

Public Document Pack



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

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Wednesday 5 December 2018

Notice of Meeting

Dear Member

Planning Sub-Committee (Huddersfield Area)

The **Planning Sub-Committee (Huddersfield Area)** will meet in the **Council Chamber - Town Hall, Huddersfield** at **1.30 pm** on **Thursday 13 December 2018**.

(A coach will depart the Town Hall, at 8.55am to undertake Site Visits. The consideration of Planning Applications will commence at 1.30 pm in the Council Chamber.)

This meeting will be webcast live and will be available to view via the Council's website.

The items which will be discussed are described in the agenda and there are reports attached which give more details.

A handwritten signature in black ink, appearing to read "Julie Muscroft".

Julie Muscroft

Service Director – Legal, Governance and Commissioning

Kirklees Council advocates openness and transparency as part of its democratic processes. Anyone wishing to record (film or audio) the public parts of the meeting should inform the Chair/Clerk of their intentions prior to the meeting.

The Planning Sub-Committee (Huddersfield Area) members are:-

Member

Councillor Terry Lyons (Chair)
Councillor Donna Bellamy
Councillor Nell Griffiths
Councillor James Homewood
Councillor Mohammad Sarwar
Councillor Ken Sims
Councillor Mohan Sokhal
Councillor Sheikh Ullah
Councillor Harpreet Uppal
Councillor Bernard McGuin
Councillor Gemma Wilson

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

Substitutes Panel

Conservative

B Armer
V Lees-Hamilton
M Thompson

Green

K Allison
A Cooper

Independent

C Greaves

Labour

E Firth
S Hall
N Mather
H Richards
R Walker

Liberal Democrat

C Iredale
A Munro
A Pinnock

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

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

2: Minutes of previous meeting

1 - 10

To approve the Minutes of the meeting of the Committee held on 1 November 2018.

3: Interests and Lobbying

11 - 12

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

4: Admission of the Public

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

5: Deputations/Petitions

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

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

6: Public Question Time

The Committee will hear any questions from the general public.

7: Site Visit - Application No: 2018/91542

Erection of two storey rear extension, porch to front and alterations to roof 9, Inglewood Avenue, Birkby, Huddersfield.

(Estimated time of arrival at site – 9.15am)

Contact Officer: Neal Bearcroft, Planning Services

Wards

Affected: Lindley

8: Site Visit - Application No: 2018/92934

Outline application for erection of residential development former Gees Garage, New Hey Road, Outlane, Huddersfield.

(Estimated time of arrival at site – 9.35am)

Contact Officer: Matthew Woodward, Planning Services

Wards

Affected: Colne Valley

9: Site Visit - Application No: 2018/92935

Outline for residential development - former Gees Garage, New Hey Road, Outlane, Huddersfield.

(Estimated time of arrival at site – 9.35am)

Contact Officer: Matthew Woodward, Planning Services

Wards

Affected: Colne Valley

10: Site Visit - Application No: 2018/90501

Change of use and alterations to part of mill to form 42 residential units and 8 light industrial units (use class B1c) and retention of part of existing retail use (revised description and amended plans) Stanley Mills, Britannia Road, Milnsbridge, Huddersfield.

(Estimated time of arrival at site – 9.55am)

Contact Officer: Matthew Woodward, Planning Services

Wards

Affected: Golcar

11: Site Visit - Application No: 2016/91573

Demolition of existing redundant mill buildings and erection of 55 dwellings with associated parking and access from Manchester Road Cellars Clough Mill, Manchester Road, Marsden, Huddersfield.

(Estimated time of arrival at site – 10.20am)

Contact Officer: Farzana Tabasum, Planning Services

Wards

Affected: Colne Valley

12: Site Visit - Application No: 2018/92937

Erection of 51 dwellings and associated works Land south of, Helme Lane, Meltham, Holmfirth.

(Estimated time of arrival at site – 10.40am)

Contact Officer: Matthew Woodward, Planning Services

Wards

Affected: Holme Valley North

13: Site Visit - Application No: 2018/93508

Reserved matters application pursuant to outline permission 2016/91502 for erection of one detached dwelling Adj Spring Lane, Holmfirth.

(Estimated time of arrival at site – 11.15am)

Contact Officer: Nick Hirst, Planning Services

Wards

Affected: Holme Valley South

14: Site Visit - Application No: 2018/92785

Change of use of land to pub garden and play area The Sun, 137, Highgate Lane, Lepton, Huddersfield.

(Estimated time of arrival at site – 11.50am)

Contact Officer: Francis Davies, Planning Services

Wards

Affected: Almondbury

15: Site Visit - Application No: 2017/93847

Outline application for erection of 36 dwellings land off, Upper Quarry Road and Bradley Road, Bradley, Huddersfield.

(Estimated time of arrival at site – 12.20pm)

Contact Officer: Victor Grayson, Planning Services

Wards

Affected: Ashbrow

16: Local Planning Authority Appeals

13 - 28

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

Contact: Mathias Franklin, Development Management Group Leader

Wards

Affected: Dalton; Newsome

Planning Applications

29 - 32

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

Please note that any members of the public who wish to speak at the meeting must register no later than 5.00pm (for phone requests) or 11:59pm (for email requests) by no later than Monday 10 December 2018.

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 prior to the meeting.

17: Council stance on the definitive map modification order 33 - 38

submitted to DEFRA. Public rights of way and their status at Huddersfield 231, Nether Moor, Huddersfield

To consider the report.

Contact: Public Rights of Way publicrightsofway@kirklees.gov.uk

Wards Affected: Crosland Moor & Netherton

- 18: Application for a definitive map modification order to add a public footpath to the definitive map and statement, Clayton Fields, Edgerton. (Application reference 204)** 39 - 46

To consider the report.

Contact officer: Giles Cheetham, Definitive Map Officer. 01484 221000, giles.cheetham@kirklees.gov.uk

Wards: Greenhead

**18.1 Clayton Fields Background Papers & Appendices
Background Papers and History of Decisions**

9.1 872/1/MOD/30 & 31 & 183 & 184 & 185 & 186 & 187

9.2 Links to previous reports/decisions

Item 12 on TCPA s257 - deferred at August 2017

<https://democracy.kirklees.gov.uk/ieListDocuments.aspx?CId=149&MId=5286&Ve r=4>

Item 10 on TCPA s257 - authority October 2017

<https://democracy.kirklees.gov.uk/ieListDocuments.aspx?CId=149&MId=5287&Ve r=4>

Item 17 on File 183 DMMO - decision February 2018

<https://democracy.kirklees.gov.uk/ieListDocuments.aspx?CId=149&MId=5290&Ve r=4>

Item 14 on Files 30, 31, 184, 185, 186 & 187 DMMO - deferred at May 2018 AND

Item 15 on TCPA s257 authority amendment - deferred at May 2018

<https://democracy.kirklees.gov.uk/ieListDocuments.aspx?CId=149&MId=5292&Ve r=4>

Item 13 on Files 30, 31, 184, 185, 186 & 187 DMMO - decisions June 2018 AND

Item 14 on TCPA s257 authority - amended June 2018

[https://democracy.kirklees.gov.uk/ieListDocuments.aspx?CId=149&MId=5622&Ve
r=4](https://democracy.kirklees.gov.uk/ieListDocuments.aspx?CId=149&MId=5622&Ve
r=4)

9.3 Appendices

https://drive.google.com/open?id=1w7rVBr2fNi-_vTdeVpwe0-9d79fQHNOX

Appendix 1 – guidance for members.

- 9.3.1 Plan 1 – Plan depicting application route 204
- 9.3.2 App A – DMMO application form & plan (file 204)
- 9.3.3 App B – Application video file
- 9.3.4 App C – Other plans from CBH records
- 9.3.5 App D – Mr Adamson’s submissions
- 9.3.6 App E – Application 204 submission marking claimed route on site plan R/1954/1C.
- 9.3.7 App W – Comparison plan showing routes in DMMO applications 183 and 204, as well as footpath 477 in the opposed October 2018 DMMO.
- 9.3.8 App X – October 2018 DMMO
- 9.3.9 App Y – October 2018 s257 extinguishment order.

19: Planning Application - Application No: 2016/91573 47 - 70

Demolition of existing redundant mill buildings and erection of 55 dwellings with associated parking and access from Manchester Road Cellars Clough Mill, Manchester Road, Marsden, Huddersfield.

Contact Officer: Farzana Tabasum, Planning Services

Wards

Affected: Colne Valley

20: Planning Application - Application No: 2018/92934 71 - 84

Outline application for erection of residential development former Gees Garage, New Hey Road, Outlane, Huddersfield.

Contact Officer: Matthew Woodward

Wards

Affected: Colne Valley

- 21: Planning Application - Application No: 2018/92935** 85 - 96
- Outline application for erection of residential development former Gees Garage, New Hey Road, Outlane, Huddersfield, HD3 3YJ.
- Contact Officer: Matthew Woodward
- Wards**
Affected: Colne Valley
-
- 22: Planning Application - Application No: 2018/92937** 97 - 114
- Erection of 51 dwellings and associated works Land south of, Helme Lane, Meltham, Holmfirth.
- Contact Officer: Matthew Woodward
- Wards**
Affected: Holme Valley North
-
- 23: Planning Application - Application No: 2018/90501** 115 - 134
- Change of use and alterations to part of mill to form 42 residential units and 8 light industrial units (use class B1c) and retention of part of existing retail use (revised description and amended plans) Stanley Mills, Britannia Road, Milnsbridge, Huddersfield.
- Contact Officer: Matthew Woodward, Planning Services
- Wards**
Affected: Golcar
-
- 24: Planning Application - Application No: 2017/93847** 135 - 156
- Outline application for erection of 36 dwellings land off, Upper Quarry Road and Bradley Road, Bradley, Huddersfield.
- Contact Officer: Victor Grayson, Planning Services
- Wards**
Affected: Ashbrow
-
- 25: Planning Application - Application No: 2018/92785** 157 - 168
- Change of use of land to pub garden and play area The Sun, 137, Highgate Lane, Lepton, Huddersfield.
-

Contact Officer: Francis Davies

Wards

Affected: Almondbury

26: Planning Application - Application No: 2018/93508 169 -
180

Reserved matters application pursuant to outline permission
2016/91502 for erection of one detached dwelling Adj Spring Lane,
Holmfirth.

Contact Officer: Nick Hirst ,Planning Services

Wards

Affected: Holme Valley South

27: Planning Application - Application No: 2018/92216 181 -
206

Erection of 5 dwellings land off, Netherley Drive, Marsden,
Huddersfield.

Contact Officer: Nick Hirst

Wards

Affected: Colne Valley

28: Planning Application - Application No: 2018/91838 207 -
226

Outline application for erection of residential development Land off,
Burn Road, Birchenccliffe, Huddersfield.

Contact Officer: Adam Walker, Planning Services

Wards

Affected: Lindley

29: Planning Application - Application No: 2018/91542 227 -
240

Erection of two storey rear extension, porch to front and alterations
to roof 9, Inglewood Avenue, Birkby, Huddersfield.

Contact Officer: Neal Bearcroft, Planning Services

Wards

Affected: Lindley

30: Planning Application - Application No: 2018/93226

241 -
252

Erection of two storey and single storey extensions Brigsteer, 402,
Birkby Road, Birkby, Huddersfield

Contact Officer: William Simcock, Planning Services

Wards

Affected: Lindley

Planning Update

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

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Contact Officer: Richard Dunne

KIRKLEES COUNCIL

PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)

Thursday 1st November 2018

Present: Councillor Terry Lyons (Chair)
Councillor Donna Bellamy
Councillor Nell Griffiths
Councillor James Homewood
Councillor Mohammad Sarwar
Councillor Ken Sims
Councillor Mohan Sokhal
Councillor Sheikh Ullah
Councillor Bernard McGuin
Councillor Eric Firth
Councillor Christine Iredale

1 Membership of the Committee

Councillor Christine Iredale substituted for Councillor Gemma Wilson.

Councillor Eric Firth substituted for Councillor Harpreet Uppal.

2 Minutes of previous meeting

The Minutes of the meeting held on 20 September 2018 were approved as a correct record.

3 Interests and Lobbying

Councillors McGuin, Bellamy, E Firth, Ullah, Griffiths, Homewood and Lyons declared that they had been lobbied on application 2018/91300.

Councillor Sims declared he had been lobbied on application 2018/90031.

Councillor Bellamy declared an 'other interest' in application 2018/90031 on the grounds that she was a member of Holme Valley Parish Council.

Councillor Bellamy declared that she had been lobbied on application 2016/91573.

4 Admission of the Public

All items on the agenda were taken in public session.

5 Deputations/Petitions

No deputations or petitions were received.

6 Public Question Time

The Committee received a question from Mr Christoph Von Mickwitz regarding whether access and the safety of a public right of way was a planning matter.

Planning Sub-Committee (Huddersfield Area) - 1 November 2018

The Kirklees Council Senior Legal Officer responded on behalf of the Committee to the question.

7 Site Visit - Application 2018/91300
Site visit undertaken.

8 Site Visit - Application 2018/92219
Site visit undertaken.

9 Site Visit - Application 2018/92565
Site visit undertaken.

10 Site Visit - Application 2018/90031
Site visit undertaken.

11 Local Planning Authority Appeals
That the report be noted.

Prior to the consideration of the Planning Applications the Senior Legal Officer highlighted from the Planning Update the matters arising from the Committee meeting 23 November 2017 in relation to the determination of public rights of way and their status at Huddersfield 231, Nether Moor, South Crosland, Huddersfield.

The Committee noted the interim action.

12 Planning Application - Application 2018/90031
The Committee gave consideration to Planning Application 2018/90031 Variation of condition 2 and deletion of condition 20i of previous application ref: 2012/90738 (demolition of redundant former industrial buildings and bridge, erection of 46 age-restricted apartments, 2 guest rooms, external residents' lounge, manager's office, residents' and visitor car parking, new bridge access, related engineering and landscape works with retention of former mill dam and formation of riverside walk) to enable changes to layout, elevations, materials, landscaping, boundary treatments, retaining structures and pond works, rerouting of riverside walk, repositioning of blocks, and other changes, and removal of requirement to provide a pedestrian crossing on Woodhead Road (within a Conservation Area) Prickleden Mills, Woodhead Road, Holmfirth.

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

RESOLVED –

(1) Delegate approval of the application (variation under condition 2, and deletion of part (i) of condition 20) to the Head of Strategic Investment in order to:

(2) Complete the list of conditions including those contained within the considered report including:

Planning Sub-Committee (Huddersfield Area) - 1 November 2018

Condition 1 (three years to commence development) – As permission ref: 2012/90738 has been implemented (development commenced with the demolition of the site's existing buildings), this condition does not need to be re-applied.

Condition 2 (approved plans and documents) – Although the applicant proposes a variation under this condition, the wording of the condition would not change. The list of drawings and documents on the new decision letter would be varied to include the drawings and documents illustrating and supporting the proposals detailed in paragraph 3.1 of the report.

Condition 3 (flood risk assessment) – Compliance condition. To be re-applied.

Condition 4 (public sewer easement) – Compliance condition. To be re-applied.

Condition 5 (separate foul and surface water drainage) – Compliance condition. To be re-applied.

Condition 6 (surface water outfall) – Although this condition was discharged (subject to implementation) on 09/03/2017 under application ref: 2015/90323, given that the revisions proposed under the current application will have implications in relation to drainage and flood risk, it is appropriate to re-apply. Condition 6, and a further discharge will need to be sought by the applicant.

Condition 7 (phase II intrusive site investigation) – On 04/04/2014 under application ref: 2014/90183 the council confirmed this condition was discharged. Condition 7 can therefore be re-applied, but as a compliance condition.

Condition 8 (remediation strategy) – On 09/03/2017 under application ref: 2014/90183 the council confirmed this condition was discharged, subject to remediation being carried out. Condition 8 can therefore be re-applied, but as a compliance condition.

Condition 9 (revised remediation strategy) – Although information was submitted pursuant to this condition under application ref: 2014/90183, it remains undischarged. To be re-applied.

Condition 10 (validation report) – Although information was submitted pursuant to this condition under application ref: 2014/90183, it remains undischarged. To be re-applied.

Condition 11 (foul, surface water and land drainage) – Although this condition was discharged (subject to implementation) on 09/03/2017 under application ref: 2015/90323, given that the revisions proposed under the current application will have implications in relation to drainage and flood risk, it is appropriate to re-apply condition 11, and a further discharge will need to be sought by the applicant.

Condition 12 (revised flood risk assessment) – Although parts ii) and iii) of this condition were partially discharged (subject to further information being submitted) on 09/03/2017 under application ref: 2015/90323, given that the revisions proposed under the current application will have implications in relation to drainage and flood

Planning Sub-Committee (Huddersfield Area) - 1 November 2018

risk, and given that only a partial discharge was confirmed by the council, it is appropriate to re-apply condition 12, and a further discharge will need to be sought by the applicant.

Condition 13 (materials samples) – On 23/04/2015 under application ref: 2014/94009 the council confirmed this condition was discharged, subject to the proposed materials being used. Condition 13 can therefore be re-applied, but as a compliance condition.

Condition 14 (boundary treatments) – On 23/04/2015 under application ref: 2014/94009 the council confirmed this condition was partly discharged (in relation to materials of boundary treatments, but not their positions and heights). As this condition was only partly discharged, and the approved details have been partly superseded by the details submitted under the current application, condition 14 will need to be re-applied and a further discharge will need to be sought by the applicant.

Condition 15 (retaining structures) – Although this condition was discharged (subject to approval of technical specifications) on 09/03/2017 under application ref: 2015/90124, the approved details of retaining structures have been superseded by the details submitted under the current application. Condition 15 will therefore need to be re-applied and a further discharge will need to be sought by the applicant.

Condition 16 (soft landscaping) – Although this condition was discharged (subject to implementation and maintenance) on 09/03/2017 under application ref: 2015/90124, the approved soft landscaping details have been superseded by the amended layout submitted under the current application. Condition 16 will therefore need to be re-applied and a further discharge will need to be sought by the applicant.

Condition 17 (hard landscaping) – Although this condition was discharged on 23/04/2015 under application ref: 2014/94009, the approved hard landscaping details have been superseded by the amended layout submitted under the current application. Condition 17 will therefore need to be re-applied and a further discharge will need to be sought by the applicant.

Condition 18 (turning facilities) – Compliance condition. To be re-applied.

Condition 19 (access, parking and turning areas) – Undischarged. To be re-applied.

Condition 20 (zebra crossing, road markings and amendment to Traffic Regulation Orders) – Undischarged. To be re-applied.

Condition 21 (adoptable access roads) – Undischarged. To be re-applied.

Condition 22 (use of residential parking) – Undischarged. To be re-applied.

Condition 23 (waste storage and collection) – On 12/01/2018 under application ref: 2018/90037 the council confirmed this condition was discharged, subject to implementation and retention. Condition 23 can therefore be re-applied, but as a compliance condition.

Planning Sub-Committee (Huddersfield Area) - 1 November 2018

Condition 24 (construction plan) – As noted above, although the Huddersfield Planning Sub-Committee considered details submitted pursuant to this condition under application ref: 2014/90138 (and resolved to approve the details at the meeting of 12/05/2016), the necessary S106 agreement was never completed and signed. Condition 24 therefore remains undischarged, and needs to be re-applied. Some rewording of the condition may be necessary in light of the construction management obligations to be secured in a new S106 agreement.

(3) The following amendments be made to the conditions outlined above:

- (a) Condition 13 to require the use of local natural Yorkshire stone.
- (b) Condition 14 to require details of drystone walls.

(4) To secure a S106 agreement to cover the following matters:

1. Linking of this application to the S106 agreement (dated 19/12/2013) for planning permission 2012/90738.

2. Provision of public access along riverside walk and bridge in perpetuity.

3. Construction management provisions as per the draft S106 agreement prepared in connection with application 2014/90183 (secure a post-development survey of Lower Mill Lane, establish and engage with a residents' liaison group, and secure funding for a Traffic Regulation Order).

4. £25,000 contribution towards accessibility improvements in Holmfirth town centre (details subject to consultation with Highways officers and ward Members).

(5) That, pursuant to (4) above, in the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Strategic Investment shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits being secured; if so, the Head of Strategic Investment is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

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

For: Councillors E Firth, Griffiths, Homewood, Iredale, Lyons, Sarwar, Sims, Sokhal and Ullah (9 Votes)

Against: Councillor McGuin (1 vote)

Abstained: Councillor Bellamy

13

Planning Application - Application 2018/92378

The Sub Committee gave consideration to Planning Application 2018/92378 Outline application for erection of residential development Oakmead, 1c Lidget Street, Lindley, Huddersfield.

Planning Sub-Committee (Huddersfield Area) - 1 November 2018

Under the provisions of Council Procedure Rule 37 the Committee received a representation from Nick Willock (Agent)

RESOLVED – Delegate approval of the application and the issuing of the decision notice to the Head of Strategic Investment to complete the list of conditions including those contained within the considered report and the update list including:

- (1) Standard Outline condition (submission of reserved matters).
- (2) Standard Outline condition (implementation of reserved matters).
- (3) Standard Outline condition (reserved matters submission time limit).
- (4) Standard Outline condition (reserved matters implementation time limit).
- (5) Details of access, internal roads, visibility and highways works.
- (6) Travel plan.
- (7) Details of works adjacent to footpath HUD/365/10.
- (8) Construction management.
- (9) Ecology.
- (10) Drainage.
- (11) Affordable Housing (if Reserved Matters is for more than 11 dwellings).
- (12) Public Open Space.
- (13) Education.
- (14) Transport measures.
- (15) Noise Report.
- (16) Contamination Reports.
- (17) Drainage and Yorkshire Water conditions.
- (18) Landscaping and ecological design strategy.
- (19) Construction environmental management plan.
- (20) The provision of charging points for electric/hybrid vehicles, in accordance with paragraph 10.33 of the considered report.

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

For: Councillors E Firth, Griffiths, Homewood, Iredale, Lyons, Sarwar, Sokhal and Ullah (8 Votes)

Against: Councillors Bellamy, McGuin and Sims (3 votes)

14 **Planning Application - Application 2016/91573**

The Sub Committee gave consideration to Planning Application 2016/91573 Demolition of existing redundant mill buildings and erection of 55 dwellings with associated parking and access from Manchester Road Cellars Clough Mill, Manchester Road, Marsden, Huddersfield.

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

RESOLVED – that consideration of the application be deferred to provide the Committee within an opportunity to see the relationship of the site access with Stubbin Road.

Planning Sub-Committee (Huddersfield Area) - 1 November 2018

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

A motion to accept officers recommendation.

For: Councillors E Firth, Griffiths, Homewood, Iredale and Lyons (5 Votes)

Against: Councillors Bellamy, McGuin, Sarwar, Sims , Sokhal and Ullah (6 Votes)

A motion to defer the application

For: Councillors Bellamy, E Firth, Griffiths, McGuin, Sarwar, Sims, Sokhal and Ullah (8 Votes)

Against : Councillor Lyons (1 vote)

Abstained: Councillors Homewood and Iredale.

15 Planning Application - Application 2018/91300

The Sub Committee gave consideration to Planning Application 2018/91300 Change of use of dwelling to Class D1 (non-residential institution) and formation of parking and associated landscape works Newhouse Farm, New House Road, Sheepridge, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Committee received representations from Christoph Von Mickwitz, Darrolynn Von Mickwitz, Janine Riley, Sheila Vince, Margaret Lees and Penny Weynberg (objectors) and Sukhvinder Singh, Jane Simpson, Ron Atwal and Malcolm Sizer (in support).

RESOLVED –

(1) That contrary to the officers recommendation to defer the application that , as outlined in the original report, the Head of Strategic investment be given delegated responsibility to approve the application including issuing the decision notice and to complete the list of conditions including those contained within the considered report including:

- (1) Works to commence within 3 years.
- (2) Works to be in accordance with the approved plans.
- (3) Areas for car parking surfaced and drained.
- (4) Turning facilities to be provided and retained.
- (5) Storage and access for collection of wastes to be submitted.
- (6) Condition opening hours.
- (7) Noise report to be submitted.
- (8) Lighting report to be submitted if external lighting is proposed.
- (9) Installation of 2 no. electric vehicle charging points
- (10) Arboricultural method statement to be submitted.
- (11) Landscaping scheme to be submitted.
- (12) Landscape maintenance condition.
- (13) Details of any additional tree works to be submitted.
- (14) Details of how fencing will allow movement of hedgehogs.

Planning Sub-Committee (Huddersfield Area) - 1 November 2018

(15) Details of extract ventilation system.

(16) Scheme for CCTV.

(2) The following additional conditions:

(a) The reduction in height of the boundary fence to 5 foot.

(b) The widening of the access gate to a minimum 3.1 metres.

(c) Restrictions on the numbers of people that would normally attend worship and the measures required on those occasions where numbers exceed the restrictions.

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

A motion to defer the application.

For: Councillors E Firth, Homewood and Iredale (3 Votes)

Against: Councillors Bellamy, McGuin, Griffiths, Sarwar, Sims, Sokhal and Ullah (7 Votes)

Abstained: Councillor Lyons

A Motion to accept the officers recommendation outlined in the original report.

For: Councillors Bellamy, E Firth, Homewood, Iredale, Lyons, Griffiths, Sarwar, Sims, Sokhal and Ullah (10 Votes)

Against: Councillor McGuin (1 Vote)

16 **Planning Application - Application 2018/92565**

The Sub Committee gave consideration to Planning Application 2018/92565 Change of use from residential institution (C2) to printing business (B1) and dwelling (C3) and associated works (Listed Building) 80, Lascelles Hall Road, Lascelles Hall, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Committee received a representation from Susan Mellor (objector)

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

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

(1) Development in 3 years.

(2) In accordance with the plans.

(3) Roofing tiles to match existing.

(4) Making good of stonework to matching existing walling.

(5) Tying the use of business to the apartment.

Planning Sub-Committee (Huddersfield Area) - 1 November 2018

- (6) Hours of use for business, including deliveries, 8 am to 6pm Monday to Friday only.
- (7) Surfacing and marking out parking provision before use commencing.
- (8) Submission of traffic management plan before use commencing.
- (9) Submission of details for the installation of small scale directional signs for deliveries, including reference to the informal one-way system.
- (10) Provision of electric vehicle parking point.
- (11) Submission of details of noise from fans before installation.
- (12) Provision of bin storage before use commencing and being retained thereafter.
- (13) Submission of a noise report to demonstrate the amenity of the cottage is protected by the proposed use.

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

For: Councillors E Firth, Homewood, Lyons, Griffiths, Sarwar, Sims, Sokhal and Ullah (8 Votes)

Against: Councillor McGuin (1 Vote)

Abstained: Councillor Bellamy

17 Planning Application - Application 2018/92219

The Sub Committee gave consideration to Planning Application 2018/92219
Erection of single storey rear extension 20, Standiforth Road, Dalton, Huddersfield

Under the provisions of Council Procedure Rule 37 the Committee received a representation from Samaira Shautat (on behalf of the applicant).

RESOLVED – Conditional Full Approval (contrary to the officers recommendation).

The Committee considered that the application would not amount to overdevelopment and it would not have an undue impact on the amenities of the adjoining residential property.

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

For: Councillors Bellamy, Homewood, Lyons, McGuin, Sarwar, Sims, Sokhal and Ullah (8 Votes)

Against: Councillor E Firth (1 Vote)

Abstained: Councillor Griffiths

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KIRKLEES COUNCIL

DECLARATION OF INTERESTS AND LOBBYING

Planning Sub-Committee/Strategic Planning Committee

Name of Councillor

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

LOBBYING

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

Signed:

Dated:

NOTES

Disclosable Pecuniary Interests

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

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

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

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

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

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

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

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

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

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

(b) either -

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

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

Lobbying

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

Name of meeting: PLANNING SUB-COMMITTEE (HUDDERSFIELD)

Date: 13 DECEMBER 2018

Title of report: LOCAL PLANNING AUTHORITY APPEALS

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

Electoral wards affected: Newsome; Dalton;

Ward councillors consulted: No

Public or private:

1. Summary

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

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

2.1 2018/62/92104/W - Installation of windows at Cold Hill Farm, Cold Hill Lane, Berry Brow, Huddersfield, HD4 6TU. (Officer) (Allowed)

2.2 2017/62/93853/W - Erection of mixed use agricultural and educational building at 20, Wellhouse Lane, Kirkheaton, Huddersfield, HD5 0RB. (Sub-Committee in accordance with Officer recommendation) (Appeal Dismissed and application for award of costs refused)

2.3 2016/62/91200/W - Erection of single storey rear extension, dormer window to rear and porch to front, formation of retaining wall and associated works at 23, Spa Wood Top, Whitehead Lane, Lockwood, Huddersfield, HD4 6AY. (Sub-Committee contrary to Officer recommendation) (Dismissed)

3. Implications for the Council

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

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

4. Consultees and their opinions

Not applicable, the report is for information only

5. Next steps

Not applicable, the report is for information only

- 6. Officer recommendations and reasons**
To note
- 7. Cabinet portfolio holder recommendation**
Not applicable
- 8. Contact officer**
Mathias Franklin – Development Management Group Leader (01484 221000) mathias.franklin@kirklees.gov.uk
- 9. Background Papers and History of Decisions**
Not applicable



Appeal Decision

Site visit made on 13 November 2018

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

an Inspector appointed by the Secretary of State

Decision date: 16th November 2018

Appeal Ref: APP/Z4718/D/18/3210656

Cold Hill Farm, Cold Hill Lane, Berry Brow, Holmfirth HD4 6TU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Kevin Jenkins against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2018/62/92104/W, dated 26 June 2018, was refused by notice dated 21 August 2018.
 - The development proposed is installation of windows.
-

Decision

1. The appeal is allowed and planning permission is granted for the installation of windows at Cold Hill Farm, Cold Hill Lane, Berry Brow, Holmfirth HD4 6TU in accordance with the terms of the application, Ref 2018/62/92104/W, dated 26 June 2018, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan Scale 1:2500; Existing Ground Floor Plan and Front and Side Elevations 1856 01; Proposed Plans and Elevations (New Windows) 1856 03.
 - 3) The materials used shall match those of existing windows in the front elevation as shown on approved plans.

Preliminary matters

2. For the avoidance of doubt, I have used the postcode given on the decision notice and appeal form. This is different to that given on the application form, but I am satisfied it is accurate.
3. The site sits within Green Belt. Paragraph 145 of the National Planning Policy Framework (the Framework) states that the extension or alteration of a building within the Green Belt is not inappropriate if it does not result in a disproportionate addition over and above the size of the original building. The development would not alter the size of the building and thus I am satisfied the development would not be inappropriate in the Green Belt. As such, there is no need for me to consider this matter further in my decision.

Main Issue

4. The main issue is the effect of the development on the character and appearance of the area, including the setting of nearby listed buildings.

Reasons

5. The appeal relates to a detached dwelling which includes converted agricultural buildings. The site is in a relatively isolated countryside location and forms part of a small cluster of buildings. The other buildings within this cluster are Grade II listed cottages.
6. The development would consist of two additional windows inserted into the front elevation (as described on the submitted plans). I understand that permission has already been granted for a door in roughly the same position as the proposed ground floor window and that the Council has no concerns over the impact of this part of the development. There is nothing before me to suggest I should come to a different conclusion on this matter.
7. Although they are all to one side of the building, there are already two doors and a number of ground and first floor windows in the front elevation. The remainder is a blank wall. This presents a somewhat unbalanced appearance which is suggestive of two different functions to the building. However, even with the blank element, it is clear that the building as a whole is in residential use. The elevation facing the road already contains a large glazed archway and small windows at ground and first floor level. These are clearly related to the original barn and serve to remove any pretence over the current domestic use of this part of the building. The alterations have however been made sympathetically and it remains clear what the original character and function of the building was. I am far from convinced that the insertion of a small additional window to the front would alter this character to any material extent.
8. The first floor window would be smaller than others in the elevation and thus would have a subservient appearance. In this regard, it would have only a minimal impact on the outward appearance of the building and would complement the other fenestration. The impact would also be mitigated by the distinct lack of any physical demarcation between the original barn and the remainder of the building. As a result, a relatively minor encroachment of additional openings into the blank part of the wall would not erode the overarching agricultural character of the building.
9. The appeal site is clearly within the setting of the listed buildings, both visually and in terms of reinforcing the appearance of a small connected farmstead. I have already concluded that the development would do little to detract from the obvious agricultural origins of the building. As a result, I see no reason why there should be any harm to the setting of the listed buildings or their significance, either in terms of visual impact or on any perceived historical functional relationship. From both near and more distant views, the rural and agricultural character of this cluster of buildings would remain intact.
10. In conclusion, I find that there would be no material harm to the character and appearance of the host building, the surrounding area or the setting of the listed buildings. Accordingly, there would be no conflict with saved policies BE1 and BE2 of the Kirklees Unitary Development Plan (saved 2007) which seek, amongst other things, to ensure development retains a sense of local identity

and is in keeping with its surroundings. I also find no conflict with the Framework with regard to its policies on design or heritage assets.

11. The Council's decision notice refers to policies in its emerging Local Plan. This is not adopted and thus the policies do not yet carry full weight of the Development Plan. Nevertheless, I have not found any conflict with policies PLP24 or PLP35 which seek, amongst other things, to ensure development respects the character of the landscape, maintains local distinctiveness and conserves the significance of heritage assets.

Conditions

12. I have considered the suggested conditions from the Council in accordance with the Planning Practice Guidance (PPG). In addition to the standard condition which limits the lifespan of the planning permission, I have imposed a condition specifying the relevant drawings as this provides certainty. I have also attached a condition requiring the window frames to match those of the existing windows in the front elevation in the interests of the character and appearance of the area.

Conclusion

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

S J Lee

INSPECTOR



Appeal Decisions

Site visit made on 5 November 2018

by D Hartley BA (Hons) MTP MBA MRTPI

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

Decision date: 12 November 2018

Appeal A: APP/Z4718/C/18/3202059

Hyacinth Farm, 20 Wellhouse Lane, Kirkheaton, Huddersfield HD5 0RB as shown edged red on the plan attached to the notice

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Gulfaraz Ahmed against an enforcement notice issued by Kirklees Metropolitan Borough Council.
 - The enforcement notice was issued on 20 April 2018.
 - The breach of planning control as alleged in the notice is the erection of a building shown hatched black on the plan attached to the notice.
 - The requirements of the notice are (1) wholly demolish the building and (2) remove the resultant debris from the land.
 - The period for compliance with requirement (1) is 3 months and the period for compliance with requirement (2) is 5 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended (the Act).
-

Appeal B: APP/Z4718/W/18/3202057

Hyacinth Farm, 20 Wellhouse Lane, Kirkheaton, Huddersfield HD5 0RB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mr G Ahmed against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/62/93853/W, dated 7 November 2017, was refused by notice dated 5 April 2018.
 - The development proposed is the erection of a mixed use agricultural and educational building.
-

Decisions

Appeal A: APP/Z4718/C/18/3202059

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B: APP/Z4718/W/18/3202057

2. The appeal is dismissed.

Procedural Matters

3. In respect of Appeal B, I have taken the description of development from the Council's refusal notice as this accurately describes the appeal proposal as shown in the accompanying plans and supplementary documents.
4. The National Planning Policy Framework was revised on 24 July 2018 (the Framework). I have taken the Framework into account as part of the consideration of the deemed planning application below.

Application for costs

5. An application for costs was made by Mr G Ahmed against Kirklees Metropolitan Borough Council in respect of Appeal A and Appeal B. This application is the subject of a separate Decision.

Main Issues – Appeal A and Appeal B

6. I have considered the reasons for issuing the enforcement notice (Appeal A) as well as the reasons for refusal of planning permission (Appeal B). Whilst the wording in the aforementioned documents are not identical, the main issues in respect of considering the deemed planning application (Appeal A) and the appeal made under Section 78 of the Act (Appeal B) are essentially the same. The main issues are (i) whether or not the proposal is inappropriate development in the Green Belt; (ii) the effect upon the openness of the Green Belt; (iii) the effect of the development upon the character and appearance of the area; and (iv) if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify development

Reasons – Appeal A and Appeal B

Appeal site and development

7. The appeal site falls within land designated as Green Belt and forms part of Hyacinth Farm which is an approximately 5.3 hectare parcel of land comprising fields, some outbuildings and a dwellinghouse. The site is accessed from Wellhouse Lane and is adjacent to Dalton Bank Wildlife Site where there is a public footpath.
8. The appeals relate to the erection of a split level stone detached building which has a total area of about 216.75 square metres. The surrounding land slopes and so the building ranges in height above ground level from about 4.5 metres to 8.0 metres. The roof is pitched and the building would include six Upvc windows, stepped entrance doorways to the front and rear elevations and a 2.7 metre high opening with a roller shutter door to the southern gable elevation.
9. I was able to see on my site visit, that the building was not fully completed. However, apart from one minor change to one of the elevations, the building that had been erected so far had been built in accordance with the plans submitted as part of Appeal B. The appellant's planning justification statement, appeal statement, emails and accompanying plans for Appeal B, explain how it is intended to use the erected building. The lower ground floor is to be used as a tractor and machinery store. In respect of the upper ground floor, the plans

say *"primary use – hay storage, secondary use – multi-room storage of hay food stuffs, educational, recreational room for summer school camp"*.

10. According to the appellant, the wider site has been used for a mixture of agricultural and school children learning activities for the last 17 years. Indeed, as part of my site visit I was able to look inside the three metal containers (these included machinery, children's activity equipment, tents, mats etc) to the east of the appeal building and the three bay wooden building, also to the east of the appeal building, which included a multi games/activity room, kitchen and toilets. The main parties also pointed out a stone building which was in the process of being constructed immediately next to the dwellinghouse which I was told had planning permission to be used for residential purposes.
11. The appellant has provided a month by month list of activities that take place on the site in appendix one of his appeal statement. It is clear that whilst the appeal building is intended to be used for the storage of hay and the storage of a tractor and machinery, it is also intended to be used to accommodate school children where they can learn about matters such as the environment, the countryside, farming and wildlife.
12. I note that the appellant is a Head Teacher at Parkinson Lane Community Primary School and that children from this school have attended Hyacinth Farm as a learning experience for many years. According to the appellant's appeal statement, the site has also been used as a base for the provision of educational short courses by *"primary and secondary school children from schools across the Kirklees/Calderdale area"*. According to the appellant's planning justification statement, and accepting that this would not be all the time, *"the barn would accommodate a children's classroom and learning activities such as: simulator rooms, archery, learning about animals and plants through first hand experiences and a wide range of investigative work to fully understand the key concepts of the living world as well as responsibilities towards the environment"*.
13. Whilst the appellant has indicated that the upper floor of the building is intended to be "primarily" used for the storage of hay, it would nonetheless be also used for relatively long periods of time for children's learning and other activities. Consequently, I consider that the building has been erected with the express purpose of being used for a mixed use, i.e. an agricultural and educational mixed use. I have determined appeals A and B on this basis.

Whether the proposal is inappropriate development in Green Belt

14. Paragraph 145 of the National Planning Policy Framework (the Framework) states that *"a local planning authority should regard the construction of new buildings as inappropriate in Green Belt"*. The erection of the building with the express purpose of being used for the identified mix of uses would not fall within any of the exceptions listed in paragraph 145 of the Framework. I acknowledge that it would be partly used for agricultural purposes. However, it would also be used for other uses and so it could not be said that the building has been erected to be used only for *"agriculture and forestry"*.
15. The appellant states that the building would be used for recreation purposes. On the evidence that is before me, the building has been erected with a view to it being used for a mixture of agricultural storage and school learning/activity

- uses. I do not consider that the latter use constitutes a recreation type use, but rather an educational use with children supervised by teachers and other specialist staff.
16. Even if I were to consider that the building was to be used for a truly recreation type use, it would not meet the exception in paragraph 145 (b) of the Framework in that the building is/would be used for another use (i.e. an agricultural use). Furthermore, and in any event, on the evidence that is before me, the development amounts to the erection of a new building on land which was cleared of a former storm damaged structure (no photographs provided by the appellant) referred to by the appellant as *"a basic structure comprising wooden uprights resembling telegraph poles with profiled asbestos sheeting, with a concrete block plinth"*. Consequently, and even if I were to consider that the building was being used for a recreation use, the development does not meet the exception in paragraph 145 (b) in that it does not *"preserve the openness of the Green Belt"*. I deal with this matter further below.
17. On the evidence that is before me, I do consider that in the past there was some sort of structure on the site, i.e. as outlined above. Indeed, this is referred to in the Council's committee report and representations made by other interested parties. Furthermore, as part of my site visit I was able to see the remains of wooden poles still in the ground and adjacent to the appeal building as well as some wooden poles laid in a pile adjacent to the stone boundary wall. However, I am not persuaded that the evidence before me demonstrates that the appeal building amounts to the *"replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces"* (paragraph 145 (d) of the Framework). The appellant says that *"the replacement building would be of the same use as previously and not existentially larger in floor area than the one it replaces"*. This comment is not substantiated with objective evidence and there is no information relating to the height of the demolished structure.
18. On the evidence that is before me, it would appear that if there was some sort of structure on the appeal site previously, it did not have a roof. In making the appeal, the onus is on the appellant to make his case and he has not sufficiently demonstrated that the *"appeal building is not materially larger than the one it replaces"* or provided me with any compelling evidence to indicate that the appeal building is/would be in the same use.
19. For the reasons outlined above, and on the evidence before me, I conclude that the development is inappropriate development in the Green Belt. Paragraph 143 of the Framework states that *"inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances"*. I deal with the latter issue in the other considerations part of this decision, noting that paragraph 144 of the Framework states that *"local planning authorities should ensure that substantial weight is given to any harm to the Green Belt"*.

Openness

20. As outlined above, I have not been provided with enough information about the former structure that was allegedly erected on the site prior to the erection of the appeal building. That said, and if the structure did exist, it would appear from reading the appellant's evidence that it did not have a roof. It has not

been absolutely possible for me to compare what was in situ on the appeal site prior to the appeal building being erected. Furthermore, I do not know if the alleged structure was demolished immediately prior to the erection of the appeal building or some time before that. Given the aforementioned uncertainty, it has been necessary for me to determine the effect of the development upon the openness of the Green Belt based on what I was able to see on my site visit.

21. The appeal building is substantial in scale and is positioned on the edge of the cluster of existing buildings. Openness can be described as an absence of built form: it has both a spatial and visual dimension. The appeal development constitutes the erection of a large and imposing new building. It can be partly seen from the edge of Dalton Bank Wildlife site and is conspicuous when approaching from the private access drive. Owing to its peripheral location, bulk and height, I consider that that it has had a moderately adverse impact on the openness of the Green Belt.

Character and appearance

22. The Council considers that the building looks out of place in this countryside location owing to the materials used and fenestration details. The building is not completed in so far that it does not include external staircases, window frames or doors as per the plans submitted as part of Appeal B. The Council considers that the building looks/ would look residential in appearance and that given its position it causes harm to the character and appearance of the area. It considers that in this location, and if justified in planning terms, it would be more appropriate to erect a portal frame type building which is more agricultural in appearance.
23. I do acknowledge that the appeal building is quite substantial in terms of its scale and bulk. It includes solid natural stone walls and a slate roof. In this regard, it is perhaps not the sort of light weight agricultural building that may typically be found in a rural area. However, I do not consider that natural stone walls and a slate roof are in themselves unacceptable in this particular location. The materials reflect those used in some of the nearby buildings (including the new building adjacent to the dwellinghouse which is under construction) and given the intended use of the building (i.e. as a shelter and a learning environment for school children), I can understand why it has been built with cavity walls.
24. Notwithstanding the above, the use of natural stone quoins, window lintels and cills do give the building a more domestic/urban appearance in this otherwise countryside setting. Furthermore, the building would include windows and doors with Upvc frames and steps with railings leading to the domestically proportioned entrance doors. In design terms, the building does not/would not sit well in its rural environment.
25. I do have some concerns about the size of the entrance doors at first floor level. It is intended to use the upper ground floor for the storage of hay at some times of the year. The openings are narrow and the appellant has not persuaded me that it would practical or easy to use such openings or the entrance steps when storing hay in the building.
26. In addition to the above, and noting that the Kirklees Council Publication Draft Local Plan Strategy and Policies 2016 (LP) is not yet adopted, it nonetheless

has some weight in decision making terms. Policy PLP 54 of the LP states that new buildings for agriculture and forestry will normally be acceptable where the building is "*genuinely needed for the purposes of agriculture*", "*the building can be sited in close association with other existing agricultural buildings*" and it is "*of a standard of design and materials appropriate to its green belt setting*".

27. I acknowledge that it is proposed to erect a roller shutter door to the southern elevation, but the existing opening is not positioned within the centre of the elevation and it is relatively low in height. It also gives the building a more domestic feel rather than one that is befitting of its intended use for the storage of large agricultural machinery such as a tractor. This harm is compounded by the fact that the large and imposing building is positioned on the edge of the cluster of existing buildings on the site and so this has had the effect of expanding the built form into the otherwise open and rural landscape.
28. The appellant says that the building would be used for the storage of hay and farm machinery, but he has not provided me details (for example calculations) of how much hay would need to be stored or how many or the type of machines that would need to be stored. Consequently, I have not been able to determine whether the building needs to be the size it is from the point of considering whether it is genuinely needed for the purpose of agriculture as per the requirements of Policy PLP 54 of the LP. This is an important material planning consideration given the effect of the mixed use building on the openness of the Green Belt and the character and appearance of the countryside.
29. I recognise that the appellant says that there was once some sort of structure on the appeal site, but I have limited information about this and, in any event, the appeal development is a new building. I have not been provided with any reasons why a more sensitive and close knit location for the building was not considered. Overall, I consider that the development has caused harm to the essentially open and rural character of area.
30. For the reasons outlined above, I consider that some harm has been caused to the character and appearance of this countryside location. I recognise that the building is not conspicuous from many public vantage points, but this does not obviate the need to achieve good design. In this regard, the development does not accord with the design, character and appearance aims of saved Policies D2, BE1 and BE2 of the Kirklees Unitary Development Plan (Revised 2007) (UDP) and Policy PLP 24 of the LP.

Other considerations

31. I have taken into account the many letters of support for the development including from people who have visited the site in connection with Parkinson Lane Primary School and other schools. I have also taken into account the statement in support (educationalist-expert) in appendix 2 of the appellant's appeal statement and the supportive letter written by the Vice Principal of Southmere Primary Academy whose pupils have previously visited the site.
32. I have no doubt that the appeal site has/does provide a valuable facility for school children in terms of learning about environmental and other matters and that it also offers children the opportunity to learn how to play some sports (e.g. archery) in this countryside setting. The appeal building would no doubt provide a place to carry out such learning/activities particularly when there is

inclement weather. In this sense, it would enable the appellant to plan for visits without having to worry about the weather. However, I was able to see on my site visit that the appellant already had a multi games/ teaching room with toilet and kitchen facilities in the three bay wooden building to the east of the appeal site. I do not know why this existing floorspace could not also be used for "*summer club*" purposes.

33. Notwithstanding the above, I do acknowledge that the use of the appeal building as a learning centre for children is a very positive material consideration and would no doubt make visits to Hyacinth Farm by pupils a more enjoyable experience, particularly when the weather is poor. Furthermore, the proposal does to some extent seek to support the rural economy. However, the evidence before me indicates that such learning/activities have taken place at the site for at least 17 years without the erection of the appeal building. Whilst I do not doubt that it would be hard to teach/learn outside at certain times of the year, this has to be balanced against the harm caused by the erection of the building to the overall character and appearance of the area and the identified harm caused to the Green Belt. Furthermore, and, in any event, I was able to see on my site visit that there was an existing building on the site that could be used for some inside activities.
34. I was also able to see on my site visit that some equipment and machinery was stored in the three metal containers to the east of the appeal building. It has not been suggested to me that either the metal containers and/or the existing three bay wooden building would be removed as part of the submitted planning application. Consequently, and on the evidence that is before me, there appear to be existing facilities in place to accommodate, at least in part, some of the uses proposed as shown on the floor plans that accompanying Appeal B.
35. I note the comments made by the appellant that he thought that the erection of the building was permitted development by virtue of the Town and Country Planning (General Permitted Development) (England) Order 2015. However, on the evidence that is before me, the building was never intended to be used for only agricultural purposes and so planning permission would have been required in any event. Even if the appellant had intended to erect a solely agricultural building on the land, he would still have had to submit an application for prior approval. I acknowledge that there does seem to be some confusion on the part of the appellant about whether consent was needed for the appeal building, but this is not a matter which can be used to justify the erection of harmful development. It has been necessary for me to determine the appeals on their planning merits.

Balancing exercise and conclusion

36. On the evidence that is before me, I have found that the development constitutes inappropriate development in the Green Belt. Therefore, and by definition, harm has been caused to the Green Belt. This is a matter to which I afford substantial weight. The building has a moderate impact on the openness of the Green Belt and some harm has been caused to the character and appearance of this countryside location. Against this has to be balanced the other considerations as outlined above, including the use of the building, particularly during inclement weather, as a place for children to learn. However, this benefit is tempered to some extent by the fact that there is an

existing building on the site that can be used by some children when the weather is poor.

37. On balance, I conclude that the substantial weight to be given to Green Belt harm, and the harm to the character and appearance of the area, arising from the development is not clearly outweighed by the identified other considerations sufficient to demonstrate very special circumstances. Therefore, the development does not accord with the Green Belt aims of the Framework and Policy PLP 10 of the LP, the design, character and appearance aims of Policies PLP 24 and PLP 54 of the LP, and saved Policies D2, BE1 and BE2 of the UDP.

Overall conclusions

Appeal A: APP/Z4718/C/18/3202059

38. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Appeal B: APP/Z4718/W/18/3202057

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

D Hartley

INSPECTOR



Appeal Decision

Site visit made on 25 October 2018

by Julie Dale Clark BA (Hons) MCD DMS MRTPI

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

Decision date: 14th November 2018

Appeal Ref: APP/Z4718/D/18/3211076

23 Spa Wood Top, Huddersfield, West Yorkshire HD4 6AY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr A Patel against the decision of Kirklees Metropolitan Council.
 - The application Ref 2016/62/91200/W, dated 14 April 2016, was refused by notice dated 26 June 2018.
 - The development proposed is rear extension, front porch & dormer to rear.
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Decision

1. The appeal is dismissed.

Main Issue

2. I consider that the main issue is the effect of the development on the character and appearance of the area.

Reasons

3. The application form describes the appeal site as Spar Wood Top but this seems to be a typographical error. The appeal site relates to a detached house adjacent to which is a single storey building. The house is set at a higher level than the road and the land to the rear is elevated. A grassed path runs along the rear boundary wall of No 23 and the adjacent row of houses. Much of the development has been constructed. The decision notice refers to a retaining wall which is shown on the submitted plan and has been constructed although not fully completed.
 4. The single storey rear extension has a flat roof and takes up a large part of the amenity space to the rear of No 23. At the time of my site visit there was no boundary structure separating the rear yards of No 23 and the adjacent single storey building. However, the adjacent building and the area to the rear are not included in the appeal site. Whilst the single storey extension has a limited impact on the street scene, its size, design and materials do not complement the form and character of the existing house. I am also concerned that No 23 would be left with a very small area of amenity space at the rear of the house.
 5. The rear dormer is a fairly large structure that dominates the roof and is only marginally below the ridge. This is totally out of keeping with the original house.
-

It is large, prominent and visually insensitive to the house and the wider area. A retaining wall has been erected to the rear which is fairly high from the ground level of the house and extends above the level of the elevated land and pathway at the rear. It also extends to the rear of the adjacent building although as stated earlier this is not within the appeal site. Due to the small amount of rear amenity space, the retaining wall is very imposing.

6. The front porch would be fairly modest in size and a porch could be acceptable provided the facing materials matched the house. However, the materials used in the other elements of the development do not match the house which gives me cause for concern. I accept that the materials could be conditioned but I am also mindful that front porches are not features to the adjacent row of terraced houses. Taken together with the other elements of this development, the porch adds to the overall extensions and alterations that have an adverse effect on the appearance of the house and the character and appearance of the area.
7. Amongst other things, UDP¹ Policy D2 indicates that planning permission will be granted for proposals that do not prejudice the character of the surroundings and avoids over-development. UDP Policy BE1 requires new development to achieve good design that contributes to a built environment and amongst other things, is visually attractive; BE2 requires development to be designed so that it is keeping with any surrounding development in respect of design, materials, density, layout, building height or mass; and BE13 requires extensions to dwellings to respect the design features of the existing house and adjacent buildings including materials of construction.
8. I have taken all matters into consideration including PLP 24 of the Draft Local Plan² and the concerns raised by neighbours and a Ward Councillor. I am also mindful that there was a very long period between the application being originally submitted and a decision during which time the appellant thought that he had successfully negotiated amendments. This meant that the Planning Officer was able to recommend approval to the Planning Committee. I have taken all other matters raised into consideration but none alter my conclusion.
9. I conclude that the proposal would have a harmful effect on the character and appearance of the area. It would conflict with the policies referred to and therefore the appeal fails.

