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

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Wednesday 4 October 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 12 October 2017**.

(A coach will depart the Town Hall, at 10.20am to undertake Site Visits. The consideration of Planning Applications will commence at 1.00 pm in the Council Chamber, Huddersfield Town Hall.)

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', on a light-colored background.

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

Pages

1: Membership of the Committee

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

2: Minutes of previous meeting

1 - 10

To approve the Minutes of the meeting of the Committee held on 31 August 2017.

3: Interests and Lobbying

11 - 12

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.

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.

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.

6: Site Visit - Application No: 2015/91664

Outline application for residential development with details of access and provision of car parking and bin storage for previously approved adjacent apartments under Application No. 17/90375 at rear of 1A, St Johns Avenue, Newsome, Huddersfield.

(Estimated time of arrival at site – 10.30am)

Contact Officer: Farzana Tabasum, Planning Services

Wards

Affected: Newsome

7: Site Visit - Application No: 2016/93243

Application 2016/93243 Erection of 17 dwellings (within a Conservation Area) at Thirstin Mills, Thirstin Road, Honley, Holmfirth.

(Estimated time of arrival at site – 10.55am)

Contact Officer: Farzana Tabasum, Planning Services

Wards

Affected: Holme Valley North

8: Site Visit - Application 2017/92220

Reserved matters application pursuant to outline permission 2015/91640 for residential development (16 dwellings) at Mill Moor Road, Meltham, Holmfirth.

(Estimated time of arrival at site – 11.20am)

Contact Officer: Adam Walker, Planning Services

Wards

Affected: Holme Valley North

9: Local Planning Authority Appeals

13 - 52

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: Almondbury; Colne Valley; Crosland Moor and Netherton; Holme Holme Valley South

Planning Applications

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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 Monday 9 October 2017.

To pre-register, please contact 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.

10: Application for extinguishment of Claimed Footpaths at Clayton Fields, Edgerton Road, and Provision of Alternative Routes 57 - 128

To consider the report.

Contact: Giles Cheetham, Public Rights of Way Officer

Wards

Affected: Greenhead

11: Planning Application - Application No: 2017/90516 129 - 142

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

Contact: Adam Walker, Planning Services

Wards

Affected: Holme Valley South

12: Planning Application - Application No: 2017/91555 143 - 152

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: Laura Yeadon, Planning Services

Wards

Affected: Crosland Moor and Netherton

13: Planning Application - Application No: 2015/91664 153 - 168

Outline application for residential development with details of access and provision of car parking and bin storage for previously approved adjacent apartments under Application No. 17/90375 at rear of 1A, St Johns Avenue, Newsome, Huddersfield.

Contact: Farzana Tabasum, Planning Services

Wards

Affected: Newsome

14: Planning Application - Application No: 2016/93243 169 - 188

Erection of 17 dwellings (within a Conservation Area) at Thirstin Mills, Thirstin Road, Honley, Holmfirth.

Contact: Farzana Tabasum, Planning Services

Wards

Affected: Holme Valley North

15: Planning Application - Application No: 2017/92220 189 - 200

Reserved matters application pursuant to outline permission 2015/91640 for residential development (16 dwellings) at Mill Moor Road, Meltham, Holmfirth.

Contact: Adam Walker, Planning Services

Wards

Affected: Holme Valley North

16: Planning Permission No: 2016/91900 201 - 218

Change of use and alterations from B2 (general industrial) to B8 (storage or distribution) at The Pink Link Ltd, Crosland Rd, Oakes.

To consider the report.

Contact: Adam Walker, Planning Services.

Wards

Affected: Lindley

**17: Pre Application - Enquiry for the erection
Cafe/restaurant and associated facilities at Castle Hill
site, Almondbury**

219 -
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To receive the report.

Contact: Teresa Harlow, Planning Services

Wards

Affected: Almondbury; Newsome

Planning Update

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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 31st August 2017

Present: Councillor Terry Lyons (Chair)
Councillor Donna Bellamy
Councillor James Homewood
Councillor Bernard McGuin
Councillor Mohammad Sarwar
Councillor Ken Sims
Councillor Mohan Sokhal
Councillor Rob Walker
Councillor Linda Wilkinson
Councillor Andrew Marchington
Councillor Steve Hall

1 Membership of the Committee

Councillor Steve Hall substituted for Councillor Sheikh Ullah.

2 Minutes of previous meeting

The Minutes of the meeting held on 20 July 2017 be approved as a correct record.

3 Interests and Lobbying

Members declared interests and identified planning applications on which they had been lobbied as follows:

Councillor McGuin declared an other interest in item 12 on the grounds that he had been involved in a local group that had wanted to establish a village green on the land at Clayton Fields.

Councillors McGuin and Wilkinson declared that they had been lobbied on application 2017/91081.

Councillors McGuin and Sims declared that they had been lobbied on item 12.

Councillor Bellamy declared an other interest in items 2017/91361 and 2017/ 90516 on the grounds that she is a member of the Holme Valley Parish Council.

Councillor Sims declared he had been lobbied on applications 2017/91361 and 2017/90516.

4 Admission of the Public

All items on the agenda were taken in public session.

5 Deputations/Petitions

No deputations or petitions were received.

6 Public Question Time

No questions were asked.

7 Site Visit - Application No: 2017/91081

Site visit undertaken.

8 Site Visit - Application No: 2017/91361

Site visit undertaken.

9 Site Visit - Application No: 2017/90516

Site visit undertaken.

10 Site Visit - Application No: 2017/91555

Site visit undertaken.

11 Local Planning Authority Appeals

That the report be noted.

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

The Committee considered an application for an order to extinguish claimed public footpath rights over land at Clayton Fields and to provide alternative pedestrian routes.

The report outlined the context and background to the matter, consultees and their opinions, next steps and officer recommendations and reasons.

Under the provisions of Council Procedure Rule 37, the Committee received representations from Jonathan Adamson and Bill McGee (Objectors) and Rob Stenhouse (speaking on behalf of the applicant).

RESOLVED –

Consideration of the application be deferred to provide officers with an opportunity to negotiate with the landowner the removal of the obstruction at Deveron Grove.

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

For: Councillors Bellamy, S Hall, Homewood, Lyons, Marchington, McGuin, Sarwar, Sims, Sokhal, Walker and Wilkinson (11 votes)

Against: (0 votes).

13 Planning Application - Application No: 2017/91361

The Sub-Committee gave consideration to Planning Application No: 2017/91361
Erection of 39 dwellings and associated landscaping Land at, Cross Lane, Scholes, Holmfirth.

Under the provisions of Council Procedure Rule 37, the Committee received representations from Robin Sherwell, Michael Howarth-Coyne, Eddie Dawson-Jones, Carolyn Newton and Michael Reader (Objectors), Alistair Cliff (agent) and Mark Bray (applicant). Under the provisions of Council Procedure Rule 36 (1) the Committee received a representation from Cllr Nigel Patrick (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 complete the list of conditions contained within the considered report including:

1. 3 year time limit to commence development.
2. Development to be in accordance with the approved plans.
3. Samples 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 Permitted Development 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

2) The inclusion of the following additional conditions:

- a) That a travel plan be submitted for approval.

- 3) Secure a S106 agreement to cover the following matters:
- a) 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.
 - b) A financial contribution towards the provision of primary school places of £51,186 which would be specifically intended for Scholes Junior and Infant School.
 - c) A financial contribution towards the provision of secondary school places of £62,055 intended for Holmfirth High School.
 - d) That the off-site public open space contribution (£141,966) be reallocated for appropriate highway improvement measures in the locality (New Mill junction) to include the provision of passing places on the local highway network.
 - e) Maintenance for soakaways and wildflower area.

4) that, pursuant to (3) above, 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 Development Management 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.

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

A vote to refuse the application:

For: Councillors Bellamy, Marchington, McGuin, Sims and Wilkinson (5 votes)

Against: Councillors S Hall, Homewood, Lyons, Sawar, Sokhal and Walker (6 votes)

A vote to approve the application:

For: Councillors S Hall, Homewood, Lyons, Sawar, Sokhal and Walker (6 votes)

Against: Bellamy, Marchington, McGuin, Sims and Wilkinson (5 votes)

14 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 at Land Adjacent to Spotted Cow Public House, New Hey Road, Salendine Nook, Huddersfield.

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. 3 year time limit for commencing conditions.
2. Development to be in accordance with approved plans.

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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 Permitted Development rights on some plots, including no new windows or openings.
 11. Construction Management Plan.
 12. Bio diversity enhancement measures, bat and bird boxes
- 2) Secure a S106 agreement to cover the following matters:
- a) The provision of affordable housing (four units); and
 - b) The provision of an off-site contribution towards Public Open Space of £69,000; and
 - c) Education contribution of £64,248.
- 3) that, pursuant to (2) above, 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 Development Management is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

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

For: Bellamy, S Hall, Homewood, Lyons, Marchington, McGuin, Sarwar, Sims, Sokhal, Walker and Wilkinson (11 votes)
Against: (0 votes)

15 Planning Application - Application No: 2017/91173

The Sub-Committee gave consideration to 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.

Under the provisions of Council Procedure Rule 37, the Committee received a representation from Jamie Pyper (agent).

RESOLVED -

Delegate approval of Reserved Matters and 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. 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.

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

For: Councillors S Hall, Homewood, Lyons, McGuin, Sarwar, Sims, Sokhal and Walker (8 votes)

Against: Councillors: Marchington and Wilkinson (2 votes).

Abstained: Councillor Bellamy

16 Planning Application - Application No: 2017/90516

The Sub-Committee gave consideration to 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.

Under the provisions of Council Procedure Rule 37, the Committee received a representation from John Robinson (agent). Under the provisions of Council Procedure Rule 36 (1) the Committee received a representation from Cllr Nigel Patrick (Local Ward Member).

RESOLVED -

Consideration of the application be deferred to allow officers to negotiate with the applicant a reduction in the number of proposed dwellings (density of development) due to concerns regarding the impact of the scale, layout and appearance of the submitted development.

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

A vote to approve the application:

For: Councillors: S Hall, Homewood, Sokhal and Walker (4 Votes)

Against: Bellamy, Lyons, Marchington, McGuin, Sims and Wilkinson (6 votes)

A vote to defer the application:

For: Councillors Bellamy, Homewood, Lyons, Marchington, McGuin, Sims, Sokhal, Walker and Wilkinson (9 votes)

Against: (0 votes)

Abstained: Councillor S Hall

17 Planning Application - Application No: 2017/91081

The Sub-Committee gave consideration to Planning Application 2017/91081 Erection of 4no. B1/B8 (Business/Storage & Distribution) units with associated plant store and hardstandings Tandem Way, Fenay Bridge, Huddersfield.

Under the provisions of Council Procedure Rule 37, the Committee received a representation from Chris Halligan (agent).

RESOLVED –

1) Delegation 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 contained within the considered report including:

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.

2) 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.

3) that, pursuant to (2) above, 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 Development Management is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

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

For: Councillors Bellamy, S Hall, Homewood, Lyons, Marchington, McGuin, Sims, Sokhal, Walker and Wilkinson (10 votes)
Against: (0 votes).

18 Planning Application - Application No: 2017/91555

The Sub-Committee gave consideration to 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.

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

RESOLVED –

Consideration of the application be deferred to allow the applicant to arrange a structural engineers report to outline the details of how the scheme could be implemented.

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

For: Councillors Bellamy, S Hall, Lyons, McGuin, Sims, Sokhal and Walker (7 votes)
Against: Councillors Homewood, Marchington and Wilkinson (3 votes)

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KIRKLEES COUNCIL

DECLARATION OF INTERESTS AND LOBBYING

Planning Sub-Committee/Strategic Planning Committee

Name of Councillor

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

LOBBYING

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

Signed:

Dated:

NOTES

Disclosable Pecuniary Interests

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

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

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

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

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

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

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

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

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

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

(b) either -

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

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

Lobbying

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

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

Date: **12 OCTOBER 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.

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 Council's Forward Plan (key decisions and private reports) ?	No
The Decision - Is it eligible for "call in" by Scrutiny?	No
Date signed off by Service Director - Economy, Regeneration & Culture	Paul Kemp 3 October 2017
Is it also signed off by the Assistant Director for Financial Management, IT, Risk and Performance?	No financial implications
Is it also signed off by the Assistant Director - Legal Governance and Monitoring?	No legal implications
Cabinet member portfolio	Economy (Strategic Planning, Regeneration & Transport) (Councillor P McBride)

Electoral wards affected: Holme Valley South; Holme Valley North; Almondbury; Crosland Moor and Netherton; Colne Valley;
Ward councillors consulted: No

Public or private:

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 2016/60/91954/W - Outline application for erection of 2 dwellings at rear of, 191, Huddersfield Road, Thongsbridge, Holmfirth, HD9 3TT. (Officer) (Allowed)

- 2.2 2016/60/91032/W - Outline application for one detached dwelling and detached garage at 90, Far Banks, Banks Road, Honley, Holmfirth, HD9 6NW. (Officer) (Dismissed)
- 2.3 2017/62/90289/W - Erection of extension to existing garage (Listed Building) at 56, Lumb Lane, Almondbury, Huddersfield, HD4 6SZ. (Officer) (Allowed)
- 2.4 2016/ClassQ/93550/W - Prior approval for proposed change of use of agricultural building to one dwelling and associated operational development at Elysium Barn, Copthurst Road, Cartworth Moor, Holmfirth, HD9 2TS. (Officer) (Dismissed)
- 2.5 2017/62/90217/W - Erection of two storey side and rear extensions at 16, Northfield Avenue, Lockwood, Huddersfield, HD1 3SH. (Officer) (Dismissed)
- 2.6 2016/62/93923/W - Change of use of land to domestic for erection of two storey and link extension (Listed Building within a Conservation Area) at Westroyd Farm, Fulstone, White Ley Bank, New Mill, Holmfirth, HD9 7DL. (Sub-Committee in accordance with Officer recommendation) (Dismissed)
- 2.7 2017/62/90565/W - Erection of detached dwelling at land opp, 14, Grand Stand, Scapegoat Hill, Huddersfield, HD7 4NQ. (Officer) (Dismissed)
- 2.8 2016/62/93743/W - Erection of detached garage at Land off, Rowley Hill, Fenay Bridge, Huddersfield, HD8. (Officer) (Allowed)
- 2.9 2017/62/90907/W - Erection of outbuilding at Drop Down, Horn Lane, New Mill, Holmfirth, HD9 7HG. (Officer) (Appeal Dismissed and Award of Costs refused)

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
- 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 1 August 2017

by **S J Lee BA(Hons) MA MRTPI**

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

Decision date: 21st August 2017

Appeal Ref: APP/Z4718/W/17/3173857

Land to the rear of 191 Huddersfield Road, Thongsbridge, Holmfirth HD9 3TT

- 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 Jebson against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/60/91954/W, dated 9 June 2016, was refused by notice dated 19 January 2017.
 - The development proposed is the erection of 2 no dwellings.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 no dwellings at Land to the rear of 191 Huddersfield Road, Thongsbridge, Holmfirth HD9 3TT in accordance with the terms of the application, Ref 2016/60/91954/W, dated 9 June 2016, subject to the conditions in the attached schedule.

Preliminary Matters

2. The application was made in outline with all matters reserved except for access. I have considered the appeal on this basis and have treated any drawings other than those identifying the means of access, and any works to the highway, as indicative only.

Main Issue

3. The main issue in this case is the effect of the development on highway and pedestrian safety in the vicinity of the site.

Reasons

4. The appeal relates to an open field which is identified as 'Provisional Open Land' (POL) in the UDP. In light of the five year supply situation, the Council raises no objection on the basis of this policy. The site would be accessed from a single track lane from Huddersfield Road which terminates at a large relatively modern dwelling further along from the site. The lane is located between two blocks of terraced dwellings fronting the main road and also serves No 191, which is a detached Grade II Listed Building located toward the top of the lane. A public right of way (PROW) runs down one side of the site and links into the lane.

5. The lane therefore already serves two dwellings. While I do not have the details of the development of the dwelling at the end of the lane, its presence suggests that a satisfactory form of access for residents and service vehicles is capable of being achieved. The lane is mainly single track, but there are points along it where two vehicles can pass by each other. Nonetheless, it is steep, narrow and has limited visibility at its junction with Huddersfield Road, particularly if cars are parked near to the access as they were at the time of my visit. There is also a sharp right hand turn at the top of the incline from Huddersfield Road where visibility is also limited. The two main areas of concern relate therefore to the nature of the access with Huddersfield Road and the risk to users of the lane.
6. There is no dispute between the main parties that the development would result in an additional 2 trips at morning and evening peaks and between 12 and 16 trips over the course of a day. There would therefore be some intensification of the use of the lane and the existing constrained access. To address this, the appellant has put forward a number of improvements to the access which include alterations to the boundary of 195 Huddersfield Road and modification of levels to allow widening of the access. This would allow two cars to pass each other at the junction safely. The alterations would also include the provision of a junction build out to provide formal parking bays which would in turn help to improve visibility, and other measures to ensure the access is clear from obstruction. The plans also indicate that the centre line of the road would be altered to allow greater levels of visibility in both directions.
7. While the alterations appear significant for a small development, they would be necessary to address the increase in risk that the intensified use of the junction would create. The highway authority raises no objection to the development subject to these improvements being implemented and there is nothing before me that would lead me to a different conclusion. The appellant invited me to allow the appeal without these improvements being made. However, while the junction is already in use it is here where there is likely to be most conflict between vehicles wishing to use the lane and faster moving passing traffic along Huddersfield Road. As such, it is here where the increase in risk to safety from the intensification of the lane's use would be at its highest. I therefore consider that the alterations would be necessary in this case. I have seen some criticism of the proposed scheme in terms of making the situation less safe for cyclists, would create a pinch point for existing road users and that parking at No 195 would not be safe. I see nothing in these proposals that suggests they would result in any additional harm or risk from these perspectives over and above what currently exists.
8. While I saw that not all dwellings on Huddersfield Road have opportunities for off-street parking, there was still a significant amount of space on the road to park. I recognise that my site visit can only represent a snapshot of normal highway conditions, and the demand for parking is likely increase in the evenings and at weekends. The proposed build-outs would reduce the available space to an extent, but there is nothing substantive before me to suggest the resulting number of spaces would be in any way insufficient or harmful either in terms of safety or the living conditions of existing residents. Again, no objections were raised by the highway authority in relation to parking provision and I consider this to be a significant material consideration.

9. The evidence also indicates that emergency and service vehicles would be able to access the site safely and no objections have been raised by the fire authority. The development would increase the risk of vehicles meeting at the sharp bend at the brow of the hill. Nonetheless, as a result of the number of trips likely to be generated, the chances of vehicles meeting at this point would still be relatively low. There is also space on the bend to allow two cars to pass by each other safely. The nature of the lane itself also means that vehicle speeds would be low at this point. The lane does not provide a through route to any other destination and thus any drivers here are likely to be fully aware of the potential for vehicles coming in the other direction and would drive accordingly.
10. There is no pavement along the lane but this is not an uncommon situation in locations such as this. There is sufficient space to allow vehicles to pass by pedestrians with no undue risk to safety. The same conditions would apply as described above, with both drivers and pedestrians being aware of the need for due care and attention when using the lane. This is no more than would be required already. While the number of vehicles using the lane would increase, the relative level of risk to pedestrians would not be substantially greater than it is at present. In coming to this conclusion, I have had regard to comments that the lane is used by school children and that there is no lighting. Nonetheless, such conditions already exist and though there is likely to be more vehicular movements along the lane, they are unlikely to be sufficient to lead to an unacceptable level of risk.
11. There would also be no practical change in the situation for residents already living on the lane in terms of access to their properties. The development would not lead to any physical restrictions and there is already the potential for vehicles to be passing by the dwellings. As above, a need for due care and attention when entering or leaving a property is already a requirement and the projected increase in vehicle numbers would not be sufficient to make access to existing properties inherently unsafe.
12. Taking all of the above factors into account, I find that subject to the necessary improvements to the access with Huddersfield Road being implemented, there is insufficient evidence before me to conclude that the development would lead to an unacceptable risk to highway or pedestrian safety. Accordingly, there would be no conflict with UDP policies D2 and T10 which seek to ensure development does not prejudice highway safety or materially add to existing problems. There would also be no undue conflict with paragraph 35 of the Framework which seeks to ensure development is located and designed to create safe layouts which minimise conflict with traffic, cyclists and pedestrians.

Other Matters

13. Any development of an open and undeveloped site such as this would inevitably lead to some change to the character and appearance of the area. While the Framework advises that the intrinsic beauty of the countryside should be recognised, there is nothing before me to suggest that the site is of particular importance in terms of local landscape sensitivity or quality. The site holds an elevated position above the main road but is well screened by existing dwellings. There are also dwellings at this level above Huddersfield Road in sight of the site and thus dwellings in this location would not be completely

incongruous. The outlook from some residents, and users of the footpath, would change, but not to the extent that it would necessarily cause harm. The encroachment of the built form into the open countryside would not be significant and there would be opportunities to provide additional screening through appropriate landscaping at reserved matters stage. There is also no reason why dwellings of an appropriate scale and design could not be accommodated on this site, which again can be addressed through reserved matters.

14. The development would have the potential to affect the setting of the Grade II Listed building at No 191. The main area of risk would be the view of this building from the PROW when walking down the hill. The setting may change in this regard, but subject to an appropriate layout and design, need not result in any harm in principle. The building would still be able to be appreciated on the lane itself and from below the site. The layout of the dwellings would be subject to further consideration at reserved matters stage and the site is of a scale where it should be possible to accommodate two dwellings without resulting in any particular harm to the heritage asset. Clearly, the appearance and materials used would be of particular importance here, but again there is no reason why an appropriate form of development could not be achieved. I therefore find that at this stage, the impact of development on the heritage asset would be neutral.
15. The Council raises no objection in relation to drainage or biodiversity that could not be addressed by condition. From the written evidence before me, and my observations of the site, I have seen nothing that would lead me to a different conclusion.
16. Some comments have been received which suggest the increase in traffic using the lane would have an unacceptable effect on living conditions. However, this road already serves existing dwellings and will generate some noise. The frequency of movements would increase, but the resulting levels of noise or disturbance are unlikely to result in a situation where living conditions would be unduly harmed. There is nothing to suggest that damage to existing dwellings would be an inevitable consequence of the development taking place, either as a result of construction traffic or the occupation of the dwellings. The risk of this would not be sufficient to justify withholding permission.

Conditions

17. I have considered the suggested conditions and comments from the Council and appellant, in accordance with the Planning Practice Guidance (PPG). In addition to the standard conditions requiring the submission of reserved matters, I have imposed a condition specifying the relevant drawings for the access and highway improvements as this provides certainty. For the same reason, I have also included a limitation to ensure a maximum of two dwellings are built.
18. Conditions 5, 6, 7 and 8 are necessary in the interests of highway safety and the living conditions of future and existing residents. I have used the appellant's suggested wording for conditions 5 and 8. Other amendments have been made in the interests of clarity and precision. These are by necessity pre-commencement conditions to ensure development is carried out in accordance with the approved details.

19. Condition 9 is necessary in the interests of the character and appearance of the area, highway safety and the operation of the PROW. As many of the matters highlighted in the suggested conditions addressing these issues are reserved matters, I have amended the wording to ensure they are adequately dealt with in any future application. Condition 10 is necessary to ensure the site can be adequately drained and that foul water can be disposed of appropriately. I have amended this to consider foul and surface water together to avoid any unnecessary repetition. In light of the appellant's comments, and having considered the drainage report, I have removed unnecessary wording stipulating the measures that will be taken as these would form part of any agreed scheme.
20. Condition 11 is necessary to ensure the protection of biodiversity features in and around the site and provide enhancement. While I recognise that neither the appellant's mining nor contamination reports identify significant risks, the latter does recommend further investigations are required in the form of trial pits and the sampling of soils. Notwithstanding the appellant's comments, in light of this I consider the Council's suggested conditions on site investigations are necessary and reasonable. Conditions 12 to 15 address this and by necessity the investigations must be completed prior to development starting.
21. Owing to the proximity of a Grade II listed building, I consider that a condition restricting permitted development rights is justifiable in this instance (condition 16). I have amended the suggested wording such that should future alterations be required, they would be subject to proper consultation through a planning application
22. I have not imposed the Council's suggested condition on the emergency access as this is addressed in my condition 5 and would form part of the details to be approved. I have not imposed the appellant's suggested condition on materials, as this is something that can be addressed at reserved matters stage as part of the consideration of appearance. I have not imposed the suggested condition requiring the provision of an electric vehicle recharging point. The Council has not referred to any policy in its development plan requiring such measures and insufficient justification has been provided to demonstrate this is necessary in this case.

Conclusion

23. For the reasons given above I conclude that the appeal should be allowed.

S J Lee

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted is for no more than 2 dwellings. The development shall be carried out in accordance with the following plans, unless otherwise varied by the conditions set out: Site Location Plan; 1402801D, 1402801E.
- 2) Details of the 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.
- 3) 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.
- 4) 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.
- 5) Development shall not commence until full details of the improvement works along Huddersfield Road and the access road serving the site as shown on drawing 1402801D, along with works to ensure safe accessibility of 195 Huddersfield Road and vehicle swept paths as shown on drawing 1402801E have been submitted to and approved in writing by the local planning authority. The dwellings shall not be occupied until the works have been implemented in accordance with the local planning authority's approval and have been certified as complete by or on behalf of the local planning authority and such works shall be retained thereafter.
- 6) The development shall not be brought into use until the any approved vehicle parking areas and driveways shall have been surfaced and drained in accordance with the Communities and Local Government; and Environmental Agency's 'Guidance on permeable surfacing of front gardens (parking areas)' published 13 May 2009 (ISBN 9781409804864) as amended or superseded; and thereafter retained throughout the lifetime of the development.
- 7) Development shall not commence until a scheme detailing provision for access and on-site parking for construction workers' vehicles for the duration of the construction period has been submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented throughout the construction period.
- 8) Development shall not commence until details of the storage and access for collection of waste from the premises shall be submitted to and approved in writing by the local planning authority. The development shall not be occupied until the works have been implemented in accordance with the approved details and shall be retained thereafter.
- 9) The Reserved Matters submission in relation to the appearance, layout or landscaping shall include details of:
 - Full design of any retaining structures to be installed on the site, including detailed drawings, sections and engineering calculations.
 - Details of any soft landscaping to be planted above the retaining structure.

- Details of the materials to be used to face the retaining structure.
- Details regarding the maintenance of the structure and soft landscaping.
- Details of how the structures will be created to prevent any detrimental impact on the adjacent public footpath and details of how the public footpath will be protected throughout construction.

The development shall thereafter only be carried in accordance with the approved details.

- 10) Development shall not commence until a scheme demonstrating an adequately designed means of foul and surface water drainage have been submitted to and approved in writing by the local planning authority. No parts of the development shall be brought into use or occupied until the works comprising the approved scheme have been completed and retained thereafter.
- 11) The development shall not be brought into use until a scheme of ecological enhancements for the site outlined in red on the approved location plan as recommended in the Ecological Appraisal reference R192401 dated May 2014 shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details prior to occupation of the dwellings and shall be retained thereafter.
- 12) Development shall not commence until a Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the local planning authority.
- 13) Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 12, development shall not commence until a Remediation Strategy has been submitted to and approved in writing by the local planning authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.
- 14) Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 13. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered [in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report] is identified or encountered on site, all works on site (save for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.
- 15) In the event that contamination not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all works on site (save for site investigation works) shall cease immediately and the local planning authority shall

be notified in writing within 2 working days. Unless otherwise agreed in writing with the local planning authority, works on site shall not recommence until either (a) a Remediation Strategy has been submitted to and approved in writing by the local planning authority or (b) the local planning authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy.

- 16) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no development included within Classes A-G inclusive of Part 1 of Schedule 2 of that Order shall be carried out without first obtaining a specific planning permission from the local planning authority.



Appeal Decision

Site visit made on 8 August 2017

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 31st August 2017

Appeal Ref: APP/Z4718/W/17/3174399

90 Far Banks, Honley, Huddersfield, West Yorkshire, HD9 6NW

- 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 R Roberts against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/60/91032/W, dated 1 April 2016, was refused by notice dated 15 November 2016.
 - The development proposed is a dwelling and detached garage.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is in outline with all matters reserved for future consideration. A drawing showing an indicative layout has been submitted, and I have had regard to this in determining the appeal.
3. The site has been subject to a previous dismissed appeal decision¹ for a similar development. Whilst that decision is dated 19 August 1999, and was therefore made in an earlier policy context, it covers matters that are directly relevant to the current proposal. I therefore attach significant weight to the previous Inspector's findings that are unaffected by subsequent changes in policy.

Main Issues

4. The main issues are:
 - (a) Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework ('the Framework') and development plan policy;
 - (b) The effect of the proposal on the openness of the Green Belt; and
 - (c) If the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

¹ T/APP/Z4718/A/99/1022384/P2

Reasons

Inappropriate development in Green Belt

5. The appeal site comprises part of the garden to No 90. The development would introduce a new dwelling in the gap between Nos 90 and 96.
6. Paragraph 89 of the National Planning Policy Framework states that the construction of new buildings in the Green Belt is inappropriate, subject to a number of exceptions. One such exception is limited infilling in villages. In addition, Policy D13 of the Kirklees Unitary Development Plan (UDP) (1999) states that within existing settlements in the Green Belt, infill development will normally be permitted subject to certain criteria. The Framework does not provide a definition of what constitutes a "village", and the UDP does not provide a definition of what constitutes a "settlement". Accordingly, this is a matter of planning judgement.
7. The appeal site is located within a group of around 50 houses fronting Banks Road, Upper Hagg Road, and Oldfield Road. This group is located outside of the settlement boundary of Honley, as defined on the UDP. Whilst it is linked to Honley by a ribbon of development along Far End Lane / Banks Road, this provides only a tenuous connection to the settlement in my view. In this regard, the majority of the properties within the connecting ribbon are positioned along only one side of Far End Lane / Banks Road. In addition, these properties become significantly more dispersed towards the appeal site, with generous spacing between them. Despite the presence of a continuous kerbed footway and street lighting, Banks Road has a predominantly rural character. Accordingly, I do not consider that the appeal site is within the settlement of Honley. In coming to that view, I have not relied on the Technical Paper the Council produced to inform its emerging Local Plan.
8. Moreover, I do not regard the group of properties in which the appeal site sits as constituting a "village". The majority of these properties are positioned along only one side of the road, and there are no services or facilities to support them other than a bus stop. These properties therefore constitute a ribbon of development rather than a village/settlement in my view. In this regard, I note that my colleague who determined the 1999 appeal came to a similar view on this matter. Accordingly, the development is not within a village/settlement, and would therefore not comply with the relevant exception at paragraph 89 of the Framework. This would be the case regardless of whether the development is deemed to constitute "limited infilling".
9. For the above reasons, I conclude that the proposal would be inappropriate development in the Green Belt, which Paragraph 87 of the Framework states is harmful by definition and should not be approved except in very special circumstances. The proposal would also be contrary to saved Policy D13 of the Kirklees UDP, which relates to infill development in the Green Belt.

Openness

10. The proposed dwelling would introduce additional built footprint and volume onto land that is currently open. The development would therefore result in a reduction in openness to this part of the Green Belt. The Framework advises at Paragraph 79 that openness is an essential characteristic of Green Belts, and the appeal proposal would therefore cause harm in this regard.

11. I conclude that the appeal proposal would fail to preserve the openness of the Green Belt. This would further harm the objectives of the Green Belt to which the Government attaches significant importance.

Other considerations

12. The development would include the widening of the existing private access drive at the rear to 6m, for a distance of approximately 16m. The Highway Authority has commented that this would allow 2 vehicles to pass one another, which would benefit the current users of the drive. However, there is no evidence before me that the existing arrangement is dangerous or has led to significant highways safety issues. This limits the weight I can attach to this consideration.
13. The development would also have some modest economic benefits including the creation of employment, and the purchasing of materials and furnishings.
14. The provision of an additional dwelling would make a small contribution to the Borough's deficient 5 year supply position. I return to this matter in my conclusion, below.

Conclusion

15. Whilst the Council is unable to demonstrate a 5 year supply of housing sites, in this case, specific policies in the Framework (relating to Green Belt) indicate that development should be restricted. The proposal would constitute inappropriate development in Green Belt and would reduce openness in this location. Even when taken together, the other considerations in this case do not clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist. The development would also be contrary to Policy D13 of the Kirklees UDP.
16. As a result, the application of paragraph 14 of the Framework does not indicate that permission should be granted and the proposal would not represent sustainable development. In the circumstances of this appeal, the material considerations considered above do not justify making a decision other than in accordance with the development plan.
17. For the reasons given above I conclude that the appeal should be dismissed.

Thomas Hatfield

INSPECTOR



Appeal Decision

Site visit made on 22 August 2017

by Louise Nurser BA (Hons) Dip UP MRTPI

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

Decision date: 4 September 2017

Appeal Ref: APP/Z4718/D/17/3179529

56 Lumb Lane, Almondbury, Huddersfield HD4 6SZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr A Ellis against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/62/90289/W, dated 23 January 2017, was refused by notice dated 5 June 2017.
 - The development proposed is WC/Store extension to ex garage.
-

Decision

1. The appeal is allowed and planning permission is granted for WC/store extension to existing garage at 56 Lumb Lane, Almondbury, Huddersfield HD4 6SZ in accordance with the terms of the application, Ref 2017/62/90289/W, dated 23 January 2017, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: HD4.
 - 3) No development shall commence until samples of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.

Main Issues

2. The main issues in this case are; 1) whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies; 2) the effect of the proposed development on the setting of the host property and no. 54 both of which are Grade 2 listed buildings; and 3) if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development

3. The Government attaches great importance to the Green Belt. The Framework establishes within paragraph 89 that the construction of a new building as inappropriate unless, amongst other things, it involves the extension of a building. However, any such extension should not result in disproportionate additions over and above the size of the original building.
4. This is reflected in saved Policy D11 of the Kirklees Unitary Development Plan (UDP) 2007 which remains broadly consistent with the Framework.
5. The proposed extension to the garage would measure around 2.1 m, by 2.3 m and would be around 2.9 m high. Its ridge line would be lower, the rear elevation would be substantially narrower, and its width would be such that taken as a whole, the extension would appear subservient to the garage building and would therefore not be disproportionate.
6. I note the Council's concerns relating to the cumulative impact of the proposed extension, together with the garage and extensions which have already been built on the appeal site. Nonetheless, I conclude that the small scale of the extension is such that it would not result in disproportionate development. In coming to this conclusion, I am aware of the circumstances of the previous appeal on the site (APP/Z4782/W/15/3028112) where the Inspector concluded that even if he were to judge the appeal in the context of an extension to the host dwelling rather than as a new building, that the significant scale of development proposed would result in a disproportionate addition over and above the size of the original dwelling.
7. However, the proposed development, the subject of that appeal, was significantly larger than the permitted scheme¹, including the garage which has since been built. I note that the appeal proposal, albeit it is substantially smaller than that which has been permitted, and would not project out to the side, is to be built of stone and therefore would appear more solid. Nonetheless, the smaller extension would have considerably less impact than that permitted.
8. Consequently, as I have concluded that the appeal proposal would not be disproportionate development, it would be not inappropriate within the Green Belt. It would therefore accord with saved Policy D11 (UDP) and the policies of the Framework in this regard. As such, there is no need for me to consider its impact on openness.

Setting of the listed buildings

9. The appeal site is within the setting of numbers 56 and 54 Lumb Lane which are both Grade 2 listed buildings. Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects the a listed building or it setting, to have regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.

¹ 2002/90073

10. No 56 Lumb Lane is a two storey hammer dressed stone property with a pitched stone roof. The main elevation facing Lumb Lane is defined by a strong horizontal emphasis derived from the stone mullioned windows at ground and first floor level. The two properties together with the stone garage which has been built in materials to match no 56 Lumb Lane appear as an isolated development within the open countryside.
11. From what I observed from my site visit, at which I took the opportunity to view the site from a number of viewpoints, including from public footpath HUD/166/10, the impact of the small extension to the garage would be to have no harm to the visual setting of the listed building and due to its subservient nature not result in cumulative harm.
12. I have come to this conclusion as the appeal proposal would be minor in scale, is of a simple form consistent with the garage and listed buildings, and would extend no farther back than the line of the rear of the two storey extension. In addition, the garage and two listed buildings are set behind a stone wall which due to the difference in levels between the fields which slope up behind the property and the small area of amenity space behind the properties, would partially screen the small extension to the garage which is to be built of matching materials. Therefore, whilst clearly the extension will be visible from some viewpoints, it will not adversely visually affect the setting of the listed buildings.
13. Consideration of impact on setting should not be restricted to whether the proposed development can be viewed from a public vantage point or has a visual impact. However, there is nothing before me to suggest that the minor extension would detract from the historic significance of the listed buildings.
14. Consequently, I conclude that the proposed extension, which would be minor in scale, would cause no harm. As such it would be consistent with the Planning Practice Guidance² and would not be contrary to the objectives of saved Policies BE1 and BE2 of the UDP, which require development to be of good quality and be respectful of its surroundings, and paragraph 132 of the Framework.

Conditions

15. For the avoidance of doubt and in the interests of proper planning I attach a condition clarifying the plans approved. As the proposed development is within the setting of two listed buildings it is vital that all external facing materials used match the existing garage and neighbouring properties. Therefore, I have imposed a condition requiring the approval of samples prior to construction.

