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

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Wednesday 7 June 2017

Notice of Meeting

Dear Member

Strategic Planning Committee

The **Strategic Planning Committee** will meet in the **Council Chamber - Town Hall, Huddersfield** at **1.00 pm** on **Thursday 15 June 2017**.

Please note that the Chair of the Planning Committee has agreed to undertake site visits on an earlier date to ensure that there will be sufficient time available at the meeting to consider in full all of the scheduled applications. A coach will leave the Town Hall, Huddersfield on Wednesday 14 June 2017 at 9.30am to undertake site visits referred to on the Agenda.

The consideration of planning applications will commence on Thursday 15 June 2017 at 1.00pm

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 Strategic Planning Committee members are:-

Member

Councillor Bill Armer
Councillor Donald Firth
Councillor Steve Hall (Chair)
Councillor Paul Kane
Councillor Carole Pattison
Councillor Andrew Pinnock

When a Strategic Planning Committee member cannot be at the meeting another member can attend in their place from the list below:-

Substitutes Panel

Conservative

D Bellamy
N Patrick
J Dodds
V Lees-Hamilton
G Wilson

Green

K Allison
A Cooper

Independent

C Greaves
T Lyons

Labour

E Firth
C Scott
M Sokhal
S Ullah
S Pandor

Liberal Democrat

J Lawson
A Marchington
L Wilkinson

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 the Previous Meeting

1 - 10

To approve the Minutes of the meeting of the Committee held on 27 April 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 items or participating in any vote upon the items, 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: Public Question Time

The Committee will hear any questions from the general public.

6: 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.

Site Visits - to be undertaken on Wednesday 14 June 2017

7: Site Visit - Application No: 2017/90340

Erection of builders merchants building, formation of access, car parking and associated external storage Neiley Wastewater Treatment Works, New Mill Road, Brockholes, Holmfirth.

Estimated time of arrival at site: 9.40am

Contact Officer: David Wordsworth, Planning Services.

Wards

Affected: Holme Valley North

8: Site Visit - Application No: 2016/90261

Erection of warehousing unit Brookfield Mill, Penistone Road, Kirkburton, Huddersfield.

Estimated time of arrival at site: 10.00am

Contact Officer: David Wordsworth, Planning Services.

Wards

Affected: Kirkburton

9: Site Visit - Application No: 2016/93746

Outline application for erection of up to 200 dwellings and formation of public open space (within a Conservation Area) Fieldhead Farm, White Lee Road, White Lee, Batley.

Estimated time of arrival at site: 10.30am

Contact Officer: Neil Bearcroft, Planning Services.

Wards

Affected: Heckmondwike

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 to speak by 5.00pm (for phone requests) or 11:59pm (for email requests) by no later than Monday 12 June 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: Planning Application - Application No:2016/92055 17 - 36

Erection of 109 dwellings with associated works Land to the east of Crosland Road, Lindley, Huddersfield.

Contact Officer: Bill Topping, Planning Services.

Wards

Affected: Lindley

11: Planning Application - Application No: 2017/90340 37 - 46

Erection of builders merchants building, formation of access, car parking and associated external storage Neiley Wastewater Treatment Works, New Mill Road, Brockholes, Holmfirth.

Contact Officer: David Wordsworth, Planning Services.

Wards

Affected: Holme Valley North

12: Planning Application - Application No: 2016/90261 47 - 58

Erection of warehousing unit Brookfield Mill, Penistone Road, Kirkburton, Huddersfield.

Contact Officer: David Wordsworth, Planning Services

Wards

Affected: Kirkburton

13: Planning Application - Application No 2016/93746

59 - 92

Outline application for erection of up to 200 dwellings and formation of public open space (within a Conservation Area) Fieldhead Farm, White Lee Road, White Lee, Batley.

Contact Officer: Neil Bearcroft, Planning Services.

Wards

Affected: Heckmondwike

Planning Update

93 - 100

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

Contact Officer: Richard Dunne, Tel. richard.dunne@kirklees.gov.uk

KIRKLEES COUNCIL

STRATEGIC PLANNING COMMITTEE

Thursday 27th April 2017

Present: Councillor Paul Kane (Chair)
Councillor Carole Pattison
Councillor Andrew Pinnock
Councillor Bernard McGuin
Councillor Ken Sims
Councillor Mohan Sokhal

1 Membership of the Committee

Councillor Sokhal substituted for Councillor S Hall.

Councillor McGuin substituted for Councillor B Armer.

Councillor Sims substituted for Councillor D Firth.

The Committee agreed to appoint Councillor Kane as Chair for the duration of the meeting.

2 Minutes of the Previous Meeting

Approved as a correct record.

3 Interests and Lobbying

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

Councillors Kane, McGuin, Pattison, A Pinnock, Sims and Sokhal declared they had been lobbied on application 2016/93688.

Councillor McGuin declared an 'other' interest in application 2016/93688 on the grounds that his grandson attended Highburton First School.

Councillors Kane, McGuin, Pattison, A Pinnock, Sims and Sokhal declared they had been lobbied on application 2016/93428.

Councillors Kane and A Pinnock declared they had been lobbied on application 2017/90180.

Councillor Kane declared that he had met with the applicants of application 2016/93514 in his capacity as a ward councillor to have general discussions regarding the proposed development.

4 Admission of the Public

All items were taken in public session.

5 Public Question Time

The Committee received a question from Peter Schofield on behalf of the Lindley Moor Action Group in regards to the validity of the Air Quality Management report and the implications of Birchencliffe being designated as an Air Quality Management area. The Chair and the Planning Development Management Group Leader responded to the questions.

6 Deputations/Petitions

No deputations or petitions were received.

7 Site Visit - Application No: 2017/90180

Site visit undertaken.

8 Site Visit - Application No: 2016/93514

Site visit undertaken.

9 Site Visit - Application No: 2017/90077

Site visit undertaken.

10 Site Visit - Application No: 2016/93688

Site visit undertaken.

11 Planning Application - Application No: 2017/90155

The Sub-Committee gave consideration to Planning Application 2017/90155 Erection of school, formation of outdoor play areas and fenced MUGA and alterations to existing site access and parking Moor End Academy, Dryclough Road, Crosland Moor, Huddersfield.

Under the provisions of Council Procedure Rule 37, the Committee received representations from Marianne McCallum (Agent), Jo-Anne Sanders (Kirklees Council) and Charles Waterhouse (Objector).

RESOLVED –

- 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. A 3 year Time limit condition
 2. Development to be in accordance with approved plans
 3. Highways requirements
 4. Inclusion of the Sport England requirements
 5. Inclusion of Environmental Services conditions
 6. Inclusion of Yorkshire Water condition
 7. Kirklees Council Drainage requirements
 8. Tree Planting scheme
 9. Use of 3G Pitch
 10. Hours of construction
 11. Implementation of an Acoustic Barrier
 12. Hours of Use of floodlights
 13. Contaminated Land requirements
 14. Removal of existing modular classrooms
 15. Secure By Design

- 2) Additional conditions to include a Construction Traffic Management Plan and Travel Plan.

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

For: Councillors Kane, McGuin, Pattison, A Pinnock, Sims and Sokhal (6 votes).
Against: (0 votes).

12 Planning Application - Application No: 2016/93428

The Sub-Committee gave consideration to Planning Application 2016/93428 Part demolition of existing mills and erection of 45 dwellings and 16 apartments. Re-use of existing mill building and alterations to form workshop, car storage, restaurant, function suite and ancillary office space and formation of car park. Conversion of mills to hotel and offices (Listed Building) Washpit Mills, Choppards Lane, Cartworth Moor, Holmfirth.

Under the provisions of Council Procedure Rule 37, the Committee received representations from Celia Kilner and Michael Martin (on behalf of Neighbours of Washpit Group).

RESOLVED –

To inform the Planning Inspectorate that the Local Planning Authority would have refused the application had its determination remained within its remit.

Contrary to the Officer's recommendation, the Committee considered that the connections between the application site and the nearest settlement of Holmfirth

Strategic Planning Committee - 27 April 2017

were extremely limited for pedestrians and users of public transport and that improvements in these connections were considered to be essential for ensuring the sustainability of the development so that occupants of the proposed residential units, employees and visitors of the non-residential elements of the development were not isolated from the facilities and services of Holmfirth or over dependent upon motor vehicles. The mitigation measures proposed by the applicant to highway improvements on Green Lane/Washpit New Road were considered to be insufficient and would fail to improve the connectivity of the site. The Committee concluded that the development failed to comply with policies T16, BE1 of the Kirklees UDP and section 4 (Promoting Sustainable Transport) of the National Planning Policy Framework.

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

For: Councillors Kane, McGuin, Pattison, A Pinnock, Sims and Sokhal (6 votes).

Against: (0 votes)

13 **Planning Application - Application No: 2017/90180**

The Sub-Committee gave consideration to Planning Application 2017/90180
Erection of 95 dwellings with access from Yew Tree Road and Burn Road Land at
Ainley Top/Yew Tree Road/Burn Road, Huddersfield.

Under the provisions of Council Procedure Rule 37, the Committee received representations from Mike Chalker and Michael Martin (objectors) and Richard Irving (agent).

RESOLVED –

- 1) Delegate approval of the application and the issuing of the decision notice to the Head of Development Management to resolve technical issues with the remediation of coal mine entries within the site to the satisfaction of the Coal Authority and complete the list of conditions contained within the considered report including:
 1. A time limit condition
 2. Development to be in accordance with approved plans
 3. Approval of sample of materials
 4. Detailed highway design
 5. Contaminated land
 6. Measures to deal with coal mining legacy as may be necessary
 7. Lighting strategy for biodiversity
 8. Landscape and ecological management plan
 9. Construction environmental management plan
 10. Development in accordance with arboricultural method statement (and evidence provided)
 11. Details of any additional tree works that may be required during construction
 12. Archaeological investigation

Strategic Planning Committee - 27 April 2017

13. No building within 3m of sewers across the site
 14. Detailed drainage scheme
 15. Watercourse piping
 16. Flood routing plan
 17. Temporary drainage scheme for construction
 18. Electric vehicle charge points
 19. Sound attenuation measures
- 2) That the Head of Development be authorised to secure a S106 agreement to cover the following matters as detailed in the considered report and the update list:
1. Affordable housing provision
 2. Off-site highway works for junction improvements to Halifax Road/East Street junction (£75,000)
 3. Contribution towards education requirements arising from the development (£234,752)
 4. Contribution towards travel plan monitoring (£10,000)
 5. A reduction of 50% in the original recommended Metro Card contribution of £46,659 with the balance being used towards off-site affordable housing provision
 6. Contribution to bus shelter upgrade on Yew Tree Road (£10,000)
 7. Off-site contribution towards the upgrade of the existing play facility at Birchencliffe recreation ground off Halifax Road. This is in lieu of on-site equipped play provision. The normal cost for an equipped play facility and maintenance costs would be approximately £90,000
 8. Arrangements for the long term maintenance and management of public open space and areas of incidental open space within the site (including those areas containing the drainage detention basins)
 9. Future maintenance and management responsibilities for the drainage infrastructure
- 3) An additional matter for inclusion in the S106 agreement to secure a contribution to provide netting to protect the housing units from the sporting activities on the adjacent rugby playing field.
- 4) 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, 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, and be authorised to determine the application and impose appropriate reasons for refusal under delegated powers.

In addition it was also agreed that:

1. Further negotiations with the developer should take place in order to try and secure a higher percentage towards the affordable housing provision.
2. Work would be undertaken to explore air quality mitigation measures.

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

1. A vote to defer the application.
For: Councillors McGuin, A Pinnock and Sims (3 votes).
Against: Councillors Kane, Pattison and Sokhal (3 votes).
The Chair used his casting vote to defeat the motion to defer the application.
2. A vote to support the officer recommendation.
For: Councillors Kane, Pattison, A Pinnock and Sokhal (4 votes).
Against: Councillors McGuin and Sims (2 votes).

14 Planning Application - Application No: 2016/93688

The Sub-Committee gave consideration to Planning Application 2016/93688 Erection of 97 dwellings along with associated access, drainage works, landscaping and public open space Land to the south of Burton Acres Lane, Highburton, Huddersfield.

Under the provisions of Council Procedure Rule 37, the Committee received representations from Gina Dean, Sarah Ruttle, Chris Shaw, Sara Hughes, Sarah Bell, John Goodyear (objectors) and Mark Lane (agent). Under the provisions of Council Procedure Rule 36 (1) the Committee received representations from Cllr's Bill Armer, Richard Smith and John Taylor (Local Ward Members).

RESOLVED –

- 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 within the considered report including:
 1. A time limit condition
 2. Development to be in accordance with approved plans
 3. A detailed drainage scheme
 4. Temporary drainage scheme for construction
 5. Ecological method statement
 6. Landscape and ecological management plan
 7. Lighting design strategy for biodiversity
 8. Tree protection plan
 9. Contaminated land and coal mining legacy investigation and remediation
 10. Electric vehicle charge in points
 11. Surfacing of parking spaces
 12. Provision of sightlines
 13. Detailed highway design
- 2). That the Head of Development Management be authorised to secure a S106 agreement to cover the following matters:

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1. Public open space provisions including off site commuted sum (£89,000) and future maintenance and management responsibilities of open space within the site
 2. 20% of total number of dwellings to be affordable with a tenure split of 55% being Social Rented and 45% being Sub Market
 3. Delivery of affordable units within the first two phases of development (13 units within phase 1 and 6 units within phase 2)
 4. £233,115 towards Education requirements arising from the development
 5. Provision of Metro Cards & bus shelter upgrade (£33,820)
 6. Future maintenance and management responsibilities for the drainage infrastructure.
- 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, 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, and be 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 Kane, Pattison, A Pinnock and Sokhal (4 votes).

Against: Councillors McGuin and Sims (2 votes).

15 Planning Application - Application No: 2017/90077

The Sub-Committee gave consideration to Planning Application 2017/90077
Erection of 85 bed care home with associated car parking and landscaping Busker Lane, Scissett, Huddersfield.

Under the provisions of Council Procedure Rule 37, the Committee received representations from Patrick Coyne (objector), David Bennett (Agent) and Carley Rawlinson (on behalf of the applicant).

RESOLVED –

- 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. A 3 year time limit condition
 2. Development to be in accordance with Approved plans
 3. Approval of materials to be used
 4. Tree protection
 5. Landscaping details
 6. Ecological enhancement details
 7. Contaminated Land
 8. Noise from plant room

Strategic Planning Committee - 27 April 2017

9. Odour/Extraction/Ventilation
 10. Lighting
 11. Boundary treatment
 12. Parking areas to be provided prior to use commencing
 13. Parking areas to be hard surfaced and drained
 14. Visibility Splays to be provided in accordance with approved plans
 15. Details of CCTV
 16. Drainage
 17. Construction Management Plan
 18. Bin store details
- 2) An additional condition that, subject to a tree survey, the removal of trees close to the site entrance be undertaken outside of the nesting season.
- 3) That the Head of Development Management be authorised to secure a S106 agreement to cover the following matters:
1. Dementia care to be provided as part of the proposed care facility

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

For: Councillors Kane, McGuin, Pattison, A Pinnock, Sims and Sokhal (6 votes).
Against: (0 votes).

16 Planning Application - Application No: 2017/90473

The Committee gave consideration to Planning Application 2017/90473 Erection of 1 dwelling Springfield Farm, Moorside, Cleckheaton.

RESOLVED –

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. A 3 year time limit condition
2. Development to be in accordance with approved plans
3. Samples of materials
4. Removal of permitted development rights
5. Surfacing of parking areas
6. Electric vehicle charging point
7. Reporting of unexpected contamination
8. Ecological Design Strategy

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

For: Councillors Kane, McGuin, Pattison, A Pinnock, Sims and Sokhal (6 votes).
Against: (0 votes).

17 Position Statement - Application No: 2016/93514

The Committee received a position statement in respect of Planning Application 2016/93514 Erection of 149 dwellings with associated car parking, access, landscaping, public open space and drainage works Land off, Rumble Road, Dewsbury and was invited to comment upon the application.

The Committee noted the contents of the report and provided comments to the questions outlined in the submitted report.

RESOLVED –

That the Position Statement be received and noted.

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KIRKLEES COUNCIL			
DECLARATION OF INTERESTS AND LOBBYING			
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.

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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Report of the Head of Development Management

STRATEGIC PLANNING COMMITTEE

Date: 15-Jun-2017

Subject: Planning Application 2016/92055 Erection of 109 dwellings with associated works Land to the east of Crosland Road, Lindley, Huddersfield

APPLICANT

Paul Thornton,
Persimmon Homes (West
Yorkshire)

DATE VALID

16-Jun-2016

TARGET DATE

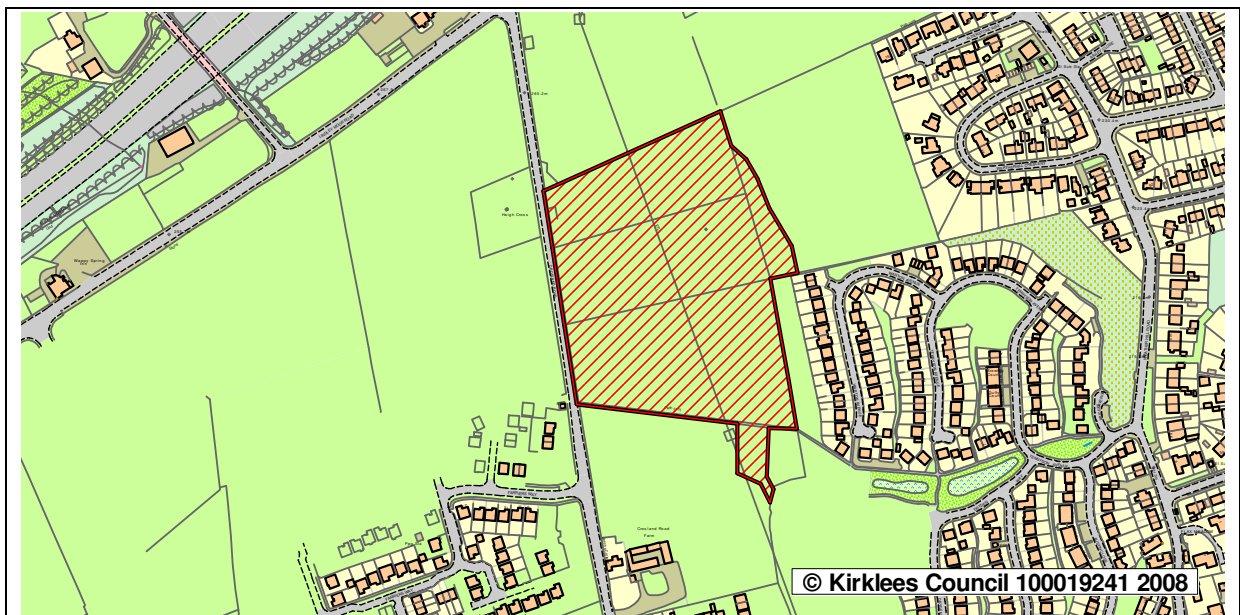
15-Sep-2016

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: Lindley.