J D Clark

INSPECTOR

¹ Kirklees Unitary Development Plan Written Statement – Revised with effect from 28 September 2007

² Kirklees Local Plan Submission Documents SD1 Kirklees Publication Draft Local Plan – Strategy and Policies.

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In respect of the consideration of all the planning applications on this Agenda the following information applies:

PLANNING POLICY

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

The statutory development plan is the starting point in the consideration of planning applications for the development or use of land unless material considerations indicate otherwise (Section 38(6) Planning and Compulsory Purchase Act 2004).

The Council is currently in the process of reviewing its development plan through the production of a Local Plan. The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 48 of the National Planning Policy Framework 2018. 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 (2018), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant 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 24th July 2018, the Planning Practice Guidance Suite (PPGS) first 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 54 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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Name of meeting: Planning sub-committee (Huddersfield Area)

Date: 13 December 2018

Title of report: Council stance on the definitive map modification order submitted to DEFRA. Public rights of way and their status at Huddersfield 231, Nether Moor, Huddersfield.

Purpose of report: On 1 November 2018 Members were asked to note an interim emergency decision made by Karl Battersby regarding the depiction of Huddersfield 231 on the Definitive Map. Members were informed that the consideration of the status of the way would be returned to the Planning Sub-Committee on 13 December 2018 to consider the Council’s stance at the public inquiry into the status of the way. The status and existence of public right of way Huddersfield 231 has been questioned, and an order made, which has been formally opposed. This report concerns the council’s stance in the determination of this matter by the Secretary of State at DEFRA in light of the interim emergency decision to record the way as a footpath and revert to the previous stance that the way is a bridleway.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not applicable
Key Decision - Is it in the Council’s Forward Plan (key decisions and private reports?)	Not applicable If yes also give date it was registered
The Decision - Is it eligible for call in by Scrutiny?	No – council committee
Date signed off by <u>Director</u> & name	Karl Battersby 29 November 2018
Is it also signed off by the Assistant Director for Finance, IT, and Transactional Services?	James Anderson on behalf of Eamonn Croston 29 November 2018
Is it also signed off by the Service Director (Legal Governance and Commissioning)?	Deborah Wilkes on behalf of Julie Muscroft 29 November 2018
Cabinet member portfolio	N/A

Electoral wards affected: Crosland Moor & Nethererton

Ward councillors consulted: Cllrs. E Hill, M Kaushik & M Sarwar.

Public or private: Public

1. Summary

- 1.1 On 23 November 2017, sub-committee made a decision to authorise the making of an order to record Huddersfield public right of way 231 at Nether Moor as a public bridleway.
- 1.2 This was reported to members following the investigation and production of a report commissioned by the Council.
- 1.3 A definitive map modification order (“DMMO”) to record Huddersfield 231 as a public bridleway was made, in line with the recommendation in the commissioned report.
- 1.4 The order was advertised and has been opposed by the landowner, who is also the applicant in DMMO files 159 & 182 relating to this matter.
- 1.5 Shortly before the council’s statement of case was due to be submitted to DEFRA, officers were advised that the position to be supported should be that the way be recorded as a public footpath, rather than a bridleway in the light of Government advice produced by the Secretary of State.
- 1.6 Due to the timing of DEFRA deadlines and the sub-committee meetings, interim emergency delegated powers were exercised by Karl Battersby to submit a case seeking the recording of Hud/231 as a footpath. Officers recognise that recording the route as a public footpath was not in line with the sub-committee decision of November 2017.
- 1.7 Members are asked to note that delegated decision to submit a statement of case indicating that Huddersfield 231 should carry only footpath rights, but officers latterly came to the conclusion that the council could in fact support the existence of the way as a bridleway.
- 1.8 A public inquiry is scheduled to commence in late January 2019. The inspector appointed by the Secretary of State to determine the order will consider the evidence.
- 1.9 The inspector may confirm the order as a bridleway, or modify and then confirm the order, or not confirm the order in which instance it would remain a BOAT.

2. Information required to take a decision

- 2.1 Consider this report and decide whether to revert to the previous position and stance on the order, that the way is a bridleway.
- 2.2 It is the council’s statutory duty to maintain the definitive map and statement and make any requisite orders.
- 2.3 Guidance for members is appended (Appendix 1).

3. Implications for the Council

3.1 Early Intervention and Prevention (EIP)

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

3.2 Economic Resilience (ER)

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

3.3 Improving Outcomes for Children

3.3.1 See 3.1.1

3.4 Reducing demand of services

3.4.1 See 3.5.

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

3.5.1 The Council has a statutory duty to maintain the formal record of public rights of way and to respond to applications and discovery of evidence of unrecorded and mistakenly recorded public rights of way.

3.5.2 The Council must make a decision regarding the order application and any appropriate PROW status of this route, making any order that is requisite further to Wildlife & Countryside Act 1981, e.g. section 53. In accordance with the Council's delegation scheme, this is a decision for the sub-committee.

3.5.3 Any person may make an objection or representation to an order modifying the definitive map and statement. If objections are not withdrawn, any order made would be forwarded to the Secretary of state at DEFRA, and likely considered by an inspector appointed by the Secretary of State, who may or may not confirm the order.

4 Consultees and their opinions

4.1 Ward members have been informed about PROW matters at Hud/231 over recent years and have been informed of the report being brought to sub-committee.

5 Next steps

5.1 The determination of the DMMO by the Secretary of State follows a process which involves submission of various documents by the council and a public inquiry. The council will continue in that process, following the stance approved by members.

6. Officer recommendations and reasons

6.1 **Officers recommend that** members note the emergency decision, recognise the amended advice since then, and endorse its original stance that the way ought to be recorded as a public bridleway, in line with the sub-committee's decision of November 2017.

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

7.1 Not applicable

8. **Contact officer**

Public Rights of Way publicrightsofway@kirklees.gov.uk

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

9.1 872/1/MOD/159 & 182

9.2 Appendices

9.2.1 Appendix 1 – guidance for members.

10. **Assistant Director responsible**

10.1 Joanne Bartholomew, Service Director, Commercial, Regulatory & Operational Services

KIRKLEES METROPOLITAN COUNCIL (Appendix 1)
AMENDMENTS (MODIFICATIONS) TO THE DEFINITIVE MAP
GUIDANCE NOTES FOR MEMBERS

Introduction

The Council is responsible for maintaining the Definitive Map and Statement of public rights of way. These are legal documents.

From time to time applications are made to amend the Definitive Map and Statement by adding previously unrecorded rights of way or deleting or altering the status of the public rights of way shown on the Definitive Map. Such applications must be accompanied by evidence. The process is often referred to as the “modification order procedure”. These notes outline the key principles which apply to this procedure.

The Legal Tests

Any decision must be based on evidence. The process is about giving official recognition to what actually already exists. It is not a question of convenience (i.e. is the application a good idea?)

If the applicant is claiming that a right of way should be added then the Council has to be satisfied that the claimed right of way subsists or is reasonably alleged to subsist.

If the applicant is claiming that a right of way should be upgraded then the Council has to be satisfied on the balance of probabilities that the right of way subsists in its upgraded form.

The test in respect of a claim for a deletion or downgrade is more onerous. The applicant has to produce clear and cogent evidence to satisfy the Council that a mistake was made when the right of way was recorded in the Definitive Map and Statement

A right of way can come into existence by being expressly dedicated by the landowner. If this is the case, then (unless there is a dispute over the dedication or its terms) there is no need for claims or evidence to be considered.

The starting point is the test set out in the Highways Act 1980 (Section 31) that the way has been used in its claimed form without let or hindrance, for a period in excess of 20 years.

In effect this means that the public has used the path or way without the landowners express permission and without having to overcome barriers. The use must also be open and not in secret. Therefore it is presumed that the landowner does not object and has accepted public use. The erection of a notice by the owner in terms that the way is private can defeat the creation of a right of way by these means, as can certain other actions by the owner (see below).

A public right of way might arise at Common Law as a result of public user for a period of less than 20 years, but the tests for the establishment of a way by this means are more onerous than those stipulated by the Highways Act 1980.

The use must also be by the general public. Use of a route to visit the landowner is not public use. Thus people cannot claim a public right over the private drive where the use was for visiting the owner, delivering post or buying produce etc.

If, however the landowner has erected notices, gates or can produce evidence that it has never been their intention that a public right be created, then this is a hindrance or evidence of contrary intention. For instance, they may have turned back all the people seen using the way or locked a gate across the way on a certain date every year. There is also a procedure for registering with the local Highways Authority, documentation stating that there is no intention to create a new way.

Making the Order

If the Council does not make an order, then the Applicant has the right of appeal to the Secretary of State. This is usually done on written representations. The Secretary of State decides whether a basic case exists. If he/she agrees with the Applicant then the Council will be directed to make an Order.

If an Order is made by the Council (whether by direction or not) then any person aggrieved by that Order can appeal. This usually leads to a Hearing or a Public Inquiry.

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

Date: 13 December 2018

Title of report: Application for a definitive map modification order to add a public footpath to the definitive map and statement, Clayton Fields, Edgerton. (Application reference 204).

Purpose of report: **Members are asked to consider** the evidence and decide on any requisite modification of the definitive map and statement of public rights of way. An application has been received for a definitive map modification order to record a public footpath.

Members are asked to make a decision on the council’s response to the application and evidence received, which may potentially be the making of an order, and forwarding any order made to the Secretary of State, if opposed.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not applicable
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	Not applicable If yes also give date it was registered
The Decision - Is it eligible for call in by Scrutiny?	No – council committee
Date signed off by <u>Director</u> & name	Karl Battersby 3 December 2018
Is it also signed off by the Acting Service Director for Financial Management, IT, Risk and Performance?	James Anderson on behalf of Eamonn Croston 29 November 2018
Is it also signed off by the Service Director (Legal Governance and Commissioning)?	Deborah Wilkes on behalf of Julie Muscroft 29 November 2018
Cabinet member portfolio	N/A

Electoral wards affected: Greenhead

Ward councillors consulted: Cllrs. Patterson, Sokhal, Ullah.

Public or private: Public

1. Summary

- 1.1 The council has received an application, relating to the recording of alleged public rights of way under the Wildlife & Countryside Act 1981, to modify the definitive map and statement of public rights of way (“DMS”) by order, affecting land at Clayton Fields. Changes to the definitive map and statement of this kind are called definitive map modification orders (“DMMO”). App A shows this DMMO application form and plan, (file reference number 204).
- 1.2 Sub-committee has already made decisions in relation to seven DMMO applications at Clayton Fields, as well as a decision in relation to an application by the landowner and prospective developer to extinguish alleged public rights of way and provide alternative public ways.
- 1.3 The council has subsequently made a DMMO and a section 257 order, which have been advertised, and are subject to duly-made objections. These orders are appended at App X and Y.
- 1.4 Sub-committee’s previous decisions are to submit both these opposed orders to the Secretary of State at DEFRA to determine.
- 1.5 Members’ attention is brought to public rights of way officer reports, background papers & appendices, and associated sub-committee decisions regarding Clayton Fields at the meetings between August 2017 and June 2018. Links are shown at section 9 of this report.
- 1.6 The application before members today relates to the route in appended Plan 1.
- 1.7 The application claims that, in its previous DMMO decision, the Council has incorrectly recognised the alignment of the route subject of DMMO application reference 183.
- 1.8 The Council received DMMO application 204 on 4 July 2018 for an order to modify the definitive map and statement of public rights of way to record a public footpath from Huddersfield footpath 345 to Murray Road.
- 1.9 The Clayton Fields land is north of Edgerton Road. Huddersfield 345 is the definitive footpath that runs along the western side of the site, Murray Road and Queens Road form the public road to the east of the site.
- 1.10 With the application, the Council also received a video file (App B) and a “statement letter” (in App A).
- 1.11 The applicant’s statement letter refers to the previously-decided application 183 and the user evidence forms connected with the application 183, which has already been considered by sub-committee.

- 1.12 The applicant has subsequently asked officers to add copies of various maps and other documents to the DMMO file 204 for consideration. Copies are included at App C.
- 1.13 The applicant has asked for Mr Adamson's submissions also to be considered, which are appended at App D.
- 1.14 The council is yet to receive any written evidential submissions from landowner Paddico (267).
- 1.15 The council has to determine the definitive map modification order application. The council must consider the available evidence, before reaching a decision on whether it is requisite to make any order to modify the definitive map and statement. If the council makes an order, it must be advertised and notice given, with a period for formal objections to be made. If opposed, it would have to be submitted to the Secretary of State at DEFRA to determine.
- 1.16 The council must decide what, if any, rights have been shown to satisfy the relevant test(s). This means that the council may make a different order or none at all, after appropriate consideration of the available evidence.
- 1.17 The evidence, whether for or against the application and any recording of any public right of way, is to be noted and considered.
- 1.18 When considering additions to the definitive map and statement of public rights of way, the council must make an order
 - 1.18.1 If a public right of way is shown to subsist on the balance of probabilities, or
 - 1.18.2 if the right of way is shown to be reasonably alleged to subsist.

2. Information required to take a decision

- 2.1 Members are asked to consider the report, the available evidence for and against the recording of public rights, and decide what action to take.
- 2.2 It is the council's statutory duty to maintain the definitive map and statement and make any requisite orders.
- 2.3 Guidance for members is appended (Appendix 1).
- 2.4 The application is made under the Wildlife & Countryside Act 1981.
- 2.5 The council should consider the available evidence and determine whether to make an order to modify the record of public rights of way when it is requisite in accordance with section 53 of the Wildlife & Countryside Act 1981.
- 2.6 The Committee must consider whether there is sufficient evidence to raise the presumption of dedication. The standard of proof for a final decision is the civil

- one, that is, the balance of probabilities. If disputed, an order confirmation decision by the SoS would be made solely on the balance of probabilities.
- 2.7 Government guidance to local authorities is contained in DEFRA'S Rights of Way Circular 1/09, version 2
- 2.8 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69304/pb13553-rowcircular1-09-091103.pdf
- 2.9 Members are advised that when a definitive map modification order is made, which attracts objections which are not withdrawn, then the council have to forward it to the Secretary of State at DEFRA for determination. The DMMO consistency guidelines, are issued to the Secretary of State's inspectors in the planning inspectorate
- 2.10 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/517495/Full_version_February_2016_consistency_guides_2_.pdf
- 2.11 The application 204 also lists as a submitted document, the application route marked on site plan R/1954/1C (see App E).
- 2.12 The current landowner, Paddico (267) Ltd has not accepted that public rights subsist across the land, and has not submitted any evidence relating to the existence of any alleged public rights. As previously reported to sub-committee, Paddico submitted an application under section 257 TCPA 1990 to extinguish any public rights claimed to subsist over the land (and provide alternative routes) to enable them to progress with sale and development of the site, along with the joint s257 applicant, the proposed developer Seddon Developments, which is looking to purchase and develop the site in accordance with planning consent for the site.
- 2.13 After considering the evidence and the relevant criteria members have a number of options.
- 2.14 The first option for members is to refuse the application and to decide that the Council should not make an order.
- 2.15 The second option for members is to conclude the evidence is sufficient for the Council to make another order to modify the definitive map and statement, to reflect unrecorded rights, and either confirm it or forward it to the Secretary of State if it is opposed.

2.16 The third option is for members to conclude that the application and evidence relate to a question about the precise alignment of a route that is already subject to a DMMO made by the Council in October 2018, which is opposed and is to be submitted to the Secretary of State, and that the council should submit additional evidence and information relating to application 204 with the opposed DMMO bundle file.

3. Implications for the Council

3.1 Early Intervention and Prevention (EIP)

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

3.2 Economic Resilience (ER)

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

3.3 Improving Outcomes for Children

3.3.1 See 3.1.1

3.4 Reducing demand of services

3.4.1 See 3.5.

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

3.5.1 The Council has a statutory duty to maintain the formal record of public rights of way and to respond to applications and discovery of evidence of unrecorded and mistakenly recorded public rights of way.

3.5.2 The Council must make a decision regarding the order application and any appropriate PROW status of this route, making any order that is requisite further to Wildlife & Countryside Act 1981, e.g. section 53. In accordance with the Council's delegation scheme, this is a decision for the sub-committee.

3.5.3 Any person may make an objection or representation to an order modifying the definitive map and statement. If objections are not withdrawn, any order made would be forwarded to the Secretary of State at DEFRA, and likely considered by an inspector appointed by the Secretary of State, who may or may not confirm the order.

4 Consultees and their opinions

- 4.1 Ward members have been informed about the public footpath claim and have been informed of the report being brought to sub-committee.
- 4.2 Officers have contacted the landowner, statutory and local user groups.

5 Next steps

- 5.1 If a further order is made, it will be advertised on site and in the local newspaper. All owners and occupiers will receive a copy of the order as well as other statutory consultees. Anyone may submit written objections to the order during the relevant notice period.
- 5.2 If no one makes an objection the Council could confirm the order. If objections are made, and not withdrawn, the order has to be referred to Secretary of State DEFRA, who will decide if the order should be confirmed. This usually involves appointing an inspector to consider the evidence from all parties at a public inquiry, hearing or by exchange of correspondence.
- 5.3 In October 2018, the Council made a DMMO for multiple routes, as well as a public path order to enable development by extinguishing alleged rights of way and providing alternative ways. Both orders have been objected to, and are to be submitted to the Secretary of State at DEFRA.
- 5.4 If the Council decides that no further order is to be made, then officers would look to submit the evidence relating to DMMO application 204 to the Secretary of State, when forwarding the opposed DMMO for his decision. The applicant may wish to approach the Secretary of State by way of representations, who may direct the Council to make an order. [WCA 1981, Schedule 14, (4)]. It would be for the Secretary of State to decide if there were any grounds for such an appeal. If the council refuses to make an order, the applicant generally has 28 days to appeal after notice is served by the council of its refusal decision, however, in this case the council has already made an order, which it intends to submit to the Secretary of State for his determination.
- 5.5 The order made under the Town & Country Planning Act 1990, section 257, to extinguish public rights of way and provide alternative routes at Clayton Fields is also opposed and to be submitted to the Secretary of State. Further to previous sub-committee decision, the Council is seeking the confirmation of that order,

potentially after modification to reflect any change to the DMMO. The council would ask the Secretary of State to determine the existence of public paths, and then to extinguish them to enable the implementation of the planning consent.

6. **Officer recommendations**

6.1 **Officers recommend that** members choose option 3 at paragraph 2.16 and decide that the DMMO application 204 relates to a dispute over the specific alignment of a route that is already subject to an unconfirmed, undetermined DMMO made by the council, which is to be submitted to the Secretary of State for determination.

6.2 **Officers further recommend that** members decide that the evidence relating to file 204 should be submitted to the Secretary of State along with the opposed DMMO.

Reasons

6.3 There is significant evidence regarding public use over a period of some decades of a route from Huddersfield 345, along to the south of Clayton Dike, to Murray Road/Queens Road. The application 204 cites evidence already submitted and considered by members in relation to DMMO application 183.

6.4 The application submissions indicate that application 204 claims to relate to what the applicant considers to be a correct alignment of the routes contained in application 183 and in the October 2018 DMMO footpath 477 shown at App X.

6.5 The matter before members appears to be a query over the precise alignment of the DMMO order route 477, which may be explored when the Secretary of State determines the DMMO that is already made and opposed and to be forwarded for his determination. For comparison, Appendix W shows the three alignments as shown in application plan 183, application plan 204 and footpath 477 in the opposed October 2018 DMMO.

6.6 The applicant could be informed that no further order is to be made, and that the evidence would be added to the file bundle submitted to the Secretary of State with the opposed order.

6.7 The Secretary of State may confirm the DMMO as made, not confirm it, or modify it and then confirm it. His inspector may decide that a public inquiry is the preferred

process to assist in a final determination of this matter, allowing for evidence to be given in person, where it would be open to cross-examination, enabling a more detailed examination for the government's inspector, if required.

6.8 Officers would forward both DMMO and public extinguishment path order for determination.

7. Cabinet portfolio holder's recommendations

7.1 Not applicable

8. Contact officer

Giles Cheetham, Definitive Map Officer

01484 221000

giles.cheetham@kirklees.gov.uk

9. Background Papers and History of Decisions – see item 18.1 on the main Agenda

10. Service Director responsible

10.1 Joanne Bartholomew, Service Director, Commercial, Regulatory & Operational Services

Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 13-Dec-2018

Subject: Planning Application 2016/91573 Demolition of existing redundant mill buildings and erection of 55 dwellings with associated parking and access from Manchester Road Cellars Clough Mill, Manchester Road, Marsden, Huddersfield, HD7 6LY

APPLICANT

John Mercer, Cellars
Clough Properties Limited

DATE VALID

10-Aug-2016

TARGET DATE

09-Nov-2016

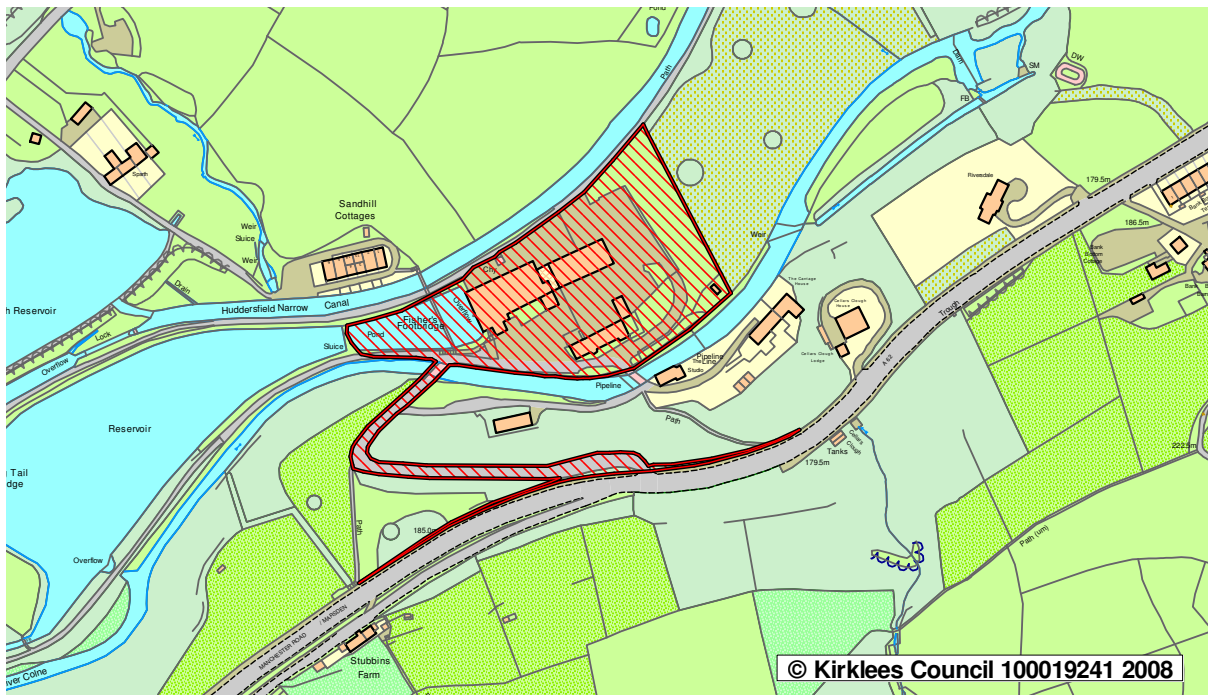
EXTENSION EXPIRY DATE

31-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: Colne Valley

Yes

Ward Members consulted

RECOMMENDATION:

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

1. Public Open Space provision on site, off site commuted sum (£82, 969.00) and details of private management company to maintain and manage on site POS
2. Education contributions (£130,967.00)
3. Affordable housing on site (11 dwellings with a tenure split to be agreed in accordance with Council Policy)
4. Maintenance and management of SUDs, associated drainage infrastructure and mill pond through a private management company
5. Contribution of £26,468.75 towards the provision of a bus shelter and its maintenance at bus stop no. 19375

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

1.0 INTRODUCTION:

- 1.1 The application is brought to Sub Committee for determination following the application being deferred on 1st November at the last Huddersfield committee meeting by Members. This was to allow Members to undertake a site visit to consider the relationship of the site access with Stubbin Road. In addition it was suggested by a member of the committee consideration be given to reduce the speed limit to 30mph on Manchester Road and making Stubbin Road one way to prevent egress of vehicles onto Manchester Road be considered.
- 1.2 Paragraph nos. 10.29 – 10.33 (inclusive) of the appraisal below, under section headed "Highway issues and promoting sustainable transport" sets out further

action and information/evidence obtained by Officers to address the issues raised during the last committee meeting

- 1.3 The site exceeds 0.5h and the proposals seek permission for the erection of 55 dwellings (apartment blocks and dwellings) with associated parking, following complete demolition of the remaining derelict redundant mill building.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site relates to the site accommodating a redundant derelict part collapsed stone mill building with associated areas of hard standing. The River Colne runs parallel to the southern boundary with areas of woodland between the application red line and Manchester Road. To the north, Huddersfield narrow canal and towpath runs parallel to and beyond the northern boundary. East of the site is a further wooded area. Beyond these areas to the north and east lies open countryside with a short row of residential properties north west of the site. West of the redundant mill building are the former mill ponds which once served the mill. These are split into two distinct areas.
- 2.2 The site itself is fairly flat with access to the site from Manchester Road, down a steep access road leading to a steel bridge over the River Colne. This also carries the route of the public footpath nos. 1181/50 and 181/100. A further footbridge which carries the public footpath no. 181/70 crosses over the former mill ponds. The site lies between Slaithwaite and Marsden.

3.0 PROPOSAL:

- 3.1 The proposals are for the total demolition of the remaining redundant mill building and erection of 55 residential units. These would comprise of 2no. five storey high apartment blocks (plots 1-38) to be sited adjacent to the northern boundary, one detached dwelling (plot 39) and 4 short rows of terraces (plots 40-55) to be sited parallel to the southern boundary. Associated open landscaped areas would be provided to the northern part of the site and centrally within the site, along with a circulatory access road to be serve the whole of the development site. Parking areas are to be provided to the front of the dwellings, undercroft to the apartments and a further visitor and allocated resident parking within the north east corner of the site.
- 3.2 The proposals would include an upgraded access road and works to improve the junction of the access with Manchester Road by providing a new right turn lane. The associated highway works would involve the existing access road and the proposed internal road to be made to adoptable standards, although these are not to be formally adopted. A 1.8m wide footpath would also be provided along the bottom side of the existing access road with the addition of a new passing place and relocation of the existing steps, to the footbridge over the mill ponds. The provision of two pedestrian islands will also be provided within Manchester Road in close proximity of the access.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 2006/92095 – application for conversion of mills and new building to form 168 residential units – withdrawn.

2007/93456 – full planning application for the demolition of ancillary mill structures and conversion of main mill buildings to provide 110 residential flats and 9 live / work units, together with communal facilities in the form of a gym, swimming pool, shop, meeting room, bike store and launderette – approved

2011/91795 – extension to time limit to implement existing permission 2007/93456.

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

5.1 The agent was advised at the outset that due to previous permissions, the principle of redeveloping this site for residential development is supported. Negotiations have been on going through the course of the application, to address a number of both technical and design issues. This has resulted in a number of revisions to both the plans and accompanying reports/information.

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 Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 48 of the National Planning Policy Framework (2018). 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 (2018), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

6.2 The site is in the Green Belt on the UDP Proposals Map and would remain so in the Kirklees Publication Draft Local Plan. Woodland areas to the south and east shown within the blue line form part of the Wildlife Habitat Network on the PDLP. The application site is traversed by a number of public footpaths. Sites of Science Interest lie immediately to the north east and north west of the application site.

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

BE1 - good quality design
BE2 – materials, scale, layout & landscape
NE3 – development proposals affecting SSIs
NE5 – development affecting wildlife corridors
NE6 – sites containing water areas should be subject to legal agreement
BE2 – design of new development
BE12 - space about buildings standards
H10 - affordable housing provision
H18 - provision of public open space on sites over 0.4 hectares
B1 - meeting the employment needs of the district
B4 - proposals involving the change of use of industrial / business land / buildings
G6 - development having regard to contamination
R13 – proposals affecting PROW's and its users
R18 – proposals adjacent to canals and rivers
T10 - highway safety considerations
T16 – provision of safe, convenient and pleasant pedestrian routes within developments
T19 - off-street parking standards

6.4 Kirklees Publication Draft Local Plan (PDLP)

PLP 1 – Achieving sustainable development
PLP 2 – Place shaping
PLP 3 – Location of new development
PLP11- Housing mix & affordable housing
PLP 20 - Sustainable travel
PLP 21 – Highway Safety and access
PLP23 - Core walking and cycling network
PLP 24 – Design
PLP27 – Flood risk
PLP28 – Drainage
PLP29- management of water bodies
PLP 30 – Biodiversity
PLP 31 – Strategic green infrastructure network
PLP 32 – Landscape
PLP 51 – Protection and improvement of local air quality
PLP 53 – contaminated and unstable land
PLP 59 – infilling and redevelopment of brownfield sites
PLP 63 - New Open Space

6.5 National Planning Guidance:

Chapter 2 – achieving sustainable development
Chapter 5 – delivering a sufficient supply of homes
Chapter 8 - Promoting healthy communities
Chapter 9- Promoting sustainable transport
Chapter 12 – Achieving well-designed places
Chapter 13 – Protecting Green Belt Land
Chapter 14 - Meeting the challenge of climate change, flooding and coastal change
Chapter 15- Conserving and enhancing the natural environment
Chapter 16 – conserving and enhancing the historic environment

6.6 Supplementary Planning Guidance / Documents:
K.C. Supplementary Planning Document (SPD2) – ‘Affordable Housing’

KMC Policy Guidance: ‘Providing for Education Needs Generated by New Housing’

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The Council has advertised the application in the press, by site notices and through neighbour notification letters.

7.2 A total of 25 representations were received initially. On publication of the final revised proposals, the publicity period ended 25th October 2018, this post-dates the publication of this agenda. At the time of writing 1 further representation had been received. Any further representations received will be reported to Members in the update.

The following is a summary of the concerns/issues initially raised: of the representations received one is in support and states the redevelopment of this site is welcomed.

Highway safety/ parking & accessibility issues:

- Increase in traffic in and out of Marsden & lack of parking in village
- Highway safety concerns on Manchester Road from increased traffic using site
- Will public access to Manchester Road remain from Sandhill cottages
- PROW to Sandhill Cottages will need to be kept open to allow pedestrian access for none drivers
- Will the proposals result in changes to the existing access with Manchester Road
- Pedestrian and cycle access links should be made to towpath which provides good accessibility to Marsden railway station
- Has the existing bridge which crosses the river been assessed for accommodation of additional traffic

Response: Addressed in assessment below

Flood risk drainage issues:

- Drainage proposals for proposed dwellings?
- Concerns over flood risk from existing water courses and redevelopment of site
- fails to address the canal and mill-pond in an effective way

Response: Addressed in assessment below

Principle, design and impact on surrounding area:

- Prefer to see façade of existing mill building retained
- Overdevelopment of site & adverse impact on tranquillity of surrounding area/ wildlife
- Poor design, out of character does not retain industrial heritage character of the area
- Will stone from mill building be used?

- Concerns of incursion/encroachment into greenbelt
- No artists impression to support proposals
- poor residential outdoor environment
- Loss of woodland/trees
- Will a nature trail around the remaining large pond be provided?
- Sprawl of development due to spaces including spaces between buildings and addition of 4 dwellings on mill pond area
- Fishing lake is not brownfield land
- Design should be reviewed by Yorkshire Design Panel
- Lack of details of the mill pond to be infilled

Response: The scheme has been revised which omits 4 dwellings that were initially proposed on the former mill ponds. This would ensure the development is restricted to the brownfield part of the site preventing further encroachment into greenfield areas of the green belt. Amendments have also been made to the design, external appearance and layout of the site which addresses a number of the above concerns. The proposal would not include a nature trail to be provided along the fishing pond to be retained, which is outside the application red line.

With regards the design to be considered by the Yorkshire Design Panel, this is promoted by the Council. This would need the consent of the agent /applicant, who in this instance did not wish to pursue it further. Nevertheless, Officers are supportive of the revised proposals which are considered to have been designed to be reflective of the historical character and the impact on the surrounding development taking account of the site constraints.

Amenity issues:

- Object to plots 1-4 directly opposite Sandhill Cottages/loss of privacy/overshadowing, due to scale & elevated position of these proposed plots & spoil openness of area
- Increase in noise levels from demolition/ works on site and future residents
- Not clear from submitted drawings how the proposals would sit with existing landscape/surrounding area
- Will works be carried out within certain timescales to avoid noise/disturbance to nearby residents?
- Light pollution should be kept to a minimum
- Contravene legal right of way from Cellars Clough House through existing mill yard where it is proposed to build houses (plots 40-55)

Response: Plots 1-4 now omitted. Revised site block plan indicates the full extent of the proposals within the developable areas of the site and how it would integrate with surrounding development. With regards to light and noise during construction, a note will be included on the decision notice recommending the developer/applicant of that works shall be restricted to certain hours to avoid and minimise disturbance at nearby premises.

Other issues:

- Need for affordable housing for local young families on site
- Shortfall of infant school & health service provision in area

Response: The proposals would trigger affordable housing on site as such this will be sought through the normal mechanisms for such obligations.

Subsequent to Ward Councillors being briefed on the application details, Cllr Nicola Turner (Ward Councillor at the time) stated:

“The water supply to Sparth Cottages is piped through the mill building and any scheme must ensure a connection direct from Manchester Rd”.

Response: Whilst this is a civil matter, to be resolved between the owners of Sandhill Cottages and the applicant, the applicant has been made aware of the above and the comments received from occupiers of Sandhill Cottages.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

Canal & River & Trust- support subject to conditions

Environment Agency – have no concerns on flood risk grounds with regards to removal of culvert under the site. However they have advised the development may require a permit under the Environmental Permitting (England and Wales) Regulations 2010 from the Environment Agency for any proposed works or structures, in, under, over or within eight metres of the top of the bank of the River Colne, designated a ‘main river’.

DM Highways – support subject to conditions

KC Lead Local Authority – “support subject to appropriate conditions and an acceptable unilateral undertaking to set up a management company and agree lifetime maintenance of SUDS and the mill pond in order to avoid/mitigate flood risk”

8.2 Non-statutory:

KC Biodiversity Officer- support subject to conditions

KC Arboricultural Officer - support subject to conditions

KC Public Rights of Way - support subject to conditions

KC Conservation & Design – support revised design & layout

KC Environmental Health – support subject to conditions to address contamination, Electric Vehicle Charging points for all plots & Travel plan to consider and offset the potential damage to air quality as a result of the proposed development

KC Landscape – support revised scheme with on- site POS provision & off site contributions

KC Strategic Housing – there is a significant need for affordable housing in the area as such the Council seeks to secure 20% of the total units for affordable housing

KC Education Service – Contribution required

WY Police Architectural Liaison Officer- Support subject to condition

Yorkshire Water – support subject to development being carried out in accordance with Flood Risk Assessment

9.0 MAIN ISSUES

- Principle of development
- Layout, Design & Materials
- Residential Amenity
- Highway issues & promoting sustainable transport
- Drainage Flood risk issues
- Ecology/Trees
- Contaminated land
- Representations
- Planning obligations
- Other Matters
- Conclusion

10.0 APPRAISAL

10.1 Principle of development:

The site lies in an area of green belt, comprising of previously developed land and is therefore classed as 'brownfield' for the purposes of assessing the proposed development in accordance with guidance in the NPPF.

10.2 As the Council is unable to demonstrate a 5 year housing land supply, relevant policies relating to housing are considered to be out-of-date. Indeed, the housing land supply shortfall is substantial. Whilst the Council have submitted the Publication Draft Local Plan (PDLP) for examination which, for housing purposes, is predicated on the basis of a five year housing land supply; the Local Plan has not been adopted. Therefore, it is currently the case that the Council are unable to identify a five year supply of specific deliverable housing sites against the requirement.

10.3 Consideration also needs to be applied to the potential continued future use of the site as employment premises in relation to Policies B1/B4 of the UDP and PLP3 of the PDLP.

10.4 In addition, whilst the majority of the site falls within flood zone 2 it does in part fall within zones 1 and 3 as identified on the Environment Agency's flood risk map. As such the proposals need to be considered in accordance with guidance in the NPPF/NPPG and Policy PLP27 of the PDLP in relation to the acceptability of the proposals for residential use on a site.

10.5 Firstly with regards to Green Belt, the proposals would fall into the category of complete redevelopment of previously developed land under point g) of paragraph 145 of the NPPF. The information accompanying the application provides details of the footprint & volume of the mill building complex in comparison to the footprint and volume of the proposed buildings as well height details. From this it is concluded that the proposed buildings with a reduced footprint/volume and height would not materially exceed the height of the mill building and as such not have a greater impact on the openness of the Green Belt than the existing development, in accordance with guidance in the NPPF or Policy PLP59 of the PDLP. Furthermore, the proposals would bring about significant and demonstrable environmental improvements to the brownfield part of the site. These are addressed in the assessment below.

10.6 Secondly, turning to the potential continued future use of the site as employment premises, from the previous permission it is acknowledged that the principle, albeit through the conversion of the mill building to residential use, was accepted for a number of reasons. These included renovating and bringing back into use traditional mill buildings; (iii) improving residential amenity by replacing industrial operations with less intrusive and more compatible residential uses; (iv) improving some aspects of local road safety by removing commercial traffic and improving the existing access; and (v) providing an opportunity for the Council to secure community benefits through the development in terms of affordable housing, public open space, footpath improvements, wildlife habitat conservation and improvements, and the maintenance and long term management of the mill dams, the chimney and other associated structures.

10.7 There have been no occupiers of the buildings (business or otherwise) since the previous permissions. Furthermore, part of the mill building has collapsed and what remains is a dangerous structure. With regards to the suitability to convert the remaining part of the mill building a structural report accompanies the application which concludes

“due to the age and condition of the building the works required to improve the building fabric to a standard that is suitable for a building shell for future use would be very extensive and costly. There are no drivers to maintain the building in its current form as the buildings are not listed nor have they any architectural merit. Therefore, to remove the high financial risk of the unknown it is recommended that serious consideration should be given to the total demolition of the buildings, to then be replaced with a new-build scheme with all the benefits this will bring”

10.8 In light of the above the existing derelict/dangerous condition and large areas already collapsed, would make it more problematic to convert. Officers are of the opinion in the current state, the remaining mill building is beyond repair and conversion as such to demolish the remaining structure would be far more viable for any developer wishing to take on the regeneration of this brownfield site. Having regard to the suitability of the site being continued for business and industrial, due to the above, it is considered there is no real prospect of re- use or redevelopment of the site for such uses and the principle to redevelop the site with new build for residential use would accord with UDP Policies B1(ii) and B4(i) and PLP3 of the PDLP and guidance within the NPPF.

- 10.9 Finally, turning to the acceptability of the proposals for residential use on a site which falls within flood zones 1, 2 and 3, the application is accompanied with sequential and exception tests statement and a flood risk assessment. The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. A sequential approach should be used in areas known to be at risk from any form of flooding. If, following application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding; the Exception Test can be applied if appropriate.
- 10.10 In all cases the developer must justify with evidence to the LPA what area of search has been used when making the application. The starting point would be publication draft local plan which identifies similar sites allocated for housing. This will allow the Local Planning Authority to undertake the sequential test as part of its consideration of the application. It is accepted that given the nature of the Cellars Clough site it would be appropriate to review comparable mill sites in the Colne & Holme Valley adjacent to rivers where they are proposed housing allocations. On this basis the supporting sequential test statement makes reference to and provides reasons for discounting two sites from the DPLP allocations document.
- 10.11 These are:
- Site no. 1) Black Rock Mills, Linthwaite & site no. 2) Perseverance Place, Holmfirth.
- 10.12 Both do not lie in the green belt. Site no. 1 is much larger than the application site and a small part of site falls within flood zone 2. It is identified for a capacity of 213 dwellings and for these reasons it is not considered comparable nor available.
- 10.13 Site no. 2 includes land within flood zones 2 & 3. The site is stated to be larger than the application site and has been rejected as a potential housing allocation because development on site is almost complete and not available.
- 10.14 The agent states there are no other comparable sites sequentially available in the search area.
- 10.15 Paragraph no. 159 of the NPPF advises, following the application of a sequential test if it is not possible for development to be located in zones with lower risk of flooding then an exceptions test would need to be applied.
- 10.16 It is considered that the Sequential Test has been satisfied. The proposed development with the end use is of more vulnerable classification under table 2 of NPPG. The flood risk vulnerability and flood zone compatibility is shown in table 3, which indicates an exception test would be required for any of the dwellings falling within flood zone 3.
- 10.17 The agent states that majority of the built form would lie within flood zones 2 with only the garden of dwellings facing the river within flood zone 3. From the information plans submitted, officers are of the opinion that part of the development (units 48-55) may overlap and fall slightly within flood zone 3.

- 10.18 However, the proposals would provide appropriate mitigation measures which include, the lower floors of the dwellings that appear to fall within flood zone 3 to accommodate garaging with utility and W.C areas, discharges of surface water to be managed through surface water attenuation and storm water storage systems. The conditions suggested by the Lead Local Flood Authority Officer, which includes a requirement for a S106 Unilateral Undertaking to include all agreements to maintain and manage through a management company, the mill pond in line with the applicant's drainage consultant's instructions in an email dated 17th September 2018 to the Council, would provide wider sustainability benefits. Subject to the conditions recommended, it is demonstrated that the site could be developed to ensure it is safe for its lifetime taking account the vulnerability of its users, without increasing flood risk elsewhere and where possible would reduce flood risk overall, in accordance with guidance in the NPPF/NPPG and Policy PLP27 of the PDLF.
- 10.19 On the basis of the information provided it is considered the proposals would regenerate a site which currently accommodates an unsightly derelict dangerous, part collapsed building, with a development which would preserve the industrial heritage and characteristic of the site. Furthermore, the proposed use of the site is considered to be more compatible within the context of the existing surrounding development, thereby, improving the environmental and amenity conditions of the area, through proposals which would achieve the three overarching objectives of sustainable development (social, environmental and economic) as set out in chapter 2 of the NPPF.
- 10.20 In applying a balanced approach to the principle of demolition and redevelopment of the site for housing, Officers are supportive for this brownfield site to be brought forward for redevelopment which is considered would not have a greater impact on the openness of the green belt particularly at a time when the Council is unable to demonstrate a 5 year supply of land for housing.
- 10.21 **Layout, Design & Materials:**
- 10.22 The proposals would provide a linear form of development with the introduction of two apartment blocks adjacent to the canal and dwellings houses adjacent to the river with landscaped areas to be sited in between and along the northern boundary. These will be served by an upgraded access road from Manchester Road and new circulatory traffic route within the site. The apartments would reflect the historic character in relation to the form and massing of the mill building. The development would be largely confined to and extend no further than the footprint of the mill building and current areas of hardstanding. Proposed areas of hard standing include the car park within the north east corner of the site.

- 10.23 The design of the proposed apartments has been amended with the final revisions to be more reflective and sympathetic to the character and appearance of the existing mill building, particular with regards to the external appearance of the northern elevation of the apartments. This being the most likely part of the development to be more visible from the surrounding areas. The scale of the dwellings (3 storey) and apartments (5 storey) in the siting proposed with the separation distance in excess of 21m to be achieved between them would be compatible with each other.
- 10.24 In terms of layout, the scheme would offer two areas of public open space. These are shown along the northern boundary and centrally within the site to form a 'village green' style open space. The central principal area would incorporate play equipment facilities, details of which have been provided on drawing no. SHF.1330.001.L.D.002.Rev C. The northern POS areas would be more informal with seating. Surfacing of the play areas will consist of grass, self-binding gravel with sett stone/composite material to provide textured surfaces on the edge and raised benches/seating. Soft and hard landscaping details in the layout proposed would be appropriate and would provide adequate POS areas to serve the proposals.
- 10.25 The application form states the proposed buildings will be faced in stone, brick and render. The supporting statement makes reference to the use of the reclaimed stone from the demolished mill building. This is considered sustainable. However the use of render and brick is not supported. Details of external facing materials are to be conditioned, in the event there is not sufficient reclaimed stone from the mill building to complete the development and to ensure the visual amenity of the area is not unduly compromised, in accordance with Policies BE1 of the UDP and PLP24 of the PDLP as well guidance within the NPPF.
10. 26 **Residential Amenity:**
UDP Policy BE12 sets out the normally recommended minimum distances between habitable and non-habitable room windows. The proposed development adequately deals with these objectives in respect of spaces in relation to internal space about building standards. Furthermore, with regards to the dwellings, it is considered necessary to remove permitted development rights for extensions and structures in the rear garden areas. This is to prevent over development of the plots, in the interests of amenity of neighbouring dwellings from structures in close proximity to their boundaries, to preserve the openness of the green belt and reduce the potential of increasing the risk of flooding
- 10.27 **Highway issues and promoting sustainable transport:**
The site is currently not generating traffic. The site access is substandard in terms of radii at the junction with Manchester Road, road width pedestrian facilities and forward visibility on the bend.
- 10.28 The highway works put forward would include upgrading and widening of the existing junction with Manchester Road to provide a new right turn lane along with the provision of a new 1.8m footpath for the majority of its length to the bottom side of the access road. The proposals would also include two traffic islands in Manchester Road in close proximity of the access to the site. Detailed drawings along with sections have been submitted. Whilst the highway works are acceptable in principle, further information would be required in the form of technical/structural surveys to ensure the proposals can be carried out appropriately.

- 10.29 Consideration has also been given by the Highway Safety team, to the suggestions to reduce the speed limit to 30mph on Manchester Road and making Stubbin Road one way to prevent egress of vehicles onto Manchester Road. Highway Safety Officers state:

"This stretch of the A62 does not lend itself to a 30mph limit, and it would be unrealistic to expect drivers to adhere to a reduced speed limit at this location. Also, moving the terminal signs away from the village would lessen the visual impact at the point where drivers enter the residential area.

Preventing egress on to the A62 (Manchester Road) from Stubbin Road would intensify the acute right turn onto the A62 from Meltham Road. This is an awkward manoeuvre for larger vehicles, and the junction has been the site of 2 recorded accidents in the last 5 years (though neither of these involved the right turn out. It is recommended neither suggestion be progressed"

- 10.30 In addition, traffic surveys were carried out between 16:00 and 19:00 on 21st November and 07:00 and 10:00 on 22nd November. The results of which demonstrated that the peak hour for vehicles exiting Stubbin Road was between 08:15 and 09:15 when 13 vehicles used this junction to access the A62. This equates to one vehicle per 4 minutes and 37 seconds.
- 10.31 Predicted traffic movements from the site during the morning peak, as set out in the Transport Statement, anticipate 23 outbound journeys within the hour. As this averages out to one vehicle per 2 minutes 37 second, Highways DM have not raised any concerns regarding potential conflict between vehicles using Stubbin Road and the proposed access.
- 10.32 Consequently, Officers consider neither of the suggestions would be in the best interests of highway safety, particularly as there is a potential this would cause detrimental impacts on the wider highway network further along Manchester Road at the junction with Meltham Road and Brougham Road.
- 10.33 Officer's consider the development proposed can be sufficiently accommodated with the agreed improvements to the site entrance and would therefore not cause any significant impacts on the local highway network.
- 10.34 The revised internal layout would provide adequate car parking for the development. Further information has been submitted to demonstrate the revised layout in particular the access road, traffic flow through the development and central landscaped space, works to upgrade the access road and widening of the junction with Manchester Road, subject to conditions are considered to be acceptable to serve the development and would accord with Policies T10 and T19 of the UDP, PLP20 and PLP21 of the PDLP along with guidance in chapter 9 of the NPPF.
- 10.35 With regards to PROW's there is no indication to divert the route of the public footpath nos. 181/50 & 181/100 which share and runs the route of the access road. The proposals are likely to increase the level of activity and use of this PROW from both traffic and pedestrians. To ensure the safety and convenience of the both, at the request of Officers, the proposals would include the provision of a new footpath along the access road. The proposed footpath would link into existing PROW no. 181/60. In addition to this the applicant has agreed to tidy up the two existing PROW's either side of the access road which are shown on land within the ownership of the applicant.

- 10.36 The proposed PROW improvements are welcomed as wider public benefits. Whilst the PROW's to be upgraded/tidied fall outside the application red line, it would be reasonable to condition the upgrade of these as they are within the applicant's ownership, shown within the blue line.
- 10.37 To ensure adequate vehicle manoeuvrability of service and emergency vehicles within the site, the steps to the existing footbridge would need to be relocated on the opposite side of the existing steps. The existing steps/footbridge carries public right of way no. 181/70. The applicant has confirmed access of the existing steps to the footbridge would be retained open until provision of the new stair case has been fully completed and made operational. This would ensure pedestrian access is retained to the canal and Sandhill Cottages, which lie northwest of the site.
- 10.38 Details of the new staircase are to be provided. Should Members be supportive of the scheme/proposals, it is considered necessary to request for this information through a pre- commencement condition, to ensure the stability of adjacent structures/walls is not compromised.
- 10.39 Furthermore it has been brought to the applicant's attention that whilst a scheme for the relocation of the steps can be agreed through a planning condition, this does not permit a diversion or re- routing of the definitive PROW. This would require formal consent outside the remit of the planning process and at the cost of the applicant. In view of this, should Members be supportive of the scheme, it is reasonable to include a suitably worded condition, requiring written confirmation that formal diversion/routing of this PROW has been obtained prior to the closure and removal of the existing staircase which is required to address highway issues to allow for adequate manoeuvrability of service and emergency vehicles to serve the proposed development
- 10.40 On the basis of the above subject to conditions to ensure all highway and PROW works are completed prior to occupation or as suggested by the PROW Officer's, the proposals would accord with Policies R13, T10 & T16 of the UDP, PLP23 and PLP 24 of the PDLP and guidance in the NPPF.
- 10.41 Turning to other forms of sustainable travel, Fishers footbridge, adjacent to the site, offers direct access to the canal towpath, which provides a traffic route to Marsden, the closest town to the site. It also provides a recreational resource for walking and cycling in direct proximity to the site and pedestrian access to Sandhill Cottages from Manchester Road. The proposed development would introduce significant population to the area, which could substantially increase the usage of the towpath and improvements to ensure that the towpath is capable of accommodating such use should therefore be considered in order to encourage its use and reduce car dependency.
- 10.42 Previous permission on this site for the conversion, included a condition specifying opportunities to improve surfacing to areas of the canal towpath in the vicinity of the site. This is still considered relevant to the current scheme as the need to promote the use of towpath as a sustainable transport route in accordance with Policies T16, T17 and R18 of the UDP and paragraph 108 of the NPPF. This is to be addressed via a Grampian worded condition should the application be approved.

10.43 With respect to other measures being included within the development to reduce dependency on the use of the cars which in return would also off set carbon emissions West Yorkshire Combined Authority (WYCA) has advised the provision of a bus shelter to bus stop no. 19375 and payment be secured for its maintenance. Other measures can include, resident's metro cards, car club use, cycle purchase schemes car sharing promotion, walking/cycling promotion and or further infrastructure enhancements. The contribution appropriate for this development would be £26,468.75 and secured through a S106 agreement.

10.44 **Drainage & Flood risk issues:**

10.45 The applicant has been liaising with the Environment Agency and the Council's Lead Local Flood Authority Officer which has resulted in revisions to the original Flood Risk Assessment (FRA). The revised FRA was commissioned to investigate and report flood risk for the site and the overall drainage proposals for the future use of the site when redeveloped.

10.46 Joint site visits and investigations have been carried out by the applicant's drainage consultant and the Council's Lead Local Flood Authority Officer. This has resulted in a revised FRA and subsequent submissions of further information which also considers the residual flood risks of the development in relation to existing drainage systems (including mill pond) together with all proposed site surface water systems for the future users of the site.

10.47 The information includes:

- indicative surface water proposals which would include amongst other things, a detention basin or attenuation tank to be located beyond the eastern boundary of the site, on land within ownership of the applicant.
- Indicative details relating to renew/repair, include a new draw down to provide safe flows to avoid flood risk,
- Associated works to all other ancillary structures inlet and outlets and mill pond, and
- Future maintenance and management of the mill pond and associated structures

10.48 The proposals would result in the mill pond adjacent to the mill building to be largely infilled. The Council's Lead Local Flood Authority Officer and the Environment Agency now support the indicative proposals subject to appropriate conditions and an acceptable S106 which will need to include the setting up of a private management company for the maintenance of SUDS and the mill pond in order to avoid and mitigate against flood risk for the lifetime of the development, in accordance with paragraph no. 165 of the NPPF. The applicant is amenable to this and the recommendation above is reflective of this.