Conclusion

16. For the reasons given above the appeal is allowed.

L. Nurser

INSPECTOR

² Planning Practice Guidance ID: 18a-017-20140306

Appeal Decision

Site visit made on 30 August 2017

by **Debbie Moore BSc (HONS) MCD MRTPI PGDip**

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

Decision date: 11 September 2017

Appeal Ref: APP/Z4718/W/17/3170589

Elysium Barn, Cophurst Road, Cartworth Moor, Holmfirth HD9 2TS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q (a) and (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Tim Kirk against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/93550, dated 21 October 2016, was refused by notice dated 5 January 2017.
 - The development proposed is conversion of an existing agricultural barn to form a single dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) enables certain types of development to take place without the need for specific planning permission, provided certain criteria are met. Provisions exist under Schedule 2, Part 3, Class Q.(a) for the change of use of an agricultural building to a dwellinghouse, and (b) the associated building operations, subject to limitations and conditions.
3. Paragraph Q.1. of the GPDO sets out the circumstances where development is not permitted. The Council has not raised any concerns in relation to these matters and there is no evidence that leads me to a different conclusion.
4. The Council states in its Officer Report that for the purpose of Q(a) the associated use and operations of the proposals cannot be accommodated within the limitations under Class Q, and Section X of Part 3 defining curtilage. The Council is of the opinion that the associated use and operations of the proposal would extend beyond the area shown. In the decision notice, it is not alleged that the proposal would not be permitted development, but it is still necessary for me to consider this matter.
5. Development consisting of a change of use of a building and any land within its curtilage is permitted under Q.(a). The definition of "curtilage" for the purposes of Part 3, Class Q is (a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with

- and serving the purposes of the agricultural building, or (b) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building, whichever is the lesser.
6. The application site, as identified by the red line of the application, includes land immediately beside the building, no larger than the area occupied by the building. This equates to the piece of land closely associated with and serving the purposes of the building. There is a car parking space that would be on the adjoining road, but with minor amendments this could be accommodated within the site. Overall, there is limited evidence that the associated use of the proposed house would extend beyond the area shown.
 7. Therefore, taking account of all that I have seen and read, I am satisfied that the proposal meets the requirements of the GPDO with regard to being permitted development under Schedule 2, Part 3, Class Q.
 8. Paragraph Q.2.(1) of the GPDO states that where the development proposed is development under Class Q(a) together with development under Class Q(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required. This includes, amongst others, matters relating to (a) transport and highways impacts of the development, (e) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order.
 9. In refusing the application, the Council states that: (i) the development would have an adverse effect on highway safety and; (ii) the nature of the access road, parking provision and amenity space would make the change of use impractical and undesirable.

Main Issues

10. Therefore, the main issues are:

- The transport and highways impacts of the development; and
- Whether the location and siting of the building would make it otherwise impractical or undesirable for the building to change from agricultural use to a dwellinghouse.

Reasons

Transport and Highways

11. The appeal building is a modest sized barn, constructed from stone with a pitched roof. It accessed via the single track Copthurst Road, which is unadopted and unsurfaced, and Cartworth Moor Road, which is also unsurfaced. There is a public right of way running along Copthurst Road, which forms part of the 'Kirklees Way' footpath route. I understand that the roads are well-used by walkers and cyclists, in addition to providing access to the appellant's land and forestry operations, and a neighbouring farm.
12. The house would be located in a relatively remote location and occupants would be highly likely to be reliant on a private vehicle to access any services or facilities. The Council accepts that the likely increase in traffic would not be

significant. However, it remains concerned about the potential conflict with other users of the public right of way, the site access, parking arrangements and access for emergency vehicles.

13. I have not been provided with any up-to-date and detailed information of existing traffic movements on Copthurst Road, but I accept that vehicular movements are likely to be low given the rural location. The Appellant's Highway Statement¹ concludes that traffic speeds on the road are likely to be slower than 10mph. Also, both Copthurst Road and Cartworth Moor Road have straight alignments which allow clear visibility, enabling users to give way when necessary. Therefore, I do not consider that there is sufficient evidence to demonstrate that there would be conflict between road users to the detriment of highway safety.
14. The plans show that one off-road car parking space would be provided, and a further space would be provided on the verge south of the barn. Sight lines for vehicles exiting the car parking space would be restricted by the barn and the stone wall, and the use of both spaces would require vehicles to manoeuvre on the road. However, as explained above, the road is lightly trafficked and vehicle speeds are likely to be low. Whilst the road is used by walkers and cyclists, the activity is likely to be very low. Consequently, access and egress to the off-road parking space would not be detrimental to highway safety. Whilst parking on the verge is undesirable, there is very limited evidence that it would be a risk to highway safety.
15. I agree that the average attendance time for emergency vehicles is likely to be considerable, but this in itself is not sufficient justification to find against the proposal, particularly as the emergency services do not appear to have been consulted.
16. To conclude on this matter, I find that the transport and highways impacts of the development would be acceptable.

Location and Siting

17. The Planning Practice Guidance (PPG) advises that, because impractical or undesirable are not defined in the regulations, the local planning authority should apply a reasonable ordinary dictionary meaning in making any judgement. Impractical reflects that the location and siting would "not be sensible or realistic" and undesirable reflects that it would be "harmful or objectionable". The PPG goes on to advise that the fact that the agricultural building is in a location where the local planning authority would not normally grant permission for a new dwelling is not sufficient reason for refusing prior approval. There may, however, be circumstances where impact cannot be mitigated.
18. The site area has been restricted in order to comply with the Part X Interpretation of "curtilage." The result of this is the proposed amenity space would be restricted to two separate areas, either side of the building. One of these areas would be partly used for parking. The main entrance to the building would be from the parking area and there would be another door on the opposite side of the building, opening onto the other area of amenity space. Whilst the space is less useable as it is split into two areas, in total it is

¹ Ref: 9425/MD/001/01 dated 21 July 2016

- of an adequate size to serve the proposed 2/3 bedroom dwelling and would provide an acceptable standard of amenity space for future occupiers.
19. The Council is concerned that the door shown on the north elevation would enable access to the land in front of the building, which would encourage encroachment into the Green Belt. However, any material change in the use of the land to the north of the building would require a separate application for planning permission, over which the Council would have control.
20. The site is on a remote hillside and the house would be accessed via a substantial length of unsurfaced road. Moreover, it is at a relatively high altitude, on a north facing slope, and susceptible to periods of inclement weather. I accept that it is possible to reach the building by car for the majority of the year, but I have concerns about how the dwelling would be accessed during periods of ice and snow. Future occupants would be likely to require access daily in order to obtain basic goods and services, or to reach employment or education facilities. I have also taken into account the comments of a nearby resident, who explains the measures necessary to ensure access during bad weather. This includes using a snow plough to keep the road clear. However, this measure cannot be relied upon as it appears to be carried out by the neighbouring resident. Given the location, and the nature of the access, I do not consider the proposal to be sensible or realistic. The issue cannot be mitigated, except by upgrading the road, and there is no evidence that this would be likely as the road is privately maintained.
21. I have considered the satellite image provided by the appellant, which indicates a number of scattered dwellings in apparently remote areas. It is unclear how these are accessed. During my site visit I saw that some of these are accessible from surfaced roads, or via a short stretches of unsurfaced tracks, and were not comparable to the appeal proposal in terms the length of the access and its surface treatment.
22. To conclude on this issue, I find the location and siting of the building would make it impractical for the building to change from agricultural use to a dwellinghouse.

Conclusion

23. For the reasons given above, the appeal is dismissed.

Debbie Moore

Inspector



Appeal Decision

Site visit made on 5 September 2017

by **Katie McDonald MSc MRTPI**

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

Decision date: 12 September 2017

Appeal Ref: APP/Z4718/D/17/3177166

16 Northfield Avenue, Lockwood, Huddersfield HD1 3SH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Mohammad Shakeel against the decision of Kirklees Council.
 - The application Ref 2017/62/90217/W, dated 17 January 2017, was refused by notice dated 24 March 2017.
 - The development proposed is two storey side and rear extensions.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development upon the character and appearance of the existing building and the surrounding area.

Reasons

3. The site is located in an elevated position on the corner of Northfield Avenue and Northfield Grove. It features an end of terrace two storey house, constructed from stone, brick and render with a hipped tiled roof. The dwelling has front, rear and side gardens, and is sited on a suburban residential road. The area is characterised by two storey semi-detached and terraced dwellings of similar materials, with some older stone built dwellings to the north.
4. The scheme proposes two storey side and rear extensions. Northfield Avenue is on a slight slope running west to east, however, Northfield Grove slopes steeply southwards with the rear boundary of the dwelling being significantly lower than the front. The side elevation of the dwelling is in line with the front elevations of the houses on Northfield Grove, and I agree with the Council that there is a certain degree of uniformity to the street pattern.
5. The projection of the extension to the side would be wider than the front elevation of the host building. This, coupled with its siting in line with the front elevation, extension of the existing roof form and occupation of the entire side elevation would result in a considerably dominant and overbearing addition to the host dwelling.
6. Despite the separation between the rear of the property and Northfield Grove, due to its elevated position and degree of projection, the proposal would substantially break the build line on Northfield Grove, harmfully affecting the

character and consistency of the street scene. Moreover due to the steeply sloping nature of the site, the resultant height, bulk and massing of the proposal would also be overly prominent, incongruous and dominant within the street scene, particularly when viewed from the south.

7. Consequently, I find that the proposal would adversely affect the character and appearance of the existing building with consequent harm to the character and appearance of the surrounding area. Therefore, the proposal would be in conflict with Policies D2, BE1 and BE2 of the Kirklees Unitary Development Plan (March 1999) which aim to ensure that development is of a good quality design that does not prejudice visual amenity and the character of the surroundings. I also find conflict with the National Planning Policy Framework, which always seeks to secure high quality design.

Other Matters

8. My attention has been drawn to discussions and meetings between the appellant and the Council regarding amendments to the scheme; but they do not affect my assessment of this appeal.
9. I noted that there were a number of other extensions in the area, and in particular the extension at 2 Northfield Avenue. I find that the extension at No 2 is of a different design to this proposal, being set back from the front elevation with a reduced roof height and a narrower width; which allows it to be subordinate when viewed from Northfield Avenue. However, I also find that this addition serves to confirm that the proposal before me would be a tall, prominent and dominant addition to the street scene when viewed from the rear and side. In any event, each proposal falls to be considered on its own particular merits and that is what I have done here.
10. The introduction of terracing and planting to reduce the effect of the proposal is not before me and I give this limited weight.
11. The requirement for additional accommodation, the acceptable effect of the development upon neighbouring living conditions and the absence of objection from nearby residents would not outweigh the significant harm I have found in relation to character and appearance.

Conclusion

12. Having had regard to all other matters raised, and for the reasons above, I conclude that the appeal should be dismissed.

Katie McDonald

INSPECTOR



Appeal Decision

Site visit made on 5 September 2017

by **Sarah Colebourne MA, MRTPI**

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

Decision date: 13th September 2017

Appeal Ref: APP/Z4718/W/17/3172996

Westroyd Farm, White Ley Bank, Fulstone, New Mill, Holmfirth, HD9 7DL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Damian Hosker against the decision of Kirklees Metropolitan Council.
 - The application Ref 2016/62/93923/W, dated 22 November 2016, was refused by notice dated 15 March 2017.
 - The development proposed is described as a revised, reduced side extension, resubmission of 2016/62/92821/W & 2016/63/92822/W.
-

Decision

1. The appeal is dismissed.

Procedural matter

2. The Council's decision describes the proposal as '*change of use of land to domestic for erection of two storey and link extension (listed building within a Conservation Area)*'. As this reflects the proposal more accurately than described in the application I have determined the appeal on this basis.

Main Issues

3. The main issues in this case are: a) whether the proposed development would amount to inappropriate development in the Green Belt; b) its effect on the openness of the Green Belt and its purposes; c) its effect on the visual amenity of the Green Belt; and d) if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Inappropriate development in the Green Belt?

4. The appeal site and the whole of Fulstone lie within the Green Belt. Paragraph 89 of the National Planning Policy Framework ('the Framework') says that the construction of new buildings in the Green Belt is inappropriate other than for a number of exceptions. These include the extension or alteration of a building, provided that it does not result in disproportionate additions over and above the size of the original building. The development plan includes policy D11 of the Kirklees Unitary Development Plan (UDP) (2007) which says that in

addition to considerations of openness and character, the size of the extension should be considered in relation to the existing building which should remain the dominant element and as such accords with the Framework. In the Framework, neither paragraph 89 or paragraph 90 (which lists forms of development which are not inappropriate in the Green Belt) refer to the change of use of land to residential as appropriate development.

5. I shall firstly consider the proposed change of use of land. A previous application (2016/92821) was approved which included the formation of a parking area. I saw at my visit that this has been laid out on part of the site in front of the proposed extension. The remainder of the land to which the proposed change of use relates is overgrown and is not separated by any boundary from the land to the south.
6. The appellant maintains that the land has been used as a garden since 1974 and has referred to evidence, including an affidavit from the son of the previous owner, anecdotal evidence from other residents and various maps and photographs, that has also been provided to the Council as part of an application for a Certificate of Lawfulness. I have not seen the affidavit and have no further information regarding the outcome of that application.
7. The maps of 1907 and 1955 appear to show the land as separate from the dwelling with an outbuilding in the later photo. In an aerial photo from the mid 1970's the land appears to be under informal horticultural use. An aerial photo from 2002 shows the land clearly separated by a hedge from the farmhouse and possibly grassed over. A 2009 photo indicates an area to the south of the appeal site in use for horticulture. Whilst it shows that the appeal site has a derelict outbuilding at its edge and a different grass covering from the remainder of the field to the south, it is not separated from that land by any boundary and has a different appearance to the lawned garden to the front of the dwelling.
8. It seems to me then that in the last 40 years or so the land has been used intermittently for horticulture. However, the evidence before me is inconclusive regarding its use as garden land and in any case it seems that the land has now reverted back to the state of an overgrown field.
9. The listed building consent already granted for this scheme is a separate matter from planning permission and does not amount to a legal transfer of land use as the appellant alleges. Despite the wording of the decision notice for that consent including 'change of use of land to domestic', listed building consent can only be granted for works to a listed building and not for a change of use.
10. I conclude then that the change of use of the land on which the proposed extension would be sited would, therefore, amount to inappropriate development in the Green Belt.
11. I shall now consider the proposed side extension. The Council considers that cumulatively with the previously approved extensions would amount to a volume increase of some 60% to the original building.
12. The appellant has suggested that certain parts of the previously approved works could have been erected under permitted development but those are still considered as extensions and not as part of the original building. Furthermore,

the appellant disputes the Council's figure and argues that the volume of the extension to the structure post-development should be used, to establish a ratio between the original building and the extensions which would amount to 38%. As the Council's percentage-based calculation is well-established and supported by the Framework which refers to the scale of the original building rather than the extended building, I have based my findings on the Council's figure. The Framework does not define what percentage would be unacceptable and I have noted the efforts made by the appellant to negotiate and amend his plans. Nonetheless, a 60% increase is a large increase that would undoubtedly amount to disproportionate additions over and above the size of the original building. Although the appellant has referred to another appeal decision (APP/Y3615/D/13/2190816) in which a larger percentage was allowed, I have no evidence that the circumstances were directly comparable to these and have determined this case on its merits.

13. I conclude then that the proposed extension would also amount to inappropriate development in the Green Belt, contrary to UDP policy D11 and to the Framework. The Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be permitted except in very special circumstances. I must attach substantial weight to this harm.

Effect on the openness of the Green Belt and its purposes

14. Paragraph 79 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and advises that one of the essential characteristics of the Green Belt is its openness. This is a matter of its physical presence rather than its visual qualities. In this respect, I have therefore given little weight to the appellant's interpretation of the other appeal referred to above or his argument that the building does not stand alone and is tightly packed into a small hamlet (although I accept that the latter is relevant to the matter of visual harm). Paragraph 80 of the Framework sets out the five purposes of including land in the Green Belt. One of these is to assist in safeguarding the countryside from encroachment. Although it would be in line with the existing parking area, by reason of its additional bulk and its siting on land which is currently free from development, the proposed extension would inevitably increase the built-up area of the appeal site. I conclude, therefore that this would reduce the openness of the Green Belt to a small degree and would be detrimental to one of its purposes, contrary to UDP policy D11 and to the Framework.

Effect on the visual amenity of the Green Belt

15. Westroyd Farm is located on the southern edge of the small hamlet of Fulstone which sits on a scarp edge. Whilst it sits adjacent to other dwellings to the north, the proposed extension would be sited to the south side of the dwelling on the edge of the settlement. At my visit I saw that it would be clearly seen in short range views from the south along White Ley Bank but would be viewed against the backdrop of the existing house. From the west on Fulstone Hall Lane, I saw that it is likely that the roof of the extension would be seen alongside the main roof of the house, albeit at some distance. The appellant's landscape and visual impact assessment indicates a number of other viewpoints from nearby roads or footpaths to the south east or west although I accept that most of these would be from a distance or partially obscured by vegetation.

16. The listed building consent already approved for the scheme reflects the Council's lack of objection to the design of the proposal. I agree that in terms of its appearance it would not harm the visual amenity of the Green Belt but this is a neutral factor that does not weigh in favour of the proposal either.

Other considerations

17. The appeal dwelling is a grade II listed former farmhouse within a mainly stone built, rural Conservation Area. I have had special regard to the desirability of preserving the building and its setting or any features of special architectural or historic interest which it possesses in accordance with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and of preserving or enhancing the character or appearance of the Conservation Area in accordance with Section 72 of the same Act. The proposed extension would preserve and enhance the significance of the heritage assets and would result in the re-use of the building which has been unused for at least seven years. These objectives are reflected in the extant listed building consent but as I have found earlier, that is a separate matter from planning permission and it does not take into account or, in this case outweigh, Green Belt policy.
18. The appellant maintains that the restoration of the building and its re-use is unviable without the proposed extension. I saw during my visit that the main house and a small attached barn are in poor condition and in need of some re-building, a new roof, foundations underpinning and provision of all services/utilities. It is clear that restoration will be costly but I have not been provided with figures for the cost of works or any viability appraisal. I understand the appellant's wish to provide a fifth bedroom for his family which includes five children but given that the two extant permissions (2016/92821 and 2015/92006) have already allowed generous additional living accommodation at ground floor level, see no reason why that accommodation could not be internally re-arranged to provide a fifth bedroom. I am therefore unable to conclude that a fifth bedroom is essential for the viability of the restoration and re-use of the building. I sympathise that the appellant has purchased a building above market value but personal financial arrangements are not a material consideration in this regard.
19. The proposal would provide an energy efficient home which would contribute to the Council's housing shortfall and the lack of a five year housing land supply alleged by the appellant. It would also contribute to the vitality of this small rural community and the provision of an acre of woodland planting would provide some environmental benefit. The appellant has also said that the derelict outbuildings and foundations on the land to the south would be removed. However, these are small benefits that do not constitute very special considerations or outweigh the Green Belt harm that would be caused.
20. As I have found that the change of use of land would be unacceptable in the Green Belt and as the site is within a Conservation Area, a side extension could not be erected under permitted development and that argument does not alter my findings.
21. I have had regard to other developments in the local area and the SHLAA highlighted by the appellant. Those developments and any application for a potential housing site would have been or would be assessed on their own merits against the relevant policies and in the light of any very special circumstances and do not provide justification for this proposal.

Conclusion

22. The government attaches great importance to the Green Belt and it is important that decisions are made with consistency. In this case, I am not persuaded that there are sufficiently compelling personal circumstances or other considerations that when taken together would amount to the very special circumstances necessary to justify the development in Green Belt terms, despite some local support for the scheme. The proposal would conflict with policy D11 in the development plan and the Framework as a whole and there are no other material considerations that warrant determining the appeal otherwise. The appeal should be dismissed.

Sarah Colebourne

Inspector



Appeal Decision

Site visit made on 22 August 2017

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 14th September 2017

Appeal Ref: APP/Z4718/W/17/3175577

Land opposite 14 Grand Stand, Scapegoat Hill, Huddersfield, HD7 4NQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Matt Houston against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/62/90565/W, dated 18 February 2017, was refused by notice dated 24 April 2017.
 - The development proposed is to erect a detached dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The site has been subject to a recent appeal decision¹, which was dismissed, for a similar development to that currently proposed. The previous scheme proposed a single dwelling, albeit on a larger plot than the current proposal. Given the similarities between the current and previous appeal proposals, I attach significant weight to the previous Inspector's findings.

Main Issues

3. The main issues are:
 - (a) Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework ('the Framework') and development plan policy;
 - (b) The effect of the proposal on the openness of the Green Belt; and
 - (c) If the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Inappropriate development in Green Belt

4. Paragraph 89 of the Framework states that the construction of new buildings in the Green Belt is inappropriate, subject to a number of exceptions. One such

¹ APP/Z4718/W/15/3012823

exception is limited infilling in villages. In addition, Policy D13 of the Kirklees Unitary Development Plan (UDP) (1999) states that within existing settlements in the Green Belt, infill development will normally be permitted subject to certain criteria.

5. The Council contends that the appeal site is outside of the village of Scapegoat Hill and that the proposal would therefore not constitute "*limited infilling in villages*" (my emphasis). In this regard, such an assessment must be based on the characteristics of the site and its surroundings, rather than simply relying on the location of the adopted Green Belt boundary.
6. The previous appeal decision related to a larger site area that stretched down to Taylor Street. That Inspector found that "*the development boundary clearly distinguishes the site from the adjoining settlement and this is evident when viewed on the ground*". This observation applies equally to the current appeal site, despite its reduced size. The appeal site comprises part of an undeveloped grassy bank that is prominent in views from the south. It is within a large gap of undeveloped land between the sporadic development fronting both Taylor Street and Grand Stand. It faces onto open fields to the south, and has a separate character from the adjoining settlement. In my view, it is not within the village of Scapegoat Hill, and accordingly the development would not constitute "*limited infilling in villages*".
7. Whilst the appellant states that the Green Belt boundary is out of date and no longer reflects the edge of the settlement, I do not agree with that assessment. I further note that paragraph 83 of the Framework states that "*once established, Green Belt boundaries should only be altered in exceptional circumstances, through the preparation or review of the Local Plan*".
8. I conclude that the proposal would be inappropriate development in the Green Belt, which Paragraph 87 of the Framework states is harmful by definition and should not be approved except in very special circumstances. The proposal would also be contrary to saved Policy D13 of the Kirklees UDP, which relates to infilling within existing settlements.
9. In coming to that view I have had regard to the appellant's contention that Policy D13 is out of date. However, I note that the previous Inspector commented that "*In providing criteria for appropriate infilling, Policy D13 fulfils the requirement in the Framework to set out policies in a Local Plan and has a significant degree of consistency with the Framework*". I concur with this view.

Openness

10. The proposed dwelling would introduce additional built footprint and volume onto land that is currently open. The development would therefore result in a reduction in openness to this part of the Green Belt. The Framework advises at Paragraph 79 that openness is an essential characteristic of Green Belts, and the appeal proposal would therefore cause harm in this regard.
11. I conclude that the appeal proposal would fail to preserve the openness of the Green Belt. This would further harm the objectives of the Green Belt to which the Government attaches significant importance.

Other considerations

12. The development would have some modest economic benefits including the creation of employment, and the generation of economic activity through the purchasing of materials and furnishings.
13. The provision of an additional dwelling would also make a small contribution to the Borough's deficient 5 year supply position. I return to this matter in my conclusion, below.

Other Matter

14. The development would generate only a limited amount of traffic and the proposed access would have adequate visibility along Grand Stand. In this regard, I note that the Highway Authority did not object to the development on these grounds. Accordingly, I do not consider that the proposed access arrangements would prejudice highway safety.

Conclusion

15. Whilst the Council is unable to demonstrate a 5 year supply of housing sites, in this case, specific policies in the Framework (relating to Green Belt) indicate that development should be restricted. The proposal would constitute inappropriate development in Green Belt and would reduce openness in this location. Even when taken together, the other considerations in this case do not clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist. The development would also be contrary to Policy D13 of the Kirklees UDP.
16. As a result, the application of paragraph 14 of the Framework does not indicate that permission should be granted and the proposal would not represent sustainable development. In the circumstances of this appeal, the material considerations considered above do not justify making a decision other than in accordance with the development plan.
17. For the reasons given above I conclude that the appeal should be dismissed.

Thomas Hatfield

INSPECTOR



Appeal Decision

Site visit made on 29 August 2017

by Susan Ashworth BA (Hons) BPL MRTPI

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

Decision date: 18th September 2017

Appeal Ref: APP/Z4718/W/17/3175888

Land off Rowley Hill, Fenay Bridge, Huddersfield

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs M Shaw against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/62/93743/W, dated 11 July 2016, was refused by notice dated 22 March 2017.
 - The development proposed is the erection of detached garage.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached garage on land off Rowley Hill, Fenay Bridge, Huddersfield in accordance with the terms of application Ref 2016/62/93743/W, dated 11 July 2016 and subject to the conditions set out in the attached schedule.

Main Issues

2. The main issues in this case are:
 1. The effect of the development on the character and appearance of the area.
 2. The effect of the development on the living conditions of the occupiers of 19 Rowley Hill with particular regard to outlook.

Reasons

Character and appearance

3. The appeal site is an open area of ground, currently used for car parking. I understand a row of cottages previously occupied the site and was demolished some time ago, since when the site has been used for the parking of commercial and private vehicles, including an HGV. The site is a relatively flat area although to the sides and rear the land rises such that the site is contained by retaining walls on three sides.
4. The proposal is for a detached double garage on the site to be positioned side on to the road. The garage would have a regular form with a pitched roof and would be constructed in stone to the front and side elevations, and render to the rear. The garage is required to accommodate a van used in connection the appellant's business and another vehicle.
5. The site lies within an area that is primarily residential in character although a beer garden associated with a nearby social club lies immediately adjacent to

- it. Rowley Hill is a narrow and winding road, with a footpath on only one side in some parts. Buildings, which are generally traditional in terms of their form and appearance, are irregularly sited close to the road, some positioned immediately at the back of the footpath or road itself. There are no clearly defined building lines although boundary walls and planting contribute to the sense of enclosure. As such, the area has an attractive tight knit appearance.
6. The appeal site, which is open, does not reflect or contribute positively to the prevailing character or appearance of the area and it seems to me that the construction of a building on site would assist in restoring the sense of enclosure at this point. I acknowledge the Council's concerns that the building would not be related to any neighbouring property. However, given the informal layout and pattern of development along the road, the garage would not appear incongruous. I noted the presence of a detached garage further along the road, which although it related to a dwelling, stood alone. The size of the garage would not be excessive and it would be constructed in materials to reflect those of surrounding buildings. Although the garage would be clearly visible, the level of the site relative to the immediately adjoining land, would mean that the building would not be unduly dominant.
 7. Consequently for these reasons I conclude on this issue that the proposal would not cause any undue harm to the character and appearance of the area. As such the proposal is in accordance with Policies D2, BE1 and BE2 of the Kirklees Unitary Development Plan Saved Policies 2007 (the UDP) which seek amongst other things to protect the character of the surroundings and retain a sense of local identity.

Living conditions

8. The garage would be sited opposite 19 Rowley Hill which has a number of windows directly facing the site. The Council advise that the side wall of the garage would be some 8.25m from the front elevation of the house.
9. It is clear that the garage would change the visual appearance of the site itself and would alter the outlook from No 19. However, the garage would be single storey in height and not therefore unduly overbearing. There would be no overlooking windows and, as it would be sited to the north of No 19, would not result in any direct loss of sunlight.
10. I acknowledge that the distance between the two buildings would fall short of the Council's recommended distance of 12m between a wall containing habitable room windows and a blank wall of a neighbouring building. However, the context of this site, as set out above, is of tightly knit development where more limited distances between properties is not unusual. In addition, in reaching my conclusion I have taken into consideration the history of the site and that the site could be used for the parking of a commercial vehicle.
11. Consequently for the reasons set out, the proposal would not have an unduly harmful effect on the living conditions of the occupiers of No 19 in terms of outlook. As such the proposal is in accordance with Policy D2 (v) of the UDP which requires that proposals do not prejudice residential amenity.

Other matters

12. I acknowledge that on such a narrow road and with a dense pattern of development, parking is at a premium. However, the land is privately owned

and its use controlled by the landowners. As such I am unconvinced that the proposal would result in any significant increase in demand for on-street parking. There is no technical evidence before me to demonstrate that the proposal would cause a danger to highway safety and the Highway Authority has confirmed that the development meets acceptable standards with regard to vehicle manoeuvring. I am unconvinced that the proposal would compromise accessibility by emergency vehicles.

13. I understand that a culvert runs close by the site but there is no evidence before me that the proposal would increase the risk of flooding as a result of damage to the culvert. Moreover matters relating to drainage can be dealt with by way of a planning condition and I will turn to this below.

Conditions and Conclusion

14. The Council has suggested conditions to be taken into account were I minded to allow the appeal. I have considered these conditions in the light of advice in the Planning Practice Guidance.
15. In the interests of proper planning and to provide certainty the standard time limit condition and a condition specifying the approved plans are necessary. In order to preserve the character and appearance of the area it is necessary that samples of materials to be used in the development are agreed by the Local Planning Authority.
16. In the interests of highway safety and to ensure that the site is satisfactorily drained, a condition requiring the submission and approval of drainage details is necessary. The site may have been subject in the past to coal mining and it is therefore necessary for investigations to be carried out to understand the ground conditions of the site. Conditions requiring such investigation and details and implementation of any remedial measures are therefore reasonable and necessary.
17. For the reasons set out above, taking into account all other matters raised, and on the basis of these conditions, the appeal is allowed and planning permission granted.

S Ashworth

INSPECTOR

SCHEDULE

1. The development hereby permitted shall be begun within three years of the date of this permission.
2. The development hereby permitted shall be carried out in complete accordance with approved plans: Location Plan No. 3097/1 dated July 2016; Layout No. 3097/5/a dated October 2016.
3. Before works to construct the garage's superstructure are commenced, details of all the external facing materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed using the approved materials prior to the building being brought into use.
4. Prior to the commencement of development, details of the proposed surfacing of the site, including details of surface water drainage, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
5. Site investigation works shall be carried out in accordance with section 7 of the Coal Mining Risk Assessment prepared by Ashton Bennett, ref MMMS 3265, before development commences. A report of findings arising from the intrusive site investigation works shall be submitted to and approved in writing before development commences. The report shall include a scheme of remedial works for the shallow coal workings together with a timetable for the implementation and completion of the approved remediation measures.
6. Prior to the development being brought into use remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 5. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered (in either the Coal Mining Risk Assessment or the Phase II Intrusive Site Investigation Report) is identified or encountered on site, all works on site (save for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy prior to the development being brought into use.



Appeal Decision

Site visit made on 12 September 2017

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 28th September 2017

Appeal Ref: APP/Z4718/D/17/3177447

Drop Down, Horn Lane, New Mill, Holmfirth, HD9 7HG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr N Higgs against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/62/90907/W, dated 15 March 2017, was refused by notice dated 10 May 2017.
 - The development is a proposed outbuilding.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr N Higgs against Kirklees Metropolitan Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - (a) Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework ('the Framework') and development plan policy;
 - (b) The effect of the proposal on the openness of the Green Belt;
 - (c) The effect of the development on the character and appearance of the area, and
 - (d) If the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Inappropriate development in Green Belt

4. The appeal site comprises part of the rear garden to Drop Down. The proposed outbuilding would be some distance from the host property and would be visible from both Horn Lane and Horn Cote Lane. The outbuilding would be

- positioned between 2 dry stone retaining walls, on land that does not currently contain a building.
5. Paragraph 89 of the Framework states that the construction of new buildings in the Green Belt is inappropriate, subject to a number of exceptions. One such exception is the replacement of a building provided the new building is in the same use and not materially larger than the one it replaces. In this case, the appellant has provided photographs to show that a building was once located on the site. However, this was demolished some time ago and there is therefore no existing building to be replaced. This is the case regardless of whether the previous outbuildings were removed in order to offset the impact of the replacement dwelling under application 2012/62/91471/W.
 6. Another exception allows for the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. However in this case, the proposed outbuilding would be located at the bottom of the garden some distance from the host property. Accordingly, I do not consider that it would constitute an extension.
 7. Whilst the appellant states that the development would normally qualify as permitted development, in this case permitted rights have been removed by a condition attached to the previous permission. There is therefore no opportunity to fall back on permitted development rights.
 8. Accordingly, I conclude that the proposal would be inappropriate development in the Green Belt, which Paragraph 87 of the Framework states is harmful by definition and should not be approved except in very special circumstances.

Openness

9. The proposed outbuilding would introduce additional built footprint and volume onto land that is currently open, and in a relatively prominent position. The development would therefore result in a reduction in openness to this part of the Green Belt, despite its limited size. The Framework advises at Paragraph 79 that openness is an essential characteristic of Green Belts, and the appeal proposal would therefore cause harm in this regard.
10. I conclude that the appeal proposal would fail to preserve the openness of the Green Belt. This would further harm the objectives of the Green Belt to which the Government attaches significant importance.

Character and appearance

11. The existing property, outbuilding and boundary walls are constructed in stone. In this regard, there is a consistent use of materials throughout. In contrast, the appeal building would be constructed using olive green plastisol coated sheet walls, with translucent sheet roofing. These materials would fail to harmonise with those of the host property, and would appear incongruous when viewed from the west and south west. However, the appellant has suggested that alternative materials could be secured by condition. Such a condition would overcome my concerns in this regard, and would ensure that the development would not significantly harm the character and appearance of the area. It would therefore accord with Policies BE2 and BE11 of the Kirklees Unitary Development Plan (1999). These policies seek to ensure, amongst other things, that new development is in keeping with the surrounding area.

Other considerations

12. The appellant states that the development is necessary in order to house tools and equipment to maintain 4 acres of land adjoining the property. However, the existing dwelling at Drop Down is large and already has a double garage. This is currently used both for car parking, and for the storage of tools and equipment. However, it is unclear why additional tools and equipment cannot also be stored here. Moreover, there is only limited information before me regarding the proposed equipment that is required, and its precise storage requirements. This limits the weight I can attach to this consideration. In any case, and on balance, I do not consider that this matter would clearly outweigh the harm to the Green Belt.

Conclusion

13. The proposal would constitute inappropriate development in Green Belt and would reduce openness in this location. The Framework states that substantial weight should be given to any harm to the Green Belt. The other considerations in this case do not clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist. The development would therefore be contrary to guidance contained in the Framework.

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

Thomas Hatfield

INSPECTOR

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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 27th March 2012, the Planning Practice Guidance Suite (PPGS) launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

REPRESENTATIONS

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

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

EQUALITY ISSUES

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

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

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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Agenda Item 10:

Deferred PROW item for planning sub-committee (Huddersfield area) 12 October 2017
Application to extinguish claimed paths and provide alternative routes – Clayton Fields.

Update to report item from 31 August 2017 sub-committee

Summary:

The joint applicants Seddon have amended the proposal for the Woodland Walk. This amendment is appended as described in their letter of 11 September 2017 and the compromise plan.

The Seddon proposal also includes reference to the landscaping of the proposed public open space, in response to consultee's requests. The gates at the end of Deveron Grove have been opened. These two particular aspects are not relevant to the s257 report for decision before members.

Officers have received further representations from Marsh Community Forum, Clayton Fields Action Group and a local resident which are appended.

Officer recommendation is similar to that described in the original committee report of 31 August 2017, save that the alignment of the "Woodland Walk" (Y-Z in appended plan 2) to be included in the order be delegated to the service Director, Legal Governance & Commissioning.

Background

- Why is the sub-committee being asked to decide this application?

Planning consent has been granted for the residential development of land at Clayton Fields. Planning committee decided on 11 June 2015 that the layout of the site was acceptable, as part of its consideration of the council's position to the appeal. The layout included the footpaths proposed for the site.

The council has now received an application to enable that development to be carried out, by dealing with the claimed pedestrian routes over the site, permanently closing some routes and providing alternative routes that match the planning consents.

The numerous new routes provided would fit in with the proposed layout of the site. They would connect to Edgerton road, Queens Road, Deveron Grove and public footpath 345, which would also be widened.

- What about the DMMO applications to claim routes at Clayton Fields as public footpaths that have not been investigated and determined?

The owners of the land and the prospective developers have made this application for an order to extinguish any public rights over the claimed routes. It is not considered necessary to go through a lengthy, formal process to decide if the claimed routes should be recorded as public footpaths before making an order to change them.

If the current section 257 application before members is successful, it would deal with all the DMMO application routes within the site, and provide numerous new routes through the site.

Compromise situation update

Latest position from the objectors – the objectors have indicated no material change from their position at the time of the sub-committee meeting of 31 August. Latest submissions are appended.

Latest position from the applicants – please see Seddon's letter of 11 September 2017, which describes the changes they propose as a result of the consultation process and their comments on the consultee's other requests for change that they feel they can't accommodate.

Officers consider that a compromise satisfactory to all parties is unlikely.

Since the previous sub-committee, Seddon has proposed to amend the proposal before members to match that discussed in the compromise meetings. As far as this application before members is concerned, this would change the proposed Woodland Walk alignment so that it was further away from Clayton Dyke, nearer the rear fences of plots 25-34. Although this does not appear to have satisfied the consultees, it is nearer to their preferred line and close to the route of claimed path 183.

Blockage by metal gates preventing pedestrian access to Clayton Fields from Deveron Grove.

The metal gates have been opened and bollards erected to protect against undesirable vehicular access. Pedestrian access to the site is now possible from Deveron Grove.

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 Council's Forward Plan (key decisions and private reports?)	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	Naz Parkar 17 August 2017
Is it also signed off by the Assistant Director for Financial Management, IT, Risk and Performance?	Yes: Philip Deighton on behalf of Debbie Hogg 17 August 2017
Is it also signed off by the Assistant Director (Legal Governance and Commissioning)?	Yes: Julie Muscroft 15 August 2017
Cabinet member portfolio	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.

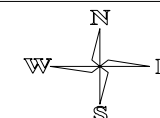
F – 6 Routes to be extinguished and one to be widened (DMMO 187). Plan of each of the claimed routes, submitted with each of the 7 DMMO applications.

