SURE YOU ARE AWARE OF THE LEGAL WARNING IN THE APPLICATION FORM REGARDING SIGNATURES.**

Also, in relation to **redaction**, and my last question in my letter, dated 15.08.2017, to which I have received no reply, to date, I note The Planning Inspectorate uses the reverse principal to the one Kirklees PROW unit is using:

"Please be aware that in due course a copy of the decision on your application will be placed on the GOV.UK website. **If you do not wish your address details to appear online, please let me know [my bold].**"

**Erection of 39 dwellings and associated landscaping****Land at, Cross Lane, Scholes, Holmfirth**Additional Detail/Representations

Scholes Future Group requested that further information, which will be referred to in their presentation, be conveyed to Members in the update. This is in accordance with the protocol for public speaking at planning committees. This has been conveyed by Governance to Members as requested. It can also be viewed on the Council's website following the link below:

<https://democracy.kirklees.gov.uk/ecSDDisplay.aspx?NAME=SD1345&ID=1345&RPID=504510661>

Public Open Space

As detailed in paragraph 10.70 of the officer report, the applicant requested additional justification for the additional costs requested associated with the provision of play equipment and maintenance. In response the applicant has been provided with additional details in order to justify the cost and officers are of the view that UDP policy H18 requires off-site provision to be provided in the same way that on-site would be (i.e. play provision/equipment required). The applicant has agreed to provide the full POS contribution as set out in para 10.70 of the officer report. This will be secured by S106 Agreement.

Amended Plans

Following an assessment of the internal layout of the proposed development, Kirklees Highways DM raised a number of concerns regarding the number of parking spaces proposed and with regards the design of the proposed carriageway. Following this, the applicant has submitted amendments to the application. The amendments do not alter the design or position of any of the houses proposed. To summarise, the amended plans show the following:

- The number of parking spaces proposed off-street has increased to 106 due to alterations to the road surface.
- The surface through the site has been altered so it is now a shared surface carriageway without raised and defined footways.

Based on the additional provision, the application is considered to provide sufficient off-street parking throughout the development to cater in particular for the 4 and 5 bedroom units. The introduction of a shared carriageway is considered to improve the appearance and function of the layout as proposed. Kirklees Highways DM raises no objections to the amended plans.

**Reserved matters pursuant to outline permission 2015/91726 for erection of 10 dwellings**

**Land adjacent to 38, Broad Lane, Upperthong, Holmfirth, HD9 3XE**

Highways

Members will be aware that the point of access to the development was approved as part of the outline planning permission (application no. 2017/91726). Conditions imposed on the outline permission include the requirement (condition 6) to provide a scheme detailing the layout, construction and specification of highway works to form the site access, highway improvement works to Broad Lane (including the formation of the new footway) and a traffic calming scheme giving priority to westbound traffic.

Information submitted with the current submission includes plans indicating that Broad Lane is shown to be widened to 5.5 metres; 2.0 metre wide footways are shown to the site frontage, bin collection points are shown for each plot positioned such that bins can be collected without obstructing the adoptable highway and road signage would be erected giving priority to westbound traffic. This is not the formal submission for the discharge of condition but in principle provides details of a scheme that would partly meet the requirements of that condition.

Furthermore the internal site layout includes a footway provided to the eastern side of the access road and a turning head which is considered sufficient in size to accommodate a refuse vehicle.

Additional conditions

Given the scale and layout of development proposed – in terms of the size and number of dwellings proposed – and the nature of the highway network, it is considered necessary to impose a condition requiring construction access and routing details.

The layout and landscape details include the provision of in-curtilage parking spaces. In the interests of avoiding an increase in surface water run-off it is often a requirement for a condition to be imposed regarding the permeable surfacing of such parking spaces. However, there are conditions regarding the drainage arrangements for the site imposed on the outline planning permission. Furthermore a flood risk assessment and drainage strategy have been submitted setting out how flooding on and off site from surface water is to be mitigated. In summary this would be by installing an attenuation tank to store all the above ground drainage so that discharge is restricted to 3.0 litres per second. Thus no addition condition is proposed.