10.49 Yorkshire Water are also in support of the proposals subject to the proposals being carried out in accordance with the revised FRA.

10.50 Canal & River Trust are satisfied the proposals would be at a relatively low risk subject to retention of existing boundary wall along the northern boundary with the canal, which acts as an effective flood barrier. Furthermore, they have requested details of ongoing repair, maintenance/management of the wall along with the submission of a construction method statement to ensure the

structural integrity of the canal infrastructure is not unduly affected during the course of the construction works. These issues can be addressed through the imposition of the suggested conditions by Canal & River Trust, to accord with guidance within the NPPF, Policies PLP27, PLP28 & PLP29 of the PDLP.

10.51 **Ecology/Trees**

- 10.52 UDP Policy EP11 requires that applications for planning permission should incorporate landscaping which protects/enhances the ecology of the site. Policy PLP30 of the PDLP states the Council will seek to protect and enhance the biodiversity and geodiversity of Kirklees, including the range of international, national and locally designed wildlife and geological sites, Habitats and Species of Principal Importance and the Kirklees Wildlife Habitat Network.
- 10.53 The proposed development is located approximately 850 m from the South Pennine Moors Phase 2 Special Protection Area (SPA) and 1.4 km from the South Pennine Moors Phase 1 SPA, which are internationally important for breeding upland birds. Together, the two phases of the SPA are also designated as the South Pennine Moors Special Area of Conservation (SAC), which is internationally important for its range of upland habitats.
- 10.54 Natural England's Impact Risk Zone tool (available on the Council's mapping system and DEFRA's MAGIC website) indicates that the proposed scheme is of a type and scale that has the potential to impact the European protected sites. For this reason the LPA has undertaken a Habitat Regulations Assessment (HRA) of the proposals and consulted Natural England, as required under the Conservation of Habitats and Species Regulations 2017. Natural England has indicated that it is in agreement with the findings of the HRA and that, subject to the mitigation proposed in the HRA, the scheme will not have an adverse effect on the integrity of the European protected sites and it has no objection to the proposals.
- 10.55 The proposed mitigation is to erect signage where the public rights of way network enters the South Pennine Moors SAC and South Pennine Moors Phase 2 SAC to the north of the application area. The purpose of this mitigation is to encourage local residents to keep to paths and keep dogs on a lead during the bird breeding season, in order to prevent damage to the important habitats and disturbance of breeding birds. This can be secured by condition and would accord with paragraph nos. 175 and 176 of the NPPF.
- 10.56 The applicant has submitted an Ecological Impact Assessment (EclA) incorporating the results of an additional bat emergence survey visit. The Council's Biodiversity Officer has on assessment summarised, in combination with the previous survey information, this latest report is sufficient to support the application, but conditions will be required to secure the detail of mitigation and enhancement measures outlined in the report and in the Biodiversity Officers consultation response dated 10/10/18. This should include details of the proposed wetland habitat within the mill pond.

- 10.57 In addition, there is some uncertainty around whether or not buildings on site are used as a nest site for barn owl, with this species having been positively identified on site. Further investigation can be conditioned along with impact avoidance or mitigation measures. Notwithstanding the details in the ecological report, separate conditions will also be required for the removal of invasive non-native species and a lighting strategy to avoid any adverse impact on the habitat network in and around the site.
- 10.58 Subject to the works being carried out in accordance with recommendations set out in the report as well as those suggested by the Council's Biodiversity Officer, the proposals would accord with Policies EP11 of the UDP, PLP30 of the PDLP and guidance within the NPPF.
- 10.59 With respect to trees, UDP Policy NE9 seeks to retain mature trees on development sites. The importance of retaining trees is also highlighted in paragraph no. 175 of the NPPF. Publication Draft Local Plan Policy PLP 33 states permission will not be granted which directly or indirectly threaten trees or woodland of significant amenity.
- 10.60 The most significant tree related constraint to the site comes from the adjacent woodland south of the developable area and between Manchester Road. This area is also identified as a Kirklees wildlife habitat network (KWHN) on the Publication Draft Local Plan.
- 10.61 The consequence of works to providing a footpath, restraint barrier and widening of the existing access road would result in the loss of trees within the KWHN. As a result, the applicant has also through submissions of detailed section drawings explored the potential of providing a footpath on the top side of the road. On assessment of this information, Officers raise significant concern to the achievability of carrying out such works, given the potential impact it could have on the structural stability of Manchester Road. Secondly, the cost of such works could be problematic in bringing forward the re development of this brownfield site.
- 10.62 Officers taking into account the overall benefits of bringing this brownfield site forward for development, consider the most acceptable option would be for the footpath to be on the bottom side of the access road, albeit with the consequence of some tree loss in the KWHN. Both the Council's Arboricultural and Biodiversity Officers, are on balance supportive of the proposals subject to more information in relation to the proposed footpath. This would need to be accompanied by an Arboricultural Method Statement, in order to fully appraise the potential impact and officers to evaluate the level of mitigation measures required to compensate for the loss of this part of the KWHN. The applicant is amenable to this confirmed in writing the acceptance of pre- commencement conditions to address this issue.
- 10.63 To summarise Officers are satisfied the harm to the trees and KWHN resulting from the proposals could be adequately mitigated through additional tree planting and further measures, in accordance with paragraph 175 of the NPPF, Policies PLP30 and PLP33 to compensate for the loss of trees and wildlife habitat network from the proposed highway works.

10.64 **Contaminated land:**

10.65 The application is accompanied with a Phase I contaminated Land report. This has been assessed by Environmental Services who accept the findings of the report and recommend a full suite of contaminated land conditions requiring the site to be fully investigated for the presence of contaminants.

10.66 **Representations:**

Turning to representations not responded to in the assessment above, in particular to the contravening of legal rights of way, this is a private civil issue to be resolved between all interested parties, outside the planning remit. The granting of planning permission does not waive any legal rights or covenants that may exist.

10.67 **Planning obligations:**

In addition to the maintenance and management of SUDS, mill pond and all associated drainage infrastructure, to be undertaken by a private management company and Contribution of £26,468.75 towards the provision of a bus shelter and its maintenance to bus stop no. 19375, set out in the preceding paragraphs the following contributions are sought:

10.68 ***Education***

The council's Education Service was consulted who advised that in this instance a contribution of £130, 967. 00 would be required.

10.69 ***Public Open Space***

The site is over 0.4ha and triggers the requirement for a public open space in accordance with Policy H18 within which there should be a Local Equipped area of play (LEAP) in accordance with Fields in Trust Guidance. Two areas of POS are shown within the proposed layout. The principal area in the centre of the site would accommodate low key playing equipment, equivalent to a local area of play (LAP), details of which have been provided. It would be necessary to impose a condition to ensure the POS areas are completed in accordance with these details prior to occupation of the development, should the application be approved.

10.70 The second area of POS accommodates an informal open space with seating. Taking account of both the areas of POS, the quantum to be provided on site within the layout falls short by a small amount of approximately 30sqm, therefore a financial contribution of £82, 969.00 to improve existing open space off site will be required, (which also takes account of the shortfall of equipped provision of the LEAP).

10.71 ***Affordable Housing***

The Council's Interim Affordable Housing Policy requires that 20% of units are secured as affordable housing on site. The identified need in the area is 1-2 bedroom housing, as well as a need for 1-2 bedroom housing for older people specifically. As an alternative to on site provision the applicant states;

"given its remote position from facilities, shops, schools etc, and given the large internal floor spaces and units to be 3 bedroom plus, off site contributions would be more appropriate".

- 10.72 Officers do not accept this as a valid justification as this would equally apply for occupiers of the market units. Social housing tenants are not necessarily more or less likely than private homeowners to need access to public transport, shops, amenities etc. Social housing tenants are just as likely to use their own cars/bikes for travel and public transport. Furthermore, a Policy compliant scheme would be for on-site affordable units.
- 10.73 To summarise the provision of affordable housing will be sought on site, with a tenure split in accordance with Council Policy requirements.
- 10.74 **Highway Works:**
Highways works would be required at the junction of the access with Manchester Road, including the provision of new pedestrian islands on either side of the access and widening of Manchester Road. These works can be done under a S278 of the Highways Act.
- 10.75 **Other Matters:**
- 10.76 **Air Quality & sustainable transport:**
The provision of electric vehicle charging points will be secured by condition to promote sustainable transport initiatives and improve local environment conditions, to comply with the aims of Chapters 9 and 15 of the NPPF, WYLES and Policies PLP24, PLP52 of the PDLP.
- 10.77 The NPPF also encourages the promotion of sustainable transport. The West Yorkshire Low Emission Strategy (WYLES) has been drafted to take a holistic approach to Air Quality and Planning. The site is classed as a medium sized development with regard to Air Quality. In this particular instance, Environmental Health Officers have advised a detailed Travel Plan be conditioned to consider sustainable transport and that all transport mitigation measures may be included within the Travel Plan. Measures are required to negate the increased emissions in order to be compliant with the NPPF and the WYLES and PDLP Policy PLP 51 and Section 15 of the NPPF
- 10.78 **Crime Prevention:**
- 10.79 New development should incorporate crime prevention measures to achieve pedestrian safety on footpaths, natural surveillance of public spaces and secure locations for car parking areas.
- 10.80 The West Yorkshire Police Liaison Officer has made a number of comments recommendations. These should be incorporated into the scheme to promote good security, maximise surveillance and lighting to publicly accessible areas, controlled access system for the apartment blocks, the design of rear /side garden boundaries.
- 10.81 In light of this a suitable worded condition will need to be included to ensure the security measures to meet the secure by design guidance and prevent crime prevention, in accordance with Policies BE23 of the UDP and PLP24 of the PDLP. With regards to external doors and windows, it is accepted these would form part of a Building Regulations application and as such would provide sufficient protection to the future occupants.

11.0 CONCLUSION

- 11.1 The proposals would bring forward the redevelopment of the former Cellars Clough site which are to be confined to the brownfield part of the site, thus avoiding encroachment further into undeveloped parts of the Green Belt.
- 11.2 The overall benefits of redeveloping this site would secure net gains across all three strands of sustainable development and help provide additional housing at a time when the Council is unable to provide a five year housing land supply. The proposals will also enable the retention & creation of jobs during the construction phase and contribute towards enhancing the natural and built environment by making efficient use of this redundant derelict site, taking into account the characteristics of the surroundings and safeguarding residential amenity and highway safety of both pedestrian and vehicle users.
- 11.3 Officers are of the opinion the proposals have responded and been designed taking into account the identified constraints on and adjacent to the site. The final revised proposals appears to be a more viable scheme, when compared to the previous permissions and would potentially facilitate the redevelopment of a site that has been lying dormant for a number of years.
- 11.4 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.5 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

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

1. 3 year Time limit condition
2. Development in accordance with approved plans
3. Approval of samples of (stone) materials
4. Environment Agency condition- restricting finished ground level of all plots
5. Environment Agency condition-The ground floors of all the proposed dwellings will only be for entrance halls and garages and not habitable rooms.
6. Details of mill pond - to be infilled (to avoid adverse impact on openness of green belt, biodiversity interests, and to ensure safe development for future users of the site.)
7. Ecological Design Strategy (EDS), based on the latest ecological surveys and assessments, including assessment of impacts associated with access improvements – to provide implementable detail of habitat works sufficient to provide a net biodiversity gain.
8. Landscape and Ecological Management Plan (LEMP) – to ensure long-term benefits to biodiversity by securing management of the created habitats.
9. Construction Environmental Management Plan (CEMP), aimed at bats, barn owl, other breeding birds, and invasive non-native plant species – to avoid ecological impacts during construction
10. Lighting design – to ensure lighting associated with the scheme do not result

in impacts to bats and the Kirklees Wildlife Habitat Network

11. Method statement for mitigation from Habitat Regulations Assessment (HRA) – to ensure the mitigation measures for impacts to the South Pennine Moors agreed with Natural England are implemented.

12. Arboricultural Impact and methods statement in relation to new footpath and engineering operations along access road.

13. Mitigation measures (including new tree planting) as a result of the impact on the KWHN/trees from the creation of new footpath and engineered operations

14. Details of new external stair case to footbridge and written evidence that formal diversion/routing has been obtained prior to closure or removal of existing staircase

15. Structural survey of stone wall along adjacent to canal to demonstrate it will form an effective flood barrier, in vicinity of the site

16. Details of retention and maintenance of the stone wall adjacent to canal in vicinity of the site with construction method statement for proposed works (foundations, excavation works and stock piling)

18. Grampian worded condition for improvements to the towpath, in vicinity of the site

19. Details of a scheme detailing foul, surface water and land drainage

20. Assessment of overland Flows and Flood Routing

21. A scheme detailing temporary construction phase flood risk and pollution control

22. Details of an emergency draw down facility to drain the mill pond

23. A scheme for the safety and protection of footpaths and path users during the construction and improvement to the other paths prior to the closure works commencing on the site access road and junction with Manchester Road

24. Full structural assessment of the bridge over the River Colne.

25. Scheme for the provision of road widening, right turn facilities at the Manchester Road junction.

26. Scheme for the provision of works to the access road including widening, vehicle restraint and new footway

27. Access Sightlines to be provided

28. Scheme detailing the proposed internal estate roads

29. Construction Management Plan

30. Details of the siting, design, structural calculations and material to be used in the construction of retaining walls/ structures near or abutting highway

31. Private parking spaces/drives surfaced in permeable material

32. works to be carried out in accordance with Flood Risk Assessment

33. Submission of an Intrusive Site Investigation Report (Phase II Report)

34. Remediation Strategy where recommended in the Phase II Intrusive Site Investigation Report

35. Remediation of the site shall be carried out and completed in accordance with approved Remediation Strategy

36. A Validation Report in respect of approved remediation measures being carried out

37. To incorporate necessary measures to minimise the risk of crime in accordance with WY Police Architectural Liaison Officer's comments dated 12th December 2017

38. A full comprehensive detailed landscape planting and hard landscaping plan, in accordance with Landscape Officers comments dated 16/10/18

39. Landscape Management Plan to include details of initial aftercare and long-term maintenance for minimum of 5 years, in accordance with

Landscape Officers comments dated 16/10/18

40. A detailed travel plan which considers air quality mitigation
41. Provision of electric vehicle charging points, one for each dwelling/apartment and rapid chargers for every 10 unallocated spaces for apartments
42. Removal of permitted development rights for dwellings.

NOTE:

Floodline Warnings Direct

We support the suggestion in the FRA that future occupants sign up to Floodline Warnings Direct to receive advance warning of flooding. This can be done online at <https://www.gov.uk/sign-up-for-flood-warnings> or by phoning Floodline Warnings Direct on 0345 988 1188.

Discharging to watercourse

Where a new surface water drainage connection to a main river is proposed, pre-approval from the Environment Agency must be sought. New connections must be discharged at greenfield runoff rate. The acceptable greenfield runoff rate is normally 5 litre/second/hectare, but you should consult with the Lead Local Flood Authority for variances in their district. If it is an existing brownfield site then 30% reduction in discharge will be required if the site is bigger than 1ha.

Environmental Permitting Regulations

It is proposed that a bund will be built behind the existing wall along the River Colne. This activity will require an Environmental Permit from us prior to the work taking place. Please refer to our letter dated 9 January 2018 (to the LPA) for further information regarding the need for a permit. As part of the permit application the applicant will have to demonstrate that the embankment is structurally sound enough to support the new bund and land raising behind it.

Online guidance can be found at: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>

NOTE:

“The applicant/developer is advised to contact the Canal & River Trust’s Works Engineering Team on 0303 040 4040 in order to ensure that any necessary consents are obtained and that the works comply with the Trust’s “Code of Practice for Works affecting Canal & River Trust”

Background Papers:

Application and history files.

Website link to application/details:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planningapplications/detail.aspx?id=2016%2f91573>

Certificate of Ownership – Certificate A signed by agent

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Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 13-Dec-2018

Subject: Planning Application 2018/92934 Outline application for erection of residential development former Gees Garage, New Hey Road, Outlane, Huddersfield, HD3 3YJ

APPLICANT

Hillbrook Printing Inks
Ltd, Directors Pension
Scheme

DATE VALID

07-Sep-2018

TARGET DATE

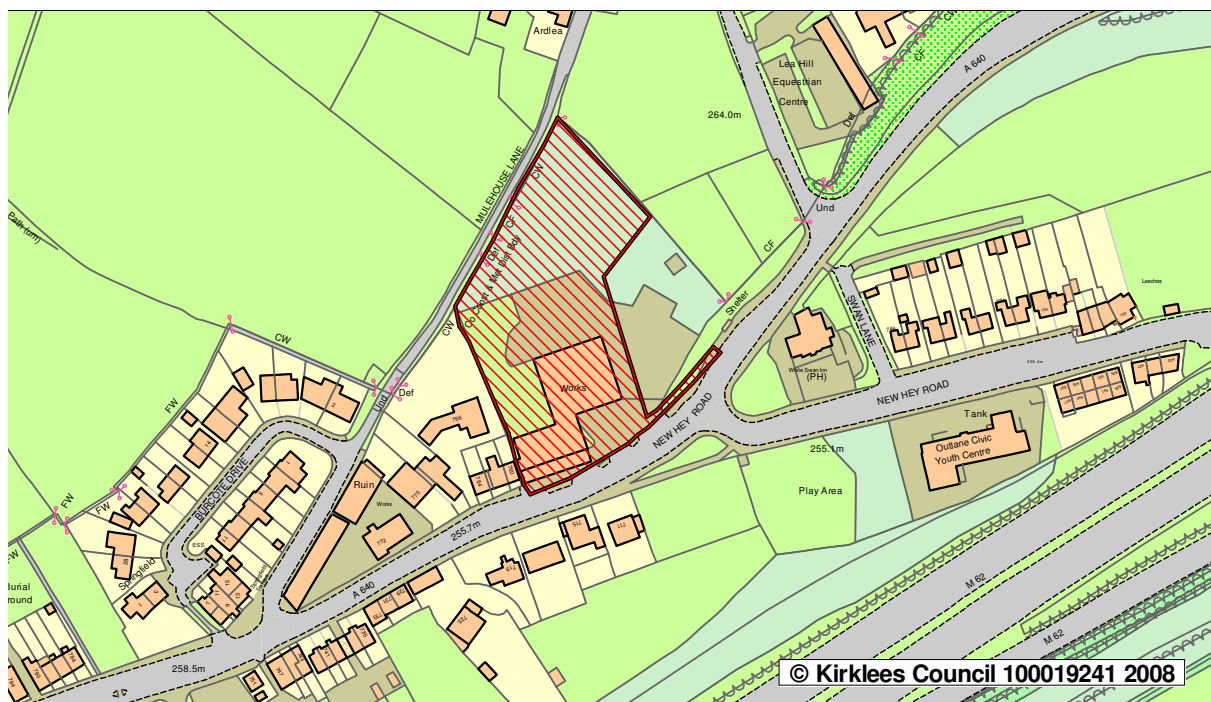
07-Dec-2018

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: Colne Valley

Y

Ward Members consulted
(referred to in report)

RECOMMENDATION:

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

Ensure that infrastructure and planning obligation requirements relating to planning applications 2018/92934 and 2018/92935 are considered and delivered cumulatively in order to accord with policy PLP5 of the Kirklees Publication Draft Local Plan.

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

1.0 INTRODUCTION:

- 1.1 The application is presented to Huddersfield Planning Sub-Committee on the basis that the site area is in excess of 0.5ha but the proposed development is less than 60 units.
- 1.2 The application forms part of a wider masterplan relating to the entire housing allocation in the emerging Local Plan. A separate application has been submitted to develop the remainder of the emerging allocation (2018/92935) which is also under consideration at this committee.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site is immediately adjacent to the A640 New Hey Road. The application site covers an area of under 0.7 hectares. Most of the site comprises previously developed brownfield land that was occupied by Gees Garages. The garage buildings are still in situ on the site. The site is not allocated in the Kirklees Unitary Development Plan, but is part of a larger Housing Allocation within the emerging Local Plan (Ref: H2652). The emerging Local Plan identifies the whole allocation as having a capacity of 29 dwellings. This site forms the southern-most portion of the allocation.

- 2.2 The site is relatively flat, but the land rises to west beyond the site boundary. The land rises more steeply to the east.
- 2.3 To the east and north is open agricultural land, with extensive views over Calderdale to the north. To the west is medium to high density residential development, that extends to the west forming the linear settlement of Outlane.
- 2.4 To the rear of the site is Mulehouse Lane, which forms the administrative boundary between Calderdale and Kirklees. Beyond that is open agricultural land located in the Green Belt.

3.0 PROPOSAL:

- 3.1 The application has been submitted in outline form with all matters reserved except for access.
- 3.2 An indicative layout accompanies the submission showing how the roads and dwellings could potentially be laid out and indicates that 19 dwellings would be provided on site.
- 3.3 A masterplan drawing has been submitted detailing how this proposal fits with application 2018/92935. The adjacent proposal includes 7 dwellings being accessed from the same point of access.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 92/00807 – Use of land and buildings for storage of transmission line equipment and plant – approve.

92/03754 – Renewal of temporary permission for use of land and buildings for storage of transmission line equipment and plant – approve.

94/91452 – Outline application for erection of hotel – refused

Application on site adjacent within the same emerging allocation:

2018/92935 – Outline application for residential development – application adjacent being considered at this committee.

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

- 5.1 Following a request by officers the applicant is preparing the following amendments/additional information. A full update will be provided when these matters have been fully assessed and addressed by officers.

An amended layout
Traffic Speed Survey
Drainage Report

6.0 PLANNING POLICY:

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 48 of the National Planning Policy Framework (2018). 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 (2018), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

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

D2 – Land without notation
H1 - Housing Need
H10/12 - Affordable Housing
H18 - Provision of Open Space
BE1/2 - Design and the Built Environment
BE12 - New dwellings providing privacy and open space
BE23 - Crime Prevention Measures
EP10 - Energy Efficiency
EP11 – Landscaping
R13 – Rights of Way and Public Access Areas
T1 - Sustainable Transport Strategy
T10 - Highways Safety / Environmental Problems
T16 - Pedestrian Routes
T19 - Off Street Parking
G6 - Contaminated Land

Kirklees Draft Local Plan Strategies and Policies (2017):

PLP3 – Location of New Development
PLP5 - Masterplanning
PLP7 – Efficient and effective use of land and buildings
PLP11 – Housing Mix and Affordable Housing
PLP20 – Sustainable Travel
PLP21 – Highway safety and access
PLP22 – Parking
PLP24 – Design
PLP27 – Flood Risk
PLP28 – Drainage
PLP30 – Biodiversity and Geodiversity
PLP32 – Landscape
PLP35 – Historic Environment
PLP48 – Community facilities and services

PLP51 – Protection and improvement of local air quality
PLP52 – Protection and improvement of environmental quality
PLP61 – Urban Green Space
PLP62 – Local Green Space
PLP63 – New Open Space

6.3 Supplementary Planning Guidance:

- Providing for Educational needs generated by new housing
- Interim Affordable Housing Policy
- West Yorkshire Air Quality and Emissions Technical Planning Guidance
- Planning Practice Guidance

6.4 Supplementary Guidance

- Kirklees Landscape Character Assessment (2015)
- Kirklees Local Plan Accepted Site Options – Technical Appraisal – July 2017
- National Planning Policy Framework (2018)

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised on site, in the local press and by way of neighbour letter. A total of 5 representations have been received which can be summarised as follows. They are addressed in the main body of the report unless otherwise stated:

- Parking in the village is already limited and there needs to be sufficient parking within the new development for visitors.
- The land was previously used for the storage of inks and contamination an issue.
- Drainage needs proper consideration to avoid flooding as has been seen on playing fields on Lindley Moor Road.
- Bats are within the area.
- Vehicle access into and from A640 busy commuter route noting regular closures of the M62 motorway.
- No safe pedestrian crossing places noting a children's play area and the westbound bus stop adjacent to the proposed development.
- Average traffic speed, the proposed development is just within the 30 mph zone, however traffic speeds are general in excess of this and observed by the temporary speed camera can be as high as 66 mph.
- The current capacity of amenities, Health Facilities and Schools within the Outlane and surrounding, noting the density of existing and new housing within the proposed development location.
- Drainage and Surface water, it should be noted during high rainfall excessive surface water can be experienced within the road dip.
- The entrance to the development is on a bend and is at the point where the speed limit changes from 30mph to 40mph and traffic already regularly exceeds the limit. The traffic through Outlane at peak times is already excessive as it is used by people from the Colne Valley to access the M62, it is not unusual for it to take over 5 minutes to get on to New Hey Road from the various side streets along the route. Although the Transport report states

that there are 2 buses an hour through the village, at several times during the day these buses run within a few minutes of each other .It is stated that between 8am and 9am there are 3 buses towards Huddersfield however I know from personal experience that by the time 2 of these buses reach Outlane they are full as they bring school pupils from the Halifax area to the 2 sixth form colleges on the route. On the return journey on an evening from Huddersfield ,with the exception of the service to Hebden Bridge at 17.10, there is a gap of 70 minutes between services.

- The village does not have the infrastructure to support this many houses.
- Although we have no legal right to park on the land (former gees garage) we currently do so. We are concerned that we will have to find alternative parking spaces, which will also add to congestion on New Hey Road.

Officer response – this is not a material planning consideration.

- As our property is directly next door to the development we are concerned that people who are working on the development i.e. tradesmen will use all the available on-road parking, leaving residents with no available parking outside their house. When building work does begin and the structure is demolished, the path beside our property, which leads to our rear garden will be left without a boundary wall, leaving it exposed. We would like to request that you send a surveyor to investigate this to ensure that the boundary separating us from the adjacent development is retained via a wall which is of reasonable height to maintain our privacy from neighbouring properties on the development.

Officer response – a construction management plan is recommended via planning condition.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

Lead Local Flood Authority – Object:

No Flood Risk Assessment was submitted as part of this application;
No Drainage Strategy or drainage plans were submitted as part of this application.

Officer response – at the time of writing the report the final drainage strategy had not been received. Comments will be provided on drainage and included in the update to planning committee.

Highways DM – Object to the amended application as follows:

- 1) *Two points of access are shown onto New Hey Road. Whilst Highways DM would still consider that a single point of access would be preferable the revised proposals are for just 4 plots with a shared access onto New Hey Road. The indicative layout demonstrates that sufficient off-street parking and internal turning can be provided.*

All the other existing accesses onto New Hey Road should be shown to be closed and reinstated as footway.

- 2) *The proposed visibility splays onto New Hey Road are not shown on the plans. Given that access is on to a busy classified road the visibility splays should be based on the results of speed surveys. Actual speeds could be higher than the speed limit. The visibility from the private driveway serving plots 1 to 4 also needs to be shown.*
- 3) *The development red line boundary includes part of the existing adopted highway. Existing highway is shown to be private driveway and planting. This area needs to be identified on the plans to be stopped up as highway maintainable at public expense.*
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The comments above have been relayed back to the applicant and they are in the processing of addressing the comments. A response will be provided in the subsequent update.

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Conditions also recommended regarding contaminated land.

Tree Officer - I've no objection to this proposal. None of the trees are protected and there are no trees which meet the criteria for a new TPO to be served.

Conservation and Design – No objection- There are not considered to be any impacts on any heritage assets arising from the proposal.

Education – No comments received.

Biodiversity Officer – No objection subject to conditions.

Yorkshire Water – No objection subject to a condition.

West Yorkshire Archaeological Advisory Service – No objection.

9.0 MAIN ISSUES

Principle of development
Urban Design issues
Residential Amenity
Highways Issues
Drainage Issues
Biodiversity and Trees
Other Issues
Infrastructure
Planning Obligations
Conclusion

10.0 APPRAISAL

Principle of development

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

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

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c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).” (NPPF, Paragraph 48).

10.4 The site forms part of a larger Housing Allocation in the Kirklees Publication Draft Local Plan (PDLP), allocated under ref H2652. Given that substantial weight is applied to the PDLP and the fact that the site is unallocated in the current UDP, the provision of residential development on this brownfield site is considered acceptable in principle.

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10.5 The proposal is linked to planning application 2018/92935 which is currently under consideration. Both sites would share the same access but the indicative layout for both sites, along with a submitted masterplan drawing, show that the scheme has been comprehensively planned. In accordance with PLP5 of the PDLP infrastructure should be provided based on the quantum of development covering the entire allocation and this could be secured by S106 agreement.

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- 10.7 The character of the surrounding area in terms of layout and appearance is not regimented. Whilst houses are generally no more than two storeys in height, their relationship with New Hey Road differs quite substantially. There is a mix of materials, roof forms, age, vernacular and scale. Whilst there are elevated views of the site from surrounding roads (such as Swan Lane); the development would largely be visible against the backdrop of existing urban development.
- 10.8 Given this is an outline application, it is not considered necessary to impose and specific design code/requirement as part of the outline consent. The reserved matters submission(s) will be assessed against the street scene and character and appearance of the area.
- 10.9 The submitted indicative plans demonstrate that the site can be comprehensively developed without conflicting with design policies. The application is considered to comply with policies BE1 and BE2 of the UDP and policy PLP24 of the PDLP.

Residential Amenity

- 10.10 Policy BE12 of the UDP provides guidance on appropriate separate distances for dwellings. PLP24 of the PDLP requires developments to provide a high standard of amenity for future and neighbouring occupiers.
- 10.11 Whilst it is acknowledged that the site lies adjacent to a small number of existing properties accessed from New Hey Road. However, amenity impacts would be fully assessed as part of any subsequent reserved matters and there is no reason why potential impacts could not be appropriately mitigated.

Highway Issues

- 10.12 The overall proposed redevelopment of the site will be served via a new radii junction on to the A640 New Hey Road. The new junction will be positioned central to the southern boundary to maximise the available sightlines in both directions and the existing access points will be permanently closed and the footway reinstated.
- 10.13 Highways DM raise no objection in terms of the impact the development would have the capacity of the existing network as it would not significantly add to any congestion.
- 10.14 Officers have requested additional information relating to a number of matters, including ensuring there is a comprehensive scheme of works along the site frontage to address highway safety and efficiency concerns. Overall it is considered that the minimum recommended visibility splays of 2.4m x 43m could be achieved but this will need demonstrating by the applicant. Final comments from Highways DM will be reported as an update.

Drainage Issues

- 10.15 The application site falls within Flood Zone 1 and the risk of a river flooding event is therefore assessed as having a less than a 1 in 1000 annual probability.
- 10.16 Limited information has been submitted with the application concerning drainage. The information that has been submitted suggests that soakaways would not be suitable across the entire site.
- 10.17 The applicant has also submitted a plan showing how attenuation could be accommodated within the site in the event that a connection to existing infrastructure is required. However, at the time of writing the report no Flood Risk Assessment or drainage strategy had been submitted. A full update on these matters will be provided to committee.

Biodiversity and Trees

- 10.18 A Preliminary Ecological Appraisal Report has been submitted in support of the application. The report indicates that the majority of habitats present on site are not classed as important. A net biodiversity gain has not been demonstrated, but there is scope to provide sufficient enhancements within the scheme. The biodiversity officer recommends the imposition of conditions in order that biodiversity gain is incorporated into the reserved matters submission(s).
- 10.19 At this stage the proposals have been designed in accordance with the mitigation hierarchy set out in NPPF and KPDL policy PLP 30.
- 10.20 In terms of trees the specimens on site are relatively young or species which are not worthy of protection. The tree officer raises no objection to tree removal on this site but full details of tree impact would be provided as part of any subsequent reserved matters.

Other Issues

- 10.21 Due to the previous use of this site it is likely that the site will be contaminated to some degree. Conditions are recommended to deal with contaminated land. This proposal would accord with UDP policy G6, KPDL policy PLP 53 and Section 15 of the NPPF.
- 10.22 The applicant has carried out a noise survey which considers noise mitigation measures. Given that the proposal has been submitted in outline form, the acceptability of the scheme will largely be dictated by the layout. Consequently noise conditions relating to the layout are recommended.

Infrastructure

- 10.23 There is no policy or supplementary planning guidance requiring a proposed development to contribute specifically to local health services. However, PLP49 of the PDLP identifies Educational and Health impacts as an important consideration. Additionally, PDLP policy PLP4 Providing Infrastructure requires developments to provide new infrastructure, where it is needed, in line with the appropriate phase of development. PLP5 Masterplanning Sites also requires that health facilities should be incorporated (proportionate to the scale of development), where required.

- 10.24 As part of the development of the Local Plan evidence base, an ongoing infrastructure planning process has considered the impact of future growth on health infrastructure, summarised in the Infrastructure Delivery Plan (IDP) 2015 and IDP Addendum 2016. This is an on-going process and will be monitored and updated alongside the Local Plan. It acknowledges that funding for GP provision is based on the number of patients registered at a particular practice and is also weighted based on levels of deprivation and aging population, with direct funding provided by the NHS for GP practices / health centres based on an increase in registrations.
- 10.25 There is no policy basis on which to seek a contribution to health services at this time.

Planning Obligations

- 10.26 In accordance with para 59 of the NPPF planning obligations should only be sought where they meet the following three tests:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.

In this case it is considered necessary to ensure that infrastructure is considered and provided across the wider masterplan area (2018/92934 and 2018/92935) in order to address policy PLP5 of the PDLP.

Education Provision

- 10.27 Para94 of the NPPF states that great weight should be given to the need to create, expand or alters schools. In line with the requirements for 'Providing for Education Needs Generated by New Housing' (KMC Policy Guidance), the proposed development attracts a contribution towards additional school places. In order to address the additional pressure on local schools, the Council Education section has been consulted on the proposal and indicative plan. Their comments will be reported in the update.

Public Open Space

- 10.28 Policy H18 of the UDP requires 30sqm of Public Open Space per dwelling on development sites in excess of 0.4 hectares. POS would be considered in the final layout and conditions are recommended relating to this.

Affordable Housing

- 10.29 The Council's Interim Affordable Housing Policy requires that 20% of units are secured as affordable housing. This would be conditioned so that details are submitted with the subsequent reserved matters so they can be successfully incorporated into the layout.

11.0 CONCLUSION

- 11.1 The site lies on unallocated land in the UDP. In the PDLP the site forms part of a wider Housing Allocation. The proposed development is therefore considered to represent an acceptable form of development in principle.
- 11.2 Most of the matters which require consideration over and above the principle of development are reserved for future consideration and would be considered as part of any reserved matters.
- 11.3 Highways have no objection in principle to the proposed development, subject to additional detail to clarify access arrangements. Additional drainage detail is required and will be reported as an update.
- 11.4 All other matters have been properly addressed and subject to conditions and a S106 relating to education, affordable housing and POS the proposed development is considered to represent an acceptable, sustainable form of development.

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

- 1. Standard conditions including reserved matters and approved plans (x4)
- 2. Affordable Housing with reserved matters
- 3. Noise attenuation with reserved matters
- 4. Ecology with reserved matters
- 5. Public open space with reserved matters
- 6. Construction management plan
- 7. Electric charging points
- 8. Contaminated land conditions (x4)
- 9. Details of any earthworks to be provided along with land levels at reserved matters
- 10. Crime Impact Assessment with reserved matters

Background Papers:

Application and history files.

Website link to be inserted here

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

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Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 13-Dec-2018

Subject: Planning Application 2018/92935 Outline application for erection of residential development land adj, former Gees Garage, New Hey Road, Outlane, Huddersfield, HD3 3YJ

APPLICANT

HD3 Developments Ltd

DATE VALID

12-Sep-2018

TARGET DATE

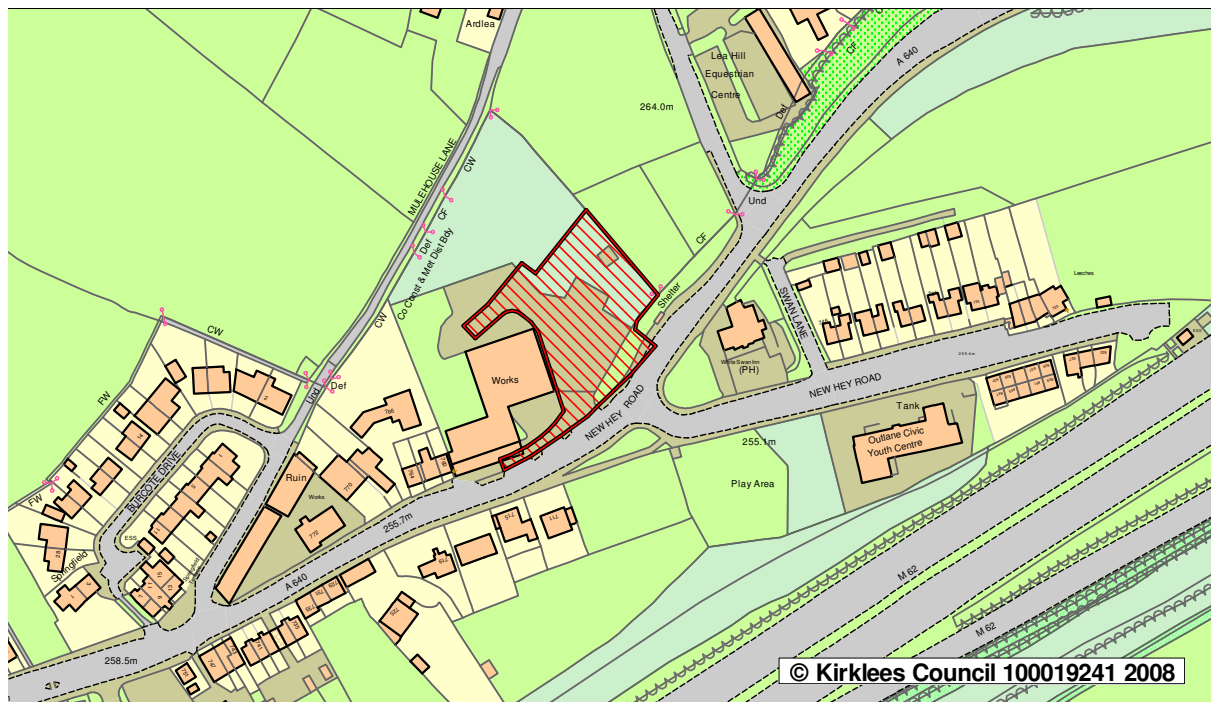
07-Nov-2018

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: Colne Valley

Y/N

Ward Members consulted
(referred to in report)

RECOMMENDATION:

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

Ensure that infrastructure and planning obligation requirements relating to planning applications 2018/92934 and 2018/92935 are considered and delivered cumulatively in order to accord with policy PLP5 of the Kirklees Publication Draft Local Plan.

1.0 INTRODUCTION:

- 1.1 The application is presented to Huddersfield Planning Sub-Committee on the basis that the proposal is intrinsically linked to planning application 2018/92934 as it forms part of the same development masterplan and falls within the same emerging site allocation.
- 1.2 The application forms part of a wider masterplan relating to the entire housing allocation in the emerging Local Plan. A separate application has been submitted to develop the remainder of the emerging allocation (2018/92934) which is also under consideration at this committee.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site is immediately adjacent to the A640 New Hey Road. The application site covers an area of under 0.3 hectares. Most of the site comprises previously developed brownfield land that was occupied by Gees Garages. The garage buildings are still in situ on the site. The site is not allocated in the Kirklees Unitary Development Plan, but is part of a larger Housing Allocation within the emerging Local Plan (Ref: H2652). The emerging Local Plan identifies the whole allocation as having a capacity of 29 dwellings. This application site forms the northern-most parcel of land within the emerging allocation.
- 2.2 The site is relatively flat, but the land rises to west beyond the site boundary. The land rises more steeply to the east.

- 2.3 To the east and north is open agricultural land, with extensive views over Calderdale to the north. To the west is medium to high density residential development, that extends to the west forming the linear settlement of Outlane.
- 2.4 To the rear of the site is Mulehouse Lane, which forms the administrative boundary between Calderdale and Kirklees. Beyond that is open agricultural land located in the Green Belt.

3.0 PROPOSAL:

- 3.1 The application has been submitted in outline form with all matters reserved except for access.
- 3.2 An indicative layout accompanies the submission showing how the roads and dwellings could potentially be laid out and indicates that 7 dwellings would be provided on site.
- 3.3 A masterplan drawing has been submitted detailing how this proposal fits with application 2018/92935. The adjacent proposal includes 19 dwellings being access from the same point of access.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 92/00807 – Use of land and buildings for storage of transmission line equipment and plant – approve.

92/03754 – Renewal of temporary permission for use of land and buildings for storage of transmission line equipment and plant – approve.

94/91452 – Outline application for erection of hotel – refused

Application on site adjacent within the same emerging allocation:

2018/92934 – Outline application for residential development – application adjacent being considered at this committee.

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

- 5.1 Following a request by officers the applicant is preparing the following amendments/additional information. A full update will be provided when these matters have been fully assessed and addressed by officers.

An amended layout
Traffic Speed Survey
Drainage Report

6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April

2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 48 of the National Planning Policy Framework (2018). 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 (2018), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

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

D2 – Land without notation
H1 - Housing Need
H10/12 - Affordable Housing
H18 - Provision of Open Space
BE1/2 - Design and the Built Environment
BE12 - New dwellings providing privacy and open space
BE23 - Crime Prevention Measures
EP10 - Energy Efficiency
EP11 – Landscaping
R13 – Rights of Way and Public Access Areas
T1 - Sustainable Transport Strategy
T10 - Highways Safety / Environmental Problems
T16 - Pedestrian Routes
T19 - Off Street Parking
G6 - Contaminated Land

Kirklees Draft Local Plan Strategies and Policies (2017):

PLP3 – Location of New Development
PLP5 - Masterplanning
PLP7 – Efficient and effective use of land and buildings
PLP11 – Housing Mix and Affordable Housing
PLP20 – Sustainable Travel
PLP21 – Highway safety and access
PLP22 – Parking
PLP24 – Design
PLP27 – Flood Risk
PLP28 – Drainage
PLP30 – Biodiversity and Geodiversity
PLP32 – Landscape
PLP35 – Historic Environment
PLP48 – Community facilities and services
PLP51 – Protection and improvement of local air quality
PLP52 – Protection and improvement of environmental quality
PLP61 – Urban Green Space
PLP62 – Local Green Space
PLP63 – New Open Space

6.3 Supplementary Planning Guidance:

- Providing for Educational needs generated by new housing
- Interim Affordable Housing Policy
- West Yorkshire Air Quality and Emissions Technical Planning Guidance
- Planning Practice Guidance

6.4 Supplementary Guidance

- Kirklees Landscape Character Assessment (2015)
- Kirklees Local Plan Accepted Site Options – Technical Appraisal – July 2017
- National Planning Policy Framework (2018)

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised on site, in the local press and by way of neighbour letter. A total of 1 representation has been received which can be summarised as follows. They are addressed in the main body of the report unless otherwise stated:

- Although I have no issues with the principle of building on this land, I object to the number of houses being proposed for both this plot and the adjacent plot. I believe the thought behind the traffic management solution is flawed as the proposed exit from the 'new estate' is immediately on the bend just as the speed limit changes from 40 to 30 and cars already speed in excess of this - it is an accident waiting to happen. It should also be noted that at peak times it can take between 5-10 minutes to turn into New Hey Road from the various side streets due to the volume of traffic I am also concerned where excess rain water would drain away as it would no longer be able to sink into the ground - we do not want the same situation occurring on Mulehouse Lane (immediately adjacent to the proposed site) as that on the playing fields just off Lindley Moor Road.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

Lead Local Flood Authority – Object:

No Flood Risk Assessment was submitted as part of this application;
No Drainage Strategy or drainage plans were submitted as part of this application.

Officer response – at the time of writing the report the final drainage strategy had not been received. Comments will be provided on drainage and included in the update to planning committee.

Highways DM – Object to the amended application as follows:

- 1) *Two points of access are shown onto New Hey Road. Whilst Highways DM would still consider that a single point of access would be preferable the revised proposals are for just 4 plots with a shared access onto New Hey Road. The indicative layout demonstrates that sufficient off-street parking and internal turning can be provided.*

All the other existing accesses onto New Hey Road should be shown to be closed and reinstated as footway.

- 2) *The proposed visibility splays onto New Hey Road are not shown on the plans. Given that access is on to a busy classified road the visibility splays should be based on the results of speed surveys. Actual speeds could be higher than the speed limit. The visibility from the private driveway serving plots 1 to 4 also needs to be shown.*
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Yorkshire Water – No objection subject to a condition.

West Yorkshire Archaeological Advisory Service – No objection.

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- 10.20 In terms of trees the specimens on site are relatively young or species which are not worthy of protection. The tree officer raises no objection to tree removal on this site but full details of tree impact would be provided as part of any subsequent reserved matters.

Other Issues

- 10.21 Due to the previous use of this site it is likely that the site will be contaminated to some degree. Conditions are recommended to deal with contaminated land. This proposal would accord with UDP policy G6, KPDLP policy PLP 53 and Section 15 of the NPPF.
- 10.22 The applicant has carried out a noise survey which considers noise mitigation measures. Given that the proposal has been submitted in outline form, the acceptability of the scheme will largely be dictated by the layout. Consequently noise conditions relating to the layout are recommended.

Infrastructure

- 10.23 There is no policy or supplementary planning guidance requiring a proposed development to contribute specifically to local health services. However, PLP49 of the PDLP identifies Educational and Health impacts as an important consideration. Additionally, PDLP policy PLP4 Providing Infrastructure requires developments to provide new infrastructure, where it is needed, in line with the appropriate phase of development. PLP5 Masterplanning Sites also requires that health facilities should be incorporated (proportionate to the scale of development), where required.

- 10.24 As part of the development of the Local Plan evidence base, an ongoing infrastructure planning process has considered the impact of future growth on health infrastructure, summarised in the Infrastructure Delivery Plan (IDP) 2015 and IDP Addendum 2016. This is an on-going process and will be monitored and updated alongside the Local Plan. It acknowledges that funding for GP provision is based on the number of patients registered at a particular practice and is also weighted based on levels of deprivation and aging population, with direct funding provided by the NHS for GP practices / health centres based on an increase in registrations.
- 10.25 There is no policy basis on which to seek a contribution to health services at this time.

Planning Obligations

- 10.26 In all cases planning obligations are sought across the entire masterplan site (2018/92934 and 2018/92935) in order to comply with policy PLP5 of the PDLP. In accordance with para 59 of the NPPF planning obligations should only be sought where they meet the following three tests:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.

Education Provision

- 10.91 Para94 of the NPPF states that great weight should be given to the need to create, expand or alters schools. In line with the requirements for 'Providing for Education Needs Generated by New Housing' (KMC Policy Guidance), the proposed development attracts a contribution towards additional school places. In order to address the additional pressure on local schools, the Council Education section has been consulted on the proposal and indicative and their comments will be reported in the update.

Public Open Space

- 10.92 Policy H18 of the UDP requires 30sqm of Public Open Space per dwelling on development sites in excess of 0.4 hectares. POS would be considered in the final layout and conditions are recommended relating to this.

Affordable Housing

- 10.94 The Council's Interim Affordable Housing Policy requires that 20% of units are secured as affordable housing. This would be conditioned so that details are submitted with the subsequent reserved matters so they can be successfully incorporated into the layout.

11.0 CONCLUSION

- 11.1 The site lies on unallocated land in the UDP. In the PDLP the site forms part of a wider Housing Allocation. The proposed development is therefore considered to represent an acceptable form of development in principle.
- 11.2 Most of the matters which require consideration over and above the principle of development are reserved for future consideration and would be considered as part of any reserved matters.
- 11.3 Highways have no objection in principle to the proposed development, subject to additional detail to clarify access arrangements. Additional drainage detail is required and will be reported as an update.
- 11.4 All other matters have been properly addressed and subject to conditions and a S106 relating to education, affordable housing and POS the proposed development is considered to represent an acceptable, sustainable form of development.

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

- 1. Standard conditions including reserved matters and approved plans (x4)
- 2. Affordable Housing with reserved matters
- 3. Noise attenuation with reserved matters
- 4. Ecology with reserved matters
- 5. Public open space with reserved matters
- 6. Construction management plan
- 7. Electric charging points
- 8. Contaminated land conditions (x4)
- 9. Details of any earthworks to be provided along with land levels at reserved matters
- 10. Crime Impact Assessment with reserved matters

Background Papers:

Application and history files.

Website link to be inserted here

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

Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 13-Dec-2018

Subject: Planning Application 2018/92937 Erection of 50 dwellings and associated works Land south of, Helme Lane, Meltham, Holmfirth, HD9

APPLICANT

Michaela Corbett, Barratt
Homes

DATE VALID

06-Sep-2018

TARGET DATE

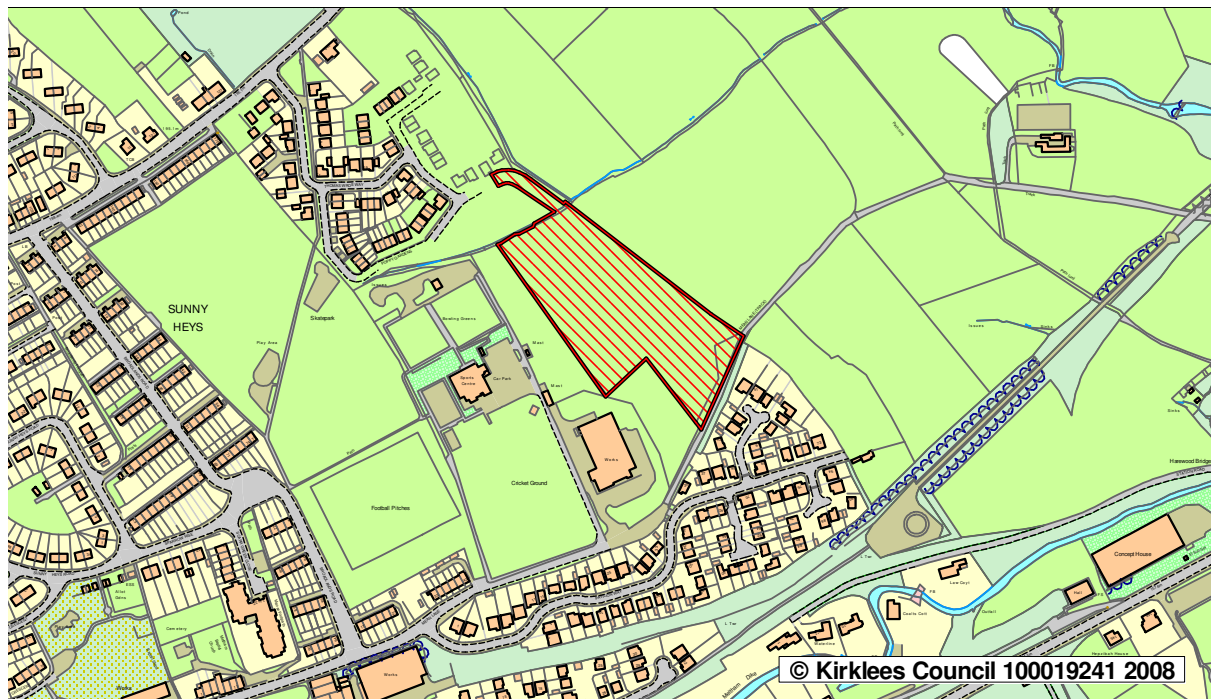
06-Dec-2018

EXTENSION EXPIRY DATE

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Holme Valley North

No

Ward Members consulted
(referred to in report)

RECOMMENDATION:

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

Education - 46,127 towards Honley High School

Public Open Space – Off-site contribution:

£176,351 is required for POS and a LAP

= £44,100 towards Broadlands play area and £132,250 towards Broadlands Public Open Space.

Affordable Housing – 10 units – 5 affordable rent/5 intermediate but split to be confirmed.

Pumping station to be maintained until adopted by Yorkshire Water

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

1.0 INTRODUCTION:

1.1 The application is referred to Huddersfield Planning Sub-Committee as the application is located on Provision Open Land (POL) and is a departure from the Development Plan.

2.0 SITE AND SURROUNDINGS:

2.1 The site comprises a sloping parcel of pasture land. The site forms the lower portion of a larger Provision Open Land (POL) allocation. The upper portion of the allocation has recently been developed by the same applicant courtesy of planning permission 2014/93959 as other associated consents.

- 2.2 The site lies on the eastern edge of Meltham beyond which lies upland countryside in the Green Belt. Adjacent to the site to the south west lies a small tool manufacturing factory. Within 50m to the west lies Meltham cricket ground. The site abuts a Public Right Of Way to the south (MEL/24/30) which connects the site to Broadlands open space and playing fields to the west and provides an elongated route to Meltham greenway which lies 180m to the south. The site is mostly grassed and there are limited features of ecological interest apart from a small stretch of Hawthorn hedge to the north and an oak tree beyond the southern corner outside the site boundary. There are a number of existing properties on the opposite side of Mean Lane public footpath.
- 2.3 The access would be taken through the existing site to the north (2014/93959) which itself is accessed from Helme Lane via a priority junction.