10. Assistant Director responsible

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

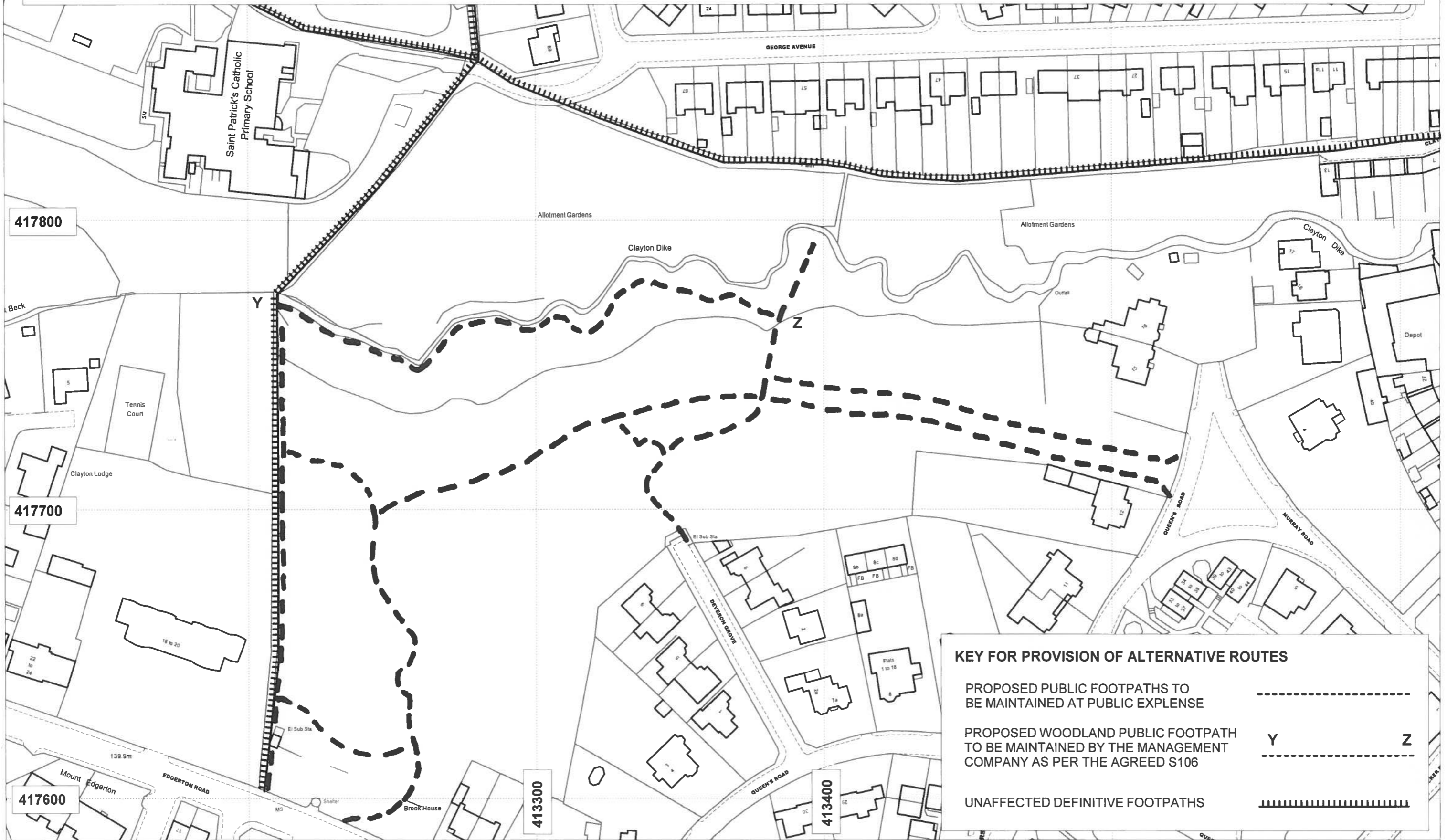
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**Proposed stopping up of footpaths at Clayton Field, Edgerton, Huddersfield and provision of alternative routes.
Town & Country Planning Act 1990, Section 257.**



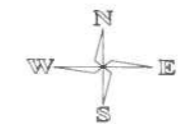
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**Proposed stopping up of footpaths at Clayton Field, Edgerton, Huddersfield and provision of alternative routes.
Town & Country Planning Act 1990, Section 257.**

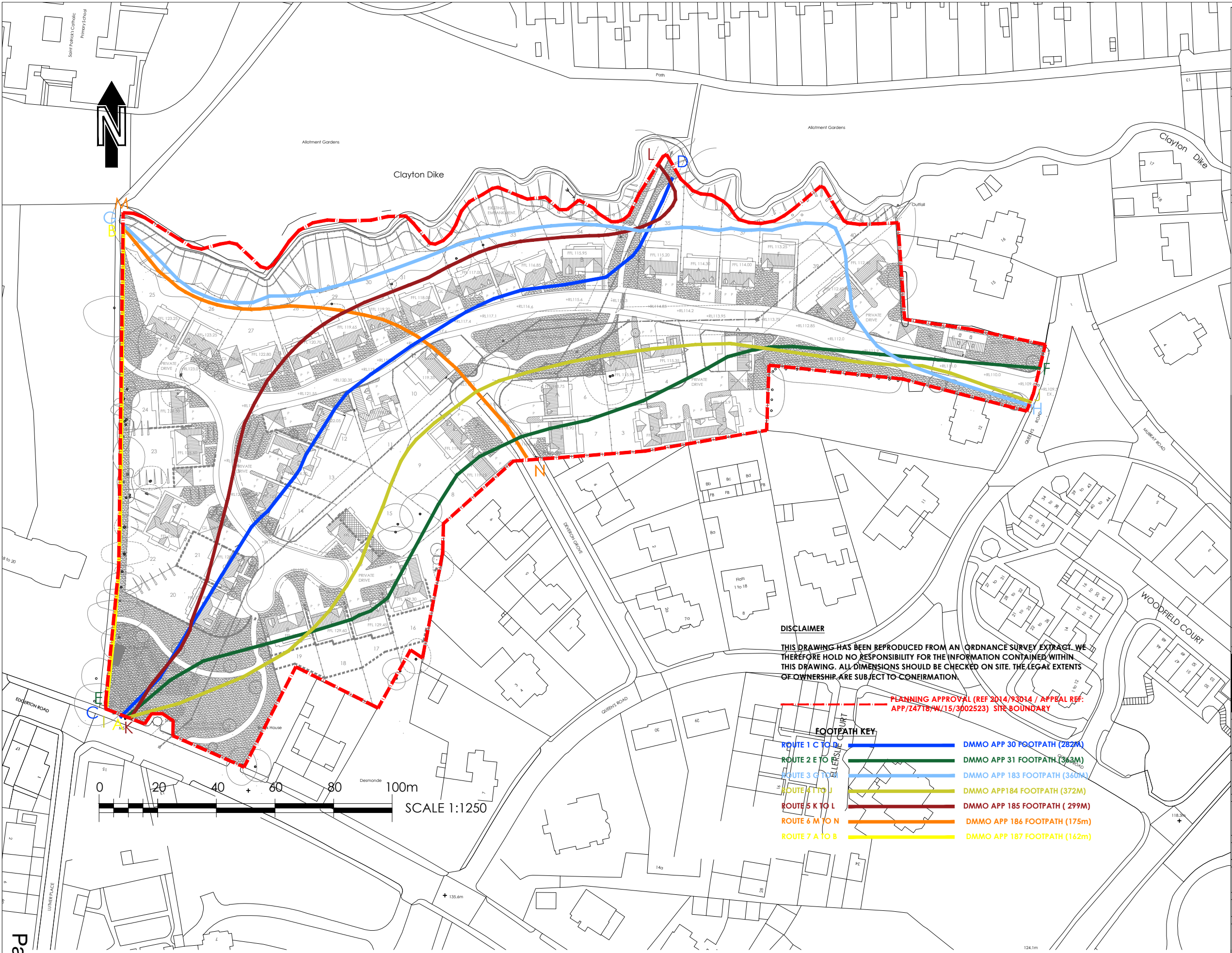


KEY FOR PROVISION OF ALTERNATIVE ROUTES

PROPOSED PUBLIC FOOTPATHS TO BE MAINTAINED AT PUBLIC EXPENSE	-----
PROPOSED WOODLAND PUBLIC FOOTPATH TO BE MAINTAINED BY THE MANAGEMENT COMPANY AS PER THE AGREED S106	----- Y ----- Z -----
UNAFFECTED DEFINITIVE FOOTPATHS	=====



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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

LOROC ARCHITECTS
 25A PARK SQUARE WEST LEEDS LS1 2PW
 T: 0113 233 7755 E: info@loroc.co.uk W: www.loroc.co.uk

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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 ——— DMMO APP 31 FOOTPATH (363M)
 - ROUTE 3 G TO ——— DMMO APP 183 FOOTPATH (360M)
 - ROUTE 4 I TO ——— 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)

0 20 40 60 80 100m
 SCALE 1:1250

ADDITIONAL COMMENTS DENOTED ON DWG AREA AS (CDM)

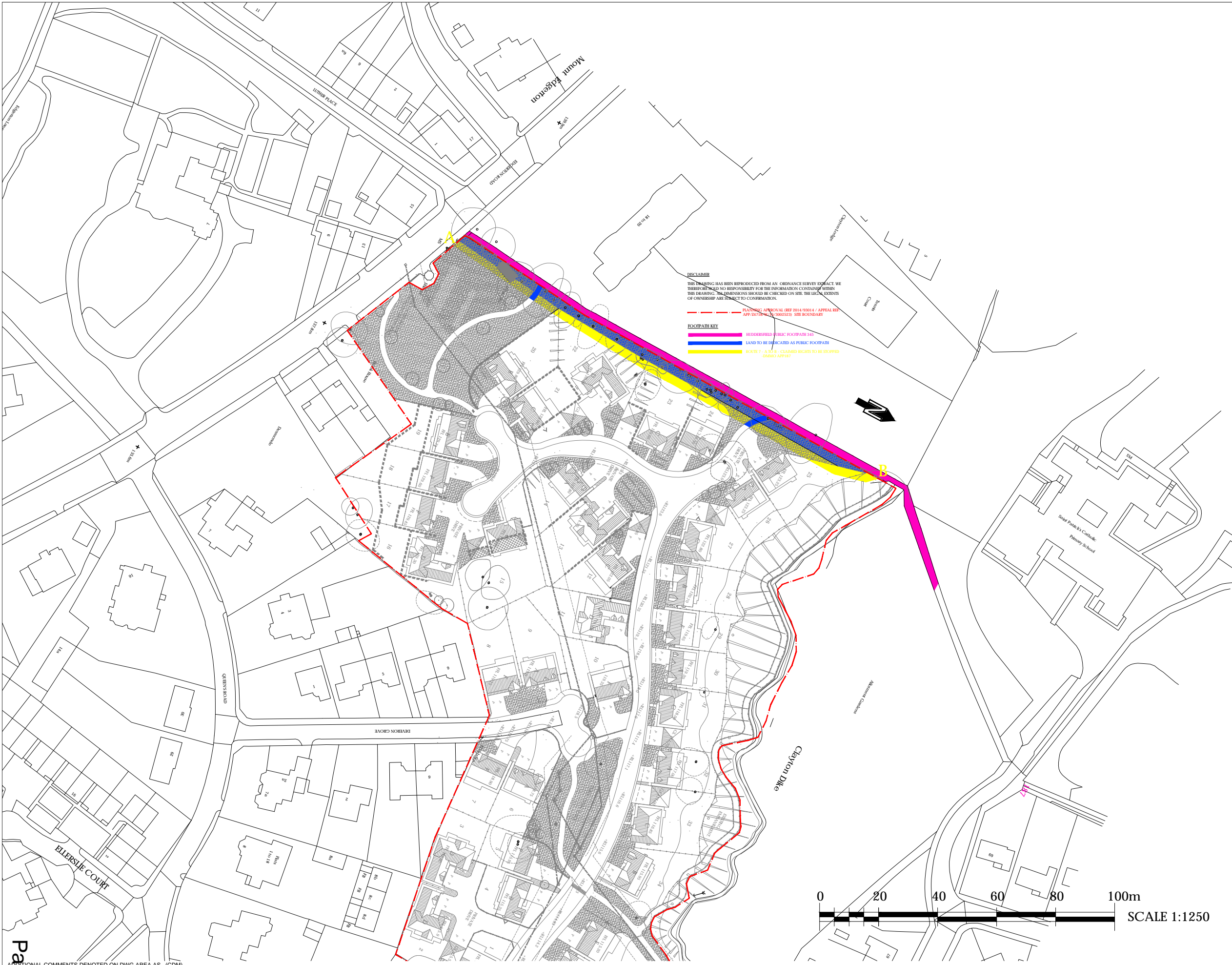
CDM 2015

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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PLANNING APPROVAL REF 2014/0014 / APPEAL REF APP/24/17/001/000523 SITE BOUNDARY

FOOTPATH KEY
 HATCHED PUBLIC FOOTPATH 3M
 LAND TO BE DEMONSTRATED AS PUBLIC FOOTPATH
 SCALE 1:1250 - CLAIMED RIGHTS TO BE STOPPED UP (AS PER APP187)

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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

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



CLIENT
 PROSPECT ESTATES/ SEDDON HOMES

PROJECT
 CLAYTON FIELDS, EDGERTON, HUDDERSFIELD.

TITLE
 PLAN 2 - DMMO APP 187 - CLAIMED FOOTPATH WIDTHS TO BE STOPPED UP

SCALE 1/1250 @ A3 DATE 07/17

DRAWING NO. 1414 - 161 REVISION A

DRAWN BY OS PLAN CHECKED BY -

PURPOSE OF ISSUE
 PLANNING BUILDING REGS TENDER
 APPROVAL COMMENT CONSTRUCTION

LOROC ARCHITECTS
 25A PARK SQUARE WEST LEEDS LS1 2PW
 T: 0113 233 7755 E: info@loroc.co.uk W: www.loroc.co.uk

ADDITIONAL COMMENTS DENOTED ON DWG AREA AS (CDM)
CDM 2015
 PERCEIVED SIGNIFICANT RESIDUAL RISKS THAT ARE EITHER / OR ANY COMBINATION OF THE FOLLOWING :
 NOT OBVIOUS ■ UNUSUAL ■ DIFFICULT TO MANAGE
 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)

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

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

6th 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 needs 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.

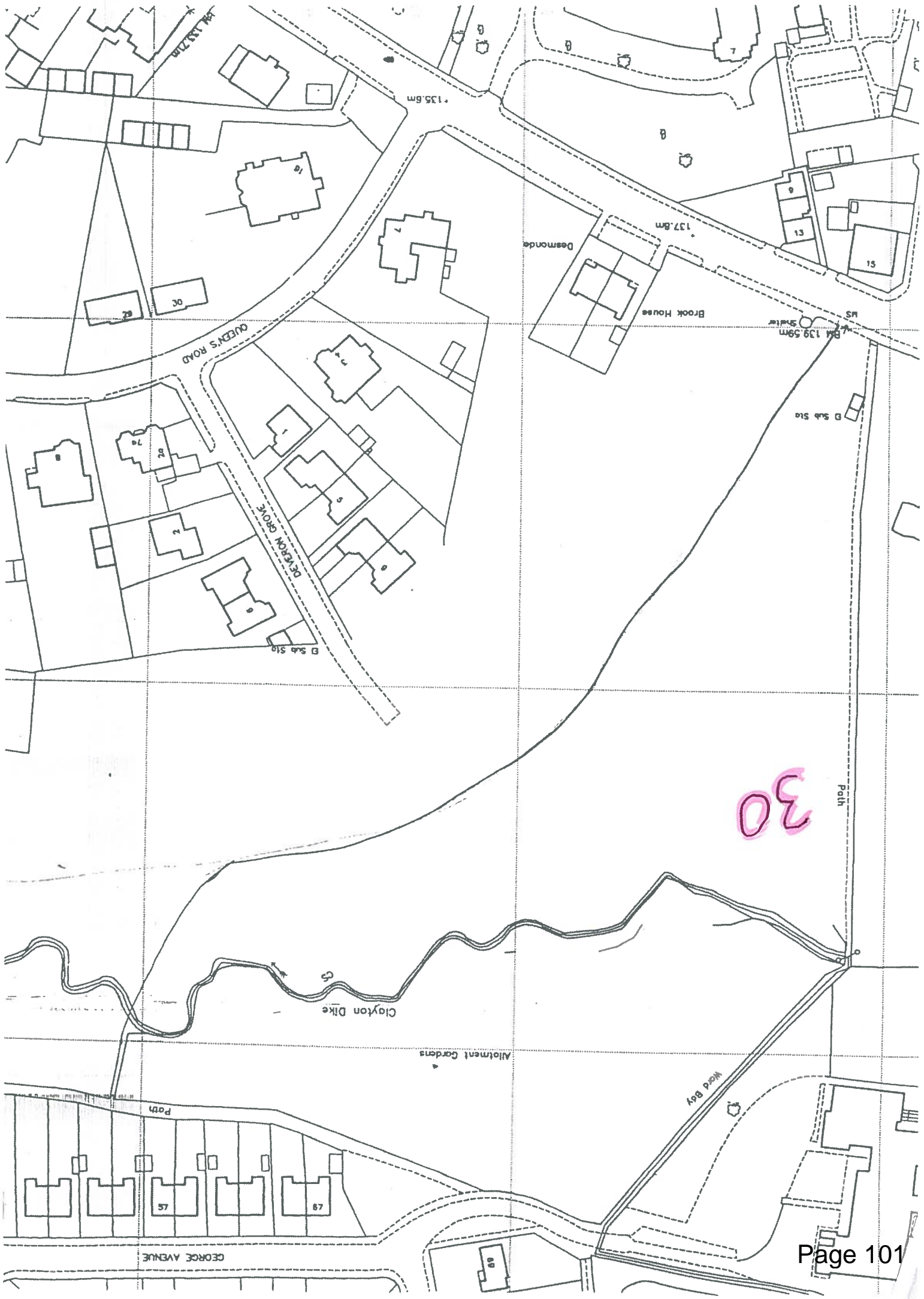
Yours sincerely,


Jonathan Adamson. Chair, Clayton Fields Action Group.

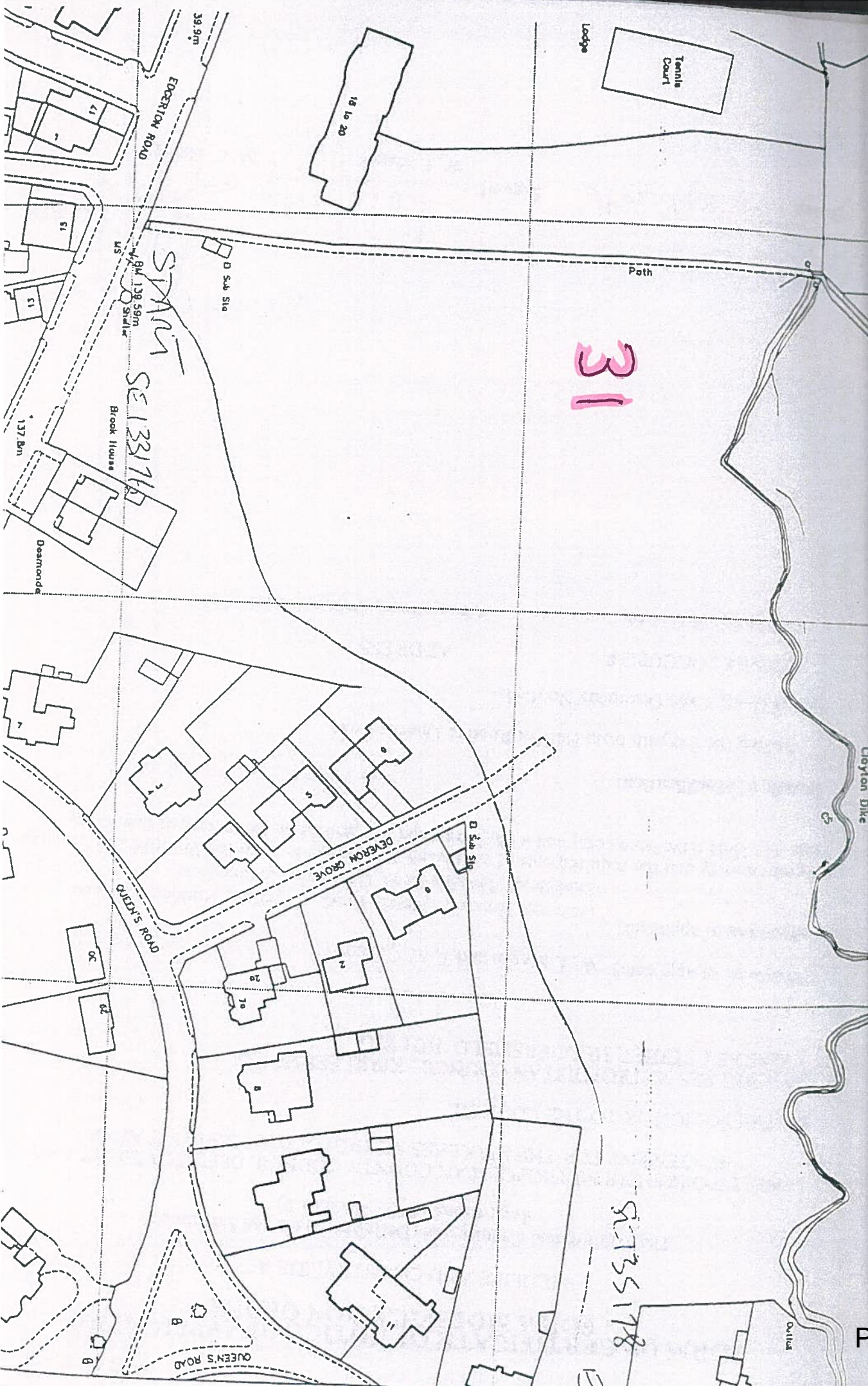
Cc Barry Sheerman MP.



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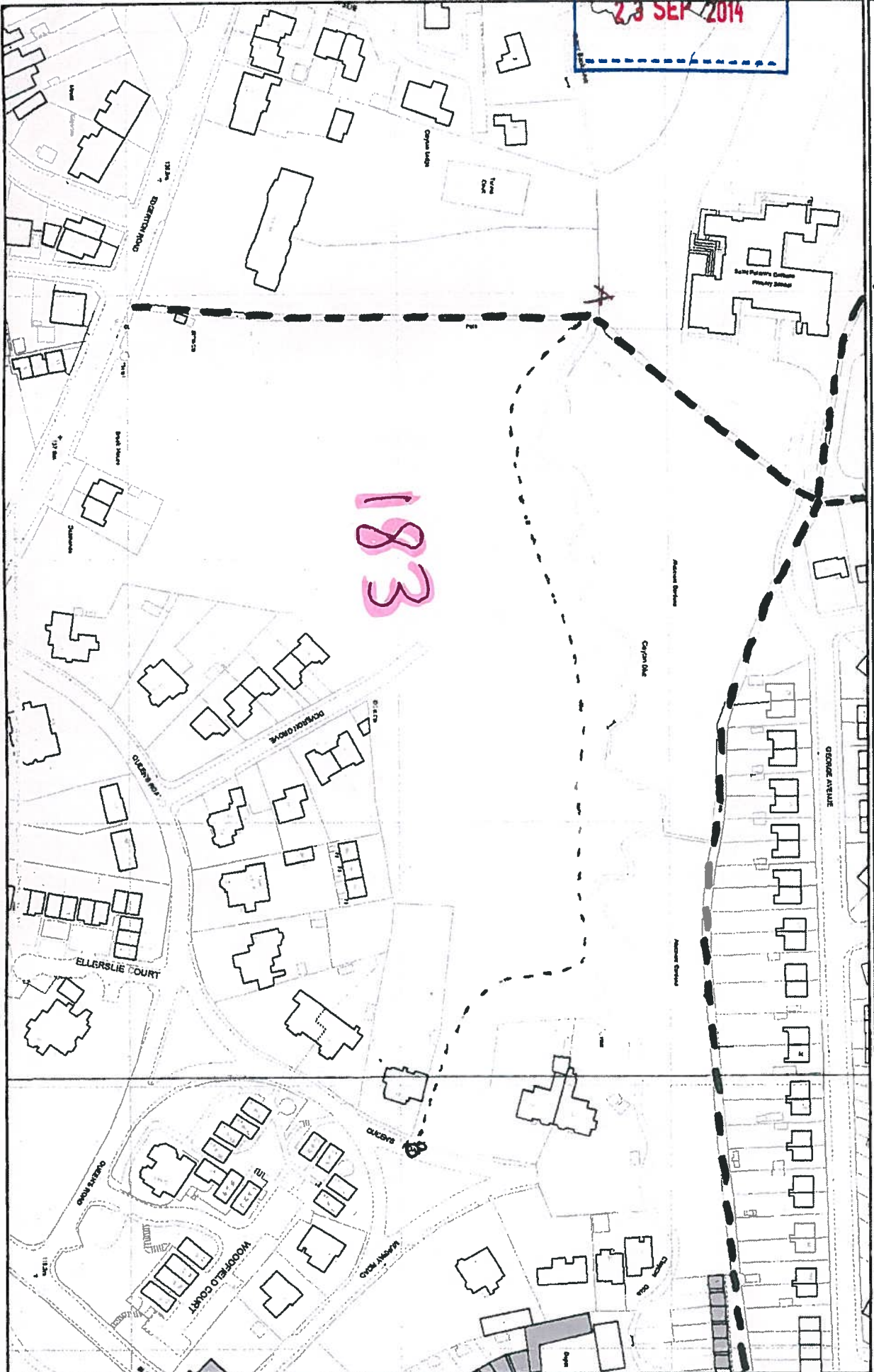
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Definitive public footpaths

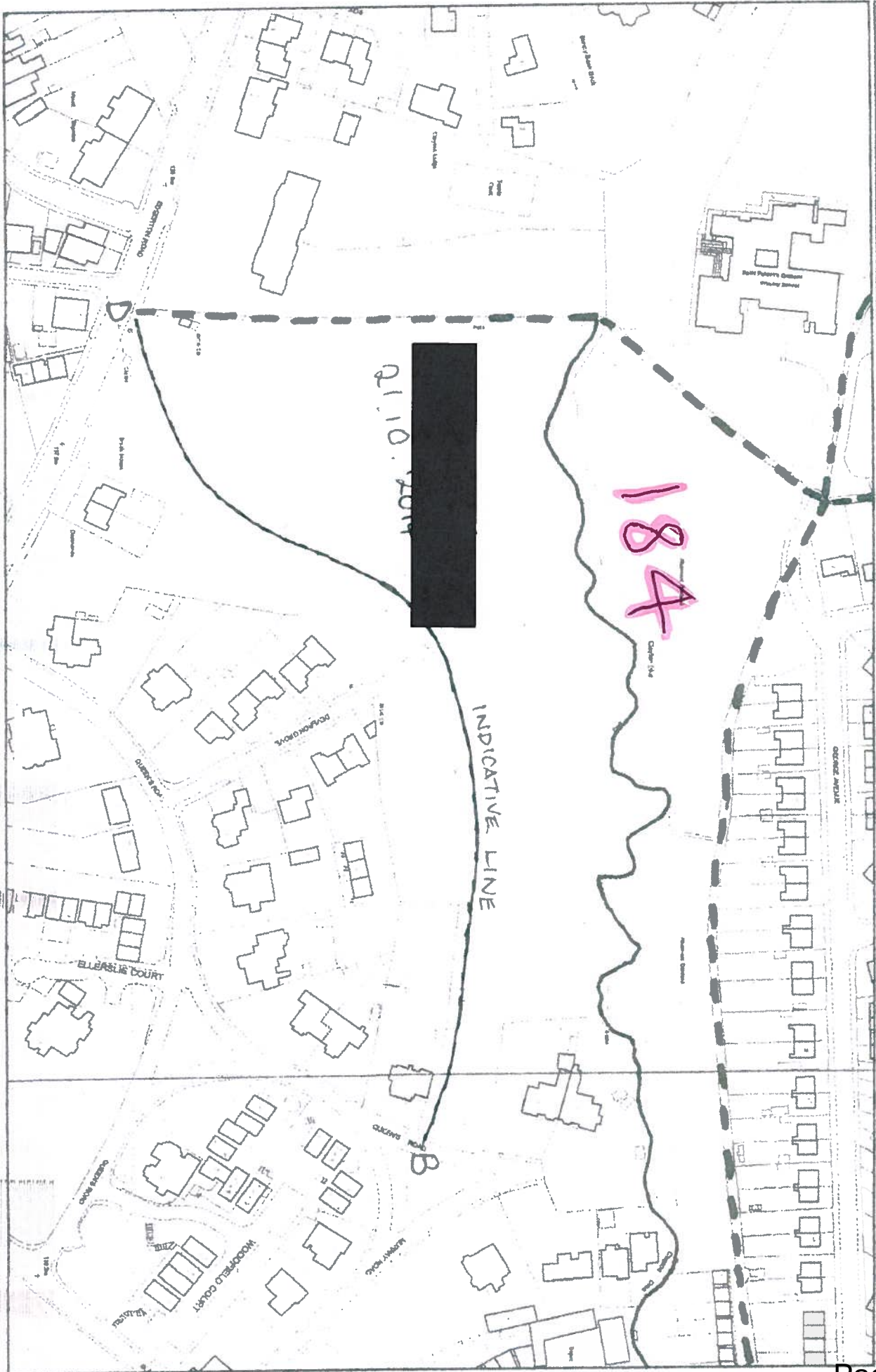


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Date 19/9/2014



Definitive public footpaths



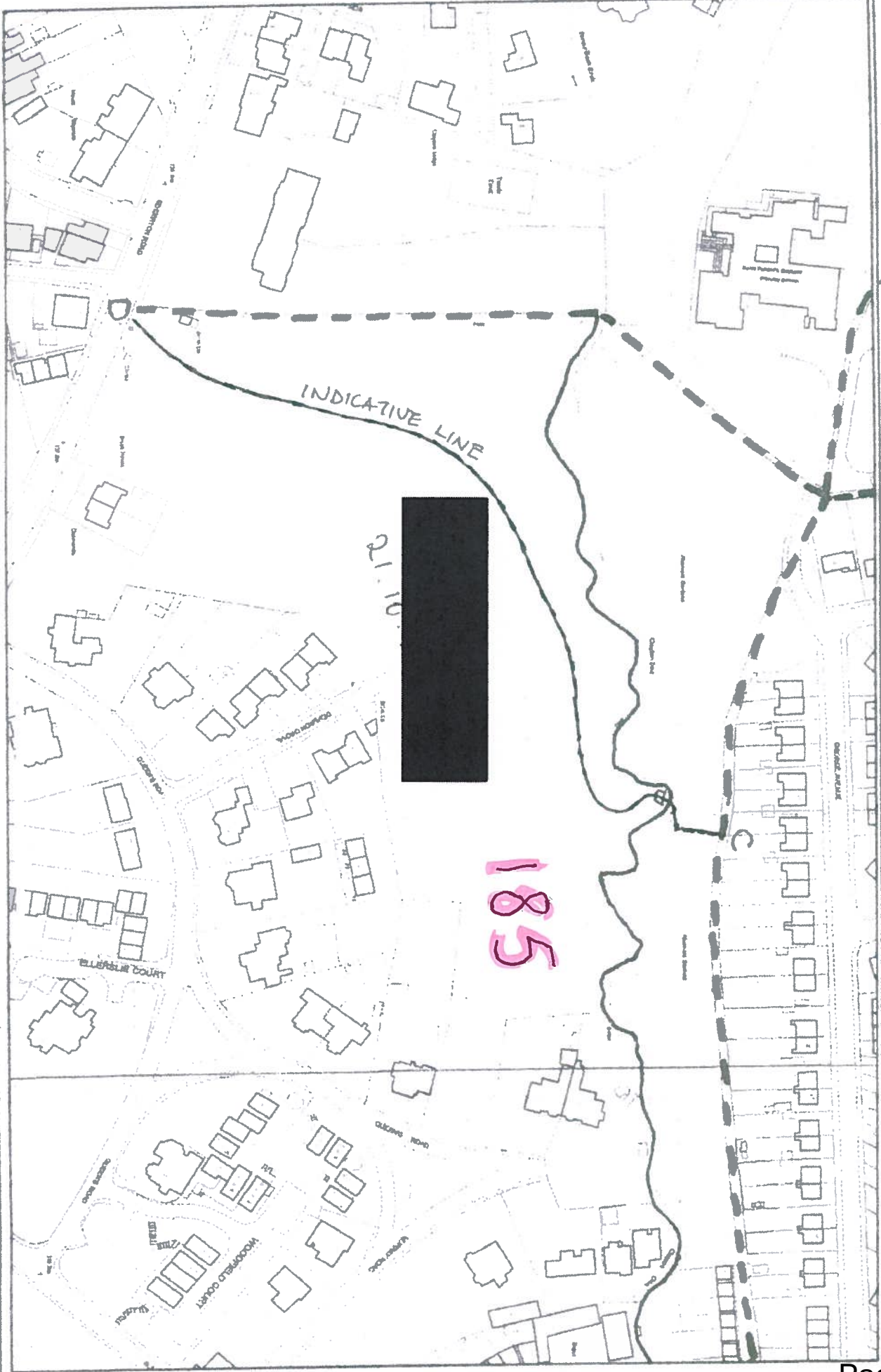
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Date 19/9/2014



Definitive public footpaths



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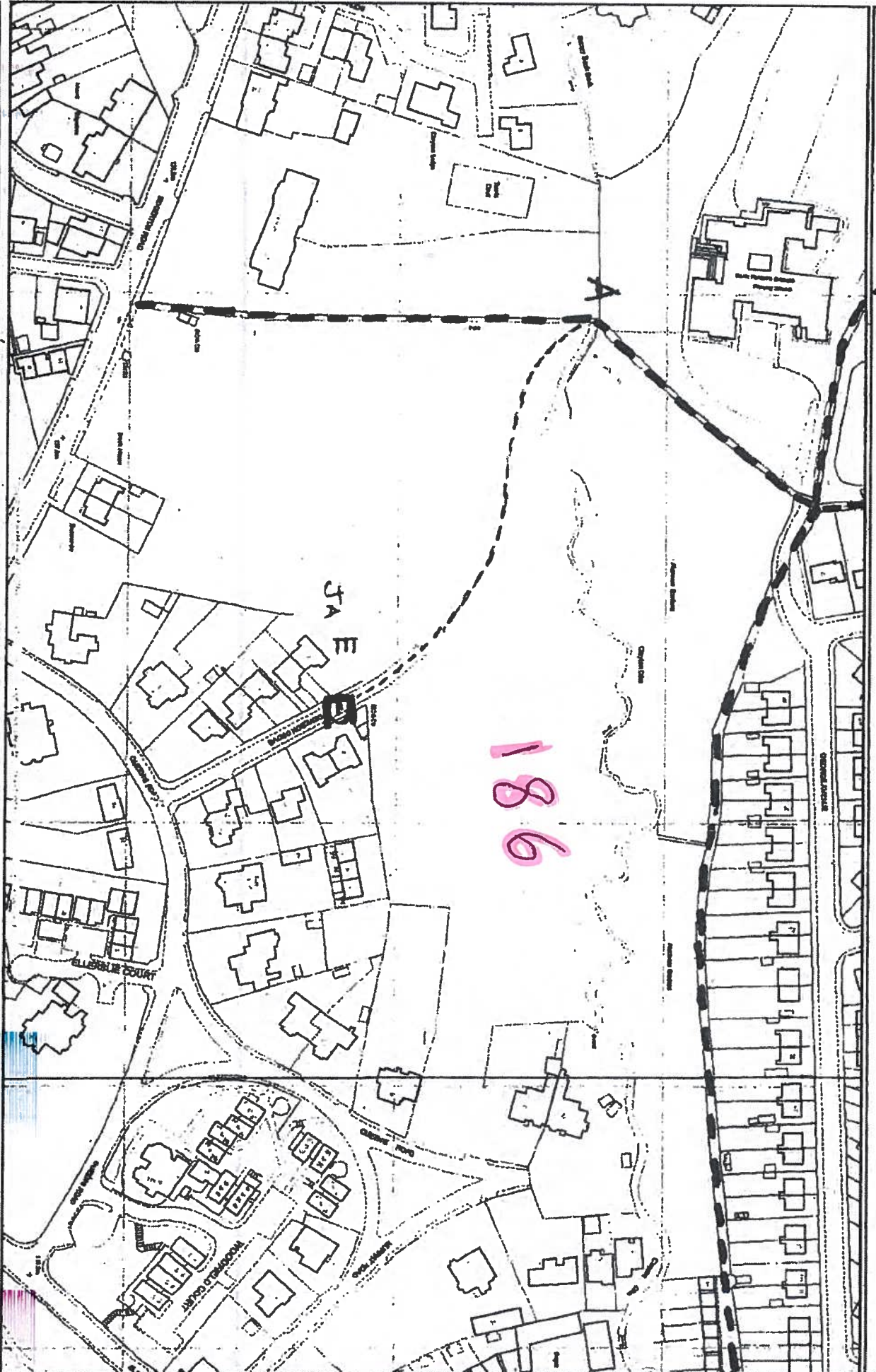
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Definitive public footpaths



186

JAE



COUNCIL

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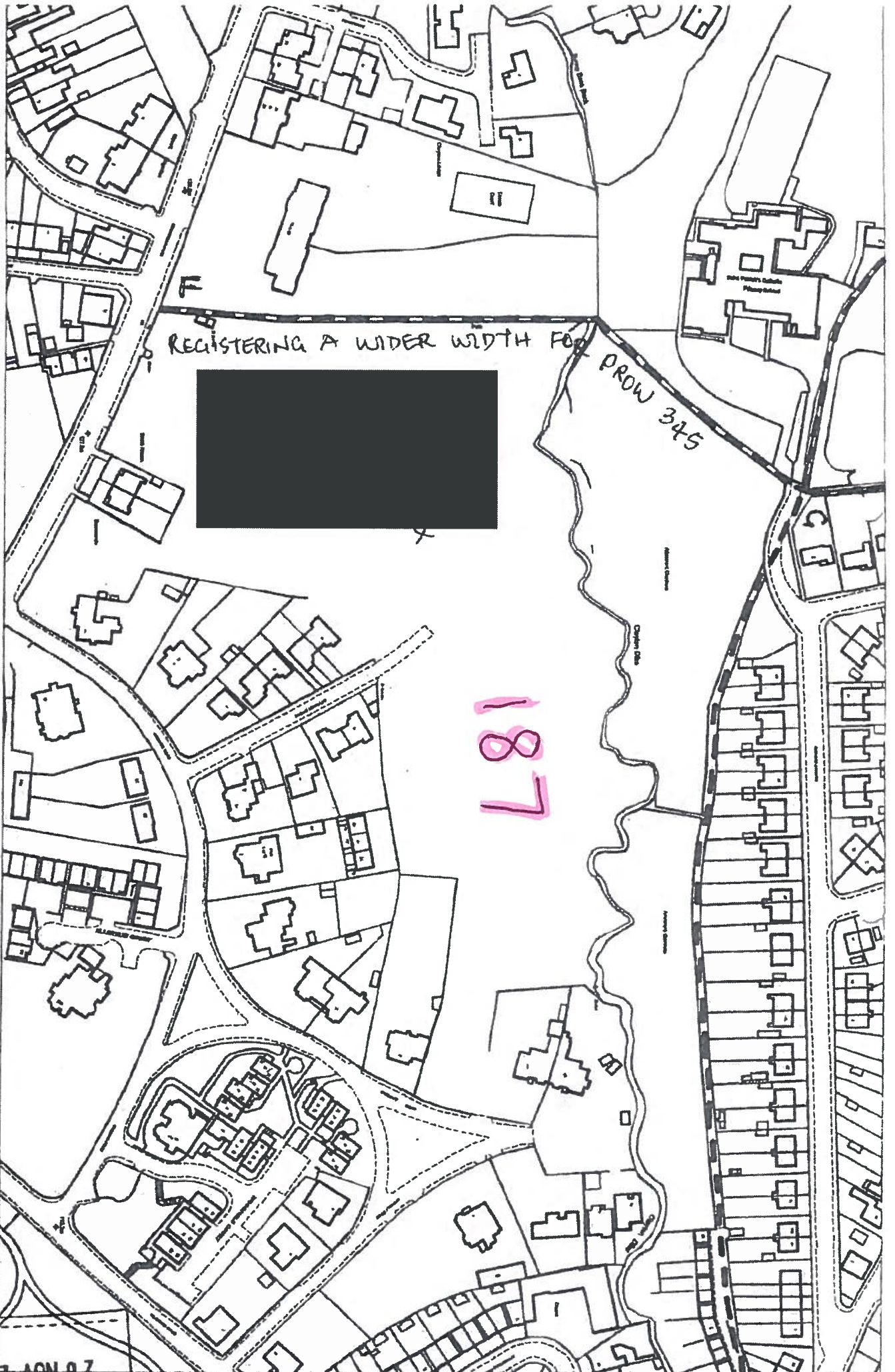
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Definitive footpaths



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Clayton Fields. Section 257 Town & Country Planning Act 1990 Extinguishment of claimed footpaths and provision of alternative routes.