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 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 (listed below) and following the expiry of the extended publicity period:

- Affordable housing (15% of total number of units);
- Education Contribution (£269,347)
- Public Open Space contribution (On site POS and contribution of £112,750 for off site equipped play provision)
- Sustainable Travel Fund £47,826
- Travel Plan Monitoring £15,000
- Bus Stop Improvements £10,000

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 strategic committee given the scale of the development, and as the proposed development would represent a departure from the Council's Unitary Development Plan.
- 1.2 The Committee have undertaken a site visit on this proposal and Members will recall discussing the application at the previous Strategic Planning Committee as part of Position Statement Report.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site comprises an area of 3.96 ha, and is located on the eastern side of Crosland Road, Lindley. The site comprises 3 fields and a small parcel of land to the south which is part of the farm curtilage to the south and links to the boundary with the existing Miller Homes development - Lindley View.
- 2.2. The site is undulating with a prevailing fall from NW to SE. There are overhead power lines and pylons running north to south across the central area of the site. There are public rights of way that run along northern and southern boundaries of the site.
- 2.3. The site is bounded to the north by fields in agricultural use, to the east by the Miller Homes residential development, and an area of open land; to the south by Crosland Farm and its grounds, which include Jericho Cottage, a grade 2 listed building, and on the west on the opposite side of Crosland Road, a mixed use development comprising housing and employment, currently under construction.
- 2.4. The site is part of a much larger employment allocation (B8.1), on the Kirklees Unitary Development Plan.

PROPOSAL

- 3.1. Full permission is sought for the erection of 109 dwellings comprising a mixture of detached, semi-detached and terraced properties, predominantly 2 storey dwellings (but with a small no of 2.5 storey). The use of artificial stone and tiled roofs are proposed. Access is to be taken off Crosland Road and this serves a series of cul-de-sacs around an elongated spine of open space central to the site that runs north to south (this open space is located under the power lines). The layout has dwellings facing onto the open space area and also onto Crosland Road.
- 3.2 The layout drawing also indicates SUDS features in the open space area such as swales, particularly in the northern part of the site.

4. BACKGROUND AND HISTORY

- 4.1 Previous applications on this site and Housing allocation H8.17 are listed below:

98/992536 - Erection of 325 dwellings and garages

98/92256 - Provision of public open space and landscaping
- 4.2 Both of these were dealt with by the Secretary of State following a public inquiry and the residential appeal was dismissed on the grounds there was a supply of previously developed land for development, and as such release of the green field sites was premature.

4.3 The appeal for the open space was allowed.

2000/93276 - Outline application for employment and business use comprising industrial, commercial and storage units with ancillary facilities, road and parking- Withdrawn August 2005.

2009/92550 - Outline application for a Data campus and formation of access from Lindley Moor Road. (This is the same site as the current application) Refused.

4.4 Reason for refusal:

"The application relates solely to part of an industrial allocation, B8.1 in the Kirklees Unitary Development Plan. Footnotes specify that this allocation should be developed comprehensively with Housing allocation H8.17. As such the application is contrary to the Kirklees Unitary Development Plan."

4.5 This was the subject of appeal which was withdrawn following the approval of 2011/91518 (listed below).

4.6 2011/91518 - Outline application for Data Centre Campus with formation of access off Lindley Moor Road. Approved subject to a Section 106 agreement

4.7 2011/91519 - Full application for residential development (294 units) and associated works including the demolition of existing buildings, construction of new accesses from Cowrakes Road and Weatherhill Road, footpath, drainage, earthworks, provision of public open space and landscaping. Approved subject to a Section 106 agreement

4.8 NB Both of the above applications were considered concurrently and in relation to a comprehensive development framework. Both of the Section 106 agreements include an appropriate financial contribution towards infrastructure improvements within the area.

4.9 2014/92214 – Full application for 30 no dwellings. Approved subject to a Section 106 Agreement

4.10 2014/93136- Outline application for industrial development(class B1c, B2 and B8) Plot A-(160,000sq ft/14,846 sq m) with engineering works to form a development plateau, formation of access from Lindley Moor Road, provision of services and drainage infrastructure. Erection of industrial unit. Plot B-(50,000 sq m/4,684 sq ft) unit access off Crosland Road; and Plot C detailed application for 252 dwellings with access off Crosland Road with engineering works to create underground drainage attenuation provision of open space and landscaping. Approved subject to a Section 106 Agreement

4.11 2016/92870 -Reserved Matters for the erection of industrial unit on Plot A1- Approved and currently under construction.

4.12 2016/90613- Reserved Matters application for industrial unit on Plot B- Yet to be determined.

5.0. HISTORY OF NEGOTIATIONS:

5.1 Officers have reviewed the layout and requested a number of changes to improve the layout. The outcome of these negotiations will be reported in the update.

5.2 Additional noise assessment has been carried out regarding the proximity of the housing to the neighbouring industrial allocation; and the Air Quality Assessment has been updated in line with the Leeds City Region guidance the West Yorkshire Low Emissions Strategy.

5.3 Discussion/ negotiation regarding the sites viability have been undertaken, and an affordable housing offer of 15% (ie 16 no units) has been tabled, by the applicant.

6.0. RELEVANT POLICY

6.1 The statutory development plan comprises the Kirklees Unitary Development Plan (saved Policies 2007). 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.

6.2 Development Plan:

6.3 Site allocation:

6.4 The site is allocated for business in the UDP, general industry and storage and distribution use (allocation B8.1) whilst the southern and eastern parts are allocated as buffer zone to the employment allocation. (Policy B3).

6.5 Allocation B8.1 is subject to a series of footnotes:

6.6 Footnote 6 - In order to assess the traffic effect of the allocation, further detailed work (including, where appropriate, analysis of a traffic impact assessment) will need to be undertaken by the Highways Agency to ensure that traffic can be accommodated satisfactorily on the trunk road network. Where this is not possible, but could become so by remedial highway improvements, the Highway Agency will seek the attachment of appropriate

planning conditions relating to the commencement or occupancy of the development prior to the carrying out of such improvements. Where remedial works prove not to be feasible or agreement as their scale cannot be reached with the developer, the Highways Agency might have to direct refusal of the planning application, or if before the Secretary of State object to the proposal.

6.7 Footnote 9 - The maximum acceptable proportion of B8 floorspace shall be 20%.

6.8 Footnote 10 - The site shall be developed comprehensively with site H8.17.

UDP policies:

B1 – Employment needs of the district

B3 – Buffer zones

BE1 – Design principles

BE2 – Quality of design

BE9 – Archaeological value

BE10 – Archaeological evaluation

BE12 – Space about buildings

BE23 – Crime prevention

D6 – Green corridors

T10 – Highway safety

T14 – Safeguarding existing pedestrian routes

T16 – Providing safe and attractive pedestrian routes within new development,

T17 – Developments to meet the needs of cyclists

T19 – Parking standards

G6 – Land contamination

H1 – Housing needs of the district

H10 – Affordable housing

H12 – Arrangements for securing affordable housing

H18 – Provision of open space

EP6 – Noise generating development

EP11 – Ecological landscaping

EP12 – Overhead power lines

EP4 – Noise sensitive development

National Policies and Guidance:

6.9 National Planning Policy Framework;

Part 1 - Building a strong competitive economy;

Part 2 - Ensuring the vitality of town centres

Part 4 - Promoting sustainable transport;

Part 6 - Delivering a wide choice of high quality homes

Part 7 - Promoting good design

Part 8 - Promoting healthy communities

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

Part 11 - Conserving and enhancing the natural environment

Part 12 - Conserving and enhancing the historic environment

6.10 Other Policy Considerations:

- 6.11 Supplementary Planning Document 2 - Affordable Housing
- 6.12 KMC Policy Guidance "Providing for Education Needs Generated by New Developments".
- 6.13 Manual for Streets
- 6.14 Emerging Local Plan- Site allocated as Mixed Use (Employment and Residential)
- 6.15 Interim Affordable Housing Policy
- 6.16 A Sense of Space; Design guidelines for development near high voltage overhead lines.

7.0 PUBLIC/LOCAL RESPONSE:

7.1. REPRESENTATIONS

- 7.2 This application has been publicised by site notices, neighbour letters and advertisement in the local newspaper. The proposal has been advertised as a departure. 15 letters of representation have been received, the main points of concern being:

1.This former semi- rural area is being rapidly destroyed by new development, and this development has had and will continue to have an adverse effect on the lives of local people.

2. Flooding has got worse in the area since development at Lindley Moor commenced (eg muddy water and dangerous conditions on Crosland Road).

3. The local highway network cannot cope with an additional 109 dwellings

4.The proposal will have an adverse effect on the already stretched infrastructure in the area ie there are insufficient school places and it is difficult to get an appointment with a GP.

5. No new housing in the area should be built without there being a new school.

6. the balance of the site is for 3 and 4 bed housing showing little regard for the provision of affordable housing or enabling young people to get on the housing ladder.

7 The POS is located under the power lines. This must not be regarded as quality or usable open space.

8. This site is earmarked for employment use.

7.3 Lindley Moor Action Group

LMAG have produced a lengthy report detailing objections to the scheme. This report was given to Members at the site visit which was undertaken, and has been posted on the website. The Conclusions and summary are given below;

8. Conclusions

- 1. The requested change of use to make houses instead of employment would be a detrimental material departure from the UDP, so there must be a presumption of refusal.*
- 2. The highways network is unable to accommodate the development for lack of capacity (particularly the Halifax Road corridor) and no credible improvements have been identified. Congestive failure of the roads is a material consideration for refusal.*
- 3. The proposal would make worse the long-standing health problem of air pollution in both A629 and A643 corridors. Kirklees has committed to be compliant with national air quality standards by 2020, and is conducting detailed assessment likely to result in the declaration of AQMA's. In the interim, any traffic generating local development should be refused until a credible and sustainable remedial plan of controls and measures can be introduced. The public health hazard is a material consideration for refusal.*
- 4. The scheme proffered is a dangerous, wasteful and unsustainable proposal. Re-design would be required to bury the power cables and provide affordable properties. This would resolve the safety hazard intrinsically and increase development viability (minimum 40 dwellings/hectare) for more sustainable use of land. Even were housing considered, the unsafe and unsustainable design would be material grounds for refusal.*

9. Summary

The brave new world of the 1992 draft UDP promised 2000 permanent jobs for local people on strategic land allocated for employment as bed-rock industrial regeneration.

Contrast the 2016 agenda of easy pickings from an unsustainable greenfield housing bonanza. No jobs, no affordable houses for locals, commuters choking our air and roads, and precious green fields transformed to dormitory wasteland.

Compelling evidence of material grounds to refuse the application has been exhibited:

- The application represents a major departure from the UDP.*
- The road network is already failing.*
- The pollution menace demands priority attention.*

Lindley Moor Action Group has confidence that Kirklees Metropolitan Council will find courage to recall their strategic mission, listen to the people, and reject this application with vigour

- 7.4 Cllr Cahal Burke:- Objects to the proposal as it will increase pressure on existing services, increase traffic, result in the further loss of open space.

There is a lack of school places in the area, and this development will exacerbate that problem.

7.5 Lindley Ward received the largest percentage share of housing development between 2007 and 2013, and there is a growing concern among residents about the scale of development in the area.

7.6 The amended plans received have been secured via the normal negotiation process, and no additional material effects have occurred on the area or neighbours as a result of this. Negotiations have also yielded an improved affordable housing offer, and additional information and clarification received regarding noise attenuation and air quality.

7.7 All of this additional information has been posted on the web site, and new site notices posted extending the publicity period for an additional 14 days, should any one wish to comment on the amendments and updated information received.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

The Environment Agency- No objections

The Coal Authority- No objections subject to appropriate conditions.

KC Highways Development Management – No objections in principle

KC Lead Local Flood Authority- requested additional supporting information on a number of issues, including run off rates, and land and location of existing land drainage on part of the site. This information is being assembled by applicants to enable comet, suggested conditions .

Yorkshire Water Authority- Recommend conditions

8.2 Non-statutory:

KC Public Rights of Way- Identified some specific concerns regarding the layout, and the relationship to the 2 public footpaths that exist on the north and south edges of the site

KC Environmental Health Services. Recommend conditions regarding decontamination and remediation. Expressed concern at the impact the neighbouring industrial site would have on residential amenity. An additional noise report, into the effectiveness of the “buffer zone” area at the northern edge of the site, has been undertaken ,and has satisfactorily demonstrated that the provision of the buffer zone, the orientation of the dwellings and with appropriate boundary treatment the residential amenities of the dwellings will be safeguarded, as will the ability to deliver employment on the neighbouring site.

An updated Air Quality Assessment has been submitted in accordance with the West Yorkshire Low Emission Strategy.

KC Environment Unit- the site itself is of little ecological value, but it is part of a much larger development where bio diversity enhancement and green corridors have been provided, and conditioned. Biodiversity enhancement should be sought on this site, and the area coordinated with the already approved schemes

KC Conservation and Design- Generally a well considered layout. There a number of detailed comments that need addressing. Care needs to be taken on the type and quality of the treatment of the car parking areas that front onto Crosland Road.

KC Housing- There is an identified need for affordable housing in this area, and the Councils Interim policy seeks 20% of numbers of units.

KC Education Services- An Education contribution is required in this case .the required amount is £269,347.

KC Landscape and Parks- The area indicated open space is under the line of the overhead power lines, and its value of public open space is therefore lessened. An off site payment for provision of play equipment off site is appropriate, towards upgrading of existing facilities in the local area.

West Yorkshire Archaeology- Site is in proximity to the identified line of a Roman Road, a site of Archaeological importance. An Archaeological appraisal should be undertaken prior to development commencing.

9.0 MAIN ISSUES

- Principle of development
- Urban design Issues
- Bio-diversity Issues
- Heritage Issues
- Environmental Issues (Remediation, Noise, Air Quality)
- Flood Risk/ Drainage Issues
- Highways Issues

10.0 APPRAISAL

Principle of development

- 10.1 The application site is allocated for business and industry on the Unitary Development Plan. The proposal for housing would therefore result in the loss of land allocated from employment purposes.

- 10.2. Part 1 of the National Planning Policy Framework “Building a Strong and Competitive Economy paragraphs 18-22 are material considerations and in relation to employment sites paragraph 22 states:
- “ Planning policies should avoid the long term protection of sites allocated for employment uses where there is no reasonable prospect of the site being used for that purpose.... Where there is no reasonable prospect of the site being used for the allocated employment purpose, applications for alternative uses of land and buildings should be treated on their merits having regard to the market signals and the relative needs of different land uses to support sustainable local communities.”
- 10.3. Paragraph 215 of the NPPF also states that due weight should be given to relevant policies according to their degree of consistency with the Framework, the greater the weight that may be given. With this regard paragraph 216 also confirms that from the date of publication, decision makers may also give weight to the relevant policies in emerging plans according to;
- The state of preparation of the emerging plan(the more advanced the preparation, the greater the weight that may be given);
 - The extent to which there are unresolved objections to relevant policies(the less significant the unresolved objections, the greater the weight that may be given);
 - The degree of consistency of the relevant policies in the emerging plan to the policies in the Framework(the closer the policies in the emerging plan to the policies in the Framework , the greater the weight that may be given).
- 10.4. The applicants have submitted information that the only viable use of this site is for a standalone residential scheme including supporting evidence from The Employment Land Review that the site has not come forward for an employment use since the UDP’s adoption in 1999. The applicant also contends that that the site is not a new strategic employment site within the Draft Local Plan and that the site is not within an Employment Protection Area (as identified within the draft Local Plan) and that the site is part of a larger employment allocation part of which has been built out as industry and has extant permissions for employment, part of the site has been granted a residential permission (currently under construction).
- 10.5. It is worth noting that this site, and the balance of allocation B8.1 Draft Local Plan is allocated as potential mixed use development (residential and employment).
- 10.6. Unlike the application 2014/93136, which was a combined application for residential and employment uses on the opposite side of Crosland Road this application is a stand-alone residential scheme, and does not make any enabling contribution towards delivering employment on the neighbouring site. As such the potential for employment use on the balance of the B8.1 (ie

to the north on the application site, and fronting onto Lindley Moo Road) must not be prejudiced by any residential development.

- 10.7. Paragraph 49 of the NPPF, presumes in favour of sustainable development, and indicates that housing policies should not be considered up to date if the Council is unable to demonstrate a 5 year supply of deliverable housing land. Currently the Council is unable to demonstrate a 5 year supply of deliverable housing land. In this respect recent appeal decisions have confirmed that given the lack of a 5 year supply the Council's housing land policies in the UDP are out of date, and this has been afforded considerable weight in allowing those appeals.
- 10.8. As such the lack of an adequate land supply in itself is a relevant and material planning consideration as is the provision of 109 additional dwellings that would help address the shortfall.

Planning Obligations

- 10.9. Given the scale of the site and numbers of dwellings involved the Council's policies regarding the provision of the following are relevant to the proposal:
- Affordable Housing;
 - Public Open Space;
 - Education Contributions
- 10.10. The Council's Interim policy on affordable housing calls for 20 % of numbers to be provided on site, on both brown and greenfield sites. ie in this case that would equate to 22 units. A Viability appraisal has been submitted and negotiations have taken place. An offer of 16 units to be affordable has been tabled by the applicants. This totals 15% of the overall numbers, and the tenure split is to be;
- 8 units affordable rental;
 - 8 units intermediate.
- 10.11. The Education Contribution required in this case would be £269,347.
- 10.12. The Provision of POS on the site as shown on the layout is satisfactory in itself, however there would be a need for an off-site payment in lieu of on site equipment of £112,750 would be required.
- 10.13. The applicants have submitted a Viability Appraisal with the application, in which they state that the provision of affordable housing on the site would render the scheme unviable, due to substantial abnormal costs.
- 10.14. In addition to the POS provision and Education Contribution the applicants have offered;
£47,826 towards sustainable transport fund; and
£15,000 towards Travel Plan monitoring
£10,000 Bus Stop improvements.

10.15 It is considered that this offer is acceptable and that whilst the affordable housing offer is 15%, it is a significant improvement upon the previous position of providing no units, and the 15% level is the same as has been agreed on neighbouring sites at Lindley Moor. In addition the offer for sustainable transport and travel plan monitoring has increased by approximately £10,000. It is noted that at Burn Road Harron Homes secured a planning permission with a reduced affordable housing contribution below 15% where viability was contested. As such the offer by the applicant is considered reasonable and contributes to housing delivery and the affordable housing need requirements of the District.

Urban Design Issues

10.17. The site is currently a number of green fields, very open in character. The site fronts onto Crosland Road, from which the principle access to the site is taken. The site is bounded to the north by a series of fields (also allocated for employment use on the UDP), and to the south by a field that comprises the curtilage of Crosland Road Farm, which whilst also being allocated for employment use on the UDP contains a Grade 2 listed building.

10.18. The layout comprises a total of 109 dwellings at a density of 27 per ha. This is considered to be an appropriate density for this area, and is comparable to the neighbouring developments. Also it is considered to be an efficient use of the site. The dwellings are a mixture of detached, semi-detached and terraced dwellings, and 2 and 2.5 storey in height, as such the scale of development is considered to be appropriate.

10.19. The principle access to the site is off Crosland Road which serves a number of cul de sacs off a central spine road which runs parallel with a central green corridor which constitutes the on-site public open space. The dwellings that are adjacent on Crosland Road are served off private drives which result in the dwellings creating a frontage street scene onto Crosland Road together with the existing retaining stone boundary wall and associated landscaping behind the boundary wall.

10.20. Also within the site the orientation of dwellings facing onto the open space is achieved in the majority of cases, which is considered to deliver an acceptable street scene within the site also.

10.21. Amended plans have been received which improve the relationship to the 2 public footpaths on the north and the south of the site. As originally submitted the schemes had dwellings backing onto these footpaths, and on the northern path the extent of open space next to the path was narrow and would have resulted in a long stretch of narrow path with no natural surveillance, and uninviting for pedestrian to use.

10.22. The amendments have repositioned the majority of the dwellings to have their gables facing the path, and improving natural supervision. The amount of space adjacent the footpath on the north of the site, has been increased to between 16-20m together with the improved natural surveillance which is

considered an overall improvement to the layout of the scheme. In addition the extra distance from the boundary and the reorientation of the dwellings on the northern part of the site improves the relationship and residential amenity of those houses, relative to the neighbouring employment allocation.

- 10.23. As such it is considered that the amended plans deliver an satisfactory layout, that accords with the guidance contained in Policies BE1, BE2 and the guidance contained in part 7 of the NPPF “Requiring good design”.