3.0 PROPOSAL:

- 3.1 The application is submitted in full and comprises the following:
- 50 dwellings comprising of 10no 2 bedroom units, 27no 3 bedroom units, 13no 4 bedroom units. All dwellings would be 2 or 2.5 storeys in height.
 - 10 of the units would comprise affordable housing.
 - The provision of a new access taken from the new housing development to the north.
 - Landscaping and a link to the Public Right Of Way to the south.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2018/20224 – pre-application – advised on the requirements for a subsequent planning application, including a noise survey.

Land to the north of application site

2016/93630 – Erection of 5 dwellings – pending consideration

2014/93959 – Erection of 88 dwellings – approved subject to conditions and S106 Agreement

2014/90722 – Outline application for residential development – approved subject to conditions

There are a variety of applications to discharge planning conditions relating to this site.

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

5.1 Revisions to the scheme have been forthcoming whilst the application has been processed. The application has been amended in the following ways:

- Additional landscaping provided.
- The removal of 2 residential units. Current proposal is for 50 units and previous scheme was for 52.
- Link to public footpath.
- Additional planting within the layout and alterations to boundary treatments.
- Clarification over the road gradient.
- The submission of a ball-strike assessment.
- The submission of a drainage scheme.
- Alterations of house types in order to ensure parking can be accommodated.

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 Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 48 of the National Planning Policy Framework (2018). 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 (2018), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

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

D5 - Provisional Open Land
H1 - Housing Need
H10/12 - Affordable Housing
H18 - Provision of Open Space
BE1/2 - Design and the Built Environment
BE12 - New dwellings providing privacy and open space
BE23 - Crime Prevention Measures
EP10 - Energy Efficiency
EP11 – Landscaping
R13 – Rights of Way and Public Access Areas
T1 - Sustainable Transport Strategy
T10 - Highways Safety / Environmental Problems
T16 - Pedestrian Routes
T19 - Off Street Parking
G6 - Contaminated Land

Kirklees Draft Local Plan Strategies and Policies (2017):

PLP3 – Location of New Development
PLP5 - Masterplanning
PLP7 – Efficient and effective use of land and buildings
PLP11 – Housing Mix and Affordable Housing
PLP20 – Sustainable Travel
PLP21 – Highway safety and access
PLP22 – Parking
PLP24 – Design
PLP27 – Flood Risk
PLP28 – Drainage
PLP30 – Biodiversity and Geodiversity
PLP32 – Landscape
PLP35 – Historic Environment
PLP48 – Community facilities and services
PLP51 – Protection and improvement of local air quality
PLP52 – Protection and improvement of environmental quality
PLP61 – Urban Green Space
PLP62 – Local Green Space
PLP63 – New Open Space

6.3 Supplementary Planning Guidance:

- Providing for Educational needs generated by new housing
- Interim Affordable Housing Policy
- West Yorkshire Air Quality and Emissions Technical Planning Guidance
- Planning Practice Guidance

6.4 Supplementary Guidance

- Kirklees Landscape Character Assessment (2015)
- Kirklees Housing Topics Paper (2017)
- Kirklees Local Plan Accepted Site Options – Technical Appraisal – July 2017
- Kirklees Local Plan Submission Document – New Site Options Report – April 2017
- National Planning Policy Framework (2018)

7.1 PUBLIC/LOCAL RESPONSE:

7.2 The application was advertised on site, in the local press and by neighbour letter. Three letters of representation have been received and are addressed in the main body of this report unless otherwise stated:

- *Dathan Tool and Gague Company* - We're concerned that the close proximity of the housing development will interfere with the day to day running of our organisation. We're a 24 hours a day, 7 days a week, exporting manufacturing business, employing local people. The business is expanding and in the future is seeking to grow on the Meltham site. We're not in a position to move to a different location due to the high skill levels that we've created in the local area. Our global customer base puts us under high pressure to remain competitive and any interference with this will be detrimental.

- Peak & Northern Footpaths Society - A public footpath link should be provided from the development onto Meltham Footpath 59/10 (Mean Lane). This would lead onto the wider path network and greenway.
- Should the planning subcommittee be minded to approve the application, it should include pedestrian and cycle links to Mean Lane and to the Sports and Leisure Centre. Approval should be subject to a S106 Agreement to surface Mean Lane as a cycle and pedestrian route to Meltham Road, and to include a link to the Meltham Greenway. The Greenway is a key part of the local sustainable transport network, is already well used and will be more so as it is extended to Healey House and Netherton. A separate, proposed development off Netherton Fold has set a precedent for contributing to Greenway development through S106 funding.

Officer response – The site is not adjacent to the greenway but does include a link to the public footpath to the south which itself links to the Greenway. There is a further point of access to the greenway from Pavillion Way to the south. The circumstances surrounding the Netherton Fold planning permission are not comparable with the current application. Netherton Fold is a site in the Green Belt and it was considered in that case that the provision of a sum of money to provide an extended greenway link comprised very special circumstances to justify the grant of planning permission for residential in the Green Belt. The current application site does not lie in the Green Belt and is adjacent to the greenway and it is not considered that the provision of a monies to improve the greenway are necessary to make the development acceptable in planning terms.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

Highways DM – Highways originally commented as follows:

- Parking should be provided in accordance with Appendix 2 of the UDP, including visitor (1 space per 4 dwellings to the shared surface areas) and cycle parking. Four bedroomed dwellings should have 3 off-street parking spaces. If integral garages are to be considered as contributing towards parking provision they must provide internal dimensions of 3m x 6m. The integral garages proposed are insufficient in size to be considered as contributing towards the off-street parking provisions. This means that the 4 bedroomed Windermere house type has insufficient parking.-
- The 2 bedroomed type 67 affordable housing units have only one parking space and 2 need to be provided to meet recommended standards.
- The proposed turning head is unlikely to be sufficient size to accommodate an 11.85m long waste collection vehicle. Swept path analysis should be provided to demonstrate that an 11.85m refuse vehicle can enter the site from phase one and turn and exit the proposed development in a forward gear.
- Only 5 visitor parking spaces provided to the dwellings served by the shared surface areas, 7 should ideally be provided.

- No information is provided showing the proposed gradients. The maximum recommended gradient to a shared surface is 1 in 20. Longitudinal sections should be provided which demonstrate that suitable gradients can be achieved.

Officer response – The applicant has responded to all the above points and Highways DM are assessing the submission. The layout has been altered in order to ensure that garages are large enough to meet requirements.

Sport England – Currently object on the basis that the site lies in close proximity of an existing cricket pitch and there is a risk of ball strike. Request the submission of a ball-strike assessment which has now been undertaken and submitted by the applicant and Sport England have been re-consulted. Final comments to be provided in response to the submitted ball-strike assessment.

Lead Local Flood Authority – No objection in principle to a pumped drainage solution subject to detail. Full comments to be provided in an update.

8.2 **Non-statutory:**

Education – A contribution of £46,127 is required.

Strategic Housing - In Kirklees Rural- West, there is a significant need for affordable 1-2 bedroom housing, as well as a need for affordable 1-2 bedroom housing for older people specifically. The area has some of the highest priced housing in Kirklees with property prices ranging from around £106,000 to £210,000.

6 Social or Affordable Rent dwellings and 5 Intermediate dwellings, would be suitable for this development.

Environmental Health – No objection subject to conditions regarding dust, contamination, air quality and noise.

Arboriculturist – No objection.

Biodiversity Officer – No objection.

Landscape – A contribution of £176,351 is required for POS and a LAP.

West Yorkshire Archaeological Advisory Service – The applicant submitted a geophysical survey in response to WYAAS original consultation response. Final comments will be reported as an update.

Yorkshire Water – No objection subject to a planning condition.

9.0 MAIN ISSUES

Principle of development
Design and Impact on Character and Appearance of the Area
Heritage
Highways issues
Risk of Ball-Strike from cricket pitch
Drainage Issues
Residential Amenity
Ecology
Land Contamination
Air Quality
Noise
Construction Impacts
Planning Obligations
Conclusion

10.0 APPRAISAL

Principle of development

- 10.1 The site is allocated as Provisional Open Land (POL) on the Kirklees Unitary Development Plan. Planning law requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework 2018 (NPPF) is one such material consideration. The starting point in assessing any planning application is, therefore, to ascertain whether or not a proposal accords with the relevant provisions of the development plan, in this case, the saved policies in the Kirklees Unitary Development Plan, 1999 (UDP). If a planning application does not accord with the development plan, then regard should be had as to whether there are other material considerations, including the NPPF, which indicate that planning permission should be granted. The Council are also at an advanced stage in the preparation and adoption of the Local Plan. The Local Plan - Kirklees Publication Draft Local Plan (PDLP) – was submitted for examination in April 2017.

Unitary Development Plan

- 10.2 Policy D5 of the UDP relates to POL land. This policy is considered to be up-to-date as it complies with the NPPF, in particular para 139 and, therefore, it is considered that it should be given full weight. Development of this site for housing would run contrary to policy D5 thus representing a departure from the Development Plan.

Emerging Housing Allocation

- 10.3 In the Kirklees PDLP the site is designated as part of a larger Housing Allocation (H67). Within the Draft Allocations and Designations documents the following constraints have been identified:

Improvements to local highway links may be required
Surface water issues
Noise source near site
Site is close to listed buildings

- 10.4 Significant weight should be attached to the emerging Housing Allocation on the basis of the advanced stage of preparation of the Local Plan and the proposed development complies, in principle, with the PDLP allocation.
- 10.5 There is clear support for housing proposals contained within the NPPF in order to “*boost significantly the supply of homes...*” (para 59). The same chapter then goes on to describe how local authorities should meet the full objectively assessed need for market and affordable housing. Officers are currently of the view that the Council are unable to demonstrate a 5 year supply of deliverable sites in accordance with the NPPF and NPPG. Based on the Objectively Assessed Need which has been used to inform the PDLP which is at an advanced stage of examination, the PDLP intends to assist in the delivery of at least 1730 homes per annum which is required in order to ensure a 5 year housing land supply. Following the Inspector’s recommended modifications to the Local Plan the Council will be able to demonstrate a housing land supply in excess of 5 years when it is adopted.
- 10.6 For the current application this has implications. Para 11 of the NPPF states that for decision-taking, the presumption in favour of sustainable development means:
- Approving development proposals that accord with an up-to-date development plan without delay; or
 - Where there are no relevant development plan policies in the NPPF that protect areas of assets of particular importance provides a clear reason for refusing the development proposed; or
Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework when taken as a whole.
- 10.7 At the time of writing, the Council are unable to demonstrate a 5 year housing land supply as required by para 73 of the NPPF. Therefore, it is considered that the ‘tilted balance’ presumption in favour of sustainable development as advocated by para 11 of the NPPF applies in this case. This provides that planning permission should be granted unless the adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole.

Masterplanning

- 10.8 Policy PLP5 of the PDLP requires that sites are properly and comprehensively planned. In this case there are two relatively small parcels of land within PDLP housing allocation H67 which sit to the west and south west of the application site and potentially rely on the application site for access. The proposed development includes links to both parcels of land. The applicant has submitted a draft masterplan and confirmed that they discussed the potential to include these parcels of land with the adjacent landowner. However, the adjacent landowner did not wish to be involved in the scheme at this stage. The submission demonstrates that these parcels of land could be accessed through the application site.

Conclusion on Principle of Development

- 10.9 The site lies on POL land on the UDP and it is considered that accompanying policy D5 should be applied full weight. The site is allocated as Housing in the PDLP to which significant weight should be attributed due to the advanced stage of the emerging Local Plan process. In this case prematurity is not an issue.
- 10.10 The Council cannot demonstrate a five year supply of deliverable housing sites. The 'tilted balance' as set out in para11 of the NPPF is engaged in this case and planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against policies in the NPPF taken as a whole.

Design and Impact on Character and Appearance of the Area

- 10.11 Chapter 12 of the NPPF states, amongst other things, that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 10.12 Policy BE1 of the UDP requires that all development should be of good quality design such that it contributes to a built environment. Policy BE2 states, amongst other matters, that new development should be designed so that it is in keeping with any surrounding development. Policy PLP24 of the PDLP requires that good design to be at the core of all planning decisions.
- 10.13 The site comprises a piece of open land which slopes up from south east to north west. The site is contained by a recent residential development to the north west and existing buildings to the west. From the north and east views within the Green Belt views of the site are particularly open. There are prominent views of the site from Mean Lane footpath to the south.
- 10.14 The proposed layout generally follows the contours of the site in order to create a development which steps down in a consistent manner. The proposed dwellings are relatively simple in terms of roof form and overall design which follows the same design ethos as phase 1. Proposed house types would consist of a range of two storey units, both semi and detached. Some units include front projecting dormers and they would comprise pitched roofs. Materials proposed are artificial stone identical to the stone used in part of the existing development to the north west. The varied character and appearance of the local vernacular reinforces the acceptability of the design of the proposed development which would be in keeping. Details of final materials could be conditioned. Dual aspect dwellings are proposed at corner plots and boundary treatments are designed so as not to appear incongruous in the street. The eastern boundary has been shored up with appropriate planting which softens the appearance of the scheme from the Green Belt. Consideration was given to providing a pedestrian link along this boundary but was discarded after consultation with the Police Architectural Liaison Officer.

- 10.15 The provision of landscaping along the eastern boundary also aids in reducing the visual impact of the proposed development for users of the surrounding public footpaths (a number of which lies on Green Belt land to the east at mid distance) although, clearly, the housing would be readily visible along small stretches of some of the nearby footpaths. It is considered that the visual intrusion of the proposal would be relatively limited to the land closest to existing proposed development.
- 10.16 Most of the lower portion of the site includes shared surfacing to the highway which would benefit pedestrians and other non-car users and provide aesthetic benefits. A link would be provided to the public footpath (Mean Lane) to the south.
- 10.17 The applicant has amended the scheme to address good design as advocated by Building for Life 12 (Design Council CABI – good practice). This includes utilising more appropriate planting and reduction in large areas of hard surfacing fronting plots. The development would incorporate some ‘green street’ principles and an area of landscaping to the Green Belt boundary. In accordance with policy BE2 of the UDP the proposal would make a contribution to the existing built form and comprise a good standard of design in accordance with PLP24.

Public Open Space

- 10.18 The proposed development does not include on-site POS. However, in this case it is considered appropriate to request an off-site contribution to the nearby Broadlands open space and playing fields. This would be easily accessible for occupiers of the development who could walk along Mean Lane with the open space being within 230m of the site.
- 10.19 There is no play equipment proposed on site either. Officers are satisfied with the proposed off-site lump sum in lieu of on-site equipped provision. This equates to £44,100.76 for improvements to the nearby Broadlands play area is requested and could be secured by S106 agreement. A further contribution is sought to upgrade the Broadlands open space totalling £132,250.
- 10.20 Overall it is not considered that the proposed development would compromise the character of the area. Whilst the site would be changed from open countryside to an expanse of housing which would be detrimental to openness and policy D5; harm to the wider landscape is limited by the topography of the site and the design which includes a landscape buffer which would soften the more sensitive site boundaries. Overall there would be no overriding landscape harm arising as a result of the proposal and the intrinsic character of the wider countryside in this location would not be significantly harmed. The proposed development represents an acceptable form of design in accordance with UDP policies BE1, BE2 and emerging Local Plan policy PLP24.

Heritage

- 10.21 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty to have special regard to the desirability of preserving listed buildings or their settings. Policies BE1 and BE2 of the UDP focus on good quality design. Chapter 16 of the NPPF focuses on good design, chapter 16 relates to heritage assets. Policy PDL55 reflects the NPPF in respect of heritage assets.

- 10.22 There are no heritage assets within the site boundary. The nearest assets lie approximately 230m to the north west comprising Helme Conservation Area. A grade II listed cottage also lies within approximately 200m of the site off Helme Lane. Given that the proposed development is located downslope and beyond a large existing development (phase 1) it is not considered that there would be a material impact on the setting of either asset.
- 10.23 In respect of archaeology, the application is accompanied by an archaeological geophysical survey. The submitted survey identifies a number of features underground of uncertain origin. The majority of findings appear to comprise modern agricultural associated objects and activity. However, WYAAS have been consulted on the submitted report and their response to the geophysical survey will be included in the planning update.

Highways Issues

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

Para 108 of the NPPF states:

In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
- b) safe and suitable access to the site can be achieved for all users; and*
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*

This is followed by para 110 of the NPPF which states:

Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 10.25 The application has been accompanied by a Transport Statement which has been assessed by Highways DM. It is noted that the access to phase 1 which would also serve this proposal from Helme Lane has already been established and built out. The submitted Transport Statement has considered the impact of the proposal on this junction and junctions in the wider area. No significant impacts are anticipated.
- 10.26 Highways DM originally raised some concerns regarding the layout in terms of gradient and proposed parking. The applicant has amended the scheme and the gradients appear to be acceptable. Final comments from Highways DM on the revised layout will be reported as an update.

Accessibility

- 10.27 The closest bus stops to the site are found on Helme Lane approximately 180m from the site. Further stops are found on Broadlands Road, Highfield Avenue and Slaithwaite Road. Many of these stops have raised kerbs to aid boarding and some have timetable cases. A supermarket is within 750m of the site and Meltham centre is within 800m. Broadlands play area, football pitches and a skate park lies within easy walking distance. Overall the site is considered to lie in an accessible location.

Risk of Ball-Strike from cricket pitch

- 10.28 Sport England is a statutory consultee where a proposal is likely to prejudice the use, or lead to the loss of use, of land being used as a playing field as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2015. Sport England's playing field policy not only seeks to protect the playing field itself, but also seeks to protect it from development on adjacent land which might prejudice its use. Within their consultation response, Sport England (in consultation with the English Cricket Board) consider residential development within relatively close proximity to cricket pitches to fall into this category as potential cricket ball strike to residential properties can lead to damages and insurance claims that become unaffordable for the cricket club and ultimately lead to the closure of the ground.
- 10.29 During the course of the planning application the applicant submitted a ball-strike assessment following an initial objection from Sport England. The report concludes that the distance between the edge of the square and the boundary of the site is 70m. The report calculates the ball trajectory and distance and considers that the distance between the development site and the cricket pitch is sufficient for amateur players. According to the report only professional first class players would be capable of surpassing these distances but the assessment of ball trajectory indicates that the frequency of ball strike in any event would be significantly reduced.
- 10.30 Officers are therefore, satisfied that the impact appears to be extremely low and it does not appear that mitigation will be required. However, Sport England have been consulted on the ball-strike assessment as they are a statutory consultee. Final comments will be reported to committee as an update.

Drainage Issues

- 10.31 Para 155 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. On the basis that the site lies in Flood Zone 1 (lowest risk of flooding from rivers or the sea), a sequential test is not required in this case.
- 10.32 The submitted Flood Risk Assessment (FRA) considers the risk of flooding from various sources including rivers, groundwater, artificial sources and surface water.

10.33 The National Planning Practice Guidance (NPPG) states that the aim of a drainage scheme should be to discharge run-off as high up the hierarchy as practicable:

- 1 – into the ground (infiltration)
- 2 – to a surface water body
- 3 – to a surface water sewer, highway drain, or another drainage system
- 4 – to a combined sewer

10.34 The applicant has considered drainage in line with the drainage hierarchy. However, following a site meeting between the applicant and the LLFA it was concluded that a pumped solution is the only feasible way to deal with surface water as the applicant has been unable to locate a suitable gravity fed outfall. The revised layout indicates that the pump station would be located on the lower portion of the site near the public footpath. Landscaping is proposed to soften the impact.

10.35 The pump station would be adopted by Yorkshire Water under separate legislation. However, until such a time, it is recommended that maintenance of the pumping station is the responsibility of the applicant. This could be included as part of a S106 agreement.

10.36 Overall it is considered that the proposal complies with policies PLP27 and PLP28 and Section 10 of the NPPF with regard to drainage and potential flood risk.

Residential Amenity

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

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

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

10.39 The nearest residential properties lie to the south east of the site along Pavilion Way. All dwellings would be in excess of 21m from the nearest residential dwellings thus the impact on residential amenity would be limited.

Ecology

10.40 UDP policy EP11 requires that application incorporate landscaping which protects/enhances the ecology of the site. Emerging Local Plan policy PLP30 states that the Council will seek to protect and enhance the biodiversity and geodiversity of Kirklees, including the range of international, national and locally designated wildlife and geological sites, habitats and species of principal importance and the Kirklees Wildlife Habitat Network.

- 10.41 The site is a housing allocation in the publication draft of the Kirklees Local Plan and is within 2.5 km of the South Pennine Moors Phase 1 SPA, as such the site was discussed within the Habitat Regulations Assessment which is evidence accompanying the emerging Local Plan. Subsequent amendments have been proposed to the general policies of the Local Plan and there is a requirement to carry out survey to establish the presence or absence of certain SPA birds during the breeding season. In respect of Phase 1 of the SPA, only Golden Plover have the potential to be significantly affected by loss of grassland outside of the protected area. However, information submitted by the applicant in the form of addendums to the supporting ecological report indicates that the grassland on site is typically too tall during the Golden Plover breeding period to be functionally linked to the SPA. This is reflected in the Habitats Regulation Assessment (HRA) screening for the proposals. Habitat survey for the Local Plan HRA was undertaken in September 2016, at which time the management of the grassland was not apparent.
- 10.42 As the HRA has not progressed to an Appropriate Assessment no consultation with Natural England is required. It has been concluded through the HRA Screening that the proposals have no likely significant effect of the South Pennine Moors Phase 1 SPA and no further survey work is necessary in this respect.
- 10.43 The original scheme included no biodiversity gain. The amended plans now include a more substantial buffer along the eastern boundary which could accommodate suitable planting and enhancement. Due to the relatively low value of the habitats currently on site, a net gain could be provided by retaining habitats at the periphery of the site and planting these with native trees/shrub, wildflower meadows, etc. Consequently, subject to conditions relating to biodiversity enhancement, the proposal is considered to comply with policy EP11 of the UDP and PDLP policy PLP30.

Land Contamination

- 10.44 The application is accompanied by Contaminated Land Reports demonstrate findings that the site is uncontaminated. A condition is recommended concerning reporting of unexpected contamination. This is in accordance with the requirements of Chapter 15 of the NPPF, policy G6 of the UDP and PLP 53 of the PDLP.

Air Quality

- 10.45 PDLP policies 20 and 47 encourage schemes which offer to reduce air quality impacts. Given the scale of the development, 1 electric vehicle charging point shall be installed for each dwelling. There is also a requirement for a Travel Plan.
- 10.46 As such, a condition is recommended to this effect, in accordance with the aims of para 181 of the NPPF and the guidance of the West Yorkshire Low Emissions Strategy. To some extent this will help offset any impacts relating to private car use to the services which are not within easy walking distance, in accordance with PLP20 of the PDLP.

Noise

- 10.47 The applicant carried out a noise survey which has been assessed by Environmental Health. No objections are raised subject to additional monitoring and potential mitigation measures relating to potential noise from the community centre. The proximity of housing to the nearest business and telecoms mast is considered acceptable. Whilst there are concerns raised by Dathan tools relating to noise which lies approximately 23m from the nearest proposed dwelling at its nearest point; officers are satisfied that noise could be appropriately attenuated by improved glazing or fencing. This is covered by the proposed condition. The application is considered to comply with policy EP4 of the UDP and PLP52 of the PDLP.

Construction Impacts

- 10.48 A condition is recommended concerning a construction method statement identifying measures to reduce the impact of noise and disturbance to existing residents.

Planning Obligations

- 10.49 In accordance with para 56 of the NPPF planning obligations should only be sought where they meet the following three tests:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.

Education Provision

- 10.50 Para 94 of the NPPF states that great weight should be given to the need to create, expand or alters schools. In line with the requirements for 'Providing for Education Needs Generated by New Housing' (KMC Policy Guidance), the proposed development attracts a contribution towards additional school places. In order to address the additional pressure on local schools, the Council Education section requires the following contribution:

£46,127 towards Honley High School

Public Open Space

- 10.51 Policy H18 of the UDP requires 30sqm of Public Open Space per dwelling on development sites in excess of 0.4 hectares. The site would make an off-site contribution to Broadlands and this is considered appropriate in this case. The provision of POS would be secured by S106 agreement along with ongoing maintenance. A contribution of £44,100 is also required for improvements to the nearby Broadlands play area as an off-site play area contribution.
- 10.52 It is also noted that the site lies on the edge of an existing settlement and there are footpaths and routes into the open countryside. The proposed development would provide a link to the footpath to the south which would enhance access to the countryside for the proposed development and phase 1. This footpath links to the Meltham greenway. In accordance with para 92 of the NPPF, the scheme provides access to high quality open spaces which can make an important contribution to the health and well-being of communities.

Affordable Housing

10.53 The Council's Interim Affordable Housing Policy requires that 20% of units are secured as affordable housing. The applicant has offered 10 affordable units on-site which is fully policy compliant. Council Strategic Housing Officers wish to see 5 affordable rent and 5 intermediate units (to be confirmed). This could be incorporated into a S106 agreement.

11.0 Planning Balance

11.1 The application site lies on an area of land allocated as Provisional Open Land (POL) on the UDP. The emerging Housing Allocation now carries significant weight in the decision making process and against this policy the provision of housing is in accordance.

11.2 It is inevitable that development on any greenfield site would mean a loss of landscape quality because there would be buildings in place of open land which represents a negative aspect of the proposal. The impact on local views such as some of the surrounding footpaths would be unavoidable. However, the scheme has been designed so as to ensure that the impact on the Green Belt outside the site is reduced through the positioning and appearance of the dwellings which would be set back within the site, with the edge landscaped. This, coupled with the location and scale of the proposal, means there would be no overriding harmful landscape and visual harm. The scheme is considered to represent a good standard of design.

. 11.3 There would be no unacceptable harm in relation to drainage/flood risk, living conditions and ecology, subject to the conditions proposed. Infrastructure provision would be dealt with by a S106 Agreement where the scheme is fully compliant with policy requirements.

11.4 In conclusion, the tilted balance in favour of sustainable development as advocated by para11 of the NPPF is engaged in this case because the Council are unable to demonstrate a 5 year housing land supply. There is conflict with policy D5 of the UDP as the site comprises a POL allocation. Significant benefits would arise from the proposed housing due to the number of dwellings proposed at a time of housing shortage and the proposed affordable housing element. In this case the planning balance lies in favour of the development as there are no adverse impacts in granting planning permission which would significantly and demonstrably outweigh the benefits. The proposal is considered to represent sustainable development.

12.0 Grant subject to S106 Agreement and CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Strategic Investment)

Conditions

- 1) 3 years
- 2) Approved plans
- 3) Materials
- 4) Ecological enhancement
- 5) Final levels of dwellings to be approved
- 6) Electric charging points
- 7) Contaminated land conditions
- 8) Noise assessment
- 9) Travel Plan
- 10) Landscaping
- 11) Full details of pumping station
- 12) Details of footpath link
- 13) Details of surfacing materials for all hard surfaced areas
- 14) Boundary treatments
- 15) Construction management
- 16) Flood routing
- 17) Drainage scheme to be submitted and agreed

Background Papers:

Application and history files.

Website link to be inserted here

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

Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 13-Dec-2018

Subject: Planning Application 2018/90501 Change of use and alterations to part of mill to form 42 residential units and 8 light industrial units (use class B1c) and retention of part of existing retail use (revised description and amended plans) Stanley Mills, Britannia Road, Milnsbridge, Huddersfield, HD3 4QS

APPLICANT

Lindsays Allsorts Ltd,

DATE VALID

13-Feb-2018

TARGET DATE

15-May-2018

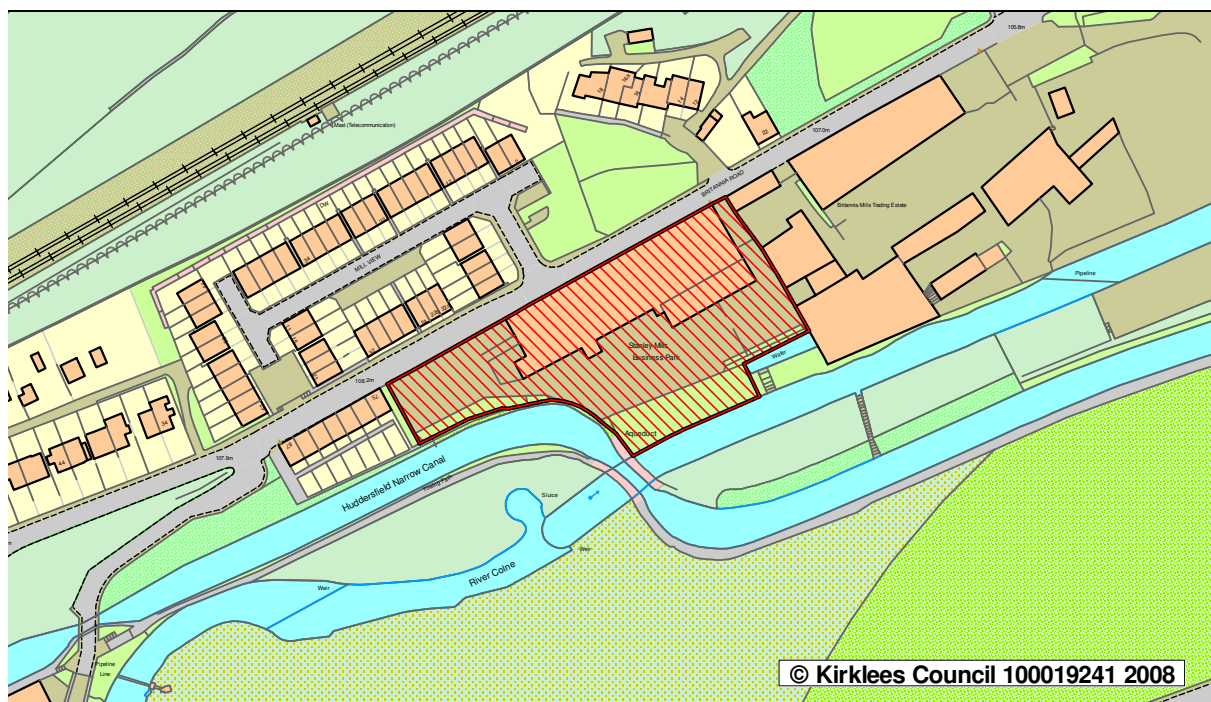
EXTENSION EXPIRY DATE

01-Dec-2018

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: Golcar

Yes

Ward Members consulted
(referred to in report)

RECOMMENDATION: Refuse

For the following reasons:

- 1) The site lies in close proximity of existing, unrestricted employment uses. In addition, the site lies within a wider Priority Employment Area as detailed in the Kirklees Publication Draft Local Plan. The provision of residential accommodation in this location would not be compatible with neighbouring uses and would prejudice the continued use of neighbouring land for employment purposes and affect the flexibility of those established uses. The proposal is therefore in conflict with policies D2 and B4 of the Kirklees Unitary Development Plan and policy PLP8 of the Kirklees Publication Draft Local Plan.
- 2) The proposed development includes the provision of 42 dwellings, 8 light industrial units and the retention of retail space. The combination and scale of these uses would result in a constrained parking and servicing area. A number of parking spaces would be 'stacker' units which would represent unacceptably poor design, harmful to the character and appearance of the area and the host building. Consequently the proposed development conflicts with policy D2 of the Kirklees Unitary Development Plan and PLP24 of the Kirklees Publication Draft Local Plan.
- 3) The applicant has failed to demonstrate that the proposal would not have a detrimental impact on highway safety. This would be contrary to Kirklees Unitary Development Plan Policy T10 and Kirklees Publication Draft Local Plan policy PLP21.
- 4) There is insufficient information relating to how the development would impact on the local ecology, particular bats, and it has not been demonstrated that the proposed development would contribute to, and enhance the natural environment. The proposal is therefore contrary to Kirklees Unitary Development Plan Policies NE5 and BE2 (iv) of the Kirklees Unitary Development Plan and Policy PLP30(i) (ii) of the Kirklees Publication Draft Local Plan and paragraph 175(a) of the National Planning Policy Framework.
- 5) There is no information supporting the application relating to requirements to support local infrastructure. A S106 agreement is required to ensure contributions towards affordable housing, education, Public Open Space and play equipment. The proposed development, therefore, fails to achieve the requirements of Policy PLP4 of the Kirklees Publication Draft Local Plan.

1.0 INTRODUCTION:

- 1.1 This application is being brought to the planning sub-committee for determination as the site area exceeds 0.5 ha but less than 60 units.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site lies on Britannia Road approximately 800m to the west of Milnsbridge. The application site comprises a large four storey mill sitting within a hard surfaced area used for car parking. The site slopes down away from Britannia Road towards the Huddersfield Narrow Canal that runs along the rear boundary of the site. The ground floor/basement is below ground level at the front of the building that faces Britannia Road, but the sloping nature of the site means that the floor is at ground level to the rear of the site. Above that are three floors that follow the same footprint of the building.
- 2.2 According to the applicant the building was initially used for manufacturing purposes but has been used for mainly retail for the past 35 years, with it being the home of Lindsays Allsorts, who sold furniture, household goods, lighting and soft furnishings. The lower floor/basement and the top floor were used as storage, whilst the middle two floors, the ground floor and the first floor, were used for retail use. The building is now vacant.
- 2.3 The site forms the western end of a linear area of employment uses that stretch from the centre of Milnsbridge along the area of land between Britannia Road and the Huddersfield Narrow canal.
- 2.4 To the north of the site, on the opposite side of Britannia Road lies a relatively new residential development comprising two storey semi-detached and terraced dwellings. To the west of this development, also on the northern side of Britannia Road, is a line of older semi-detached dwellings which are within the Green Belt. To the south of the site is the Huddersfield Narrow Canal beyond which is an area of woodland.
- 2.5 The site is identified in the emerging local plan as being within a Priority Employment Area. It is unallocated in the Unitary Development Plan.

3.0 PROPOSAL:

- 3.1. The proposal seeks to make alterations to the internal layout of the building to create 42 dwellings comprising a mix of one and two bedroom flats and maisonettes and the re-configuration of the retail floorspace to create 750m² of modern attractive retail floorspace.
- 3.2 At ground floor level it is proposed to introduce 8 small light industrial units (B1c use class) each of which would include a loading bay, each of which access from the car park/servicing area.
- 3.3 In order to facilitate the above, alterations are proposed to the building including the removal of the existing rear lean-to extension and the replacement of windows. Larger window openings would be formed within the rear elevation to include Juliet balconies at regular intervals along the rear elevation. A total of 81 car parking spaces are proposed comprising 51 retail spaces, 8 spaces for light industrial units, 54 residential parking spaces (which includes 24no 2 car stacker units).

3.4 For members information this proposal was not the subject of any pre-application discussions

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

2007/95241 – Use of existing car park to park 22 private hire vehicles – refused.

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

5.1 The applicant has revised the scheme to include light industrial units (B1c) at ground floor level. Further amendments have been made to the parking and overall layout. Additional detail has been provided in response to initial comments from the Canal and Rivers Trust.

Originally the application involved 63 units and 600m² (retained) retail floorspace. The scheme has been amended as detailed in the current description.

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 Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 48 of the National Planning Policy Framework (2018). 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 (2018), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

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

D2 – Development of sites without notation on the proposals map

B1 – Employment needs

B4 – Change of use of sites last used for business and industry

BE1 – Design principles

BE2 – Quality of design

BE12 – New dwellings providing privacy and open space

BE23 – Crime Prevention

EP4 – Noise generating development

EP6 – Taking into account existing and predicted noise levels

EP11 – Landscaping

H1 – Housing Need

H18 – Provision of Open Space

G6 – Land contamination

NE9 – Development affecting mature trees
S1 – Town centres and Local centres
T10 – Highway safety
T16 – Pedestrian Routes
T19 – Parking standards

6.3 National Planning Guidance:

NPPF Section 2. Achieving sustainable development
NPPF Section 7 Ensuring the viability of town centres
NPPF Section 12 Achieving well - designed places
NPPF Section 14 Meeting the Challenge of Climate Change, Flooding and Coastal Change
NPPF Section 15. Conserving and enhancing the natural environment

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

PLP1 – Presumption in favour of sustainable development
PLP3 – Location of new development
PLP7 – Efficient and effective use of land and buildings
PLP8 – Safeguarding employment land and premises
PLP13 – Town centre uses
PLP19 – Strategic transport infrastructure
PLP 21 – Highway safety and access
PLP22 - Parking
PLP24 - Design
PLP28 – Drainage
PLP30 – Biodiversity and Geodiversity
PLP32 – Landscape
PLP35 – Historic Environment
PLP48 – Community facilities and services
PLP51 – Protection and improvement of local air quality
PLP52 – Protection and improvement of environmental quality
PLP61 – Urban Green Space
PLP62 – Local Green Space
PLP63 – New Open Space

6.5 Supplementary Planning Guidance:

- Providing for Educational needs generated by new housing
- Interim Affordable Housing Policy
- West Yorkshire Air Quality and Emissions Technical Planning Guidance
- Planning Practice Guidance

7.0 PUBLIC/LOCAL RESPONSE:

7.1 This application was publicised by way of site notice, neighbour notification and press notice. The following representations have been received which can be summarised as follows (3 objections and 1 support):

- Privacy of residents at the Scarbottom cottages.
- The North side of the development would intrude on the privacy of the residents with being at height. Currently the windows on this elevation are opaque.
- Britannia Road isn't marked with a central line and so vehicles stray to one side or another, along with offset cambers this raises safety concerns along with an increase in the volume of traffic.
- Narrowness of pavements and overgrowing vegetation causing people to have to use the roadway in places along Britannia Road. No pavement at present or possible on the mill side of the road.
- Concerns over noise and "out of hours" use. This is already an issue with existing work units next door to the development - late night & weekend use and noise, when permission is apparently for reasonable daytime use only.
- The site has the main mill buildings on the line of the highway with no pavement. Whilst there is a pavement on the opposite side of the road this is less than 1.20 metres wide in places (Public footpath HD 285A). Britannia Road is straight and relatively level and cars travel at speed along this length of road. There are bus stops on Britannia road and local residents walk into Milnsbridge along Britannia Road.
- Some sixty three flats are proposed for the development of which a number of the occupants will use transport other than car. A new development opposite the site at Mill View has created further dwellings with their entrance opposite Stanley Mills.
- Cars from the Mill View development whilst having off street parking spaces tend to park on Britannia Road and this can be quite intensive at times. The number of dwellings from this proposed development and the recent Mill View development will significantly increase the use of the single pavement. This together with the intensified vehicle movements needs to be considered in relation to highway safety.
- Highways must take into consideration the narrow width of the single pavement on the opposite side of the road to this proposal. Just yesterday a lady had to push her pram in the roadway as the already narrow pavement obstructed by overhanging trees/bushes. I understand that it is not uncommon to see prams having to carry out this manoeuvre. Irrespective of the proposed development there is already a serious pedestrian safety hazard on Britannia Road. The highways officer does need to weigh up the intensification of both road and pedestrian traffic from the development together with an increase in cars parked on the highway (as has occurred after the recent Mill View development) and the impact in terms of safety on an existing single and very narrow pavement.

- We note the use of Stacker Parking which is not a convenient or quick way of parking for most people and will add to more vehicles parking on Britannia Road again adding to highway safety issues. How does parking layout work when the top car is needed? Car underneath reverses out blocking one way system whilst lift operates, top car is then reversed and driven off the bottom car returns?
- The only hard surfaced non parking around the existing building is an area marked on site survey as unsafe for manned access, detail collected remotely. The residents will need to car travel or walk to find any nearby amenity space and it is currently not a safe environment for walking with the narrow pavement on one side of the road only.
- Will the car stacking systems be visible from the canal 3.5m high lines of stackable vehicles would not be the most attractive of views for residents or from a high value amenity such as a canal towpath.
- Land allocation – as per the recent refusal for residential use on the nearby site (to the east) on the opposite side of road . 2018/60/91018/W Reason for refusal –

The proposal would result in the loss of part of an employment allocation (B1.5) contrary to Policy B1 of the Kirklees Unitary Development Plan. In addition given the sites close proximity to an existing, unrestricted employment use on the opposite side of Britannia Road, the, the residential use would be incompatible with, and prejudice its continued use as employment land, contrary to Policy PLP8 of the Emerging local Plan.” The application would appear to be in conflict with above policy for this area which seeks to maintain an employment use.

- I am broadly in support of the proposed plans (2018/90501) to renovate the former Lindsays Allsorts building into 63 new residential units and refurbished retail space. The building has fallen into a state of disrepair, the apartments will provide accommodation to address the housing shortage and it will bring new people to the area.
- My one major concern is the access along Britannia Road. There is a major bottleneck along a 120 m (400 ft) section at the junction with Scar Lane due to the cars parked in front of the houses which effectively reduces the road to a single track. In the middle of the day when residents are out this is less of an issue but in the mornings and from late afternoons onward it can become a major problem due to the volume of traffic in both directions. This traffic includes heavy lorries visiting the industrial units on Britannia Road and therefore it can be necessary to reverse for considerable distances in order to give way and/or for queues to form back out onto Scar Lane. Furthermore, the speed at which some motorists approach this blind bend along Britannia Road adds an additional danger. I not sure how best these issues can be resolved as I am sure the residents along that stretch of Britannia Road will, understandably, not take kindly to being told that they can no longer park in front of their houses (even if alternative off-road parking were to be provided), there is little room to allow the road to be widened, an additional access road would be expensive and making Britannia Road one-way would, I expect, be highly unpopular. However, this does need to be addressed as 63 new residential properties on Britannia Road will add considerable amounts of traffic and especially so at rush hour when these problems are most acute.

Councillor Hilary Richards makes the following comments:

“Apart from some concern about exiting into Scar Lane from Britannia Road I cannot see arguments to stop this development apart from technical ones that planning will have looked into I am concerned about the exit into Scar Lane however and wonder if traffic lights at this T-junction might be considered”.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

K.C.Highways DM – Object to the proposal. Details set out in the officer report.

Canal and Rivers Trust – No objection subject to a condition.

Environment Agency – No objection.

8.2 Non-statutory:

K.C Ecology – prior to determination the ecological information will need to be updated to provide an Ecological Impact Assessment including the results of sufficient bat survey and an evaluation of all habitats within the application area.

K.C Education – A contribution will be required.

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

K.C. Biodiversity Officer – Object for the following reasons:

- The proposals have the potential to result in significant ecological impacts, for which no mitigation has been presented, and the proposals have not been designed in accordance with the mitigation hierarchy set out in NPPF and policy PLP 30.
- Insufficient information has been presented to demonstrate that European protected species (e.g. bats) will not be directly impacted. It is therefore not possible for the LPA to discharge its duty under regulation 9 of the Conservation of Habitats and Species Regulations 2017.
- The proposals are likely to result in a net loss of biodiversity, rather than the required net gain. There is no evidence that the proposals have been informed in any way by the results of the preliminary ecological work undertaken, and consequently the proposed layout is inconsistent with the NPPF and policy PLP 30. In addition the proposals will result in the loss of KWHN and do not provide a net biodiversity gain. As the layout is one of the matters for which permission is sought I object to the proposals.

K.C. Strategic Drainage – Objects. Kirklees Flood Management and Drainage objects to this application on the following grounds:

- No consideration has been given to flood risk to and from the site – no Flood Risk Assessment was provided;
- No drainage strategy or proposals have been submitted.

K.C Landscaping – Raise the following concerns and comments:

“No landscaping is proposed. This is unacceptable. The residents moving into the proposed development apartments will need some outdoor space (having no gardens of their own) and an attractive setting for the mill and parking area is important in this location, adjacent to the Huddersfield Narrow Canal and abutting the Wildlife Habitat Network. New developments, irrespective of whether they are mill conversions or new housing estates should enhance the character of the area in landscape terms and consider potential for SuDS, rain gardens etc. where possible. We will therefore require full detailed landscape plans for hard and soft landscaping.

63 apartments trigger the requirement for 1080 sq.m of public open space (POS) within which there should be a Local Equipped Area of Play (LEAP) with its own commuted sum. The proposal shows no public open space being provided, reinforced by the comment that there will be no landscaping in the Planning Statement. In lieu of the provision of a Local Equipped Area of Play being constructed on site due to the limited space and number of parking spaces required for the apartment blocks, we would recommend a contribution towards the proposed playable spaces within the recommended guidelines of a 15 m walk, namely Crow Lane Rec. In addition to this, the site area being over 0.4ha triggers the requirement for on-site pos (as per the UDP of 30sq.m. per dwelling or off site lump sum payment in lieu of this being on site).

A Without Prejudice off-site lump sum contribution, in lieu of both POS and LEAP, of approximately £197,842, would be required (however, this could be reduced if there is any useable well designed accessible pos incorporated within the scheme, and provided in perpetuity on the site as mentioned above). This pos would be for the benefit of the residents in the apartments with no garden or outdoor space included in the design and publicly accessible”.

Public Rights Of Way - PROW has no ‘in principle’ objection to development here (change of use and alterations) but there are concerns that a development of this nature has no indication of proposals or improvements relating to non-vehicular sustainable transport, potentially including the local PROW network. The local planning authority is asked to consider making a requirement for a reasonable and appropriate scheme.

9.0 MAIN ISSUES

Principle of development
Character, appearance and layout
Heritage
Highway safety and efficiency
Drainage and flood risk
Air quality
Ecological Issues
Infrastructure
Conclusion

10.0 APPRAISAL

10.1 Principle of development

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

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

10.2 **Policy B4** of the UDP is also relevant as it states:

Proposals involving the change of use of premises and sites with established use, or last used, for business and industry will be considered having regard to:

- i) The suitability of the land and premises for continued business and industrial use;*
- ii) The availability of business and industrial premises of equivalent quality;*
- iii) The number of jobs likely to be created or maintained;*
- iv) The compatibility of the proposed use with surrounding uses;*
- v) The effect on the future operational flexibility of any neighbouring businesses;*
- vi) The effect on any buildings or architectural or historic interest;*
- vii) The effect on local amenity;*
- viii) The effect on the local highway network; and*
- ix) The potential for the site to be served by rail*

- 10.3 With regard to the Local Plan, the NPPF provides guidance with regard to decision making and the emerging plan (para 48):

“Local planning authorities may give weight to relevant policies in emerging plans according to:

a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);

b) 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

c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).” (NPPF, Paragraph 48)

- 10.4 The site forms part of a wider Priority Employment Area allocation in the Kirklees Publication Draft Local Plan (PDLP). Policy PLP8 is therefore applicable:

Policy PLP 8

Safeguarding employment land and premises

1. Proposals for development or re-development for employment generating uses in Priority Employment Areas will be supported where there is no conflict with the established employment uses in the area.

2. Within Priority Employment Areas, proposals for redevelopment resulting in a non-employment end use, or for the conversion or change of use of sites and premises in use or last used for employment, will only be supported where:

a. it can be demonstrated that the site or premises are no longer capable of employment use; and b. the proposed use is compatible with neighbouring uses and where applicable, would not prejudice the continued use of neighbouring land for employment.

- 10.5 The preparation of the council's emerging Local Plan has therefore reached an advanced stage with anticipated adoption of the plan in early 2019. Consequently, it is considered that it must now be given considerable weight in the determination of planning applications. The implications of this proposal on the plan must therefore be considered, bearing in mind this site is outlined as part of a larger Priority Employment Area in the PDLP (KR3).

- 10.6 In response to this policy, the applicant states that between 1990 and December 2016, the bottom two floor of the building were occupied by Lindsays Allsorts (Furniture Retailer) Lindsays announced their closure in Dec 2015. The building was then occupied by 'Furniture by Stan' between December 2016 and December 2017. At its peak Lindsays employed between 8 and 10 FTE staff, including two directors. During the 26 years on the site the numbers fell, as the business became less viable. Furniture by Stan, who took over the building, operated with two Directors and a delivery driver, but they were unable to make a success of the business and closed in December 2017.

- 10.7 During the 26 years Lindsays operated on the site they were continually looking to increase the efficiency of the building by looking to attract new users to increase the occupancy of the building, which was always under used. This would have helped with the viability of their business. During those years a number of businesses moved into the building, including Nicco Bathrooms, Carpet Mill, Ultra Finishing, Rug Traders, Global Arts, Cookware, My English Bistro and finally Parkys Bistro, but none were able to operate a viable business in that location and either closed or took premises elsewhere.
- 10.8 Upon taking ownership of Stanley Mills the applicant explored a number of options for the Mill. According to the applicant the fabric of the building is old and not suitable for flexible redevelopment. The plans submitted with the planning application show that there are two columns of 23 supporting cast iron pillars that run along each floor. These restrict the efficient use of the space making redevelopment costly. B1 and B2 uses do not generate the levels of income required to redevelop the building. The proposed residential development provides a viable use for the building, enabling Lindsays Allsorts, which is an established name in that location, to operate from a smaller more viable footprint. This will ensure the number of jobs provided previously in the building can be maintained, with expectations that the business can flourish creating more employment opportunities in the future.
- 10.9 Officers have considered the applicant's submission. However, the proposed residential element lies in within the emerging Priority Employment Area and given the nature of the neighbouring uses at Britannia Mills Trading Estate and the unrestricted nature of those uses (in terms of hours of operation); the provision of residential in this location could significantly affect existing uses on site and the provision of future employment uses. The emerging policy is intended to prioritise employment uses over non-employment uses. Furthermore, UDP policy B4 states, *inter alia*, that proposals involving the change of use from business uses should consider the compatibility of the proposed use with surrounding uses and the effect on the future operational flexibility of any neighbouring businesses. Whilst the proposed development would create additional jobs and help retain the existing building thus complying with elements of policy B4; the provision of residential is considered to be in overall conflict with the policy by the way it would affect the surrounding uses and flexibility of neighbouring uses in future.
- 10.10 It is also noteworthy that Strategic Planning Committee refused an outline application for residential development (2018/91018) further to the north east of the site and on the opposite side of Britannia Road. This application site is directly opposite Britannia Mills Trading Estate and was refused in June 2018 for the following reason:

The proposal would result in the loss of part of an employment allocation (B1.5) contrary to Policy B1 of the Kirklees Unitary Development Plan. In addition given the sites close proximity to an existing, unrestricted employment use on the opposite side of Britannia Road, the residential use would be incompatible with, and prejudice its continued use as employment land, contrary to Policy PLP8 of the Emerging local Plan.

- 10.11 Members should note that site 2018/91018 was in the current employment allocation whereas the current application site lies on an unallocated land in the UDP. However, in that particular case members raised objection with the close proximity of the site to the unrestricted employment use at Britannia Mills Trading Estate and the fact that it was incompatible with the emerging Local Plan which designates the whole area as a Priority Employment Area.
- 10.12 The layout of the site also means that there would be light industrial uses taking place within the same building as the residential uses. It is accepted that proposed business operating hours could be restricted by condition. However, the proposed B1 light industrial uses could lead to noise within and outside the building from vehicles and staff members working, loading and carrying out their day-to-day business activities. The opening of windows and Juliet balconies within the residential element, particularly those overlooking the car park, could result in some noise and disturbance from activities within the building and car park and activities on the site adjacent.
- 10.13 The applicant did not make representation on the emerging Priority Employment Area designation as part of the Local Plan process. Whilst the applicant has stated that attempts have been made to market the site and there is clear evidence that the existing building has not managed to secure a long-term tenant for some time, the site has not been marketed in light of the emerging Local Plan Priority Employment Area designation. In addition, whilst the applicant has stated that the residential element is necessary in order to secure the long-term viability of the site, no financial evidence has been submitted in support of the application. In light of all the above, it cannot be concluded that there is no reasonable prospect of the site being used for employment purposes in the foreseeable future. Fundamentally, therefore, the proposal fails to satisfy policy PLP8 of the PDLP.
- 10.14 In terms of the retail element, retail on site is an established use and the proposed development involves consolidating this into a smaller floor area. There is no conflict with policy in this respect given the fall-back position.

Character, Appearance and Layout

- 10.15 UDP Policies BE1 and BE2 are considerations in relation to design, materials and layout. Section 12 of the NPPF indicates that good design is a key aspect of sustainable development and that poorly designed development should be refused.
- 10.15 The conversion of the units would bring about benefits because it would allow a redundant mill building to be brought back into use. Whilst the building is not listed, on the face of it the building appears in good condition and is an example of a Victorian mill building which makes a positive contribution to the character and appearance of the street scene.