Officer recommendation for sub-committee decision – 12 October 2017

Officers recommend that members delegate authority to the Service Director, Legal, Governance and Commissioning to (i) determine the precise order alignment of the Woodland Walk path (indicatively shown Y-Z on plan 2) and (ii) make and seek confirmation of an order under s257 of the Town & Country Planning Act 1990 in accordance with report Plans 1 and 2, and (i) above.

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Deferred PROW item for planning sub-committee (Huddersfield area) 12 October 2017
Application to extinguish claimed paths and provide alternative routes – Clayton Fields.

Update to report item from 31 August 2017 sub-committee

Summary:

The joint applicants Seddon have amended the proposal for the Woodland Walk. This amendment is appended as described in their letter of 11 September 2017 and the compromise plan.

The Seddon proposal also includes reference to the landscaping of the proposed public open space, in response to consultee's requests. The gates at the end of Deveron Grove have been opened. These two particular aspects are not relevant to the s257 report for decision before members.

Officers have received further representations from Marsh Community Forum, Clayton Fields Action Group and a local resident which are appended.

Officer recommendation is similar to that described in the original committee report of 31 August 2017, save that the alignment of the "Woodland Walk" (Y-Z in appended plan 2) to be included in the order be delegated to the service Director, Legal Governance & Commissioning.

Background

- Why is the sub-committee being asked to decide this application?

Planning consent has been granted for the residential development of land at Clayton Fields. Planning committee decided on 11 June 2015 that the layout of the site was acceptable, as part of its consideration of the council's position to the appeal. The layout included the footpaths proposed for the site.

The council has now received an application to enable that development to be carried out, by dealing with the claimed pedestrian routes over the site, permanently closing some routes and providing alternative routes that match the planning consents.

The numerous new routes provided would fit in with the proposed layout of the site. They would connect to Edgerton road, Queens Road, Deveron Grove and public footpath 345, which would also be widened.

- What about the DMMO applications to claim routes at Clayton Fields as public footpaths that have not been investigated and determined?

The owners of the land and the prospective developers have made this application for an order to extinguish any public rights over the claimed routes. It is not considered necessary to go through a lengthy, formal process to decide if the claimed routes should be recorded as public footpaths before making an order to change them.

If the current section 257 application before members is successful, it would deal with all the DMMO application routes within the site, and provide numerous new routes through the site.

Compromise situation update

Latest position from the objectors – the objectors have indicated no material change from their position at the time of the sub-committee meeting of 31 August. Latest submissions are appended.

Latest position from the applicants – please see Seddon’s letter of 11 September 2017, which describes the changes they propose as a result of the consultation process and their comments on the consultee’s other requests for change that they feel they can’t accommodate.

Officers consider that a compromise satisfactory to all parties is unlikely.

Since the previous sub-committee, Seddon has proposed to amend the proposal before members to match that discussed in the compromise meetings. As far as this application before members is concerned, this would change the proposed Woodland Walk alignment so that it was further away from Clayton Dyke, nearer the rear fences of plots 25-34. Although this does not appear to have satisfied the consultees, it is nearer to their preferred line and close to the route of claimed path 183.

Blockage by metal gates preventing pedestrian access to Clayton Fields from Deveron Grove.

The metal gates have been opened and bollards erected to protect against undesirable vehicular access. Pedestrian access to the site is now possible from Deveron Grove.

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

11th September 2017

Dear Giles

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

Further to the deferment of our Section 257 Application by the Planning Sub-Committee on 31st August, which we were disappointed with, we set out below our revised proposals and enclose a 'Compromise Drawing' clearly identifying these and a summary of the discussions to date.

We met with local residents and the objectors, assisted by Council Officers and Ward Councillors on multiple occasions now to attempt to reach a compromise position. It was clearly explained at the outset that we cannot re-visit the planning consent that has been granted in full detail and that we could only consider minor changes which could be dealt with by a discharge of planning condition route.

We have fully considered the items requested by the objectors and now propose the following amendments so this process can move forwards:-

The Woodland walk is to be relocated to top of bank to follow the rear garden fence lines of plots 25-34, this route will be maintained by the Resident owned Management Company as part of the overall management of the open space within the estate layout.

The POS area at The Edgerton Road end of the site is now proposed to be landscape planted as regenerative woodland rather than simply grassed and as part of the S106 obligations this area will also be maintained by the Resident owned Management Company.

The gates on Deverson Grove will be opened up/removed and replaced by concrete posts/bollards to continue to prevent vehicles from accessing the site by this route whilst allowing pedestrian access. An

order has been placed with a contractor to do this straight away and pedestrian access will be provided up until construction commences on site.

We will be widening the existing recorded width of the existing Hud/345 PROW as part of our proposals.

The objectors also requested the following changes be made at the second meeting with them at the council offices on 7th July. These have been fully considered but are unacceptable to Seddon Homes for the reasons provided below:-

The request for the Woodland Walk to be extended to follow the batter/bank top behind plots 35 to 40 and along the boundary behind plot 41. This is not acceptable as there is insufficient room to construct a footpath and deal with the retaining issues along this boundary, the approved layout does not allow for a route along this line and it is also not a claimed PROW route either. The layout already provides numerous alternative routes that create sufficient permeability throughout the site.

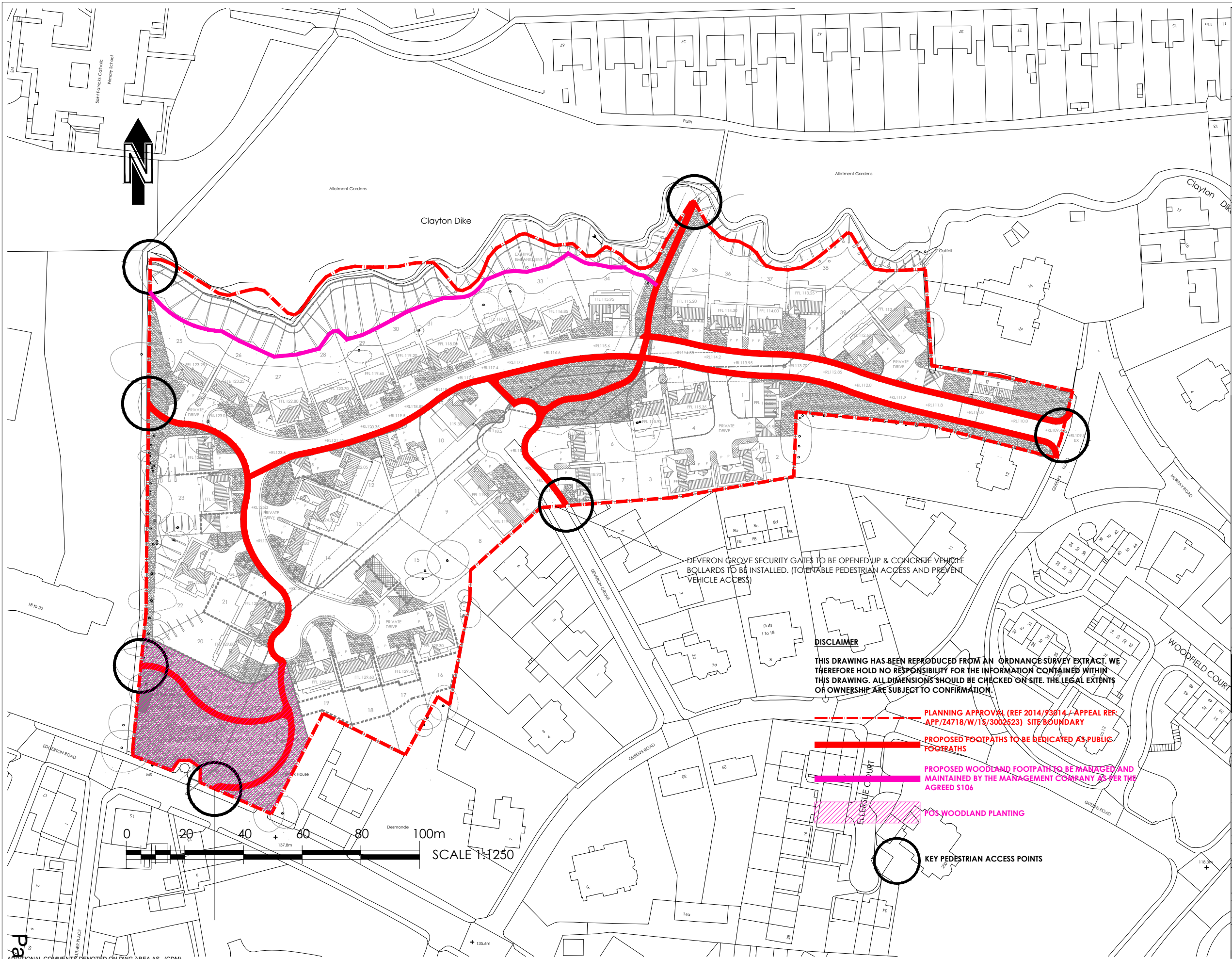
The request for the POS area to be transferred to the Clayton Field Action Group is not possible as the planning permission and the Section 106 obligation requires that this is maintained by a Resident Owned Management Company.

The request for a new footpath to be created along the back of rear gardens to plots 14 to 10 inclusive. This is not on any previously claimed route or alignment and is not acceptable due to the severe difference in levels and the requirement for a retaining wall/feature to deal with the level differences. There would also be a detrimental loss of privacy and security to the private family gardens and it would create an undesirable alleyway without much natural surveillance.

The site has had many constraints to deal with that have dictated why the approved layout looks the way it does. There are significant level changes and steep gradients, large public sewers cross the site, tree protection zones and boundary details. They have all been addressed with the layout as approved, it is not easy to make any small changes that do not have a large knock on effect and would require a revisit of the planning approval which as stated we simply cannot do.

I trust this is of use in the preparation of your next report to committee and demonstrates that we have exhausted all possible avenues open to us given that we have always stated that a revisit of the approved planning permission is not an option. The Section 257 process is the only thing preventing us from commencing on site, we are very keen to make a start for these much needed new homes as soon as practically possible.

Thank you for your assistance with this matter, please do not hesitate to contact me should you need any further information or clarification.



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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

REV	DESCRIPTION	DRWNCHKD	DATE



CLIENT PROSPECT ESTATES/ SEDDON HOMES

PROJECT CLAYTON FIELDS, EDGERTON, HUDDERSFIELD.

TITLE COMPROMISE DRAWING

SCALE 1/1250 @ A3 DATE 07/17

DRAWING NO. 1414 - 167 REVISION -

DRAWN BY OS PLAN CHECKED BY -

PURPOSE OF ISSUE

PLANNING BUILDING REGS TENDER
 APPROVAL COMMENT CONSTRUCTION

LOROC ARCHITECTS
 25A PARK SQUARE WEST LEEDS LS1 2PW
 T: 0113 233 7755 E: info@loroc.co.uk W: www.loroc.co.uk

DEVERON GROVE SECURITY GATES TO BE OPENED UP & CONCRETE VEHICLE BOLLARDS TO BE INSTALLED. (TO ENABLE PEDESTRIAN ACCESS AND PREVENT VEHICLE ACCESS)

DISCLAIMER

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--- PLANNING APPROVAL (REF 2014/93014 - APPEAL REF APP/24718/W/15/3002523) SITE BOUNDARY

— PROPOSED FOOTPATHS TO BE DEDICATED AS PUBLIC FOOTPATHS

— PROPOSED WOODLAND FOOTPATH TO BE MANAGED AND MAINTAINED BY THE MANAGEMENT COMPANY AS PER THE AGREED S106

▨ POS WOODLAND PLANTING

○ KEY PEDESTRIAN ACCESS POINTS

ADDITIONAL COMMENTS DENOTED ON DWG AREA AS (CDM)

CDM 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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Marsh Community Forum

3 October 2017

28 Cleveland Road
Huddersfield
HD1 4PW

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

Dear Giles Cheetham

Proposed development at Clayton Fields and retention of footpaths

Thank you for your email of 29 September 2017. You attached a letter received from Seddon Homes dated 11 September 2017. You invite observations from those receiving your email.

I write in response to your email but also following a meeting of the Marsh Community Forum which took place on 19 September 2017. The meeting was attended by Councillors Pattison [REDACTED] Councillor Ullah sent his apologies. The meeting discussed the Clayton Fields development but did so before your email of 29 September.

The focus of the meeting was on claimed Public Right of Way 183. This is the footpath that runs adjacent to the embankment that borders Clayton Dike and within the existing woodland that borders the dike. As previously stated in letters sent to you, most recently on 29 June 2017, the footpath was recognised and used by those present at the meeting. 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 discussion about a request for Town and Village Green registration of an area of land that would include CPROW 183. It was felt that if the registration was made that this would provide greater protection for the footpath and the associated woodland. A proposal was made that Marsh Community Forum should support the request for Town and Village Green status. A vote in favour of the proposal was carried and I was asked to write to the Council to make the views of the Forum known.

Subsequently, I received your email together with the letter from Seddon Homes. The letter does not address the concerns of Marsh Community Forum with respects to CPROW 183. In particular it

seeks to reduce the width of the existing footpath and to move it to the top of the embankment with runs alongside the dike. This is not where the current footpath is located. If the footpath was relocated to the top of the banked area, as proposed by Seddon Homes, it would become very narrow and challenging for people to use, particularly when the ground was wet and slippery. It might become so little used that it would eventually be forgotten. One wonders if this not the intention. Additionally, the wooded area which runs along the dike and which provides a valuable habitat for local wildlife would be very significantly reduced in size. In sum, a footpath would be lost along with existing woodland habitat.

To conclude, The Marsh Community Forum calls upon the Council to recognise that CPROW 183 should be fully retained in its present form together with the existing woodland. The Forum requests that the council seeks Town and Village Green registration of an area of land that includes CPROW 183 as it considers this to be the best way to provide protection for both the footpath and the woodland.

I look forward to hearing the response of the council.

Mike Woodward

Chair, Marsh Community Forum



michael.woodward@virgin.net

<https://marshcommunityforum.wordpress.com/>

It is with great concern that I am writing about how the issue of the Claimed Rights of Way across Clayton Fields, Edgerton, is being addressed, or rather, ignored and neglected, by council planners and committee members. I was at the most recent planning meeting on August 31st in the Town Hall, where the Committee was being urged to stop the Claimed Rights of Way applications, as requested by the developer. It is not only extremely worrying that these claimed routes were bunched together and not considered on their individual merits, but also that they did not seem to be looked at in their positions on the site and with relation to the planned development by council officials before decisions were contemplated.

These routes could and indeed should be individually dealt with so that the incorporation of one or some of them might be included in the building plans, an action that may serve to enhance the future development and to satisfy the public's wishes. They are all of immense importance to many local people who have had essentially free-use of the Fields for time immemorial. Some of these applications carry more weight than others, however, as has been proven by the sheer and unprecedented volume of statements of use completed. Some of these routes could be quite easily included as features of the new housing estate. The most significant and popular Claimed Right of Way is the well-worn footpath running along the Clayton dike side of the Fields and it seems incredulous that council planners are brushing this route in particular and the public voices speaking up for it, aside.

The local people are being offered the absolute minimum from this proposed development and their feelings and needs are not being considered or met in any way. The Council Planners seem driven purely by the need to make money and in this case, to provide an insignificant number of homes and not even affordable ones at that. The moral issue of what local people desire and the fact that they are losing an important and historic green space seems to be being completely disregarded. Local residents surely deserve to be listened to and granted some part, at least, of what they are requesting. To provide the woodland-side Claimed Rights of Way, for instance, would involve the developer making minor adjustments to their plans, moving the layout back a few feet, in most cases. To make this route an official Right of Way would appease the local people and may even improve the whole development by adding an attractive, natural and useful aspect to the place.

The developer would have to do very little to compromise for one or even more of these Claimed Rights of Ways to be incorporated into their plans and this would relieve antagonism and frustration amongst local people, who currently use, enjoy and rely on Clayton Fields. These people accept the prospect of a housing estate being built on this site, but would like their wishes to be



considered and processed along with the developer's. The local council should be treating both sides, the powerful developer and the general, dependent public with equal fairness. Unless the needs of local people are considered or processed before the Committee come to a decision on the Claimed Rights of Way, an injustice will have been done to the townspeople of Huddersfield.



Tower House
Cemetery Road
Edgerton
Huddersfield

22.09.2017

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.

Following our recent telephone conversation, I am still uncertain about the status of the alternative routes proposed by the developer/s across Clayton Fields.

I have been unable to locate any local Public Rights of Way (PROW) on pavements beside roads on the definitive map.

I also remember you saying some years ago, if I remember correctly, that "footpaths were not pavements".

And yet, my understanding is, you said the proposed alternative footpath routes across Clayton Fields, which are, predominantly, planned to be on pavements beside the proposed estate road, will be recorded as a PROW / PROWs on the definitive map.

Can you please reassure me on this point, clearly? For instance, that there will be no difference between the present recording of PROW 345, alongside the proposed development, on the definitive map, and, should an order be issued and confirmed, the future recording of the proposed alternative footpath routes, within the proposed development, on the definitive map. With a number, PROW number?, etc.

Also, I have noticed a significant difference between the PROW Unit's mapping of Claimed Public Right of Way (CPROW) 183 on the Kirklees Crown Copyright database, dated 03.11.2014, issued to me shortly after I made my CPROW applications, and the CPROW 183 route, between G and H, shown on the Kirklees Crown Copyright database, dated 23.05.2017 - predominantly (but not exclusively) with regard to the proximity of the route to the property boundaries of the two, large Victorian houses at the end of Queens Road and Murray Road. **This is the plan which has been released by the PROW Unit to inform the public during the public consultation.**

The CPROW 183 footpath route has now re-established itself as a distinct desire line on the ground previously stripped of vegetation by the developer, and its location can easily be checked. Can you please explain this anomaly to me?

I am also including a briefing/report which I wrote for Marsh Forum, which met on 19.09.2017. If you consider that there are any significant factual errors in the document, I would be grateful if you would correct them.

Yours sincerely,

Jonathan Adamson, Chair, Clayton Fields Action Group.

Cc Barry Sheerman MP.

Enc.

A report and briefing for Marsh Forum, meeting on Tuesday 19th September 2017, following two, three minute statements made by Bill Magee and Jonathan Adamson to the Planning Sub-Committee (Huddersfield Area) on 31st August 2017. It is anticipated a number of Kirklees Councillors will attend.

Town & Country Planning Act 1990, Section 257.

Application by Seddon Homes Limited and Paddico (267) Limited for the "Closure or Diversion of Public Path[s]" on Clayton Fields, received by Kirklees Council on 26.05.2017.

1. On 31 August 2017 the Planning Sub-Committee (Huddersfield Area) determined unanimously to suspend its decision for this application "for one cycle, subject to further information". The next meeting of the Sub-Committee is scheduled for Thursday 12 October 2017, at Huddersfield Town Hall, at 1.00 p.m. It is best to check earlier that week that it has been listed (there may be reasons for a further deferral). Those wishing to make a 3 minute address to the Sub-Committee need to register not later than 24 hours before the meeting with Richard Dunne's office.

2. Seddon Homes and Paddico (267) - landowner for Prospect Estates - (SH/P), are seeking an order to extinguish all the Claimed Public Rights of Way (CPROW) applications submitted by Bill Magee and Mike Hardy in 1996 and by Jonathan Adamson in 2014, en block. **The order sought by SH/P would enable the Local Authority to avoid any assessment of the evidence submitted by the public in support of the 7 CPROW applications.**

3. During the previous five years the Kirklees Public Rights of Way Unit has added 3 CPROW applications to the definitive map as Public Rights of Way (PROWs). By its own acknowledgement it has 125 priority CPROW applications. I counted 199 listed on the council's WCA 1981, section 53B register. **[At the above rate of administration*,] if the Council received no further submissions it would take over 200 years to process the 125 priority CPROW applications.** Bill Magee's and Mike Hardy's CPROW applications remain unprocessed after 21 years.

4. On Thursday 14 September 2017, SH/P opened the steel gate at the bottom of Deveron Grove and cemented in bollards. The previously locked gate blocked access to CPROW 186. **It is worth noting this work was undertaken by SH/P following the suspension of the Planning Sub-Committee's decision on 31 August 2017.** Previously, in spite of an undertaking by the applicants **NOT to obstruct any of the CPROW routes "before [an] order comes into force"**, and requests made by Barry Sheerman MP, Marsh Forum, St. Patrick's Primary School, Clayton Fields Action Group, Cllr Sheikh Ullah, Cllr Mohan Sokhal, and members of the public, to the developers, and to the Council, to open the gate, **the gate remained locked.**

5. **Kirklees Officers had refused to enforce the unlocking of the steel gate at the bottom of Deveron Grove during the previous 12 months, at least.**

6. The Council's Legal Officer said the Local Authority (LA) was not required to enforce a CPROW application, during the Planning Sub-Committee meeting on 31 August 2017. However, the LA does have a statutory duty under section 130 of the Highways Act to unblock a PROW. **This clearly demonstrates the difference in legal weight attached to a CPROW application and to a PROW added to the definitive map.**

7. For the reasons I have set out above, on the 14 August 2017 I applied to The Planning Inspectorate for a direction to Kirklees Council to determine CPROW 183.

Amongst other things, the Inspectorate is seeking information about "the authority's estimated decision time for determining this particular application [...] including in the context of the special circumstances which the applicant has submitted."

The Inspectorate has requested a reply from Kirklees Council by the 19 October 2017.

8. Following the (two) initial consultation meetings with representatives of SH/P (4 & 7 July 2017), the developers aligned the position of garden fences along the route of CPROW 183 on, or around, 16 July 2017, with yellow tipped stakes. In spite of a statement from representatives of SH at Flint Street (7 July 2017) to the effect that SH intended the replacement route for CPROW 183 / the Woodland Walk to be at the top of the bank above Clayton Dike, **the staking towards the bridge end of CPROW 183 shows the path was, in fact, intended to be located along a virtually impossible route, slightly down from the flat embankment top, across the steep, slimy, densely wooded slope which descends into Clayton Dike.**

The staking of this fence line between the consultation meeting at Flint Street, on 7 July 2017, and my meeting with Rob Stenhouse (SH), on site, on 17 July 2017, **reinforces the consultees historic lack of trust in the former, single developer's, and the present, joint developers' willingness to consult and negotiate meaningfully.**

9. One of the proposals set out in my letter to Rob Stenhouse (SH), dated 25 July 2017, was for adjacent Council allotment land, which includes a small area of woodland by the stream, open to the public, to be combined with much of the land dedicated to public use in the developer's Outline Planning Permission, and for it to be registered as a Town and Village Green (TVG). This would ensure the registered land was protected from development in future. Registration would be at no cost to the Council or to the developer and would enrich the lives of future residents, of those living beyond the development and the natural and semi-natural environment as a whole. **Clayton Fields Action Group (CFAG) have not received a response to this proposal from SH/P, or from the Council, to date.**

10. It is not clearly stated in the information or shown on the plans issued by Kirklees PROW Unit for public consultation, that a **significant amount of the proposed 'replacement footpaths' are routed on the pavements along the proposed estate road (see below, 11).**

11. An email from the land owner's / developer's architect (Loroc) to Kirklees' planning case officer (John Ritchie), dated 22 December 2014, states: "[...] **this footpath [the Woodland Walk (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.)

NOTE: the "multiple links" of 'replacement footpaths' would be, predominantly, on tarmac. If the length of the widening of PROW 345, and the length of the proposed WW, are subtracted from the

length of the proposed 'replacement footpaths', **at least ¾ of the remaining length would be on pavements beside the estate road.**

12 During an early consultation meeting between residents, CFAG and Rob Cooke, representing the landowner and the developer, Paddico (267) and Prospect Estates, at Elm Crest Guest House, on 05.09.2014, Rob Cooke stated that **the development would not extend beyond the tree canopy along Clayton Dike.** This is recorded by Marilyn Hodgkinson in the minutes of the meeting. **The existing route of CPROW 183 is located almost entirely underneath the present tree canopy along the top of the bank above Clayton Dike.** Please see the enclosed Kirklees plan of CPROW applications for the route of CPROW 183.

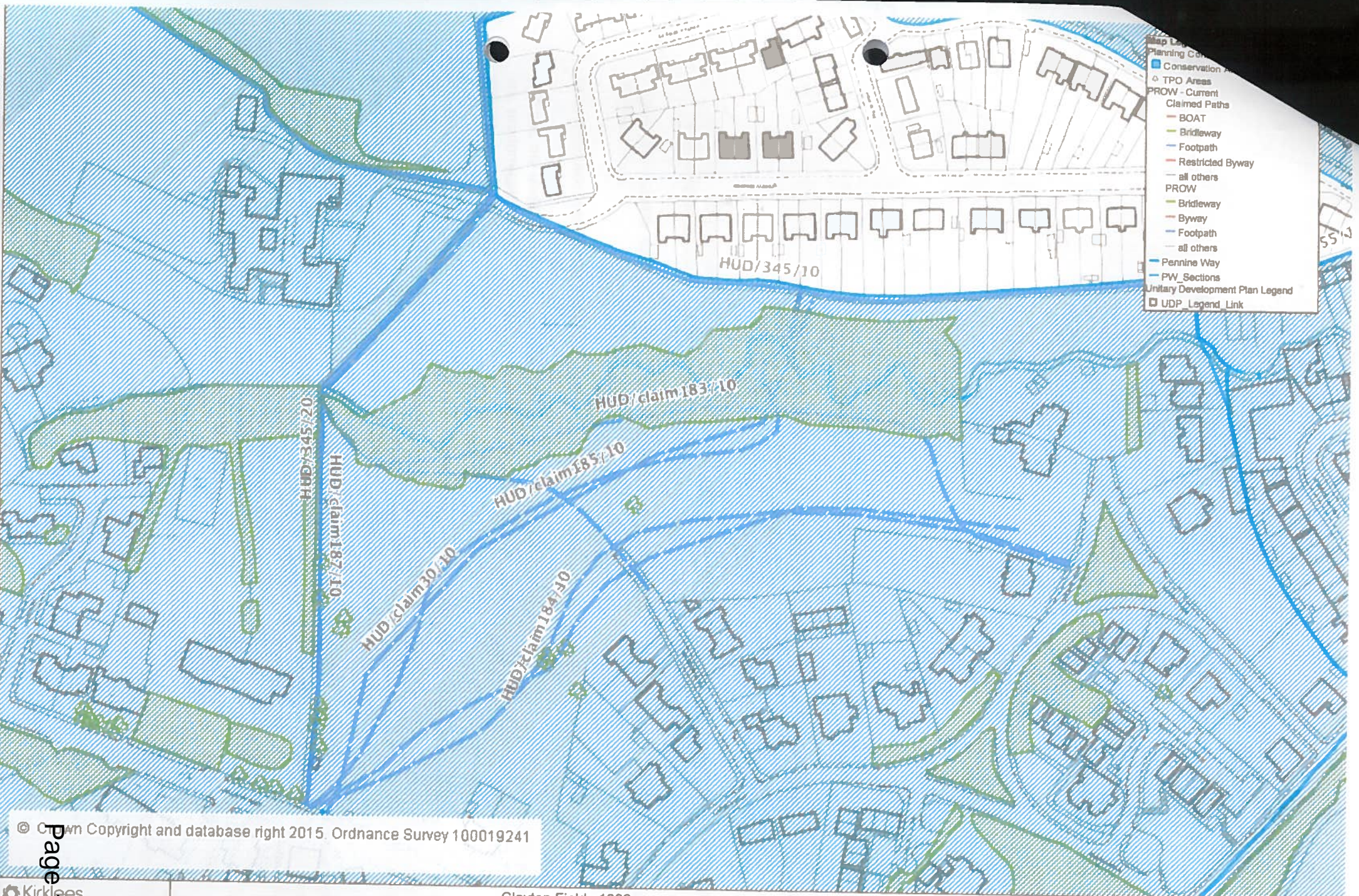
13 The Environment Agency (EA), in its planning consultation response, dated 05.11.2014, ref. RA/2014/130143/01-LO1, cites The National Planning Policy Framework (NPPF) and Article 10 of the Habitats Directive and asserts "the importance of natural networks of linked habitat corridors to allow the movement of species between suitable habitats, and promote biodiversity. River corridors are particularly effective in this way. [...] Wherever possible, development should be set back from the watercourse to provide a wildlife buffer zone. **The buffer zone should be free from all built development. Domestic gardens and formal landscaping should not be incorporated in the buffer zone [my bold].**"

14. The report prepared for the Planning Sub-Committee (Huddersfield Area), (background papers), by Kirklees Planning Service, dated 26 February 2015, states "Impacts on semi-natural woodland should be avoided **which Officers regard as an important issue and argue strongly that gardens should not impinge on woodland habitat** or any UK Habitat of Principal Importance. **To do so in the absence of a detailed habitat assessment of harm and any mitigation measures is contrary to NPPF guidance.**" P.29 & 29. The report goes on to state: "**The exact rear boundary of the dwellings can be conditioned**", p. 31. **This boundary (crucial to the woodland habitat) was NOT conditioned in Prospect Estates' Outline Planning Permission, granted, on appeal, on 11 September 2015 (Appeal Ref: APP/Z4718/W/15/3002523), or conditioned in Kirklees Planning's Reserve Matters Permission, granted on 21 April 2017 (2017/61/90190/W).**

Jonathan Adamson, Chair, Clayton Fields Action Group.

19.09.2017.

* This amendment was made on 21 September 2017. Un-amended copies were handed out to those attending Marsh Forum, including two Greenhead Ward Councillors, Carole Pattison and Mohan Sokhal.



- Map Legend
 Planning Control
 Conservation Area
 TPO Areas
 PROW - Current
 Claimed Paths
 BOAT
 Bridleway
 Footpath
 Restricted Byway
 all others
 PROW
 Bridleway
 Byway
 Footpath
 all others
 Pennine Way
 PW Sections
 Unitary Development Plan Legend
 UDP Legend Link

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Page 126

Clayton Fields 1000

0 m 50 m 100 m

Scale 1: 1000



Consultation Response: Kirklees Council Conservation & Design (Biodiversity)

Date	<i>04/10/2017</i>
Officer responding	<i>Tom Stephenson</i>
Application number	<i>n/a</i>
Purpose	<i>Section 257, Town and Country Planning Act 1990</i>
Location	<i>Edgerton Road, Edgerton, Huddersfield, HD3 3AA</i>

Assessment

I am satisfied that the conditions applied to the reserved matter permission for the site are sufficient to allow the LPA to consider the potential for ecological effects resulting from the creation of the Woodland Walk, and to ensure appropriate ecological mitigation is secured. The altered plans do not affect the effectiveness of these planning conditions.

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Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 12-Oct-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

C/O Agent, Lower Edge
Developments Ltd

DATE VALID

22-Feb-2017

TARGET DATE

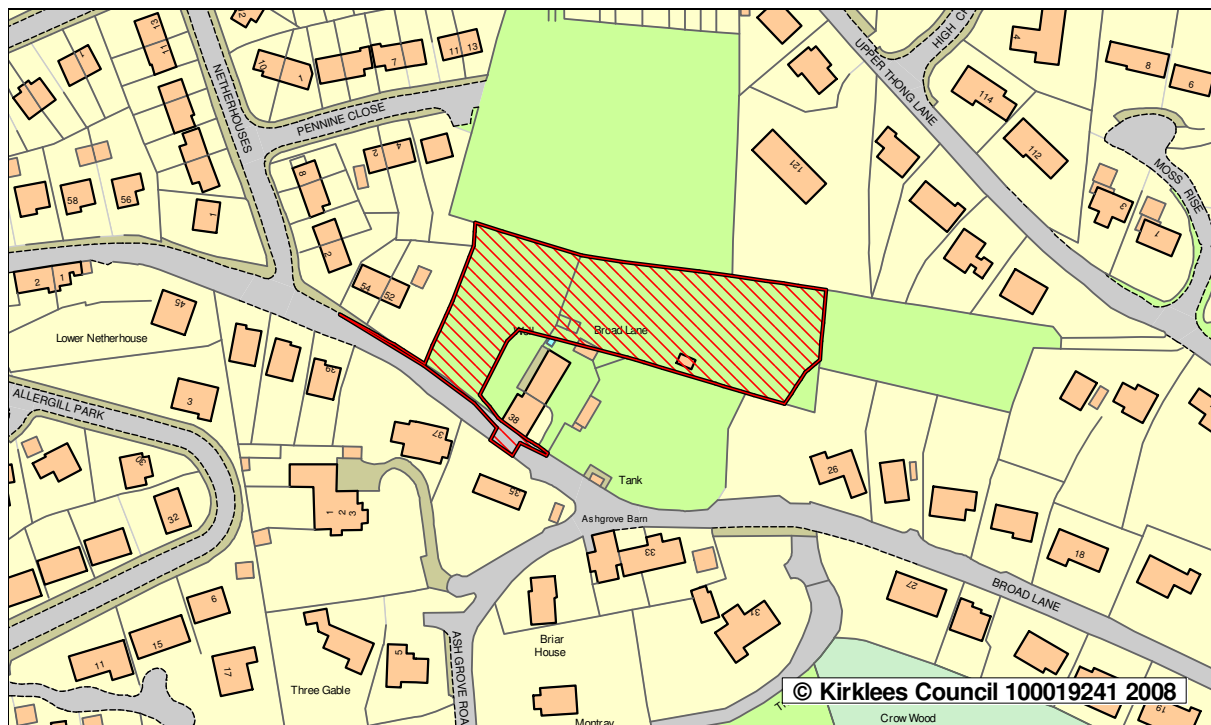
24-May-2017

EXTENSION EXPIRY DATE

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

Electoral Wards Affected: Holme Valley South

Yes

Ward Members consulted
(referred to in report)

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 was originally 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 confirmed that Councillor Patrick's reason is valid having regard to the Councillors' Protocol for Planning Sub Committees. The application was reported to sub-committee on 31st August and members visited the site on the morning of the meeting.
- 1.3 The sub-committee resolved to defer the application on 31st August to allow officers to negotiate with the applicant a reduction in the number of proposed dwellings (density of development) due to concerns regarding the impact of the scale, layout and appearance of the submitted development. Since this time the applicant's agent requested the application be determined in its submitted form; reserved matters for 10 dwellings. This request is accompanied by a statement in support of the proposed scheme.