Bio diversity issues

- 10.24. The application site currently comprises a number of fields. An Ecological Assessment has been submitted which is considered to accurately reflect the existing site which is improved agricultural land of a limited ecological value.
- 10.25. Para graph118 of the NPPF indicates that opportunities to achieve bio diversity enhancement should be taken on new developments. This site is part of a much larger employment allocation, and neighbouring a large residential scheme.
- 10.26 There are a number of green corridors, water courses and footpath areas across the entire allocation. This is in addition to the residential approval and the hybrid approval on the opposite side of Crosland Road that have been provided as part of extant approvals that essentially result in a green framework across both the employment and residential allocations. The development of this site should contribute to that green framework in a logical manner.
- 10.27. The scheme includes a central green corridor which is underneath the power lines. 2 footpaths cross the site on the north and south boundary. The space about the northern footpath is to be improved and increased along its route to provide a better layout, but also an effective buffer zone between this residential scheme and the neighbouring employment allocation.
- 10.28. It is considered that with appropriate planting and contribution towards a Landscape Management Plan (this has consistently been applied to any approval for development on the Lindley Moor allocations) should be conditioned, and will deliver bio diversity enhancement in accordance with the guidance contained in part 11 of the National Planning Policy Framework “Conserving and enhancing the natural environment”.

Heritage Issues

- 10.29. The site is located to the north of Crosland Farm, which is a complex of buildings approx. 130 m distant from the southern boundary. This grouping contains Jagger Cottage, which is a grade 2 listed building, and as such the impact of the development on its needs to be considered.
- 10.30. The setting of the listed building is characterised, by its openness ie the surrounding open field areas. The listed building is a part of a group of

buildings, some modern that aren't listed, and these are set in a large open field, close to the back edge of the highway.

- 10.31. To the south approximately 40m from the listed building is a small residential scheme.
- 10.32. It is considered that the distance from the listed building and the open road frontage, retain the sense of openness around this listed building and do not detract from its significance. Accordingly this satisfies the tests contained in part 12 of the National Planning Policy Framework 2 Conserving and enhancing the historic environment.
- 10.33. The site is within 150 m of a Class 3 Archaeological site, on the opposite side of Crosland Road. The applicants have indicated that previous archaeological investigations in the area, are sufficient to deal with this matter, and that there is no risk to the asset.
- 10.34. It is true that there were extensive archaeological investigations undertaken on both the Peat Ponds site (opposite side of Crosland Road) and Lindley View (residential scheme off Weatherhill Road). However the investigations did not extend to this site and in view of the fact that important information was uncovered this site should be properly investigated also. To this end a pre-commencement condition is recommended by the West Yorkshire Archaeology Service, for what is referred to as an "Archaeological Watching Brief"

Environmental Issues(Remediation, Noise and Air Quality, Power Lines)

- 10.35. Remediation-The application is accompanied by a Contaminated Land report, which identifies some small areas of contamination. The decontamination and remediation of these areas can be satisfactorily dealt with via condition.
- 10.36. Noise- The issue of noise on this scheme relates to the safeguarding of residential amenity for the new dwellings in relation to their proximity to the highway and a neighbouring unrestricted employment allocation.
- 10.37 The accompanying noise report indicates that some of the dwellings that front onto Crosland Road will require noise mitigation for traffic noise, and this should be conditioned.
- 10.38 With respect to the relationship between the proposed dwellings and the neighbouring employments site, this issue has previously been dealt with by the provision of a 30m buffer zone between the employment and residential uses to offset potential conflict. The buffer zone for this application needs to be provided along the northern boundary of the site and adjacent to the footpath. The current distance is less than 30m and additional space or information is required to demonstrate that the residential amenities of the dwellings will be safeguarded and there will be not prejudice any neighbouring employment uses.

- 10.39 An additional report has been provided which specifically addresses the issue of the adequacy of the buffer zone on the northern edge of the site to both protect the residential amenity of the new dwellings, whilst maintaining the potential of the neighbouring industrial site to be developed for employment use, without onerous restrictions.
- 10.40 This has been considered by Environmental Health, who are satisfied with the conclusions. Conditions regarding the detailing of boundary treatment and acoustic fencing are recommended.
- 10.41 Air Quality- The application is accompanied by an Air Quality Statement that has been reviewed in accordance with the West Yorkshire Low Emission Strategy. The statement relates to a small scale development and the site is adjacent to an area of known poor air quality that is currently under assessment to determine air quality in the area.
- 10.42. As such additional assessment of the site on the basis of this being a Major application is required in this case. This updated report undertaking the assessment as a major development has been submitted. This includes a damage cost calculation to identify monetary value of predicted emissions from the proposal and detail the mitigation measures to control air quality impacts associated with this scheme.
- 10.43. The total predicted emissions cost over a 5 year exposure period is “£64,106. The applicants have offered financial contributions of £57,826 towards a sustainable transport fund (including bus stop improvements), and £15,000 towards travel plan monitoring ie a total of £72,826, In addition the provision of electrical charging points for the majority of these dwellings is offered (and will be conditioned). As such the value of the mitigation measures exceeds the damage costs, in line with the guidance contained in the West Yorkshire Low Emissions Strategy
- 10.44 Power lines. Policy EP 12 of the UDP indicates that the amenities of dwellings located near power lines should be considered, and the National Grid has produced its own guidance on the subject “a Sense of Space”. In dealing with the understandable concerns regarding health risk from EMF’s (electro magnetic forces), they confirm that the international scientific consensus is against them being regarded as a major public health risk, and that they oppose this matter being used to promote policies, or conditions justifying the controlling or directing of development.
- 10.45 In terms of layout and design, they support the principles of good urban design and encourage a meaningful use of the areas underneath the power lines. If houses are not be sited, underneath the power lines then it should be used for purposes to support the scheme. In this case no dwellings are sited under the power lines, and a central green wedge forms an area of open space, which also offers opportunities for SUDS drainage .Also the central spine road is sited underneath the power lines. As such there is no

justification in planning terms for resisting development on this site, because power lines cross it.

Flood Risk and Drainage

- 10.46. The site is within an area identified as being in Flood Zone 1 (ie the area of lowest risk) however given the size of the site a Flood Risk Assessment relating to surface water run-off is required and has been provided.
- 10.47. This application site is part of a larger employment allocation and adjacent to the balancing areas at the top of the Lindley View residential scheme. As such this site is in a central and pivotal location with regard to the satisfactory drainage of the entirety of both the employment and residential allocations and beyond and needs to be co-ordinated with the drainage systems already approved and in place.
- 10.48. Flood Risk and Drainage within the Council have sought additional information i to justify the drainage elements of the scheme in particular the relatively low run off levels that have been put forward by the applicant. It is consider that this information can be provided and proper justification made. This issues have been the subject of discussion with the applicants who are tabling additional information to resolve this matter.

Highways

- 10.49. Potential development at the application site was previously considered a part of a Comprehensive Framework Masterplan which proposed a quantum of residential and employment development across a number of sites at Lindley Moor. The masterplan was accompanied by a Comprehensive Transport Assessment which estimated person and vehicle trips for the whole of the development area so that the full traffic impact from all development from all masterplan sites could be assessed and appropriate mitigation measures identified.
- 10.50. As Lindley Moor has been built out the mix of development has changed from that originally envisaged in the comprehensive masterplan. The impacts too are changing with residential land uses generating a higher volume of trips and a different pattern on the network to that assessed in the Comprehensive Masterplan and accompanying Transport Assessment. As such, the traffic generated by the masterplan will eventually exceed the capacity provided by off-site highway works provided to accommodate the whole masterplan. A standard approach has been applied throughout by Kirklees Highways to all developments within the masterplan area that have come forward for determination to maintain a consistent and transparent approach.
- 10.51. The highways contributions that it is appropriate for the Persimmon scheme to make are as follows:
- i) The Masterplan Framework contribution to off-site highway works at Ainley Top and Cavalry Arms is calculated at £2,852.41 per unit = £313,765.10

ii) The contribution (calculated at 28% of total cost) to site specific highway requirements involving the signalisation of the Lindley Moor Road / Crosland Road junction = £131,839.68

iii) The applicant has also stated that he is willing to provide the following contributions to maximise the accessibility of the site by sustainable modes:

- Travel Plan monitoring : £15,000.00
- Contribution to a Sustainable Transport Fund: £47,826
- Bus Stop improvements £10,000.

10.52. The level of contributions necessary to deliver the infrastructure improvements as identified have on the basis of previous permission been achieved. The work is programmed and deliverable. As such there is a surplus of money which could be safeguarded for any future improvements needed should the balance of site deliver substantially higher levels of traffic beyond the capacity and growth levels already factored into the improvements or any savings made. However given the specified scheme (Ainley Top) have been paid for from previous developments it is not necessary in this instance to receive a contribution for this off site highway work from this application. The sustainable travel fund, travel plan and bus stop contributions however are all relevant, necessary and fairly related in scale and kind and meet the CIL test required to justified contributions.

10.53 Future development proposals for alternative uses on other allocated sites will have to be considered on their own merits and their impacts will have to be justified in the light of the evidenced submitted to support any future applications.

10.54. The internal layout is considered to be broadly satisfactory with adequate parking and servicing being provided. Amended plans have been received and these satisfactorily address these issues.

11.0 CONCLUSION

11.1 The site is part of a large allocation for employment on the UDP. Adjoining the site to the north is the balance of this employment allocation, not included within this site. Within the Emerging Local Plan the whole of the existing employment allocation is allocated as a mixed use site (ie employment and housing).

11.2. Guidance in the NPPF, indicates that Local Planning Authorities should avoid long term protection of sites unlikely to come forward for employment and consider alternative uses in such cases. It is considered unlikely that this site will come forward for employment use, and as such an alternative housing use can be considered. The delivery of housing on this part of the UDP allocation, should not, however, prejudice the delivery of employment on the remainder of the allocation to the north.

11.3. Given that the Council is unable to demonstrate a deliverable 5 year supply of housing land, the presumption in the NPPF is in favour of sustainable housing

sites, and this site is considered to be in a sustainable location. As such on balance the use of the site for housing is considered to be acceptable.

- 11.4. Negotiations have occurred regarding the viability of the site, and the level of Section 106 contributions. The updated offer now includes 15% affordable housing (ie 16 units), as well as full contributions towards POS, Education and transport contributions.
- 11.5. Amendments to the layout have been secured which resolve footpath layout and minor traffic issues, and deliver a satisfactory layout. The site is capable of being remediated, and issues of noise attenuation, provision of electric charging points and drainage can be dealt with by condition.
- 11.6. As such on balance, the scheme is considered acceptable, and approval recommended subject to the signing of a Section 106 Agreement.

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

Conditions to cover the following areas.

1. 3 year Time limit for commencing conditions
- 2 Highways conditions (junction provision, provision of footpath, internal parking secured.
3. Environmental Health Conditions
 - Noise attenuation (facing onto Crosland Road, and boundary treatments on northern boundary.
 - Remediation;
 - Air Quality(provision of charging points)
4. Landscape and biodiversity management plan
5. Samples of materials / boundary treatments.
6. Drainage conditions.
7. Development to be carried out in accordance with the approved plans.

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f92055>

Certificate of Ownership – Notice served on/ or Certificate A signed:

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Report of the Head of Development Management

STRATEGIC PLANNING COMMITTEE

Date: 15-Jun-2017

Subject: Planning Application 2017/90340 Erection of builders merchants building, formation of access, car parking and associated external storage Neiley Wastewater Treatment Works, New Mill Road, Brockholes, Holmfirth, HD9

APPLICANT

Tony Sharkey, JTD
Buildng Supplies Ltd

DATE VALID

31-Jan-2017

TARGET DATE

02-May-2017

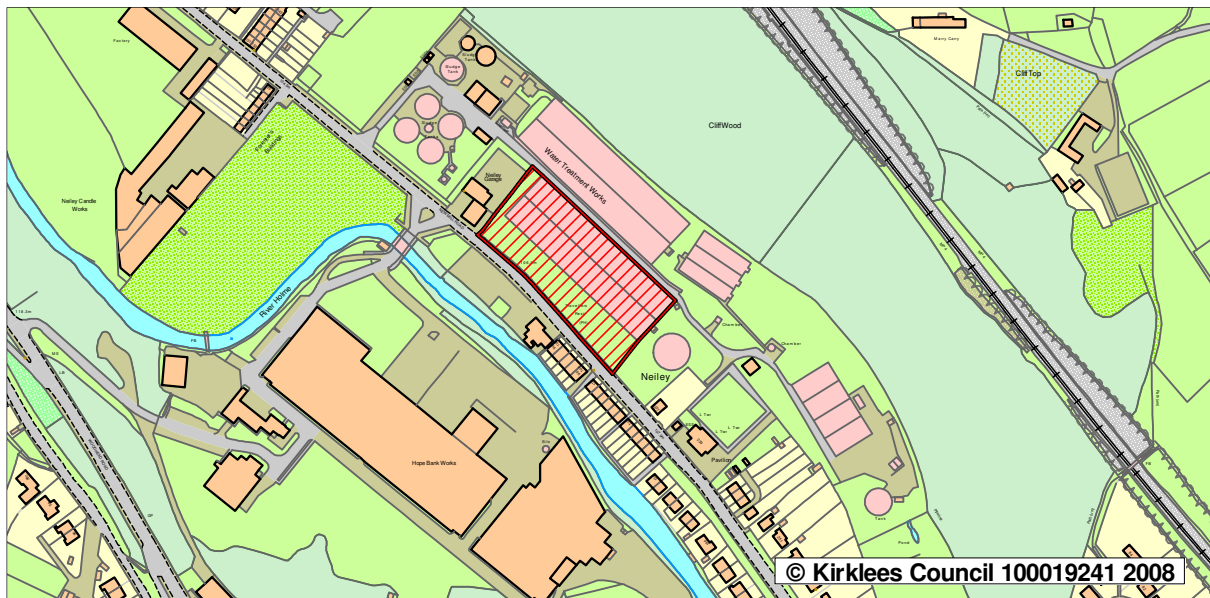
EXTENSION EXPIRY DATE

21-Jun-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 Development Management in order to complete the list of conditions including those contained within this report.

1.0 INTRODUCTION:

- 1.1 The applicants JTD Building Supplies are currently based in Meltham Mills Industrial Estate. The premises at present do not provide enough external area for storage of its supplies. Therefore the site at Brockholes is large enough to accommodate this further expansion of its core Trade Business.
- 1.2 The application site is part of a former Sewage Treatment Plant owned by Yorkshire Water. The site has not been used for over 5 years due to site reorganisation and general updating of the larger Yorkshire Water's treatment works which left the existing filter beds surplus to requirements. The disposal of the site demonstrates that the waste water treatment can be adequately carried out and does not present hinder or unreasonably restrict further operations being carried out on the larger water treatment site.

2.0 SITE AND SURROUNDINGS:

- 2.1 The development site extends to approximately 0.77 hectares, is rectangular in shape and is located to the north east of New Mill Road, Brockholes. The site previously formed part of the Neiley water treatment works that wraps around the application site and the existing garage to the North. Land to the east and south of the site contains operational works associated with the water works. An internal access road abuts the eastern boundary of the application site. On the opposite side of New Mill Road (western side) the Travellers Rest public house and row of terraced residential houses face on to the main road.
- 2.2 The site boundary with New Mill Road contains a 1.2m high stone wall on the back edge of a narrow footpath and a 2m high (green) palisade steel fence

sits behind the wall. Set 12 metres in to the site from the frontage is a domineering coniferous hedge that stands at approximately 10m in height. A small number of self set trees stand between the conifers and the road. An extensive redundant filter bed set within concrete plinth remains on the site and will require demolition.

3.0 PROPOSAL:

- 3.1 The applicant is JTD Building Supplies Ltd who are local building merchants seeking to relocate the business from Meltham Mills Industrial Estate. The development proposed consists of seeking full planning permission to erect a building merchants facility with vehicular access and parking areas, external storage areas on a rectangular site to the north east of New Mill Road, Brockholes.
- 3.2 The two main elements of the scheme proposed are firstly, the erection of a new steel framed building within the north western corner of the site and secondly external storage area to south east of the site. The large rectangular building proposed is 42m x 25m standing at a height of 6m to eaves and 8.3m to ridge. The construction materials consist of coursed natural stone at ground floor level and profile metal cladding to the upper walls with a shallow pitched roof. The site and building will be used as a building merchants (use class- Sui-Generis) which will involve the storage and sale of building/construction related tools and materials from the unit on the site.
- 3.3 Car Parking for customers and staff is provided in a parking area to the front of the site. The plans show that there is enough space within the car park to accommodate a minimum of 20 spaces. A new vehicular entrance will be formed on to New Mill Road opposite the car park of the Travellers In public House and will achieve a 2mx4m visibility splays. The site is currently surrounded by conifers and these will be removed to accommodate the proposed car park and external storage areas.
- 3.4 The nature of builders merchants businesses involve a regular customer base of builders and tradesman within the construction industry. Trade business is carried out with account customers over the phone for site delivery or in smaller items to be picked up from the trade counter. This part of the business covers around 90% of its customers with trade accounts. With regard to retail customers this allows for anyone to visit the retail section and order materials for delivery and as with trade customers to pick up smaller items.

4.0 RELEVANT PLANNING HISTORY

- 4.1 None

5.0 HISTORY OF NEGOTIATIONS

- 5.1 Discussions were held with the applicants to attempt to secure the widening of the existing footpath that borders the western boundary of the site. The applicants considered that the cost of widening the footpath and the

repositioning of the wall and fence further into the site would render the scheme unviable. Predicted costs of the works were submitted and discussed with Highways DM. Highways considered that the widening of the footpath would be beneficial to the area and community planning officers considered that as the applicants were unwilling to meet the costs involved a footpath resurfacing scheme would be required instead from the applicants as this would also be beneficial to the area and would be achievable without being a financial restriction to the development.

- 5.2 During the course of the application, officers requested that plans be submitted of the proposed landscaping of the site particularly in regard to the site frontage, given that the existing conifers were to be removed. The plan received was not sufficient to address the issues raised by the council's Trees officer so this issue is recommended to be addressed by conditions.

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.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 The site lies in an area that is unallocated within the Kirklees Unitary Development Plan (UDP). In such areas policy D2 is applicable. Which permits development providing that the proposal does not prejudice:
- I. The implementation of proposals in the plan
 - II. The avoidance of over-development
 - III. The conservation of energy
 - IV. Highway Safety
 - V. Residential Amenity
 - VI. Visual Amenity
 - VII. Character of the surroundings
 - VIII. Wildlife interests
 - IX. Efficient operation of existing and planned infrastructure

- 6.3 Other relevant policies are as follows:
- BE1 – Design Principles
 - BE2 – Quality of Design
 - BE23 – Crime Prevention
 - EP6 – Development and Noise
 - NE9 – Retention of Trees
 - T10 – Highway Safety
 - T19 – Parking Standards
 - G6-Contaminated Land

Emerging Kirklees Local Plan (Publication submission)

- 6.4 The site is allocated within an area allocated as Policy PLP 45 (Safeguarding waste management facilities) which states: Existing waste management facilities and land surrounding these facilities as identified on the Policies Map will be protected unless it can be demonstrated that there is no longer a need for the facility or where capacity can be met elsewhere in the district. Proposals for development in the vicinity of an existing or planned waste management facility will be required to demonstrate that the proposed development does not prevent, hinder or unreasonably restrict the operation of the waste development.

National Planning Guidance:

- 6.5 National Planning Policy Framework:
- Chapter 1: Building a strong, competitive economy
 - Chapter 2: Requiring good design
 - Chapter 3: Promoting healthy communities
 - Chapter 10: Meeting the challenge of climate change, flooding and coastal change
 - Chapter 11: Conserving and enhancing the natural environment

- 6.6 Other Guidance:
 Planning Practice guidance Suite March 2014

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 One representation was received from members of the public which is below.
 How many builders merchants do you need in this part of town?