- 10.16 The proposed layout includes a large number of residential units, the retention of 750m² of retail floor space and the provision of 8no light industrial units. There are concerns that the number and scale of uses would represent overdevelopment due to the mix and nature of uses proposed and the constrained nature of the space around the existing mill building. This is further highlighted by the constrained nature of the parking layout and the fact that the applicant is proposing 'stacker' parking spaces in order to accommodate the number of units. This would be detrimental to the character and appearance of the host building and potentially the wider area given the functional and unsympathetic appearance of the stacker units on the edge of the canal cutting.
- 10.17 Consequently, it is considered that the proposed layout would not accord with policies BE1 or BE2 of the UDP, Policy PLP24 of the KPDLP and national policy guidance contained in Section 12 of the NPPF.

Heritage

- 10.18 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty to have special regard to the desirability of preserving listed buildings or their settings. Policies BE1 and BE2 of the UDP focus on good quality design. Chapter 16 of the NPPF focuses on good design, chapter 16 relates to heritage assets. Policy PDL55 reflects the NPPF in respect of heritage assets.
- 10.19 There is a Grade II listed bridge over Huddersfield Narrow Canal and the River Colne. Given that the proposal involves a change of use with relatively minor operations to bring the building back into use, the impact on the Grade II listed structure is not considered to be significant. Furthermore, the existing mill building sits on a higher level and set back from the edge of the canal screened by trees and vegetation.

Residential amenity

- 10.20 The proposed units comprise the following floor areas:

1 bed range between 50 – 68m²
2 bed range between 75 – 80m²
Maisonettes between 55 – 95m².

- 10.21 Whilst some of the maisonettes in particular are small, each room would have access to natural light. However, none of the apartment units would have access to open space. The nearest access to recreational space would involve a 250m walk to the west along Britannia Road then across the bridge to the canal towpath. There are two play areas within a 15 minute walk which would benefit from a contribution. The applicant has stated that they are willing to provide a small area of amenity space overlooking the canal to the south west of the site. Whilst no details have been submitted, this would assist in providing an amenity area for future residents. However, an off-site contribution towards POS and play provision would still be required if an acceptable amenity area was provided on site.

- 10.22 The applicant has carried out a broad assessment of the uses within the closest employment site which lies adjacent to Stanley Mills and within the emerging Priority Employment Area (Stanley Mills Trading Estate). This includes a handmade pine furniture company, a motor vehicle mechanics and a shot blasting company.
- 10.23 No noise information has been submitted with the application although a condition relating to this issue is recommended by Environmental Health. However, even if a noise survey was submitted, it is noted that the wider emerging Priority Employment Area including Stanley Mills Trading Estate does not have any restrictions in terms of hours of operation for its existing businesses. There is also the potential that the Priority Employment Area could be redeveloped at some point in future and residential development could provide a substantial constraint for future any future development.
- 10.24 In terms of the impact on existing properties, there are no properties on the opposite side of Britannia Road with habitable room windows facing the mill building. There is a new build property with a gable facing the mill building on the opposite side of Britannia Road. The only potential for overlooking would be into the rear garden of this property from the upper floors of the mill building which is approximately 10m away. However, given the fact the mill building is offset from this property, it is not considered that the rear garden would receive an unacceptable or significant level of overlooking. Consequently, the privacy of the occupiers of this property and all other properties within the vicinity of the site would be adequately maintained. In this regard the proposed complies with BE12 of the UDP and PLP24 of the PDLF.

Highway safety and efficiency

- 10.25 It is intended to serve the proposed development from an existing access point off Britannia Road. The existing hard standing area would be formalised into a parking and manoeuvring area for the businesses and residential element. Parking is also proposed in the basement.
- 10.26 Highways DM have assessed the revised proposals and do not consider that sufficient information has been submitted in order to provide a meaningful response. The original Transport Assessment has not been updated to reflect the amended proposals. In addition, Highways DM raise the following concerns:
- *The size of the proposed retail unit is increased and there is no information regarding how the trip generation for the retail element of the site is calculated. An A1 Retail convenience store could generate far in excess of the figures quoted in the current Assessment. The traffic generation for the industrial units is also not included.*
 - *Bin stores are shown for both retail and residential uses. No details are provided to explain how these will be accessed and no swept paths are provided to demonstrate that an 11.85 metre refuse vehicle can enter and turn within the site.*
 - *The revised parking schedule quotes 51 spaces for the retail parking including 2 disabled spaces, 8 loading bays and 8 parking spaces for the industrial units and 54 spaced for the retail units. The parking spaces within the basement may not be suited to the proposed retail use. The concern would be that customers*

may find it more convenient to park on-street which may not be in the best interests of highway safety.

- *The proposed sight lines from the proposed access onto Britannia Road are not shown on the plans.*
- *Objectors have high-lighted the poor standard of the pedestrian access to the public transport facilities at this location. There are no footways to the southern side of Britannia Road and passengers will need to wait in the Britannia Road carriageway.*
- *No information is provided regarding the servicing of the site (no swept path analysis).*

10.27 Officers have additional concerns relating to the proposed stacker units. It is not considered likely that they would be readily used, only as a last resort, and there is the potential that the practicality of operating them along with the time taken would encourage parking elsewhere, including on-street. There are further concerns with their long term operation and reliability.

10.28 Overall insufficient information has been provided to fully assess the impact of this proposal on the local highway network and it is therefore considered that this proposal does not accord with UDP policies T10 and T19 and KPDLP policies PLP 21 and PLP22 with regard to the potential impact this development would have on the local highway network.

Drainage and flood risk issues

10.29 The application site is located in Flood Zone 1 and at low risk from flooding from rivers. However, the site also lies in an indicative critical drainage area. There is no supporting information with the application relating to drainage and flood risk. However, it is noted that the proposal involves a change of use and no additional hardstanding is proposed and therefore, the site already drains surface water. The proposal would not alter the existing situation.

10.30 The Lead Local Flood Authority (LLFA) object to the proposal on the basis of a lack of Flood Risk Assessment and drainage strategy. Given the nature of the proposal involving a change of use, clarification has been sought from the LLFA as to the extent of additional information required. An update will be provided to committee on this matter as part of the written update.

Air quality

10.31 The proposal is a major development and due to its likely impact on air quality in the vicinity would require measures to mitigate this impact. Officers consider that the impact on local air quality could be offset by the inclusion of electric charging points and the implementation of a travel plan to encourage more sustainable transport methods. These matters can be satisfactorily dealt with via appropriately worded planning conditions.

Ecological issues

10.32 The Council's ecologist has commented that prior to determination the submitted ecological information will need to be updated to provide an Ecological Impact Assessment including the results of sufficient bat survey and an evaluation of all habitats within the application area.

10.33 As a consequence of the above, the proposals have the potential to result in significant ecological impacts, for which no mitigation has been presented, and the proposals do not accord with UDP policies D2, NE9 and PDLP policy PLP 30 and Section 15 of the NPPF with regard to its potential impact on local ecology.

10.34 Infrastructure

In accordance with para 56 of the NPPF planning obligations should only be sought where they meet the following three tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

Education Provision

10.35 Para 94 of the NPPF states that great weight should be given to the need to create, expand or alters schools. In line with the requirements for 'Providing for Education Needs Generated by New Housing' (KMC Policy Guidance), the proposed development attracts a contribution towards additional school places. In order to address the additional pressure on local schools, the Council Education section is likely to require a contribution. The final contribution required will be reported as an update.

Public Open Space

10.36 Policy H18 of the UDP requires 30sqm of Public Open Space (POS) per dwelling on development sites in excess of 0.4 hectares. A contribution is also required towards locally equipped play areas. Policy PLP63 carries forwards POS and play area contribution requirements into the Local Plan.

10.37 In this case an off-site lump sum contribution, in lieu of both POS and LEAP, of approximately £197,842, would be required. However, this figure could be reduced if there is any useable well designed accessible POS incorporated within the scheme, and provided in perpetuity on the site as mentioned above.

Affordable Housing

10.38 The Council's Interim Affordable Housing Policy requires that 20% of units are secured as affordable housing. This equates to 8no units within the proposed development. However, further clarification will be provided on this matter as it is likely that the scheme would benefit from Vacant Building Credit which is likely to significantly reduce the affordable housing requirement in this case.

11.0 CONCLUSION

- 11.1 The application site lies on an area of unallocated brownfield land on the UDP. Within the emerging Local Plan the site is designated as a Priority Employment Area.
- 11.2 It is against the context of the emerging Local Plan and the character of the surroundings that officers have significant concerns. The proposed residential element adjacent to an established area of employment uses to the north east, which includes B2 uses, could be significantly affected by these operations taking place within such close proximity of the mill. Furthermore, the PDLP prioritises employment uses within the site and wider area. Consequently, there are significant concerns that residential in this location would undermine the potential of employment generating proposals within the wider allocation and reduce impact on the flexibility of existing industrial uses. It is not considered that the requirements of B4 of the UDP and PLP8 of the PDLP have been met in this case.
- 11.3 Further to the above, there are significant concerns relating to the over-developed nature of the proposals contrary to policies BE1 and BE2 of the UDP and PLP24 of the PDLP.
- 11.4 Finally, the applicant has failed to demonstrate that that this proposal would not have a detrimental impact on highway safety and local biodiversity.
- 11.5 In conclusion, the tilted balance in favour of sustainable development as advocated by para11 of the NPPF is engaged in this case, however there are impacts of granting planning permission which would significantly and demonstrably outweigh the benefits.

12.0 Reason for refusal

1) The site lies in close proximity of existing, unrestricted employment uses. In addition, the site lies within a wider Priority Employment Area as detailed in the Kirklees Publication Draft Local Plan. The provision of residential accommodation in this location would not be compatible with neighbouring uses and would prejudice the continued use of neighbouring land for employment purposes and affect the flexibility of those established uses. The proposal is therefore in conflict with policies D2 and B4 of the Kirklees Unitary Development Plan and policy PLP8 of the Kirklees Publication Draft Local Plan.

2) The proposed development includes the provision of 42 dwellings, 8 light industrial units and the retention of retail space. The combination and scale of these uses would result in a constrained parking and servicing area. A number of parking spaces would be 'stacker' units which would represent unacceptably poor design, harmful to the character and appearance of the area and the host building. Consequently the proposed development conflicts with policy D2 of the Kirklees Unitary Development Plan and PLP24 of the Kirklees Publication Draft Local Plan.

3) The applicant has failed to demonstrate that the proposal would not have a detrimental impact on highway safety. This would be contrary to Kirklees Unitary Development Plan Policy T10 and Kirklees Publication Draft Local Plan policy PLP21.

Ecological Impact Assessment including the results of sufficient bat survey and an evaluation of all habitats within the application area.

4) There is insufficient information relating to how the development would impact on the local ecology, particular bats, and it has not been demonstrated that the proposed development would contribute to, and enhance the natural environment. The proposal is therefore contrary to Kirklees Unitary Development Plan Policies NE5 and BE2 (iv) of the Kirklees Unitary Development Plan and Policy PLP30(i) (ii) of the Kirklees Publication Draft Local Plan and paragraph 175(a) of the National Planning Policy Framework.

5) There is no information supporting the application relating to requirements to support local infrastructure. A S106 agreement is required to ensure contributions towards affordable housing, education, Public Open Space and play equipment. The proposed development, therefore, fails to achieve the requirements of Policy PLP4 of the Kirklees Publication Draft Local Plan.

Background Papers:

Application and history files.

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Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 13-Dec-2018

Subject: Planning Application 2017/93847 Outline application for erection of 36 dwellings land off, Upper Quarry Road and Bradley Road, Bradley, Huddersfield, HD2 1XD

APPLICANT

G R E Bottomley

DATE VALID

07-Nov-2017

TARGET DATE

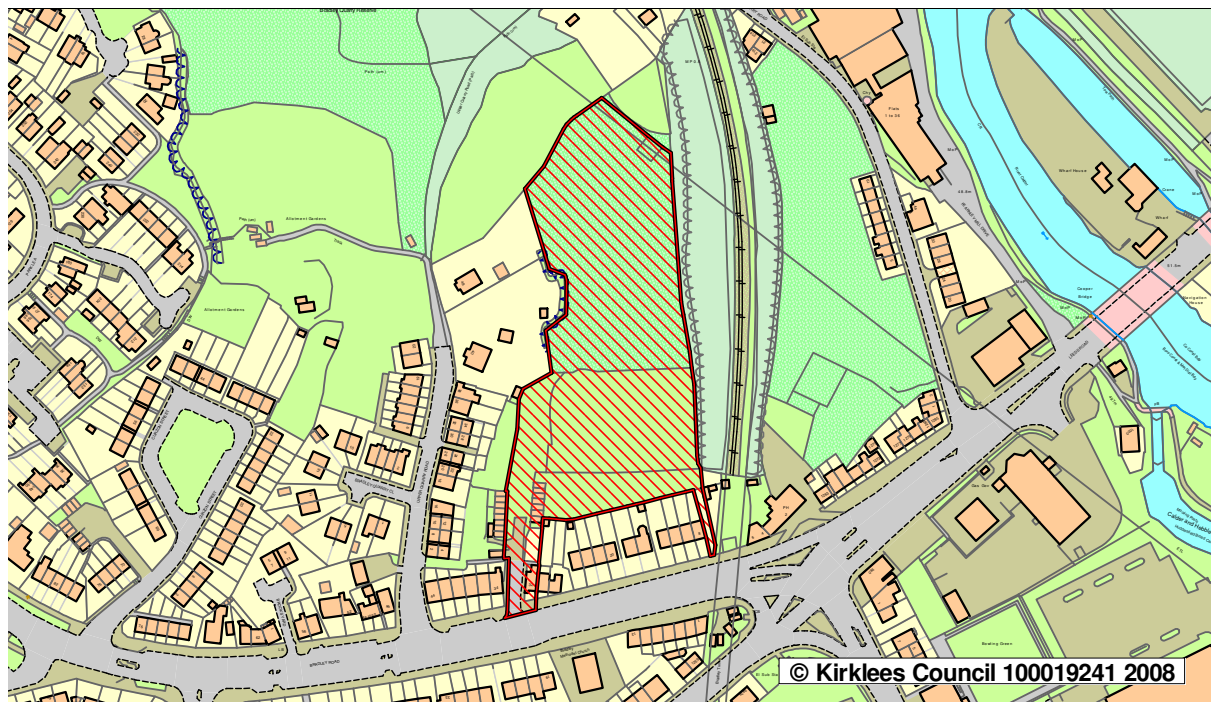
06-Feb-2018

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: Ashbrow

Yes

Ward Members consulted

RECOMMENDATION: Refuse outline planning permission

For the following reasons:

1) The proposed development would intensify right-turn movement off Bradley Road through queuing traffic across a live lane at a location with poor intervisibility, and would increase the risk of vehicles running over the footway. The proposed development would therefore have a detrimental impact on highway safety. This would be contrary to Kirklees Unitary Development Plan policy T10 and Kirklees Publication Draft Local Plan policy PLP21.

2) The proposed development, due to its lack of on-site affordable housing and Public Open Space, related financial contributions to address these requirements off-site and a financial contribution towards education provision, would not sufficiently meet known housing need, would not provide adequate, usable outdoor space for its residents, would not make adequate provision for education, and would not sufficiently mitigate its impacts. This would be contrary to Kirklees Unitary Development Plan policy H18, Kirklees Publication Draft Local Plan policies PLP4, PLP11, PLP49 and PLP63, and chapters 5, 8 and 12 of the National Planning Policy Framework.

1.0 INTRODUCTION:

1.1 This is an application for outline planning permission, with all matters reserved (other than access), for residential development.

1.2 The application is presented to the Huddersfield Sub-Committee as the proposed development relates to Provisional Open Land (Policy D5 of the UDP), and includes fewer than 60 residential units.

2.0 SITE AND SURROUNDINGS:

2.1 The application site is 1.28 hectares in size and slopes downhill from its northwest corner (75m AOD approx.) to its southeast corner adjacent to 8 Bradley Road (65m AOD approx.).

- 2.2 The site includes an existing end-of-terrace property at 32 Bradley Road, the unadopted lane between 32 and 34 Bradley Road, garages accessed from this lane, and a strip of land within the curtilage of 8 Bradley Road. An electricity pylon stands within the site at its northeast corner, and carries cables across part of the site.
- 2.3 No buildings exist within the site's boundaries, other than the above-mentioned garages which are in a poor condition. Parts of the site (32 Bradley Road, the garages and the unadopted lane) are previously-developed (brownfield) land, however the larger part of the site is greenfield. There are no protected trees on the site, however Tree Preservation Orders protect trees to the west and north.
- 2.4 Surrounding uses are residential to the south and west. Most nearby residential properties date from the 20th century, and have two storeys built of stone. On the west side of the unadopted lane is another group of garages, also in a poor condition. Fields to the north of the site are in agricultural use. Railway lines and an embankment exist to the east. Bradley Methodist Church stands almost opposite the proposed site entrance, on the south side of Bradley Lane.
- 2.5 The site is not within or close to a conservation area, and there are no listed buildings immediately adjacent to the site.
- 2.6 A Provisional Open Land designation in the Kirklees Unitary Development Plan covers most of the site and adjacent land. Most of the site was to be allocated as safeguarded land (ref: SL2161) in the emerging Local Plan, however in the August 2018 modifications to the Local Plan the council proposed to delete this safeguarded land allocation, and show the land as unallocated.
- 2.7 Land to the east of the site is within a Wildlife Habitat Network. Land to the north is green belt, and further to the northwest is the Bradley Quarry Reserve.
- 2.8 Air Quality Management Area 1 (Bradley Road / Leeds Road junction) has been designated to the south of the application site, and covers a small part of the site at 32 Bradley Road.

3.0 PROPOSAL:

- 3.1 Outline planning permission (with details of access) is sought for residential development of the site. This would involve the demolition of the existing end-of-terrace property at 32 Bradley Road, the creation of a widened vehicular access between 30 and 34 Bradley Road, and the erection of 36 houses.
- 3.2 The proposed dwellings would line a new estate road running north-south through the site, and off short drives. The dwellings would be arranged in short terraces and semi-detached pairs. Three house types are proposed as follows:
- 7x house type A (three bedrooms, 80sqm, in short terraces – units 1 to 7).
 - 20x house type B (three bedrooms, 93sqm, in short terraces – units 8 to 27).
 - 9x house type C (four bedrooms, 116sqm, semi-detached or in short terraces – units 28 to 36).

- 3.3 Detached garages are proposed for some dwellings. No dwellings are proposed beneath the pylons and cables at the north end of the site.
- 3.4 Drainage pipework is proposed to be routed beneath a strip of land within the curtilage of 8 Bradley Road. On-site attenuation crates are proposed.
- 3.5 Other matters (namely appearance, landscaping, layout and scale) are reserved.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2016/91688 – Outline planning permission granted 24/01/2017 for the erection of nine dwellings. Application related to part (0.60 hectares) of the current application site.

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

- 5.1 In attempts to address the highways safety concerns that the proposed development would arouse, the applicant team made various representations (including a technical note, video evidence and an amended detailed junction drawing), and officers met the applicant team.
- 5.2 During the life of the application, the applicant team submitted financial viability information, an amended site layout plan (drawing 3718 03 rev H, which reduced the sizes of the proposed dwellings), an amended Drainage Assessment, and gas monitoring information.

6.0 PLANNING POLICY:

- 6.1 The statutory development plan comprises the Kirklees Unitary Development Plan (saved Policies 2007).
- 6.2 The statutory development plan is the starting point in the consideration of planning applications for the development or use of land unless material considerations indicate otherwise (Section 38(6) Planning and Compulsory Purchase Act 2004).
- 6.3 The Council is currently in the process of reviewing its development plan through the production of a Local Plan. The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25/04/2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with paragraph 48 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 (2018), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

- 6.4 Between 20/08/2018 and 01/10/2018 the council carried out public consultation on Main and Additional Modifications to the Local Plan.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.5 The site is Provisional Open Land. Land to the north is within the green belt.

- 6.6 Relevant policies are:

G4 – High standard of design
G5 – Equality of opportunity
G6 – Land contamination
D5 – Provisional Open Land
NE9 – Tree retention
BE1 – Design principles
BE2 – Quality of design
BE11 – Building materials
BE12 – Space about buildings
BE21 – Open space accessibility
BE22 – Accessible parking
BE23 – Crime prevention
NE9 – Retention of mature trees
EP4 – Noise sensitive development
EP10 – Energy efficiency
EP11 – Landscaping and ecology
EP30 – Prolonged construction work
T1 – Transport priorities
T10 – Highway safety
T14 – Pedestrian safety
T16 – Pedestrian routes
T17 – Cycling
T19 – Parking standards
H1 – Housing needs
H6 – Housing allocations
H10 – Affordable housing
H11 – Affordable housing – exceptional circumstances
H12 – Securing affordable housing
H18 – Public open space
R6 – Public open space

Kirklees Draft Local Plan Strategies and Policies (2017):

- 6.7 No allocation is proposed for this site in the emerging Local Plan (as amended by August 2018 modifications). The green belt designation of land to the north is proposed to be retained. Land to the east is within a proposed Wildlife Habitat Network.

6.8 Relevant policies are:

PLP1 – Presumption in favour of sustainable development
PLP2 – Place shaping
PLP3 – Location of new development
PLP7 – Efficient and effective use of land and buildings
PLP11 – Housing mix and affordable housing
PLP20 – Sustainable travel
PLP21 – Highway safety and access
PLP22 – Parking
PLP24 – Design
PLP27 – Flood risk
PLP28 – Drainage
PLP30 – Biodiversity and geodiversity
PLP32 – Landscape
PLP33 – Trees
PLP34 – Conserving and enhancing the water environment
PLP35 – Historic environment
PLP47 – Healthy, active and safe lifestyles
PLP48 – Community facilities and services
PLP49 – Educational and health care needs
PLP50 – Sport and physical activity
PLP51 – Protection and improvement of local air quality
PLP52 – Protection and improvement of environmental quality
PLP63 – New open space

Supplementary Planning Guidance / Documents:

6.9 Relevant guidance and documents are:

- Providing for Educational Needs Generated by New Housing
- Interim Affordable Housing Policy
- West Yorkshire Air Quality and Emissions Technical Planning Guidance
- Kirklees Landscape Character Assessment
- Kirklees Housing Topics Paper
- Kirklees Council Housing Allocations
- Accessibility Assessment

National Planning Policy and Guidance:

6.10 The National Planning Policy Framework (2018) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal. Relevant paragraphs/chapters are:

- Chapter 2 – Achieving sustainable development
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 15 – Conserving and enhancing the natural environment

6.11 Since March 2014 Planning Practice Guidance for England has been published online.

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been advertised via five site notices, a press notice, and letters delivered to addresses abutting the application site. This is in line with the council's adopted Statement of Community Involvement. The end date for publicity was 15/12/2017.

7.2 One representation was received from an occupant of an adjacent property. The following is a summary of the points raised:

- Occupants of two neighbouring properties on Upper Quarry Road have rights of access from their rear gardens to Bradley Road via the rough track that runs north-south. Rear gates to these properties are in close proximity. A single access between these gates and the new estate road may be appropriate (sketch enclosed to illustrate this proposal). Rights of access should be catered for in the proposed layout. This can be achieved without detriment to adjacent dwellings.
- Otherwise no objection to the proposed development.

7.3 Responses to these comments are set out later in this report.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

National Grid – No objection.

Network Rail – No objection in principle to the proposed development, subject to requirements regarding drainage, wayleaves and/or easements, notification, use of machinery and cranes, encroachment, noise/soundproofing, trees, shrubs and landscaping and access to the railway.

Yorkshire Water – Condition recommended regarding drainage for foul and surface water. The submitted Drainage Assessment will require clarification at conditions stage – specifically, the report suggests that surface water would discharge to the public combined sewer via storage with restricted discharge, however no consideration has been given to utilising the dedicated surface water sewer 35m from the site. According to the statutory sewer map, small diameter public combined sewers cross the site – this infrastructure must be taken into account in the development's design. There is an abandoned water main and a live water pipe within the site which will need to be disconnected or diverted if not required.

KC Highways – Sightlines from the site's existing access road onto Bradley Road are adequate in both directions, given the widths of existing footways. Demolition of 32 Bradley Road would provide sufficient space for a 5.5m wide carriageway and two 2m wide footways. The new access would require the existing laybys to the northern side of the carriageway of Bradley Road to be shortened in length by approximately 2.5m, which would allow the larger radii (for the proposed access) to tie into the existing kerb line. The parking layby

on the southern side of Bradley Road would be increased in length by approximately 3m to the east. To improve pedestrian access to the site a pedestrian refuge (approximately 2m wide and 5m long) is proposed west of the altered junction, and a pedestrian build-out is proposed to the southern side of the carriageway within the layby area to provide a pedestrian link to the existing southern footway.

Applicant predicts that the proposed development would generate nine arrivals and 21 departures in the morning peak hour and 20 arrivals and 13 departures in the evening peak hour.

Applicant's parking survey shows that laybys on Bradley Road are well used, especially in the evening. The proposed pedestrian refuge and build-out into the layby would result in a loss of parking on Bradley Road, however to mitigate this impact, four parking spaces would be provided in a layby off the new estate road adjacent, and the layby on the southern side of Bradley Road would be extended in length.

Applicant's queue survey showed that in any time period, of the three approach lanes only one experienced queues which extended as far as 28 and 30 Bradley Road, while the queue lengths in the other two lanes were considerably shorter, extending as far as 20 and 22 Bradley Road. However, officers have carried out a survey on 07/02/2018 (16:30 to 17:20) and observed vehicles queuing past the site's entrance on nine occasions. These queues were in two lanes past the site's entrance, with vehicles frequently encroaching onto the right turn pocket, into the proposed site access, and over the area of carriageway where the pedestrian refuge is proposed. Contrary to the applicant's findings, officers consider that the proposed mitigation works may have a significant impact on the queuing which occurs on the approach to the A62 junction.

Further comment: Acknowledged that there are other sites in Kirklees where turning through queuing traffic is already causing difficulties, however officers cannot support a scheme that would knowingly create another such situation. The existing situation at the site is not condoned (although the queuing that occurs helps relieve pressure), and it should not be made more hazardous. Vehicles turning through queuing traffic into a live lane is one of the major causes of injury accidents in Kirklees due to a lack of intervisibility.

Further comment: Benefit of the proposed pedestrian island is acknowledged – it would improve the crossing facilities on Bradley Road and would also protect vehicles turning right into the development. Officers were previously concerned that these works would have resulted in vehicles queueing in a single lane which could increase the queues to the Bradley Road / Leeds Road junction. However, given that the pedestrian island would leave a carriageway width of 5.1m, officers are now content that vehicles could potentially continue to queue in two lanes, and that this should not have a detrimental effect on queues along this section of Bradley Road.

Although this 5.1m width can allow two lanes of queueing, as demonstrated further along Bradley Road (at the Upper Quarry Road junction, where a pedestrian island exists), a greater (5.5m) width is not stopping vehicles from running over the kerb line. With 5.1m width proposed beside the new island, vehicles can be expected to over-run the footways, which would be hazardous to pedestrians.

Regarding the hazardous intensification of right-turn movement off Bradley Road, a serious injury was recorded at the Upper Quarry Road junction on 16/10/2014 when a motorcyclist was hit by a right-turning vehicle. The proposed intensification of the site entrance's junction would be unsafe due to traffic having to turn through queueing traffic into a live lane.

Yellow boxes are not accepted as a method of mitigating the unsatisfactory situation that the proposed development would create, as they are continually encroached upon. Changes in surfacing colour are considered ineffective. Yellow boxes of longer lengths become increasingly ineffective as it is impossible for a driver to predict when the vehicle in front will stop or start.

KC Strategic Drainage – Objection. On-site attenuation is required, and surface water must discharge from the site at greenfield run-off rates. If this is not feasible, on-site attenuation is required and surface water must discharge at a 70% reduction of the brownfield run-off rate. Discharge rates should only be calculated for the proposed impermeable areas. Further comment: applicant appears to have submitted requested information. Strongly recommend Yorkshire Water be consulted on proposed connection to combined sewer – if they do not accept this proposal, condition recommended. No objection to this connection, or to possible connection to a surface water sewer. No objection to 5.9 litres per second discharge figure. Two further conditions recommended.

8.2 **Non-statutory:**

Police Architectural Liaison Officer – No objection to approval of outline planning permission. At Reserved Matters stage, a condition should require measures to minimise the risk of crime. Proposed visitor parking spaces close to Bradley Road entrance will be vulnerable to casual, opportunistic crime from passers-by as they will not be adequately overlooked and will be remote from the proposed dwellings. Visitors will prefer to park directly outside the house they are attending, and the spaces are unlikely to be used for their intended purpose. Visitor parking should be located to where it is better overlooked and more likely to be used. Further advice provided regarding front boundaries, rear gardens, side boundaries, door and window specifications and lighting.

KC Ecology – No objection. At this outline stage, applicant's Preliminary Ecological Appraisal is sufficient to demonstrate that it is possible to develop the site for residential use while providing a biodiversity net gain, in accordance with relevant local and national policy. Ecological Impact Assessment required at Reserved Matters stage.

KC Environmental Health – Applicant's report and recommendations regarding noise are agreed with. Applicant's contaminated land report is provisionally agreed with, however further clarification regarding gas monitoring is required. Recommend conditions regarding site contamination. Applicant's report and conclusions regarding air quality are agreed with. Air quality condition recommended. Advice provided regarding hours of noisy works. Further comment: applicant's clarification allays concerns regarding gas monitoring.

KC Landscape – Proposed development would require a Section 106 POS contribution of £139,321, if no on-site POS or Local Area for Play is proposed.

KC School Organisation and Planning – Proposed development would require a Section 106 education contribution of £40,008.

KC Strategic Housing – Application welcomed. Within Huddersfield North there is a need for 3-bedroom (and larger) houses, as well as a lesser but still substantial need for 1- and 2-bedroom homes. It is a popular location, with 16% of households planning to move home within Kirklees within the next 5 years citing it as their first choice destination. Kirklees’s interim affordable housing policy seeks 20% affordable housing provision on sites where 11 units or more are proposed. On-site provision is preferred, however a financial contribution in lieu of on-site provision can be acceptable where appropriate. Affordable housing allocation for this development would be seven units. These should be 3-bedroom (or larger) units, to suit the affordable housing needs of the area. Borough-wide, a split of 54% Affordable Rent / 46% Intermediate is appropriate within affordable housing provisions, therefore for this development four Affordable Rent and three Intermediate dwellings would be required.

KC Trees – No objection in principle. Proposed access can be achieved without adverse impact on protected trees. There is, however, insufficient information at this outline stage to enable an assessment of the impact of the proposed layout in detail. Plots 33, and possibly 32 and 36, may be in conflict with the crown spread of the adjacent protected trees, however there appears to be sufficient space on site to accommodate an amended design which allows more space between trees and the new dwellings. Applicant should be advised that layout at Reserved Matters stage will need to take account of the adjacent trees and their shade. Arboricultural Impact Assessment and Method Statement (in accordance with BS 5837) required at Reserved Matters stage.

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity and quality
- Highway issues
- Flood risk and drainage issues
- Ecological considerations
- Trees
- Air quality
- Representations
- Planning obligations and financial viability
- Other planning matters

10.0 APPRAISAL

Principle of development

- 10.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

- 10.2 The NPPF is a material consideration in planning decisions. The current situation regarding housing land supply in Kirklees (discussed below) is a material consideration relevant to applications for residential development. Weight can also be attached to the draft policies of the emerging Local Plan.
- 10.3 Outline planning permission for nine residential units (in part of the site) was granted in 2017 under application ref: 2016/91688. That permission remains extant, is therefore a fallback position in the form of an extant permission that can be implemented, and is a material consideration relevant to the consideration of the current application.
- 10.4 The starting point in assessing this planning application is to ascertain whether or not the proposal accords with the relevant provision of the development plan, which in this case comprises the saved policies of the Kirklees UDP (1999). If a proposal does not accord with the development plan, regard should be had as to whether there are other material considerations, including the NPPF, which indicate that planning permission should be granted.
- 10.5 The NPPF is a Government-issued statement of national planning policy, and is therefore considered an important material consideration, particularly in cases where there are UDP policies that are out-of-date or inconsistent with the NPPF. Paragraph 213 emphasises that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
- 10.6 The NPPF seeks to boost significantly the supply of housing, and sets out how local planning authorities should meet the full objectively-assessed needs for market and affordable housing. This requires a range of measures including identifying a deliverable five-year supply of land for housing. Housing applications should be considered in the context of the presumption in favour of sustainable development, and relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 10.7 As noted in recent appeal decisions, Kirklees is not currently meeting (by a substantial margin) the requirement to identify a five-year supply of housing land. This is important in the context of paragraph 11 of the NPPF which states that, in relation to decision-taking, the presumption in favour of sustainable development means approving development proposals that accord with the development plan without delay, and where there are no relevant development plan policies (or where the policies which are most important for determining the application are out-of-date), granting permission unless i) the application of NPPF policies that protect areas or assets of particular importance provides a clear reason for refusing the development, or ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against NPPF policies taken as a whole.
- 10.8 As the council is unable to demonstrate a five-year housing land supply as required by paragraph 73 of the NPPF, relevant UDP policies relating to housing are considered to be out-of-date. Given the situation regarding housing land supply, with regard to this application and the presumption in favour of sustainable development, the NPPF states that planning permission should only be refused where there are adverse impacts which would significantly and demonstrably outweigh the benefits.

- 10.9 The borough's housing supply record of recent years is also a relevant consideration. This is set out in the council's Housing Supply Topic Paper (2017), where Kirklees's persistent under-delivery is detailed.
- 10.10 The site was designated as Provisional Open Land (POL) in the UDP in 1999, and this designation was retained (saved) by the Secretary of State for Communities and Local Government in 2007. Policy D5 of the UDP states:
- On sites designated as Provisional Open Land planning permission will not be granted other than for development required in connection with established uses, changes of use to alternative open land uses or temporary uses which would not prejudice the contribution of the site to the character of its surroundings and the possibility of development in the longer term.*
- 10.11 With regard to the designation of the site as POL, UDP policy D5 is not considered to be a policy for the supply of housing (with reference to NPPF paragraph 73), and is considered to be up-to-date. The proposed development does not comply with UDP policy D5 as it does not comprise development required in connection with established uses, or the alternative open land uses or temporary uses referred to in the policy. The proposed development constitutes a departure from the development plan.
- 10.12 As noted above, the emerging Local Plan is a material consideration. It sets out a housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum.
- 10.13 In the emerging Local Plan, most of the site was to be allocated as safeguarded land (ref: SL2161), however in the August 2018 modifications to the Local Plan the council proposed to delete this safeguarded land allocation, and show the land as unallocated. Once adopted, therefore, the Local Plan would include no allocation that would act as a barrier to the acceptance of the principle of residential development at this site. Furthermore, although the Local Plan would enable the council to demonstrate a five-year housing supply, and although the council would not be reliant on this particular site to meet its housing targets, it is accepted that windfall sites will also make an important contribution towards housing delivery.
- 10.14 Adoption of the Local Plan is anticipated in early 2019, and at this stage significant weight can be attached to its policies.
- 10.15 In conclusion regarding land use and the principle of development, given the pressing need for housing, the current situation regarding housing land supply in Kirklees, the relevant paragraphs of the NPPF detailed above, the lack of allocation of the site in the emerging Local Plan, the weight that can be attached to the Local Plan, and the previous approval of outline planning permission at part of this site, there clearly are material considerations that together carry significant weight, and that justify acceptance of the principle of residential development at this site. With reference to NPPF paragraph 11, the adverse impacts and benefits of the proposed development are assessed throughout this report, and further conclusions on the balance of planning considerations are drawn in its closing paragraphs.

- 10.16 The above conclusion is supported by the fact that the application site is a suitable location for residential development in relation to sustainability, being located at the edge of an existing settlement, relatively close to sustainable transport options and other facilities. The site is not isolated and inaccessible.
- 10.17 Officers' recommendation to accept the principle of residential development at this largely greenfield site, however, is not given lightly. If this site is to be released for development, public benefit must be clearly demonstrated, the development's impacts would need to be mitigated, and high quality development will be expected. These matters are addressed later in this report, and would require further consideration at Reserved Matters stage.

Urban design issues

- 10.18 Relevant design policies include chapter 12 of the NPPF, UDP policies G4 and BE2, and emerging Local Plan policies PLP2, PLP24 and PLP35.
- 10.19 The application site is located at the edge of an existing, well-established settlement. Residential development exists to the west of the site, and this together with the adjacent railway lines and more scattered development to the north would help the proposed development sit comfortably within its context without appearing as a sprawling, inappropriate enlargement to Bradley. Although the proposed development would be visible from some public vantagepoints, its visual impact would not be significant or adverse in the context of the surrounding development already built, and the nine-unit development previously approved on part of the site. Green belt land to the north of the site would continue to provide green framing around the enlarged settlement.
- 10.20 The proposed site layout shown in drawing 3718 03 rev H must be regarded as indicative, given that the applicant does not seek approval of appearance, landscaping, layout and scale. As this drawing is currently before the council, however, it is appropriate to comment on it, to inform future design work.
- 10.21 The proposed layout is suburban in character. The short terraces proposed by the applicant are an appropriate response to arrangement of existing dwellings nearby. The proposed layout appears to take into account the minimum distances required under UDP policy BE12. Improvements to the proposed layout, however, would be required at Reserved Matters stage, as the current proposal appears too regimented and perpendicular, and more space would need to be provided adjacent to protected trees outside the application site. To address the requirements of UDP policy H18, on-site POS would also need to be shown, unless it is considered that a financial contribution towards off-site provision would be more appropriate.
- 10.22 With 36 units proposed in 1.28 hectares, a density of 28 units per hectare would be achieved. This is less than the 35 units per hectare density specified (and applicable "where appropriate") in Local Plan policy PLP7, and it is noted that the proposed development would involve the demolition of an existing dwelling at 32 Bradley Road. While it is accepted that the site's developable area is reduced by pylons and cables at the north end of the site, and by the narrow southern part of the site (which can accommodate an adequate two-way estate road, but not dwellings along it), and while there may be other influences (such as topography and underground infrastructure) that may affect the developable

area, thorough justification in support of the proposed quantum and density would be needed at Reserved Matters stage, to enable the council to ensure that the site would not be underdeveloped.

- 10.23 Although no proposed elevations have been submitted, with only three unit types proposed across the 36 units, there is a risk that visual variety and interest would be limited, however elevational and roof variations, and additional unit types if necessary, could be secured at Reserved Matters stage, to ensure the development would not appear monotonous and repetitive.
- 10.24 It is not anticipated that the proposed development would adversely affect the significance of nearby heritage assets, however this matter would need to be considered in detail at Reserved Matters stage.
- 10.25 Levelling and regrading of parts of the site may be necessary. Full details of these works, and of any necessary retaining walls and structures, would need to be provided at Reserved Matters stage. Details of boundary treatments and landscaping would also be required at Reserved Matters stage.
- 10.26 Crime prevention measures would need to be incorporated at Reserved Matters stage. The West Yorkshire Police Architectural Liaison Officer has raised concerns regarding the visitor parking spaces proposed close to the Bradley Road entrance, stating that these would be vulnerable to casual, opportunistic crime from passers-by as they would not be adequately overlooked and would be remote from the proposed dwellings. While it is noted that these parking spaces are intended to replace those that would be lost from the laybys on Bradley Road (and aren't intended to be used by visitors to the proposed development), these concerns would need to be addressed at Reserved Matters stage, and any new and replacement parking spaces would need to be located where they are well overlooked and likely to be used.
- 10.27 Any developer of this site would need to make good the side elevation of 30 Bradley Road, once 32 Bradley Road is demolished. To ensure this is achieved satisfactorily, it would be appropriate to re-use stone from the demolished dwelling.

Residential amenity and quality

- 10.28 The principle of residential development at this site is considered acceptable in relation to the amenities of neighbouring residential properties.
- 10.29 The proposed site layout shown in drawing 3718 03 rev H indicates that the applicant has had regard to the minimum distances required by UDP policy BE12. A full assessment of these distances would be carried out at Reserved Matters stage.
- 10.30 The proposed development would result in additional overlooking of neighbouring residential gardens, however the relationships between the proposed habitable room windows and existing private outdoor amenity spaces would not be unusual, and it is not recommended that planning permission be withheld for this reason.

- 10.31 Impacts upon the outlook currently enjoyed by neighbouring residents are considered acceptable. The positioning and likely heights of the proposed dwellings (in relation to the site's boundaries and to the habitable room windows and outdoor amenity spaces of neighbouring properties) would certainly affect existing outlook, but not to an unacceptable degree.
- 10.32 The proposed dwellings would be positioned far enough away from neighbouring properties to not adversely affect the natural light currently enjoyed by existing residents.
- 10.33 In terms of noise, although residential development would introduce (or increase) activity and movements to and from the site, given the quantum of development proposed, it is not considered that neighbouring residents would be significantly impacted. The proposed residential use is not inherently problematic in terms of noise, and is not considered incompatible with existing surrounding uses.
- 10.34 Had approval of outline planning permission been recommended, a condition requiring the submission and approval of a Construction Management Plan would have been applied. The necessary conditions-stage submission would need to sufficiently address the potential amenity impacts of construction work at this site, including cumulative amenity impacts should other nearby sites be developed at the same time.
- 10.35 The quality of the proposed residential accommodation is also a material planning consideration.
- 10.36 Sizes of some of the proposed residential units are of concern. Although the Government's Nationally Described Space Standards (March 2015) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed. For 3-bedroom, 4-person, 2-storey units, the Government recommends a minimum unit size of 84sqm, however during the life of the application the applicant reduced the sizes of the proposed type A dwellings from 100sqm to 80sqm. While this is an unfortunate shortcoming of the proposed development (which would need to be addressed at Reserved Matters stage), given that the applicant does not seek approval of details of appearance, layout and scale at this outline stage, it is not recommended that this matter be included in the recommended reasons for refusal.
- 10.37 All units would benefit from dual aspect, and are capable of being provided with adequate outlook and natural light. Although the overlooking of gardens identified earlier in this report would in some case be reciprocal, for the same reasons as set out above, this is not considered to be a reason for refusal of planning permission or further amendment.
- 10.38 At Reserved Matters stage, the applicant would be encouraged to provide bathrooms (and possibly bedrooms or adaptable rooms) at ground floor level in the larger units, providing flexible accommodation and ensuring that a household member with certain disabilities could live in this dwelling. Dwellings should have WCs at ground level, providing convenience for visitors with certain disabilities.

- 10.39 Drawing 3718 03 rev H suggests that dwellings would be provided with adequate outdoor private amenity space.

Highway issues

- 10.40 The applicant proposes to provide access for pedestrians, cyclists and vehicles from Bradley Road. To widen the existing site access, the applicant proposes to demolish the existing end-of-terrace property at 32 Bradley Road, and provide an access between 30 and 34 Bradley Road, lined with 2m wide pavements either side of the new carriageway. No other access to the site is proposed. A pedestrian refuge (or island) is proposed outside the site, in Bradley Road.
- 10.41 These proposed access arrangements were not proposed or required in connection with the previous nine-unit development approved in 2017 (ref: 2016/91688).
- 10.42 A larger development, with 36 units indicatively proposed, is now before the council. This would create a higher number of vehicle movements than the nine-unit scheme would have generated – according to the applicant’s TRICS-based analysis, the proposed development would generate nine arrivals and 21 departures in the morning peak hour and 20 arrivals and 13 departures in the evening peak hour.
- 10.43 Existing highways conditions at the application site must be noted. Directly outside the site’s existing vehicular access is a right-turn pocket and “keep clear” road markings which aid movements into the site for traffic approaching from the east. Although a single eastbound lane exists directly outside the site, this becomes two lanes to the east of the site’s entrance, and three lanes further east on the approach to the Bradley Road / Leeds Road junction. There is a single westbound lane directly outside the site. The above-mentioned right-turn pocket sits within hatched areas upon which vehicles should not be driven. Either side of the site’s vehicular entrance, wide pavements with parking laybys exist. Parking laybys also exist along the southern pavement. Cycle lanes have been marked out outside the site’s entrance, and these continue westwards along Bradley Road.
- 10.44 The applicant’s queue survey showed that in any time period, of the three eastbound approach lanes (between the site’s entrance and the Bradley Road / Leeds Road junction), only one experienced queues which extended as far as 28 and 30 Bradley Road, while the queue lengths in the other two lanes were considerably shorter, extending as far as 20 and 22 Bradley Road. However, officers carried out a survey on 07/02/2018 (16:30 to 17:20) and observed vehicles queuing past the site’s entrance on nine occasions (at 17:00, 17:03, 17:05, 17:08, 17:10, 17:12, 17:13 and 17:20). Vehicles queued in two lanes past the site’s entrance, with vehicles frequently encroaching onto the right turn pocket. While this unofficial, two-lane queuing (where two lanes are not formally marked out) is not condoned, it is noted that it helps the flow of traffic along Bradley Road, and helps relieve pressure at the nearby Bradley Road / Leeds Road junction.

- 10.45 In this context, the proposed development has triggered an objection from Highways Development Management officers, on highways safety grounds. The main concern is that, when the right-hand eastbound queue is stationary (as it often is), the left-hand lane can still be live (i.e., moving), and drivers approaching from the east and turning right into the application site would not be able to clearly see approaching traffic in the live lane, as their view would be blocked by the stationary queue. This poses an unacceptable highways safety risk, and it is noted that vehicles turning through queuing traffic into a live lane is one of the major causes of injury accidents in Kirklees due to a lack of intervisibility.
- 10.46 During the life of the application, officers have met with the applicant team and have considered their various representations, however none of the measures proposed by the applicant are considered adequate or workable. Traffic lights would be inappropriate for a development of this size and at a location so close to the Bradley Road / Leeds Road junction, and yellow box road markings are considered unlikely to change driver behaviour sufficiently to mitigate the highways safety risk.
- 10.47 It is noted that nine residential units have previously been approved at part of the application site, and that compared with the existing situation, the approved development would increase traffic at the site entrance. Highways Development Management officers have advised that the approved additional nine units are likely to be the most that can be considered acceptable here before the above-mentioned highways safety concerns arise.
- 10.48 The applicant proposes a pedestrian island and build-outs at the site entrance's junction with Bradley Road which, it is acknowledged, would improve pedestrian crossing facilities and would provide some protection for vehicles turning right into the development. Officers were previously concerned that these works would have resulted in vehicles queueing in a single lane which could have increased the queues to the Bradley Road / Leeds Road junction. However, given that the pedestrian island would leave a carriageway width of 5.1m, officers are now content that vehicles could potentially continue to queue in two lanes, and that this should not have a detrimental effect on queues along this section of Bradley Road. However, although this 5.1m width can allow two lanes of queueing, 5.5m width is not stopping vehicles from running over the kerb line at another location further along Bradley Road (at the Upper Quarry Road junction, where a pedestrian island exists). With 5.1m width proposed beside the new island, vehicles can be expected to over-run the footways, which would be hazardous to pedestrians.
- 10.49 Sightlines from the site's existing access road onto Bradley Road are adequate in both directions, given the widths of existing footways.
- 10.50 For the proposed estate road, demolition of 32 Bradley Road would provide sufficient space for a 5.5m wide carriageway and two 2m wide footways.

- 10.51 There is adequate space within the application site for policy-compliant provision of on-site parking and cycle parking for the indicative 36 units, however details of this provision would be considered at Reserved Matters stage. Details of off-site parking spaces, to replace those proposed to be lost from the existing laybys on Bradley Road, would also be considered at Reserved Matters stage.
- 10.52 There are no Public Rights of Way crossing or running adjacent to the application site.

Flood risk and drainage issues

- 10.53 The site is within Flood Zone 1, and is larger than 1 hectare in size, therefore a site-specific Drainage Assessment was submitted by the applicant. This suggested that infiltration at the application site is unlikely to be possible, and the applicant therefore proposed the discharge of surface water to the combined sewer beneath Bradley Road at a rate of 8.7 litres per second. Oversized pipes and crate storage were proposed on site to attenuate up to the 1 in 100 year (plus climate change) rainfall event. Foul water would also be proposed to be discharged to the existing combined sewer. The applicant suggested that the impermeable area within the site would be approximately 0.62 hectares (48% of the total site area).
- 10.54 The Lead Local Flood Authority (LLFA) initially objected to the proposed development, stating that surface water must discharge from the site at greenfield run-off rates, and that, if greenfield run-off proves to be unfeasible, on-site attenuation is required and surface water must discharge at a 70% reduction of the brownfield run-off rate. The LLFA also advised that discharge rates should only be calculated for the proposed impermeable areas.
- 10.55 In response to the LLFA's comments, the applicant submitted a revised Drainage Assessment on 08/05/2018. This proposes the discharge of surface water to the combined sewer beneath Bradley Road at a rate of 5.9 litres per second, which would be achieved through the use of a hydro brake. Again, oversized pipes and crate storage tanks are proposed to attenuate the 1 in 100 year (plus climate change) rainfall event.
- 10.56 In further comments, the LLFA raised no objection to the proposed 5.9 litres per second discharge figure, and noted that the applicant had submitted the required information. Had the application been recommended for approval, the conditions proposed by the LLFA and Yorkshire Water would have been applied, and further consultation with Yorkshire Water may have been necessary, as the applicant appears not to have considered utilising the dedicated surface water sewer that, according to Yorkshire Water, exists 35m from the site.

Ecological considerations

- 10.57 Land to the east of the application site is within a proposed Wildlife Habitat Network.

- 10.58 The applicant has submitted a Preliminary Ecological Appraisal (PEA) which states that the proposed development is not predicted to result in any significant effects on protected species. The PEA also recommends tree retention where possible, compensatory treeplanting, preparation and implementation of an Invasive Weeds Management Plan (as Himalayan balsam is present at the site), and carrying out of works outside the main bird nesting period of March to August (inclusive). The PEA found negligible potential for bats at the site, and recommends no further surveys or mitigation in relation to bat roosts, but notes that bat activity surveys may be necessary between May and August/September if trees at the site margins are to be removed or affected by artificial lighting. The PEA found that Great Crested Newts are not likely to be present at the site, that the site has low potential for reptiles, and that no evidence of badgers was observed at the site.
- 10.59 The council's Biodiversity Officer has raised no objection to the proposed development, stating that, at this outline stage, the applicant's PEA is sufficient to demonstrate that it is possible to develop the site for residential use while providing a biodiversity net gain, in accordance with relevant local and national policy (including policy PLP30 of the emerging Local Plan and chapter 15 of the NPPF). It is noted, however, that further consideration of these matters, and an Ecological Impact Assessment, will be required at Reserved Matters stage.

Trees

- 10.60 The site is not within a conservation area, and no trees within the site are protected by Tree Preservation Orders (TPOs). TPOs 10/00/t1, 10/00/t2, 10/00/t4, 10/00/t7 and 10/00/g2 protect trees to the west of the site, close to the application site boundary.
- 10.61 The council's Arboricultural Officer has raised no objection in principle to residential development at this site, and is satisfied that the proposed access into the site can be achieved without causing unacceptable harm to protected trees. There is, however, insufficient information at this outline stage to inform and enable a detailed assessment of the impact of the proposed layout. Plots 33, and possibly 32 and 36, may be in conflict with the crown spread of the adjacent protected trees, however there appears to be sufficient space on site to accommodate an amended design which would allow more space between trees and the new dwellings. Any proposed layout brought forward at Reserved Matters stage would need to take account of the adjacent trees and their shade, and an Arboricultural Impact Assessment and Method Statement (written in accordance with BS 5837) would be required at that stage in support of detailed proposals, to demonstrate compliance with UDP policy NE9 and policy PLP33 of the emerging Local Plan.

Air quality

- 10.62 Air Quality Management Area 1 (Bradley Road / Leeds Road junction) has been designated to the south of the application site, and covers a small part of the site at 32 Bradley Road. The designation relates to elevated levels of Nitrogen Dioxide.

- 10.63 Environmental Health officers were consulted on the proposed development, but did not raise concerns regarding the principle of residential development at this site, nor regarding impacts the additional traffic generated by the proposed development would have upon the adjacent Air Quality Management Area. A condition requiring the provision of electric/hybrid vehicle charging points would also have been recommended, had the proposed development been recommended for approval.

Representations

- 10.64 One representation was received in response to the council's consultation. The points raised relate to access to the rear of two existing properties on Upper Quarry Road. Although these are private matters to be resolved between those neighbouring occupants and the developer, it is noted that the proposed layout shown on drawing 3718 03 rev H appears capable of accommodating the requirements of those neighbouring occupants.