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 – Approved 15/9/17

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.
- 5.3 Consideration of the application was deferred at the sub-committee meeting of 31st August 2017 to allow officers to negotiate with the applicant a reduction in the number of proposed dwellings (density of development) due to concerns regarding the impact of the scale, layout and appearance of the submitted development. The scheme has not however been amended from that reported to this meeting.

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 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.

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 PDL

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

- Update following previous committee meeting
- Layout
- Scale
- Appearance
- Landscaping
- Highway matters
- Drainage
- Other matters
- Representations

10.0 APPRAISAL

Update following previous committee meeting:

10.1 The sub-committee resolved to defer the application on 31st August to allow officers to negotiate with the applicant a reduction in the number of proposed dwellings (density of development) due to concerns regarding the impact of the scale, layout and appearance of the submitted development.

10.2 In response to these concerns the applicant has submitted a supporting statement which is summarised at paragraphs 10.3 to 10.13 below.

- 10.3 Delivery of much needed housing: The site already benefits from outline consent and is now being brought forward by a willing developer. The proposals will result in the delivery of much needed housing at a time when the council does not have a five year housing land supply (estimated at 2.2 years). The proposals will improve this supply.
- 10.4 Officer Support: The scheme has been examined by the Conservation & Design officer and planning officers who considers it to be acceptable and in accordance with adopted policies.
- 10.5 Outline consent: It is stressed that the site already has outline consent with access approved.
- 10.6 Density of development: "The density of development equates to 28.1 dwellings per hectare, significantly below the council's target of 35 dwellings per hectare set out in the emerging Local Plan. Paragraph 58 of the NPPF requires development to '*optimise the potential of the site*' therefore the density of development that has been accepted by officers as being appropriate, even though it is below density targets, should be considered acceptable.
- 10.7 Consideration has been given to removing one or more properties from the site but in light of the current scheme according with all adopted policies, the support from professional officers as set out in the previous committee report and the need to deliver new houses throughout the area it is requested members reconsider the scheme and grant permission for the 10 dwellings proposed".
- 10.8 Adjacent approval: Since the previous committee a reserved matters application for 3 houses adjacent to the site has been granted (2017/92249). These houses have a similar character and are laid out with similar spatial characteristics and therefore further reinforce how the 10-unit scheme proposed would be appropriate with respect to the character and density of the area.
- 10.9 Layout: The shape and slope of the site dictate the layout and the point of access was fixed at outline stage. The layout of houses exceeds the council's space about buildings policy (BE12) in all directions and a reduction in numbers is not required in order to comply with space standards.
- 10.10 Scale: The scale of plots 2 to 10 is similar to other approved developments on adjacent land which are generally three storeys to south facing elevations and two storeys to north facing elevations. Plots 2-10 are therefore in scale with their surroundings. Plot 1 is a reduced height dwelling being single and two storeys and adequately separated from adjacent buildings.
- 10.11 Appearance: The houses have been designed with more vernacular elevational treatment than the developments above and below the application site with mullion windows, stone surrounds and traditional detailing to empathise with the listed buildings at no. 38 Broad Lane, and contrast with the neighbouring developments. There is a design theme throughout the development with projecting sections of front elevations designed to articulate the frontage and break up the eaves line. The use of high quality natural

coursed stone and dark grey roofing tile will be in keeping with the local area. Overall the proposed development will greatly enhance the appearance of the area.

- 10.12 Landscaping: “Dry stone walling to the boundary of the site will be retained to help the scheme ground itself within the area. Soft landscaping is introduced into this sloping site where possible and hard landscaped areas will be in paving with drives in permeable block paving”.
- 10.13 Summary: *“Members are requested to reconsider their previous comments and approve the proposed development that wholly accords with the council’s adopted policies and has been thoroughly examined and supported by their own professional officers. The site benefits from an outline consent therefore the principle of development and highways impact has been accepted. Changes to the scheme have been considered but in light of the compliance with policy and professional officer support Members are requested to reconsider and support these proposals to allow much need quality housing to be delivered”.*
- 10.14 Officers have previously concluded that the ten dwelling scheme is acceptable and consequently the recommendation to Members is unchanged. A reserved matters application for 3 dwellings on adjacent land has been approved since the previous committee (2017/92249); this number of dwellings (3) had already been approved at outline stage. The scale of both developments is comparable (three storey frontage and two storey rear) and the design of the 3 dwellings was amended to give them a more consistent appearance with the scheme for 10 dwellings that is currently before members. Facing materials are similar on both sites although the 3 dwellings as approved have a blue slate roof. This recent approval on adjacent land does not materially alter the original assessment of the 10 dwelling scheme.
- 10.15 The following assessment is as per the original committee report from 31st August 2017.

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.

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 applicant 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 applicant’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. No changes have been made by the applicant in response to the August meeting of the Sub Committee. The applicant sets out their reasoning why they do not consider this is necessary.
- 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.

11.0 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: 12-Oct-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

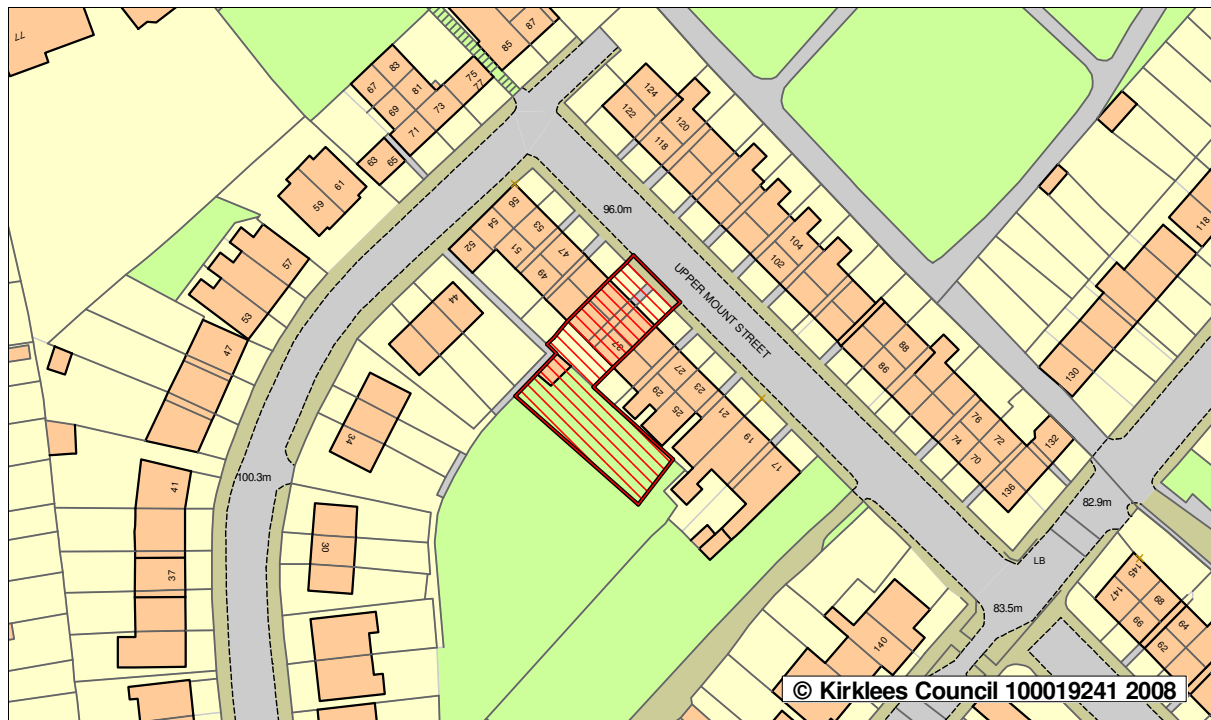
07-Jul-2017

EXTENSION EXPIRY DATE

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

Electoral Wards Affected: Crosland Moor and Netherton

No

Ward Members consulted

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 was originally 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 confirmed that Cllr Kaushik’s reason for making this request was valid having regard to the Councillors’ Protocol for Planning Committees.
- 1.3 The application was reported to sub-committee on 31st August 2017 and Members undertook a site visit on the morning of the meeting. At the meeting members resolved to defer the application to allow the applicant to arrange a structural engineers report to outline the details of how the scheme would be implemented. A structural report, in the form of a letter of support, a cross section sketch and structural details have been now submitted by a firm of Structural Engineers to accompany the application. In addition the submitted plans have been amended to incorporate the recommendations of the structural report. The report below is based on this revised/additional information.

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. It is proposed that steel beam and plate lintels are installed to support the front and rear walls of the property which would allow for the provision of stone lintels over the openings. The upper walls of the property would be supported using acrow propping techniques during the installation of the new beams. It is also proposed that a new inner leaf of masonry would be built adjacent to existing party walls to provide additional stability and for the provision of thermal and acoustic insulations to the adjoining properties.

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 spaces. The 4 no. parking spaces would be sited directly to the rear of no. 31/33. The latest amended plans indicate a screen fence and planting to the rear of no. 29 Upper Mount Street.

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 the additional structural information received states that a new suspended concrete floor system would be installed so as not to impose any additional loading onto the adjoining properties. The parking spaces to the rear of the property would require some limited regrading of land, as indicated on a cross section provided with the application. Test holes have been undertaken which indicate

the underlying sub-strata is firm clay which, the structural information submitted states, 'no major earthwork excavations will be required to form the new parking area base'. It is stated that a permeable hardstanding would be preferred for drainage of the parking area but that if this was not possible to employ a new soakaway at the bottom of the site.

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.

5.4 The application was deferred from consideration at the meeting of the sub-committee on 31st August. This was to allow the applicant to arrange a structural engineers report to outline the details of how the scheme would be implemented. This has been received, together with amended plans which take into account the recommendations of that report.

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 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.
- 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

Kirklees Publication Draft Local Plan: Submitted for examination April 2017 (PDLP)

- 6.4 PLP1 – Presumption in favour of sustainable development
PLP2 – Place shaping
PLP24 – Design

National Planning Guidance:

- 6.4 Chapter 7 – Requiring good design
Chapter 11 – Conserving and enhancing the natural environment.

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The Council advertised the application by site notice and neighbour notification letters which expired on 14th June 2017 – one letter of representation regarding the proposed development has been received in support of the application. This supports the creation of off road parking to the benefit of the street and for refurbishing the property.

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

K.C. Building Control – “we concur with the comments and the details submitted by Marsh Design, in that the proposal is feasible structurally, subject of course to the detailed calculations, work on site and Building Regulation applications”.

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. Furthermore a sensitive scheme of boundary treatment, as suggested in the latest amended plans, would be in keeping with the wider landscape to the rear of the property.
- 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. This would not be materially improved by the proposal to add boundary treatment to the rear of the affected properties.
- 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 21st September 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 One letter of support has been received stating that the proposal to form off-road parking would be of benefit to the street and that the proposal to refurbish the property brings investment to the area. Whilst these points are noted they do not overcome the objections to the scheme.

10.16 Other Matters

Structural Stability

Paragraph 120 of the NPPF states that where a site is affected by land stability issues the responsibility for securing a safe development rests with the developer or landowner. In this case information has been submitted to demonstrate that the scheme could be undertaken without detriment to the structural stability of the host dwelling or neighbouring properties. This information has been assessed by Building Control who confirm that the proposal is feasible structurally, subject to the detailed calculations, work on site and Building Regulation applications. Any allied Building Regulations application would need to provide further details regarding the removal of the basement; demonstrate that there is sufficient headroom in the roofspace for the accommodation provided; provide full structural calculations and method statement; ensure suitable tanking/damproofing to adjacent properties and arrange Party Wall agreements. These issues are, not within the remit of this planning application however.

10.17 There are no other matters for consideration.

11.0 CONCLUSION

11.1 The applicant has provided further information in support of the application, as required by the sub-committee. The additional information demonstrates that it is feasible to provide a structural scheme to undertake the works proposed without adversely affected the host dwelling or surrounding properties. However, the additional information does not overcome the principal concerns of Officers regarding the proposed scheme. 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 12th 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)

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Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 12-Oct-2017

Subject: Planning Application 2015/91664 Outline application for residential development with details of access and provision of car parking and bin storage for previously approved adjacent apartments under application no. 17/90375 rear of 1A, St Johns Avenue, Newsome, Huddersfield, HD4 6JP

APPLICANT

Newsome WMC

DATE VALID

01-Jun-2015

TARGET DATE

27-Jul-2015

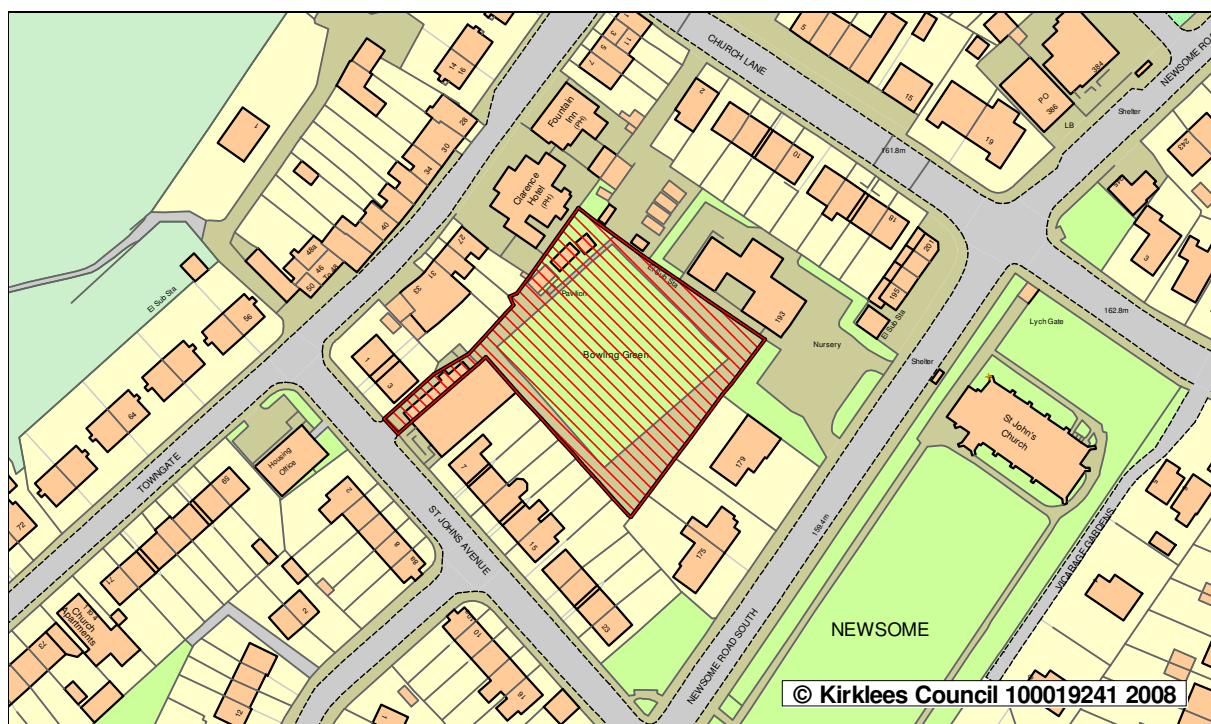
EXTENSION EXPIRY DATE

22-Jan-2016

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

Electoral Wards Affected: Newsome

Yes

Ward Members consulted

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.

1.0 INTRODUCTION:

1.1 The application is brought to committee due to the level of representations received. This is in accordance with the Council's delegation agreement. In addition concerns have been raised by ward councillors in respect of the proposals, in particular the loss of the bowling green.

2.0 SITE AND SURROUNDINGS:

2.1 The application red lines relates to the site of the former Newsome bowling green and an access to this land from St. John's Avenue to the south west. The application site occupies approximately 0.25 hectares to the rear of the former Newsome Working Men's club. The site is surrounded by development to all sides with residential properties adjacent to the north east (Church Lane), west (Towngate) and south east (Newsome Road South) boundaries. There are also two public houses beyond the north western boundary, off Towngate, and a children's day care nursery and garage plot beyond the eastern and northern boundaries respectively.

2.2 The site is presently unused with no visual aspect of it being retained as a bowling green. The ancillary associated pavilion buildings have also been demolished, the materials of which appear to be deposited on the application site.

3.0 PROPOSAL:

The application is submitted in outline, as amended, seeking the principle of residential development with details of access point only to be considered at this stage.

3.1 The description has been amended taking out all reference to numbers of properties. Vehicular access is shown to be taken off St. John's Avenue and would be shared with the recently approved development for the conversion of the former Newsome Working Men's club into 6.no self-contained apartments.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 2017/90375 – Alterations and extensions to convert public house to 6 no. self-contained apartments granted 27th April 2017

2015/92928 – demolition of existing extensions and conversion of the pub to a dwelling to a dwelling – granted Jan 2016

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 19/07/17 – amendment to description & final revised layout plan omitting dwellings/layout as advised by officers.
12/07/17 – a further revised layout plan
10/07/17 – revised layout for consideration
28/06/17 – revised site plan & confirmation from applicant to formally apply for variation of condition no. 2 on 17/90375 should this application be approved
26/05/16 – alternative replacement site put forward for consideration (Blue Bell Hill)
27/11/15 – copy of certificate B to validate application
23/09/17 – further extension of time to 31st October 2015
25/08/15 – further extension of time requested to allow applicant to gain proof of relocation of existing members & evidence from liquidator
13/08/17 – evidence of site not registered as an ‘asset of community value’
30/05/15 – details of lease to address land ownerships issues
22/07/15- agreement to extension of time to provide evidence of other bowling greens in 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 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.

The site is unallocated on the UDP Proposals Map and on the publication draft local plan. The site lies in close proximity of the Newsome local centre

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

D2 – Unallocated land
BE1 – Design principles
BE2 – Quality of design
BE12 – Space about buildings
EP4 – Noise sensitive development

R7A – proposals to develop public open spaces

T10 – highway considerations

T19 – parking provision

Kirklees Publication Draft Local Plan

PLP1 Presumption in favour of sustainable development

PLP7 Efficient and effective use of land and buildings

PLP 20 Sustainable travel

PLP21 Highway safety and access

PLP22 Parking

PLP24 Design

PLP32 Landscape

PLP47 – Healthy Active & Safe Life Styles

PLP50 Sport and physical activity

PLP51 Protection and improvement of air quality

PLP52 Protection and improvement of environmental quality

National Planning Guidance:

Chapter 6 – delivering a wide choice of high quality homes

Chapter 7 – Requiring good design

Chapter 8 – Promoting Healthy Communities

Chapter 11 – conserving and enhancing the natural environment.

Core Planning Principles

Other Documents

West Yorkshire Low Emission Strategy Planning Guidance (WYLES)

Evidence Documents

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

Kirklees Open Space Study 2015 (revised)

7.0 PUBLIC/LOCAL RESPONSE:

7.1 A total of 175 objections have been received on the application including a petition with 900 signatures. The concerns of which are summarised as:

Residential & general amenity:

- Loss of natural light to existing dwellings
- Potential overlooking to existing dwellings from opening in new dwellings
- Loss of light to property and external amenity areas to properties on St Johns Road.
- Plot could not accommodate 7 dwellings
- Overshadowing & loss of privacy to occupants of both existing & proposed dwellings
- Inappropriate development harmful to open nature and character of site
- Proposed artificial stone not in keeping with surrounding development
- Too close to ABC nursery
- impact on listed building, conservation areas and trees

- creation of right of public right of way from site to adjacent site to north could result in anti social behaviour and security issues
- additional street lighting may affect existing properties
- drainage issues to existing properties
- would result in toilet block to public house
- refuse collection point at entrance to the site would cause environment, safety & health issues
- Housing oversubscribed in area which will be exacerbated
- proposed access road and footpath would be a potential problem for pedestrians

Highway safety issues:

- Proposed access is poor, too narrow and will cause problems
- Access road too narrow for refuse vehicles
- Existing parking issues on St Johns Road and surrounding highway network will be exacerbated
- St Johns not adequate to cater for additional traffic from a further 7 dwellings
- Limited visibility in both directions would cause concerns for vehicles entering and exiting site

Loss of bowling green & related issues:

- Loss of one of the best bowling /crown greens in Yorkshire
- Loss of public amenity community grounds/newsome history and a great valuable community asset
- Nearest bowling green not accessible by pensioners due to steep road
- Contrary to national and local policies to encourage and maintain such areas
- Should not be built on unless an assessment has been undertaken which has clearly shown the open space or the buildings and land to be surplus to requirements without evidence that the land is surplus
- Site is actively in use
- Green brings in trade into area
- Indoor facilities already removed by Council now outdoor bowling under threat
- Used by many not just bowlers
- Loss of green could increase the likelihood of older generation becoming isolated
- Bowlers have not left Newsome Bowling Green and not been accommodate elsewhere.
- "They use other facilities to play bingo"
- Bowlers will remain at club until closure

Other issues/concerns:

- need more social activities/venues not housing in this area
- Seeking clarity on exact siting/ location of dwellings
- Disabled access has been removed
- Electricity been cut off to site
- Works has commenced on site prior to application being considered/decision being made
- Limited access to the proposed dwellings for essential utilities/services
- Bowling green left to become overgrown

site notices not posted on yellow boards

- No consultation with neighbouring site owners/ occupants
- Replacement site at Bluebell Public House belongs to Taylor Hill Bowling club and land belongs to Council

IN SUPPORT

- Green would be removed regardless of planning, would prefer to see houses than a derelict anti social site
- Housing is desperately needed

Petition with 900 names from J Hawdon

Club shut in January 2014 and re-opened under the name of Newsome community bowling club

None planning matters

Land ownership and covenant issues

A covenant exists which requires the site to be used a bowling green and/or for recreational purposes only

Comments are received from Ward Councillor Julie Stewart Turner who states:

“This land has a covenant on it to protect it as a bowling green for the local community, and we won’t be lifting the covenant, even if he can find a way around the complex access issues, which I doubt. Even if an alternative site was found for the bowlers, I would still be opposed to lifting the covenant on the existing site”.

Councillor Andrew Cooper confirms he fully supports Cllr Julie Stewart Turner’s view and they will both still be objecting”

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

K.C. Highways Development Management - support subject to conditions

8.2 Non-statutory:

K.C. Environmental Services - support subject to conditions

K.C. Conservation & Design – no objections

K.C Ecology officer - advised an ecological survey and assessment of the site to be undertaken due to the presence of buildings on site and trees on the periphery. See assessment below

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity and neighbouring sites
- Highway issues
- Representations
- Other matters

10.0 APPRAISAL

10.1 Principle of development

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

10.2 *Five Year Land Supply*

Currently the Council is unable to demonstrate a five year supply of deliverable housing sites. In these circumstances, in accordance with NPPF paragraph 49, “relevant policies for the supply of housing should not be considered up to date”. Consequently planning applications for housing are required to be determined on the basis of the guidance in NPPF paragraph 14. This requires proposals which accord with UDP to be approved without delay or where the UDP is silent or out-of-date to grant planning permission unless the adverse impacts of doing so would ‘significantly and demonstrably’ outweigh the benefits in the NPPF.

10.3 *Loss of Bowling Green*

The application site, whilst unallocated on the UDP, was previously used as a bowling green which is classified as an area of sport and recreation land within paragraph 74 of the NPPF. Furthermore as its last use was as a public ‘open space’ Policy R7A of the UDP is of direct relevance to the consideration of this application. This states that proposals to develop public open space, private playing fields or land last used as private playing fields will not be permitted unless:

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

Similar restrictions are set out in Paragraph 74 of the NPPF where it is stated that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

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

10.4 As the application seeks to redevelop the whole site and as no replacement provision is proposed, the only relevant section of Policy R7A would be that it has been demonstrated that the site is not required in the longer term for community sport, recreation or amenity use and, in accordance with para 74, an 'assessment' has been undertaken to show the land is surplus to requirements. In a supporting statement the applicant states the bowling club was put into voluntary liquidation on 20th February 2014 by its own members and ceased to operate in January 2015. This was subsequently verified in writing to the Local Planning Authority by the liquidator in a letter dated 25th June 2015. The application is submitted in view of this and seeks the principle of an alternative use for residential development on the site.

10.5 The applicant has requested the proposals be considered in light of the club's voluntary liquidation and closure and unrealistic prospect of the continued use of the site as a bowling green. The comments by the applicant are noted and during the case officer's site visit it was clear that the bowling green had ceased to operate. Notwithstanding this an assessment needs to be made in relation to evidence set out in the Kirklees Playing Pitch Strategy Action Plan (2015) (KPPSA). KPPSA forms an evidence document which has been used to inform the Publication Draft Local Plan. In KPPSA the application site is defined as:

Newsome WMC bowling green site (ref no. 258) in private ownership, where at the time of carrying out evidence the site was identified as:

- **Current use** – likely to be able to accommodate additional members
- **Recommended actions** - Sustain quality and maximise use to cater for potential future demand
- **Site recommendation** – Protect local club site.

10.6 In light of the above assessment the applicant was asked to assess demand for bowling green facilities in the local area. The applicant states a number of nearby local bowling clubs were contacted to ascertain whether demand could be met by other facilities. The clubs contacted by the applicant are stated to be:

- Primrose (off Malvern Road) and
- Lockwood & Salford Club (off Victoria Road) bowling clubs

The applicant also states that some of the former bowlers from Newsome bowling-green have, since the closure of the Newsome site, been accommodated at these clubs. However there is no independent evidence to verify this.

10.7 Separately to the above, the KPPSA provides further evidence which has detailed that both the stated clubs identified have the likely potential to accommodate additional members. The KPPSA has also provided an assessment of supply and demand for bowling greens across the district. The KPPSA details that there are 83 greens in the district, where membership has generally remained static across all clubs over the last 3 years (from 2015), with vandalism highlighted as a particular issue on some sites. The KPPSA advises that existing provision should be maximised with better use of greens, and concludes by stating that it would appear that there are enough greens available for community use to accommodate both current and future demand.

- 10.8 Issues of vandalism and maintenance have been highlighted as issues affecting bowling greens within the KPPSA, and the proposal would support the maximisation of other provision in the local area.
- 10.9 Taking all the above into account and applying a balanced consideration, which includes the former club ceasing to operate following the voluntary liquidation by its members, there is no real prospect of the site continuing its use as a bowling green. This is evident on site since the closure of the club. Furthermore, the assessment for the KPPSA indicates there are enough greens available for community use to accommodate both the current and future demand, indeed recommending that the other identified clubs in the area *are "likely to be able to accommodate additional members."* Furthermore there are no waiting lists at the bowling greens where previous members have been stated to have taken up membership.
- 10.10 Additionally, having considered the current status of the site, although a valuable green space in the Playing Pitch Strategy, it is unallocated on the UDP proposals maps and would remain as such on the PDLP. The current need has, as set out above, seemingly been met at other nearby clubs where there is sufficient provision in the area, to accommodate the current need. Taking all this into account it is considered that there is sufficient information for the application to comply with Policy R7A (iii). With regards to the first bullet points of para 74 of the NPPF and of policy PLP 50 the circumstances of this case, where the use has now ceased and the loss has or can be mitigated by other clubs in the area and there being a static demand for bowling facilities across the district , shows that this site is no longer required to meet the continued use as a bowling green.
- 10.11 With regard to DPLP Policy PLP 47 (a) the proposals would clearly not protect the site for the continued use as an accessible open space and play sports area. In this case it is acknowledged, due to the size of the site (0.26h) it could not practically meet the current identified deficiencies for any other community sport, recreation or amenity use in the Newsome area. Officer's opinion to support the application is a balanced outcome based on the above where the site is in private ownership and the current status of the site which has removed any real prospect of the site's continued use for open space, sport or recreation use in the longer term.
- 10.12 To summarise, in light of the findings contained in the KPPSA and the information submitted by the applicant, the balanced recommendation is the loss of the bowling green at the former Newsome Working Men's Club is accepted by Officers. The green has been unused since January 2015 following voluntary liquidation by its members and there are a number of other greens in the local area within a short distance of the site which have the capacity to accept new members for all types of bowling. The principle of developing the site for residential development is therefore considered to be acceptable subject to an assessment of all other material planning
- 10.13 Urban Design issues
UDP Policies BE1 and BE2 are considerations in relation to design, materials and layout. In principle development should respect the scale, height and design of adjoining buildings/land levels and be in keeping with the predominant character of the area.

- 10.14 Officers had concerns with the originally submitted details of layout and scale. In light of this the proposals have been amended omitting all reference to nos. of dwellings and details, leaving only the principle and access matters for consideration at this stage. Officers are conscious of the variation in levels on site in comparison to surrounding development. Given this any submission of 'reserved matters'- should the application be approved - would take into account existing and proposed levels, scale and separation distances between existing and proposed properties. This would be to assess the full impact on visual amenity of the area as well as to avoid any potential overbearing impact on the amenities of existing residential properties. Subject to such considerations the principle of residential development on this site could comply with Policies BE1 and BE2 of the UDP, Policy PLP 24 of the PDLP and guidance in the NPPF.
- 10.15 Residential amenity and neighbouring businesses:
Policy BE12 of the UDP sets out the normally recommended minimum distances between habitable and non-habitable room windows for new dwellings. New dwellings should be designed to provide privacy and open space for their occupants and physical separation from adjacent property and land. Distances less than those specified will be acceptable if it can be shown that by reason of permanent screening, changes in level or innovative design no detriment would be caused to existing or future occupiers of the dwellings or to any adjacent premises.
- 10.16 In this instance no assessment is made on the standards for space about buildings. Furthermore, achieving the distances as set out in Policy BE12 alone may not be sufficient to retain the amenity of existing and future residents. Details of reserved matters would need take account of (amongst other things) topography, building heights of surrounding development in relation to new dwellings and finished ground levels. This is so as to avoid any potential adverse effect on the amenities of both the existing and future residents. Subject to the above, Officers are satisfied that details of layout, scale and appearance could be designed so as to safeguard residential amenity of future occupants as well as those that are located within close proximity to the application site in accordance with Policies of the publication Draft Local Plan, UDP policies D2 and BE12 and guidance in the NPPF.
- 10.17 With regard to the noise from existing neighbouring businesses (public houses north of the site) Environmental Health Officers have advised these benefit from late licenses with smoking areas near to the proposed application site. Although noise from these premises should be managed there will be some noise that will affect the amenity of the new houses. As such, if the application is approved it is recommended that any future submission includes details of a ventilation scheme to show how habitable rooms to properties can be ventilated without the need to open windows. This is in addition to consideration of the future layout and appearance of dwellings and how these could be sited to avoid being adversely affected by noise and disturbance. It may be necessary to require a sound insulation scheme designed to protect the amenities of future occupants of the site as well as the ongoing future viability of the neighbouring businesses. This would be to accord with UDP policy EP4, PLP 52 and guidance within the NPPF Chapter 11.

10.18 Highway issues

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

10.19 The site is situated in a predominantly residential area. The access road is shown to have a proposed width of 4.5m with 0.6m margins to either side. This would serve the application site and the recently approved six apartments to the south west. The revised site plan demonstrates an internal turning area sufficient to accommodate emergency vehicles along with bin storage and a bin collection area to accommodate the approved apartments. Officers consider these proposals, in particular the width of the access road together with the revised car park layout to accommodate the previously approved apartments, would be a more practical layout than the previously approved car park layout to accommodate the apartments. The details submitted demonstrate that the development proposed, together with that already approved, can be accommodated without creating or materially adding to highway safety issues in this sustainable location in close proximity to Newsome local centre. The development accords with UDP Policy T10 and DPLP PLP 21.

10.20 Representations:

Residential & general amenity:

- Loss of natural light to existing dwellings
- Potential overlooking to existing dwellings from opening in new dwellings
- Loss of light to property and external amenity areas to properties on St Johns Road.
- Plot could not accommodate 7 dwellings
- Overshadowing & loss of privacy to occupants of both existing & proposed dwellings
- Inappropriate development harmful to open nature and character of site
- Proposed artificial stone not in keeping with surrounding development
- Too close to ABC nursery
- impact on listed building, conservation areas and trees
- creation of right of public right of way from site to adjacent site to north could result in anti social behaviour and security issues
- additional street lighting may affect existing properties
- drainage issues to existing properties
- would result in toilet block to public house
- refuse collection point at entrance to the site would cause environment, safety & health issues
- Housing oversubscribed in area which will be exacerbated
- proposed access road and footpath would be a potential problem for pedestrians

Response: The proposals seek only the principle of developing the site for residential development with details of access only to be considered at this stage. As noted in the assessment above the finer details taking into account the impact on the surrounding development, including neighbouring buildings/dwellings, the amenities currently enjoyed by these and the characteristics of the area would need to be considered on any future applications should Members accept the principle of developing this site.

Highway safety issues

- Proposed access is poor, too narrow and will cause problems
- Access road too narrow for refuse vehicles
- Existing parking issues on St Johns Road and surrounding highway network will be exacerbated
- St Johns not adequate to cater for additional traffic from a further 7 dwellings
- Limited visibility in both directions would cause concerns for vehicles entering and exiting site

Response: See assessment above under sub heading 'Highway Issues'.

Loss of bowling green & related issues:

- Loss of one of the best bowling /crown greens in Yorkshire
- Loss of public amenity community grounds/newsome history and a great valuable community asset
- Nearest bowling green not accessible by pensioners due to steep road
- Contrary to national and local policies to encourage and maintain such areas
- Should not be built on unless an assessment has been undertaken which has clearly shown the open space or the buildings and land to be surplus to requirements without evidence that the land is surplus
- Site is actively in use
- Green brings in trade into area
- Indoor facilities already removed by Council now outdoor bowling under threat
- Used by many not just bowlers
- Loss of green could increase the likelihood of older generation becoming isolated

Response: See assessment above under sub heading 'Principle of development'

- Bowlers have not left Newsome Bowling Green and not been accommodate elsewhere.
- "They use other facilities to play bingo"
- Bowlers will remain at club until closure

Response: Officers note the above comments also acknowledge the club/site has now ceased to operate as a bowling green. Furthermore, the assessment above takes into account the current and future provision and need for such facilities and whether other nearby greens have the capacity to accommodate additional members.

Other issues/concerns:

- need more social activities/venues not housing in this area

Response: Noted. However Officer have made an assessment based on the proposals submitted taking into account all relevant material considerations

- Seeking clarity on exact siting/ location of dwellings

Response: plans revised taking out all reference to layout and nos. of dwellings

- Disabled access has been removed
- Electricity been cut off to site
- Works has commenced on site prior to application being considered/decision being made

Response: Noted. The case Officer advised the applicant during the course of the application that no works which form part of the application submitted should be carried out until a decision is made.

- Limited access to the proposed dwellings for essential utilities/services

Response: These are matters to be considered on future building regulation applications through the consultation with the relevant service providers and outside the remit of planning.

- Bowling green left to become overgrown

Response: Noted

site notices not posted on yellow boards

- No consultation with neighbouring site owners/ occupants

Response: plastic site notices were posted on lampposts /telegraph posts in the vicinity of the site and neighbour letters posted to properties that adjoin the application red line by the Council in accordance with standard procedure.

- Replacement site at Bluebell Public House belongs to Taylor Hill Bowling club and land belongs to Council

Response: Noted. This site was put forward during the course of the application to replace the loss of the bowling green at St Johns Avenue and subsequently withdrawn due to a number of constraints.

Comments received in support

- Green would be removed regardless of planning, would prefer to see houses than a derelict anti social site
- Housing is desperately needed

Petition with 900 names from J Hawdon

Club shut in January 2014 and re-opened under the name of Newsome community bowling club

None planning matters

Land ownership and covenant issues

A covenant exists which requires the site to be used a bowling green and/or for recreational purposes only

10.21 **Other Matters**

In terms of biodiversity paragraph 118 of the NPPF states “when determining applications Local Planning Authorities should aim to conserve and enhance biodiversity by applying a number of principles”. These include the conservation and enhancement of biodiversity in and around developments which is reiterated in policy PLP 30 of the DPLP.

- 10.22 The site is identified within a bat alert area on the Council's mapping system. In addition, due to the (pavilion) buildings within the site and trees on the periphery of the site, the Council's Biodiversity Officer advised an ecological survey/assessment of the site should be undertaken to establish the habitats present on site, the site's ecological value and potential impacts of the development. It was recommended that the survey should include the possibility of any bat roosts occurring within the site's existing buildings or trees and potential impacts on such features.
- 10.23 Officer's did not request the surveys at the outset of the application as they were not deemed 'reasonable or necessary' whilst the acceptability of the principle of developing the application site was being assessed. It was also acknowledged the removal of these buildings could be carried out without consent. The pavilion buildings have since been demolished during the course of the application.
- 10.24 In light of the above, and as the only matter for consideration on this outline application is access, future applications would need incorporate mitigation/enhancement measures in any detailed submissions, should Members be minded to approved the application. This should include the use of native species in a landscape scheme and the enhancement of habitat integral to the dwellings in the form of bat and bird boxes to accord with guidance in the NPPF and DPLP Policy PLP30.
- 10.25 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 should be sought per residential unit.

11.0 CONCLUSION

- 11.1 In conclusion the proposed loss of the bowling green at Newsome is considered acceptable. The applicant together with the information contained in the Kirklees Playing Pitch Strategy Assessment has demonstrated that the demand for the green can be accommodated at other greens in the locality of this area. Furthermore the due to the size of the site (0.26h) it could not practically meet the current identified deficiencies for any other community sport, recreation or amenity use in the Newsome area.
- 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 the Government's view of what sustainable development means in practice.
- 11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development in principle 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. Approval of the details of the appearance, layout, scale and landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced.