Verbal comments were received from Cllr Greaves regarding the request to widen the footpath adjacent to the site on New Mill Road.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

KC-Highways -No objections subject to conditions

Yorkshire Water-No objections subject to conditions

Holme Valley Parish Council-Support the application

8.2 **Non-statutory:**

KC Pollution & Noise Control -No objections subject to conditions on air quality, contaminated land, hours of use, hours of delivery and hours of construction

KC Flood Management & Drainage- No objection subject to conditions

PALO- No objection subject to condition

9.0 **MAIN ISSUES**

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

10.0 **APPRAISAL**

Principle of development

10.1 The site lies in an area that is unallocated within the Kirklees Unitary Development Plan. In such areas policy D2 is applicable which permits development providing that set criteria (as defined in paragraph 6.2) are met and essentially this involves not prejudicing the development plan or adversely affecting the area. Subject to the impacts upon the environment being acceptable the development of the site would be acceptable.

10.2 One of the core principles of the NPPF

proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs and to 'respond positively to wider opportunities for growth'. The application has been considered taking into account this and the presumption in favour of sustainable development at the heart of the NPPF. It is accepted that the relocation of a business from elsewhere in the district is retaining and enhancing employment opportunities and assisting in the performance of the local economy and is therefore acceptable in principle.

10.3 The site is brownfield, previously developed land and is relatively sustainable in terms of its location, being easily accessed from adjacent settlements such as Brockholes and Honley via New Mill Road and is well served by public transport. The development would provide employment within an area where

there are a mix of other commercial uses with residential properties within the vicinity.

- 10.4 From a local policy perspective, paragraph 6.2 of this report sets out the criteria within policy D2 of the UDP to assess the proposal against. The impact of the proposal and the positive consultation responses enable this consideration to conclude that the proposal does not conflict with policy D2.
- 10.5 With regards to Local Plan PLP 45 (Safeguarding waste management facilities), members are guided to paragraph 1.2 of this report which gives the background to the site and how the operational requirements of Yorkshire Water render this site as disposable. This justification is considered to be acceptable and complies with the requirements of policy PLP 45. The Local Plan is emerging, but little weight can be attached to its policies until such time as the Local Plan submission has reached the *Duty to co-operate* stage.

Urban Design issues

- 10.6 The building proposed is substantial in footprint and scale and will be new structure within the Mill Lane corridor. The proposal will significantly change the street scene not only because of the existence of the building but also by virtue of the removal of the coniferous trees close to the site frontage. The proposed building is set back into the site and will sit at an angle from the existing terraced houses on the opposite side of the road. In planning terms, views over a site are never owned without ownership of land, the outlook from the nearest residential properties will be changed but this does not justify withholding consent. The visual impacts of the development are likely to be restricted to local and will be insignificant within the wider landscape.
- 10.7 The design of the building is functional. The site does not sit within a conservation area or area of special historic interest. The design does not have to fit in with any particular style of architecture. The profile metal cladding (roof and first floor) and natural stone (ground floor) are typical construction materials for buildings of an industrial warehousing nature within the area and will not appear as incongruous within the locality.

Residential Amenity

- 10.8 Building Merchants are not considered likely to give rise to a significant amount of noise and disturbance, the main activities are the coming and goings of customers and deliveries to the site of building materials. The hours of operation proposed are 07:30-17:00 mon to fri, 08:00-12:00 noon sat with no opening on Sunday or Bank Holidays. Kirklees Pollution and Noise control officer raised no objections subject to the hours stated providing that deliveries to and from the site occurred during these times. It is considered necessary to attach a condition controlling the use of the site for these hours.
- 10.9 With regards to visual impact, the building is not close enough to the dwellings to adversely impact upon their light or have an overbearing impact. It is felt that these residential properties will benefit in terms of daylight from the

removal of this row of trees. The external storage areas have the potential to be visually prominent within the street scene and it is considered necessary that the height of the goods that are stored within this area is controlled so that they do not appear domineering or unsightly to occupants of residential properties on the opposite side of the road. The use of fork lift trucks means that the height of storage is limited in any case and by attaching a condition restricting the height of goods stored to no more than 3 metres it is felt the visual impact can be minimised.

Landscape issues

- 10.10 The proposal will change the existing street scene by the removal of a very high coniferous hedge and the erection of a large building. A landscaping scheme will be required to soften the impact of the development, not only giving screening to the building but also for the external storage area. Although tree planting on the site frontage will take some time to mature it may be possible to include some semi mature species that help to give some cover initially, early into the life of the development. This will help the development fit into the character of the street scene and minimise the impact of the building when seen from New Mill Road.
- 10.11 Conditions advised by Kirklees council's tree officer require a landscaping scheme to be submitted and approved and the agreed scheme to be implemented accordingly.

Highway issues

- 10.12 Highways DM officers considered that the suggested widening of the footpath from Cllr Greaves would be beneficial to the area and community however, as the applicants were unwilling to meet the costs involved planning officers considered that a footpath resurfacing scheme suggested by the applicants instead would also be beneficial to the area and would be achievable without being a financial restriction to the development.

Kirklees council Highways DM officer raises no objections subject to the following conditions:

- Visibility Splays to be provided
- Areas to be surfaced and drained
- Footway surfacing works
- Detailed design of vehicular access
- Construction access details
- Gates to be set back

Drainage issues

- 10.13 A Flood Risk Assessment was submitted with the application for assessment. Kirklees council drainage officer raised no objections to the proposal subject to the imposition of two conditions requiring submission of a drainage scheme for the development and a scheme restricting the rate of surface water discharge from the site that provides surface water attenuation.

Representations

10.14 Comment:

How many builders merchants do you need in this part of town?

Response:

The planning system does not allow Local Planning Authorities to consider issues of supply and demand or control the type and number of businesses within an area. Land use planning considers applications on a case by case basis starting with the development plan and then all other material considerations.

11.0 CONCLUSION

11.1 The proposed development of building merchants (use class- Sui-Generis) is considered to be acceptable in principle. The development would provide employment in a sustainable location where there are other similar uses along the New Mill Road corridor. The potential for any adverse impacts have been mitigated by the requirements controlled by conditions for landscaping, hours of operation and highways.

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. 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. 3 Year Time limit for commencement
2. Development in accordance with the plans
3. Surface Water from parking/hardstanding areas
4. Foul and surface water drainage details
5. Rate of Surface Water Discharge
6. Vehicle Charging points
7. Land Contamination Phase 1
8. Remediation Strategy for contaminated Land required
9. Implementation of remediation strategy
10. Validation Report
11. Hours of opening
12. Delivery hours
13. Hours of construction
14. Security Measures
15. Details of cladding
16. Landscaping scheme

17. Highways-visibility Splay
18. Footway surfacing
19. Access for construction traffic
20. Gates set back from highway
21. 3 metre height restriction of goods stored within external storage areas

Background Papers:

Application and history files.

Certificate of Ownership – Notice served on/ or Certificate A signed:

Report of the Head of Development Management

STRATEGIC PLANNING COMMITTEE

Date: 15-Jun-2017

Subject: Planning Application 2016/90261 Erection of warehousing unit
Brookfield Mill, Penistone Road, Kirkburton, Huddersfield, HD8 0PQ

APPLICANT

Charles Smith, Penmore
UK Ltd

DATE VALID

20-Sep-2016

TARGET DATE

20-Dec-2016

EXTENSION EXPIRY DATE

05-May-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: Kirkburton

Yes

Members notified of application

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Development in order to complete the list of conditions including those contained within this report.

1.0 INTRODUCTION:

- 1.1 The application seeks permission for the erection of a warehousing unit for Shepley Spring Ltd; a water bottler who operate from Brookfield Mill at Shepley. The proposal would provide additional storage space to support the expansion of this established local business and help to secure its long term future.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site comprises Brookfield Mill at Shepley. Shepley Spring Ltd (a contract water bottler) has been operating from the site in excess of 10 years. Within the site is a large industrial building and a smaller stone constructed building. To the north is a yard area which accommodates HGV parking and the storage of wooden pallets.
- 2.2 The site is bounded to the north by a public house and hotel, by a row of terraced residential properties to the east off Penistone Road, by the rear gardens of neighbouring properties off Brookfield to the south, and to the west by Thunder Bridge Dyke beyond which is undeveloped green belt land. The application site is unallocated on the Unitary Development Plan Proposals Map.

3.0 PROPOSAL:

- 3.1 The application seeks permission for the erection of a warehousing unit within a yard area to the north of the existing buildings. The purpose of the application is to meet an identified requirement for increased storage and warehousing space for the company in order that they can continue to operate successfully from the site.

- 3.2 To accommodate the warehouse it is proposed to demolish the existing stone building and a small cladded link building.
- 3.3 The proposed warehouse building would have a footprint of 65m x 22.5 metres with an internal floor space of 1571m². The warehouse would be constructed of full height metal cladding with a total height of 7.8 metres.
- 3.4 The scheme also proposes improvements to the existing site access off the A629 Penistone Road. The proposal will provide 2m wide footways into the site. Parking and turning facilities will also be provided to the front of the proposed warehouse building.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 94/90821 – Erection of single storey dyehouse extension to dyeworks, diversion of stream and use of land to extend vehicular circulation area – Conditional Full Permission

2016/90264 – Erection of extension to rear – Withdrawn

2017/90792 – Removal of condition 13 (hours of working) on previous permission 94/90821 for erection of single storey dye house extension to dyeworks, diversion of stream and use of land to extend vehicular circulation area –Approved

5.1.1 HISTORY OF NEGOTIATIONS:

- 5.1 Officers have negotiated with the applicant to secure improvements to the site access.

6.0 PLANNING POLICY:

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

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 BE1 – Design principles
- BE2 – Quality of Design
- B5 – Extension to Business Premises
- T10 – Highway Services
- G6 – Land Contamination
- EP4 – Noise sensitive development

National Planning Guidance:

- 6.4 Chapter 1 - Building a strong competitive economy
- Chapter 7 - Requiring Good Design
- Chapter 10 - Meeting the challenge of climate change, flooding and coastal change
- Chapter 11 - Conserving and Enhancing the Natural Environment
- Chapter 12 – Conserving and Enhancing the Historic Environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised by neighbour letter, site notice and press notice expiring 31st October 2016.

7.2 As a result of this publicity one representation has been received. The main concerns raised are as follows:

- The proposal is too close to the conservation area. It would better serve the company if it were attached to the existing facility thereby allowing uninterrupted movement within the premises.
- Application 94/90821 limited operating hours in parts of the site which should be applied. Occupiers of the adjacent hotel would be concerned about reversing lorries and forklifts throughout the night, even within a building. Appropriate sound proofing is required.
- Given the proximity to a conservation area, any structure should be clad full height in coursed natural stone. It is incorrect that stone has only been used up to 2m.
- The existing access from Penistone Road is inadequate, both in terms of width and sight lines, inward and outward. Moving the extension adjacent to the existing structure would permit construction of a suitable entrance further north along a straighter section of Penistone Road (A629). This would also be away from the apex of the slow bend and beyond existing properties.
- There are errors in the application:
 - Section 9* – Existing walls are clad to 5.4m height in coursed stone along the south elevation
 - Section 14* – Parts of the site are considered by KMC to potentially be contaminated. Refer appropriate KMC department.
 - Section 18* – The current class uses are B2 and B8
 - Section 20* – Limited operating hours apply to production areas. Refer 94/90821
 - Section 21* – The site area is incorrect possibly by a decimal point.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

K.C Highway Services – No objection

K.C Flood Management – No objections subject to conditions

The Environment Agency – No objection

Yorkshire Water – No response

8.2 Non-statutory:

K.C Environmental Services – No objections

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 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 site is located on land which is without notation on the Unitary Development Plan (UDP) Proposals Map and 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, the character of the surroundings and the avoidance of overdevelopment. The principle of development is acceptable provided that these considerations are not unduly prejudiced.
- 10.2 The site has an established industrial use as a former dyeworks. The site is owned by Penmoor UK Ltd and leased to Shepley Spring Ltd. Shepley Spring Ltd are a water bottling company established in 1996, and who first occupied the application site in 2006. The site is used as a bottling plant with storage facilities.

- 10.3 Policy B5 of the UDP stipulates that proposals for extensions to business premises will be permitted provided the amenity of occupiers of neighbouring properties, visual amenity and highway safety are safeguarded.
- 10.4 At the heart of the National Planning Policy Framework (NPPF) is a presumption in favour of sustainable development where local planning authorities should positively seek opportunities to meet the development needs of their area. To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century. The proposal will allow this business to successfully expand and ensure its retention within Kirklees, and the principle of development is acceptable on this existing industrial site in accordance with the intentions of the NPPF.

Urban Design / Heritage Matters

- 10.5 The eastern boundary of the application site borders the A629. The mid-point of the A629 forms the western boundary of the adjacent Kirkburton Conservation Area. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that “in the exercise of (of planning functions), with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area’.
- 10.6 The proposals involve the demolition of an existing stone building which can be seen from the access road upon entering the site. This is necessary to facilitate the siting of the proposed warehouse and safe access. The proposed warehouse would be constructed of metal cladding, however this is an existing industrial site and the proposed design is functional for its intended purpose. The existing industrial building is partly constructed of cladding, and it is considered the proposed facing materials would be satisfactory in keeping with existing buildings within the site. Furthermore, the substantial tree screen along the eastern boundary would satisfactorily screen the warehouse and preserve the visual amenity of the area, in accordance with policies BE1 and BE2 of the UDP, as well as chapter 7 of the NPPF.
- 10.7 With respect to the impact on the setting of the Kirkburton Conservation Area, it is considered the erection of the warehouse building within the confines of this industrial site, and screened from the A629 by a substantial tree screen would not have a detrimental impact on the setting of the Kirkburton Conservation Area. The proposal would accord with chapter 12 of the NPPF.

Residential Amenity

- 10.8 UDP Policy D2 requires the effect on residential amenity to be considered. The site is bordered by a row of terraced residential properties to the east off Penistone Road, and properties off Brookfield to the south. To the north of the site is the Foxglove Public House and Hotel.

- 10.9 The working hours for the operation are currently 24 hours per day and this is not intended to alter as part to the development proposals. Environmental Services have spoken to the applicant about the potential for vehicle movements between the proposed warehouse and the existing building through the night. They have advised that there will be no movement of stock throughout the night. They have also confirmed that the HGV's currently parked in this location will no longer be parked on site. Environmental Services raise no objection to the proposal and it is considered there would be no detrimental impact arising from noise disturbance to these neighbouring properties. The proposal would accord with policy EP4 of the UDP.

Highway issues

- 10.10 Policy T10 of the UDP states that "new development will not normally be permitted if it will create or materially add to highway safety or environmental problems . . ." A supporting transport assessment has been submitted with the proposal.
- 10.11 The A629 Penistone Road is the subject of a 40mph speed limit through this part of Kirkburton and there are no traffic regulation orders on the site frontage restricting on street parking or waiting. Penistone Road at the site entrance is a two way single carriageway road with footways and street lighting to both sides. The site access also has the benefit of a central right turn lane of approximately 55 metres in length. The nearside footway averages approximately 1.6m in width with the opposite footway having a slightly wider average width of approximately 1.7-1.8 metres. The carriageway is in excess of 8.0m wide at the point of access into the application site. The existing site entrance from the Penistone Road is laid out as a simple dropped footway crossing.
- 10.12 There are no proposals to increase the parking provision on the site as a result of the proposed development. This is due to there being no increase in staff numbers as a result of the scheme. The current business generates between 15-20 HGV trips per day mostly be 44 tonne GVW articulated vehicles. The new B8 unit will allow for additional storage on site which will remove 5 HGV trips per day which currently take place between this site and the company's other site off The Knowle in Shepley. As noted, the working hours for the operation are 24 hours per day.
- 10.13 The total existing total existing internal floor spaces is 4596.5 sqm, consisting of 1551.7 sqm B1 light industry use and 3044.8 B8 storage and distribution use. This proposal adds a further 1571 sqm of B8 use class. Whilst the number of HGV movements of the existing business may reduce, the construction of a new B8 commercial unit has the potential to increase the operational capacity of the site and generate a significant level of additional traffic including HGV movements. The recommended parking standards for this use class are 1 space per 150 square metres which equates to a need for 10 parking spaces and 1 space per 500 square metres for service vehicles which equates to a need for an additional 3 service vehicle parking spaces (16.5 articulated Lorries). The proposed unit is sited on the service area to a

large existing industrial unit which will significantly reduce the parking and servicing area for that unit.

- 10.14 Highways initially raised concerns that the existing access is narrow with no pedestrian facilities and poor sight lines onto Penistone Road. In particular, pedestrian access into house numbers 40 and 42 is directly onto the industrial access with no separation. Given the potential increase in operational capacity, the applicant was requested to provide proposed improvement works to the access. Details were requested to demonstrate that the development site will retain sufficient parking, service vehicle parking and internal service vehicle turning for both units.
- 10.15 The applicant has provided revised plan number 1119-01 Rev E showing improvements to the site access. These include the provision of 2m wide footways and details of parking and turning demonstrated by swept paths. The proposals are now considered to be acceptable. Highway Services raise no objections subject to the inclusion of conditions for the approved access and turning facilities to be provided and the laying out of the proposed car parking areas.

Drainage issues

- 10.16 The NPPF sets out the responsibilities for Local Planning Authorities determining planning applications, including flood risk assessments taking climate change into account and the application of the sequential approach. The site is located within flood zone 2 and 3 with Woodsome Beck & Dean Bottom Dyke running along the north and western boundary. No investigation has been carried out on site. The FRA recommends that soakaways are explored first, in line with the hierarchy of drainage, and if proven unsuitable surface water to be discharged to the watercourse. New connections to watercourse must attenuate discharge to the greenfield rate of 5l/s ha.
- 10.17 Flood Management have no objection subject to the inclusion of a condition to secure a scheme demonstrating an adequately designed soakaway, or alternative scheme.
- 10.18 The Environment Agency has no objection to the proposal subject to the development being carried out in accordance with the approved FRA, with finished floor levels to be set no lower than 98.8m above Ordnance Datum (AOD). Flood matters can be address by condition.

Representations

- 10.19 One representation has been received. In so far as the comments made have not been addressed above:
- 10.20 The proposal is too close to the conservation area. It would better serve the company if it were attached to the existing facility thereby allowing uninterrupted movement within the premises.

Response: The boundary of the Kirkburton conservation area comprises the mid-point of the A629 Penistone Road. This is an existing industrial site and it is considered the proposed warehouse building would not have a detrimental impact on the setting of the adjacent conservation area.

- 10.21 Application 94/90821 limited operating hours in parts of the site which should be applied. Occupiers of the adjacent hotel would be concerned about reversing lorries and forklifts throughout the night, even within a building. Appropriate sound proofing is required.

Response: Planning application 94/90821 granted permission for the erection of a single storey dyehouse extension, the diversion of the stream and use of land to extend the vehicular circulation area. Condition 13 of this permission restricted hours of operation to 0700 and 2000 Monday to Friday and 0700 and 1300 on Saturday with no use on Sundays and Bank Holidays. Since this time an application has been approved to remove this restriction Ref 2017/90692. The previously approved extension is on land to the south-west corner of the site and was approved on the basis that Environmental Services have agreed an overall scheme of mitigation works to address noise issues that had arisen and complaints that has been received.

This application refers to the northern part of the site. Environmental Services have considered possible noise nuisance to neighbouring properties. As noted above they have spoken to the applicant about the potential for vehicle movements between the proposed warehouse and the existing building through the night. They have advised that there will be no movement of stock throughout the night. They have also confirmed that the HGV's currently parked in this location will no longer be parked on site. Environmental Services raise no objection to the proposal and it is considered there would be no detrimental impact arising from noise disturbance to these neighbouring properties. No mitigation measures are required.