Planning obligations and financial viability

- 10.65 To accord with policy H10 of the UDP, emerging Local Plan policy PLP11 and the Kirklees Interim Affordable Housing Policy, seven of the 36 units proposed would need to be provided as affordable housing (four for Affordable Rent and three Intermediate). Given the need to integrate affordable housing within developments, and to ensure dwellings of different tenures are not visually distinguishable from each other, affordable housing would need to be pepper-potted around the proposed development.
- 10.66 The council's Education department were consulted and commented that a contribution of £40,008 would be required, based on the applicant's current indicative layout which illustrates 36 residential units. Following further design work, however, the unit number proposed at Reserved Matters stage may trigger the need for a larger or smaller contribution.
- 10.67 No POS has been illustrated or annotated on the applicant's indicative site layout plan. With no on-site POS or Local Area for Play, the proposed development would require a Section 106 POS contribution of £139,321.
- 10.68 Following the submission of the planning application, the applicant submitted financial viability information and commentary which states that with or without Section 106 obligations relating to affordable housing, education and POS, a negative net site value is arrived at, and that the proposed development is not viable. The applicant has cited depressed and stagnant house prices in the area as a major reason for the proposed development being unviable.
- 10.69 The council's independent viability consultants, RLB, have reviewed the applicant's viability information, and have undertaken a further assessment using the applicant's and RLB's own figures and allowances. RLB have also concluded that the proposed development is not viable, would not deliver an acceptable level of profit to a potential developer, and that the redevelopment of the site cannot meet any affordable housing requirements nor any other planning obligations and be viable.

10.70 Given that the proposed development would be unviable even without Section 106 obligations (the applicant accepts that it is unlikely that the proposed development would proceed in the near future without house prices in the area rising, or construction costs reducing), it is appropriate to question why a planning application for an apparently undeliverable scheme was submitted, and whether such a scheme (the impacts of which would not be mitigated) should be granted planning permission. As noted above, officers' recommendation to accept the principle of residential development at this largely greenfield site is not given lightly, and if this site is to be released for development, public benefit must be clearly demonstrated, the development's impacts would need to be mitigated, and high quality development will be expected. The proposed development currently before the council is apparently unlikely to be delivered, does not include on-site POS or affordable housing or financial contributions towards education or off-site POS or affordable housing, would not contribute towards meeting known housing need, would not provide adequate, usable outdoor space for its residents, would not make adequate provision for education, and would not sufficiently mitigate its impacts. Emerging Local Plan policies would not be complied with, and a second reason for refusal is recommended.

Other planning matters

10.71 With regard to ground contamination, amended information was provided by the applicant on 12/12/2017 in response to Environmental Health officers' initial comments. Officers had queried why the applicant had proposed a gas monitoring programme involving six site visits over three months, when relevant guidance recommends 24 visits over 12 months. The applicant clarified that six visits over three months is proposed as a minimum monitoring regime that may need to be extended depending on the initial results. Environmental Health officers were satisfied with this clarification. Had the proposed development been recommended for approval, appropriate conditions would have been recommended by officers to ensure compliance with UDP policy G6 policy and PLP53 in the emerging Local Plan.

11.0 CONCLUSION

11.1 The application site is allocated as Provisional Open Land in the UDP (saved policies), but is without allocation in the emerging Local Plan. Residential development of the site would be contrary to UDP policy D5, however having regard to a range of considerations (including the pressing need for housing, the current situation regarding housing land supply in Kirklees, the lack of allocation in the emerging Local Plan, and the previous approval of residential development at part of this site), it is considered that the principle of residential development at this site can be accepted.

11.2 The proposed development, however, raises significant concerns in relation to highways safety. The evidence and mitigative measures proposed by the applicant do not allay these concerns. Due to its detrimental impact on highway safety, the proposed development would be contrary to Kirklees Unitary Development Plan policy T10 and Kirklees Publication Draft Local Plan policy PLP21, and cannot be supported.

11.3 The proposed development would also fail to sufficiently mitigate its impacts due to its lack of on-site affordable housing and POS, and the lack of financial contributions related to affordable housing, POS and education.

12.0 Reasons for refusal:

- 1) The proposed development would intensify right-turn movement off Bradley Road through queuing traffic across a live lane at a location with poor intervisibility, and would increase the risk of vehicles running over the footway. The proposed development would therefore have a detrimental impact on highway safety. This would be contrary to Kirklees Unitary Development Plan policy T10 and Kirklees Publication Draft Local Plan policy PLP21.
- 2) The proposed development, due to its lack of on-site affordable housing and Public Open Space, related financial contributions to address these requirements off-site and a financial contribution towards education provision, would not sufficiently meet known housing need, would not provide adequate, usable outdoor space for its residents, would not make adequate provision for education, and would not sufficiently mitigate its impacts. This would be contrary to Kirklees Unitary Development Plan policy H18, Kirklees Publication Draft Local Plan policies PLP4, PLP11, PLP49 and PLP63, and chapters 5, 8 and 12 of the National Planning Policy Framework.

Background Papers:

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f93847>

Certificate of Ownership – Certificate B signed

Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 13-Dec-2018

Subject: Planning Application 2018/92785 Change of use of land to pub garden and play area The Sun, 137, Highgate Lane, Lepton, Huddersfield, HD8 0HJ

APPLICANT

Donna Brayshaw

DATE VALID

24-Aug-2018

TARGET DATE

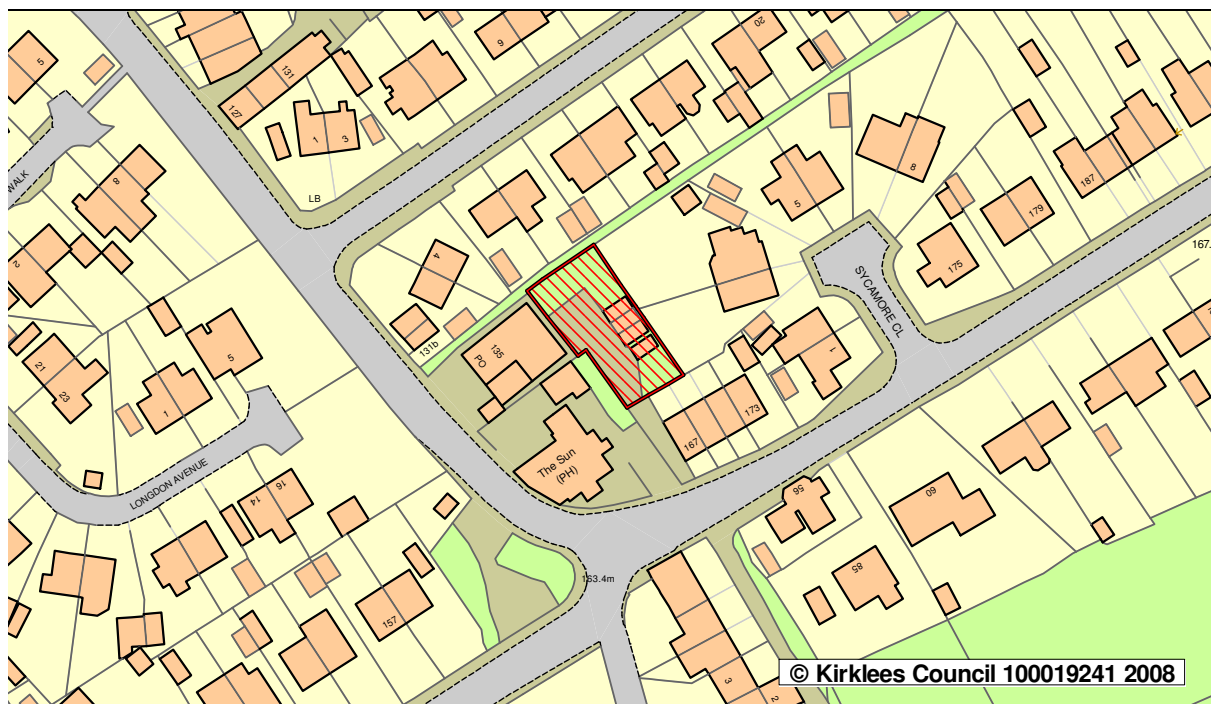
19-Oct-2018

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: Almondbury

N

Ward Members consulted

RECOMMENDATION: Refuse

1. The proposed pub garden and play area by reason of its proximity to surrounding residential dwellings and the nature of the operation of the development would lead to occupiers of these dwellings being subject to unacceptably high levels of noise and disturbance for extended period of times throughout the day, to the detriment of residential amenity. To approve such an application would be contrary to Policies D2 (Criterion v) and EP4 of the Kirklees Unitary Development Plan, Policy PLP52 of the publication draft Local Plan and guidance contained within Chapter 12 of the National Planning Policy Framework.

2. The proposed development would conflict with extant planning permission 2017/91862 which granted permission for extensions to the host public house and formation of a car park. To permit such a development would significantly reduce the amount of available parking for the potentially enlarged public house leading to indiscriminate on-street parking to the detriment of highway safety. In light of the above the application is not considered to adhere with Policies T10 or Policy T19 of the Unitary Development Plan, Policies PLP21 and 22 of the publication draft Local Plan and guidance contained within the National Planning Policy Framework.

1.0 INTRODUCTION:

1.1 This application is brought to Sub-committee at the request of officers for the following reason:

'The Sun Inn is a community facility which hosts the community library and 2 computers under 'the pub is the hub' initiative. However, it is also noted that the application site and considered equipped play area is located close to a number of residential properties. As such it would be beneficial for members to consider the conflicting material considerations in the assessment of the current application.'

1.2 The Chair of Sub-committee has confirmed that for the above reasons for making the request are valid having regard to the Councillors' Protocol for Planning Committees.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application relates to the Sun Inn (known as 'The Sun') in Lepton. It forms a traditional two storey stone-built property, with a number of alterations and extensions having taken place. The site as existing has a landscaped and equipped play and seating area to the north to which the current application relates. The Sun Inn currently hosts two council computer terminals under 'the pub is the hub' initiative and provides a community library.
- 2.2 The site is surrounded by primarily low-density residential development, of mixed design and character. The site is semi-rural in character with large swathes of Green Belt in close but not immediate proximity to the site. The building itself is adjacent to a convenience store and first floor flat at 135/135a Highgate Lane, and is surrounded on all other sides by residential properties along Rowley Lane, Sycamore Close and Highgate Avenue.

3.0 PROPOSAL:

- 3.1 The application proposes the change of use of previously derelict land, which as noted in a 2017 planning application hosted various detached sheds and garages, to a seating area and equipped play area associated with The Sun.
- 3.2 Works to the land have already been completed and as such the site now presents with landscaped and sectioned floor areas consisting of wood chip, Astroturf and soft surfacing associated with a children's play area. The area is well provisioned with a timber climbing frame, swings and a mini-golf course. Boundary treatment consisting of a 2m high close boarded timber fence encloses the site while access is offered via a timber swing gate complete with locking mechanism.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 89/01687 – Dormer kitchen extension to public house (Granted Conditionally)
89/05573 – Variation of Condition 2 (Granted Conditionally)
86/03984 – First floor extension to dining/kitchen (Granted Conditionally)
2017/91862 – Erection of two storey side extension with balcony and formation of new car park (Conditional Full Permission)

Enforcement History

- 4.2 COMP/18/0183 – alleged unauthorised change of use and formation of beer garden/play area. The planning application before Members was submitted to regularise this matter.

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

- 5.1 No negotiations were undertaken regarding this application.

6.0 PLANNING POLICY:

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was 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 Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 48 of the National Planning Policy Framework (2018). 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 (2018), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

6.2 The site is unallocated on the UDP Proposals Map.

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

- D2 – Unallocated Land
- BE1 – Design Principles
- BE2 – Quality of Design
- EP4 – Noise sensitive development

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

The site is without allocation or designation in the publication draft Local Plan

6.5 Kirklees Publication Draft Local Plan Policies:

- PLP1 – Achieving Sustainable Development
- PLP24 – Design
- PLP48 – Community facilities and services
- PLP52 – Protection and improvement of environmental quality

6.6 National Planning Guidance:

- Chapter 1 – Achieving Sustainable Development
- Chapter 4 – Decision-making
- Chapter 8 – Promoting healthy and Safe Communities
- Chapter 12 – Achieving well-design places
- Chapter 15 – Conserving and Enhancing the Natural Environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised by site notice and letter to the occupants of neighbouring dwellings. The public consultation period expired on 03rd October 2018.

7.2 A total of 9 public representations were received objecting to the scheme while a total of 22 public representations have been received in support of the application.

8.0 CONSULTATION RESPONSES:

8.1 Non-statutory:

KC Environmental Health – Object to the proposal (formal consultation)

Kirkburton Parish Council – Object to the proposed on grounds of residential amenity

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

10.1 The site is without notation in the UDP Proposals Map and Policy D2 (development of land without notation) of the UDP states:

‘Planning permission for the development... of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]’. All these considerations are addressed later in this assessment.

10.2 The general principle of making design alterations to a property or land are assessed against Policies BE1 and BE2 of the Unitary Development Plan (UDP) and advice contained within Chapter 12 of the National Planning Policy Framework (NPPF). These require, in general, balanced considerations of visual and residential amenity, highway safety and other relevant material considerations.

10.3 The Sun Inn currently hosts two council computer terminals under ‘the pub is the hub’ initiative and provides a community library. It is therefore considered that the pub provides a wider community benefit to the local area than just the provision of a public house and the wider community benefit from the development needs to be considered.

- 10.4 Chapter 8 of the National Planning Policy Framework (NPPF) advises that planning decisions should aim to achieve healthy, inclusive and safe places which:
- 'a) Promote social interaction, including opportunities for meetings between people who might not otherwise come into contact'*
- 10.5 This is also reflected in Policy PLP48 of the Publication draft Local Plan which advises that proposals which protect, retain or enhance existing community facilities will be supported.
- 10.6 It is noted that previous planning permission 2017/91862 for the erection of a two storey side extension with balcony and formation of a new parking area was identified as promoting The Sun Inn as a community facility. This application served to increasing the capacity of the pun in a sustainable way and offering additional parking, making the pub more accessible. This permission, while not implemented remains extant and could still be developed should the application wish to do so.
- 10.7 However, in the instance of this retrospective application it is identified that the considered play area itself does not represent a community facility in its own right. Indeed the applicant has not submitted any information to suggest that the equipped play area is for the development of a community facility. Rather officers believe that the proposed is more concerned with the future viability of the pub business. Equally, it is noted that this application conflicts with the 2017/91862 permission being located on land previously approved for a car park. As such, the proposed arguably serves to reduce the accessibility of The Sun. In respect of the surrounding area it is noted that a number of other businesses including Fenay Bridge Pub & Grill and Harvey's Bar and Kitchen have a similar offering and are located within a mile of The Sun.
- 10.8 In light of the above officers advise that little weight is afforded to the development of a community facility. The application will therefore be assessed as having regard for other material planning considerations including visual amenity, residential amenity, highway safety and any other material planning considerations.

Urban Design issues

- 10.9 The application proposes the change of use of land described as being derelict to a seating and equipped play area associated with The Sun Inn. As development has already been completed a full consideration and assessment can be made.
- 10.10 The change of use of the land would not introduce additional built form associated with The Sun Inn but would rather create a landscaped area hosting equipment associated with a beer garden: child's climbing frame, seating area and an area for crazy golf. Landscaping materials, although vibrant in colour (green and blue) are not considered to create an overly prominent feature and in any case much of the floor area is covered in wood chippings creating an overall neutral colour scheme. As such the proposed is believed to offer a refreshed look, creating an attractive play and outdoor recreational area.

- 10.11 Furthermore, it is noted that the play area is well delineated from residential properties by a close boarded timber fence and its position to the rear (north) of The Sun Inn, limiting direct views of the area. As such, the scheme is not considered to create an intrusive development that would harm the visual amenity enjoyed by the residents of surrounding dwellings. Rather the proposed is anticipated to enhance the visual amenity of this previously un-kept area. In this respect the application is considered to comply with Policies BE1 and BE2 of the Unitary Development Plan and Policy PLP24 of the Publication draft Local Plan and guidance contained within Chapter 12 of the National Planning Policy Framework (NPPF).

Residential Amenity

- 10.12 Consideration also needs to be given to the impact of the proposed development on the residential amenity enjoyed by neighbouring dwellings. The proposed change in use of land from derelict area or indeed a car park, as granted under permission 2017/91862 is a considerable intensification in used with greater potential to create noise nuisance. This is particularly pertinent given that the application site is bounded to all sides by residential properties.
- 10.13 On the basis of the above a consultation request was made to KC Environmental Health who returned the following concerns:
- ‘... I have serious concerns that there will be a detrimental effect on the amenity of the neighbouring residential due to noise. The use is likely to bring about an increase use of outdoor areas of the pub, particularly in the summer months when the weather is warmest...’*
- 10.14 Officers would agree with the above assessment, especially given that the garden spaces of neighbouring dwellings bound immediately onto the play area. Furthermore, given the equipped nature of the play area and relative size it is anticipated that it may result in use by large groups of people engaging in high intensity activities. This is believed to offer a greater potential of harmful noise generation over and above that which might be generated by a seating area or car park. Environmental Health have advised that they have received complaints in relation to noise nuisance from the Sun Inn.
- 10.15 During the assessment of the application consideration has been given to restricting times of use. However, given the direct relationship to neighbouring residential dwellings and the nature of a Pub whereby later opening hours are preferred it is not believed that a reasonable compromise could be reached between all parties. Furthermore, it is acknowledged that there is not clear surveillance of the car park from the pub and so enforcing hours of use is considered to be particularly difficult and onerous.
- 10.16 In this regard it is offered that the play area would be illuminated with up and down lights located to the top of each fence panel and spaced at regular intervals. However, such illumination is itself considered to present unacceptable harm to residential amenity. While it is noted that the previously approved car park would have been illuminated it is advised that a condition was attached to this permission requiring that any illumination was low level and attached only to the north east boundary so as to preserve residential amenity to an acceptable degree.

10.17 On balance, weighing the community benefit against the harm to neighbouring residents the above the application is considered to be inappropriate development presenting significant harm to the residential amenity. As such the application fails to improve the existing environment in respect of residential amenity, thereby falling short of the guidance offered in Policies D2 and EP4 of the Unitary Development Plan, Policy PLP52 of the publication draft Local Plan and guidance contained within Chapter 12 of the National Planning Policy Framework (NPPF).

Highway issues

10.18 A previously approved planning application (2017/91862) granted permission for the conversion of the site to a car parking area offering a total of 12 spaces inclusive of one disabled parking bay.

10.19 Within the 2017 officers report it was noted that the increase in available floor space, approximately 121 sq m, would be to a certain extent be offset by the net gain of 7 parking spaces. However, this current permission conflicts with the 2017 permission in that the play area is located on land previously approved for the car park. The applicant has not offered to enter into a s106, whereby they would forego the previous 2017 permission nor has this been explored.

10.20 Consequently, should planning permission be granted for the play area the applicant could effectively 'cherry pick' the parts of the permission which are to their benefit. Potentially increasing the size of the business premises and providing a pub garden while omitting parking provisions. Such arrangements could result in indiscriminate on-street, informal parking in this area of the highway network. This is particularly concerning given the location of The Sun, adjacent to a mini-roundabout and on a busy road through the village. The above concerns are echoed by KC highway service officers who object to the development on this basis.

10.21 In light of the above the application is considered to be contrary to policies T10 and T19 of the Unitary Development Plan, Policy PLP21 of the publication draft Local Plan and guidance contained within the National Planning Policy Framework (NPPF).

Representations

10.22 A total of 9 public representations were received objecting to the proposed development and 22 in support of the application. The representations received are individually considered below:

Representations Objecting:

- It has been advised that officers have considered conditioning hours of use should planning permission be granted. In such an instance occupiers of neighbouring dwellings would want to know how such restrictions on hours of use would be enforced

Comment: Consideration was initially given to limiting hours of operation via planning condition however, given the nature of the proposed business is not believed that a realistic compromise could be achieved. As such the application is being put forward with a recommendation for refusal.

- The area surrounding the application site is residential. Users of the garden would not need to shout to be disruptive. Socialising is noisy and when combined with play facilities and alcohol would create a lot of disturbance

Comments: Objection noted. The application will be recommended for refusal at committee.

- What about parking? The Sun Inn believed they need additional parking on the 2017 application and nothing has changed since then.

Comment: The loss of parking is noted as part of this application.

- Noise produced by the play / beer garden has greatly affected my family. We are not able to enjoy our garden on war days / weekends and the children have been kept awake at bedtime.

Comment: Objection noted.

- The loss of a car parking area and limited parking is already an issue for local residents. The lower part of Highgate Avenue is already used by people visiting the pub, local shop and post office. Car are often parked close to the junction with Highgate Lane creating highway safety issues.

Comment: Objection noted. The application is being put forward with a recommendation for refusal.

- Should a time restrictions be placed on hours of operation who would be responsible for policing the use of the pub garden.

Comment: Objection noted. The application is being put forward with a recommendation for refusal.

- A restriction on operational use of the pub garden until 09:00pm is unacceptable as young children are in bed long before this hour. It is also advised that the pub does not benefit from dedicated parking and results in cars being parked (on the pavement) along Rowley Lane.

Comment: Objection noted. A condition to restrict hours of use was not put forward as part of negotiations. Rather following the objection from Environmental Health a decision was made to make a recommendation for refusal.

- An objection to the proposal on the basis of noise pollution and paraphernalia associated with the beer garden coming over garden fences (golf balls and bottle corks). Should planning permission be granted this may set a precedent for future, more disruptive functions e.g. wedding venue and live music.

Comment: Objection noted. The application is being put forward with a recommendation for refusal.

- How has this been allowed to happen in a residential area? Why did it take till now for local residents to be informed by the council? How long will the restricted hours be in place?

Comment: Development may be undertaken without prior planning permission, although this is at the risk of the owners, who in the case of the Sun Inn may be required to apply for planning permission retrospectively. The application was publically advertised as soon as the application was received. This was in the form of both a site notice and neighbour letter. No restrictions on hours of operation have been proposed. The application is recommended for refusal.

- Concern with local councillor connections with the pub. Councillor meetings have been held in the pub and the offer of the Sun Inn keeping the flower beds in Lepton Square there may be bias in favour of the application.

Comment: Objection noted. The application is being put forward with a recommendation for refusal.

Representations in support

- The new play area is a great addition to the local pub which also includes the community library. Not a local, both myself and family members travel to use the facilities available. This is a great improvement for the local community and would not result in additional traffic as next to busy co-op and fish and chip shop.

Comment: Comments noted.

- We should be praising the hard work and commitment of Donna and Carl who have invested in creating something fantastic like a play area for our community.

Comment: Noted

- I can see absolutely no reason why anyone should object to this. Perhaps more people should have the same sense of community as the applicant.

Comment: Noted.

- I have noticed no difference in noise to before. In fact it is nice to look out and see families enjoying themselves. It looks a lot better than the waste ground before.

Comment: Comments Noted.

- The beer garden and play area is a welcome addition to this very nice little public house and allows families to enjoy the outside facilities of the pub away from the busy road. Would it not be possible to mitigate the issue (noise pollution) by way of acoustic measures (acoustic fencing) and planting of conifer type trees? This is a great improvement to the visual amenity of the site.

Comment: Environmental health were consulted regarding this application and due to the proximity of neighbouring residential properties mitigating measures were not considered sufficient.

- Superb use of the land making the pub have a family feel about it. Children can play safely as there are tables outside and it has a large path as well as being set back from the road. It has been quiet whenever I have visited so cannot see any noise as being disruptive to anyone.

Comment: Comments noted.

- This is a wonderful place to go and have a family day out in the playing garden well friendly safe and quiet.

Comment: Noted

- Donna and Carl have made it the best place to go in Lepton from the warm greeting you get the library and now the fantastic park facilities for our children.... We should be very grateful for everything they do.

Comment: Noted

- This is an absolutely fabulous use of previously unused land. A real community facility, well managed and providing a safe place for local children to play.

Comment: Noted

- Friendly atmosphere, well thought out safety for kids! Lepton has not had something so great since the Sun Inn made it happen. The Sun Inn has always been great with supporting the Lepton community by adding new features and giving the community (what it) really wanted, including a community library.

Comment: Noted.

- This is a great and much needed addition to Lepton Village. Very safe and secure for the kids and a good way to bring the community together.

Comment: Noted.

- The pub (has) to make this area into a useful and nice looking area for families to use. As before the area was an over grown mess and wasn't used for anything.

Comment: Noted.

- The pub garden is amazing and is good for families, We always have an amazing time here and it is amazing to have in Lepton as there is nowhere else lie this.

Comment: Noted.

- Donna has made a good facility here for those with children wishing to call in the pub for drinks or coffee and cake. It's tidy and safe for families,

Comment: Noted.

- Lepton village is home to two different schools, the Sun Inn, with the new outdoor children's area could be very useful for children to meet each other and make friends before going to junior/high school.

Comment: Noted.

- The outside play area at the Sun is a bright and colourful addition that only adds to the community. Lepton village is home to so many families with children who can enjoy the area time and time again.

Comment: Noted.

- This change of land benefits families, couples and may individuals in the surrounding area. It provides a place for young children to play as well as adding aesthetic advantages to the land that was previously unused,

Comment: Noted.

- A beer garden and play area is what Lepton needs. I hope you will see that the community will benefit from this lovely family area.

Comment: Noted.

- This is a very good idea that's good for the local community and for the local children.

Comment: Noted.

- The new pub garden has been beautifully done and is a real asset to a village that has few amenities. The Brayshaws have a real heart for the community and I fully support this venture.

Comment: Noted.

Kirkburton Parish Council – The Parish Council has concerns that this application was made retrospectively and is already causing problems for local residents. The Parish Council objects to the development on the grounds that it is detrimental to the residential amenity, as it causes noise nuisance and there has been evidence of items (some of a substantial nature) being thrown from the beer garden into resident's gardens. This is an obvious safety hazard. Should officers be minded to approve the application, the Parish Council requests that suitable time restrictions are imposed on the permission.

Other Matters

10.23 Biodiversity and Ecology

Although the application site is located within a bat alert area, it is not identified on the maps as having a bat roost. Equally neither the pub or equipped play area is identified as having any significant bat roost potential and indeed all works have been completed. Notwithstanding this, a note recommending that the advice of licensed bat work should be sought if any bats are found during the development. If this application is approved this note would be relayed on the applicant via the decision notice, for the proposal to comply with the guidance contained within the NPPF.

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 whole constitute the Government's view of what sustainable development means in practice.
- 11.2 While the proposed change of use to a pub garden and play area provides guests the opportunity to enjoy what is considered to be a well finished area is believed to represent an intensification over and above the current use. This is considered to be particularly harmful given the proximity of surrounding residential dwellings.

Background Papers:

Website link to be inserted here: <http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f92785>

Certificate of Ownership –Certificate A signed.

Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 13-Dec-2018

Subject: Planning Application 2018/93508 Reserved matters application pursuant to outline permission 2016/91502 for erection of one detached dwelling Adj, 1, Spring Lane, Holmfirth, HD9 2LN

APPLICANT

Mr Cruickshank

DATE VALID

23-Oct-2018

TARGET DATE

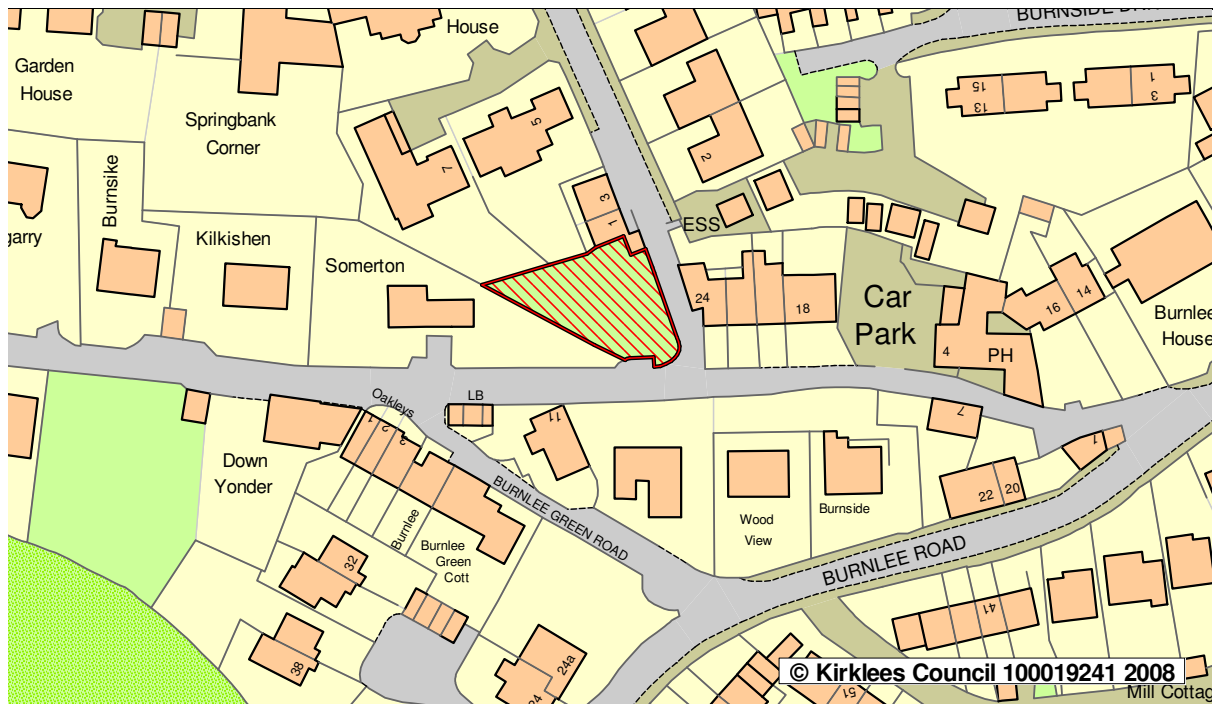
18-Dec-2018

EXTENSION EXPIRY DATE

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Holme Valley South

No

Ward Members consulted

RECOMMENDATION

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

1.0 INTRODUCTION

- 1.1 This application seeks reserved matters approval for the erection of a detached dwelling.
- 1.2 The application is brought to committee at the request of Ward Councillor Nigel Patrick. This is on the grounds of objections over overlooking and the impact on amenity of residents at a neighbouring dwelling.
- 1.3 The Chair of Sub-Committee confirmed that Cllr Patrick's reason for making this request is valid, having regard to the Councillors' Protocol for Planning Committees.

2.0 SITE AND SURROUNDINGS

- 2.1 The application relates to a triangular shaped plot on the junction with Spring Lane and Liphill Bank Road. The site previously consisted of low level scrub vegetation with mature trees in close proximity to the south-western boundary. The site has been cleared, with the trees retained, as development has commenced.
- 2.2 The site is bound by a stone wall. As part of an outline application approved on site a new stone wall, access and pavement have been installed on the east elevation.
- 2.3 To the north, the site adjoins the boundary of no. 1 Spring Lane and private amenity areas of nos. 5 and 7 Spring Lane. There is a small residential terrace block to the east with the gable of no. 24 Liphill Bank Road containing what appear to be non-habitable room openings overlooking the application site. To the west of the site is the detached dwelling Somerton with its associated curtilage.

3.0 PROPOSAL

- 3.1 The proposal seeks reserved matters approval for the erection of a two-storey dwelling a single storey side section. The application is submitted pursuant to previous permission 2016/91502, which granted outline permission with access. The reserved matters under consideration are scale, layout, appearance and landscape.
- 3.2 The dwelling is to be located within the north portion of the site and is to have a roughly rectangular footprint with the widest and deepest sections measuring 13.4m and 9.5m respectively (inc. the side section), incorporating the two storey dwelling and integral single garage. The dwelling is to provide 140sqm internally and be 4 bed.
- 3.3 The dwelling is to be faced in natural stone with blue slate roofing. Openings are proposed on the front, rear and east facing side elevations. The first floor rear windows and Rooflights are to be obscure glazed.
- 3.4 The area to the front of the dwelling is to be surfaced. Garden space is to be located to the east of the site. A 1.8m high timber closed boarded fence is to be erected along the east boundary with Somerton.
- 3.5 Development has commenced on site. The site does benefit from permission for the erection of a single dwelling (comprising outline, 2016/91502, and reserved matters, 2017/93648) however the development taking place is that proposed, not that approved. The principal difference between the proposed and approved scheme is the location of the garage, which in the approved scheme is within the single storey side section.

4.0 RELEVANT PLANNING HISTORY (including enforcement history)

4.1 Application Site

2012/90233: Outline application for erection of dwelling – Refused (Dismissed at appeal)

2013/91179: Outline application for erection of detached dwelling – Conditional Outline Permission

2016/91502: Outline application for erection of one detached dwelling – Conditional Outline Permission (Allied Application)

2016/93867: Discharge Condition 5 (highways) on previous permission 2016/91502 for outline permission for erection of one dwelling – Discharge of Conditions Approved

2017/93648: Reserved matters application pursuant to outline permission 2016/91502 for erection of one detached dwelling – Grant Reserved Matters

4.2 Surrounding Area

Spring Bank (To the north)

2006/92882: Erection of two detached dwellings with integral garages and detached garage for existing house (modified proposal) – Conditional Full Permission (Implemented)

5.0 **HISTORY OF NEGOTIATIONS (including revisions to the scheme)**

5.1 Discussions were held over mitigating the potential harm to the amenity of neighbouring residents. This resulted in details of a boundary fence being included within the proposal.

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 Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 48 of the National Planning Policy Framework (2018). 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 (2018), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

6.2 On the UDP Proposals Map the site is Unallocated.

6.3 The site is Unallocated on the PDLP Proposals Map.

6.4 Kirklees Unitary Development Plan (UDP) Saved Policies 2007

- **D2** – Unallocated land
- **NE9** – Retention of mature trees
- **BE1** – Design principles
- **BE2** – Quality of design
- **BE11** – Building materials
- **BE12** – Space about buildings
- **T10** – Highways accessibility considerations in new development
- **H1** – Housing (Strategy)

6.5 Kirklees Publication Draft Local Plan

- **PLP1** – Presumption in favour of sustainable development
- **PLP2** – Place sharpening
- **PLP3** – Location of new development
- **PLP21** – Highway safety and access
- **PLP24** – Design
- **PLP30** – Biodiversity and geodiversity
- **PLP33** – Trees
- **PLP51** – Protection and improvement of local air quality

6.6 National Planning Policy Framework

- **Chapter 2** – Achieving sustainable development
- **Chapter 4** – Decision making
- **Chapter 5** – Delivering a sufficient supply of houses
- **Chapter 12** – Achieving well-designed places

7.0 **PUBLIC/LOCAL RESPONSE**

7.1 The application has been advertised via site notice and through neighbour letters to addresses bordering the site. This is in line with the Council's adopted Statement of Community Involvement.

7.2 The end date for public representations is due to end on the 11th of December, 2018. As such the period of publicity will not expire until after the report for subcommittee has been published. Representations received prior to publishing are detailed below. Any further representations received will be reported to members in the update.

7.3 At the time of publishing, no formal objections have been received. However informally concerns and objections have been expressed to officers by residents from one neighbouring household. These relate to overlooking and loss of privacy.

Holme Valley Parish Council

7.4 '*Object to the application due to loss of off-road parking and turning area for vehicles (so would have to reverse out) due to safety issues. Entry/exit must be in forward gear. Concerns also that development has already started to new plans (not ones with outline application)*'.

Local Ward Member Interest

7.5 The site is within Holme Valley North Ward. As noted within the introduction Councillor Nigel Patrick has expressed concerns over the proposal's impact upon the amenity of neighbouring residents through overlooking and a loss privacy.

7.6 Councillor Patrick has requested that the application be deferred until the next planning committee, citing that the public representation period does not expire until after the committee report is published, with concerns that officer's recommendation is premature.

8.0 CONSULTATION RESPONSES

8.1 Statutory

None required.

8.2 Non-statutory

K.C. Trees: An informal discussion was held. No objection, with no conditions deemed necessary.

9.0 MAIN ISSUES

- Principle of development
- Scale
- Appearance
- Landscape and ecological considerations
- Other
- Representations

10.0 APPRAISAL

Principle of development

- 10.1 The principle of developing the site for a residential development has been previously granted by outline application 2016/91502. The outline application had all matters reserved bar access which was approved. The current application will consider the layout, scale, appearance and landscaping for the development.
- 10.2 Weight must also be given to the approval of Reserved Matters 2017/93648 in so far as it relates to the current application. Further, consideration is given as to whether there has been any policy changes or development in the local area which would impact on the determination of 2017/93648.
- 10.3 2017/93648 was assessed against the Policies of the UDP, PDLP and the 2012 NPPF. While the PDLP has been through main modifications and the 2012 NPPF has been superseded by the 2018 NPPF, neither of these policy changes are considered to materially impact upon the principle established by 2017/93648.
- 10.4 No development has taken place in the local area which impacts on the current proposal or the assessment of 2017/93648.

Layout (Design)

- 10.5 The proposed dwelling is to be located to the north of the plot. This is considered the most appropriate layout, allowing for access as approved at outline stage while ensuring the dwelling does not appear overly prominent or incongruous within its setting. While the proposal does result in a large area of surfacing to the front of the dwelling, this is to allow for appropriate turning and parking within the site which is noted to be difficult due to the site's triangle shape.

- 10.6 The layout allows for a modest sized garden and patio area. It is noted that the patio is adjacent of the blank side wall of no.1 Spring Lane which will limit outlook but enhance privacy. Whilst the garden is relatively small in relation to the size of the dwelling, it is on balance considered to provide sufficient outdoor amenity space for the property.
- 10.7 The proposed layout will not impact on driver sightlines or cause distraction. The access is as per the approved outline permission.
- 10.8 In regards to the established urban grain of the area, given the mixture of historic and more modern dwellings these is not a prevailing layout for dwellings. The layout of the proposed dwelling is considered acceptable and would not cause the proposed dwelling to appear incongruous within its setting. Therefore, in regards to layout (design), the development is deemed to comply with Policies D2, BE1 and BE of the UDP, PLP24 of the PDLP and Chapter 12 of the NPPF.

Layout (Residential Amenity)

- 10.9 As an infill plot the propose dwelling is close to several neighbouring dwellings. To the east, across Spring Lane, is no.24 Liphill Bank Road. To the west is Somerton. To the rear of the site are nos. 1, 5 and 7 Spring Lane.
- 10.10 No.24 Liphill Bank Road does not have any primary habitable room windows facing the application site and is a reasonable separation distance from the proposed dwelling, therefore preventing concerns of overbearing or overshadowing. No windows are proposed which would harmfully overlook no.24's dwellinghouse or land.
- 10.11 Somerton's dwellinghouse does not have primary habitable room windows facing the proposed dwelling. Furthermore Somerton is in excess of 12.0m from the side elevation of the proposed dwelling. No windows are proposed facing Somerton's dwellinghouse. Therefore officers are satisfied that the proposed structure would not cause harmful overbearing, overshadowing or overlooking of Somerton's dwellinghouse.
- 10.12 Notwithstanding the above, objections have been raised relating to overlooking from the proposed dwelling's living room window towards Somerton's garden. The section of Somerton's garden in question is an outdoor seating area with a small shed. Because of the position of the shared boundary between the proposed dwelling and Somerton, the living room window would face the seating area at a distance of approx. 4.5m. The proposed dwelling is on a higher ground level and given the short distance could overlook the land in question. However, the harm would be mitigated satisfactorily through a close boarded boundary fence, 1.8m in height. Officers are satisfied that the fence would block invasive views from the window towards Somerton's land. The fence being erected, and retained, can be secured via condition.
- 10.13 It is noted that the site has an extant permission for a dwelling. The principal design difference between the approved and proposed is that the garage and living room are swapped. Officers are aware that should the previously approved scheme be built out, Planning Permission would then not be required to do the proposed alteration, as the dwelling would benefit from Class A rights for 'alterations and improvements', which would allow for internal and external alterations such as those sought.

- 10.14 Considering the impact on no.1, no.1 is at a right angle to the proposed dwelling with two habitable room windows on the rear (one at ground and first floor) which would be close to the new dwelling. The proposed dwelling's two storey section would project 4.2m beyond no.1's rear. If treated as a rear extension this would exceed the recommended projection of 3.0m. However, in mitigation, because of the lower ground level the dwelling would sit on its apparent massing when viewed, at an oblique angle from no.1, would be reduced. Furthermore the dwelling is detached from no.1, with a separation distance of 1.8m additionally decreasing the impact. Again because of the level differences, despite the new dwelling being to the south, the dwelling will not cause materially harmful overbearing. In regards to windows, as they are to be obscure glazed there would be no harm through overlooking and a loss of privacy. On balance officers conclude that the development would not materially harm the amenity of no.1's residents.
- 10.15 Numbers 5 and 7 Spring Lane are to the north and have rear elevations which host habitable room windows facing the application site. The separation distance between the existing and proposed dwellings is, at a minimum, 18.0m. The 18.0m separation distance is in breach of BE12's recommended 21.0m between facing habitable room windows, although the proposed dwelling is noted to be 1.5m from the shared boundary, in compliance with BE12(iv). First considering overbearing, given the level differences between the sites and the low profile of the proposed dwelling, officers are satisfied that the separation distance of 18.0m would not result in harmful overbearing upon occupiers of nos. 5 or 7. These considerations likewise prevent concerns of overshadowing, despite the application site being due south. Turning to overlooking, the proposed dwelling's ground floor windows will be set at a lower ground level with a 1.8m boundary treatment, preventing overlooking. The first floor windows are to be obscure glazed (securable via condition). Therefore none of the rear windows would allow harmful overlooking of either nos.5 or 7 or their associated curtilages.
- 10.16 Consideration must also be given to the amenity of future occupiers. Officers do not hold concerns of overlooking from 3rd party dwellings. Officers acknowledge that bedroom 3, which is to be served by obscurely glazed windows only, will not benefit from full natural light and outlook. This will limit the amenity value the room provides. However, as an infill plot, reduced outlooks are not unusual. The proposal is for a well sized 4 bed dwelling, with the living room and the largest bedrooms providing an acceptable level of amenity. On the planning balance officers are satisfied that the reduced amenity value of one room would not cause material harm to the living standard and amenity of futures residents, which as purchases will be aware of the building's layout prior to occupation.
- 10.17 Concluding on the above, officers are satisfied that the proposed layout would not harm the amenity of neighbouring residents while also ensuring a suitable living standard for future occupiers, in accordance with Policies deemed to comply with Policies D2, PLP24 and Paragraph 17 of the NPPF in regards to residential amenity.

Scale

- 10.18 Dwelling scales in the area are varied, ranging from smaller terraced dwellings to large detached dwellings adjacent to the site. The proposed dwelling's scale is considered an appropriate middle ground, being larger than the terrace rows but smaller than the detached dwellings. This is considered acceptable given the size of the plot and the context it would be seen within.
- 10.19 While the dwelling's ground floor is the width of the site, as the side section is single storey it does not cause the dwelling to appear overly large in the plot. In terms of height, the plans show the dwelling appropriately stepped from the rear neighbour, following the topography of the hill.
- 10.20 In regards to amenity of future residents, the internal scale of the dwellings is considered acceptable for the number of bedrooms proposed. This includes the garden space and patio.
- 10.21 Officers conclude that the scale of the proposed dwelling is appropriate, in accordance with D2, BE1, BE2 and BE11 of the UDP, PLP24 of the PDLP and Chapter 12 of the NPPF.

Appearance

- 10.22 Appearances in the area are varied, ranging from the traditional village terraces rows on Liphill Bank Road, to 50s/60s bungalows and new detached dwellings on Spring Lane, with the junction marking a point where appearances change. The proposed dwelling has architectural features which respect and mimic elements of each surrounding dwelling type. This includes the fenestration of the rear modern buildings, with the form and roof layout of the traditional terrace. Officers consider this an appropriate response given the dwelling's location on the junction while allowing the dwelling to hold its own character. This approach is deemed to comply with the objections of paragraph 127 of the NPPF, which states;

Planning policies and decisions should ensure that developments: are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

- 10.23 The dwelling is to be faced in natural stone. As development has commenced samples have been seen on site. The samples are considered acceptable. Blue roof slates are proposed. Subject to a good quality blue slate being used it is not considered materially harmful to the visual amenity of the building or streetscene, with the new builds to the rear also being roofed in blue slate. Therefore a condition can be imposed requiring samples to be submitted, so that officers can confirm they reflect the materials used on adjacent buildings.
- 10.24 While the overall unique design is noted, the proposed dwelling is not anticipated to appear incongruous within its setting, the proposed dwelling would harmonise with each street it is viewed from. It is concluded that the development complies with the objectives of D2, BE1, BE2 and BE11 of the UDP, PLP24 of the PDLP and Chapter 12 of the NPPF.

Landscape and ecological considerations

- 10.25 As the proposal seeks the erection of a single dwelling landscape details are limited. Scrub vegetation will be removed to facilitate the proposal however this is not opposed as they are of limited ecological and landscape value. The site's boundary treatment to Spring Lane has been approved and implemented, as part of the access improvement works.
- 10.26 The dwelling is set away from the 3rd party trees to the south of the site and officers, and K.C. Trees, do not raise concerns for impact on the trees or conflict with future users.
- 10.27 The site is within the council's bat alert layer. Currently the site is deemed to be of limited ecological value, therefore the proposal is not anticipated to harm the local ecological environment. However the NPPF seeks for planning applications to enhance local ecology. If minded to approve officers are to impose a condition requiring a bat box on the dwelling. This is to comply with PLP30 and Chapter 15 of the NPPF.

Other Matters

Permitted Development

- 10.28 Further development of the site would likely raise concerns of overdevelopment. This is particularly the case for side and rear extensions given the proximity of the dwelling to these boundaries. It is therefore considered necessary to remove PD rights for further extensions. In terms of outbuildings, these would practically be limited to being within the garden. The garden is not large in scale and to build over it would likewise raise concerns of overdevelopment and impact on occupier's amenity rights for such additions will therefore be withdrawn

Representations

- 10.29 *'Object to the application due to loss of off-road parking and turning area for vehicles (so would have to reverse out) due to safety issues. Entry/exit must be in forward gear. Concerns also that development has already started to new plans (not ones with outline application).'*

Response: The site has sufficient space for two off-road parking spaces, which is acceptable for the scale of the dwelling. Furthermore officers are satisfied with the on-site turning. Officers note that development has commenced.

- 10.30 Councillor Nigel Patrick has expressed concerns of overlooking and loss of privacy on neighbouring residents at Somerton.

Response: The impact upon Somerton's residents is considered within 10.11 – 10.13. In summary, while the potential for overlooking exists officers are satisfied that the proposed boundary treatment and levels differences would prevent a harmful loss of privacy taking place.

- 10.31 Councillor Patrick has requested that the application be deferred until the next planning committee, citing that the public representation period does not expire until after the committee report is published, with concerns that officer's recommendation is premature.

Response: Officers are satisfied that the report addresses the material planning considerations of the proposal. Neighbour Letters were sent on the 26th of October, with the site notice being posted on the 20th of November. Therefore the public representation period has run for over five weeks at the time of the report being published. Should any further representations received will be outlined and addressed within the update to members.

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.

11.2 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

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

1. Development to be done in accordance with plans.
2. Roofing samples to be provided
3. Referenced windows to be obscure glazed
4. Bat box to be provided
5. Remove referenced Permitted Development rights
6. Parking to be provided and retained
7. Boundary fence as shown to be provided and retained

Background Papers

Application and history files

Available at;

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018/93508>

Certificate of Ownership

Certificate of Ownerships are not required for Reserved Matters Application.

Certificate A signed for associated Outline Application ref. 2016/91502.

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Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 13-Dec-2018

Subject: Planning Application 2018/92216 Erection of 5 dwellings land off, Netherley Drive, Marsden, Huddersfield, HD7 6HL

APPLICANT

Alfa Homes

DATE VALID

17-Jul-2018

TARGET DATE

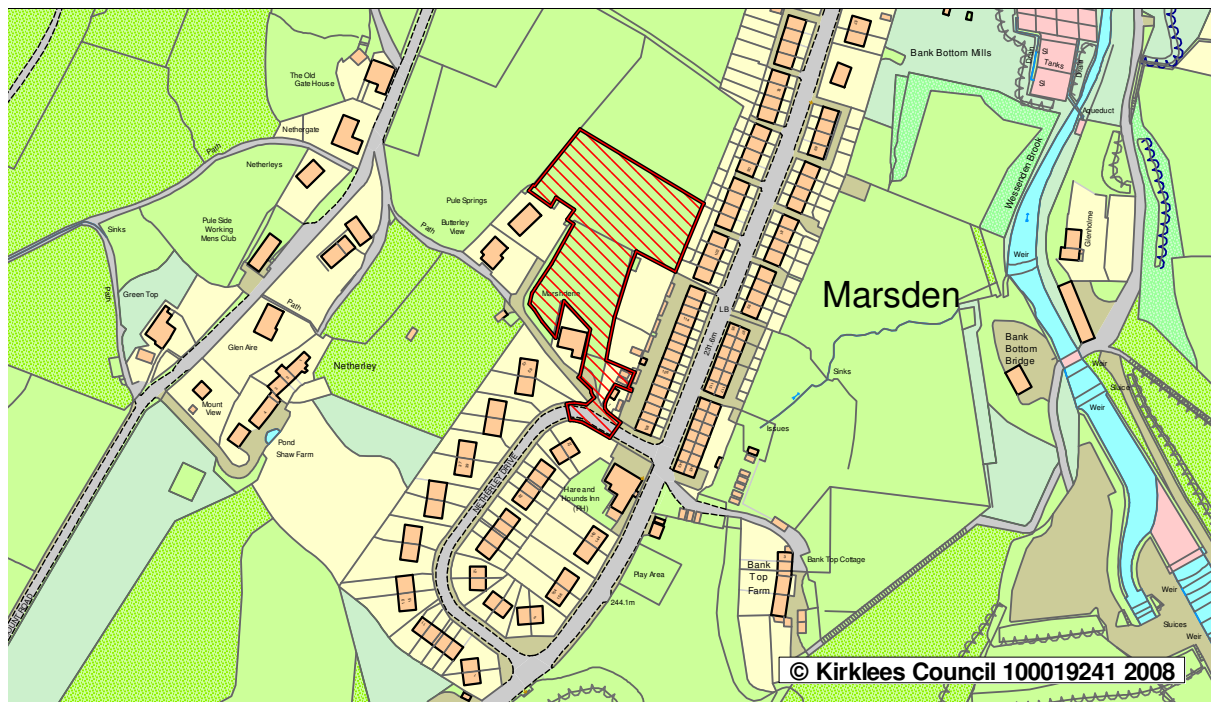
11-Sep-2018

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: Colne Valley

No

Ward Members consulted
(referred to in report)

RECOMMENDATION

REFUSE, for the following reasons;

1. The site is allocated as Provisional Open Land within the Kirklees Unitary Development Plan and Safeguarded Land within the emerging Kirklees Publication Draft Local Plan. While the Council is unable to demonstrate a five year housing land supply, because the site has been through Appropriate Assessment the titled balance through the presumption in favour of sustainable development does not active. The benefits of the proposal, including the housing provision, does not in this situation justify the loss of Provisional Open Land. To approve the development would be in breach of Policy D5 of the Kirklees Unitary Development Plan and Policy PLP6 of the Kirklees Publication Draft Local Plan.
2. The proposed dwellings, by virtue of their mass, scale and height, would fail to respect the character of the surrounding area. Furthermore the proposal proposes significant retaining works and walls which would also fail to harmonise with the surrounding built environment. To approve the development would be in breach of Policies BE1 and BE2 of the Kirklees Unitary Development Plan, PLP24 of the Kirklees Publication Draft Local Plan and Chapter 12 of the National Planning Policy Framework.
3. The proposed development seeks the pumping of surface water as a drainage solution. Insufficient justification has been provided to evidence that alternative methods of drainage have been appropriately explored and discounted. To approve the scheme would be contrary to Policy PLP28 of the Kirklees Publication Draft Local Plan and the aims and objectives of Chapter 14 of the National Planning Policy Framework.
4. There is no information supporting the application relating to requirements to support local infrastructure. A S106 agreement is required to ensure contributions towards Public Open Space and play equipment. The proposed development, therefore, fails to achieve the requirements of Policy H18 of the Kirklees Unitary Development Plan, PLP4 and PLP47 of the Kirklees Publication Draft Local Plan and the aims and objectives of Chapter 8 of the National Planning Policy Framework.

1.0 INTRODUCTION

1.1 The application seeks full planning permission for the erection of five dwellings.

1.2 The application is referred to the Huddersfield Planning Sub-Committee as it seeks residential development within a site area exceeding 0.5ha, but less than 61 units. This is in accordance with the Council's delegation agreement.

2.0 SITE AND SURROUNDINGS

2.1 The site consist of a moderate sized open field. It is currently used for grazing and there are no structures or mature trees within the site. The boundary principally consists of mid height drystone walling. The topography of the site, and the wider area, slopes downwards from east to west.

2.2 Access is from Netherley Drive, to the south of the site. Netherley Drive is populated by semi-detached and terraced dwellings. The field's access route is partly shared by PROW COL/207/40. North of the site are other open fields. To the east of the site are the rear gardens and elevations of terraced dwellings fronting onto Mount Road. To the west are larger, independently designed, detached dwellings sporadically laid out on the raising land.