The submitted layout includes part of the access road to be an 'estate road'. As such it is considered necessary to impose, as part of this layout, a condition regarding the specification of this section of road.



Wording of additional conditions:

4. No development shall take place until a scheme detailing the proposed internal adoptable estate road has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include full sections, drainage works, street lighting, signing, surface finishes and the treatment of sight lines, together with an independent safety audit covering all aspects of work. Before any dwelling is brought into use the scheme shall be completed in accordance with the scheme shown on approved plans and retained thereafter.

5. Prior to construction commencing, a schedule of the means of access to the site for construction traffic shall be submitted to and approved in writing by the Local Planning Authority. The schedule shall include the point of access for construction traffic, details of the times of use of the access, the routing of construction traffic to and from the site, construction workers parking facilities and the provision, use and retention of adequate wheel washing facilities within the site. Unless otherwise agreed in writing by the Local Planning Authority, all construction arrangements shall be carried out in accordance with the approved schedule throughout the period of construction.

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**Planning Application 2017/91555**

**Item 18 – Page 165**

**Formation of driveway through ground floor of 35/37, alterations to form flat above and change of use of land to form parking and turning area**

**35, Upper Mount Street, Lockwood, Huddersfield, HD1 3RX**

**Information in support of the application from the Applicant**

The applicant has forwarded a number of photographs for Members attention which are likely to form part of the applicant's presentation at the meeting. This is in accordance with the protocol for public speaking at planning committees. These have been conveyed by Governance to Members as requested. They can also be viewed on the Council's website following the link below:

<https://democracy.kirklees.gov.uk/ecSDDisplay.aspx?NAME=SD1341&ID=1341&RPID=504510671>

The applicant has also requested that written information submitted in support of the application is relayed to Members in the update. This is set out below. This, together with the photographs is designed to demonstrate:

*"1. Similar openings*

*2. Parking and traffic flow issues*

*3. Other steep roads with drives*

*There are a mix of original Victorian design, later modifications and new build, most of which are set amongst tradition Victorian terraces, similar to mine, all of which are a few streets away or within a couple of miles radius.*

*After enquiring with some of the property occupants, I can confirm that many of the new build and modified properties have been done within the last few years.*

*I have attached a number of images*

- 1. Factory lane - new build approximately 10-25 years ago*
- 2. Leymoor Rd new build only a few years ago, the building is also out of character with the rest of the Rd, which consist of Victorian terrace*
- 3. Lockwood Rd. numerous openings along the rd a couple look original but others done around 30-40 years ago.*
- 4. Scotgate, Honley, done only a few years ago, in a conservation area.*
- 5. Lowergate Milnsbridge steep incline and done in the last 20 years or so.*
- 6. Knowl Rd. Golcar, fast moving traffic and road bends.*
- 7. Several openings on Bradford Road*

*Milnsbridge has a number of opening done in the last 20 - 30 years*

*There are in fact, dozens of such openings in other areas around Lockwood and the whole of Kirklees.*

*I have attached a handful of local ones. see attached images*

*You also mentioned something around the incline; as you already know, Huddersfield in general is a hilly area with roads of even steeper inclines and faster moving traffic, many of which have properties with drives. Please see picture attached of Lockwood scar, ( faster moving traffic, hazardous bent but every house has a drive), there are of course many other streets and roads like this.*

*Having lived at Upper Mount St. for over 40 years, I can confirm that the average traffic speed is between 10-20 mph. this allows for, good safe manoeuvrability and traffic flow.*

*There is a continuing problem of parking and vehicle flow, especially on roads similar to ours, which have inadequate road space for vehicles to pass, if there are parked vehicles on both sides.*

*In recent years this has caused parking issues and minor collision incidents.*

*Luckily as my properties are situated approximately half way up the street, my drive has already relieved the road of congestion and driver frustration, by allowing vehicles to pass in front of my drive, in particular some days, vehicles are parked on both sides from top to bottom and every night, but can now pass safely.*

*It is also used as a pick up and drop off spot for taxis, emergency services and special needs, school service bus, thus relieving driver contention and keeping the traffic flowing and I feel that my current plans will free up more space and be of benefit to the whole street and services, which use our street".*

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