- 10.22 Given the proximity to a conservation area, any structure should be clad full height in coursed natural stone. It is incorrect that stone has only been used up to 2m.

Response: The existing industrial building is partly constructed of cladding, and it is considered the proposed facing materials would be satisfactory in keeping with existing buildings within the site. Furthermore, the substantial tree screen along the eastern boundary would satisfactorily screen the warehouse and preserve the visual amenity of the area

- 10.22 The existing access from Penistone Road is inadequate, both in terms of width and sight lines, inward and outward. Moving the extension adjacent to the existing structure would permit construction of a suitable entrance further north along a straighter section of Penistone Road (A629). This would also be away from the apex of the slow bend and beyond existing properties.

Response: As a result of the proposed improvements to the access, Highway Services are satisfied the proposal would have no detrimental impact on highway safety.

- 10.23 The objector has identified a number of errors on the application form. This include that existing walls are clad to 5.4m height in coursed stone along the south elevation, that parts of the site are considered to potentially be contaminated, that the current class uses are B2 and B8 and that limited operating hours apply to production areas (94/90821), and that the site area is incorrect possibly by a decimal point.

Response: The points raised above are noted.

Other Matters

- 10.24 The application is supported by a contaminated land report. The report recommends further intrusive investigation of the site. It is therefore recommended that a Phase II report be submitted. This can be addressed by condition.

11.0 CONCLUSION

- 11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. This application has been assessed against relevant policies in the development plan and other material considerations.
- 11.2 Shepley Spring Ltd has operated at the site for over ten years. The proposed warehousing unit will allow this business to successfully expand and ensure its retention within the district in accordance with the aims of the framework. There would be no detrimental impact on highway safety or residential amenity. Flood risk and drainage matters can be addressed by condition.
- 11.3 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 to be completed in three years
2. Development to be completed in accordance with approved plans
3. The approved access and turning facilities shall be provided in accordance with the approved details.
4. The car parking areas shall be laid out surfaced, marked out into bays and drained
5. Scheme demonstrating an adequately designed soak away or alternative scheme

6. Development to be carried out in accordance with the approved FRA, with finished floor levels to be set no lower than 98.8m above Ordnance Datum (AOD).
7. Samples of facing materials to be approved.

Background Papers:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f90264>

Certificate of Ownership –Certificate A signed:

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Report of the Head of Development Management

STRATEGIC PLANNING COMMITTEE

Date: 15-Jun-2017

Subject: Planning Application 2016/93746 Outline application for erection of up to 200 dwellings and formation of public open space (within a Conservation Area) Fieldhead Farm, White Lee Road, White Lee, Batley, WF17 8AF

APPLICANT

Hallam Land
Management Ltd

DATE VALID

08-Nov-2016

TARGET DATE

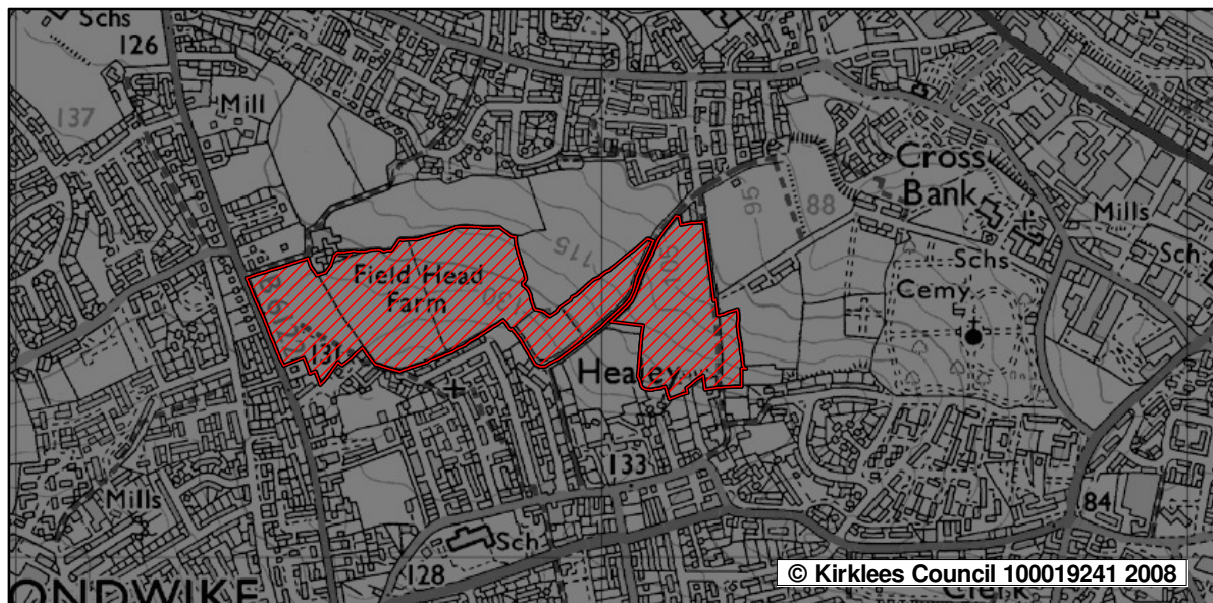
07-Feb-2017

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: Heckmondwike and Batley West

Yes

Ward Members consulted
(Referred to in report)

RECOMMENDATION:

Inform the Planning Inspectorate (appeal APP/Z4718/W/17/3171852) that the Local Planning Authority would have been minded to refuse the application for the reasons set out below:

- 1. The application site is allocated as urban greenspace on the Kirklees Unitary Development Plan (UDP) proposals map. The proposed development is contrary to Policy D3 of the UDP which relates to development on such sites. The site forms part of a larger area of urban greenspace which has been assessed as having high value as open space and as such is not deemed surplus to requirements. The development is therefore contrary to Policy D3 of the UDP and paragraph 74 of the National Planning Policy Framework. The loss of the value of the urban greenspace is considered to outweigh all other material considerations, including the delivery of new housing.**
- 2. The proposed development would lead to the loss of a large tract of open land within an otherwise built up area which plays an important strategic role as a green wedge separating the distinctive communities and settlements of Heckmondwike and Healey and provides valuable open land for local amenity and visual relief to the built up area. To develop this area for up to 200 dwellings would be harmful to the character and appearance of the local area, the wider local landscape and would erode the local sense of place by the coalescence of settlements. To permit such a development would be contrary to Policies BE1 and BE2 of the Kirklees Unitary Development Plan and Core Planning Principles and Policies in Chapter 7 of the National Planning Policy Framework.**

1.0 INTRODUCTION:

- 1.1 The proposal is brought to the Strategic Committee for determination in accordance with the Council's Scheme of Delegation, as the application site boundary is over 0.5 hectare.**

- 1.2 The application is subject to an appeal against the non-determination of the Local Planning Authority (LPA) to make a decision on the application under appeal reference (APP/Z4718/W/17/3171852). The resolution of the Strategic Committee on the application will be forwarded to the Planning Inspector to be considered at a Public Inquiry which is scheduled to take place between 10 - 13 October 2017.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site is approximately 14 hectares in size and comprises of an open grassed field located to the east of White Lee Road, Batley. The site forms two sections of land which is divided by Coal Pit Lane. The wider area is residential in nature with dwellinghouses backing on to the site from the south which are set at a higher level. To the north are other residential properties which are divided from the site by a further grassed field and are set at a lower level. To the east the site abuts playing fields located off North Bank Road.
- 2.2 The main vehicular access to the site is via White Lee Road, though other small roads abut the site to the east. Two public footpaths cross the site, Batley 25 which connects Jail Road to White Lee Road at the west of the site, and Batley 27 Which connects Chaster Street to Towngate Road at the east of the site. To the east of the site bridleway Batley 26 dissects the site along Coal Pit Lane.
- 2.2 Levels on the site gently undulate with the natural topography of the site. A row of electrically pylons run across the site leading from a sub-station adjacent White Lee Road.
- 2.3 The site is previously undeveloped land and allocated as Urban greenspace on the Councils Unitary Development Plan.

3.0 PROPOSAL:

- 3.1 Outline planning permission is sought with all matters reserved other than the agreement of the point of access for the proposal. The proposal seeks permission to erect up to 200 dwellings on the site and the formation of a public park which would be 7.2 hectares in size. Access to the site would be via a newly formed point of access located off White Lee Road. Indicatively submitted details set out that the dwellings would be positioned on the western part of the site with the east part utilised for an area of park. Details submitted with the application indicate that the park would provide allotments, and general open space.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 2017/90998 - Outline application for erection of up to 200 dwellings and formation of public open space (within a Conservation Area) – Pending Consideration (new application for same proposal)

Adjacent Sites to the North Off White Lee Road

- 4.2 2015/92944 - Erection of 66 dwellings – Refused, currently at appeal with the Public Inquiry taking place in June 2017, PINS Ref: APP/Z4718/W/16/3162164.
- 4.3 2012/93966 - Outline application for the creation of a means access and the erection of 14 dwellings and demolition of existing building - Approved
2014/93740 - Reserved matters application for erection of 14 dwellings pursuant to outline permission 2012/93966
- 4.4 2010/92938 - Outline application for erection of 42 dwellings (illustrative layout) – Approved
2014/93425 - Reserved matters application for erection of 24 dwellings pursuant to outline permission 2010/92938 - Approved
- 4.5 2009/93455 - Erection of residential development of 36 dwellings with associated access – Approved

Site to the South – Dryfireld House, Healey lane

- 4.6 2013/93396 - Outline application for erection of 7 dwellings – Approved

Site to the South - Former Sports Ground, Healey Lane.

- 4.7 2012/91363 - Erection of 49 affordable homes and associated works – Approved

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 The case officer secured further information in respect to highways, drainage, ecology, landscape impact where submitted through the course of the application to address points raised by consultees. A meeting was also held with the applicant's agent on 16 March 2017 to discuss the application which resulted in the submission of the further information set out above.

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

increased weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 D3 – Urban greenspace
- BE1 – Design principles
- BE2 – Quality of design
- BE5 – Development within a Conservation Area
- BE10 – Archaeological sites
- BE11 – Materials
- BE12 – Space about buildings
- BE23 – Crime prevention
- EP4 – Noise sensitive development
- EP11 – Ecological landscaping
- T10 – Highway safety
- T16 – Provision of safe pedestrian routes within a development
- T17 – Provision/regards for needs of cyclists
- T19 – Parking standards
- R13 – Public Rights of Way
- NE9 – Retention of mature trees
- G6 – Land contamination
- H10 – Affordable housing
- H11 – Exceptional circumstances/ affordable housing provision
- H18 – Provision of open space

Supplementary Planning Guidance / Documents:

- 6.3 Interim Affordable Housing Policy
- Council's policy on Education contributions generated by new development
- The Council's Open Space Study 2015
- Manual for Streets
- Emerging Local Plan (site allocated as Urban greenspace)

National Planning Guidance:

- 6.4 Achieving Sustainable Development'
- Core Planning Principles
- Part 4 Promoting sustainable transport
- Part 6 Delivering a wide choice of high quality homes
- Part 7 Requiring good design
- Part 8 Promoting healthy communities
- Part 10 Meeting the challenge of climate change, flooding and coastal change
- Part 11 Conserving and enhancing the natural environment
- Part 12 Conserving and enhancing the historic environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised by site and press notices and neighbouring properties were notified by letter. Ward Councillors for Heckmondwike and Batley West were notified of the application.

7.2 In total 85 individual representations and a petition with 3053 signatures have been received against the proposal which includes an objection from the Spenn Valley Civic Society. A summary of the comments raised are set out below:

7.3 Principle Matters

- The site is designated as Urban Green Space and covered by Policy D3 of the UDP, the land is protected from development, and no exceptions set out in Policy D3 apply for the proposal. The UDP is the lawful development plan for the district and the application should therefore be refused.
- The application site is to be designated as Urban Green Space (site ref UGS973) under the new Local Plan which is to be examined in public shortly and this designation should be retained. The site was subject to 7 housing options in the Local Plan H354; H523; H524; H525; H534; H613, and H674, all were rejected, and the proposal should therefore be rejected too.
- The Local Plan allocates land for over 31,000 homes over a 15 year period and the housing need for the district will therefore be met by this plan. The Local Plan sets out other more appropriate sites for development than the application site.
- The new Local Plan Policy on urban greenspace which will supersede Policy D3 re-affirms the priority given to Urban Green Space and states that:
“development proposals that would result in the loss of valuable open space in Kirklees will not be permitted unless an assessment shows the green space to be clearly surplus to requirement”.
- There is no evidence to suggest that this greenspace is surplus to requirements. It acts as a vital green lung along White Lee Road in the middle of a densely built-up area, which is criss-crossed by a network of public footpaths, providing exercise and recreation for surrounding residents. Its loss would be to the detriment of the character of the local area.
- The site functions in the same way as Green Belt, i.e. to prevent the merger of Heckmondwike and Carlinghow settlements. Due to the topography of this site at the crest of the ridge, its greenspace appearance is visually prominent. The whole of North Kirklees is very built-up and densely-populated with few open green spaces and it is considered that the site has extremely high value as Urban greenspace.
- The site forms Green Belt land that state should be protected and retained.
- The site has always formed protected land between housing developments as set out on previous planning documents and this should be retained.
- The submitted layout plans are misleading as they do not show the location of surrounding developments which have been recently constructed.

- The proposal would not meet the definition of sustainable development and would have a negative impact on the local community. The site is considered to have a recreational and amenity purpose contrary to the statements of the applicant.
- More suitable brownfield sites should be used first before using greenfield sites.

7.4 Highways

- The local area has been subject to a significant number of permissions for new houses with up to 600 granted within the wider area over recent years. The local infrastructure and facilities such as sewers, medical facilities, local schools are not capable of accommodating a further 200 dwellings within the local area.
- White Lee Road is already a very busy road which connects the area to the motorway network, and the proposal will make this situation worse with at least 400 more vehicles using the roads at least twice a day. It will also make it even more difficult to cross the road or turn on to the road. The proposed single point of access will make entering and leaving on to White Lee Road extremely difficult. The proposal would therefore be detrimental to highway and pedestrian safety.
- The submitted transport assessment details that the White Lee/Carlinghow Lane junction will only lead to a queue increase of 2 vehicles which is not considered to be representative of what will happen given that possibly 400 additional cars will be using the roads.
- The proposal would lead to the diversion of a public right of way (PROW) which crosses the site. However there are no specific details of the diversion in the application and it could mean that adjacent properties are more vulnerable to due to a repositioned PROW.

7.5 Amenity

- The proposal will lead to years of noise and disturbance to local residents caused by construction work which will have a further adverse impact on the local highway network.
- The proposal will reduce the amount of farming land available within the district.
- Part of the site is within and would impact on the setting of the Batley Cross Bank Conservation Area, and the development would be seen from the Conservation Area. It is considered the proposal due to its scale and position will be detrimental to the Conservation Area.
- There are a number of non-designated heritage assets such as Fieldhead Farm and Healey Village. It is considered that Field Head Farm dates from at least the early 19th Century if not late 18th Century, and the proposal would lead to the loss of this building which is considered to be locally significant. Healey Village is adjacent the site and has a number elements of historic significance in its layout such as Dryfield House, the Debtors Jail, previous main workings across the site and the settlement boundary layout. The application site remains the last physical distinction between Healey and other settlements. The erosion of application site would detrimentally affect the setting of this historic settlement.

- The local area has a natural beauty that forms a quiet piece of land surrounded by development where the local footpaths and adjacent fields are used by the public for exercise and walking dogs. The proposal would lead to the loss of this area to its detriment.
- An independent landscape character assessment of the area should be carried out for the application site to assess the impact of the development.
- It is considered that the loss of this last key piece of open space between settlements along White Lee Road would be detrimental to the character and appearance of the local landscape and the local sense of place. The proposed park would not allow for the retention of this open space and it is considered that the design and layout of the scheme is poor in design terms.
- The provision of tree planting is not considered to mitigate the harm caused by development and it is considered that the proposal will have an adverse impact to the local area over the long term.
- The tree planting suggested in the submitted plans is considered to be unrealistic given the limited size of the gardens for the properties and no account has been made to the extensive parking of vehicles across the whole site.
- The dwellings shown on the plan would be directly to the rear of existing properties along Mortimer Terrace and there is concern that the proposal would have a detrimental impact to these dwellings.
- Any dwellings on the site which are 3 storey in height would be out of keeping with the local character.

7.6 Other Matters

- There are old mining workings underneath the field that would be subject of the application and local properties have been prone to subsidence, the application site would be subject to these same issues.
- The application site contains much wildlife including birds, bats, foxes and many more, which has increased over recent years and the proposal would lead to the loss of this wildlife to the detriment of the local area.
- The proposal would increase the potential for flooding in the local area and further down the valley as the fields act as a sponge soaking up water. The development of the site for housing would remove this ability to retain water.
- The area is at risk from radon gas.
- The site was previously widely accessible beyond the extents of the footpath and members of the public could walk across parts of the fields. The footpaths were only enclosed 2 years ago when the application was first put forward.
- Healey was subject to bombing in World War 2 and there may be unexploded bombs across the application site.
- The proposal would increase traffic pollution in the local area to the detriment of residents health.
- There are no details to the level of affordable housing provided by the development or where these are.

- 7.7 Heckmondwike Ward Councillor, Cllr Viv Kendrick has submitted comments on the application where she has raised concerns about the proposal and has stated:

"I feel that that traffic volumes and issues would have a detrimental impact on the area which is already experiencing difficulties but most importantly I feel that this is a prime example of urban sprawl. If this went ahead the two distinct areas of Heckmondwike and Batley would be merged.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

- **KC Highways Development Management** – No objections subject to conditions.
- **Environment Agency** – No objections consultation should take place with the Lead Local Flood Authority (LLFA)
- **Yorkshire Water** - No objections subject to conditions.
- **The Coal Authority** - No objections subject to conditions.

8.2 Non-statutory:

- **KC Environmental Services** – No objection subject to contaminated land conditions and the provision of electric charge points.
- **KC Ecology** – No objection subject to conditions.
- **Kirklees District Police Architectural Liaison Officer (PALO)** – No objections to the proposal, guidance provided in relation to design of development
- **KC Conservation and Design** – No objection to the proposal.
- **KC Flood Risk Management Drainage (Lead Local Flood Authority)** – No objections to the proposal subject to conditions, and there is a need to re-consult at reserved matters stage.
- **KC Landscape and Parks** – objects to the harm caused by the development of the site.
- **KC Education Service** – An education contribution would be required for the development which is currently calculated at £494,214.
- **KC Housing** – The development would require the provision of affordable housing provision accordance with the Interim Affordable Housing Policy with the provision of 20% of units.

- **KC Public Rights of Way (PROW)** – No objection, comments in relation to the need to divert the PROW, a note should be attached to the decision notice.
- **West Yorkshire Combined Authority** – No objections, it is recommended that a nearby bus shelter is upgraded to provide real time information and Metrocard's (Mcard's) or a Travel Plan Fund is provided for future occupiers.
- **Natural England** – No objection, comments made on the proposal.
- **Northern Powergrid** – Comments raised regarding the layout and impact on electric substation and overhead lines which cross the site.
- **West Yorkshire Archaeology Advisory Service (WYAAS)** – seek an archaeological assessment of the site before determination or the attaching of a planning condition to secure such a survey.

9.0 MAIN ISSUES

- Principle of development
- Highway issues
- Drainage issues
- Ecology
- Environmental Issues
- Design and Heritage
- Planning obligations
- Representations
- Other matters

10.0 APPRAISAL

Principle of Development

- 10.1 The application site forms a 14 hectare part of an extensive area of open land which is identified as Urban greenspace (UGS) on the Kirklees Unitary Development Plan (UDP) and which totals 23 hectares in overall size.