3.0 PROPOSAL

3.1 The proposal seeks the erection of five detached five-bed dwellings. Two of the units would be two storeys. The remaining three units would be split level, presenting two storeys to the front and three to the rear.

3.2 The dwellings would be accessed from a private drive connecting to Netherley Drive. It features two off-road visitor parking bays. All dwellings would benefit from four parking spaces (including one within a garage space).

3.3 Due to the site's existing land levels, retaining walls are required through the site. These vary from between 1.0m to 3.7m. Boundary fences to sub-divide units would be 1.8m high timber fences. In places these would be sited atop retaining walls. No Public Open Space is located within the site.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 Application Site

2015/93926: Outline application for erection of residential development – Withdrawn

4.2 Surrounding Area

No planning history considered relevant to the current proposal.

5.0 **HISTORY OF NEGOTIATIONS (including revisions to the scheme)**

5.1 Officers expressed concerns over the principle of development, the design / scale of the dwellings and drainage issues. The principle of development issues were complicated due to ecological concerns, outlined below.

5.2 Initial discussions took place relating to the design and drainage concerns. However following discussions relating to the principle of development, it was concluded that the concerns could not be overcome. Therefore the applicant requested that the application be determined based on the submitted details.

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 Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 48 of the National Planning Policy Framework (2018). 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 (2018), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

6.2 The site is allocated as Provisional Open Land (POL), as is the adjoining field to the north-east, within the Kirklees Unitary Development Plan Proposals Map.

6.3 The site is allocated as Safeguarded Land on the PDLP Policies Map, as is the adjoining field to the north-east.

6.4 Kirklees Unitary Development Plan (UDP) Saved Policies 2007

- **G6** – Contaminated land
- **D5** – Provisional Open Land
- **BE1** – Design principles
- **BE2** – Quality of design
- **BE11** – Materials
- **BE12** – Space about dwellings
- **EP11** – Ecological landscaping
- **T10** – Highways accessibility considerations in new development
- **T19** – Parking standards
- **H1** – Housing (Strategy)
- **H18** – Provision for Open Space for New Housing
- **R13** – Rights of way and public access areas

6.5 Kirklees Draft Local Plan Strategies and Policies (2017)

- **PLP 03** – Location of New Development
- **PLP 05** – Master planning sites
- **PLP 07** – Efficient and effective use of land and buildings
- **PLP 11** – Housing Mix and Affordable Housing
- **PLP 20** – Sustainable Travel
- **PLP 21** – Highway safety and access
- **PLP 22** – Parking
- **PLP 24** – Design
- **PLP 27** – Flood Risk
- **PLP 28** – Drainage
- **PLP 30** – Biodiversity and Geodiversity
- **PLP 32** – Landscape
- **PLP 51** – Protection and improvement of local air quality
- **PLP 52** – Protection and improvement of environmental quality
- **PLP 53** – Contaminated and unstable land
- **PLP 61** – Urban Green Space
- **PLP 62** – Local Green Space
- **PLP 63** – New Open Space

6.6 National Planning Guidance Framework (2018)

- **Chapter 2** – Achieving sustainable development
- **Chapter 4** – Decision-making
- **Chapter 5** – Delivering a sufficient supply of homes
- **Chapter 11** – Making effective use of land
- **Chapter 12** – Achieving well-designed places
- **Chapter 14** – Meeting the challenge of climate change, flooding and coastal change
- **Chapter 15** – Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE

7.1 The application has been advertised via site notice, press notice and through neighbour letters to addresses bordering the site. This is in line with the Council's adopted Statement of Community Involvement. The end date for publicity was the 4th of September, 2018.

7.2 In response to the period of publicity 19 representations were received. The following is a summary of the comments made;

Allocation / principle

- The site is proposed as Safeguarded Land within the Local Plan. The Inspector has agreed that the land should not be developed until post 2031. The local plan is ongoing but the site remains after modification, adding weight to its safeguarded status.
- At the Public Examination of the Local Plan earlier this year, part of the document information available for the Inspector to make her decision to retain the land as safeguarded was "*improvements will be required at Netherley Drive/Mount Road and third-party land may be required to facilitate this*". The NPPF states development should not contribute to land instability issues.

Other

- The application makes no reference to the landslide risk in the area, which is referenced within the submitted Geo-Environmental Risk Assessment.
- Other applications have been refused in the past. This includes reasons such as unsuitable of land and drainage.
- Local schools and doctors are at capacity, as are services such as police.
- Brownfield sites should be developed first.
- There is a covenant on the land stating it can't be built on until 2030.
- Marsden has a big drug problem. These large 'luxury' homes will be targeted. This will lead to more security lights, which will impact on neighbouring residents and ecology.
- Alfa Homes, the applicant, has only been in business 2 years and lack the experience and financial assets to properly develop this site.
- The proposal does not provide details on all utilities and how they would be managed.
- The few houses proposed do not outweigh the harm caused by the proposal.

Drainage

- Geo-Environmental Risk Assessment shows a watercourse crossing the site, which is not addressed. There are also underground springs on site which should not be disturbed. Concerns to various aspects of the Flood Risk Assessment raised.

- Contamination from the site entering local reservoirs needs be considered.
- Insufficient investigation and consideration has been given to the drainage of the site.
- Numerous residents stating that there are springs and watercourses under the site.
- Sewers in the area are very old and are at capacity. This has led to flooding in local dwellings.
- Objection to the use of pumping stations.

Highways

- In past applications the council have raised concerns over the sightlines at the Mount Road junction, with any intensification in the area would harm highway safety. The local plan references that improvements will be required at Mount Road/Netherley Drive. A speed survey for Mount Road has not been provided.
- The Transport Assessment states that no injuries have been recorded. Not all accidents are injuries or go recorded. Residents state knowledge of incidents.
- There is a private road behind Mount Road, serving several dwellings. This needs to be considered cumulatively with the proposal.
- Question over the proposed access arrangements and details to be included. What would be adopted? Where does the red line go? What are the implications for the substation? Officers should give consideration to the access's impact on access.
- Mount Road is unsuitable for further development being a substandard width, often being single lane due to parking. In places there is only pavement on one side. A Mount Road speed survey has not been provided.
- [Photographs provided of on-street parking within the area]
- Local roads do not have speed restrictions enforced.
- Mount Road/Netherley Drive is a bottlenecked junction.
- The entrance to the site is a PROW, used by horses, cyclists and motorcycles. Insufficient detail is given to the impact and how it would be retained.
- Public transport in the area is limited during poor weather.
- Concerns over disruption during development.
- The Transport Assessment was done during a holiday, limiting its accuracy.
- The proposal's private drive is narrow and could lead to issues within the site itself.
- The site has insufficient parking for the proposed use.

Ecology

- The ecological survey was undertaken at an unsuitable time of year. A bird survey should be undertaken.
- The proposal would harm local nesting birds.
- The survey is the same from 2015.

Residential Amenity

- The dwellings are 25.0m from local residents, which is considered to 'contravene planning conditions'.
- Properties would lose natural light and privacy given the higher site level to Mount Road.
- Residents raise hedgehogs being within the area. Bats, toads and owls are also mentioned.
- Green space makes people feel better; the loss of this field will harm the health of local people.

Visual Amenity

- Local views will be impacted upon, particularly from parks near Butterley Reservoir, the Pule Hill Area and Wessenden Valley. This will harm tourism and the local economy.
- The proposal would harm openness and the rural character of the area.

Ward Councillor Interest

7.3 Given the scale and nature of the proposal local ward members were not notified of the proposal.

7.4 Councillor Bellamy contacted officers expressing concerns on highways and drainage. Officers explained their assessment and concerns, which Councillor Bellamy accepted.

8.0 CONSULTATION RESPONSES

8.1 Statutory

Natural England: No objection, however defer to the local authority ecologist in terms of local impact.

8.2 Non-statutory

K.C. Ecology: Identify that Appropriate Assessment for the site was required for the site. Concluded no objection, subject to mitigation being conditioned.

K.C. Environmental Health: No objection subject to condition.

K.C. Highways: No objection subject to conditions.

K.C. Landscape: No objection subject to conditions and a financial contribution for Public Open Space and local Area of Play

K.C. Lead Local Flood Authority: Object, due to increased surface water discharge and the use of a surface water pump.

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

Land allocation

10.1 Planning law requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework 2018 (NPPF) is one such material consideration. The starting point in assessing any planning application is, therefore, to ascertain whether or not a proposal accords with the relevant provisions of the development plan; in this case the saved policies in the Kirklees Unitary Development Plan, 1999 (UDP). If a planning application does not accord with the development plan, then regard should be had as to whether there are other material considerations, including the NPPF, which indicate that planning permission should be granted. The Council are also at an advanced stage in the preparation and adoption of the Local Plan. The Local Plan - Kirklees Publication Draft Local Plan (PDLP) – was submitted for examination in April 2017.

10.2 The land is allocated as Provisional Open Land within the UDP Proposals Map. Policy D5 states;

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

- 10.3 Within the emerging Local Plan the site is allocated as Safeguarded Land. Policy PLP6 states;

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

Within the subtext to this policy, and reflective of para139 of the NPPF, safeguarded land comprises areas between the urban area and the Green Belt. This is in order to meet long-term development needs stretching well beyond the plan period. It is considered that this policy anticipates development on safeguarded land at some time in the future, rather than having the overall purpose of seeking to restrict or prevent development indefinitely. Nevertheless, this policy is considered to carry substantial weight and the proposed development would be in clear contravention of this policy.

Weight to attribute to the PDLP Allocation

- 10.4 As part of the PDLP examination process a series of public hearings have taken place to discuss a variety of different issues, including the proposed site allocation. Following the hearing sessions the Inspector invited the Council to consult on a range of proposed modifications in order to make the Local Plan sound. The consultation period on these proposed modifications ended on 1st October 2018. Insofar as site specific modifications are concerned, the allocation associated with the application site is not subject to any modifications and, therefore, the emerging designation – Safeguarded (ref – SL2167) – remains and will be carried forwards with the intention that it remains safeguarded in the adopted PDLP.
- 10.5 Six objections were received to the proposed designation through the plan making process. Some of these objections highlight that the land should be protected from further development (green space or Green Belt) whilst others representations state that the land should be allocated for housing. However, given that the list of proposed modifications published by the Inspector did not advise that the current intended designation should be altered, there does not appear to be a compelling case to designate the site as anything other than Safeguarded. The NPPF is a Government statement of policy and is, therefore, considered an important material consideration especially in the event that there is an emerging Local Plan, as is the case here. This is reinforced in para 48 of the NPPF which guides that due weight should be given to relevant policies in emerging Local Plans having regard to the stage of the Local Plan, the extent to which there are unresolved objections, and the degree of consistency with policies in the NPPF. Consequently, it can only be concluded at this stage that significant weight should be attached to the Safeguarded PDLP designation on the basis of the advanced stage of preparation of the Local Plan, and the fact that objections to the Safeguarded designations have been heard through the public hearings.

PDLP Policies, Allocations and Prematurity

- 10.6 The PDLP's Safeguarded allocation would clearly prevent the development of the site. However, while substantial weight is provided to the policy the UDP remains as the adopted development plan. The NPPF provides guidance in relation to prematurity. Paragraph 49 states:

...arguments that an application is premature are unlikely to justify a refusal of planning permission other than in limited circumstances 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 plan; and

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

- 10.7 The PDLP and supporting housing needs assessments demonstrate that the housing requirement over the plan period amounts to circa 31,000 units. The current proposal seeks five units. The amount of housing proposed as part of this application, therefore, is not considered to meet the threshold required to demonstrate that the development is so substantial that it undermines the plan making process as it does not predetermine decisions about the scale or location of new development that are central to the PDLP. Furthermore, it is noted that the proposal does not comprise housing covering the whole of the emerging Safeguarded allocation. Whilst the PDLP is at an advanced stage, the proposed development would not undermine the plan making process. In addition, the provision of housing on this site would not appear to result in tangible harm to the local plan process and outcomes as a result of 'over-allocation'. There is no cap on housing numbers and the spirit of the NPPF is to promote housing development on appropriate sites. As its name suggests, safeguarded land is intended to safeguard land for potential future development and the provision of housing at this time would only serve to boost housing numbers.

Sustainable development and the five year housing land supply

- 10.8 NPPF Chapter 2 and PLP1 outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation. When assessing development proposals, this means objectively assessing and meeting the development needs of an area, unless the harm would outweigh the benefits.

- 10.9 As the Council are unable to demonstrate a 5 year housing land supply, as required by para 73 of the NPPF, relevant policies relating to housing are considered to be out-of-date. Indeed, the housing land supply shortfall is substantial. Whilst the Council have submitted the Publication Draft Local Plan (PDLP) for examination which, for housing purposes, is predicated on the basis of a five year housing land supply; the Local Plan has not been adopted. Therefore, it is currently the case that the Council are unable to identify a five year supply of specific deliverable housing sites against the requirement.
- 10.10 Where the council are unable to demonstrate a five year housing land supply, the presumption in sustainable development amounts to a titled balance in favour of residential development.
- 10.11 However, paragraph 177 of the NPPF states;

The presumption in favour of sustainable development does not apply where development requiring appropriate assessment because of its potential impact on a habitats site is being planned or determined.

The proposal has been through appropriate assessment. The reasons for this, and the outcome of the appropriate assessment, is detailed later within this report. Therefore, because the site has been through appropriate assessment, the presumption in favour of sustainable development does not apply to the proposed development. Accordingly there is no titled balance in favour of residential development in this case.

- 10.12 As the proposal seeks residential development, consideration must also be given to whether the proposal represents an efficient use of land. First, consideration is given to the wider allocation. The proposal seeks to develop 0.52ha of a 0.85ha allocation. At this time officers are satisfied that the proposal would not preclude the development of the remainder of the allocation as the access could be upgraded and extended. Conversely, concerns are held over the proposed density. The scheme seeks five, five-bed detached dwellings on 0.5ha of land. This represents a density of 10 dwellings per ha, while Policy PLP7 seeks a density of 35 dwellings per ha, where appropriate. Paragraph 123 of the NPPF states that;

'Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site'.

While PLP7's reference to 35 dwellings per ha 'where appropriate' is noted, as are the topographical constraints of the site, no evidence has been provided to justify such a shortfall in density targets. Turning to housing mix, PLP11 states that;

'schemes of more than 10 dwellings or those of 0.4ha or greater in size, the housing mix should specifically reflect the proportions of households that require housing and achieve a mix of house size and tenure'.

The applicant states that the proposal would *'broaden the range, quality and choice of the housing offer within this part of Marsden'*. No evidence of such demand has been provided to substantiate this statement.

- 10.13 Considering the above, the low density and limited housing mix of the proposal is deemed an inefficient use of land. This is therefore considered to weaken the weight officers can attribute to the material consideration of a provision of housing at a time of shortage.

Principle of Development, Conclusion

- 10.14 The site lies on POL land on the UDP and it is considered that accompanying policy D5 should be applied full weight. The site is allocated as Safeguarded in the PDLP to which significant weight should be attributed due to advance stage of the emerging Local Plan process. The strict application of these policies would prevent improvement to the shortfall in the supply of housing at this particularly time and this should, therefore, be weighed against the significant lack of housing land supply and the contribution to housing numbers made by this application.
- 10.15 The weight given to providing housing at a time of shortage through policy is acknowledged. The weight afforded to housing provision is, in this case, reduced through officer concerns over the inefficient use of land.
- 10.16 Weighing these various considerations, without the tilted balance provided by the presumption in favour of sustainable development, leads officers to the conclusion that the principle of development should not, in this situation, be supported.

Urban Design, including Landscape

- 10.17 Policy BE1 requires new development to retain a sense of local identity, with BE2 stating new development should be in keeping with surrounding development in respect to density, layout and building height. These requirements are reflected in PLP24 and Paragraph 127(c) of the NPPF, which states;

Planning policies and decisions should ensure that developments: are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

- 10.18 The site comprises a roughly rectangular piece of open land which slopes upwards from east to west, therefore sitting on a higher level than properties on Mount Road. The land is open and has some value as a piece of open land. However, it is relatively featureless and there are few landscape elements of significant value. Having been through the land allocation process of the PDLP its current POL allocation and emerging Safeguarded status serves to underline the fact that the site is not considered to be an intrinsic component of urban greenspace or the wider countryside but, rather, an urban and rural fringe parcel of open land acting as a Green Belt buffer.
- 10.19 The proposed two house types are detached. In isolation the proposed dwellings are not considered visually unattractive, being a typical modern housing design. No details are provided regarding either facing or roofing materials. Natural stone walls would be sought, however there is more scope for variation for the roofing. Nonetheless this could be secured through further discussion with the applicant or a suitably worded condition.
- 10.20 Notwithstanding the above, in the context of the wider area they are anticipated to appear incongruous and harm the character of the area. Officers do not consider the proposal to be an '*appropriate innovation or change*'.
- 10.21 The site is adjacent to historic terrace rows which establish a strong characteristic for the area. Conversely Netherley Drive consists of semi-detached dwellings. Because of the topography, the proposed dwellings would be seen prominently above the terrace rows and less so against the semi-detached dwellings of Netherley Drive. The site would be highly prominent from distant views. While detached dwellings adjacent to terraces are not opposed in principle, the mass, scale and layout of the proposed dwellings would not reflect the traditional architecture of the area. This includes the semi-detached dwellings of Netherley Drive, although these contribute to the character of the area less.
- 10.22 The above concern is exacerbated on the proposal's reliance on retaining walls and that plots 3, 4 and 5 would have their three storey side elevations facing into the valley. This is near unique in the area, with most dwellings facing into the valley. Plots 3, 4 and 5 have side elevations three storeys in height, which each dwelling being higher than the next. This would result in a large massing of predominately blank stone climbing the valley side. In terms of retaining walls, to form level garden spaces, these frequently raise up to 'between 2 – 3m' within the site, with a maximum height given of 3.65m. Despite being a hilly location, retaining walls are kept to a minimum within the area, with development working with natural ground levels.

10.23 As a consequence the proposed development would represent an unacceptably dominant feature within the local area which fails to respect the established character. There would be little commonality between the simple, traditional vernacular of the existing terraced units, and the more modern semi-detached dwellings of Netherley Drive, which are a characteristic of the surrounding area and the approach to the proposed development. The proposed development fails to complement local vernacular in terms of scale, form and materials. Paragraph 130 of the NPPF states that;

Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards...

10.24 Officers acknowledge that there are detached and semi-detached dwellings higher up the valley side. However these blend into the topography and are spread out, from one another and the higher density terraced dwellings below, resulting in a natural transition of development thinning out as the valley raises. The proposed development would not respect this characteristic, through introducing large detached dwellings in closer proximity and significant engineering operations.

10.25 Turning to landscaping, limited details have been given at this stage. However there are considered no prohibitive reasons which would prevent a high quality landscaping scheme being provided via condition. Full landscape proposals are required as a planning condition including hard and soft landscape details and planting plans to create a diverse and attractive landscape which should enhance the setting of the development. Thoughtful planting to incorporate native species would contribute to enhancing the biodiversity in this setting and would help in the development of green corridors.

10.26 It is noted that the site is adjacent to the Green Belt, with the site's west boundary being the Green Belt boundary; while not within the Green Belt, given its close proximity the impact upon the Green Belt must be considered. While there are concerns relating to scale and mass, this relates to the adjacent built development. Given the low density of development and good spacing between units, officers are satisfied that the proposal on this Green Belt adjacent site would not harm the Green Belt.

10.27 Concluding on the above, the proposed dwellings would fail to respect local characteristics and, as a result, would appear incongruous within the area to the harm of visual amenity. The proposal is deemed to fail to comply with Policies BE1 and BE2 of the UDP PLP24 of the PDLP and Chapter 12 of the NPPF.

Residential Amenity

- 10.28 To the east of the site are the dwellings of Mount Road. Their rear elevations face the site. The closest separation distance between these and the proposed dwellings is 29.8m between plot 5 and nos.100 and 102, and 41.0m between plot 1 and nos.112 – 116.
- 10.29 The level difference between the application site and the dwellings on Mount Road are noted, with the new dwellings being on the higher land level. Nonetheless, the above distances are well in excess of the recommended minimum separation distance of BE12. The level difference between the sites is not considered so severe to raise concerns of overbearing, overshadowing or overlooking at the distances given. This is with acknowledgment that plots 1 and 2 face the garden spaces of several dwellings at a distance of 12.0m.
- 10.30 To the south of the site is Marshdene. The proposed access drive would run adjacent to their dwelling, past the side elevation. However the separation distance is sufficient to prevent concerns over disruption caused by passing cars, such as noise and light pollution. In terms of the physical development, Marshdene would have habitable room windows 12.1m from plot 1's single storey garage, and 18.6m from the two storey side elevation. There is a minimum separation distance of 2.0m from the garage to the shared boundary. Officers are satisfied that this arrangement would not cause undue overbearing or overshadowing. No windows are positioned to harmfully overlook Marshdene's dwellinghouse or curtilage.
- 10.31 To the west of the site are Pule Spring and Butterley View. While bungalows, these are at a minimum 29.0m from plots 1 and 2 and would reside on a higher ground level. Officers are satisfied the proposal would not result in harm to the amenity of occupiers of these dwellings.
- 10.32 It is noted that boundary treatment details have been provided, with boundary treatment forming an important consideration of amenity between existing and new residents. However the details provided are limited. For example, retaining walls are shown as boundary walls with it being unclear if fencing would be added on top. This has the potential to be tall features which would impact on amenity. Conversely, the details provided are considered acceptable at this stage, with a full schedule of boundary details securable via condition.
- 10.33 The above assessment has been based on the scheme submitted. Should the dwellings be erected they would benefit from Permitted Development rights for outbuildings and extensions. Because of the generous sizes of the proposed garden spaces and their separation of the dwellings from 3rd party dwellings, it is not considered reasonable or necessary to remove Permitted Development rights for outbuildings and extensions due to residential amenity concerns.

- 10.34 It is noted that all of the referenced dwellings and many in the area face the site, which is currently open land and would amount to an attractive view. However there is no right to a view in planning. The aspects of relevance are whether there is undue harm through considerations such as overbearing or overshadowing. For the reasons outlined above, this is not considered the case.
- 10.35 Consideration must also be given to the amenity of future occupiers. The dwellings shown are a suitable size of the numbers of bedrooms sought. Garden spaces are commensurate for the scale of the buildings. All habitable rooms would be served by windows which provide natural light and a reasonable outlook.
- 10.36 Concluding on the above, officers are satisfied that the proposed development would not harm the amenity of neighbouring residents subject to the aforementioned conditions. Furthermore, future occupiers would have an acceptable level of amenity. The proposal complies with policy PLP24 of the PDLP and Chapter 12 of the NPPF.

Highway issues

- 10.37 First considering the impact through introduction of dwellings, officers are satisfied that five dwellings are not expected to generate sufficient vehicle trips to have a materially harmful impact on the safe and efficient operation of the local highway network. Further to this, the site is within walking distance to a medium frequency bus route, shops and local centre (1.2km). There is also a railway station 1.6km away.
- 10.38 The proposal complies with parking policy standards, including both per dwelling and visitor parking spaces.
- 10.39 Regarding the proposed access, the proposed access is approximately 4.6m wide and currently serves three residential properties and adoption plans show that this part of the access is within highway land. With the addition of the development proposals this would increase to 8 dwellings and because of this, the initial part of the access between Netherly Drive and the access drive to Butterley View would be sought to be made to adoptable standards, securable via condition. Turning to sightlines, Visibility splays of 2.4 x 36m to the left and 41m to the right can be achieved from the access, these are below those required from manual for streets for the posted road speed. However, independent speed surveys have shown that the 85th percentile speeds measured on the highway are less than 14mph and that the Manual for Streets visibility splay length for this speed of 2.4 x 17m are easily achievable. The maximum speed measured was 19.5mph heading westbound, this would require a splay length of 2.4 x 25m and again this is achievable. Such sightlines can be secured via condition.

- 10.40 Regarding waste arrangements, officers are satisfied that waste collection and storage can be appropriately managed on site. The turning head has been calculated for a 10.6m vehicle, which is smaller than the 11.8m refuge vehicles used by the council. However there is evidently sufficient space for this to be accommodated; this would be required to be evidenced via a condition showing appropriate swept path analysis.
- 10.41 In terms of structural works adjacent to the highway, including retaining walls, any retaining features affecting the highway will require formal technical approval by the Council as the Highway Authority. In consultation with the Highways Structures Team, if minded to approve a condition can be imposed requiring such details.
- 10.42 Summing the above, subject to appropriate conditions officers are satisfied that the proposed development would not harm the safe and efficient operation of the Highway, in accordance with Policy T10 of the UDP and PLP21 of the PDLP.

Public Right of Way (PROW)

- 10.43 The development proposals share an access with a short section of Public Right of Way (PROW) COL/207/40 which crosses the access and continues up the access road to Butterly View to Old Mount Road. The proposal would result in the initial section of the PROW experiencing an intensification of vehicular traffic. Nonetheless the PROW already accommodates vehicle traffic and an additional five dwellings is not considered detrimental to the PROW.
- 10.44 Nonetheless the PROW and its users will need to be protected during and after the development. This would be the responsibility of the developer, in conjunction with the PROW team. If minded to approve a note detailing the requirements of the PROW and contact details for the PROW team can be provided. This is deemed to comply with the aims of R13 of the UDP.

Other Matters

Ecology

- 10.45 The site is within 250 m of the South Pennine Moors Phase 2 Special Protection Area (SPA) and the South Pennine Moors Special Area of Conservation (SAC), which are European protected sites. Furthermore the development exceeds a threshold within Natural England's SSSI Impact Risk Zone tool, which indicates the potential for effects on the European protected sites.

- 10.46 The application is submitted with a Preliminary Ecological Appraisal. This has been reviewed by K.C. Ecology. It was concluded, given the sites above designations, that a Stage 1 Habitat Regulations Assessment was required. The Stage 1 assessment concluded that, due to potential impacts upon the European Protected Site's local birds and their habitats, Stage 2 'Appropriate Assessment' of the site was required, in accordance and undertaken with the Conservation of Habitats and Species Regulations 2017.
- 10.47 The Appropriate Assessment concluded that, subject to mitigation, the proposals would have no adverse effect on the integrity of European Protected Site. Such mitigation measures can be secured via condition. The mitigation secured and the assessment undertaken are considered to comply with the general planning requirements of Policy PLP30 of the PDLP and Chapter 15 of the NPPF, which the proposal is deemed to comply with. Natural England were consulted and confirmed they have no objection to the proposal, subject to the Local Authority Ecologist being satisfied.
- 10.48 It is noted that the Appropriate Assessment concluded that the impact could be mitigated via condition. In relation to the impact upon the Presumption in Favour of Sustainable Development, as addressed in sections 10.8 – 10.14 of this report, paragraph 177 of the NPPF's wording states;

The presumption in favour of sustainable development does not apply where development requiring appropriate assessment because of its potential impact on a habitats site is being planned or determined.

The wording does not make any reference to the outcome of the Appropriate Assessment, only that if undertaken the Presumption in Favour of Sustainable Development does not apply.

Planning obligations

- 10.49 Given the scale of the proposal Affordable Housing and Education contributions are not sought.
- 10.50 Policy H18 of the UDP requires 30sqm of Public Open Space per dwelling on development sites in excess of 0.4 hectares. Furthermore, seeking five dwellings, the proposal triggers the requirement for a Local Area of Play (LAP), to enhance local play areas. Given the size of the site and number of dwellings sought, each of these contributions would be sought through an off-site contribution. This would be cumulatively £57,901. The provision of the POS and LAP contributions would be secured by S106 agreement, if minded to approve.

Drainage issues

- 10.51 The site is within Flood Zone 1 with no recorded watercourses on site. However surface water drainage must be considered. Representations have raised drainage as a particular issue in the area. When considering new development surface water issues need to be addressed in terms of existing surface water and potential increased to run-off resulting from the development.
- 10.52 The proposal seeks to pump surface water to a culverted watercourse on Netherley Drive. This necessitates a surface water pump station PLP28 establishes a general presumption against pumping surface water as it introduces a risk not currently present. Should the pump it break or become disabled surface water would not be appropriately managed, to the detriment of local people. PLP28 has received no main modifications following the Inspector's interim letter and therefore can be considered to carry significant weight.
- 10.53 The reason given for needing a pump is that Yorkshire Water state the connection to the east on Mount Road (downhill) is not supported due to various concerns. The Lead Local Flood Authority (LLFA) are unsatisfied with this reason, with no evidence or declaration from Yorkshire Water. As such, the LLFA consider that the connection on Mount Road should be considered further. As this has not been done, the application has failed to demonstrate that the surface water management solution has been designed to meet requirements for the development.
- 10.54 The drainage proposals for the scheme are not acceptable, with insufficient justification provided to justify the proposed scheme. The proposal would therefore be in breach of policy PLP28 of the PDLP and Chapter 14 of the NPPF.

Contaminated land

- 10.55 The application is been supported by a Phase 1 Contaminated Land report. It identified that historically a tramway crossed the site, likely resulting in made ground and possible contamination, along with historic landfill near the site.
- 10.56 The Phase 1 report recommends a Phase 2 be undertaken. The findings and recommendations of the Phase 1 are supported by K.C. Environmental Health. Therefore conditions would be imposed requiring the submission of a Phase 2 Report, Remediation Strategy and Validation Report. This is in the interest of ensuring a safe development, in accordance with G6, PLP53 and Chapter 15 of the NPPF.

Air Quality

- 10.57 In accordance with Chapter 11 of the NPPF and Policies PLP24 and PLP51, if minded to approve, a condition is to be imposed requiring the provision of electric vehicle charging points. This is in the interest of mitigating the impact of the development on air quality and supporting the use of low carbon forms of transport. This would also accord with the West Yorkshire Low Emissions Strategy.

Representations

Allocation / principle

- The site is proposed as Safeguarded Land within the Local Plan. The Inspector has agreed that the land should not be developed until post 2031. The local plan is ongoing but the site remains after modification, adding weight to its safeguarded status.
- The few houses proposed do not outweigh the harm caused by the proposal.

Response: These comments are noted and broadly align with officers' assessment.

- At the Public Examination of the Local Plan earlier this year, part of the document information available for the Inspector to make her decision to retain the land as safeguarded was "*improvements will be required at Netherley Drive/Mount Road and third-party land may be required to facilitate this*". The NPPF states development should not contribute to land instability issues.

Response: The Local Plan reviewed the site which a much greater density of development. This is materially different to the proposal and carries little weight in the current scheme.

Other

- The application makes no reference to the landslide risk in the area, which is referenced within the submitted Geo-Environmental Risk Assessment.

Response: Officers hold no definitive evidence that landslide risk at the site is insurmountable. It is the applicant/developers responsibility to secure a safe development.

- Other applications have been refused in the past. This includes reasons such as unsuitable of land and drainage.

Response: Each application is assessed on its own merits.

- Local schools and doctors are at capacity, as are services such as police.

Response: As part of the development of the Local Plan evidence base, an ongoing infrastructure planning process has considered the impact of future growth on health infrastructure, summarised in the Infrastructure Delivery Plan (IDP) 2015 and IDP Addendum 2016. This is an on-going process and will be monitored and updated alongside the Local Plan. It acknowledges that funding for GP provision is based on the number of patients registered at a particular practice and is also weighted based on levels of deprivation and aging population, with direct funding provided by the NHS for GP practices/health centres based on an increase in registrations. Notwithstanding the above, given the small scale of the scheme it is not considered reasonable in this instance to require a contribution towards health infrastructure.

- Brownfield sites should be developed first.

Response: There is no presumption in planning for Brownfield before Greenfield development.

- There is a covenant on the land stating it can't be built on until 2030.

Response: This is a private legal matter and not a material planning consideration.

- Marsden has a big drug problem. These large 'luxury' homes will be targeted. This will lead to more security lights, which will impact on neighbouring residents and ecology.

Response: Officers note these concerns. However the proposal is not considered more or less at risk from crime than other sites. Planning permission is unlikely to be required for security lighting.

- Alfa Homes, the applicant, has only been in business 2 years and lack the experience and financial assets to properly develop this site.
- The proposal does not provide details on all utilities and how they would be managed.

Response: The above are not a material planning considerations.

Drainage

- Geo-Environmental Risk Assessment shows a watercourse crossing the site, which is not addressed. There are also underground springs on site which should not be disturbed. Concerns to various aspects of the Flood Risk Assessment raised.

- Numerous residents stating that there are springs and watercourses under the site.
- Insufficient investigation and consideration has been given to the drainage of the site.
- Objection to the use of pumping stations.
- Contamination from the site entering local reservoirs needs be considered.

Response: This is noted. The LLFA expressed concerns that not all aspects of drainage were explored.

- Sewers in the area are very old and are at capacity. This has led to flooding in local dwellings.

Response: The management of public sewers is the responsibility of Yorkshire Water. No evidence is held that they are substandard and would not be suitable.

Highways

- In past applications the council have raised concerns over the sightlines at the Mount Road junction, with any intensification in the area would harm highway safety. The local plan references that improvements will be required at Mount Road/Netherley Drive. A speed survey for Mount Road has not been provided.

Response: The proposal is materially different to past applications, seeking only five units. This limits the impact of the proposal, as well as the potential for improvement works.

- The Transport Assessment states that no injuries have been recorded. Not all accidents are injuries or go recorded. Residents state knowledge of incidents.
- Mount Road is unsuitable for further development being a substandard width, often being single lane due to parking. In places there is only pavement on one side. A Mount Road speed survey has not been provided.
- [Photographs provided of on-street parking within the area]
- Local roads do not have speed restrictions enforced.
- Mount Road/Netherley Drive is a bottlenecked junction.

Response: While the existing issues in the area are noted, the proposal seeks five dwellings. Officers and K.C. Highways are satisfied that the traffic generated from five dwellings would not have a materially harmful impact upon the local highway network.

- Question over the proposed access arrangements and details to be included. What would be adopted? Where does the red line go? What are the implications for the substation? Officers should give consideration to the access's impact on access.

- The entrance to the site is a PROW, used by horses, cyclists and motorcycles. Insufficient detail is given to the impact and how it would be retained.

Response: The application's red line goes to the adopted highway. Notice has been served on council as the Highway Authority. The section of road serving the development and other dwellings off the route holding the PROW would be sought to be built to adoptable standard. This would be secured via condition, if minded to approve.

- Public transport in the area is limited during poor weather.
- The Transport Assessment was done during a holiday, limiting its accuracy.

Response: These comments are noted, but are not considered to invalidate the submitted details.

- Concerns over disruption during development.

Response: Given the scale of the site and limited number of dwellings sought, officers are satisfied the site could be developed without undue short term harm to residents.

- The site has insufficient parking for the proposed use.
- There is a private road behind Mount Road, serving several dwellings. This needs to be considered cumulatively with the proposal.
- The proposal's private drive is narrow and could lead to issues within the site itself.

Response: Officers are satisfied with the proposed internal arrangement, sightlines and parking standards.

Ecology

- The ecological survey was undertaken at an unsuitable time of year. A bird survey should be undertaken.
- The proposal would harm local nesting birds.
- The survey is the same from 2015.
- Residents raise hedgehogs being within the area. Bats, toads and owls are also mentioned.

Response: The ecological report is dated February 2018. K.C. Ecology has reviewed the submitted document and are satisfied that it is suitable for planning purposes. Subject to mitigation the proposal would not cause undue harm to local species.

Residential Amenity

- The dwellings are 25.0m from local residents, which is considered to 'contravene planning conditions'.
- Properties would lose natural light and privacy given the higher site level to Mount Road.

Response: officers are satisfied that the proposal would not harm the amenity of neighbouring residents. This is considered within paragraphs 10.28 – 10.36.

- Green space makes people feel better; the loss of this field will harm the health of local people.

Response: The comment is noted, however given the overall small size of the site, within a rural environment, officers do not consider the loss materially harmful to residents. It is noted that the field is not used for sport or recreation.

Visual Amenity

- Local views will be impacted upon, particularly from parks near Butterley Reservoir, the Pule Hill Area and Wessenden Valley. This will harm tourism and the local economy.
- The proposal would harm openness and the rural character of the area.

Response: Officers have expressed concerns over visual amenity, as these comments are noted.

11.0 CONCLUSION

11.1 The site lies within an area allocated as Provisional Open Land within the UDP and Safeguarded Land within the emerging PDLP. While the council is unable to demonstrate a five year housing land supply, as the site has been through appropriate assessment the titled balance and presumption in favour of sustainable development does not apply. The proposal seeks an inefficient development, therefore the benefits of additional housing, at a time of shortage are considered limited. Weighing these policies, the principle of development is not deemed acceptable.

11.2 In terms of other impacts, concerns are held over the design of the proposed development, which is anticipated to appear incongruous within the area. Concerns are also held over the proposed drainage scheme, which seeks to use a pumped solution for surface water. There is a presumption against such schemes, however unsatisfactory justification has been provided.

11.3 The proposal has been assessed against the Policies of the UDP, PDLP and NPPF. Officers conclude the proposal is not acceptable and should not be supported.

Background Papers

Application and history files

Available at;

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f92216>

Certificate of Ownership

Certificate B signed. Notice served on Kirklees Council, A. Brook, K. Brook-Craven and E. Brook.

Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 13-Dec-2018

Subject: Planning Application 2018/91838 Outline application for erection of residential development Land off, Burn Road, Birchencliffe, Huddersfield

APPLICANT

J Dyson, R Bentley and S Hill

DATE VALID

05-Jun-2018

TARGET DATE

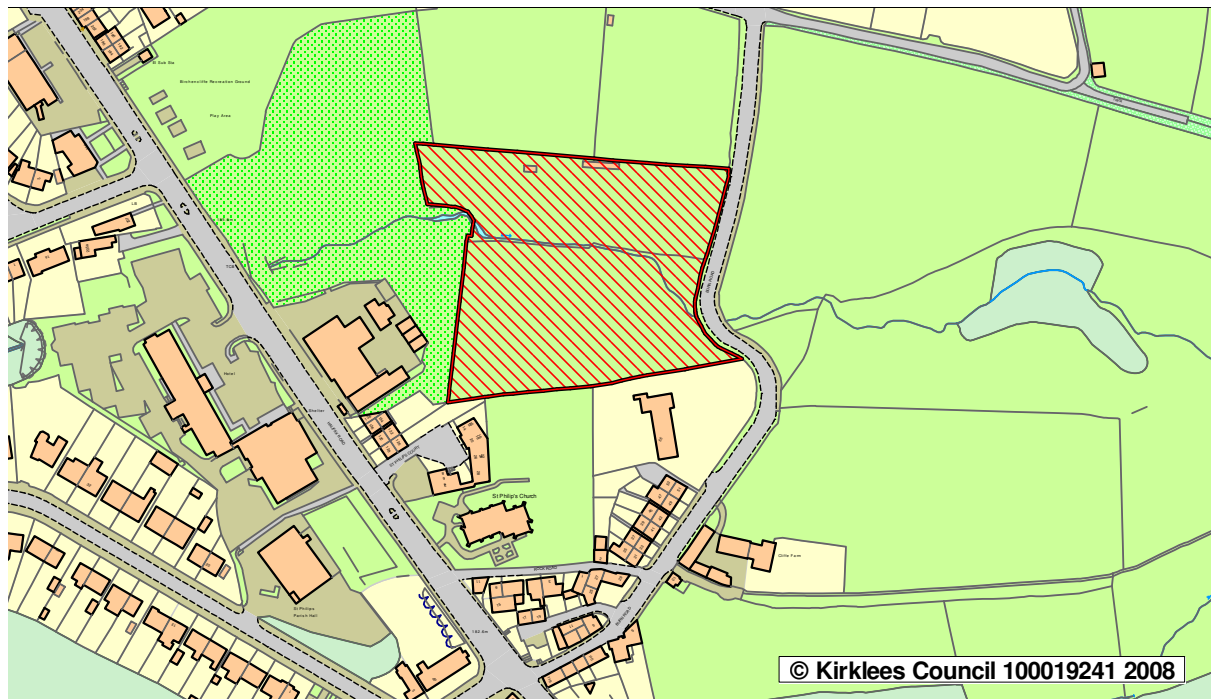
04-Sep-2018

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

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to obtain a satisfactory Road Safety Audit for the proposed point of access and complete the list of conditions including those contained within this report and to secure a S106 agreement to cover the following matters:

1. Education contribution (figure to be established once the number of dwellings on the site is known and taking into account development on land to the north)
2. Affordable housing (20% of the total number of units on the site)
3. Public Open Space (form of provision to be established following masterplanning exercise and once the number of dwellings on the site is known; to include provision/contribution towards play facilities and provision of a link to Birchencliffe Recreation Ground)
4. Financial contribution towards off-site improvement works at the Halifax Road/East Street (Cavalry Arms) junction (figure dependent on number of dwellings to be agreed under 'layout' at reserved matters)
5. Sustainable travel contribution (figure to be established once the number of dwellings on the site is known)

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

1.0 INTRODUCTION:

- 1.1 The application is brought forward to the Sub Committee in accordance with the Scheme of Delegation because the proposal is for residential development on Provisional Open Land and therefore represents a departure from Policy D5 of the development plan.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site is an overgrown field that lies on the eastern side of Burn Road, Birchencliffe. The site slopes downwards from the northern and southern boundaries where it then forms a watercourse ditch that crosses the site from west to east and becomes culverted towards the east.

2.2 There is residential development and a church to the south of the site partly separated by mature trees. There are two fields to the north that are each subject of an outline application for residential development. Towards the west is a garage site off Halifax Road which is also separated by an area of protected woodland. There is open land to the east that is being developed as part of an approved scheme for 95 dwellings.

3.0 PROPOSAL:

3.1 Outline application for residential development. Access is the only matter that has been applied for. The layout, scale, appearance and landscaping of the site are reserved for future approval.

3.2 The proposed access is a single priority junction on Burn Road.

3.3 Layout is a reserved matter however an indicative site layout plan has been submitted showing how the site could be developed. The layout shows 20 detached dwellings. The agent has confirmed that the total number of dwellings is not being applied for at this stage.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

Field immediately to the north of the application site:

2018/90151 – Outline application for residential development – Approved by the Sub Committee 21/6/18 (decision notice not yet issued)

Field immediately to the north of the application site:

2018/90776 Outline application for erection of up to 10 dwellings – Approved by the Sub Committee 20/9/18 (decision notice not yet issued)

Land to the east and towards the north of the application site:

2017/90180 – Erection of 95 dwellings with access from Yew Tree Road and Road – Approved and site currently under construction

2014/93039 – Outline application for residential development – Approved

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

5.1 The original submission proposed two points of access off Burn Road however Highways Development Management had concerns with the access arrangements and consequently an amended plan was submitted with a single point of access.

5.2 Additional ecological information was provided during the course of the application.

6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was 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 Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 48 of the National Planning Policy Framework (2018). 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 (2018), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.
- 6.2 The site is allocated as Provisional Open Land (POL) on the Unitary Development Plan Proposals Map. The site is part of Housing Allocation H706 within the Publication Draft Local Plan.
- 6.3 Kirklees Unitary Development Plan (UDP) Saved Policies 2007:
- D5 – Provisional Open Land
 - BE1 – Design principles
 - BE2 – Quality of design
 - BE12 – Space about dwellings
 - T10 – Highway safety
 - G6 – Land contamination
 - NE9 – Retention of mature trees
 - H18 – Provision of open space for new housing
- 6.4 Kirklees Publication Draft Local Plan (submitted for examination 25th April 2017):
- Spatial Development Strategy
 - PLP3 – Location of New Development
 - PLP5 – Masterplanning sites
 - PLP7 – Efficient and effective use of land and buildings
 - PLP11 – Housing mix and affordable housing
 - PLP21 – Highway safety and access
 - PLP24 – Design
 - PLP28 – Drainage
 - PLP30 – Biodiversity and Geodiversity
 - PLP32 – Landscape
 - PLP33 – Trees
 - PLP51 – Protection and improvement of local air quality
 - PLP53 – Contaminated and unstable land
 - PLP63 – New open space

6.5 Supplementary Planning Guidance / Documents:

N/A

6.6 National Planning Guidance:

Chapter 2 Achieving sustainable development
Chapter 4 Decision-making
Chapter 5 Delivering a sufficient supply of homes
Chapter 9 Promoting sustainable transport
Chapter 11 Making effective use of land
Chapter 12 Achieving well-designed places
Chapter 15 Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised by site notice, press advert and neighbour notification letters. No representations were received in response to the publicity.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

KC Highways Development Management – The amended plan indicating a single point of access is considered to be acceptable, subject to the submission of a Road Safety Audit.

Lead Local Flood Authority – Objects as the effects on the ordinary watercourse within the site have not been adequately assessed against the proposed access and potential site layout.

Yorkshire Water – No objection subject to conditions, including prescribed stand-off distances to sewers and storm water overflows within the site.

8.2 Non-statutory:

KC Environmental Services – No objection subject to conditions relating to contaminated land, noise mitigation, electric vehicle charging points and dust suppression during construction

KC Trees – No objections

KC Landscaping Section – Development triggers a requirement for POS and a Local Area of Play (LAP). Recommend that this is in the form of an off-site commuted sum to upgrade the existing facility at Birchencliffe Recreation Ground; the contribution could also be used towards provide natural play opportunities within the adjacent woodland. Based on the 20 dwellings indicated the sum would be £97,000.

Recommend that the site layout provides a connection through to the adjacent woodland and link through to the recreation ground; the linking path could also connect to the existing public right of way (HUD/405/10) just to the west of the site which in turn links to Yew Tree Road and Halifax Road.

KC Ecology Unit – No objection subject to conditions.

West Yorkshire Archaeology Advisory Service – Recommend that the archaeological potential of the site is investigated.

9.0 MAIN ISSUES

- Principle of development
- Overview of planned development within the area
- Urban design issues
- Residential amenity
- Landscape issues
- Housing issues
- Highway issues (including planning history and cumulative highway impacts)
- Drainage issues
- Air quality
- Planning obligations
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The site forms part of a much larger area of land which is allocated as Provisional Open Land (POL) on the Unitary Development Plan (UDP) Proposals Map.
- 10.2 The National Planning Policy Framework (NPPF) outlines the government's definition of how sustainable development will be achieved and paragraph 11 of the Framework sets out a presumption in favour of sustainable development.
- 10.3 In situations where local planning authorities are unable to demonstrate a five year supply of deliverable housing sites, policies which are most important for determining the application are deemed to be out-of-date.
- 10.4 As evidenced in recent appeal decisions (e.g. APP/Z4718/W/16/3147937 - Land off New Lane, Cleckheaton), the Council is failing to meet its requirement to ensure a five year housing land supply by a substantial margin. This is important in the context of paragraph 11 of the NPPF.
- 10.5 As the Council is unable to demonstrate a 5 year housing land supply as required by the NPPF, relevant policies relating to housing are considered to be out-of-date. Indeed, the housing land supply shortfall is substantial and falls below 3 years. Whilst the PDLP has been through examination, the Local Plan has not yet been adopted and the council is therefore unable to identify a five year supply of specific deliverable housing sites against the requirement.
- 10.6 Based on the above, there is a presumption in favour of sustainable development and planning permission should only be refused where there are adverse impacts which would significantly and demonstrably outweigh the benefits.

10.7 Policy D5 of the UDP relates to development on POL. It states:

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

10.8 It is considered that policy D5 is not a policy for the supply of housing having regard to the NPPF and therefore policy D5 is considered to be up-to-date.

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

Emerging Local Plan

10.10 The site is part of Housing Allocation H706 within the Publication Draft Local Plan (PDLP). The PDLP was submitted to the Secretary of State on 25th April 2017 for examination in public. The Examination in Public began in October 2017. Given that the PDLP has now been submitted and is undergoing examination consideration needs to be given to the weight afforded to the site's allocation in the PDLP.

10.11 The NPPF provides guidance in relation to the weight afforded to emerging local plans. Paragraph 48 states:

Local planning authorities may give weight to relevant policies in emerging plans according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- b) 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
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)

10.12 Paragraph 49 of the NPPF relates to prematurity and states that in the context of the Framework – and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances 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 plan; and
- b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

10.13 Given the scale of the development proposed when assessed against the wider context of the PDLP the application could not be deemed to be premature.

- 10.14 Given the advanced stage at which the Local Plan has progressed considerable weight should be afforded to the policies and allocations within the emerging Local Plan. There are two unresolved objections to proposed housing allocation H706, one from Historic England and one from a member of the public. The objection from Historic England relates to the impact on the significance and/or setting of Middle Burn Farm and Lower Burn Farm, which are both over 150m away from the application site. Given that the site is well separated from Middle Burn Farm and Lower Burn Farm, with new development also planned in between, it is considered that Historic England's unresolved objection does not significantly reduce the weight that can be afforded to the application site's allocation in the emerging plan.
- 10.15 If the emerging Local Plan was to be adopted in its current form, the Council would be able to demonstrate a five year housing land supply. However, whilst the PDLP has been through examination, as it stands the Council is a substantial way off from being able to demonstrate a five year housing land supply and housing delivery has persistently fallen short of the emerging Local Plan requirement. This triggers the presumption in favour of sustainable development as advocated by paragraph 11 of the NPPF.
- 10.16 Planning permission should therefore be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or; any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Overview of planned development within the area:

- 10.17 The site forms part of a large housing allocation within the Publication Draft Local Plan (PDLP). The gross site area is 16.8 hectares but the net site area is reduced to 12.91 hectares because the developable area is constrained. The indicative capacity of the allocation is 392 dwellings.
- 10.18 Planning permission for 95 dwellings (2017/90180) has been approved on a significant proportion of the allocation and this development is currently under construction. Outline consent for 4 dwellings has also been approved on a separate part of the allocation to the north east of the site (2016/90073).
- 10.19 The Sub Committee recently resolved to approve two outline applications for residential development on the adjoining fields to the north under application numbers 2018/90151 and 2018/90776. The latter application is for up to 10 dwellings and the former application did not specify a total number of dwellings but officers estimate the capacity to be in the region of 10 units. The Sub Committee has also approved an outline application for 3 dwellings on another part of the allocation to the north east of the site (2016/90524).
- 10.20 The indicative site plan submitted with the current application indicates 20 detached dwellings.
- 10.21 The above developments plus the 20 dwellings as indicated under the current application totals 142 dwellings and the combined area of all of these sites amounts to approximately 10 hectares of the 16.8 hectare allocation. This equates to 36% of the indicative capacity of the allocation on roughly 60% of the land.

- 10.22 Of the remainder of the allocation there are two relatively substantial swathes of land left over along with a number of small pockets of land. All of these areas are however constrained because of the presence of protected woodland or the proximity of listed buildings. It is to be noted as well that parts of the allocation already take in a small number of existing dwellinghouses as well as the road network which further reduces the amount of the developable part of the allocation that is left over.
- 10.23 Policy PLP5 of the emerging Local Plan relates to masterplanning sites. Masterplanning seeks to ensure that development is properly integrated with existing settlements and that local infrastructure and facilities for the wider area are expanded and enhanced. The policy sets out the objectives of masterplans and the policy justification sets out circumstances when a masterplan will normally be required. This includes multi-plot developments where there may be multiple landowners and it is important to co-ordinate the delivery of infrastructure and ensuring the place shaping principles and other policy requirements are met as set out in the plan.
- 10.24 There are unresolved objections to this policy, however, following the examination in public, modifications have been made to the policy which seek to address the unresolved objections. One of the amendments deals with piecemeal development. These modifications have been through public consultation. Unresolved objections would normally reduce the weight that can be afforded to an emerging policy but the proposed modifications allow the weight that that can be afforded to policy PLP5 to be increased.
- 10.25 There has not been a masterplan prepared for Housing Allocation H706 although almost half of the allocation has already been taken up with a single development of 95 dwellings across two large parcels of land. It is nevertheless considered appropriate for the proposal site and the two adjoining development sites to the north to be considered in the context of a 'masterplan' for this particular part of the emerging housing allocation. This is because together these three sites amount to a substantial part of the remaining allocation and fall within the definition of multi-plot developments within different ownership. A masterplanning approach to the design and layout of all three sites is relevant to ensuring the respective developments integrate with the surrounding area, as well as being relevant in the context of planning obligations. This is consistent with the approach taken on the applications to the north.

Landscape character and urban design issues

- 10.25 The site lies towards the edge of the built-up part of Birchencliffe with open fields to the north and east and an area of woodland towards the west. The land to the east is however currently being developed as part of a development of 95 dwellings that also includes a further area of open land on the northern side of Yew Tree Road. This approved development will therefore substantially alter the semi-rural character of the area and in this context it is considered that additional residential development on the site would not significantly harm the landscape character. What is more, outline consent for development on the adjoining fields to the north has also been approved by the Sub Committee and if these fields are developed it would further alter the character of the area.