2. Plans and particulars of the reserved matters referred to in Condition 1 above, relating to the appearance, layout, scale and landscaping of the site, shall be submitted in writing to the Local Planning Authority and shall be carried out in full accordance with the approved plans.
3. Application for approval of any reserved matter shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
4. The development hereby permitted shall be begun either before the expiration of two years from the final approval of reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
5. Biodiversity mitigation/enhancement measures for bats and birds integral to new buildings or trees (if appropriate to species)
6. Reserved matter of 'landscape' to include native species of trees and/or shrubs to replace lost vegetation and enhance habitat networks.
7. landscape management plan to detail how the landscaping will be managed to encourage biodiversity interest.
8. A scheme to detailing the proposed internal adoptable estate roads to 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.
9. The approved vehicle parking areas to be surfaced in accordance with Guidance on the permeable surfacing of front gardens' published 13th May 2009
10. Details for storage and collection of bins
11. Electric vehicle charging points.

Background Papers:

Application and history files. – see assessment above

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2015%2f91664>

Notice served on Kirklees Council Physical Resources & Procurement 27/11/15

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Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 12-Oct-2017

Subject: Planning Application 2016/93243 Erection of 17 dwellings (within a Conservation Area) Thirstin Mills, Thirstin Road, Honley, Holmfirth, HD9 6JG

APPLICANT

North Park (Greetland)
Ltd

DATE VALID

20-Sep-2016

TARGET DATE

20-Dec-2016

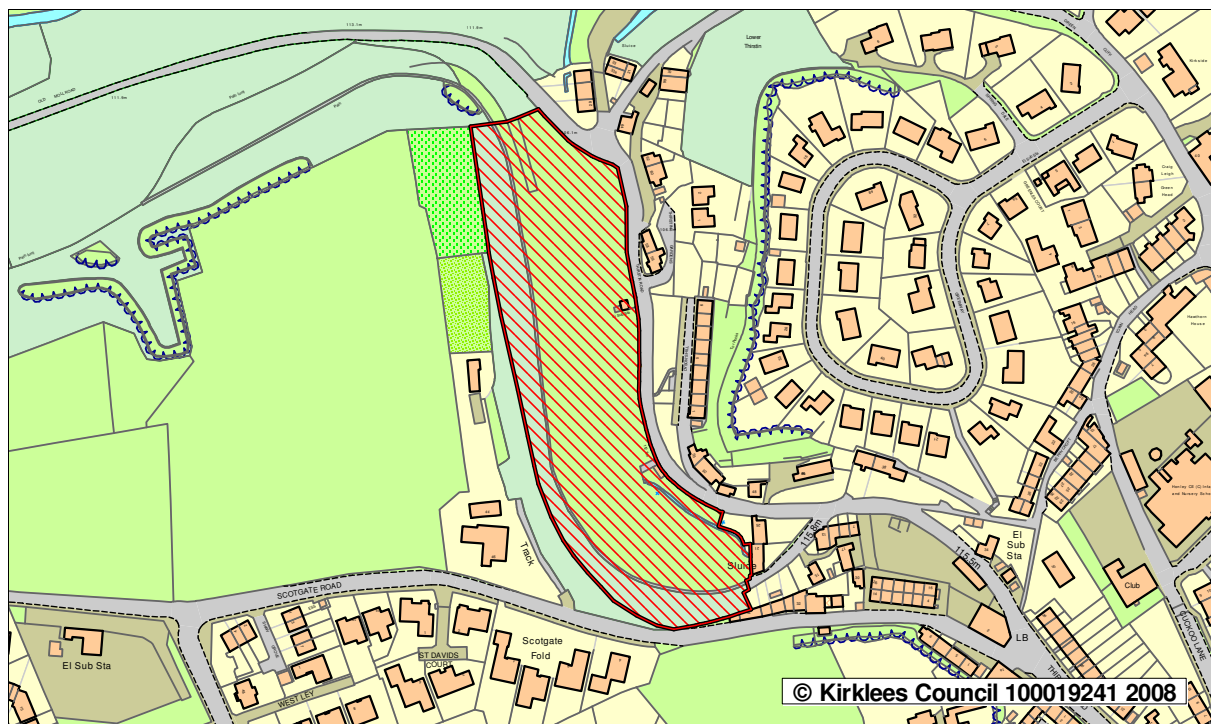
EXTENSION EXPIRY DATE

12-Oct-2017

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

Electoral Wards Affected: Holme Valley North

Yes

Ward Members consulted
(referred to in report)

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 and to secure a Section 106 Obligation (Unilateral Undertakings) to cover the following matters:

The long term maintenance and management of:

1. The watercourse including all associated ancillary structures (access chambers and trash screens) on site, and
2. The regraded embankment along the full western boundary,

both of which shall be agreed to be set up through management companies on behalf of the future occupants of all the dwellings/plots. These are to be in accordance with details to be approved under conditions relating to all works associated to 1 and 2 above, implementation of these and prior to occupation of any of the dwellings.

In the circumstances where the signed and dated Unilateral Undertakings for both 1 and 2 above have not been received 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 suitable management and maintenance responsibilities being 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 brought to Huddersfield Planning Sub Committee due to the site area being over 0.5 hectares.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application relates to a site that has been vacant for a number of years following the demolition of the former mill complex on site. It is evident on site that works have been carried out in the past to the earth embankment along the western boundary, in addition the water course on site has previously been diverted internally within the site. It comprises an area measuring approximately 1.39 hectares and is located within Honley Conservation Area.

The site is bound by Thirstin Road to the east and north. A public footpath (HOL/186/10) runs along the western edge of the site above an existing embankment overlooking the site. Beyond this is a wooded area that abuts the green belt. To the south of the site is Scotgate Road.

- 2.2 A number of residential properties overlook the site from the east on the opposite side of Thirstin Road. These are a mixture of semi-detached and terraced properties with a few detached dwellings.
- 2.3 The site is constrained by the banking to the western boundary and the culvert which has previously been diverted and that continues to run through site. The site is steeply sloping north to south and west to east, although the latter is much shallower, to the west is an open sluice.

3.0 PROPOSAL:

- 3.1 The application seeks full planning permission for the erection of 17 dwellings. This would consist of mainly semi-detached and detached dwellings, most of which are shown to incorporate integral garages. The dwellings would be 3 storey high when viewed from Thirstin Road and most would have 4 bedrooms.
- 3.2 The proposals would result in twelve individual drives and one shared private drive to serve plot nos. 1-5 all to be taken off Thirstin Road. The proposals would also result in widening of Thirstin Road to 7.5m along the majority of the site frontage and the provision of a new 2m wide footpath on the application side.
- 3.4 It is proposed to excavate and regrade the existing embankment along the western boundary and areas within the site will also require an element of infilling; the greatest of which will be concentrated in the north eastern part of the site to accommodate the proposed development.
- 3.5 The proposals as revised will include a new culvert to be positioned to the front of the proposed dwellings to run from the existing open channel and discharge into the manhole linked to the old original culvert within the site. The culvert constructed in 2006 will be redundant.
- 3.6 The materials proposed include reclaimed natural stone walling and concrete roof tiles. Boundary treatment is proposed to consist of areas of stone walling to the front and 1.8m high timber fences between plots.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 2011/92197 –Erection of 24 dwellings - granted Dec 2012 with S106 requiring financial contribution

2006/95391- Reserved matters application for erection of residential development consisting of 29 dwellings and integral garages - Approved

2006/93029 - Variation of condition 1 relating to the time limit when the development shall be begun on previous application 00/60/92412/w3 for outline application for residential development - Approved

2005/90798 - Erection of two pairs of semi-detached dwellings - Approved

2003/94656 - Demolition of existing buildings, erection of 29 dwellings with garages – Approved subject to s106

2003/90124 – Erection of 6 no. detached dwellings with integral garages - Withdrawn

2003/90123 – Partial demolition of existing buildings and erection of 13 no dwellings with garages and conversion of existing buildings for 7 no dwellings - Withdrawn

2000/92446 – Conservation Area Consent for demolition of the mill - Granted

2000/92412 – Outline application for residential development – Conditional outline permission

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Response to Highway consultation response - 30/11/16
- Submission of revised plans 22/05/17
- Amended sit block plan 23/05/17
- Additional plans/information (sections/AIP & drainage plan) 02/06/17
- Additional drainage plans 05/06/17
- Revised landscape plan 14/06/17
- Response to conservation & design concerns 21/06/17
- Revised landscape plan incorporating biodiversity officers advice 15/06/17
- Additional drainage plans/information 14/07/17
- Revised FRA/drainage details 12/09/17
- Addendum to FRA 12/09/17
- Boundary details 27/09/17

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 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.

The application site lies within Honley Conservation Area but has no specific allocation on the UDP Proposals Maps. It is allocated for housing within the Publication Draft Local Plan and designated as within Honley Conservation Area and, in part, an area of woodland forming part of a wider area of Kirklees Wildlife Habitat Network.

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

D2 – Unallocated Land
BE1 – Design principles
BE2 – Quality of design
BE5 – Preservation/enhancement of conservation areas.
BE11 – Materials
BE12 – Space about buildings
BE23 – Crime prevention
H10 – Affordable housing
T10 – Highway safety
T19 – parking provision
G6 – Land contamination
T10 – Highway safety
R13 – development affecting PROW

6.3 Supplementary Planning Guidance / Documents:
Planning Practice Guidance ‘Land Stability’

6.4 National Planning Guidance:

Delivering a wide choice of high quality homes (Section 6)
Requiring good design (Section 7)
Promoting healthy communities (Section 8)
Meeting the challenge of climate change, flooding and coastal change (Section 10)
Conserving and enhancing the natural environment (Section 11)
Conserving and enhancing the historic environment (Section 12)

6.5 Kirklees Publication Draft Local Plan: Submitted for examination April 2017
The site is an accepted housing allocation in the Local Plan

Publication Draft Local Plan Policies:

PLP1 Presumption in favour of sustainable development
PLP2 Place shaping
PLP3 Location of new development (housing)
PLP21 Highway Safety and access
PLP24 Design
PLP30 Biodiversity and Geodiversity
PLP32 Landscape
PLP35 Historic environment
PLP51 Protection and improvement of local air quality
PLP52 Protection and improvement of environmental quality
PLP53 – contamination and unstable land

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The Council has advertised the application in the press, by site notices and through neighbour notification letters. 16 representations have been received from local residents. Their concerns and issues are summarised below:

Impact on Highways & highway safety issues:

- Not a quiet residential road as stated in submitted documents
- Thirstin Road is used as an alternative route between Holme valley and Huddersfield

- Creation of parking spaces on Thirstin Road would narrow road and block sightlines from Thirstin Gardens with vehicles parked on road
- TRO should be imposed to prevent parking on both sides of road and traffic calming measures
- Highway safety concerns on narrow part of Thirstin Road without pavement
- Creation of drives onto Thirstin Road not safe and would create a major hazard particularly at northern end of site
- Parking on Thirstin Road is limited on an evening
- Highway infrastructure will be “congested with addition of 17 dwellings where site is centre of 2 very busy country lanes”
- No footpaths to accommodate pedestrians on Thirstin Road
- Object to pavement to front finishing at most hazardous part

Visual & general amenity:

- Clarity required on external facing materials
- 3 storey dwellings and design of properties proposed not in keeping with conservation area
- Contamination of the site needs to be dealt with appropriately.
- Plot 1 will block light to existing properties, in particular no. 21 Thirstin Mills from 3 storey dwellings
- loss of light, privacy and noise concerns to no. 21 Thirstin Mills
- Who will be responsible for the maintenance of the banking?
- What assurances are there in place for secure, safe and appropriate works to regrade the embankment?
- Concerns over the stability of the embankment which carries a PROW
- Street lighting will affect wildlife and existing residents

Flood risk/drainage issues :

- Flood risk to existing properties along Thirstin Road (nos. 56, 58, 60, 62, 64, 29 & Dye Works)
- main sewers exceeded its capacity in area

Other issues/concerns

- Out of date tree survey
- Outdate reports (trees Habitat survey)
- To restrict period in which to start work on site to 1 year
- This is a greenfield site not brownfield
- Consideration should be given to the size of vehicles accessing the site
- Considerations should be given to road surfacing and cutting back of overhanging branches which minimises the width of road
- No attempt by the applicant to meet local residents

In support

Pavement along with removal of parking along Thirstin Road and road widening as shown on revised layout plan welcomed

Comments are also received from local ward Councillor Charles Greives, who along with request for Members to make a site visit states:

I'm fine with developing the site and residents just want them to start and finish as quick as they can, but there are a few issues that I think need to be addressed:

- Retention of banking and ongoing ownership and maintenance - we don't want it !
- Off site POS - we don't want any on-site so any leftover land needs to go with the houses.
- Height and position of properties - some are 3 storey will there be overlooking or privacy issues ?
- This is not a quiet backwater but a busy cut through.
- On street parking needs to be on the opposite side of the road only - and not block existing access. Can all the houses be served by an estate road so as to turn the houses around and prevent direct access to Thirstin Road ?
- We need to ensure there is sufficient and easy to use off-street parking for new residents and visitors. Can they turn on their drives or will they need to turn on the road - this will be dangerous due to traffic. Are the sight lines for plot 17 acceptable

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

KC Highways – acceptable in principle and advise a viable pedestrian link to the village should be provided from the site.

K.C Lead Local Flood Authority – support revised proposals and subject to conditions (see assessment below)

Environment Agency – support subject to conditions

8.2 Non-statutory:

K.C. Conservation & Design – support revised proposals subject to concern in relation to plot 17

K.C. Arboricultural Officer – no objections

K.C. Environmental Services – support subject to conditions

K.C. Ecology & Biodiversity Officer – support revised landscape proposals subject to conditions

WY Police Architectural Liaison Officer – support subject to advisory notes/conditions

Yorkshire Water – support subject to conditions

K.C. Public rights of way – object to no provision of a “viable pedestrian link to the village from the site”

K.C. Structures – support subject to conditions

K.C Strategic Housing – identified need for affordable housing

9.0 MAIN ISSUES

- Principle of development
- Urban design
- Residential amenity
- Landscape issues
- Highway issues
- Flood risk, (sequential and exceptions tests) and drainage
- Planning obligations
- Representations
- Other matters

10.0 APPRAISAL

10.1 **Principle of development:**

The NPPF provides a presumption in favour of sustainable development and requires housing applications to be considered in this context in order to boost the supply of housing. For decision making it means approving development that accords with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless: any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole; or specific policies in the framework indicate development should be restricted.

10.2 Kirklees Council does not have a five year housing land supply. Paragraph 49 of the NPPF states that relevant policies for the supply of housing should not be considered up to date if the local authority cannot demonstrate a five year supply of deliverable sites. As the council does not have a five year housing supply, housing policies within the UDP cannot be considered up to date. This housing shortfall is a material consideration that falls in favour of the development proposed, if it complies with other relevant policies of the UDP and the NPPF of as whole.

10.3 The application site is on unallocated land. Policy D2 of the UDP applies which requires that new development on unallocated sites does not prejudice the implementation of proposals in the plan; the avoidance of over-development; the conservation of energy; highway safety; residential amenity; visual amenity; the character of the surroundings; wildlife interests; and the efficient operation of existing and planned infrastructure. It is also acknowledged that the application site is an accepted housing site on the Publication draft Local Plan.

10.4 The application is submitted in full for the erection of 17 dwellings most of which are shown to have integral garages. The site benefits from a long standing history where the principle of developing the site has previously been established on this brownfield site. The site lies in an area predominantly surrounded by residential development to the east and south with good access to local services. Given the above, the principle of residential development remains acceptable, subject to appropriately addressing all other relevant planning matters.

10.5 **Urban Design issues & Visual amenity:**

The site is linear in shape with a number of constraints including the steeply sloping embankment along the western boundary and the culvert running through the site. It is steeply sloping north to south and west to east, although the latter is much shallower. The shape and the physical constraints of the site together with the sloping composition of the site have dictated the linear layout of the proposed scheme. The three storey scale and height proposed would be viewed against the backdrop of the embankment along the western boundary of the site. When viewed in the immediate context of site the proposed scale, layout and siting of dwellings, which are shown to be set back into the site, would represent an acceptable form of development that responds well to the topography of the site and surroundings of this site.

- 10.6 Initial concerns have resulted in a number of amendments to the design and elevational treatment of the dwellings to provide active frontages at ground floor level. Revisions have also been made to the roofs and fenestration detailing to a number of dwellings to ensure the proposals respond to the local building forms and pattern of development to reinforce a sense of place. Furthermore, the proposed materials of construction to include reclaimed natural stone and concrete roof tiles would respect and accord with the predominant materials of construction in the area. As such the revised proposals are considered to integrate with the surroundings and visual amenity of the area, in accordance with Policies D2, BE1 BE2, and BE11 of the Kirklees UDP and guidance in the NPPF.
- 10.7 *Heritage issues:*
Turning to the impact on the character of the Conservation Area, Section 72 (1) of the Listed Buildings and Conservation Areas Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Paragraph 132 of the NPPF notes that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.
- 10.8 This is a derelict overgrown site which currently detracts from the visual amenity of the area appearing as an eyesore. There is an open sluice in the southern part of the site and to necessitate the development the layout is now shown to divert the existing culvert to the front of the proposed dwellings to avoid it being in the private amenity areas to the rear. The Conservation Officers acknowledges this has also led to a more linear approach and development confined to the middle of the site. Plots 1-5 suggest a degree of openness due to the topography and site constraints which is appropriate. The development takes a much tighter grain the further down the access towards the north part of the site leading to tight spaces between, which is amplified by the car parking spaces to the front. Whilst there is currently no formal appraisal for Honley Conservation Area, the surroundings consist of both dispersed and tight urban grain development with a diverse mixture of house types varying in scale in this conservation area. In light of this and the current status of the site, officers are of the opinion the proposals would lead to less than substantial harm to the significance of this designated heritage asset.
- 10.9 To summarise the harm caused by the proposals is less than substantial as defined by the NPPF. In such cases, where less than substantial harm occurs, paragraph 134 of the NPPF requires that this harm is weighed against the public benefit accrued by the proposal. In this case the public benefit is the proposals would not only meet all three strands of sustainable development but also provide additional housing at a time when the Council does not have a five year housing supply, regeneration of a derelict brownfield site with provision of a footpath to the front of the site, approximately along the full length of the site. This would comply with the duty set out in the Conservation Areas Act and Chapter 12 of the NPPF.

10.10 Residential amenity & natural environment :

- 10.11 The site is currently derelict creating an eyesore for those that live in close proximity and there is a general positive view to its development. The proposal will represent a significant enhancement in terms of visual amenity thus satisfying policies D2, BE1 and BE2 of the Unitary Development Plan.
- 10.12 Whilst the layout and design of the development has been shaped responding to the site constraints the scheme has been designed to avoid turning its back on the existing community which has resulted in development that creates a presence and frontage along Thirstin Road. In order to ensure adequate distances are met between the existing and proposed development these have been set back from the immediate road frontage providing amenity space for the residents. Taking into account the separation distances over 21m from the properties on the opposite side of the road and proposed level change, as demonstrated on the provided sections, it is considered that there will be no loss of amenity due to over dominance or bulk.
- 10.13 The proposals include regrading works to the embankment along the western boundary which could potentially affect the amenities of the future residents of the proposed dwellings as well as the amenities of users of the public right of way (PROW) which lies above the embankment. Concerns have also been received from local residents in relation to the stability of land and proposed works to the embankment which carries a PROW above.
- 10.14 Paragraphs 120 and 121 of the NPPF clearly state that to prevent unacceptable risks from pollution and land instability, planning decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity should be taken into account. Where a site is affected by land stability issues, responsibility for securing a safe development rests with the developer and/or landowner. However in this case the Council has a duty to ensure the proposals do not compromise the structural integrity of the embankment which carries a PROW. For developments identified as being at risk of instability, or where there is evidence of contamination, measures should be incorporated to remediate the land and/or incorporate other measures to ensure that the contamination /instability does not have the potential to cause harm to people or the environment ,as stated in Policy PLP 53.
- 10.15 Technical information including sections details have been submitted with the application. This indicates the extent of earth works that will be required to the existing embankment. The Council's Structures Officer's advice is that further technical information with calculations related to the works specifically relating to the proposed works on this site would need to be submitted and approved prior to the construction of any dwellings. This would be to ensure the structural integrity of the embankment is not unduly compromised and users of the PROW are not inconvenienced. The remedial and proposed stabilisation works to the embankment should set out all the agreed criteria on which the design will be based on can be addressed by the imposition of conditions suggested by Structures team.

- 10.16 With regards to the contamination, the application is accompanied with contaminated land reports. The conclusions of which are accepted by the Environmental Health Officers who advise the remaining contaminated land work/information can again be conditioned. This would require the submission of validation reports to demonstrate that the works have been completed to the agreed remediation strategy/specifications.
- 10.17 Taking all of the above into account, subject to the development being carried out in accordance with the submitted contaminated land reports, remediation strategy and further details required by Structural and Environmental Health Officers, it is considered that the development of this site can be carried out without causing unacceptable risk to pollution on health, the natural environment or general amenity, in accordance with the relevant UDP and Publication Draft Local Plan policies and guidance within the NPPF.
- 10.18 Following completion of works and to ensure the structural integrity of the regraded embankment is not compromised by future residents of the site and to safeguard the amenities of users of the PROW, it is considered necessary and reasonable to withdraw permitted development rights for development within the curtilage of dwellinghouses under Classes A, D, E and F, of part 1, schedule 2 of the General Permitted Development Order 2015, should Members approve the application.
- 10.19 With regards to the long term maintenance and management of the embankment the applicant states in an email dated 6th September, they have *“selected a solution that manages and maintains itself and the specific banking maintenance will be dealt with by an AIP under the scrutiny of Structure Officers”*. Whilst this option could be acceptable, the applicant has been advised full details of cross sections with chainage (through the site and adjacent footpath 186) along the length of the footpath and full details of proposed retaining structures and/or grades in relation to the proposed design and construction would be required through the submission of details under conditions to be approved by the LPA including an AIP (approval in principle) to be approved by the structures team.
- 10.20 In consideration of the long term maintenance and management of the regraded embankment, as well in the interests of and to ensure public safety during construction and into the post-construction phase, the long term maintenance and management of the regraded embankment would need to be set up through a management company on behalf of the future residents. The applicant is amenable to this. In this instance Officers have advised the applicant this would be required through a Unilateral Undertaking as set out in the recommendation above. Subject to this and the suggested conditions by Structures team the proposals would accord with the advice in the NPPF and Policy R13 of the Kirklees UDP.
- 10.21 **Landscape, trees & ecology issues:**
UDP Policy EP11 requires that applications for planning permission should incorporate landscaping which protects/enhances the ecology of the site. Also of relevance is UDP Policy NE9 seeks to retain mature trees on development sites. The importance of retaining trees is also highlighted in paragraph 118 of the NPPF. Publication Draft Local Plan Policy PLP 33 states permission will not be granted which directly or indirectly threaten trees or woodland of significant amenity.

- 10.22 The most significant tree related constraint to the site comes from the canopies of trees within the adjacent woodland adjacent to the western boundary, which benefits from a preservation order. This area also forms part of the Kirklees Wildlife Habitat Network (KWHN) as designated on the DPLP. As such an appropriate tree survey to current BS standards was requested. This has been considered by the Council's Arboricultural Officer who concludes the protected trees on neighbouring land will not be affected by the development. As such the proposals would accord with UDP policy NE9 and PLP 33.
- 10.23 With regards to the KWHN the site it appears to have little ecological value, therefore the potential for significant ecological impacts arising as a result of development is limited. The Council's Biodiversity Officer recognises the banking to be regraded would provide a significant opportunity of ecological enhancement.
- 10.24 The submitted landscape proposals indicate areas to include native plant species along the full length of the embankment along the west boundary. Trees, ornamental shrubs and species rich grassland internally within the site are also shown on the submitted landscape plan. This together with the hard landscaping materials to include block pavements within drives, stone walls along Thirstin Road frontage are considered to provide a sense of closure and to retain a sense of local identity in the area. Subject to conditions requiring the landscape proposals to be carried out in accordance with these details in agreed timeframe and natural stone boundary walls to the front, the proposals would provide significant ecological enhancements consistent with the requirements of chapter 11 of the NPPF, UDP Policies BE1, BE2 and EP11 which would contribute to enhancing the green infrastructure network identified as KWHN in accordance with policies PLP30 and PLP32.

Highway issues:

- 10.25 UDP Policy T10 states that "New development will not normally be permitted if it will create or materially add to highway safety or environmental problems or, in the case of development which will attract or generate a significant number of journeys, it cannot be served adequately by the existing highway network..."
- 10.26 Highway safety matters have been considered by DM Highway Officers who, other than the requirement of a pedestrian link to the village from the site, raise no objections. On assessment of the proposals Highway Officers advice is

"in this case a frontage development is proposed by the applicants. The relationship between traffic flows and road safety of streets with direct frontage access was researched against Manual for Streets. It was established that very few accidents occurred involving vehicles turning into and out of driveways even on heavily trafficked roads. Manual for streets is the current highways guidance for the design of residential developments and highways therefore have no objection to these proposals.

Off-street parking is provided with each property having at least a single garage with further off- street parking on a driveway. Whilst visitor parking would always be considered preferable, recommended parking standards do not require visitor parking for frontage developments such as is proposed for this site. The proposals to widen Thirstin Road to 7.5 metres would allow on-street parking whilst maintaining two way flows over a relatively short length which should not realistically result in any significant increase in vehicle speeds.

In addition whilst internal on site turning area would be preferable on any development Thirstin Road is not a classified road as such in this case it is not reasonable nor necessary to request internal vehicle turning areas for the private drives. Nevertheless, the layout has been amended to provide ten of the seventeen proposed plots to incorporate on-site turning areas. This is considered a significant improvement”

10.27 To summarise, officers are of the opinion the revised layout plan together with the proposals to widen Thirstin Road and provision for an adequate level of on-site parking, turning and bin storage areas as shown on the revised layout are considered acceptable from a highway perspective, and would accord with UDP Policies D2 and T10 as well as PLP 21 and Guidance in the NPPF.

10.28 Finally, it is acknowledged the current proposals would not include the provision of a pedestrian link from the site to the existing public right of way no. 186 and PROW Officers have objected to this. The applicant in response to this has stated “this is due to financial viability”. Following the assessment and conclusion of the viability appraisal which has been assessed independently on behalf of the Council, Officers consider the request for a pedestrian link to the PROW could potentially result in additional financial burdens which may result in further constraints and could protract the redevelopment of this abandoned site. In consideration of all of the above, officers on balance do not consider it necessary to request a pedestrian link from the site to the existing PROW.

10.29 **Flood risk (sequential and exceptions tests,) and drainage:**

An area of the site falls within Flood Zones 2 and 3 as shown on the map provided by the Environment Agency as a result of the presence of a culvert running through the site. The current application is submitted with the Flood Risk Assessment (FRA) which accompanied the previous application 2011/92197 and an addendum to it.

10.30 At the time of considering the 2011/92197 application it was established through the submission of newspaper articles and reports to Overview and Scrutiny Committee that it was desirable to achieving some form of development on the Thirstin Mill site, following the sequential and exception tests approach being carried out. The conclusion was the scheme would:

- deliver wider sustainability to the area which outweighs any increase in flood risk by building and providing quality homes to meet the needs of the community. The development will secure contributions to affordable housing and public open space unless it is demonstrated that it is unviable, thus offering further community benefits. The development proposed, where it detracts currently, will contribute positively to the setting of Listed Buildings and enhance the character and appearance

of the Conservation Area. In addition an ecological assessment affords mitigation and enhancement measures resulting in improved biodiversity for the benefit of the wider area

- Redevelopment of a previously developed site and the scheme proposed optimises the efficient re-use of the site delivering a high quality development which will enhance the Conservation Area and amenity of the area.
- the Flood Risk Assessment, which had been agreed by the Environment Agency, had demonstrated that the development will be safe without increasing flood risk elsewhere.

10.31 The information submitted with the current application includes the previous FRA and an updated addendum. In terms of the site location the sequential and exception tests there is no valid justification to deviate from the previous conclusion which remains as valid today as it did then.

10.32 Turning to the issues of surface water drainage and flood risk, the proposed scheme varies significantly from the previous permission. Subject to Environment Agency (EA) and the Council's Lead Local Flood Officer (LLFA) being satisfied that safe development and residual flood risk can be overcome with adequate mitigation measures however, the issues of drainage and flood risk can again be addressed.

10.33 Following concerns by the EA and the Council's LLFA, updated, additional and revised drainage details have been provided. Such details include an addendum to the previous FRA and details of a new culvert shown to run from the open channel and discharge into the manhole linked to the old original culvert. The culvert constructed in 2006 will become redundant and replaced with the new. The proposed new culvert is to ensure there is minimal impact on the amenities of the future residents of the proposed dwellings.

10.34 Following a further round of publicity and consultation the Council's LLFA has confirmed (based on the revised culvert design, site layout and flood plan) they are satisfied a suitable scheme has been proposed which demonstrates the site can be developed without increasing the risk of flood risk issues up and down stream. It would be appropriate to condition further details of a scheme detailing finalised foul, surface water and land drainage incorporating details of the submitted Flood Plan, Trash Screen Blockage 10991-01C and Bland and Swift addendum to FRA dated 11/09/2017 into the revised layout to accord with Policy PLP24, section 10 of the NPPF.

10.35 Confirmation has also been received from the Environment Agency who, on assessment of the revised proposals and additional information, raise no objections subject to their suggested conditions.

10.36 To conclude Officers are satisfied, flood risk and drainage matters can be addressed through the imposition of appropriate conditions. In addition and as advised by the LLFA there is a requirement to secure appropriate arrangements for the long term maintenance and management of the new water course and associated infrastructure. This is in order to spread the risk, and include clearing of trash screens as other aspects of watercourse maintenance and renewal as and when it is required. This is as set out in the recommendation through S106 Obligation through a management company for the future residents.

10.37 **Representations:**

Highway safety concerns/issues:

- Not a quiet residential road as stated in submitted documents
- Thirstin Road is used as an alternative route between Holme Valley and Huddersfield
- Parking on Thirstin Road is limited on an evening

Response: noted by Highway Officers

- Creation of parking spaces on Thirstin Road would narrow road & block sightlines from Thirstin Gardens with vehicles parked on road

Response: the proposals would not include parking layouts on Thirstin Road

- TRO should be imposed to prevent parking on both sides of road and traffic calming measures

Response: the proposals would provide on-site parking to accommodate the new dwellings. As such Officers consider TRO's are not necessary which would potentially result in the loss of parking for existing dwellings who do not benefit from on site parking along Thirstin Road. With regards to traffic calming measures, Highway Officers do not deem this necessary on this non classified road

- Highway safety concerns on narrow part of Thirstin Road without pavement
- Creation of drives onto Thirstin Road not safe & would create a major hazard particularly at northern end of site
- Highway infrastructure will be "congested with addition of 17 dwellings where site is centre of 2 very busy country lanes"
- No footpaths to accommodate pedestrians on Thirstin Road

Response: these issues have been considered and addressed in preceding paragraph under sub heading 'highway issues'. The proposals would include the provision of a pavement to the road frontage

- Object to pavement to front finishing at most hazardous part

Response: noted and assessed by Officers. Furthermore, it would appear the pavement proposed ends at a similar point to that approved on the previous permission. In addition due to the open water course at this end of the site and due to level changes within the site it would be very challenging to continue a pavement along this part of the site frontage.

Visual & general amenity:

- Clarity required on external facing materials
- 3 storey dwellings & design of properties proposed not in keeping with conservation area
- Contamination of the site needs to be dealt with appropriately.

Response: addressed in assessment above

- Plot 1 will block light to existing properties, in particular no. 21 Thirstin Mills from 3 storey dwellings
- loss of light, privacy and noise concerns to no. 21 Thirstin Mills

Response: The distance that would be achieved between this property and the garage of plot no. 1 would be approximately 8m. This will be increased to 13m to the three storey element. Given the changes in levels, proposed screen fencing between these two properties and a blank elevation, the impact on the amenities of the existing property is considered on balance would not be unduly affected, nor result in a significant loss of light and privacy.

- Who will be responsible for the maintenance of the banking
- What assurances are there in place for secure, safe and appropriate works to regrade the embankment
- Concerns over the stability of the embankment which carries a PROW

Response: addressed in assessment above

- Street lighting will affect wildlife & existing residents

Response: Officers opinion is that street lighting would not adversely impact on ecological impacts within or outside the site.

Flood risk/drainage issues :

- Flood risk to existing properties along Thirstin Road (nos. 56, 58, 60, 62, 64, 29 & Dye Works
- main sewers exceeded its capacity in area

Response: See assessment above. In addition, in view of the revised and additional information, the Councils LLFA and the Environment Agency have raised no objections subject to proposals being carried out in accordance with their suggested conditions. YW comments are awaited on the revised details. Their comments will be reported to Members at the committee meeting or in the update. In view of this Officer are of the opinion the proposals can be accommodated on this site without increasing flood risk and drainage issues on surrounding land or nearby existing neighbouring properties.

Other issues/concerns:

- Out of date tree survey

Response: The Council's arboricultural did not deem it necessary nor reasonable to request an updated tree survey as the proposals are considered would not impact on the mature trees beyond the western boundary, which form part of the woodland and KWHN.

- Outdated reports (trees Habitat survey)

Response: Although the report would be considered outdated in normal circumstances, site clearance has been undertaken, and given the current site condition and its location within the landscape, it is not considered to be proportional to request updated ecological information

- To restrict period in which to start work on site to 1 year

Response: Can be considered by Members

- This is a greenfield site not brownfield

Response: Officers opinion is this is a brownfield site

- Consideration should be given to the size of vehicles accessing the site

Response: Noted, however it would not be enforceable nor precise to impose such a restriction.

- Considerations should be given to road surfacing and cutting back of overhanging branches which minimises the width of road

Response: The proposals outside the site frontage would result in such works to be carried out.

- No attempt by the applicant to meet local residents

Response: Noted but there is no legal requirement for an applicant to meet with local residents.

In support

Pavement along with removal of parking along Thirstin Road and road widening as shown on revised layout plan welcomed

Comments are also received from local ward Councillor Charles Greives, who along with request for Members to make a site visit states:

I'm fine with developing the site and residents just want them to start and finish as quick as they can, but there are a few issues that I think need to be addressed:

- Retention of banking and ongoing ownership and maintenance - we don't want it !
- Off site POS - we don't want any on-site so any leftover land needs to go with the houses.
- Height and position of properties - some are 3 storey will there be overlooking or privacy issues ?
- This is not a quiet backwater but a busy cut through.
- On street parking needs to be on the opposite side of the road only - and not block existing access Can all the houses be served by an estate road so as to turn the houses around and prevent direct access to Thirstin Road?
- We need to ensure there is sufficient and easy to use off-street parking for new residents and visitors. Can they turn on their drives or will they need to turn on the road - this will be dangerous due to traffic Are the sight lines for plot 17 acceptable

Response: addressed in assessment and in representations above

10.38 **Planning obligations & Housing issues:**

The NPPF states that (Paragraph 49) that “housing applications should be considered in the context of the presumption in favour of sustainable development.” The Government has stated in the NPPF that there are three dimensions to sustainable development: economic, social and environmental. These matters are considered elsewhere in this assessment however the proposals to provide an addition of 17 dwellings will make a small contribution to housing provision in the Kirklees borough and make efficient use of a previously developed site where the redevelopment of which appears to be stalled for some considerable time, despite having previously been granted permission.

10.39 The application was accompanied with a Financial Viability Appraisal. This has been reviewed independently on behalf of the Council. The assessor concludes in order to achieve 20% developers profit level, in this scheme with the requirement to include the S106, Metro Card and Affordable Contribution elements, the scheme becomes unviable.

10.40 Officers view is that 20% profit level would be reasonable on this site which has a number of identified constraints and moreover it is also recognised the implementation of the previous permission has not been accomplished due to financial constraints resulting in the site lying dormant for a number of years. In light of this no affordable housing, POS and metro card contributions would be sought.

10.41 **Other matters:**

Land contamination

UDP Policy G6 and PLP 53 states that development proposals will be considered having regard to available information on the contamination or instability of the land concerned. The Local Planning Authority should satisfy itself that the potential for contamination and any risks arising are properly assessed and that the development incorporates a necessary remediation and subsequent management measures to deal with an unacceptable risks. Remediation of land affected by contamination through the granting of planning permission (with the attachment of the necessary conditions) should secure the removal of unacceptable risk and make the site suitable for its new use.

10.42 The former uses of the site may have resulted in ground contaminants which need to be dealt with. The application is accompanied by A Phase I Geo-environmental investigation report which was submitted with application no. 2011/92197.

10.43 On assessment of these reports Environmental Health Officers advice is that the remaining contaminated land work/information be conditioned to ensure the adequate remediation and validation is carried out to demonstrate that the works will be completed to the agreed specifications. It is also advised that as a hydrocarbon resistant gas membrane is to be installed, a higher standard of validation will be required. An advisory notes to this effect along with the suggested conditions including a condition to address the contamination previously not identified will be included on the decision notice, to accord with UDP Policy G6, PLP53 and guidance within the NPPF.

Air Quality

10.44 Although there are no known Air Quality issues in this specific location, in order to improve Air Quality throughout Kirklees and in accordance with the West Yorkshire Low Emissions Strategy, Policy PLP 24 of the Publication Draft Local Plan and paragraph 124 of the NPPF a condition will be imposed to provide electric charging point on each plot to promote the use of electric vehicles and to ensure the cumulative impacts on air quality from individual sites is considered.

Conclusion:

11.1 The proposals would help provide additional housing in the borough and design would help improve the character and quality of the area whilst safeguarding residential amenity and highway safety with the widening of the road and provision of footway along the site frontage. Officers are of the opinion the proposals have responded and been designed considering the identified constraints resulting in a more viable scheme, when compared to the previous permissions. This would potentially facilitate the redevelopment of a site that has been lying dormant for a number of years due to amongst other issues associated financial constraints.

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 the Government's view of what sustainable development means in practice.