Background

- 10.2 The designation of the wider 23 hectare Urban Green Space area (which the application site forms a significant part of, 14 hectares) was considered in detail at Kirklees UDP Public Inquiry 1995-1996. The UDP Inspector concluded that the site fully merited designation as urban green space stating that *"The site is mainly agricultural grazing land and forms the western part of a large open area, which extends from near the centre of Batley to Heckmondwike. Being surrounded by extensive built-up areas, the open land forms an important relief from urbanisation. Its position on a hillside above the residential area of Carlinghow enables its openness and the break it provides between different parts of the urban conglomeration to be appreciated over a*

wide distance, in addition to its impact on its immediate surroundings. The site is an important element of the open area as a whole.”

The Inspector continued “The Council does not claim special wildlife value on the site and recreational value is limited to the use of a public footpath and a public bridleway. Nevertheless, UGS designation does not depend on land performing well in terms of all the criteria and is not based solely on land with full public access. This approach is consistent with the recognition in PPG17 that open space, whether or not there is public access to it, is important for its contribution to the quality of urban life and is not undermined by policies intended in the Leeds UDP which are not relevant to this case. The site, in whole and in part, is attractive open land, which contributes significantly to the appearance of the area and enhances the enjoyment of the use of the public rights of way by providing a semi-rural character, and fully merits designation as UGS”.

- 10.3 In light of the above the wider site was consequently designated as urban greenspace in the UDP.

Policy Context

- 10.4 The starting point for the consideration of the application is the sites designation as urban greenspace which is covered by Policy D3 of the UDP. Nationally open space policy is set out in paragraph 73 and 74 of the NPPF. Policy D3 and Paragraph 74 of set out below:

D3 On sites designated as Urban greenspace planning permission will not be granted unless the development proposed:

- i) is necessary for the continued enhancement of established uses or involves change of use to alternative open land uses, ,or would result in a specific community benefit, and, in all cases will protect visual amenity, wildlife value and opportunities for sport and recreation; or*
- ii) Includes alternative provision of urban greenspace equivalent in both quantity and qualitative terms to that which would be developed and reasonably accessible to existing users.*

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

- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements*
- 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*
- the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss*

- 10.5 First consideration must be given to the weight which can be afforded to Policy D3 due to the age of the UDP and degree of consistency between the policy and the NPPF in respect of paragraph 215. The applicant has put forward that they do not consider that full weight should be afforded to Policy D3, and do not consider that the Policy is up to date, due to the lack of 5 year supply of housing land for the district. They also do not consider that the proposed site meets the definition of open space as set out in paragraph 74 of the NPPF.
- 10.6 It is considered by Officers that Policy D3 remains a relevant Policy for consideration as it is largely consistent with paragraph 74 of the NPPF as the intention is to protect open spaces of public value. It is considered this policy is based on robust and credible evidence (supplemented by more recent Publication Draft Local Plan evidence).
- 10.7 This position was further supported by two recent appeal decisions to applications 2014/93073 and 2016/91231, where the Inspector considered the degree of consistency between policy D3 and the NPPF. In the first appeal the Inspector concluded that Policy D3 carries some weight to the extent that it continues to protect urban greenspace. In the second more recent appeal decision in April 2017 the Inspector concluded in paragraph 7 that "*whilst I appreciate that policy D3 is of some age, this alone is not a sufficient reason to give any less weight to it in decision-making. Furthermore, having considered the above, I find Policy D3 to be in accordance with the Framework. As such, I give it significant weight in my determination of this appeal*". The second appeal was dismissed on the grounds the proposal would be contrary to Policy D3 of the UDP and the NPPF.
- 10.8 Whilst the above is noted, consideration needs to be taken to the whether Policy D3 remains up to date given that the Council is currently unable to demonstrate a 5 year supply of deliverable housing sites and given the points put forward by the applicant. In these circumstances, in accordance with NPPF paragraph 49, which states that "*...relevant policies for the supply of housing should not be considered up to date if the LPA cannot demonstrate a 5-year supply of deliverable housing sites.*" Consequently planning applications for housing are required to be determined on the basis of the guidance in NPPF paragraph 14. An assessment therefore needs to take place as to whether Policy D3 can be considered up to date given the Councils lack of 5 year housing land supply.
- 10.9 A recent Supreme Court decision has clarified the extent to which paragraph 49 can be applied in the decision making process, concluding that it can only be applied to policies for the supply of housing, and not policies which restrict housing. It is therefore concluded that Policy D3 of the UDP is not out of date by way of paragraph 49 of the NPPF as it is not a policy related to the supply of housing. As set out previously, D3 is considered to be largely consistent with paragraph 74 of the NPPF and should therefore be afforded weight in the decision making process.

- 10.10 The NPPF sets out the presumption in favour of sustainable development in paragraph 14 which all applications need to be considered against. Paragraph 14 sets out that planning permission should be granted unless
- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
 - *specific policies in this Framework indicate development should be restricted.*
- 10.11 Consideration has been given to the final bullet point above and whether paragraph 74 of the NPPF, which is relevant to the application, can be considered a restrictive policy. This matter was considered in the appeal decision to application 2014/93073 (PINS Ref: APP/Z4718/W/16/3147937) which was for a similar type of Urban greenspace, where the Inspector concluded that given that the Urban greenspace designation of the site has been attached due to its visual amenity, and it is not considered possible to see how this could be replaced. It was therefore concluded that the weighted presumption in favour of sustainable development is not displaced by paragraph 74. Given the similarities between the two sites in respect of this issue the weighted planning balance (the presumption in favour of sustainable development) therefore stands and the application will be assessed as such.
- 10.12 The application will therefore be assessed against Policy D3 of the UDP, paragraph 74 of the NPPF, along with all other material planning considerations put forward by the applicant, and the overall planning balance.

Assessment against Policy D3 and Paragraph 74

- 10.13 Policy D3 does not allow the development of urban greenspace sites unless it is necessary for the continuation or enhancement of established uses, involves change of use to alternative open land uses or would result in a specific community benefit, and, in all cases, will protect visual amenity, wildlife value and opportunities for sport and recreation. Alternatively, where a proposal includes replacement urban greenspace provision which is genuinely equivalent in both quantitative and qualitative terms to what currently exists, the development may be acceptable.
- 10.14 The proposed development of the site for up to 200 dwellings and a public park is not necessary for the continuation or enhancement of the established uses. The proposal does not involve change of use to alternative open land uses or include alternative provision of urban greenspace equivalent in both quantitative and qualitative terms to that which would be developed.
- 10.15 The scheme does however include the provision of an area of open space which is 7.2 hectares in size, which includes a new public park and allotments. The applicant has put forward that the public park and allotments represent a significant community benefit for the local area, and would provide open space which is 6.6 hectares in excess of the policy requirements. The applicant therefore considers that the proposal would therefore accord with Policy D3 given this community benefit.

- 10.16 A full and detailed assessment of the weight afforded to the provision of the public park, allotments and all other material planning considerations are set out later in this report. However, it should be noted that public open space would need to be provided as part of the housing development for it to accord with Policy H18 of the UDP, with a minimum rate of 30 dwellings per hectare being provided. The nature and extent of this open space would be determined in discussion with the Council's Landscape Section. It is however accepted that the proposed public open space provision is significantly in excess of the minimum requirement set out in UDP policy H18.
- 10.17 However paragraph 2.12 of the UDP is clear that "*Usually, only small parts of areas designated as urban greenspace should be considered for development because one of the main functions of urban greenspace is to safeguard the balance within urban areas between the amount of land which is built-up and the amount of open land. It would also need to be demonstrated that the functions of the urban greenspace concerned (for example, providing for sport and recreation) and its quality (for example, as represented by important landscape features) could be maintained.*"
- 10.18 As such, in all cases where specific community benefit is proposed, the protection of visual amenity, wildlife value and opportunities for sport and recreation tests would also apply as set out in policy D3 (criteria i). The nature, scale and extent of the proposed development must be considered in relation to the protection of visual amenity.
- 10.19 It is considered that given the scale of the development of up to 200 dwellings which would lead to the loss of 6.8 hectares of currently open land with a visual amenity value that the proposal would fail to meet these tests. The proposed development therefore does not therefore accord with policy D3 and as such represents a departure from the development plan.
- 10.20 Whilst the proposal is not considered to accord with Policy D3 or paragraph 74 of the NPPF, consideration needs to be made of other material planning considerations.

Other Material Planning Considerations

- 10.21 The other material planning considerations which the applicant has put forward with their case include:
- The provision of market and affordable housing at a time when the council cannot demonstrate a 5 year supply of housing land.
 - That the proposal would be policy compliant in terms of education, highways and open space obligations.
 - The site is within a sustainable location with good access to local facilities and a regular bus service.
 - That the proposal would provide a 7.2 hectares of public open land, including a new public park and allotments which would improve the public's accessibility to a large portion of the site.

- The proposal would meet other open space deficiencies in both the Heckmondwike and Batley West Wards.
- That the site should not be defined as natural/semi natural greenspace, as the site is used for agricultural and grazing purposes, and does not meet the definition set out in Kirklees Open Space Strategy.
- That the proposal would not lead to any long term harm to the local landscape.
- That a prematurity argument in relation to the Publication Draft Local Plan does not apply, due to the scale of the development meeting only 0.75% of the housing need of the plan period and given the current stage of the plan.

10.22 The applicant considers that the proposal would provide a significant specific community benefit both in terms of quantum of public open space and the nature of use of that open space which would meet identified shortfalls. They consider that this is particularly the case when the benefits are considered in the context of the current site which is not open to public usage in any way other than along a footpath route and is in agricultural use. The applicant therefore considers the proposal would bring about significant community benefits both in relation to Policy D3 but also in terms of the wider planning balance.

10.23 The details of these benefits will need to be carefully considered in weighing these against the loss of Urban greenspace.

Provision of Housing in the District, Site Location and Planning Obligations

10.24 It is noted that the application would provide 200 new dwellings at time when the Council cannot demonstrate a 5 year land supply of housing, and would include the provision of 40 affordable units, which would be policy compliant in terms of planning obligations. It is also noted that the proposal would lead to additional economic benefits to the local area during construction, and other benefits brought about by the new homes bonus. It is also accepted that the site is located within an a wider urban area which could be considered to be sustainable in its nature with a bus service located on White Lee Road, and access to local shops and services in Batley and Heckmondwike.

10.25 Weight is attached to the provision of the new dwellings in what could be considered to be a sustainable location, which would provide planning obligations. However the provision of 200 homes is not on its own considered to weigh against the harm caused to the loss of the urban greenspace, and can only be considered as part of the wider planning balance of the application.

Open Space Provision in the District

10.26 The applicant has put forward that they do not consider that the site forms natural or semi natural greenspace, and therefore does not meet the definition of natural/semi natural greenspace due to its use as agricultural and grazing land with limited public access. They have put forward that the proposal would

provide a public park which would greatly improve the public's access to the site, and meet other public open space provision requirements within the district.

10.27 The provision of open space in the district has been assessed in detail in the Kirklees Open Space Study (revised 2016) which provides up-dated evidence about the provision of different types of open space across the district. The levels of open space provided within the application sites wards of Heckmondwike and Batley West are important considerations, as the proposal would both improve one form of open space but lead to the loss of a different form.

10.28 In terms of the definition of open space, NPPF does not distinguish between land in public or private ownership and it is not necessary for open space to have public access before it can qualify as open space under the NPPF. The NPPF definition of open space is clear that it includes 'all open space of public value'. The application site is identified in the study as part of a larger area of 'natural and semi-natural greenspace' of some 28.78 hectares in size. As part of the Open Space Study an assessment of the whole area of natural and semi-natural greenspace was undertaken to evaluate the physical, social, environmental and visual qualities to determine its public value as open space. This larger natural and semi-natural greenspace was assessed as having high value as open space based on:-

- Level of use – the site is in agricultural grazing use and recreational use is through the use of number of PROWs that are within or adjacent to the site;
- High structural and landscape benefits – the site performs a strategic function as a large green lung within a densely developed area. It helps separate built-up areas and its extensive open quality and dominance in the landscape being a prominent hillside location helps define the identity and character of the area;
- High amenity and sense of place benefits – the site is visually attractive and contributes significantly to the appearance and semi-rural character of the area and in doing so provides local communities with a sense of place and identity.

10.29 Given the above, it is considered that the application site does form natural and semi-natural greenspace and assessment of such is therefore valid.

10.30 Turning to the level of open space provision within wards which would be affected by the development. The majority of the application site falls within the Heckmondwike ward boundary but the eastern part of the site is within Batley West ward. The Kirklees Open Space Study (revised 2016) identifies deficiencies in the quantity of natural and semi-natural greenspace along with the minimum benchmark standards for both wards as shown below:-

- Heckmondwike Ward
 - Current provision, of natural and semi-natural greenspace: 0.67 hectares per 1,000 population

- Minimum benchmark Standard for natural or semi-natural greenspace: 2 hectares per 1,000 population
- Batley West Ward
 - Current provision, of natural and semi-natural greenspace: 1.7 hectares per 1,000 population
 - Minimum benchmark Standard for natural and semi-natural greenspace: 2 hectares per 1,000 population

10.31 As can be seen above the provision of natural and semi-natural greenspace in the Heckmondwike Ward is currently significantly below the benchmark standards set out in the Kirklees Open Space Study (2016), and it is also below the standard for the Batley West Ward. The proposal would lead to a loss of 6.8 hectares of this natural and semi-natural greenspace and this would lead to both wards being further away from the minimum benchmark standards. This adverse impact the application would have on the provision of natural and semi-natural greenspace in the wards needs to be balanced against the other considerations put forward by the applicant.

10.32 The planning application proposes provision of a 7.2ha area of open space including a public park and allotments. The applicant has put forward that this open space would make a significant contribution to meeting deficiencies. The Open Space Study (2016) provides details on the level of provision of parks and recreation grounds and allotments for each ward along within minimum benchmark standards. The details are set out below:

- Heckmondwike Ward
 - Current provision of parks and recreation grounds : 0.54 hectares per 1,000 population
 - Minimum benchmark Standard for parks and recreation grounds: 0.8 hectares per 1,000 population
 - Current allotment provision: 0.39 hectares per 1,000 population
 - Minimum benchmark Standard for allotments: 0.5 hectares per 1,000 population
- Batley West Ward
 - Current provision of parks and recreation grounds: 0.86 hectares per 1,000 population
 - Minimum benchmark Standard for parks and recreation grounds: 0.8 hectares per 1,000 population
 - Current allotment provision: 0.1 hectares per 1,000 population
 - Minimum benchmark Standard for allotments: 0.5 hectares per 1,000 population

10.33 As can be seen above the proposed development would meet deficiencies in both parks and recreation grounds and allotments for both wards. However, this needs to be weighed against the significant impacts of the loss of the natural and semi-natural greenspace brought about by the application, which

is already deficient in the wards. It is considered whilst weight can be attached to the provision of the park and allotments this needs to be carefully considered against the loss of the natural and semi-natural greenspace.

Landscape Impact and Character of the Local Area

- 10.34 The landscape impact of the development and its impact on the character of the local area needs to be considered in detail given the scale of the development. The application has submitted with a Landscape and Visual Appraisal (LVA) which has concluded that the *“long term effects to the landscape character of the site within the immediate context would be Moderate/Minor Adverse but not significant.”* The LVA has been assessed by the Councils Landscape architect, a summary of their assessment is set out below, along with an assessment of the impact of the development on local character.
- 10.35 The NPPF sets out that advice in relation to design in the core planning principle and paragraphs 56 and 58. These policies are considered appropriate when considering the impact the development would have on the character of the local area. Whilst the application seeks outline consent the applicant has put forward that the submitted indicative details represent parameters of how the site would be developed. It is therefore considered important to carry out an assessment of how the proposal would impact on the character of the local area.
- 10.36 The core planning principles in the NPPF provide guidance on design and state that new development should *“always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.”* Paragraph 56 states, *“The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.”* Paragraph 58 states that decision should aim to ensure that development, establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit. These policies are further supported by Policies BE1 and BE2 of the UDP which state that new development should create or retain a sense of local identity and is in keeping with surrounding development in respect of design and layout.
- 10.37 The urban greenspace subject to the application is considered to represent an important local landscape, and contains a remaining piece of rural landscape and character unique to this area whereby it provides wider benefits to ecosystems, green infrastructure networks and human health and well-being.
- 10.38 The applicant has put forward that the existing the application site has no public value, and the impact of the proposal on the landscape within the immediate context of the site would be moderate/minor. Officers considered that overall the urban greenspace has much value and while one public right of way is referred to in relation to the application site, overall 4 public footpaths will be affected, 2 detrimentally by the wider development proposal.

While the land around the existing paths may not be accessible this is irrelevant as currently the paths provide recreation and the wide open aspect and longer wider views can be enjoyed as part of the user's experience. This will be lost forever after development.

- 10.39 It is considered that the application site is not in a location where it is would be appropriate for the existing settlement boundary to 'flex' or 'in-fill' and therefore greater weight should be attached to the protection of the intrinsic value of the open space in this location. Policy D3 states: "*one of the main functions of urban green space is to safeguard the balance within urban areas between the amount of land which is built-up and the amount of open land.*" It is therefore considered that the harm caused by virtue of the loss of this area of open land, currently natural and semi-natural urban greenspace, would be significantly detrimental to visual relief, the role as part of the urban greenspace is useful and important to maintain as a separation between the built up areas surrounding it.
- 10.40 Turning to the character of the local area, the proposal would remove the last remaining area of open space between the built up areas of Heckmondwike and Batley known as White Lee and Carlinghow to the west and north and Healey to the south. It is considered that this open land plays an important strategic role as a green wedge separating these settlements and provides valuable open land for local amenity and visual relief. The proposal would lead to the loss of a large tract of open land, and developing this area would lead to the coalescence of these urban areas, which is considered to be harmful to the character of the local area, and would in part erode the sense of place which the local communities currently benefit from.
- 10.41 The proposed development as a whole will result in the loss of a valued section of urban greenspace land and will have an adverse visual impact on the character and appearance of the locality which will be contrary to UDP Policies D3, BE1 and BE2, the core planning principle and Policies set out in Chapter 7 and 8 of the NPPF.

Kirklees Publication Draft Local Plan

- 10.42 The Publication Draft Local Plan (PDLP) was submitted to the Secretary of State on 25th April 2017 for examination in public. The site forms part of a larger urban green space allocation (UGS973) within the PDLP and is supported by the Kirklees Open Space Study (revised 2016) assessment as having high value as open space. Given that the PDLP has now been submitted consideration needs to be given to the weight afforded to the site's allocation in the PDLP.
- 10.43 The NPPF provides guidance in relation to the weight afforded to emerging local plans, paragraph 216 which states:

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

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

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

- a. *the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or neighbourhood planning; and*
- b. *the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.*

10.45 Given the above, and as the PDLP proceeds through the examination process and gains more weight in the determination of planning application, it is considered that there is a greater likelihood that planning application will not be in accordance with PDLP and the development of the site could be judged as being premature. The LPAs position on the prematurity of the proposal will have to be considered further at the Public Inquiry into the application as the PDLP has progressed.

The Planning Balance

10.46 In assessing the planning balance of the application consideration has been taken to the presumption in favour of sustainable development in relation to social, economic and environmental factors. The social and economic benefits the proposal would provide by the provision of 200 dwellings and a public park with allotments would make a contribution to the housing land supply and would make a 7.2 hectare section of the site more accessible to the public. However when weighing up the benefits of the proposal against the loss of this urban greenspace site the proposal fails to accord with Policy D3 which is considered to remain a relevant policy which can be afforded weight in the determination of the application.