11.3 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. 3 year Time limit condition
2. Development in accordance with approved plans
3. Approval of samples of materials
4. Landscape scheme to be implemented in accordance with submitted scheme and to be retained for 5 years
5. Development to be completed in accordance with sections provided showing relationship with neighbouring properties
6. Vehicle parking areas to be surfaced and drained in accordance with details to be submitted
7. A scheme detailing the footway to be provided along Thirstin Road
8. Bin storage area to be provided prior to occupation of development in accordance with revised plan
9. Highway works conditions
10. Details of drainage proposals to include proposed means of disposal of surface water drainage, the new watercourse within the site, any balancing works and off-site works as suggested by the Council's LLFA
11. Environment agency conditions
12. Yorkshire Water conditions
13. details of regrading works to embankment along western boundary
14. Details of temporary and permanent retaining walls
15. Works to be carried out in accordance with submitted Phase I Geo-environmental investigation report
16. Details of remediation and validation strategy /reports
17. Provision of electric vehicle charging points
18. Removal of permitted development rights
19. Construction Management Plan

Background Papers:

Application and history files – see assessment above

Website link to be inserted here

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f93243>

Certificate of Ownership –Certificate A signed by agent :

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Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 12-Oct-2017

Subject: Planning Application 2017/92220 Reserved matters application pursuant to outline permission 2015/91640 for residential development (16 dwellings) Mill Moor Road, Meltham, Holmfirth, HD9 5LW

APPLICANT

Conroy Homes Ltd C/O
Agent

DATE VALID

28-Jun-2017

TARGET DATE

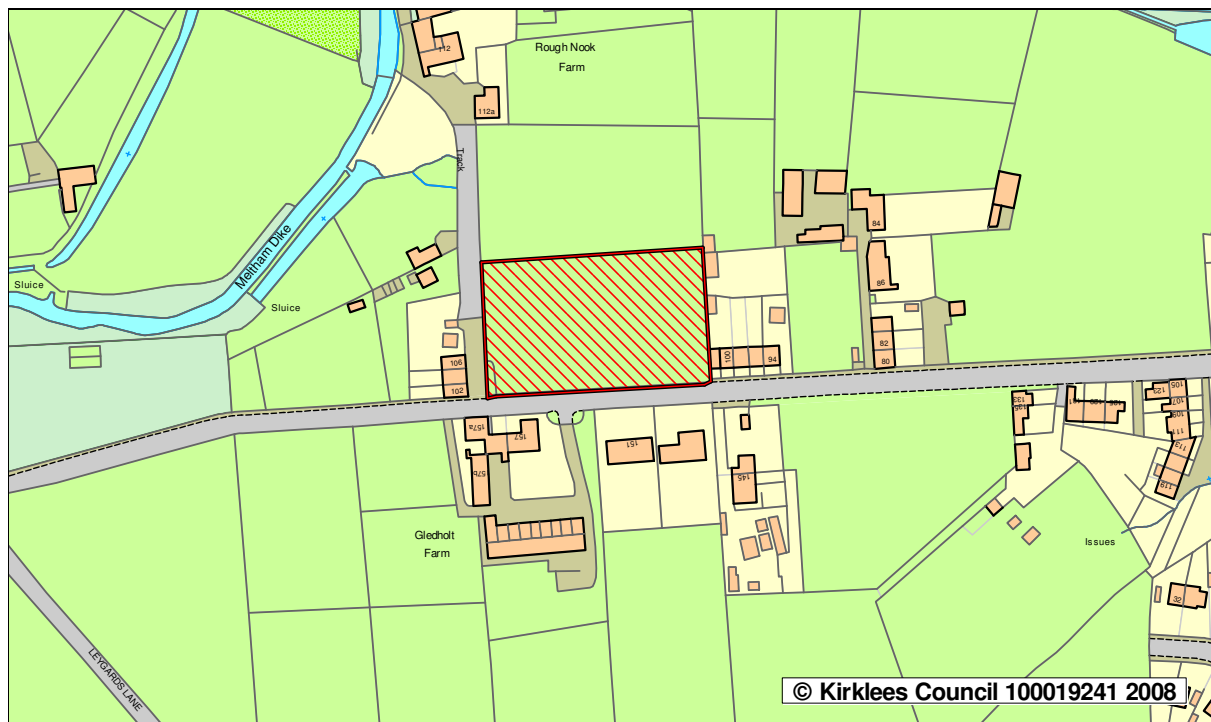
27-Sep-2017

EXTENSION EXPIRY DATE

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

Electoral Wards Affected: Holme Valley North

No

Ward Members consulted

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 This reserved matters application is brought before the Sub Committee in accordance with the requirements of the Sub Committee when it determined the outline application on 18th February 2016.

2.0 SITE AND SURROUNDINGS:

2.1 The site comprises a rectangular shaped piece of open land that lies in between 100 and 102-106 Mill Moor Road. The site slopes gently from front to back in a northerly direction and also slopes very gradually at its eastern extent towards 100 Mill Moor Road. The land drops away towards the north. The site is bound along its Mill Moor Road frontage by a drystone wall and along its rear boundary by a post and rail fence. There are residential properties immediately opposite the site.

3.0 PROPOSAL:

3.1 The application seeks approval of the layout, scale, appearance and landscaping of the site (the reserved matters) pursuant to outline application 2015/91640 for residential development. The outline consent approved the main point of access off Mill Moor Road.

3.2 The layout provides a total of 16 dwellings with a mixture of detached (5 no.), semi-detached (4 no.) and terraced (7 no.) properties. The dwellings are two and three storeys in height, with the three storey properties having their upper floor within the roof space. Proposed facing materials are natural coursed stone and blue slate.

4.0 RELEVANT PLANNING HISTORY:

4.1 2015/91640 Outline application for residential development – Approved by Sub Committee 18/2/16

2005/90463 – Outline application for erection of residential development (5 no. dwellings) – Refused

Adjoining land to the north of the application site:

2017/93015 Erection of 19 dwellings (C3) with associated parking and vehicular access - Undetermined (to be reported to Sub Committee)

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Negotiations have been undertaken with respect to the layout, scale, appearance and landscaping of the site which have resulted in revisions to the scheme.
- 5.2 The off-street parking for plots 2-4 has been relocated to the rear of these properties which has also enabled the floor levels of plots 1-4 to be lowered.
- 5.3 The internal road layout has been amended to provide a larger refuse vehicle turning area and the position of the new footway along the frontage repositioned so that it runs through with the existing footway on Mill Moor Road.
- 5.4 The eaves and ridge height of plots 12-14 has been reduced slightly to better respect the height of 100 Mill Moor Road. Plot 6 has been handed to provide a step down to 102-106 Mill Moor Road.
- 5.5 The canopies to the front of plots 1-4 have been omitted to give a simpler appearance to these dwellings. Bay windows to the front of plots 5 and 6 have also been omitted.
- 5.4 The extent of drystone walling along the site frontage and at the entrance to the development has been significantly increased. Timber fencing to the southern boundary of plots 5 and 6 has been replaced with a beech hedge. Tree planting has been amended.

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 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.
- 6.2 The site is allocated as Provisional Open Land (POL) on the Unitary Development Plan Proposals Map and is allocated for housing on the Draft Publication Local Plan.

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

D5 – Provisional Open Land (POL)
BE1 – Design principles
BE2 – Design of new development
BE11 – Materials
BE12 – Space about buildings
H10 – Affordable housing provision
H12 – Arrangements for securing affordable housing
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
NE8a – Impact on Peak District National Park

6.4 Kirklees Publication Draft Local Plan

PLP1 Presumption in favour of sustainable development
PLP3 Location of new development
PLP 20 Sustainable travel
PLP21 Highway safety and access
PLP22 Parking
PLP24 Design
PLP27 Flood Risk
PLP28 Drainage
PLP30 Bio diversity and geodiversity
PLP32 Landscape
PLP51 Protection and improvement of air quality
PLP52 Protection and improvement of environmental quality

6.5 Supplementary Planning Guidance / Documents:

Interim Affordable Housing Strategy

National Planning Guidance:

- 6.6 ‘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 The application was advertised by site notice, press advert and neighbour notification letters. In response 10 representations were received which are summarised as follows:

- Impact on traffic on Mill Moor Road and adjoining highway network, including cumulative impacts with other new developments
- Mill Moor Road is often single width because of parked cars
- Highway safety concerns including at main road junctions in the vicinity such as Westgate/Station Street, lack of footways and vehicles reversing onto Mill Moor Road from private drives
- The new footway appears to narrow the width of the road; Mill Moor Road is already narrow enough
- Access will be serving the 19 houses proposed to the north
- Development opposite a stables – potential for accidents
- Impact on infrastructure – schools, doctors, dentists
- Too many houses / overdevelopment / cramped layout
- Three storey houses out of keeping with local vernacular
- Unsuitable design
- Parking is overly dominant which would fundamentally alter character of the area
- Individual points of access (private drives) off Mill Moor Road are overly suburban
- Plots 5 and 6 overbearing and dominant in relation to 102-106 Mill Moor Road
- Loss of privacy and overlooking – windows in the western and southern elevations of plots 5 and 6 overlook main habitable rooms in 102-106 Mill Moor Road. Plots 5 and 6 should be two storeys with obscure glazing to relevant windows to prevent overlooking.
- More housing would harm the country village character of Meltham
- Loss of green space
- Site adjoins Green Belt
- Disruption and nuisance from building works, adding to existing problems
- Impact on wildlife
- Lack of detail within the application
- Drainage information not provided as required. Concerns that drainage conditions cannot be complied with.
- Too much of the stone boundary wall will be lost
- Details of highways signage and street lighting not provided so impact on adjacent Green Belt cannot be properly judged

Following the submission of amended and additional plans and drainage information neighbours and interested parties were notified by letter. This publicity period expires on 10th October 2017 and a summary of any comments received will be provided to members in the Update.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

KC Highways Development Management – No objections. Comment that there is no pedestrian access between the parking spaces for plots 1-4 and the main entrance to these dwellings which is not ideal.

KC Lead Local Flood Authority – Awaiting comments in response to the proposed drainage layout.

8.2 Non-statutory:

KC Conservation & Design – Concerns raised with landscaping details.

Yorkshire Water – Awaiting comment

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Layout:

- 10.1 The proposed layout provides 16 dwellings comprising a mixture of detached, semi-detached and terraced properties. The density of development equates to 41 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).
- 10.2 The outline application included an indicative layout of 18 dwellings which was considered to be overly suburban in its form and out of keeping with the character of this part of Mill Moor Road which provides a transition from the built-up part of Meltham to the east and the Green Belt and Peak District National Park towards the west.
- 10.3 Since the outline application was assessed there have been two permissions for residential development in very close proximity to the site, both of which are currently under construction. These are developments for 28 dwellings and 13 dwellings respectively on housing allocations just to the east.
- 10.4 The adjoining land to the north is also very likely to be developed because it forms part of the same housing allocation in the emerging Local Plan and is subject to an undetermined application for 19 dwellings (2017/93015). These two sites make up the vast majority of housing allocation H342 which has an indicative housing capacity of 37 dwellings. The combined number of dwellings across both of the current applications is 35. The remainder of the allocation is a relatively narrow strip of land which is likely to be able to accommodate a fairly small number of houses.
- 10.5 The proposal is a reduction on the indicative layout at outline stage and it is accepted that the welcome inclusion of terraced properties along the site frontage, which is characteristic feature of Mill Moor Road, consequently means a somewhat higher density in this particular part of the site. With this in mind and in the context of the new development currently taking place to the east (as well as the likelihood of additional development to the north), on balance the proposed density of development is considered to be acceptable.

Furthermore, the NPPF promotes the efficient use of land and requires development to optimise the potential of a site to accommodate development, which it is considered this layout achieves. Based on the proposed layout the development would also deliver 3 affordable units (20% of the units equating to 3.2 dwellings); affordable housing provision was secured via a condition on the outline consent and would need to be discharged accordingly.

- 10.6 In design terms the general layout is acceptable following an amendment which has relocated the parking for plots 2-4 to the rear of these properties in order to reduce the prominence of parking and enhance the appearance of the street scene.
- 10.7 The proposed layout meets the council's space about buildings policy (BE12) in relation to existing dwellings adjacent to the site. There is a slight (1.5m) shortfall between the kitchen-diner window in the rear of plot 5 and 157 Mill Moor Rd however the proposed landscaping along the southern boundary of this plot would screen this ground floor window and thereby mitigate any potential impact. Following an amendment to the layout plot 4 is also closer to 157 Mill Moor Road however there is not a direct relationship between the dwellings and the separation is considered to be acceptable.
- 10.8 There is a small bedroom window in the side of plot 5 that would be 16.5m from habitable windows in the front of 106 Mill Moor Road. This bedroom window is in essence a secondary opening and so this separation distance could be considered acceptable having regard to Policy BE12. Nevertheless it is considered reasonable to require this window to be obscure glazed to preserve the sense of privacy of 106 Mill Moor Road, especially given that this property does not currently have any direct window to window relationships with other dwellings. It is also considered necessary for the corresponding bedroom window in plot 6 to be obscure glazed because although it is at an oblique angle to 106 Mill Moor Road the separation distance is only around 8m and the window also has a direct outlook onto the curtilage of 106 Mill Moor Road.
- 10.9 Plot 6 has been positioned so that the aspect from 102-106 Mill Moor Road would be left open. Much of plot 5 is to the front of 106 Mill Moor Road but the separation distance is such that the outlook from no.106 Mill Moor Road would not be unduly prejudiced. Plot 4 has been moved forward so that it has a more direct relationship with 104 Mill Moor Road but it would be separated by a distance of 26.5m which is sufficient to prevent any significant impacts.
- 10.10 Plot 12 would project beyond the rear wall of 100 Mill Moor Road by 3.5m. Plot 12 is set in from the boundary with this adjacent property by around 2m and it is considered that this relationship is acceptable.
- 10.11 The site achieves acceptable separation distances between new dwelling and new dwelling within the site. In terms of the relationship with the houses proposed on the adjacent land, it is considered that adequate separation distances would be provided and there would not be any undue overlooking because of the proposed boundary treatment that would provide screening.

10.12 In summary the proposed layout achieves an acceptable density considering other new and planned development within the immediate vicinity. The proposal represents an efficient use of land and achieves acceptable separation distances to surrounding properties.

Scale:

- 10.13 The dwellings are mixture of two and three storeys, although the three storey dwellings have their upper floor within the roof space and include roof lights. A street scene drawing has been submitted showing how the site frontage properties will sit within the context of Mill Moor Road. This shows a gradual stepping up from east to west across which reflects the topography of the site. Plots 5 and 6 form the western extent of the development and these properties are set back into the site as well as being set down from Mill Moor Road which significantly reduces their perceived height within the street scene.
- 10.14 Plots 12-14 are two storeys in height and form a row of three terraced houses next to 100 Mill Moor Road. The eaves height of these dwellings has been reduced slightly to lower their overall ridge height and officers are satisfied that the height of these properties will harmonise with 100 Mill Moor Road.
- 10.15 Plots 15 and 16 (semi-detached) and plots 1-4 (terraced) are three storey properties. The height of these buildings is greater than other development along Mill Moor Road - which comprises traditional two storey houses or dormer bungalows - however these plots are set down from road level which mitigates their relative height, particularly in the case of plots 1-4. The height of these dwellings reflects the topography of Mill Moor Road and officers are satisfied that the height of these dwellings is acceptable.
- 10.16 As already identified, plots 5 and 6 are set back and down from Mill Moor Road and so the height of these properties would not be incongruous when viewed in relation to 102-106 Mill Moor Road immediately to the west. Plot 6 has also been handed so that the garage (with bedroom in the roof) provides a step down to these adjacent properties.
- 10.17 There are no concerns with the height of the remaining plots which are all set further back into the site.
- 10.18 In all other respects the scale of the development is considered to be acceptable. This includes in relation to the allocated Green Belt to the west and the Peak District National Park which is around 195 metres from the site. The proposed scale of the buildings and the separation distance ensures that the development would not significantly affect the openness of the Green Belt or be intrusive in views from within the National Park or have a harmful impact on views into the National Park.
- 10.19 In respect of 'scale' the application is considered to comply with Policies BE1 and BE2 of the UDP and guidance in the NPPF. It is also considered that the scale of the development would accord with the requirements of emerging Policy PLP24 of the PDL.

Appearance:

- 10.20 The general design approach to the dwellings is consistent with surrounding properties and other nearby developments along Mill Moor Road that are currently under construction. Canopies above the front doors on plots 1-4 have been omitted to give these dwellings a simpler appearance which is more in keeping with similar cottage type properties within the vicinity. The properties to each side of the access road (plots 1 and 16) include windows which avoids the appearance of large expanses of blank walling at the entrance to the development. All of the dwellings include a variety of architectural detailing such as a dentil course and stone heads and cills which helps them to harmonise with the character of the area.
- 10.21 The dwellings will be faced in natural stone and blue slate which is appropriate for this location.
- 10.22 Plots 5 and 6 will back onto Mill Moor Road but the design of the rear elevation is such that it would appear as a main elevation and in any event much of this elevation would be screened as a result of the site levels and boundary treatment. This wall and hedge would also screen the proposed garden sheds for these plots.
- 10.23 In respect of 'appearance' the application is considered to comply with Policies BE1 and BE2 of the UDP, Policy PLP24 of the PDLP and guidance in the NPPF.

Landscaping:

- 10.24 The proposed landscaping details are now considered to be acceptable following amendments to the boundary treatment along the site frontage and the point of access.
- 10.25 Unsympathetic timber fencing to the southern elevation of plots 5 and 6 has been replaced with a beech hedge which will sit behind a section of drystone wall. The removal of parking spaces to the front of plots 2-4 has allowed this drystone wall to continue along the front of these plots with new hedge planting behind which helps to maintain the established semi-rural character of the area. Short sections of drystone walling have also been incorporated between off-street parking spaces on plots 12-14 to break up and delineate the parking areas. The extent of drystone walling around the access has also been extended further into the site including adjacent to plots 1 and 16 (replacing timber fencing) to give a more sympathetic and open aspect to this prominent part of the site.
- 10.26 Timber fencing is proposed to the northern site boundary where it abuts application site 2017/93015. This is considered to be an acceptable boundary treatment between adjoining housing development sites. The existing drystone walls along the eastern and western boundaries are to be retained which will help to maintain the character of the area. The proposed 1.8m high timber fencing to the individual plot boundaries is deemed to be acceptable.

- 10.27 The number of trees within the soft landscaping scheme has been increased and the planting schedule has also been revised to take into account officer comments regarding the practicality of certain tree species close to parking areas. The would accord with Policies BE1 and BE2 of the UDP.

Highway matters:

- 10.28 Outline planning permission 2015/91640 approved the main point of access for the site. It is proposed to access the site directly from Mill Moor Road via a new priority junction located centrally along the site frontage. At the junction with Mill Moor Road the access road comprises of a 5.5m wide carriageway with 2.0m wide footways to either side and along the site frontage. The applicant has undertaken a Stage 1 Road Safety Audit of the proposed site access junction arrangement which was submitted with the outline application.
- 10.29 A cumulative impact assessment on the highway network in the site vicinity of the proposed development was provided with the Transport Assessment attached to the outline application. This assessment considered both the Westgate/Station Street and Station Street/ Greens End Road junctions.
- 10.30 Conditions attached to the outline permission included a requirement for the provision of a 2m wide footway along the site frontage and speed management measures on Mill Moor Road comprising:
- a. Traffic Regulation Order (TRO) to extend the 30mph speed limit to Leygards Lane; and
 - b. Provision of associated signage and road markings.
- 10.31 Highways Development Management raised a number of issues with the proposals which the applicant has subsequently sought to address.
- 10.32 The proposed new footway along the road frontage has been repositioned so that it runs through with the existing footway on Mill Moor Road.
- 10.33 The internal road layout has been reconfigured to accommodate a turning area sufficient for a larger size of refuse vehicle.
- 10.34 The internal dimensions of the integral garages are substandard in relation to published standards in Manual for Streets 2. In order to compensate for this plot 5, 6, 7, 10 and 11 are provided with a shed which will allow storage for items such as bicycles.
- 10.35 Highways Development Management have confirmed that the amended plans have addressed the issues raised.
- 10.36 Highways Development Management have commented that there is no pedestrian access between the parking spaces for plots 1-4 (as amended) and the pathway serving these dwellings which is not ideal. Pedestrian access would involve walking along part of the access road which forms a shared surface. It would nevertheless be possible for these dwellings to be accessed from the rear meaning that these occupiers would not have to walk around to the front of their houses all the time. A condition is therefore recommended requiring details that will enable these properties to be accessed from their parking spaces at the back.

Drainage:

- 10.37 The principle of an acceptable drainage strategy was agreed at outline stage with detailed design to be secured by conditions. A condition on the outline consent does however require certain drainage information to be submitted with a reserved matters submission that seeks approval of 'layout'. This is so that the site layout can be considered in relation to existing and proposed drainage infrastructure, including any surface water attenuation and flood risk mitigation measures.
- 10.38 The applicant has recently submitted drainage information as part of this application and this is being considered by Kirklees Lead Local Flood Authority. Yorkshire Water has also recently requested that they be consulted on this application in the context of them separately assessing the application for 19 dwellings on the adjoining land to the north. Responses from both consultees are awaited and an update will be provided to members on this prior to the meeting.

Representations:

- 10.39 Ten representations have been received. In so far as the issues raised have not been covered in this assessment, a response on the other matters is provided as follows:
- Impact on infrastructure – schools, doctors, dentists
Officer response: The principle of residential development on the site has already been established. The development does not trigger a contribution towards education provision. The provision of medical services is a matter for those providers and is not germane to the determination of this application.
 - Loss of green space
Officer response: The principle of residential development on the site has already been established by the outline consent and the land is allocated for housing in the Draft Publication Local Plan.
 - Details of highways signage and street lighting not provided so impact on adjacent Green Belt cannot be properly judged
Officer response: Road signage associated with a TRO is required by a condition on the outline permission. Officers do not consider that any signage would significantly affect the Green Belt.
 - Disruption and nuisance from building works, adding to existing problems
Officer response: This is not a material planning consideration but nuisance issues could be addressed through Environmental Protection legislation.
 - Impact on wildlife
Officer response: The principle of the development has already been established and biodiversity mitigation is provided through the soft landscaping scheme and a condition on the outline consent requiring the provision of bat and bird boxes on the dwellings.

- Lack of detail within the application / drainage information missing

Officer response: Officers are satisfied that sufficient information has now been provided to enable a full assessment of the reserved matters, subject to assessment of the drainage information.

- Risk of accidents with the stables opposite the site

Officer response: The parking spaces immediately opposite the entrance to the stables have been removed. The main point of access has already been approved and the layout details are acceptable from a highway safety point of view.

11.0 CONCLUSION

- 11.1 The layout and density of the site is considered to be acceptable given the site's context, which has changed somewhat since the outline application was considered. The layout has been improved with the relocation of a number of parking spaces away from the site frontage. The layout provides acceptable separation to existing and new dwellings.
- 11.2 The height of the three storey dwellings is mitigated by the proposed site levels and as a result would sit relatively comfortably within this setting. The buildings respect the topography of the site which rises up from east to west.
- 11.3 The design and materials harmonise with the local vernacular and the amendments to the landscaping help to soften the appearance of the development and respect the semi-rural character of the area.
- 11.4 The amendments have made the scheme acceptable to Highways Development Management and an update on drainage matters will be provided accordingly.

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 the approved plans
2. Obscure glazing to bedroom windows in the western elevations of plots 5 and 6
3. Drystone wall constructed of natural stone and to re-use material from existing boundary wall
4. Garden Sheds to be provided for plots with sub-standard garages prior to first occupation
5. Details to show how plots 1-4 can be accessed from the rear

Background Papers:

Application and history files.

Website link:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f92220>

Certificate of Ownership – As per outline application



Originator: Adam Walker

Tel: 01484 221000

Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 12-Oct-2017

Subject: Planning Application 2016/91900 Change of use and alterations from B2 (general industrial) to B8 (storage or distribution) The Pink Link Ltd, Crosland Road, Oakes, Huddersfield, HD3 3PA

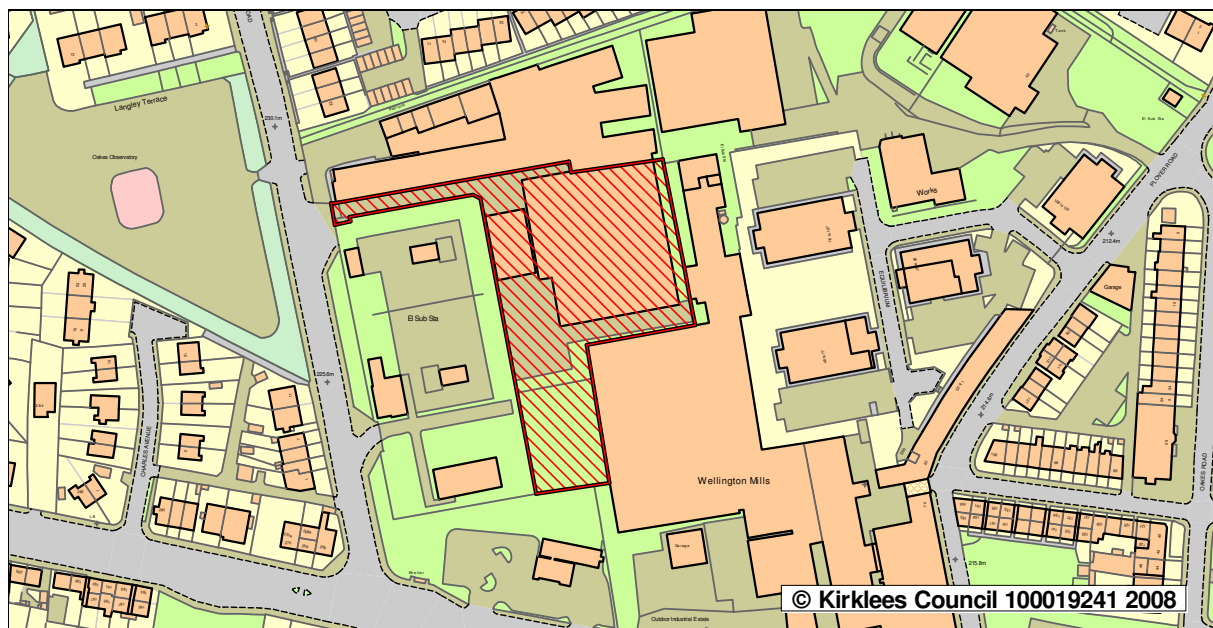
APPLICANT

Richard Alan, The Pink Link Limited

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

Electoral Wards Affected: Lindley

No

Ward Members consulted

Public or private: Public

1.0 INTRODUCTION:

1.1 This item is to provide an update to the sub-committee as to whether The Pink Link have adhered/are adhering to the terms of the planning permission which was approved at the Sub-Committee meeting on 20th April 2017. This is in accordance with the committee resolution which required such a report to be brought before members six months' after the original resolution.

2.0 BACKGROUND:

2.1 At the Sub-Committee meeting on 20th April 2017 the committee resolved to approve planning application 2016/91900 for change of use and alterations from B2 (general industrial) to B8 (storage and distribution). This was a retrospective application because the applicant (The Pink Link) was already operating from the site.

2.2 The committee resolution was as follows:

1. Delegate approval of the application and the issuing of the decision notice to the Head of Development Management in order to complete the list of conditions contained within the considered report including:
 1. Development in accordance with the approved plans.
 2. Development in accordance with the approved night-time noise management plan.
 3. Details of the layout and surfacing of the car park for visitors and staff to be submitted within 4 weeks of approval and provided within four weeks following approval of the details.
 4. Details of a turning area for 16.5 metre long service vehicle to be submitted within 4 weeks of approval and provided within 3 weeks of approval of details.
2. Secure a S106 Obligation (Unilateral Undertaking) for a financial contribution towards the upgrade of front facing bedroom windows within 11 Crosland Road.

3. That, pursuant to (2) above, 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 Development Management 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 Development Management is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

In addition it was also agreed that a report would be submitted to the Committee in 6 months' time to assess adherence to the terms of the permission.

- 2.3 The committee resolution was in line with the officer recommendation (with the exception of a report being submitted in six months' time). A copy of the original committee report is included at appendix 1.
- 2.4 The planning permission was issued on 24th May 2017. A link to the application webpage and decision notice is included at section 7.

3.0 CONSULTATION RESPONSES:

KC Highways Development Management – No issues raised

KC Environmental Services – Were made aware of a noise nuisance complaint from a near neighbour in September 2017. The allegation is in relation to the night-time operation of the premises and specifically roller shutter doors being left open which has resulted in noise nuisance.

4.0 KEY POINTS:

Planning conditions:

- 4.1 Condition 1 of the permission states:

1. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

Reason: *For the avoidance of doubt as to what is being permitted and to accord with Policies BE1, D2, EP4, EP6 and T10 of the Kirklees Unitary Development Plan and guidance in the National Planning Policy Framework.*

- 4.2 This is a standard condition which the Local Planning Authority attaches to all permissions. There are not considered to be any issues with this condition.

4.3 Condition 2 of the permission states:

2. The development hereby permitted shall be carried out in accordance with the approved Night-time Noise Management Plan dated October 2016.

Reason: *To mitigate noise disturbance to nearby residential properties in the interests of amenity and health and to accord with Policies BE1, D2, EP4 and EP6 of the Kirklees Unitary Development Plan and guidance in the National Planning Policy Framework.*

4.4 The approved night-time noise management plan sets out how noise egress from the building, external staff noise, external forklift truck movements and HGV movements within the site will be managed in order to minimise disturbance to nearby residential properties.

4.5 Kirklees Environmental Services have been consulted and have advised that they were recently informed of a noise complaint from a near neighbour. This was in relation to the night-time operation of the premises and specifically roller shutter doors being left open which it is alleged has resulted in noise egress resulting in nuisance.

4.6 The night-time noise management plan identifies noise associated with loading and unloading of vehicles and states that this unloading and reloading is predominantly undertaken within the building. "Throughout the internal loading and unloading the roller shutter loading doors and pedestrian access are to be kept shut. The roller shutter doors opening and closing operation to allow fork lift truck and HGV access will be the responsibility of the Night Manager".

4.7 The noise nuisance complaint suggests that the Pink Link may not be operating fully in accordance with their night-time noise management plan and so are potentially in breach of condition 2 of the permission.

4.8 In light of this, Planning Enforcement will write to the Pink Link reminding them of their responsibilities with regard to the night-time noise management condition and will monitor the situation in conjunction with colleagues in Environmental Services.

4.9 Condition 3 of the permission states:

Notwithstanding the submitted layout plan, details of the layout and surfacing of the parking area for visitors and staff within the site shall be submitted to the Local Planning Authority within four weeks of the date of this permission. The layout and surfacing details as approved by the Local Planning Authority shall be implemented in their entirety within four weeks following the Local Planning Authority's written approval and shall thereafter be retained.

Reason: *To ensure that adequate provision is made for vehicle parking associated with the development in the interests of highway safety. This is to accord with Policies BE1, D2, and T10 of the Kirklees Unitary Development Plan.*

4.10 Details of the staff and visitor parking area were submitted within the specified time frame under discharge of conditions application 2017/91930. The details were assessed by Highways Development Management and considered acceptable. The submitted site plan demonstrated that an acceptable number of parking spaces could be provided within the site. It was agreed that the parking would not be marked out into bays because it was considered that a more informal arrangement was likely to enable more vehicles to be accommodated when necessary. The surfacing of the area was also deemed acceptable in its existing form. The details were approved by way of decision letter dated 23rd June 2017.

4.11 Condition 4 of the permission states:

4. Notwithstanding the submitted layout plan, details of a turning area within the site for a 16.5 metre long service vehicle shall be submitted to and approved in writing by the Local Planning Authority within four weeks of the date of this permission. The turning area as approved by the Local Planning Authority shall be implemented in its entirety within three weeks following the Local Planning Authority's written approval and shall thereafter be retained.

Reason: *To ensure adequate space within the site for vehicle tuning in the interests of highway safety and to accord with Policies BE1, D2, and T10 of the Kirklees Unitary Development Plan.*

4.12 Details of the HGV turning area were submitted within the specified time frame under discharge of conditions application 2017/91930. The details were assessed by Highways Development Management and considered acceptable. The plan demonstrated that the existing site layout could accommodate the size of vehicle required. The details were approved by way of decision letter dated 23rd June 2017.

S106 Obligation (Unilateral Undertaking)

4.13 A signed Unilateral Undertaking dated 22nd May 2017 was submitted which provided for an agreed figure for the upgrade of front facing bedroom windows at 11 Crosland Road in order to mitigate the impact of noise emanating from the site. The Pink Link paid the figure to the council in accordance with the obligation.

4.14 The works to upgrade the windows at 11 Crosland Road were carried out in July 2017, as confirmed by the company who installed the windows. The council has subsequently paid the S106 money directly to the window company.

4. IMPLICATIONS FOR THE COUNCIL:

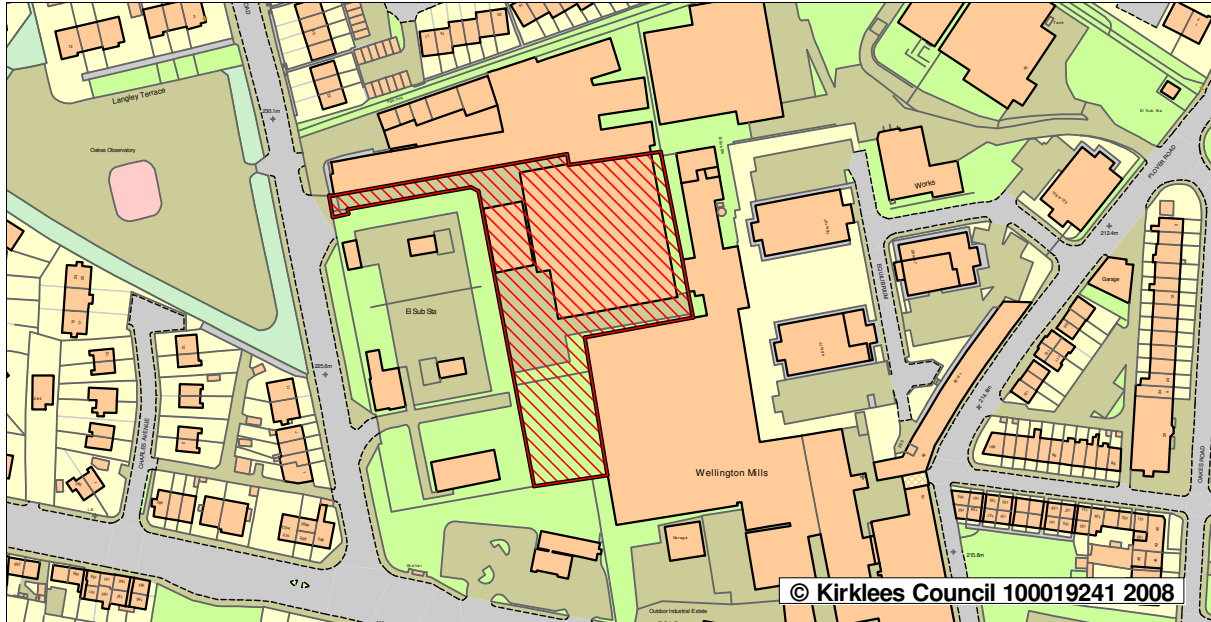
4.1 There are not considered to be any implications for the council beyond monitoring the site following the alleged noise complaint and responding to any further breach of conditions allegations or statutory noise complaints that may arise in the future.

5. OFFICER RECOMMENDATIONS AND REASONS

- 5.1 Write to the Pink Link reminding them of their responsibilities with respect to condition 2 (night-time noise management) and monitor the site in conjunction with Environmental Services, for the reason set out in this report.

APPENDIX A – Original Committee Report

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected:

Lindley Ward

No

Ward Members consulted

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Development Management 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:

1. secure a S106 Obligation (Unilateral Undertaking) for a financial contribution towards the upgrade of front facing bedroom windows within 11 Crosland Road.

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 Development Management 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 Development Management is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

1.0 INTRODUCTION:

1.1 The application is brought to the Sub-Committee because of the size of the site, in accordance with the Council's scheme of delegation.

2.0 SITE AND SURROUNDINGS:

2.1 The site comprises of a large building and yard area currently occupied by The Pink Link road hauliers. There is a driveway off Crosland Road that provides access to the site.

2.2 Immediately to the north of the site is a food production business (Pennine Food Ingredients Limited) with residential development beyond. To the south of the site is a Merrie England coffee shop and Britannia Mills which is in commercial use. Part of the Britannia Mills complex abuts the eastern site boundary with modern apartment buildings lying slightly further to the east. To the west is an electricity substation site. On the western side of Crosland Road is a row of six houses that are around 60m from the site access.

3.0 PROPOSAL:

3.1 The application is for change of use and alterations from B2 (general industrial) to B8 (storage and distribution).

3.2 This is a retrospective application; The Pink Link business has been operating from the premises since July 2014.

3.3 The business operates six days a week. The site is operational from 0600 on Mondays to midday on Saturdays.

4.0 RELEVANT PLANNING HISTORY:

4.1 Enforcement case:

COMP/15/0150 - Alleged unauthorised change of use to warehouse/distribution

The application before the committee has been submitted as a result of the above enforcement investigation in order to regularise a breach of planning control in respect of the unauthorised use of the premises.

5.0 HISTORY OF NEGOTIATIONS:

5.1 Officers have sought to mitigate the noise impacts associated with the development on the amenity of adjacent residential properties. This has resulted in the submission of a night-time noise management plan for the on-site operations and an offer from The Pink Link to pay up towards the upgrade of bedroom windows within the front of 11 Crosland Road in order to attenuate the night-time noise impact of vehicle movements. The owner of 11 Crosland Road has objected to the application.

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 published for consultation on 7th November 2016 under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Council considers that, as at the date of publication, its Local Plan has limited weight in planning decisions. However, as the Local Plan progresses, it may be given increased weight 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 2007) remains the statutory Development Plan for Kirklees.

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

The site is unallocated on the UDP Proposals Map.

D2 – Unallocated land
BE1 – Design principles
B1 – Employment needs of district
EP4 – Noise sensitive development
EP6 – Noise generating development
T10 – Highways safety

6.3 Supplementary Planning Guidance / Documents:

None

6.4 National Planning Guidance:

NPPF - 'Core planning principles'

NPPF Chapter 4 – Promoting sustainable transport

NPPF Chapter 1 – Building a strong, competitive economy

NPPF Chapter 11 – Conserving and enhancing the natural environment

Planning Practice Guidance – Noise

7.0 PUBLIC/LOCAL RESPONSE:

7.1 Application advertised by site notice, newspaper advertisement and neighbour notification letters

7.2 Representations: One objection received

7.3 Objection received from 11 Crosland Road that lies around 60m to the south of the site access. Objection summarised as follows:

- Nature of business inappropriate in a residential setting
- Noise disturbance from vehicles accessing site and from business practices within the site. Buildings have no noise insulation.
- Noise impacting on sleep and affecting quiet enjoyment of property
- Air pollution
- Highway concerns – parking issues because of staff parking on Crosland Road, congestion on public highway, wear and tear on road surface, impact on safety of school children
- Should application be approved request that hours of operation are restricted

8.0 CONSULTATION RESPONSES:

A brief summary of consultee advice is provided below. Further details are contained within the assessment.

8.1 Statutory:

KC Highways Development Management – No objections on highway safety grounds.

8.2 Non-statutory:

KC Environmental Services – Concerns raised with the impact of vehicle movements on Crosland Road causing disturbance to residential properties along the access route. Issues of noise from within the site can be controlled through a noise management plan.

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Highway issues
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The application site forms part of the former Decorative Panels premises which manufactured and supplied decorative faced sheet materials, panel components and flat pack furniture. The application describes the former use of the site as a general industrial use (B2). After the business ceased operating from the premises the site was split with Pennine Food Ingredients occupying the northern part of the site from 2013 and The Pink Link subsequently occupying the remainder. The Pink Link relocated from their previous site at Netherton.
- 10.2 The site is located on land which is without notation on the Unitary Development Plan (UDP) Proposals Map and therefore policy D2 of the UDP is relevant. This states that planning permission will be granted provided that a specific set of considerations are not prejudiced. These considerations include highway safety, residential amenity, visual amenity and the character of the surroundings. The principle of the development is acceptable provided that all these considerations are not unduly prejudiced.
- 10.3 Supporting information indicates that the business employs 45 people and the application would support the continuation of the business within the local area at a site that meets its needs in terms of access to the classified road and motorway network. The principle of the development is therefore considered to be in accordance with chapter 1 of the NPPF which seeks to support sustainable economic growth. This weighs in favour of the development proposed.

Urban Design issues

- 10.4 No physical alterations are proposed as part of this application and therefore the development does not give rise to any urban design issues.

Residential Amenity

- 10.5 The site has an established use for general industry and one of the main issues is whether the impacts associated with the proposed B8 storage and distribution use would result in any significant detriment to the amenities of the area.
- 10.6 A supporting statement sets out how The Pink Link business operates from the site.
- 10.7 There are two interconnected elements to the business – a local delivery and collection and a national delivery and collection.
- 10.8 The national delivery and collection operates using large (44T) articulated HGVs and involves deliveries and collections between The Pink Link site and other regional depots. These vehicles generally leave The Pink Link site between 4pm and 8pm and return to the site prior to the local delivery dispatch which starts at 6am.
- 10.9 The local delivery and collection predominantly operates using smaller (18T and 7.5T) HGVs and make collections and deliveries between The Pink Link site and local customers. This local operation generates the most vehicle movements to and from the site between the hours of 6am and 8pm.
- 10.10 The vehicles are predominantly loaded and unloaded within the existing building throughout normal daytime working hours. At night the loading and unloading is undertaken within the existing building to prevent noise disturbance associated with external loading/unloading.
- 10.11 The site includes an ancillary office use and a small vehicle repair and maintenance workshop.
- 10.12 A noise report has been submitted with the application and identifies sound sources at the premises. These consist of HGVs (both articulated and non-articulated) calling at the premises, manoeuvring and reversing into the unit buildings and being loaded or unloaded by forklift trucks inside the buildings. Noise from the opening and closing of roller shutter doors was also identified. The report states that sound from the premises is intermittent since it exists only when HGVs are arriving or departing and being loaded or unloaded.
- 10.13 These activities take place at any time of day or night during weekdays and up to midday on Saturdays. There are no activities at the premises from midday on Saturdays until 06.00 hours on Mondays.
- 10.14 There are typically 25-30 HGVs in and out of the premises in each 24-hour weekday period consisting of 10 HGVs during weekday nights from 2300 to 0700 hours, very limited vehicle activity from 0700 to around 1600 hours, then around 15-20 HGVs in and out between 1600 and 2300 hours.

- 10.15 The noise survey did not identify any other sources of sound from the premises reaching outdoors, such as ventilation or fixed plant items.
- 10.16 The nearest dwellings to the development are:
- Nos. 1-11 Crosland Road at a distance of approximately 78m to the service yard and 100m to the front elevation of the Pink Link building. An electricity substation and a separate commercial site are located between the dwellings and the Pink Link premises.
 - No.22 Crosland Road, 11-23 Birkdale Avenue and 14-28 Oakdale Crescent at a distance of around 50m to the north and northwest of the Pink Link premises. A continuous line of industrial buildings lie in between.
- 10.17 The properties that are most likely to be affected by noise are 1-11 Crosland Road because these houses face towards the main elevation and yard area of the premises. What is more, HGVs access the site via New Hey Road which means that large vehicles are passing by these properties whilst having to accelerate uphill in a low gear. As HGVs approach the brow of the hill they are preparing to turn right into the site.
- 10.18 The properties towards the north are much more screened by built development and would either have far fewer or no HGVs passing by.
- 10.19 One objection to the application has been received and this is from number 11 Crosland Road. The main concern relates to the impact of noise including noise from activity within the site as well as from HGVs accessing the site from the bottom of Crosland Road.
- 10.20 The proposed use gives rise to a number of specific noise impacts which are intermittent but generally occur during periods when nearby residents are most likely to be affected by noise, for example evening periods, during the night and very early in the morning. Furthermore the nature and timing of noise will almost certainly be different to that generated by the previous use when the site was operated by Decorative Panels. That said, the established use of the site was an unrestricted general industrial use which therefore had the potential to generate a significant degree of noise.
- 10.21 Environmental Services have been consulted on the application and have previously been involved with a specific noise complaint from the owner of 11 Crosland Road. Environmental Services have confirmed that they have witnessed a noise problem from activities on the site due to staff leaving roller shutter doors open or partially open overnight, shouting to each other across the yard and fork lift trucks movements early in the morning. Such issues can however be controlled through the proper management of the site and to this end a night-time noise management plan has been submitted. This sets out how noise egress from the building, external staff noise, external forklift truck movements and HGV movements within the site will be managed in order to minimise disturbance to nearby residential properties.

- 10.22 Officers are satisfied that the measures set out in the management plan would help to address noise from within the site and thus mitigate the impact on the amenity of neighbouring properties. Compliance with the management plan can form a condition on the permission.
- 10.23 Environmental Services have raised concerns with the impact of noise resulting from HGVs travelling to and from the site via New Hey Road during the night. Environmental Services have carried out monitoring of the site prior to this application being submitted as part of a separate noise complaint relating to 11 Crosland Road and have witnessed that the level of vehicle noise on Crosland Road is such that it would disturb sleep within the front bedrooms of 11 Crosland Road. However given that the noise is on a public highway it cannot be classed as a Statutory Nuisance and therefore no action could be taken under Environmental Health legislation.
- 10.24 To address the concerns of the objector the applicant has offered to pay a sum of money towards the upgrade of bedroom windows within the front of 11 Crosland Road. A quote for a particular specification of glazing has previously been obtained by the objector and Environmental Services have advised that the level of glazing within the quote would be sufficient to mitigate disturbance within front facing bedrooms.
- 10.25 The applicant's offer addresses officers' concerns in terms of the impact on 11 Crosland Road. The money can be secured by way of a S106 agreement (unilateral undertaking) whereby the applicant would pay the money to the council and then the council would release the money to the objector once the works to the windows had been completed.
- 10.26 The applicant's offer is limited to 11 Crosland Road and does not extend to any other properties, including the adjoining semi-detached house and adjacent row of terraced houses (comprising 1-9 Crosland Road). Environmental Services have only witnessed an issue at 11 Crosland Road and no other properties have been found to be affected by noise disturbance and as such similar upgrades to other properties would not meet the test of necessity.
- 10.27 It is likely that 11 Crosland Road would experience the greatest noise disturbance because it is furthest from the background noise of New Hey Road and closest to the site access where vehicles are turning in and out near the brow of the hill.
- 10.28 Consideration has been given to routing traffic via an alternative direction during night-time hours (i.e. approaching the site from the north) as a way to avoid HGVs accelerating up Crosland Road when background noise levels are at their lowest. This has however been discounted because it would mean taking HGVs past a significantly greater number of dwellings which could exacerbate the overall impact of the development. Highways Development Management have also commented that accessing the site via New Hey

Road represents the most suitable route for traffic because New Hey Road serves as a main distributor road and the site access is very close to it.

- 10.29 Imposing hours of use restrictions on The Pink Link operation as a means of controlling noise is not realistic because the nature of the business is such that it relies on the ability to operate 24 hours a day and it would become unviable if night time activities were restricted.
- 10.30 Taking into account the proposed noise mitigation measures and considering that the application site has a long-established and unrestricted general industrial use whereby some degree of noise is to be expected and the fact that noise will arise from any vehicle travelling along a public highway at any time of the day or night, on balance officers are of the opinion that the harm arising from the development would not be so detrimental so as to justify a refusal of the application on noise grounds.
- 10.31 In addition it is considered that the proposal would not have any material impact on the air quality within the vicinity of the site given that there is a long-established general industrial use of the site.
- 10.32 On balance the application is considered to satisfy Policies BE1, D2, EP4 and EP6 of the UDP and guidance in the NPPF.

Highway issues

- 10.33 The site forms part of an established industrial property which has been subdivided into two separate businesses which each benefit from separate points of access off Crosland Road. There are other commercial uses surrounding the site including a site to the south west which also has its own access off Crosland Road.
- 10.34 Highways Development Management considers that the proposed use would generate more vehicle movements in comparison to the established B2 use, especially from HGVs. The established use does however have the potential to generate unrestricted HGV movements and is likely to generate more parking demand.
- 10.35 Taking into account the size of the application site, in highway impact terms it is considered that the additional vehicle movements can be accommodated within the local highway network. It is also recognised that the site's location provides good connections to the classified road network and the M62.
- 10.36 Highways Development Management is generally satisfied that the site can accommodate the turning requirements of the expected HGV movements and that sufficient space is available for staff parking within the site, although it is acknowledged that there is some on-street parking taking place on Crosland Road. Details of parking and turning within the site have not been submitted with the application and it is considered that such details should therefore be required by condition.

10.37 The application is considered to be acceptable in highway safety terms and satisfies Policy T10 of the UDP.

Representations

10.38 One objection has been received and the main issues raised by the objector have already been addressed within this appraisal.

11.0 Conclusion:

11.1 The operation of the site as a 24 hour distribution business gives rise to a number of impacts that are mainly associated with the comings and goings of HGVs on the highway and the manoeuvring and loading/unloading of wagons within the site. The site nevertheless has an established general industrial use which is unrestricted in terms of the nature of the B2 activities that could take place and the hours any such business could operate. It is considered that noise from activities within the site from the proposed use can be adequately controlled through the submitted night-time noise management plan and disturbance to an objector's property from HGV movements on the highway can be mitigated by upgrading the glazing to road facing bedroom windows at the applicant's expense.

11.2 The vehicle movements generated by the proposal can be accommodated on the local highway network without unduly prejudicing highway safety or efficiency. There is sufficient space available for turning and parking within the site.

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 Development Management)

1. Development in accordance with the approved plans
2. Development in accordance with the approved night-time noise management plan
3. Details of the layout and surfacing of the car park for visitors and staff to be submitted within 4 weeks of approval and provided within four weeks following approval of the details.
4. Details of a turning area for 16.5 metre long service vehicle to be submitted within 4 weeks of approval and provided within 3 weeks of approval of details.

Background Papers:

Application and history files.

Website link:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f91900>

Certificate of Ownership – Certificate A signed.

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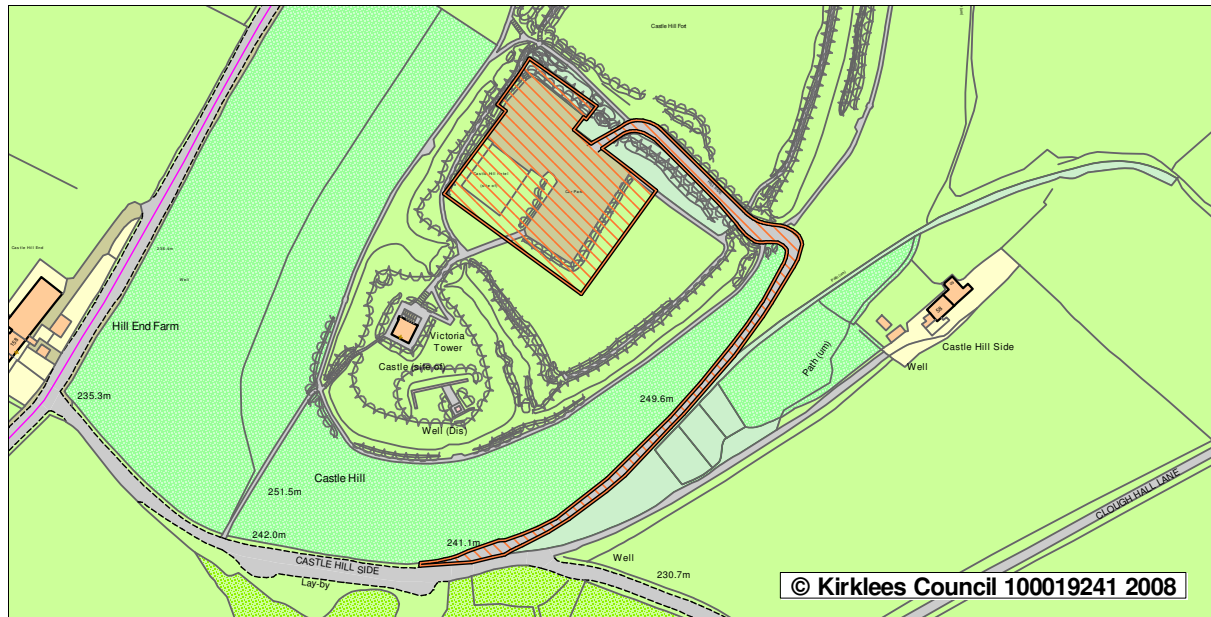
Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 31 August 2017

Subject: Pre-Application enquiry for the erection of café/restaurant and associated facilities at Castle Hill Side, Almondbury, Huddersfield, HD4 6TA

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected:

1. Almondbury and Newsome

Yes

Ward members notified

RECOMMENDATION: Members note the contents of this report for information

1.0 INTRODUCTION:

- 1.1 This pre-application enquiry is brought to the Huddersfield Planning sub-committee to inform members of a potential future planning application for a new development on Castle Hill. This would be for the erection of a café/ restaurant with bedrooms and interpretation facilities for visitors and formation of car parking and servicing facilities.

2.0 SITE AND SURROUNDINGS

- 2.1 Castle Hill is a prominent dome shaped hill situated to the south east of Huddersfield and visible from most of Huddersfield and the surrounding areas. The hill is a Scheduled Ancient Monument of regional significance with evidence that an Iron Age fort once topped the hill. The Jubilee Tower is located on the south west portion of the hill and is a Grade II listed building. There are no other structures on top of the hill but there is a car park area.
- 2.2 The site is green field and contains earth works around the perimeter as well as a number of public footpaths which cross and circumvent the site. There is pedestrian access to the site from both Ashes Lane and Castle Hill Side, the latter via a steep flight of steps. Vehicle access to the site is via the narrow and steep Castle Hill Side, which in turn accesses Ashes Lane.
- 2.3 The site is within the Green Belt, and is also a designated a Local Nature Reserve.

3.0 PROPOSAL:

- 3.1 The enquiry has tabled no specific drawings for consideration; rather they are seeking an 'in principle' opinion from the Local Planning Authority. The intention is for a building to, as previously stated, include a café/ restaurant with bedrooms and potentially some interpretation facilities for visitors. It could also include the reconfiguration of the car park and servicing. The principle of building outside of the footprint of the former public house is also raised.
- 3.2. The following briefing note has been submitted as part of the enquiry:
1. "This note gives background information on the informal pre-application agenda item regarding proposed visitor facilities at Castle Hill.
 2. A great deal of progress has been made by the key stakeholders in the site: KMC, Historic England and our clients, the Thandi Partnership. However, to move to a full detailed planning application will involve considerable further time, effort and expense on the part of the applicant to prepare the documentation required, as officers will explain.
 3. The purpose of this informal approach is to determine a principle: whether or not there is a wish to see visitor facilities at Castle Hill. If there is, the detailed work for a full application is justified; if not, then there is little point in going further.

4. So, what is our case for a public-private partnership to provide visitor facilities at Castle Hill?
 - a. *Castle Hill is the most visible, most important and most visited heritage asset and tourist attraction within Kirklees. People will always want to visit the site and they will judge Kirklees by their experience.*
 - b. *For over a hundred years before the Jubilee Tower was built there has been a pub, hostel, inn or hotel on the Hill, providing visitor facilities and often acting as the focus for important events. Today visitors find no public conveniences, nowhere to obtain refreshments, nowhere to shelter from the elements and no opportunity to learn more about the important archaeology and history of the site. Despite recent improvements it remains a poor advertisement for our area.*
 - c. *Facilities are desperately needed but the local authority is not in a position to build or manage them. Our proposal is for a public-private initiative that will provide visitor facilities, space for educational and research work and supervision of the site 365 days a year through the inclusion of what must be a viable commercial element to the scheme, designed with respect for and minimal impact on the site. The public benefit must outweigh any perceived harm.*
 - d. *The University and Huddersfield Town AFC (particularly now with its elevation to the Premier League) bring thousands of visitors to Kirklees each year. Many people seeing Castle Hill for the first time (and it is impossible to miss) want to go and visit. At present they are likely to turn round and come down very quickly. We cannot extinguish the wish to visit; we can manage it and make it one of the most attractive, well preserved and visited destinations in Kirklees.*
5. All the work done so far is valueless if there is no desire on the part of Kirklees Council to see something happen at Castle Hill. We are no longer seeking to build a copy of the former hotel that stood on the site, such as was clearly rejected by yourselves in 2013. Instead we propose a modern building far more sensitive to and integrated with its setting. We respectfully request that you indicate to Officers and the main stakeholders your informal support, if this is your wish”.

4.0 HISTORY:

98/90785 - Erection of extensions to the north and south of the hotel – Refused.

2000/91424 - Demolition of flat roofed and green mansard extensions, erection of front and rear extensions to form lobby, stairwell, toilets conservatory and additional kitchen space and internal bin store. This application was approved and work commenced on this scheme. The entire hotel was demolished and replaced with new build which was beyond the terms of the planning permission. Subsequent enforcement action resulted in the new building work being demolished and the site filled with inert material and grassed over.

2004/90033 - Erection of new build public house and hotel - Refused.

2009/93504 - Erection of replacement bar and restaurant including first floor guest accommodation and other works. Permission was refused for the following reasons:

- Contrary to Green Belt Policy;
- Development was on an isolated site not related to any settlement and as such it was contrary to PPS4 Planning for Sustainable Development;
- Adverse effect on the setting of the Grade II listed Victoria Tower;
- Adverse effect on the setting of the Scheduled Ancient Monument;
- Intensification of a substandard vehicle access.

2012/91867- Erection of public house/ hotel with associated parking. Permission was refused for the following reasons;

- Contrary to Green Belt policy;
- Substantial harm to the setting of the Victoria Tower(a Grade 2 listed building);
- Substantial harm to the setting of the setting of the Scheduled Ancient Monument;
- Intensification of the use of existing access, inadequate levels of parking;
- Detrimental effect on Bio diversity of the site which is a designate Local Nature Reserve

5.0 CONSULTATION RESPONSES:

5.1 As part of the pre-application enquiry process a number of key consultees within the Council have been contacted to seek their advice on the potential implications of such development in this location and the measures required to mitigate the associated impacts. These consultees are identified and their views are summarised as follows:

5.2 KC Policy

5.2.1 The site is within the Statutory Green Belt, and the development, is by definition inappropriate development. Any application would need to make a case for “very special circumstances” which outweighed the harm caused to the Green Belt by inappropriate development.

5.2.2. In addition within the Emerging Local Plan a Castle Hill Settings Study has been produced, as part of the Local Plan process, and following on from the Castle Hill Conservation Management Plan that was produced in 2006.

5.3 KC Highways

5.3.1. Any detailed application coming forward for this site would need to be supported by a Transport Statement that not only deals with the application site, but also specifically deals with demonstrating that surrounding routes to the site would be suitable for accommodating the levels and types of traffic expecting to visit the development.

5.3.2. It is noted that routes leading to the site for vehicular traffic are sub-standard, but are out of the control of the applicant. It may well be that a financial contribution will need to be secured with regards to off-site highway mitigation and improvement works and that an appropriate scheme needs to be designed. This would be identified within the required Transport Assessment. The applicant is strongly recommended to engage with Highways Development Management regarding the scope of assessment required and also to discuss potential measures.

5.3.3. The submitted information is insufficient to make any meaningful comment other than to state that the development will need to provide sufficient levels of parking in line with adopted standards and will need to demonstrate safe and efficient access to the site for vehicular traffic. The site will also need to be demonstrated as being suitable to be serviced in a safe and efficient manner.

5.4 KC Ecology

5.4.1 The site is designated a Local Nature Reserve. Any new development on the hill would have an impact on the existing biodiversity. A Full Ecological Report identifying the impact that a new development would have on biodiversity, would be required, together with suggestions to mitigate the impacts.

5.5 KC Business and Economy/Regeneration.

5.5.1 The Business Team supports the application and recognises the investment the applicant is making in this area to create jobs. It would be beneficial to understand not only the nature and number of direct jobs created by the site itself but for further information in identifying supply chain benefits for local businesses as well as local construction jobs and materials supplied etc. in the build. From a Tourism point of view this is a unique location and the applicants are sensible to target both day and overnight visitors.

5.5.2 Anything that adds value to accommodation provision is a benefit – visitors are looking for ‘experiences’ when on holiday, so the interpretation and unique site would add to the saleability of the accommodation.

5.5.3 It is recommended the applicants:

- Investigate current room and occupancy rates, and other proposed hotel developments in Huddersfield, to ensure its a viable business proposition,
- Consider catering for people with a disability
- Are clear about jobs creation

5.6 KC Conservation and Design

5.6.1 Castle Hill is a Scheduled Ancient Monument, and contains the Victoria Tower (a Grade 2 listed building). As such any application needs to be accompanied by a Heritage Impact Assessment, to inform any claim of the development being in the public interest to outweigh any harmful impact. This assessment should extend to the setting of the Scheduled Ancient Monument. As the enquiry indicates that the option of building beyond the footprint of the former pub, a full Archaeological Survey would be required.

5.6.2 NOTE: Given that the proposed development affects the Scheduled Ancient Monument in addition to any planning application, which would be determined by the Local Planning Authority, a Scheduled Ancient Monument Consent would be required, and this would be determined by Historic England. For any development to be capable of being implemented both Planning Approval and Scheduled Monument Approval would be required.

6.6.3 As part of the planning application process Historic England would be consulted, and much of the information they would require to validate any application is the same as identified above.

6.0 Ward Members

Cllr Julie Stewart Turner:

“Thank you for the opportunity to comment. I hear lots of mixed views from people, and it’s hard to get a clear understanding of what the majority would like to see on Castle Hill. My personal view is that there needs to be some facilities on site. I’d like to take my grand-daughters there to fly their kits, but then I’ll need somewhere to wash them, as they are good at attracting dirt, and I’d need toilet facilities for them. I’d like to get a cup of tea or coffee on a cool day, or an ice cream for us all on a hot day. I take visitors to Castle Hill to show off the views, and it would be lovely to get a cup of tea with them, and learn a little about the history, or even buy a postcard of the amazing views. I think a small tourist facility would add value to the site, especially one that has minimal carbon footprint. However, I also realise that the traffic needs to be carefully managed, so that it doesn’t spoil the site, possibly some park and ride, or park and walk for those who can.

I personally would not want to see a large restaurant and hotel on site.”

7.0 MAIN ISSUES

7.1 It is considered that the main, but not exclusive, issues which would need to be fully addressed by the applicant in any subsequent planning application can be summarised as:

- Policy:
- Heritage Issues:
- Bio Diversity
- Highways

Policy Matters

7.2 The site is within Green Belt, and as such the proposed erection of a new building is by definition “inappropriate development and should not be approved except in very special circumstances.. Very special circumstances will not exist, unless the potential harm to the Green Belt by reason of its inappropriateness, and any other harm, is clearly outweighed by other considerations. The site does not fall into the category of any exceptions as defined in paragraph 89 of the National Planning Policy Framework “Protecting Green Belt Land”.

7.3 The proposal is for a café/ restaurant facility which is a town centre use as defined in part 2 of the National Planning Policy Framework, and is in a remote location, with difficult access.

7.4 The NPPF presumes in favour of sustainable development, unless material considerations indicate otherwise. Such considerations can include where there are specific policies within the NPPF indicating development be restricted. This includes where land is designated as Green Belt.

7.5 As such any planning submission, would need to provide a case demonstrating ‘very special circumstances’ in terms of development in the Green Belt and demonstrate the sustainability of locating a town centre use, in a remote isolated location.

Heritage Matters

7.6 The site is a Scheduled Ancient Monument, and the Jubilee Tower, is a Grade 2 listed building. There would be a requirement to submit appropriate information in support of the application that would include:

- Heritage Impact Assessment;
- Archaeological Survey;
- Visual Impact Assessment- (relating to the Castle Hill Setting Study).

Until these surveys are carried out, and the results available for consideration, the extent of any harm to the significance of Heritage Assets cannot be identified. This means that until such time the level of mitigation or “ the public interest argument “ cannot be made, to make an on balanced judgement that any harm to the significance of the heritage assets is outweighed by the public benefits.

- 7.7 Given that the proposal is to extend beyond the footprint of the former public house, until an Archaeological Survey is submitted and it is confirmed that Scheduled Ancient Monument Consent for this is secured (by Historic England) justification for extending the footprint cannot be considered.

Biodiversity

- 7.8 The site is within an area that has been designated as a Local Nature Reserve. (this is a Local Designation not a statutory designation such as an Site of Special Scientific Interest). A Full Ecological Survey would be required with an application which also sets out any proposed mitigation.
- 7.9 Part 11 of the National Planning Policy Framework “Conserving and enhancing the natural environment” is a material consideration.

Highways

- 7.10 A Transport Statement would be required with any submission, given the nature of the development described and because this would result in an intensification of the access road. The access road is narrow and steep, and there is little scope to improve this by way of provision of passing places etc.
- 7.11 There are existing car parking areas on the hill, but any new proposal would need to demonstrate that the proposed parking provision satisfies the Council’s parking standards given the site’s location. In addition any development should encourage the use of low emission vehicles and alternative means of transport.
- 7.12 The potential for an access management arrangement to the site has been mooted by the potential applicants in the past. In considering the implications of access and transport to future development it would be worth exploring this option further.

8.0 Recommendation

- 8.1 That members note the contents of this report for information.

KIRKLEES METROPOLITAN COUNCIL

PLANNING SERVICE

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

12 OCTOBER 2017

**Application to extinguish claimed paths
and provide alternative routes – Clayton Fields**

Item 10 – Page 57

Officers would note the following response from the Trees Officer in Planning Services regarding the woodland path:

“Moving the woodland path to the top of the banking would be an improvement in terms of impact on the woodland.

The paths previous proposed location cutting internal through the woodland, and traversing a steep banking side, would require significant engineering to construct it (raised board walk etc). This would undoubtable cause more potential for impact on trees than locating it at the top of the banking. For this reason the top of the banking location is more preferable from a tree protection perspective.

However, that said I believe that the location along the top of the banking originally caused concerns for crime prevention.

I'm confident that the current conditions would still give sufficient control over the foot path, and its design, in either location. Therefore, I see no reason why this could not be dealt with after committee at a later stage.

As a final point, it's worth noting that I would not be supporting or foreseen the need for tree loss to facilitate construction of the path”.

Planning Application 2015/91664

Item 13 – Page 153

**Outline application for residential development with details of access
and provision of car parking and bin storage for previously approved
adjacent apartments under application no. 17/90375**

rear of 1A, St Johns Avenue, Newsome, Huddersfield, HD4 6JP

For completeness, the following text is Cllr Julie Stewart Turner's initial comments on the application dated 18th June 2015. These are noted and where applicable addressed in the officers assessment. With regards to the site/club being registered as an Asset of Community Value, the site is not listed as an Asset of Community Value on the Council's records. Turning to the widening of the path to allow vehicle access to the rear of the building, this would be an altered access to the public highway. However this access and the demolition of the toilet block has previously been approved on the application on the adjacent site for the under application no. 2017/90375 for the alterations and extensions to convert the public house to 6 apartments.

“The bowling green is a highly valued community asset. The bowlers are part of a several leagues, with long term plans. I notice that the applicant states that the bowlers only have use of the bowling green for one more season, but that isn’t the view of the bowlers. The applicant states that the owners are subsidising the club, but the management committee weren’t aware of this till they read it is the application, they fund raise and are very self-sufficient.

The bowling club tried to buy the bowling green from the liquidators, and raised the £10,000 they were quoted, but were not able to as the ownership of the bowling green is in dispute, they are told that the green isn’t clearly identified on the deeds, and this is an ongoing issue. The committee are in the process of registering the club as an Asset of Community Value, the process was delayed as an owner couldn’t be identified till very recently, but is on track again now.

The tea room on site is also well used by other members of the local community. The applicant states there will be no loss, gain or change of use of non-residential floor space, but the application is clearly to remove the bowling green and tea room, which is a valued local asset, with a separate entrance from the old working men’s club.

The applicant ticked the no box in answer to the question, ‘Is a new or altered vehicle access proposed to or from the public highway?’ The path at the side of the old working men’s club was a narrow pedestrian path. The applicant proposes removing the toilet block to widen the path to allow vehicle access to the rear of the building, which to me means a very much altered access to the public highway. I believe that the proposed vehicle access will still be too narrow to be used by up to 20 cars in and out of the development site, onto what is already a busy junction.

You are likely to receive many objections to this application, not just from the bowling club members, but from other people who live around the site, as they are very concerned about the houses being built so close to their properties”.

ADDITIONAL REPRESENTATIONS:

Two further representations have been received from the occupier of no. 31 Towngate.

The concerns raised are in relation to the proposed siting of bins adjacent to the rear boundary wall of no. 31 Towngate. It is also stated the removal of landscaping on the party boundary between the application site and this property now gives rise to the potential of associated environmental issues including the overflow of litter into the adjacent garden areas of adjoining neighbouring sites.

Response:

It is noted the proposed siting of bins is similar to that approved under application no. 2017/90375 for alterations and extensions to convert public house to 6 self- contained apartments at the former Newsome Taps. However, in light of the further concerns received and in the interests of amenity, officers consider details of boundary treatment for the whole periphery of the site can form part of one of the reserved matters (landscape), should Members approved the application. Whilst this would ensure that adequate boundary treatment could be provided on the party boundary with the adjacent neighbouring residential properties. If there were any further concerns regarding environmental issues, these could be considered through the remit of Environmental Health legislation/Acts.

HERITAGE ISSUES:

Given the proximity of the site to listed buildings (nos. 27-31 Towngate) north-west of the site, the application was advertised as affecting the setting of the listed buildings. The agenda does not include an assessment of the impact on the setting of these heritage assets as the application, at this stage, simply seeks the principle of development on the site.

Officers are of the opinion the proposals would have a negligible impact and lead to less than substantial harm on the significance of these listed buildings, subject to consideration of the reserved matters. In accordance with paragraph 134 of the NPPF, the less than substantial harm is outweighed by the public benefit the proposals would provide. These being all three strands of sustainable development as defined in the NPPF but also the provision of additional housing. This would comply with the duty set out in the Listed Buildings and Conservation Areas Act 1990 and Chapter 12 of the NPPF.

It is however, acknowledged once again that the impact on the significance and setting of the adjacent listed buildings would need to be considered in relation to the matters reserved.

Planning Application 2016/93243

Item 14 – Page 169

Erection of 17 dwellings (within a Conservation Area)

Thirstin Mills, Thirstin Road, Honley, Holmfirth, HD9 6JG

Comments have been received from Holme Valley Parish Council on 10th October, in relation to the latest revised site layout/plans:

“Welcome reduction in number of houses and widening of road, so support in principle but materials to be in keeping (in a Conservation Area) and footpath conditions (as PROW recommendations) must be complied with”.

Planning Application 2017/92220

Item 15 – Page 189

Reserved matters application pursuant to outline permission 2015/91640 for residential development (16 dwellings)

Mill Moor Road, Meltham, Holmfirth, HD9 5LW

Drainage:

Condition 14 of the outline consent requires that any existing drainage infrastructure within the site and proposed foul and surface water drainage infrastructure are used to help inform the site layout as submitted at reserved matters stage and include appropriate stand-off distances between drainage infrastructure and buildings within the site and appropriate measures for flood risk management.

Some drainage information has been provided, including a proposed drainage layout (in draft form) which shows surface water connecting to Meltham Dike with on-site attenuation to restrict the discharge rate, French drains along the northern boundary to act as a storage system for surface water run-off with discharge through the top soil, foul drainage connecting to public sewer in Mill Moor Road and flood routing for overland flows within the site. Information provided also confirms that there is no existing drainage infrastructure within the site.

Kirklees Lead Local Flood Authority has not raised any objections to the (draft) proposed drainage layout and on this basis it is considered that the proposed layout is acceptable in drainage and flood risk terms. Kirklees Lead Local Flood Authority has also not provided any information that would contradict the applicant's assessment that there is not any existing drainage infrastructure within the site which the layout needs to take into account.

Officers are satisfied that sufficient drainage information has been provided for the purposes of an assessment of the proposed layout at reserved matters stage and within the spirit of the condition. However, as the drainage layout is in draft form and detailed design has not been submitted, the requirements of condition 14 have not been met in their entirety. As such the applicant will need to provide a detailed drainage design to the satisfaction of Kirklees Lead Local Flood Authority, and ultimately the Local Planning Authority, before any approval notice can be issued, including evidence to demonstrate that the proposed drainage strategy is achievable given that it involves third party land. The officer recommendation has therefore been altered to reflect this.

Yorkshire Water have not provided any comments on the submitted drainage layout although a surface water connection to watercourse and foul connection to sewer in Mill Moor Road as proposed is in line with their comments made at outline stage.

Highways:

Highways Development Management have advised that a minor adjustment to the internal road layout is necessary to improve the alignment given that the access road would potentially be serving residential development on the land to the north. This will require an amended plan to be submitted but is minor in nature and could be dealt with post committee.

Representation received:

A representation has been received in response to the second round of publicity recently undertaken. The comments relate to the drainage of the site and particularly the drainage conditions that were imposed on the outline consent (conditions 14-19). It is stated that inadequate information has been provided to meet these conditions and queries have been raised as to whether the developer will be able to meet some of the requirements.

It is only condition 14 which requires drainage information to be provided at this stage, with other conditions requiring information to be provided before development commences as part of a formal discharge of condition application. As set above, officers are satisfied that sufficient information has been provided to enable an assessment to be made between the proposed layout of the site and drainage infrastructure in the context of the spirit of the condition although detailed design is still considered necessary, particularly as the drainage layout is in draft form. It is considered that such information could reasonably be provided, to the satisfaction of the Local Planning Authority, before an approval notice is issued.

Correction:

The report refers to the eaves height of plots 12-14 being lowered slightly however the reduction in eaves height was made to plots 1-4. The height of plots 12-14 (two storey dwellings) was considered acceptable as submitted, providing a natural step up from 100 Mill Moor Road. The amendment to plots 1-4 helped to mitigate the fact that these properties fronting onto Mill Moor Road have accommodation over three levels.

Revised recommendation:

RECOMMENDATION:

DELEGATE approval of the reserved matters and the issuing of the decision notice to the Head of Strategic Investment in order to obtain a detailed drainage design based on the proposed draft drainage layout to the satisfaction of Kirklees Lead Local Flood Authority and to satisfy condition 14 of the outline planning permission; secure a revised layout plan showing a minor amendment to the alignment of the internal access road to the satisfaction of Highways Development Management and to ensure the reserved matter of 'layout' is acceptable and; to complete the list of conditions including those contained within this report and update.

Planning Application 2016/91900

Item 16 – Page 201

Change of use and alterations from B2 (general industrial) to B8 (storage or distribution)

The Pink Link Ltd, Crosland Road, Oakes, Huddersfield, HD3 3PA

Planning Enforcement wrote to The Pink Link on 4th October 2017 reminding the company of their commitments to comply with the 'Night-time Noise Management Plan.'

A Breach of Condition Notice could be served if there is a failure to comply with the Night-time Noise Management Plan.

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