- 10.47 The application site forms a valuable part of an area of natural and semi-natural greenspace which has been assessed as having high value as open space based on its level of use, structural and landscape benefits and amenity benefits and sense of place. It is key part of a visually important and extensive tract of open land which contributes to the attractiveness of the area, when viewed from different locations. It provides visual relief and an important break in an otherwise densely developed area which contributes significantly to the appearance and semi-rural character of the area and gives communities a sense of place and identity, and fulfils a strategic function in separating two distinctive areas. The loss of this function of the site is given significant weight in the overall planning balance as it is an irreversible impact, and it is considered that the development of the site would materially harm character of the local area.
- 10.48 Furthermore, within the Heckmondwike ward the provision of natural and semi-natural green space is a significant shortfall below the minimum benchmark standards set out in the Kirklees Open Space Study (2016), and also below the standards for the Batley West Ward. This is afforded significant weight as the loss of the urban greenspace would have a greater impact within an area which has a significant deficiency of natural and semi-natural green space. Whilst access to parks and recreation grounds and allotments would be increased it is not considered that this would outweigh the harm to the loss of the natural and semi natural green space.
- 10.49 In conclusion the planning judgement on the proposal is that the adverse impacts of the loss of this urban greenspace site significantly and demonstrably outweigh the benefits of developing the site, when considered as a whole along with all other relevant material considerations. The proposal would therefore fail to accord with Policies D3, BE1 and BE2 of the UDP and the Core Planning Principles, Policies in Chapter 7 Policies and paragraph 74 of the NPPF.

Highway issues

- 10.50 The impact of the development on Highway Safety is a key consideration for the development and the application has been submitted with a detailed Transport Assessment (Optima 2016) which has been assessed by the Highways Officer. The application seeks to agree the point of access which would be from White Lee Road.

Highways Site Context

- 10.51 White Lee Road in this location is subject to a 30mph speed limit, is street lit and is of some 7.5m in width. Parking restrictions are not in force and site observation suggests free flowing traffic. There is a speedvisor sign in place in the vicinity of the proposed access point and site observation suggests vehicle speeds in line with the posted speed limit.

10.52 The application site is considered to be moderately well served by existing public transport facilities in line with what would be expected for the location and nature of the area.

Baseline Traffic Data

10.53 In order to obtain baseline traffic data for the highway study area, ATC and full classified turning counts were undertaken at the following junctions:

- White Lee Road/Site Frontage – ATC (Volumetric and Speed)
- Muffit Lane/Huddersfield Road – (Turning and Queue)
- White Lee Road/Smithies Moor Lane - (Turning and Queue)
- White Lee Road/Carlinghow Lane - (Turning and Queue)
- White Lee Road/Dale Lane - (Turning and Queue)
- West Park Road/Common Road - (Turning and Queue)
- Common Road/Halifax Road - (Turning and Queue)
- B6123/A638 - (Turning and Queue)

7-day ATC speed data confirmed the 85th percentile wet weather speed on White Lee Road to be circa 35mph in both directions.

Injury Accident Assessment

10.54 A full Personal Injury Accident assessment of the highway study area for the most recent 5 year period (Jan 2011 – Jan 2016) has been undertaken and Highways Development Management is satisfied that there are no existing accident or highway safety trends that this proposal would likely exacerbate.

Access Proposals

10.55 Vehicular access to the site is proposed via a newly created ghost island right turn priority junction taken directly from White Lee Road. The survey data recorded an AADT (Annual Average Daily Traffic) flow of 11,411 (Two-way). In line with the nature of the carriageway and setting, and in line with the proposed development and the guidance prescribed with DMRB TD42/95, a ghost island priority junction is considered an appropriate junction arrangement.

10.56 The ghost island arrangement provides 3m running lanes with a 3m segregated right turn pocket. Dropped kerbs with tactile paving are provided in line with a standardised layout including informal pedestrian crossing points.

10.57 In line with the above, the submitted drawings illustrate the achievability of vehicular visibility splays of 2.4m x 50/51 metres in both directions. This is considered acceptable and in line with the requirements based upon 85th percentile wet weather speeds recorded.

Traffic Generation and Traffic Distribution

10.58 It should be noted that the submitted Transport Assessment has assessed a potential development of up to 240 residential dwellings as opposed to the 200 contained for this outline application and as such is considered to be robust and appropriate. A development of some 240 residential dwellings would see the following traffic generation at the site access:

AM Peak – 35 arrivals/94 departures (128 two-way)
PM peak – 81 arrivals/55 departures (136 two-way)

10.59 A build out rate of 50 dwellings per annum has been assumed and as such a base year of plus 5 years (2021) has been assessed. The traffic growth rates have been determined using TEMPRO for the Batley 00CZ3 area which is considered to be acceptable.

Operational Highway Assessment

10.60 All of the junctions contained within the study area have been assessed with the exception of the A638/B6123 junction on the basis that only 5 trips per peak hour will pass through the junction as a result of the proposed development. This is accepted. All junctions have been assessed for an existing count year of 2016, a base year of 2021 and an assessment design year of 2021 with the exception of the site access junction which has only been assessed as a design year of 2021.

10.61 The results of the operational assessment demonstrate that all junctions within the highway study area will operate within their theoretical capacity limits during the study period. In summary, the operational assessment confirms that the proposed development is unlikely to have a material impact upon the safety and efficiency of the local highway network and as such, the proposal is considered acceptable in that regard.

Strategic Transport Infrastructure

10.62 The application has also been assessed by the West Yorkshire Combined Authority (WYCA) in relation to the impact the development would have on the strategic transport Infrastructure. The WYCA have advised that to encourage future occupiers to use local public transport to access jobs, shops and schools that a nearby bus stop should be upgraded and future occupiers should either be offered Residential Mcard's (Metrocard's) or a Travel Plan Fund be provided. WYCA proposed that the bus stop at the junction of White Lee Road and Leaside Road would benefit from being upgraded to provide real time information at a cost of £20,000, and the cost of an Mcard scheme for 200 dwellings would be £98,230. The provision of these transport enhancements are considered necessary and relevant to the proposal and would aid in improving future occupiers access to public transport. The contributions required to secure the bus stop improvements and the Mcards can be scored by way of a section 106 agreement.

Public Rights of Way (PROW)

10.63 A number of PROWs run across the site and the application has been assessed by the PROW Officer. The indicative layout of the proposal details that one of the PROWs which links Jail Road to White Lee Road would need to be diverted to allow the indicative layout to be achieved. A suggested alternative route of the PROW has been provided which could be acceptable, but this would be subject to a separate application to the Highways Authority to divert the footpath. The PROW Officer has made suggestions regarding enhancements to the layout of the scheme to incorporate improved pedestrian and cycling connections which have been placed on the file. Given that the application seeks outline consent only, these design matters would need to be addressed in a reserved matters application. In summary the development of the site is considered to have an acceptable impact on the local PROWs in terms of the operation and function.

Drainage issues

10.64 Due to the size of the site a Flood Risk Assessment (FRA) has been submitted with the application and additional drainage information has been submitted through the course of the application at the request of the Lead Local Flood Authority (LLFA) Officer. The Environment Agency (EA) have assessed the application but raise no objection to the proposal, and Yorkshire Water have also assessed the application. Yorkshire Water raise no objection subject to conditions which include ensuring that nothing is constructed either side of a water main which runs across the site.

10.65 The LLFA has stated that there is a surface water flooding risk to the proposed properties adjacent to White Lee Road and that the submitted FRA proposes a pumped solution for surface water. The LLFA Officer strongly objects to the use of a pumped solution and had made a number of suggestions which would allow a gravity fed connection. They have also questioned the use of soakways for the whole site, and further more detailed assessments of the site would be required before a final drainage solution can be agreed.

10.66 However given that the application seeks outline consent with only the point of access to be agreed, it is considered that sufficient drainage information has been provided at this stage to allow the determination of the application. The LLFA has advised that further consultation would be required at reserved matters stage and this could be achieved by re-consulting the LLFA at that point.

Ecology

10.67 The application has been submitted with an ecological assessment, and bat survey which has been assessed by the Council's Ecologist and Natural England. The Ecologist has stated that the submitted survey is sufficient and is appropriate to the scale of the development proposed and the potential ecological impacts. The ecological assessment report demonstrates that

significant ecological impacts can be fully mitigated by the development of the site and that ecological enhancement can be provided.

- 10.68 The Ecologist therefore raises no objection to the proposal subject to conditions regarding the submission of a construction environmental management plan, a landscape and ecological management plan, and a lighting strategy for biodiversity. Natural England raise no objection to the proposal but advise that biodiversity and landscape enhancements are provided by the development as suggested by the Council's Ecologist.

Environmental Issues (Noise, Air Quality, Contamination)

- 10.69 Environmental issues for the application have been assessed by the Environmental Services (ES) Officer, and the Coal Authority. The application has been submitted with a Phase 1 desk top contamination report and a Coal Mining Risk Assessment (CMRA).
- 10.70 The ES Officer has assessed the submitted details and considers that the information provided is sufficient to be able to determine the application. The submitted Phase 1 report is however not considered to be of a sufficient standard and an updated phase 1 would have to be secured by condition along with other contaminated land conditions. The ES Officer has also highlighted that radon maps suggest that the whole of the site is likely to need basic radon protection measures which can be secured through the building regulations process.
- 10.71 The ES officer has considered the development in respect to air quality and with reference to Paragraph 35 of the NPPF and guidance set out in the West Yorkshire Low Emissions Strategy (WYLES). These documents seek to encourage the use of sustainable forms of transport including ultra-low emission vehicles, the use of such vehicles in turn help to improve air quality. The application would lead to the formation of 200 dwellings with associated additional vehicles in the area. In accordance with guidance set out in the WYLES it is considered appropriate and necessary to require that details of electric charging points are submitted prior to the occupation of the development.
- 10.72 The site is located within the Coal Mining referral area and a number of objectors have highlighted that the site may be subject to old mining workings and subsidence can occur locally. The application has been submitted with a Coal Mining Risk Assessment (CMRA) which has been assessed by the Coal Authority who raise no objection to the proposal subject to conditions requiring further intrusive site investigations.
- 10.73 Subject to the conditions outlined above the proposal is considered to be able to have an acceptable impact on local environmental issues.

Design and Heritage

- 10.75 The application site seeks outline consent with all matters other than the point of access reserved from consideration. An assessment of the impact of the development on the character of the local area has been set out previously in the principle section of this report. However an assessment of the specific design of the proposal and its impact on the Cross Bank Batley Conservation Area, local heritage assets and local archaeological needs to be carried out.
- 10.76 The design details provided in the application are indicative, however they are considered to represent a potential layout which could be achieved for the site, and one which the applicant considers to set out the parameters of how the site would be developed. The housing portion of the site would be 6.8 hectares in size and for 200 dwellings this equates to a density of 29 dwellings per hectare with the majority of the dwellings accessed of a single point of access directly from White Lee Road. The submitted design and access statement details a mix of units 2, 3, 4 and 5 bedroom dwellings located across the site which would be between 2 and 2.5 storeys in height.
- 10.77 As set out previously the indicative layout for the site is considered to highlight the detrimental landscape harm the proposal would have on the local area, and aid in removing open views across the site, and is considered to be detrimental to the character of the local area. The park location to the east would relate to the existing playing fields located off Coal Pit Lane and North Bank Road
- 10.78 The provision of a mix of dwellings is considered to be acceptable and subject to a detailed design assessment at reserved matters stage, 2 to 2.5 storey dwellings could be acceptable subject to a detailed assessment at reserved matters stage.
- 10.79 The Kirklees District Police Architectural Liaison Officer (PALO) has assessed the application and does not raise any objections to the proposal, but has provided detailed design comments for consideration by the applicant in any detailed layout for the site.
- 10.80 Turning to the heritage impact of the development which has been raised as a concern by some local residents, the applicant has submitted a heritage assessment which has been considered by the LPAs Conservation and Design Officer. There are no listed buildings which directly border the site, however a small section of the most eastern portion of the site which would form the public park is located within the Cross Bank Batley Conservation Area.
- 10.81 The development would be seen from within the Conservation Area and consideration needs to be given to the impact of the development on the Conservation Area and its setting. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 highlights the importance of considering the impact of the development on Conservation Areas.

- 10.82 The Conservation and Design Officer raises no objection to the proposal and does not consider that the development would be harmful to local heritage assets, however a detailed assessment of the design would need to take place at reserved matters stage. Objectors have put forward a number of non-designated heritage assets which they consider the development would adversely impact on, however it is not considered that the sites put forward are of such strong heritage value that they would be adversely impacted on by the development. It is therefore concluded that the proposal would have an acceptable impact on local heritage assets and would accord with the requirements of Chapter 12 of the NPPF.
- 10.83 With respect to local archaeology at the site the application has been assessed by the West Yorkshire Archaeology Advisory Service (WYAAS). They have advised that the site may have archaeological importance and that a survey of the site should be undertaken pre determination. As the application has gone to appeal against non-determination this request for a survey cannot be sought. However WYAAS have advised that the survey could be conditioned to be a pre commencement condition, and it is considered that such a condition would be appropriate given the circumstances.

Residential Amenity

- 10.84 The residential amenity impact of the development needs to be considered against how the proposed dwellings would relate to adjacent properties. Given that the application seeks outline consent with layout, appearance and scale reserved, there are no specific details where the dwellings would be positioned in relation to adjacent properties. However the indicative layout details parameters in which the dwellings would be positioned, with the dwellings to the west of the site.
- 10.85 The most closely affected existing dwellings to the proposed dwellings would be those along Jail Road and Mortimer Terrace to the south, White Lee Croft to the north, and White Lee Road opposite to the west. It is considered that sufficient space about dwelling distances could be achieved to these adjacent dwellings to meet distances set out in Policy BE12, and to protect local residential amenity. A detailed assessment would need to be undertaken at reserved matters stage when a layout of the site is available.

Planning obligations

- 10.86 Due to the scale of the proposed development for 200 dwellings, planning obligations would be required in respect of affordable housing, education and sustainable transport. The applicant has set out that the development would be fully compliant with planning obligations for the above matters and the following would be delivered by the development:
- 10.87 Affordable Housing: 40 affordable units to be provided in accordance with the 20% rate required in the Interim Affordable Housing Policy, with the type and tenure to be agreed through discussions with the applicant.

10.88 Education: Education Services have indicated that a contribution of £494,214 would be required for the development which would be used on local education facilities.

10.89 Sustainable Transport: As set out above the West Yorkshire Combined Authority (WYCA) have advised that the bus stop at the junction of White Lee Road and Leaside Road would benefit from being upgraded to provide real time information at a cost of £20,000, and the cost of an METRO card scheme would be £98,230.

Other Matters

10.90 *Power Cables/Electrical Substation* – a section of power cables cross the site with an electrical substation located adjacent White Lee Road. Northern Powergrid have been consulted on the application and have raised concerns regarding some of the indicative design details proposed. They have advised that there would be objections to tree planting adjacent to the sub-station, and that no contact has been made regarding the rerouting of the existing power cables. The applicant has however detailed in submissions that the cables would be routed underground as part of the development, and this solution is considered to be acceptable to deal with this matter. An acceptable landscaping scheme could ensure that operation of the sub-station is sufficiently protected.

Representations

10.91 In total 85 representations have been received against the proposal along with a petition of 3053 signatures , a summary of the points raised with a response to the points raised is set out below.

10.92 Principle Matters

- The site is designated as Urban Green Space and covered by Policy D3 of the UDP, the land is protected from development, and no exceptions set out in Policy D3 apply for the proposal. The UDP is the lawful development plan for the district and the application should therefore be refused.
- The application site is to be designated as Urban Green Space (site ref UGS973) under the new Local Plan which is to be examined in public shortly and this designation should be retained. The site was subject to 7 housing options in the Local Plan H354; H523; H524; H525; H534; H613, and H674, all were rejected, and the proposal should therefore be rejected too.
- The Local Plan allocates land for over 31,000 homes over a 15 year period and the housing need for the district will therefore be met by this plan. The Local Plan sets out other more appropriate sites for development than the application site.
- The new Local Plan Policy on urban greenspace which will supersede Policy D3 re-affirms the priority given to Urban Green Space and states that:

“development proposals that would result in the loss of valuable open space in Kirklees will not be permitted unless an assessment shows the green space to be clearly surplus to requirement”.

- There is no evidence to suggest that this greenspace is surplus to requirements. It acts as a vital green lung along White Lee Road in the middle of a densely built-up area, which is criss-crossed by a network of public footpaths, providing exercise and recreation for surrounding residents. Its loss would be to the detriment of the character of the local area.

Response: All of the above comments are noted, and a detailed assessment of the matters raised has been carried out in the above assessment.

- The site functions in the same way as Green Belt, i.e. to prevent the merger of Heckmondwike and Carlinghow settlements. Due to the topography of this site at the crest of the ridge, its greenspace appearance is visually prominent. The whole of North Kirklees is very built-up and densely-populated with few open greenspaces and it is considered that the site has extremely high value as urban greenspace.
- The site forms Green Belt land that state should be protected and retained.
- The site has always formed protected land between housing developments as set out on previous planning documents and this should be retained.

Response: The site does not form Green Belt land and represents an area of urban greenspace as set out in the UDP. An assessment of the urban greenspace has been set out above.

- The submitted layout plans are misleading as they do not show the location of surrounding developments which have been recently constructed.

Response: The position of adjacent recently approved development has been noted and considered by Officers as set out in section 4 of this report.

- The proposal would not meet the definition of sustainable development and would have a negative impact on the local community. The site is considered to have a recreational and amenity purpose contrary to the statements of the applicant.
- More suitable brownfield sites should be used first before using greenfield sites.

Response: All of the above comments are noted, and a detailed assessment of the matters raised has been carried out in the above assessment.

10.93 Highways

- The local area has been subject to a significant number of permissions for new houses with up to 600 granted within the wider area over recent years. The local infrastructure and facilities such as sewers, medical facilities, local schools are not capable of accommodating a further 200 dwellings within the local area.
- White Lee Road is already a very busy road which connects the area to the motorway network, and the proposal will make this situation worse with

at least 400 more vehicles using the roads at least twice a day. It will also make it even more difficult to cross the road or turn on to the road. The proposed single point of access will make entering and leaving on to White Lee Road extremely difficult. The proposal would therefore be detrimental to highway and pedestrian safety.

- The submitted transport assessment details that the White Lee/Carlinghow Lane junction will only lead to a queue increase of 2 vehicles which is not considered to be representative of what will happen given that possibly 400 additional cars will be using the roads.

Response: The above comments are noted, however the application has been submitted with a transport assessment which has been assessed by the Highways Officer. It is considered that that the local highway network is capable of accommodating the additional vehicular movements generated by the development as set out in the highway section of this report. The proposal is therefore considered to have an acceptable impact on highway safety.

- The proposal would lead to the diversion of a public right of way (PROW) which crosses the site. However there are no specific details of the diversion in the application and it could mean that adjacent properties are more vulnerable to due to a repositioned PROW.

Response: The application has provided details of a potential alternative route for the PROW which will have to be diverted via a separate application to PROW.

10.94 Amenity

- The proposal will lead to years of noise and disturbance to local residents caused by construction work which will have a further adverse impact on the local highway network.
- The proposal will reduce the amount of farming land available within the district.
- Part of the site is within and would impact on the setting of the Batley Cross Bank Conservation Area, and the development would be seen from the Conservation Area. It is considered the proposal due to its scale and position will be detrimental to the Conservation Area.
- There are a number of non-designated heritage assets such as Fieldhead Farm and Healey Village. It is considered that Field Head Farm dates from at least the early 19th Century if not late 18th Century, and the proposal would lead to the loss of this building which is considered to be locally significant. Healey Village is adjacent the site and has a number elements of historic significance in its layout such as Dryfield House, the Debtors Jail, previous mine workings across the site and the settlement boundary layout. The application site remains the last physical distinction between Healey and other settlements. The erosion of application site would detrimentally affect the setting of this historic settlement.

Response: As set out above the proposal is not considered to have a detrimental impact on local heritage assets.

- The local area has a natural beauty that forms a quiet piece of land surrounded by development where the local footpaths and adjacent fields

are used by the public for exercise and walking dogs. The proposal would lead to the loss of this area to its detriment.

- An independent landscape character assessment of the area should be carried out for the application site to assess the impact of the development.
- It is considered that the loss of this last key piece of open space between settlements along White Lee Road would be detrimental to the character and appearance of the local landscape and the local sense of place. The proposed park would not allow for the retention of this open space and it is considered that the design and layout of the scheme is poor in design terms.

Response: The above comments are noted, a detailed assessment of the landscape impact of the proposal has been carried out and has been assessed by the LPA as set out above.

- The provision of tree planting is not considered to mitigate the harm caused by development and it is considered that the proposal will have an adverse impact to the local area over the long term.
- The tree planting suggested in the submitted plans is considered to be unrealistic given the limited size of the gardens for the properties and no account has been made to the extensive parking of vehicles across the whole site.

Response: The above comments are noted.

- The dwellings shown on the plan would be directly to the rear of existing properties along Mortimer Terrace and there is concern that the proposal would have a detrimental impact to these dwellings.
- Any dwellings on the site which are 3 storey in height would be out of keeping with the local character.

Response: Given that the application seeks outline consent, specific design details of the dwellings have not been provided. Indicative details suggest 2 and 2.5 storey dwellings would be erected on the site which may be acceptable subject to a detailed assessment at reserved matters stage. Specific relationships to adjacent properties would also be carried out at reserved matters stage.

10.95 Other Matters

- There are old mining workings underneath the field that would be subject of the application and local properties have been prone to subsidence, the application site would be subject to these same issues.

Response: The coal mining legacy of the site has been considered by the Coal Authority who do not raise any objection to the proposal subject to conditions.

- The application site contains much wildlife including birds, bats, foxes and many more, which has increased over recent years and the proposal would lead to the loss of this wildlife to the detriment of the local area.

Response: The ecological impact of the proposal has been considered by the LPAs Ecologist and by Natural England and an ecological impact assessment

has been provided. It is considered that the proposal would not have a detrimental impact to local ecology subject to ecology conditions.

- The proposal would increase the potential for flooding in the local area and further down the valley as the fields act as a sponge soaking up water. The development of the site for housing would remove this ability to retain water.

Response: The site is located within Flood Zone 1 the lowest flood risk and there are no objections to the proposal from the Environment Agency. The risk of surface water flooding has been considered in detail by the Lead Local Flood Authority (LLFA) who has highlighted a concern adjacent to White Lee Road, but raises no objection to the proposal overall subject to conditions regarding specific design details for drainage. Yorkshire Water also raise no objection to the proposal.

- The area is at risk from radon gas.

Response: The potential presence of radon gas has been identified by Environmental Services, and protection measures would be included as part of any necessary land remediation works at the site, and by building regulations.

- The site was previously widely accessible beyond the extents of the footpath and members of the public could walk across parts of the fields. The footpaths were only enclosed 2 years ago when the application was first put forward.

Response: These comments are noted however access to the land is at the discretion of the land owner.

- Healey was subject to bombing in World War 2 and there may be unexploded bombs across the application site.

Response: Comments noted, such issues would be addressed through remediation of the site or via the construction process.

- The proposal would increase traffic pollution in the local area to the detriment of residents health.

Response: Air quality has been considered by Environmental Services who considered that the provision of electric charging points for the properties would provide sufficient mitigation.

- There are no details to the level of affordable housing provided by the development or where these are.

Response: Affordable housing would be provided at the policy compliant rate of 20% of units, therefore 40 units.

11.0 CONCLUSION

- 11.1 In conclusion the proposal would provide up to 200 dwellings at a time of general housing need when the Council cannot demonstrate a 5 year land supply of housing. The proposal would provide a 7.2 hectare public park which would meet local deficiencies in terms of parks and recreation grounds

and allotments. The proposal would be policy compliant in terms of providing 20% of affordable housing units, education contributions and transport enhancements. There would also be economic benefits arising from the development including potential new homes bonus, benefits for local businesses and employment opportunities during construction. The applicant also considers that the site is within a sustainable location, the harm to the local landscape would be moderate or minor in the long term, and that the development would not be premature when considering the position of the Publication Draft Local Plan.

- 11.2 Whilst the above have been considered these benefits need to be balanced against the irreversible long term harm which would be caused by the loss of such a large section of urban greenspace which is in short supply locally, and the impact this would have on the local landscape and the character of the local area, including eroding a physical separation between two distinctive areas.
- 11.3 It is considered that the benefits of the development are not outweighed by the harm resulting from the loss of the urban greenspace and the proposal would fail to accord with the requirements of Policies D3, BE1 and BE2 of the UDP, paragraph 74 of the NPPF, and policies in Chapter 7 of the NPPF.

12.0 REASON FOR REFUSAL

1. The application site is allocated as urban greenspace on the Kirklees Unitary Development Plan (UDP) proposals map. The proposed development is contrary to Policy D3 of the UDP which relates to development on such sites. The site forms part of a larger area of urban greenspace which has been assessed as having high value as open space and as such is not deemed surplus to requirements. The development is therefore contrary to Policy D3 of the UDP and paragraph 74 of the National Planning Policy Framework. The loss of the value of the urban greenspace is considered to outweigh all other material considerations, including the delivery of new housing.
2. The proposed development would lead to the loss of a large tract of open land within an otherwise built up area which plays an important strategic role as a green wedge separating the distinctive communities and settlements of Heckmondwike and Healey and provides valuable open land for local amenity and visual relief to the built up area. To develop this area for up to 200 dwellings would be harmful to the character and appearance of the local area, the wider local landscape and would erode the local sense of place by the coalescence of settlements. To permit such a development would be contrary to Policies BE1 and BE2 of the Kirklees Unitary Development Plan, the Core Planning Principles and Policies in Chapter 7 of the National Planning Policy Framework.

Background Papers:

Application and history files.

Website link <http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f93746>

Certificate of Ownership – Notice served on:
Patricia Garrod, Woodview, Leeds Road, Batley

KIRKLEES METROPOLITAN COUNCIL

PLANNING SERVICE

UPDATE OF LIST OF PLANNING APPLICATIONS TO BE DECIDED BY STRATEGIC PLANNING COMMITTEE

15 JUNE 2017

PLANNING APPLICATION 2016/92055

ITEM 10 – PAGE 17

ERECTION OF 109 DWELLINGS WITH ASSOCIATED WORKS

LAND TO THE EAST OF CROSLAND ROAD, LINDLEY, HUDDERSFIELD.

Additional representation from Lindley Moor Action Group

I read your brief for the strategic planning committee with interest. Some comments below further to the LMAG submission and previous addendum (29 Mar 17):

10.4 The site is allocated for employment and has **never** been marketed for this purpose, despite requests from Kirklees to do so. The would-be developer claims lack of interest, but the evidence demonstrates two recent successful employment lets on near adjacent plots.

10.13 Secrecy of the viability assessment prevents objective scrutiny. Commercial confidentiality is specious, as the housing development market is an exceptionally low risk investment, with large margins and negligible competition. Profit from this estate is estimated as £12 million, fobbing off the community with a derisory contribution and few affordable houses. The viability assessment should be transparent to the public, so that its real value can be examined.

10.41 Recognising the crippling health impact of vehicle exhaust pollution in the locality, last month Kirklees ratified the Halifax Road corridor as an Air Quality Management Area. The rapidly deteriorating atmosphere along Lindley Moor Road has also been recognised, with three new monitoring stations erected this year. All the traffic generated by this development will exacerbate the already perilous pollution along these two corridors. With extreme reluctance the developer has addressed exposure cost. Their mitigation plan tinkers with peripheral issues while avoiding the real problem of 180,000 new pollutions per year.

10.44 Providing public open space under the HV power lines is a clear hazard to children tempted to fly kites. Where is the risk assessment, and who is signing-off to be held accountable when an electrocution occurs? Re-routing the lines underground would resolve the safety hazard and release 15% more precious land (a double benefit which would be self-financing).

Updated comments

KC Highways DM

Potential development at the application site was previously considered as part of a Comprehensive Framework Masterplan which proposed a quantum of residential and employment development across a number of sites at Lindley Moor. The masterplan was accompanied by a Comprehensive Transport Assessment which estimated person and vehicle trips for the whole of the development area so that the full traffic impact from all masterplan sites could be assessed and appropriate mitigation measures identified. The mix of development has changed since the original masterplan and comprehensive Transport Assessment were prepared in 2011.

The difference in expected traffic generation for Plots 3 and 4 of Area 2 of the Comprehensive Masterplan have been assessed by the applicant and shows an increase of 25 two-way trips in the AM Peak and 45 two-way trips in the PM Peak over and above those assessed in the Comprehensive Framework. The estimated generation for this application of 109 dwellings is 17 inbound and 45 outbound trips (62 two-way) in the AM Peak and 43 inbound and 26 outbound trips (69 two-way) in the PM Peak

The applicant has carried out capacity testing of the Lindley Moor Road / Crosland Road junction (in its future signalised state) and the junction is found to operate satisfactorily within recognised thresholds of capacity. This capacity testing has included the flows associated with the full development of the sites currently being build out along Crosland Road and Lindley Moor Road plus the remaining plots in the Comprehensive Framework plus committed developments.

A residential travel plan has been presented by the applicant. This sets out measures to encourage walking, cycling, the use of public transport and car sharing. The key measure is participation in the residential metro card scheme. Kirklees Highways have reviewed the travel plan and accept the principles but require further refinement of the travel plan to include details of a travel plan coordinator, annual monitoring and liaison with Kirklees Council, the setting of annual targets for mode shift and a programme of surveys to establish the baseline and monitor progress. A condition will be imposed to require the provision of a full residential travel plan. The applicant has agreed to fund the annual monitoring of the travel plan over a five year period. Kirklees Highways have identified a number of specific issues which are key to the acceptability of this planning application.

Consistency of Access Design with Emerging Design for Crosland Road:

As part of the wider development proposals for Lindley Moor, an improvement scheme has been produced for Crosland Road. It is vital that the proposed access junction to the application site dovetails with the Crosland Road design and it is acknowledged that the applicant has liaised with Kirklees Highways to arrive at Fore drawing no. 3119 SK001 015 dated 29/9/16. However, while the design of the simple priority junction is agreed in principle, Kirklees Highways reserve the right to amend the design as part of the Section 278 process to ensure the two designs marry up.

It is also a requirement of Kirklees Highways for the applicant to harden the verges on the east side of Crosland Road both north of the application site up to the junction with Lindley Moor Road and south of the application site down to Crosland Farm to improve accessibility on foot. This will be covered by a condition.

Accessibility of the Site:

The applicant has presented details with the application about the accessibility of the site by non-car modes. Bus stops are located on Weatherhill Road which can be reached through the Miller Homes site at a distance of circa. 500m and along Cowrakes Road at a distance of circa. 700m. WYCA have also been consulted who raise no objection but do recommend the improvement of bus stop number 22783 on Weatherhill Road at a cost of £10,000 and the provision of residential metro cards at a cost of £47,826. The applicants have accepted these contributions

With the footway provision along the site frontage, hardening of the grass verges both north and south of the site frontage, enhancements to the public rights of way through to Weatherhill Road and the contributions listed above, Kirklees Highways consider that the accessibility of the site has been addressed and meets the required thresholds.

On this basis, Kirklees Highways consider the proposals acceptable, subject to suitable conditions.

Environmental Health:

Air Quality clarification: The damage calculation methodology is accepted, and the 5 year exposure cost should be £72,770. The contributions towards sustainable travel and travel plan monitoring total £ 72,826. The cost of providing electrical charging points is not accepted as a means of offsetting the damage costs.

As such it is confirmed that the value of the mitigation measures exceeds the damage costs, in line with the guidance contained in the West Yorkshire Low Emissions Strategy

Strategic Drainage:

An updated Flood Risk Assessment has been prepared and an amended drainage solution produced relation to the ongoing development and Section 278 works adjacent the site. It is acceptable to proceed with determining this application subject to the imposition of appropriate drainage conditions covering issues of:

Overland flow routes; discharge rates to be agreed with the Local Lead Flood Authority, and Temporary drainage scheme for the duration of any construction on the site.

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 contained within this report and to secure a Section 106 to cover the following matters(listed below) and following the expiry of the extended publicity period:

- Affordable Housing(15% of total number of units);
- Education Contribution(£269,347);
- Public Open Space(On site POS and contribution of £112,750 for off-site equipped play provision);
- Sustainable Travel Fund-METRO cards- £47,826,
- Travel Plan Monitoring fee £15,000;
- Bus stop improvements-£10,000

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

PLANNING APPLICATION 2016/90261

ITEM 12 – PAGE 47

ERECTION OF WAREHOUSING UNIT

**BROOKFIELD MILL, PENISTONE ROAD, KIRKBURTON,
HUDDERSFIELD.**

Additional Condition

To safeguard against the impact on residential amenity an additional condition is suggested:

8. There shall be no vehicle movements or movement of stock between the proposed warehouse and the existing building between the hours of 10:00pm to 06:00am.

OUTLINE APPLICATION FOR ERECTION OF UP TO 200 DWELLINGS AND FORMATION OF PUBLIC OPEN SPACE (WITHIN A CONSERVATION AREA)**FIELDHEAD FARM, WHITE LEE ROAD, WHITE LEE, BATLEY***Paragraph 74*

Further to the published committee report there has been an update to the use of paragraph 74 in the proposed first reason for refusal on the application.

At a recent Public Inquiry into the development of an adjacent site to the north of the application site for 65 houses at White Lee Road (LPA Ref: 2015/92944, PINS Ref: APP/Z4718/W/16/3162164), which also falls under the same section of Urban Greenspace, the applicability of the restrictive tests of paragraph 74 was discussed in detail. The discussion reflected on the appeal decision to the New Lane, Cleckheaton Urban Greenspace application (LPA Ref: 2014/93073 PINS Ref: APP/Z4718/W/16/3147937) which formed an area of Urban Greenspace in the district which is protected for its visual amenity.

The application is an Urban Greenspace site which is protected for its visual amenity and therefore the New Lane decision is of relevance. In the Inspector's Decision he concluded that he could not see how the restrictive tests set out in paragraph 74 of the NPPF are particularly appropriate or relevant to the appeal site. This matter was further discussed at the Public Inquiry where it was concluded that proposal could not be contrary to restrictive tests of paragraph 74 of the NPPF given the nature of the open space which is protected for its visual amenity, the wording of the tests set out in paragraph 74 and in light of the comments by the Inspector in the New Lane appeal decision.

In light of the New Lane Appeal decision and the discussions at the Public Inquiry it is therefore not now considered to be appropriate to include paragraph 74 in the reason for refusal. The amended reason is set out below.

Kirklees Publication Draft Local Plan (KPDLP)

As set out in paragraphs 10.42 to 10.45 of the published committee report, consideration has been given to the weight which can be afforded to the Kirklees Publication Draft Local Plan (KPDLP), and whether the development can be considered to be premature in light of the submission of the Local Plan for Examination in Public (EiP).

It has been concluded by Planning Officer's via a further assessment based on the criteria set out in paragraphs 10.42 to 10.45 that given the scale of the development when assessed against the wider context of the Local Plan, that the application could not be deemed to be premature as it is not considered to be central to the delivery of the Local Plan. It should be noted that this assessment is a Planning Officers opinion and does not seek to prejudge any assessment of the Local Plan Inspector.

Whilst Planning Officers do not consider that the application is premature in terms of the KPDLP, it has been confirmed since the publication of the Committee Report that given the advanced stage at which the Local Plan has progressed weight should be afforded to the Policies within the KPDLP. An assessment of the relevant local plan policies has therefore been undertaken in relation to the proposal.

Policies within the KPDLP of relevance to this application are as follows:

- PLP61 - Urban greenspace
- PLP24 – Design
- PLP32 – Landscape

Policy PLP61 relates to the development of Urban Greenspace sites, and reflects the UDP Policy D3. The two Policies are considered to be similar in terms of their wording and the assessment set out in the committee report under Policy D3 of the UDP would be mirrored for Policy PLP61 in the Local Plan. Policy PLP61 will therefore be added to the first reason for refusal.

Policy PLP24 relates to design and sets out similar parameters which are considered under Policy BE1 and BE2 of the UDP, such as ensuing that proposals promote good design by ensuing that the “*form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape.*” The assessment of the application set out in the committee report under Policies BE1 and BE2 is considered to be similar to that which would take place for Policy PLP24. Therefore no further assessment in relation to Policy PLP24 is considered to be necessary for the application. Policy PLP24 will however be added to the second reason for refusal.

Policy PLP32 relates to landscape, the landscape impact of the proposal has been assessed against the core planning principles and policies in Chapters 7 and 8 of the NPPF, and Policies BE1 and BE2. Policy PLP32 provides a specific landscape policy which is not present in the UDP, and is set out in full below.

Policy PLP 32 - Landscape

Proposals should be designed to take into account and seek to enhance the landscape character of the area considering in particular:

- a. the need to protect the setting and special qualities of the Peak District National park, views in and out of the park and views from surrounding viewpoints;*
- b. the setting of settlements and buildings within the landscape;*
- c. the patterns of woodland, trees and field boundaries;*
- d. the appearance of rivers, canals, reservoirs and other water features within the landscape.*

Point b of the policy is most relevant to the application, and this policy is considered to reflect the assessment set in paragraphs 10.34 to 10.41 of the committee report. It is therefore considered to be appropriate to include Policy PLP32 (b) in the second reason for refusal.

Reasons for Refusal

The following represent the updated reasons for refusal to reflect the points raised above.

Inform the Planning Inspectorate (appeal APP/Z4718/W/17/3171852) that the Local Planning Authority would have been minded to refuse the application for the reasons set out below:

- 1. The application site is allocated as urban greenspace on the Kirklees Unitary Development Plan (UDP) proposals map and the Kirklees Draft Local Plan (KDLP) proposals map. The proposed development is contrary to Policy D3 of the UDP and Policy PLP61 of the KDLP which relates to development on such sites. The site forms part of a larger area of urban greenspace which has been assessed as having high value as open space and as such is not deemed surplus to requirements. The development is therefore contrary to Policy D3 of the UDP, and Policy PLP61 of the KDLP. The loss of the value of the urban greenspace is considered to outweigh all other material considerations, including the delivery of new housing.**
- 2. The proposed development would lead to the loss of a large tract of open land within an otherwise built up area which plays an important strategic role as a green wedge separating the distinctive communities and settlements of Heckmondwike and Healey and provides valuable open land for local amenity and visual relief to the built up area. To develop this area for up to 200 dwellings would be harmful to the character and appearance of the local area, the wider local landscape and would erode the local sense of place by the coalescence of settlements. To permit such a development would be contrary to Policies BE1 and BE2 of the Kirklees Unitary Development Plan, Policies PLP24 (a) and PLP 32 (b) of the Kirklees Draft Local Plan and the Core Planning Principles and Policies in Chapter 7 of the National Planning Policy Framework.**

Additional Objection from Ward Councillor

A further objection has been received from Batley West Ward Councillor Shabir Pandor. Cllr Pandor's comments are as follows:

My objections are based around the following.

- 1. This development is not in line with our policy and will be over developing the area that already had some intense development*
- 2. Our local plan is progressing well which means there is reasonable ground to refuse this appeal*
- 3. The land in question is used as urban green space for local people and has been for many years*
- 4. The development will put undue pressure on local amenities such as transport highways and education system etc.*

Response: The above comments are noted by Planning Officers.

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