- 10.26 The application is in outline form with access the only matter applied for. The indicative layout shows 20 detached dwellings which equates to a density of just under 19 dwellings per hectare. Within the emerging Local Plan Policy PLP7 seeks to achieve a net density of at least 35 dwellings per hectare, where appropriate. The indicative density is quite low, partly as a result of the dwellings all being detached properties. The topography of the site does impose a constraint to developing the land and there may be further constraints on the layout arising from the required stand-off distances to Yorkshire Water infrastructure and the ordinary watercourse within the site.
- 10.27 The density of the development will need to respect the character of the area, including that of the development currently being built under application 2017/90180. Issues of density and housing mix will need to be addressed through a masterplan that takes into account the adjoining fields to the north.
- 10.28 Consideration of scale and appearance are reserved for future approval but officers are satisfied that a scheme can be brought forward that respects existing development as well as new development planned within the immediate vicinity. This includes the fields to the north that are to be assessed holistically as part of a masterplanning exercise for this part of the housing allocation.
- 10.29 In principle the application is in accordance with Policies BE1 and BE2 of the UDP, PLP24 of the emerging Local Plan and guidance in the NPPF.

Residential Amenity

- 10.30 Officers are satisfied that a development can be brought forward that preserves residential amenity, including adequate separation distances to 55 Burn Road that is set up from the site to the south.
- 10.31 Environmental Services have recommended that a condition is imposed to address potential noise disturbance from road traffic (including from the M62 motorway).

Landscape issues

- 10.32 The landscaping of the site is a reserved matter. It is nevertheless considered that external boundary treatment should respect the established character of the area which includes drystone walling to field boundaries. Drystone walling has been retained to the boundaries of approved developments on other parts of the POL allocation.
- 10.33 There is scope for a link to be provided between the development and Birchencliffe Recreation Ground to promote connectivity. The link could also connect to the existing PROW HUD/405/10 which lies a short distance to the west of the site and in turn links to Yew Tree Road and Halifax Road. Such a link would therefore improve accessibility to local amenities and public transport for residents. This would enhance the sustainability of the development and is consistent with PLP3 of the emerging Local Plan and guidance in the NPPF. The adjacent land is within council ownership and so the formation of this link is feasible. The provision of a link is supported by the Council's Landscape section and PROW section. The link would need detailed design to ensure that it is suitable and safe. The link can be secured through the S106 agreement/planning condition and consideration of 'layout' at reserved matters.

Housing issues

- 10.34 The site is allocated for housing in the emerging Local Plan and the development would contribute towards the supply of housing in the district at a time when the council is currently unable to demonstrate a 5 year housing land supply. The scheme would also deliver affordable housing.

Highway issues

- 10.35 The site is located to the western side of Burn Road. This section of Burn Road is steep with severe bends to the site frontage.
- 10.36 Two new accesses onto Burn Road have been approved towards the north and south of the site as part of planning permission 2017/90180 for 95 dwellings. The approved accesses serve two separate parcels of land on the eastern side of Burn Road.
- 10.37 It was originally proposed for the application site to be served by two separate points of access off Burn Road. Highways Development Management raised concerns with these points of access, which were only 31m apart and had substandard sightlines. In response to these concerns the access proposals have been amended and it is now proposed to have a single point of access off Burn Road.
- 10.38 Highways Development Management have confirmed that the amended access plan is acceptable, subject to a Road Safety Audit. The Road Safety Audit is to be provided by the applicant before the decision is issued.
- 10.39 Conditions are considered necessary in relation to detailed junction design and for the provision of a 2m wide footway to the site frontage.
- 10.40 The application is considered to comply with Policies T10 and BE1 of the UDP and PLP21 of the emerging Local Plan.

Planning history and cumulative highway impacts:

- 10.41 The site forms part of a larger POL allocation/emerging housing allocation where planning permissions have previously been granted for residential development on a significant proportion of the allocation.
- 10.42 The first permission on this POL allocation was an outline consent for up to 190 dwellings (ref 2014/93039) on two parcels of land accessed from Yew Tree Road (one access) and Burn Road (two accesses). A suite of highway works were required including:
- a) Capacity and safety improvement of the Burn Road / Grimescar Road junction: Increase visibility along Grimescar Road.
 - b) Capacity and safety improvement of the Grimescar Road / Brighthouse Road junction: Increase entry junction radii and width to Grimescar Road
 - c) Capacity and safety improvement of the A629 Halifax Road / Yew Tree Road junction; Increase visibility along Halifax Road.
 - d) Widen Yew Tree Road along site frontage and provide footway.
 - e) Change Burn Road priorities making 'one way' from Halifax Road for approximately 150m.

- 10.43 In addition to the above, financial contributions towards improvements to the A629 Halifax Road and a residential travel plan (including Metro Cards) were required.
- 10.44 The constraints of the aforementioned site meant that the developer (Harron Homes) was unable to accommodate anywhere close to 190 dwellings and so a full application was submitted for 95 dwellings on the same parcels of land and with the same points of access (ref: 2017/90180). As part of the permission the developer was still required to provide all of the highway improvements that were necessary for the 190 dwelling scheme, as listed at points a) to e) above, along with commensurate financial contributions towards improvements to the A629 Halifax Road and a residential travel plan (including Metro Cards).
- 10.45 The development approved under application 2017/90180 is under construction and the current position in relation to the secured highway works is that S278 agreements with the Council for the delivery of the highway works are in place and are/will be constructed as the development is being built out.
- 10.46 There are also a number of permissions/proposals for much smaller residential developments on other parts of the POL/emerging housing allocation. These are:
- 2016/90073 – Outline consent for 4 dwellings on land at the junction of Yew Tree Road/Burn Road (access and layout approved). The site would be accessed off Burn Road via an existing private shared driveway.
- 2016/90524 – Outline consent for 3 dwellings on land to the north east of the site. The site would be accessed off Yew Tree Road (Bridleway) east of its junction with Burn Road.
- 2018/90151 – Outline application for residential development on an adjoining field to the north of the site. The Sub Committee has previously resolved to approve this application. Access was the only matter considered with the access being a single point of access off Yew Tree Road. Officers estimate the capacity of the site to be circa 10 dwellings. A financial contribution to the A629 Halifax Road improvement scheme is to be provided.
- 2018/90776 - Outline application for up to 10 dwellings on an adjoining field to the north of the site. The Sub Committee has previously resolved to approve this application. Access was the only matter considered with the access being a single point of access off Yew Tree Road. A financial contribution to the A629 Halifax Road improvement scheme is to be provided.
- 10.47 To summarise the cumulative impacts of the above developments, the initial application for 190 dwellings on a significant proportion of the POL/emerging housing allocation undertook a robust modelling analysis of the local highway network which identified the highway works set out in paragraph 10.42. The subsequent approval for 95 dwellings on the same land provides for the same highway works. This essentially leaves a residual of 95 dwellings which was assessed within the initial highway modelling.

- 10.48 Taking into account the total number of dwellings associated with the planning proposals/permissions set out in paragraph 10.46 along with the 20 dwellings as shown for indicative purposes within the application now under consideration, this results in a total of 47 dwellings. When this is added to the 95 houses already under construction it gives a cumulative total of 142 dwellings on the allocation. As such there is still highway capacity for a further 48 dwellings based on the original 190 dwellings analysis.
- 10.49 In addition to the above, a 'West Yorkshire Local Transport' funded scheme is being promoted for the extensive improvements along the A629 Halifax Road corridor at the following locations:
- **Blacker Road / New North Road / Edgerton Road / Edgerton Grove Road junction (Blacker Road Jct):**
Widening will be carried out along New North Road, Edgerton Road and Blacker Road to provide more traffic lanes approaching the junction.
 - **Halifax Road / Birkby Road / East Street junction (Cavalry Arms Jct):**
Birkby Road will be re-aligned to remove the wide stagger.
 - **Between Cavalry Arms Jct and Birchenclyffe Hill Road:**
Propose to remove parking from both sides of the road to improve traffic flow and enable footways to be used safely.
 - **Yew Tree Road to Ainley Top roundabout (Ainley Top):**
 - Lengthening the approach lanes to the roundabout from Yew Tree Road
 - A new signal controlled left slip to bypass the roundabout for traffic travelling to the M62
 - Dedicated northbound cycle lane (Yew Tree Road to roundabout)
- 10.50 The proposed development will provide a contribution towards the improvements to this main arterial route.

Flood risk and drainage issues

- 10.51 The Lead Local Flood Authority (LLFA) has identified a number of potential constraints to development arising from the location of a watercourse that crosses the site from west to east. Investigation of the watercourse and its impacts on the access and indicative layout has been recommended in order to establish the risk of flooding.
- 10.52 Layout is not under consideration at this stage and it is only the point of access that is being considered. The proposed access arrangements have been amended and a single point of access is proposed and this is slightly further away from the watercourse (circa 20m). The point of access also sits above the level of the watercourse.
- 10.53 Officers consider that it is reasonable for conditions to be imposed requiring investigation of the watercourse to be submitted alongside details of 'layout' at reserved matters stage, with the watercourse investigation having been used by the applicant to inform the proposed site layout.

- 10.54 Updated comments have been sought on the revised access arrangements from the LLFA in respect of the impact on flood risk and an update will be provided to the committee on this issue.
- 10.55 Yorkshire Water have not objected to the application but have identified that a number of their sewers and storm water overflows cross the site. It has been recommended that conditions are imposed that provide specific stand-off distances to this infrastructure in order to allow sufficient access for repair and maintenance. There is also a combined sewer overflow within the site and it is recommended that no habitable buildings are located within 15m of this feature. The Yorkshire Water infrastructure will need to be taken into account by the applicant when planning the site layout. The applicant has been asked to comment on the Yorkshire Water infrastructure in the context of the proposed point of access; an update will be provided to the committee on this matter.

Ecology

- 10.56 The application is supported by an ecological appraisal. No objections from the Ecology Unit subject to a condition requiring an ecological design strategy in support of the scheme that comes forward at reserved matters. Subject to this condition the application accords with PLP 30 of the emerging Local Plan and guidance in the NPPF.

Air quality:

- 10.57 NPPF Paragraph 170 states that “ the planning system should contribute to and enhance the natural and local environment by..... preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.....”
- 10.58 This development is in close proximity to Halifax Road and the Ainley Top roundabout, where monitored air quality levels have exceeded the health related annual objective for NO₂.
- 10.59 An air quality impact assessment was submitted for application 2014/93039 for the erection of 190 dwellings on the majority of the POL and an update to this assessment was carried out for a subsequent full planning application for 95 dwellings on the same part of the POL (2017/90180), with the development for 95 houses currently being built out. Under both assessments the air quality impacts were found to be imperceptible having regard to national guidance.
- 10.60 Given that the quantum of development on the full POL allocation from both approved and proposed developments is below the number of dwellings which was originally assessed (190) it is considered that the previous conclusions on air quality impact hold for this application. The provision of electric vehicle charging points within the development will help to mitigate air quality impacts and this would be in line with the West Yorkshire Low Emissions Strategy for minor developments such as this as well as being in accordance with PLP24 of the emerging Plan. A contribution towards sustainable travel would also help to mitigate the limited air quality impacts of the development.

Planning obligations

- 10.61 The indicative number of dwellings meets the trigger for affordable housing provision and the size of the site meets the trigger for public open space provision. The indicative number of dwellings does not meet the trigger for an education contribution although it is possible that the 25 dwelling threshold is met when layout is applied for at reserved matters. In any event, it is considered reasonable to take into account the wider context of the site when assessing planning contributions and in particular in relation to an education contribution.
- 10.62 The site forms one of a group of three adjoining fields that are all subject to separate outline applications for residential development. These fields form a distinct and self-contained part of the emerging housing allocation, separated from adjacent development land by Yew Tree Road and Burn Road. Together these fields comprise approximately 12% of the emerging housing allocation.
- 10.63 Development on these three fields could reasonably result in 40 dwellings and considerably more if the PDLP minimum density requirement of 35 dwellings per hectare were to be applied.
- 10.64 The adjoining development sites to the north would not trigger an education contribution on their own and the application site also may not trigger an education contribution. Taken together however the developments are extremely likely to exceed the 25 dwelling threshold for an education contribution.
- 10.65 The three applications represent a piecemeal approach to development on this part of the allocation and as a consequence normal planning obligations would either not apply or would apply at a lesser rate. The potential also exists for there being three permissions which could ultimately be built out by a single developer without an education contribution.
- 10.66 It is recognised that these three sites are in different ownership and that they are not reliant on one another for access and can be built out independently. However, as set out at paragraphs 10.23-10.25, Policy PLP5 (as modified) of the emerging Local Plan takes into account piecemeal development and enables the council to co-ordinate the delivery of infrastructure through the masterplanning of allocated sites such as this.
- 10.67 Officers are therefore of the opinion that it is in the public interest to calculate contributions based on there being development on the two adjoining fields to the north that are subject to live outline planning applications, with a mechanism within the S106 to deliver a proportionate contribution towards education on this development. This is consistent with the approach taken on applications 2018/90151 and 2018/90776.
- 10.68 It is also appropriate to consider a contribution towards sustainable travel given the number of dwellings. Such a contribution would normally be towards Metro Cards, or alternatively it could be used towards other highway/transport improvements in the vicinity of the site, such as the suggested link to existing PROW HUD/405/10 to the west of the site and described at paragraph 10.33. One Metro Card would cost approximately £500. This can be secured by S106 or condition.

- 10.69 A contribution is also sought towards planned highway improvement works at the Halifax Road/East Street (Cavalry Arms) junction. These works include road widening, resurfacing, repositioned pedestrian crossings and repositioned footways. The scheme is being funded by the West Yorkshire plus Transport Fund. A contribution towards works at this junction was secured as part of the Harron Homes development (2017/90180) and has recently been sought as part of the outline application on the adjoining fields to the north (2018/90151 & 2018/90776). It is therefore considered reasonable for the proposed development to deliver a proportionate contribution. Based on these other applications the contribution is £790 per dwelling. This is to be secured via S106.
- 10.70 Affordable housing provision would apply at 20% of the total number of units on the site, which is to be agreed at reserved matters.
- 10.71 The development triggers a requirement for POS provision and a Local Area of Play (LAP). It may be appropriate for some on-site POS to be provided when a masterplan is prepared for the site and the adjoining fields to the north. Alternatively an off-site commuted sum to upgrade the existing facility at Birchencliffe Recreation Ground and/or to provide opportunities for natural play within the adjacent woodland would be appropriate. In any event it is unlikely that the provision of play facilities would be provided on site because of the need to provide suitable separation between such facilities and housing; such play facilities would therefore be targeted at the nearby recreation ground and/or adjacent woodland. It is reasonable for some of the POS contribution to be used to deliver the link to the recreation ground through the woodland.

Representations

- 10.72 No representations received.

Other Matters

- 10.73 Environmental Services recommend that conditions are imposed requiring intrusive site investigations and a remediation strategy, as may be necessary, to address potential land contaminated issues.
- 10.74 There is an area of protected woodland to the western site boundary as well as some unprotected mature trees to the south and some immature trees within the site. The Planning Service's Arboricultural Officer has assessed the application and raises no objections although the layout submitted at reserved matters will need to take account of the protected trees.
- 10.75 West Yorkshire Archaeology Advisory Service have recommended that the archaeological potential of the site is investigated given its location, features present and previous archaeological findings in the surrounding area. This matter can be addressed via a planning condition.

11.0 CONCLUSION

- 11.1 Officers consider the principle of development on this part of the POL allocation to be acceptable; there are not any specific constraints to developing the site and applications for residential development have recently been approved on other parts of the POL allocation, including a scheme for 95 houses. Furthermore the land is allocated for housing in the emerging Local Plan and significant weight can be afforded to this.
- 11.2 Access is the only matter that has been applied for and the proposed single point of access off Burn Road to serve the development is considered to be acceptable from a highway safety point of view, subject to the submission of a Road Safety Audit. An update will be provided to the committee in relation to the proposed point of access (and consequential position of the internal access road) and potential flood risk issues and impacts on the watercourse and drainage infrastructure within the site.
- 11.3 Officers are satisfied that an appropriate scheme can be brought forward at reserved matters that integrates with the existing area and new planned development in the vicinity of the site. Subject to consideration of the reserved matters officers are also satisfied that residential amenity would be protected. Ecology matters can be dealt with by conditions.
- 11.4 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.5 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

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

1. Standard conditions for outline consents (including submission of reserved matters and time limit)
2. Intrusive site investigations and remediation to address contaminated land issues
3. Detailed drainage design including future maintenance and management of surface water infrastructure
4. Provision of footway to site frontage
5. Detailed road junction design
6. Internal estate road design
7. Noise report and mitigation
8. Ecological Design Strategy
9. Sustainable travel contribution
10. Construction management plan
11. Scheme for dust suppression during construction
12. Scheme for archaeological investigation
13. Provision for footpath link to Birchencliffe Recreation Ground/PROW HUD/405/10
14. Electric vehicle charging points to be provided
15. Stand-off distances to drainage infrastructure

Background Papers:

Application and history files.

Website link:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f91838>

Certificate of Ownership – Certificate A signed.

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Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 13-Dec-2018

Subject: Planning Application 2018/91542 Erection of two storey rear extension, porch to front and alterations to roof 9, Inglewood Avenue, Birkby, Huddersfield, HD2 2DS

APPLICANT

M Ashfaq

DATE VALID

23-May-2018

TARGET DATE

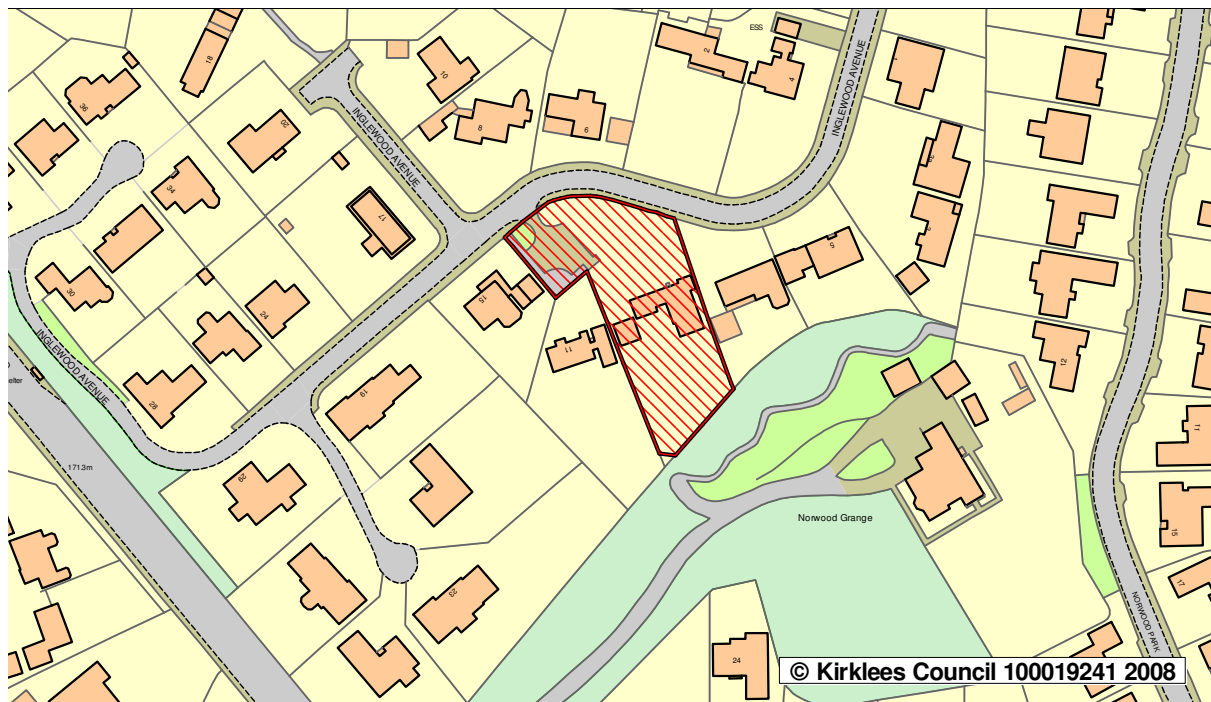
18-Jul-2018

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

N

RECOMMENDATION:

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

1.0 INTRODUCTION:

1.1 The application is brought to Planning Committee at the request of Cllr Eastwood who has provided the following reason:

The application will arguably have a detrimental impact on the area and near neighbours and thereby contrary to Policies BE1 & BE2 of Kirklees UDP.

1.2 The Chair has agreed to this application being brought to Sub-Committee.

2.0 SITE AND SURROUNDINGS:

2.1 No.9 Inglewood Avenue at Birkby is a substantial two storey detached dwelling with stone and brick outer walls and a concrete tiled roof. The property, which has been subject to fire damage, is sited within generously proportioned grounds, with garden areas to the front and rear. It has a detached garage of stone construction to the side which is accessed via a private cul-de-sac, and within the front amenity space are mature trees protected by a Tree Preservation Order. The surrounding area is predominately residential and the site is unallocated on the Unitary Development Plan but backs onto the Edgerton Conservation Area to the south.

3.0 PROPOSAL:

3.1 The application seeks the extension and alteration of the existing property to form a 6 bedroom dwelling across 3 floors. The application includes the erection of a rear extension to square the property off on the western side and make the rear elevation of the dwelling level. A single storey ground floor element would be provided which would project out as far as an existing element on the eastern side of the property with an external terrace provided over the top. The existing front porch would be enlarged to provide a large entrance/foyer.

3.2 The overall height of the dwelling would be raised by 1.25 metres to facilitate the additional floor in the dwelling. It would be formed by a steeply sloping turned gable roof would be located on the eastern side with a pitched roof at right angles on the western side. The roof would be covered in zinc cladding with a black/grey colour. Large sections of glazing would be installed in the front and rear elevations along with pitched face Yorkshire stone at ground floor and white render at first floor level. A large timber decked area would be located on the rear of the property.

3.3 A new driveway entrance would be formed off Inglewood Avenue on the eastern side which would provide space for off street parking and internal turning.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 2008/91144 – Demolition of existing house and garage and outline application for erection of 4 detached dwellings – Refused

4.2 2008/93776 – Demolition of existing house and garage and outline application for erection of 3 detached dwellings – Refused. Appeal Dismissed.

4.3 2010/90935 – Erection of two detached dwellings with integral garages and demolition of existing dwelling with detached garages – Refused.

4.4 2011/90866 – Erection of extensions, alterations, new roof structure and formation of new access – Withdrawn

4.5 2011/91529 – Demolition of existing dwelling and erection of 1 dwelling with detached double garage and formation of new access – Refused. Appeal Dismissed.

4.6 2013/90733 – Demolition of existing dwelling and detached garage and erection of new detached dwelling and associated works – Refused, Appeal Dismissed

4.7 2014/91857 - Demolition of existing dwelling and detached garage and erection of detached dwelling with associated works - Invalid

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

5.1 The case officer secured amended plans to address design concerns raised by Planning Officers and address inconsistencies regarding the submitted red line boundary.

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 Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 48 of the National Planning Policy Framework (2018). 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 (2018), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant 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:

The site is located on unallocated land on the UDP.

- 6.2 D2 – Unallocated Land
- BE1 – Design principles
- BE2 – Quality of design
- BE12 – Space about buildings
- NE9 – Retention of mature trees
- T10 – Highway Safety
- T19 – Parking Standards

Kirklees Publication Draft Local Plan:

The site is located on unallocated land on the draft Local Plan.

- 6.3 PLP1 - Presumption in favour of sustainable development
- PLP2 – Place shaping
- PLP21 – Highway Safety and access
- PLP22 - Parking
- PLP24 – Design
- PLP33 – Trees

National Planning Guidance:

- 6.4 Chapter 12 – Achieving well-designed places
- Chapter 15 – Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application was advertised by site notice and neighbour notification letters were sent to adjacent properties. The amended plans received on 27/9/18 were also re-advertised for 2 and a half weeks. In total 8 representations have been received to the two periods of publicity.

Comments from the initial Plans

- The redline boundary between no.7 and no.9 is incorrect and includes land owned by no.7. This matter should be resolved.
- The application site has been subject to a number of previous applications which have been refused. Whilst the redevelopment of the site is supported there needs to be careful consideration to the impact on character and appearance of the local area, and the amenity of local residents, these matters formed reasons for refusals on the previous scheme. The current scheme is not consider to have addressed these concerns.

- The proposal includes raising the roof by 1.25 metres incorporating a steeper roof which is considered to have an adverse impact on no. 7 Inglewood Av. No.7 is set at a significantly lower level than no.9 and the proposal would lead to a detrimental overbearing impact on no.7 and have an adverse impact on the street scene and the character of the local area contrary to Policies BE1 and BE2 of the UDP and Policies in Chapter 12 of the NPPF.
- The proposal includes the enlargement of the front porch closer to no.7, this enlargement is considered to have a detrimental impact on the amenity bedroom window in the front elevation of no.7 and the front garden.
- The windows in the side elevation have the potential to detrimentally over look no.7, of particular concern is the side window to bedroom 4, this should be reduced in scale or removed.
- There is potential to overlook no.7 from the proposed external terrace from the master bedroom located within the roof space of the dwelling. A screen to protect this should be incorporated in the development.
- The application includes no provision for parking, the parking area by no.11 should not be included within the submitted red line boundary as this is not owned by the applicant.
- The application is supported and would represent an improvement in the local area.

Comments from the Amended Plans

- There is a discrepancy in between the red line showing the application site boundary on Plan (P-01) and the one on the existing site/block plan (P-02 Rev A). The former includes the parking area in front of no.11 Inglewood Ave the latter does not. Which is correct, has appropriate notice been served?
- The redevelopment of the site is welcomed, however the proposal as amended is still considered an adverse impact on no.7 Inglewood Av.
- There is no objection to a property at no.9, however adequate parking should be provided in any development with safe access onto Inglewood Avenue. The proposed dwelling is very large and would require significant off street parking.
- Hours of building work should be limited to appropriate times of the day with noise levels limited.
- Any alternations to the roof should be proportionate and commensurate with Inglewood Avenue.

8.0 CONSULTATION RESPONSES:

8.1 **Statutory:** none necessary

8.2 **Non-statutory:** none necessary

9.0 MAIN ISSUES

- Principle of development
- Background
- Design
- Residential amenity
- Highway Safety
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The site is without notation on the UDP Proposals Map and Policy D2 (development of land without notation) of the UDP states “planning permission for the development ... of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]”. All these considerations are addressed later in this assessment.
- 10.2 Furthermore the site is without notation on the Publication Draft Local Plan. Policy PLP1 states that when considering development proposals, the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. The assessment below takes into account the aims of PLP1.

Background

- 10.3 The host property is currently vacant having being damaged by fire some substantial time ago. It is noted that a number of previous applications listed in section 4 of this report have been submitted seeking to redevelop the property none of which have been approved, with the key reason for refusal being the scale of the development proposed. This application seeks to address the concerns set out in the previous applications by redeveloping the existing building to a single residential dwelling of a smaller front print to the schemes which have been refused.

Design

- 10.4 The NPPF provides guidance in respect of design in chapter 12 (Achieving well-designed places) with 124 providing an overarching consideration of design stating:
- 124. The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities*

Kirklees UDP Policies D2, BE1, BE2 and BE5 and Policy PLP24 of the PDLP are also relevant. All the policies seek to achieve good quality design that retains a sense of local identity, which is in keeping with the scale of development in the local area and is visually attractive. The site is also within the setting of Edgerton Conservation Area and Policies in Chapter 16 of the NPPF and Policy PLP35 of the draft Local Plan need to be considered.

- 10.5 The proposed extensions to the host dwelling have been design with a contemporary appearance and it is noted that the appearance of the dwelling would be significantly different to the dwelling which currently occupies the site. There is no objection to a contemporary design approach to the dwelling and it is noted that the application site is within a substantial plot which allows good separation to adjacent properties. It is also acknowledged that dwellings along Inglewood Avenue are often individually designed properties with differing construction materials and architectural fenestration. The applicant has provided a street scene elevation of the application property adjacent to no.7 and 11 to demonstrate how the property would fit into the street. Whilst each property is significantly different in design, given the separation between the plots the contemporary design is considered to sit acceptably within the street scene.
- 10.6 The proposed design includes large sections of white through render on the dwelling, which whilst differing from the predominant stone material of no.s7 and 11 is not an uncommon material along Inglewood Avenue. The ground floor of the dwelling would be constructed of natural stone, which would be in keeping with adjacent properties and would help the dwelling sit within the character of the local area. The use of a roof clad in zinc of a black grey would introduce a new material into the street scene, however there is no objection in principle to use of such a material as it would represent a high quality material and would have a dark colour not dissimilar in colour to the slate roofs at no.s 5 and 7. It is therefore considered that the use of a zinc roof would sit acceptably with the contemporary nature of the proposed design. However to ensure that specific details of the materials are clear before their use a condition will require the submission of details before their use.
- 10.7 In terms of the setting of the conservation area, the site is bounded by Edgerton Conservation Area to the south and the impact of the development on the setting of the Conservation Area needs to be considered in detail. Section 72 of the Planning (Listed Buildings & Conservation Areas) Act 1990 introduces a general duty in respect of conservation areas. Special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Additionally, Policies BE5, PLP35 and NPPF Chapter 16 outline the principle of development and restrictions for development in conservation areas.
- 10.7 Whilst the application site is adjacent to the conservation area the proposed dwelling would be approximately 18.5 metres from the boundary and it is considered that the dwelling would be read in conjunction with properties on Inglewood Avenue with only limited views of the property from the conservation area. In light of this the proposal is considered to have an acceptable impact on the setting of the conservation area.

- 10.8 In terms of permitted development potential at the site it is noted that this application represents an application for extension to an existing dwelling. The rear elevation would be largely extended through the proposal and would therefore not represent the original rear elevation therefore limiting the scope for any further additions. In terms of outbuildings, the plot is large and a large garden area would be retained by the development. It is therefore not considered necessary or reasonable to remove permitted development rights for any outbuildings.
- 10.9 In conclusion, the design of the proposed dwelling is considered to be of an acceptable design and would have an acceptable impact on the setting of the conservation area.

Residential Amenity

- 10.10 A core principle of the National Planning Policy Framework is to seek high quality design and a good standard of amenity for all existing and future occupiers of land and buildings. The impact of the development on residential amenity also needs to be considered in relation to policies D2 and BE14 of the Unitary Development Plan. This is further reiterated in Policy PLP24 of the draft Local Plan.
- 10.11 The proposed development would lead an enlarged dwelling occupying the site which would also be significantly taller, 1.25 metres higher adjacent to no.7 and 1.7 metres higher adjacent to no.11. The closest residential properties to the proposed development would be no. 11 to the west, no.7 to the east. There are other properties in the local area which are opposite the site to the north at no.s 2 and 6 Inglewood Avenue, and Norwood Grange to the rear, south east. These dwellings are over 40 metres away from the application site which is considered to be sufficient to protect the amenity of these properties. The impact of the development on no.s 7 and 11 will be assessed below.

No.7 Inglewood Avenue

- 10.12 This property is located to the east of the application site and represents a detached bungalow. The proposed alterations to no. 9 would broadly retain the same footprint as the existing dwelling with the only addition being an enlargement to the single storey front porch. Therefore in terms of the footprint of the building the proposal is considered to have an acceptable impact on no.7. The main alterations to affect no.7 would be the increase in height of the host property by 1.25 metres and the use of windows on the side elevation and a rear terrace.
- 10.13 With regard to raising the height, whilst the dwelling would be taller overall, the existing eave's height would be retained and the sloping nature of the roof would take the majority of the bulk of no.9 away from no.7. The use of the existing footprint and separation between the two dwellings of 7.7 metres is considered sufficient to prevent the proposal having a detrimental overbearing impact on no.7. The orientation of the two dwellings with no.9 to the west would also assist in reducing the impact on no.7 in term of overshadowing with the main impact on no.7 not occurring until late afternoon or evening. The separation between the two properties combined with the orientation is considered sufficient to prevent any detrimental overshadowing impact from occurring.

- 10.14 Turning to overlooking it is noted that a number of windows would be installed in the facing side elevation which would serve a kitchen at ground floor, bedroom and ensuite at first floor, with roof lights serving part of a bedroom, an ensuite and a landing/hallway within the roof space. It is noted that the existing dwelling has a number of windows on the side elevation which already look towards no.7. With regards to the windows on the side whilst there are existing windows on the facing elevation, and many of the windows are secondary, it is noted that proposed windows could lead to some degree. Therefore in order to protect the amenity of no.7 the side facing windows including the roof lights will be conditioned to be obscurely glazed.
- 10.15 Also of note in terms of overlooking is the prop sod rear terraces. The first floor terrace is large and would serve two bedrooms and would potentially allow future occupiers to look over towards the garden space of no.7. However a separation distance of 6 metres can be achieved to the boundary and an existing double garage helps to separate the garden of no.7 from the application site. Notwithstanding this existing mitigation to further reduce any concerns in respect of overlooking it is considered appropriate and necessary to condition the provision of a screen on the eastern boundary of the first floor terrace. With regards to the roof terrace, this would be shelled from direct views towards no.7 by the roof and it is considered that no further mitigation is necessary. To prevent any potential for further overlooking permitted development rights for any new windows will also be withdrawn.
- 10.16 Subject to the conditions set out above, the proposal is considered to have an acceptable impact on the occupiers of no.7.

No.11 Inglewood Avenue

- 10.17 This property is to the west of no.9 with the main body of the house separated from no.11 by the former vehicular drive achieving a separation distance of 6.7 metres to the shared boundary. Whilst the proposal would increase the overall height of the dwelling adjacent to no.11 by 1.7 metres given the separation distance to the shared boundary combined with the orientation it is not considered that the proposal would lead to a detrimental overbearing or overshadowing impact on .11.
- 10.18 With respect to overlooking, a number of windows are proposed on the side elevation facing no.11 which would serve a reception room at ground floor, a bedroom at first floor and two en-suits at first floor level. In addition a roof terrace is to be formed which would have views towards no.11. To prevent detrimental overlooking of no.11 it is considered appropriate and necessary to condition that windows in the side elevation are obscurely glazed and that a glazed privacy screen is installed for the roof terrace. To prevent any potential for further overlooking permitted development rights for any new windows will also be withdrawn.
- 10.19 Subject to the conditions set out above, the proposal is considered to have an acceptable impact on the occupiers of no.7.

Highway safety

- 10.20 The impact of the development on highway safety is an important consideration and Policies T10 and T19 of the UPD and Policies PLP21 and 22 of the draft Local Plan all need to be considered in detail.
- 10.21 The application seeks to provide a new point of access to the site and a new drive which would lead in front of the dwelling and provide an area of off street parking and internal turning. The new drive would be 5.5 metres in width which is considerable and significant space would be provided in front of the dwelling for off street parking. Whilst no parking bays are marked on the site plan, the space is considered to be more than sufficient to accommodate the minimum 3 spaces required for the development. The existing point of access would not be used under this application. The drive would be surfaced in loose stone chip paving which for the most part is considered to be acceptable. However to prevent stone chippings being dragged onto the highway a condition is attached to the recommendation requiring the first 5 metres of the drive to be hard surfaced.
- 10.22 Subject to the condition set out above the access and parking arrangements proposed are considered to be acceptable and the application would have an acceptable impact on highway safety.

Other Matters

- 10.23 It is noted that the application site is within the Bat Alert layer and the impact on bats needs to be considered. The building has been damaged by fire for a substantial period of time and previous applications have determined that bat surveys were not required. Therefore in this instance a precautionary note is considered to be sufficient protect against the potential harm to bats. It is noted that there are a number of mature trees to the rear of the property which are protected by their location within the Conservation Area, however given the separation distance from extended dwelling to the trees it is consider that the proposal would not have a detrimental impact on these trees.

Representations

- 10.24 In total 8 representations have been received to the two periods of publicity. A summary of the comments received is set out below along with a response to the points raised.

Comments from the initial Plans

- The redline boundary between no.7 and no.9 is incorrect and includes land owned by no.7. This matter should be resolved.

Response: This matter has been investigated by Planning Officers and the red line boundary has been amended removing the disputed land. The amended plans were received on 27 September 2018 and re-advertised.

- The application site has been subject to a number of previous applications which have been refused. Whilst the redevelopment of the site is supported there needs to be careful consideration to the impact on character and appearance of the local area, and the amenity of local residents, these matters formed reasons for refusals on the previous scheme. The current scheme is not considered to have addressed these concerns.

Response: As set out above, there has been a detailed assessment of the impact of the design of the proposal on the character of the local area. The currently proposed scheme is significantly smaller in scale than previously proposed schemes and as set out above is considered to be acceptable.

- The proposal includes raising the roof by 1.25 metres incorporating a steeper roof which is considered to have an adverse impact on no. 7 Inglewood Av. No.7 is set at a significantly lower level than no.9 and the proposal would lead to a detrimental overbearing impact on no.7 and have an adverse impact on the street scene and the character of the local area contrary to Policies BE1 and BE2 of the UDP and Policies in Chapter 12 of the NPPF.

Response: The impact on raising the roof by 1.25 metres has been assessed above and is considered to be acceptable.

- The proposal includes the enlargement of the front porch closer to no.7, this enlargement is considered to have a detrimental impact on the amenity bedroom window in the front elevation of no.7 and the front garden.

Response: It is considered that the enlargement of the porch would not have a detrimental impact on the front garden of no.7.

- The windows in the side elevation have the potential to detrimentally overlook no.7, of particular concern is the side window to bedroom 4, this should be reduced in scale or removed.

Response: As set out above the side elevation of host property already includes a number of windows, however to protect the amenity of no.7 and to prevent any adverse overlooking the windows will be conditioned to be obscurely glazed.

- There is potential to overlook no.7 from the proposed external terrace from the master bedroom located within the roof space of the dwelling. A screen to protect this should be incorporated in the development.

Response: As set out above the proposed terrace would be located 5.7 metres from the shared boundary which helps to mitigate any impact. However to fully mitigate any potential for overlooking and to protect the amenity of no.7 a condition for the provision of a 1.8 metre high obscurely glazed screen will be attached to the decision notice.

- The application includes no provision for parking, the parking area by no.11 should not be included within the submitted red line boundary as this is not owned by the applicant.

Response: As set out above the application includes parking provision for the host property on the drive. Whilst specific spaces are not marked it is considered that sufficient space is provided for the enlarged dwelling.

- The application is supported and would represent an improvement in the local area.

Response: Noted.

Comments from the Amended Plans

- There is a discrepancy in between the red line showing the application site boundary on Plan (P-01) and the one on the existing site/block plan (P-02 Rev A). The former includes the parking area in front of no.11 Inglewood Ave the latter does not. Which is correct, has appropriate notice been served?

Response: The correct red line does not include the parking area in front of no.11, the plans online have been subsequently updated.

- The redevelopment of the site is welcomed, however the proposal as amended is still considered an adverse impact on no.7 Inglewood Av.

Response: As set out above the proposal is considered to have an acceptable impact on the occupiers of no.7.

- There is no objection to a property at no.9, however adequate parking should be provided in any development with safe access onto Inglewood Avenue. The proposed dwelling is very large and would require significant off street parking.

Response: As set out above the application includes parking provision for the host property on the drive. Whilst specific spaces are not marked it is considered that sufficient space is provided for the enlarged dwelling.

- Hours of building work should be limited to appropriate times of the day with noise levels limited.

Response: A note regarding hours for works will be attached to the recommendation.

- Any alternations to the roof should be proportionate and commensurate with Inglewood Avenue.

Response: As set out above the works to the roof are considered to be of an acceptable design.

11.0 CONCLUSION

11.1 In conclusion the proposal is recommended for approval and would lead to the redevelopment of a run down site and bring a dwelling back into use.

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

11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

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

- 1. Development within 3 years.**
- 2. In accordance with the approved plans.**
- 3. Submission of materials.**
- 4. Condition obscurely glazed windows.**
- 5. Surfacing of parking and vehicles areas for first 5 metres.**
- 6. Provision of privacy screen to first floor terrace.**
- 7. Provision of privacy screen to roof terrace.**
- 8. Withdraw permitted development rights for any further windows.**

Note

Regarding Construction hours

Background Papers:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2F91542>

Certificate of Ownership –Certificate A signed.:

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Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 13-Dec-2018

Subject: Planning Application 2018/93226 Erection of two storey and single storey extensions Brigsteer, 402, Birkby Road, Birkby, Huddersfield, HD2 2DN

APPLICANT

Acumen Architects

DATE VALID

21-Nov-2018

TARGET DATE

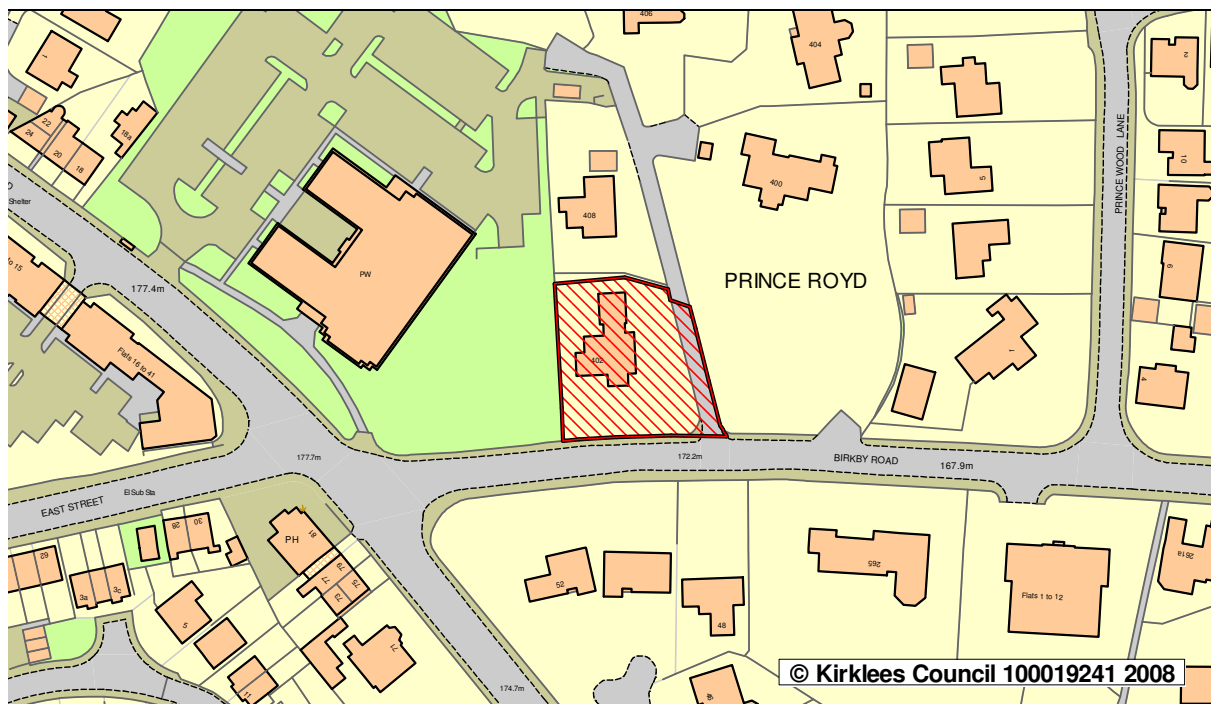
16-Jan-2019

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

Y

Ward Members consulted

RECOMMENDATION: REFUSE

1. The proposed extensions, by reason of their scale, and in the context of, and bulk and footprint of, the existing dwelling relative to its plot size, would amount to overdevelopment of the site. This would result in a visually assertive development out of character with, and harmful to, the visual amenity of the local area. This would be contrary to the aims of Policies D2(ii), BE1(ii) and BE2(i) of the Unitary Development Plan and PLP24 (a) & (c) of the Publication Draft Local Plan and paragraph 127 of the National Planning Policy Framework.

1.0 INTRODUCTION:

1.1 This application is brought before Sub-Committee for determination on account of the refusal of the previous application (2018/90978) for the erection of extensions on this site, the very short time that has elapsed since this decision was made, and the previous reason for refusal being a material consideration in the assessment of the revised scheme.

2.0 SITE AND SURROUNDINGS:

2.1 402 Birkby Road, known as Brigsteer, is a large detached dwelling situated on the north side of Birkby Road approximately 45m east of the junction with Halifax Road. Vehicular access is provided by an unadopted road adjacent to the eastern boundary of the plot which continues to serve 5 other dwellings. The plot, which measures approximately 20m from north to south and 15m (on average), is somewhat elevated above the level of Birkby Road. Vehicular access to the unadopted road is taken at the north-east corner of the site. The dwelling itself is of an asymmetrical design and layout, with an attached double garage at the northern end. Most of the amenity space is to the south and west, and there are several mature trees on the southern and eastern boundaries. To the west, the site is bounded by the Church of Jesus Christ of Latter Day Saints grounds, and to the north by no. 408 Birkby Road.

3.0 PROPOSAL:

3.1 The proposal is for the erection of a two-storey extension to the southern elevation of the property, and a single-storey extension to the north-west corner.

3.2 The two-storey extension would be 5.3 by 6.0m and would be tied into the southern and part of the western elevations, projecting 2.3m to the south of the existing dining room, and would be 4.7m high to the eaves and with a gable roof.

- 3.3 The proposed single-storey extension would be 3.7m by 3.1m and would be located on the west or rear of the dwelling, tied in to the northern wall of the main dwelling and the southern wall of the garage, and with a monopitch roof.
- 3.5 Compared with the previous, refused scheme (2018/90978), the single-storey extension has been reduced in length from 5.3m to 3.7m but other than this there have been no changes in design.
- 3.4 There is a Council highway improvement scheme proposed nearby which would create a new lane within the carriageway of Birkby Road for southbound traffic turning right onto Birkby Road at the junction with Halifax Road, and then merge into the existing carriageway. It would take a wedge of land off the curtilage of the Church of Jesus Christ of Latter Day Saints and Brigsteer. This is dependent on the Council securing land off the relevant parties but the site plan has been drawn to reflect what the site would look like if it were carried out. This does not form part of the planning application and is not assessed in the report.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1

2003/94421 – Outline application for the erection of a detached dwelling (within the curtilage of the dwelling now known as 408 Birkby Road). Approved and implemented.

2004/91771 – Reserved matters for the erection of a detached dwelling. Approved and implemented.

2018/90978 – Erection of single-storey and two-storey extensions. Refused by Huddersfield Planning Sub-Committee. Reason for refusal:

“The proposed extensions, by reason of their scale, and in the context of and bulk and footprint of the existing dwelling relative to its plot size and those of surrounding houses, would amount to overdevelopment of the site. This would result in a visually assertive development out of character with, and harmful to, the visual amenity of the local area. This would be contrary to the aims of Policies D2(ii), BE1(ii) and BE2(i) of the Unitary Development Plan and PLP24 (a) & (c) of the Publication Draft Local Plan and paragraph 127 of the National Planning Policy Framework.”

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

- 5.1 04-Dec-2018: Agent submitted calculations to show that no. 408 is more densely built up than 402 in terms of footprint to plot size ratio.

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 Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 48 of the National Planning Policy Framework (2018). 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 (2018), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant 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

- **D2** – Unallocated land
- **BE1** – Design principles
- **BE2** – Quality of design
- **BE13** – Extensions to dwellings (design principles)
- **BE14** – Extensions to dwellings (scale)
- **T10** – Highway safety
- **T19** – Parking
- **NE9** – Retention of mature trees.

Supplementary Planning Guidance / Documents:

6.3

PLP 21: Highway safety and access
PLP 22: Parking
PLP 24: Design
PLP 33: Trees.

National Planning Guidance:

6.4

- Section 11 – Making effective use of land
- Section 12 – Achieving well-designed places
- Section 14 – Meeting the challenge of climate change, flooding and coastal change
- Section 15 – Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The proposal was advertised by a site notice and neighbour notification letters. The publicity period expired 06-Nov-2018. In addition, the applicant was required to submit an amended ownership certificate because on the original Certificate under Article 14 submitted with the application form the list of owners notified had not been filled in correctly. The corrected Certificate B was submitted on 21-Nov-2018. The mandatory 21-day period for notification under Article 13 therefore expires on 12-Dec-2018. Within this period, the Council did not actively undertake any new publicity since there had been no changes to the plans and so such a course of action was not justified.

7.2 Representations have been made by a total of 10 local residents and other third parties. Of these, 6 are in opposition, 4 are in support (although it is noted that in this category one has not provided their full name).

7.3 A summary of the concerns and comments made is given below:

Grounds of objection and concerns

- Overdevelopment and has not adequately addressed the reason for refusal
- The extensions will make it the most densely developed plot, and the plot coverage will be proportionately still greater if the highway improvement goes ahead.
- Already bigger than approved and with more bedrooms.
- Loss of privacy caused by the south-facing upper floor window in the extension.
- Insufficient parking space for the likely number of cars, and no swept path analysis.
- Loss of trees including during construction.
- No proven right of way along lane, no right of access to shared turning head, ownership of boundary walls is disputed, and it has not been demonstrated that safe access could be gained during construction.
- Highway safety problems will become worse if the highway improvement scheme goes ahead because vehicles will pull into the lane off Birkby Road at a greater speed.
- The applicant is named as Acumen Architects on the form – if they really intend to occupy the property it will need a change of use to commercial, alternatively why doesn't it give the name of the current or intended occupant?

Supporting and general comments

- The house as built was passed for the purposes of Building Regulations.
- The occupants of no. 402 have historically played an active role in maintaining the shared lane.
- The house has accommodated 4 or more cars in the past without difficulty.
- The development will not cause overlooking and would harmonise with its surroundings.
- It would be done in matching materials.
- Plot coverage is considerably higher for no. 408.
- Replacement of trees would be a net benefit; would not involve any loss of protected trees.
- Some of the objectors' letters raise issues that are not material from a planning point of view.

Ward Councillor Cahal Burke, who commented on application 2018/90978, was notified of the new application. Cllr Burke did not request a Committee decision or make any new representations on this application.

8.0 CONSULTATION RESPONSES:

8.1 Statutory: There were no statutory consultees

8.2 Non-statutory:

No consultations were considered necessary in this instance. For application 2018/90978, Highways Development Management and the Arboricultural Officer were consulted and neither had any objection in principle.

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 The site is on land that is unallocated within the UDP Proposals Map and without designation on the PDL. Policy D2 (development of land without notation) of the UDP states “planning permission for the development ... of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]”.
- 10.2 Other UDP Policies of relevance include BE1 and BE2 (development should be visually attractive and contribute to a sense of local identity), BE13 (extensions should respect the design features of the existing building), BE14 (extensions should not have an adverse impact on adjacent properties or land), T10 (development should not create or materially add to highway safety problems), T19 (development should ensure that adequate parking is provided taking into account the recommendations in Appendix 2) and NE9 (mature trees should normally be retained).
- 10.3 PLP24 (c) of the Publication Draft Local Plan states: “Proposals should promote good design by ensuring that . . . extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details and minimise impact on residential amenity of future and neighbouring occupiers”. PLP21-22, which cover highway safety and parking, can in principle be given considerable weight but cover the same concerns as the UDP policies T10 and T19. Policy PLP33 (Trees) states that proposals should normally retain any “valuable or important trees where they make a contribution to public amenity, the distinctiveness of a specific location, or contribute to the environment.”

Urban Design issues

- 10.4 The previous application, 2018/90978, was subject to a number of revisions during the application process, including the deletion of a detached garage near the south-western corner of the site. It was the opinion of planning officers at the time that the proposed scheme, as modified, could be recommended for approval; it was however refused by Planning Sub-Committee, the reason being that proposed extensions, by reason of their scale, and in the context of and bulk and footprint of the existing dwelling relative to its plot size and those of surrounding houses, would amount to overdevelopment of the site, thereby harming visual amenity.
- 10.5 The new application leaves the proposed two-storey extension to the south elevation unchanged. The only change to the scheme is a reduction in the size of the small single-storey extension, from 5.3 to 3.7m in length.
- 10.6 As before it is noted that the immediate neighbouring dwellings are all individually designed, two-storey houses on plots of varying sizes. In the previous officers' report to Sub-Committee it stated that Brigsteer and its immediate neighbour to the north, no. 408, both had a plot coverage of approximately 17%. It has subsequently come to light that this is incorrect – based on calculations done independently by the applicant and by the case officer, it would appear that no. 408 has a slightly higher degree of plot coverage. Based on the house as built, or in no. 408's case the house plus garage as it stood when the dwelling now known as Brigsteer was built, plot coverage is approximately 17.5% for Brigsteer and 19.8% for no. 408.
- 10.7 On the basis of these calculations it can be seen that 408 is the more densely built-up plot in terms of footprint, and would appear the most densely built up of the houses served by this unadopted road.
- 10.8 It is considered however that the above factors do not result in a substantial change to the planning merits of the scheme. The proposed single-storey lean-to extension to the north-west corner has been reduced in size, but this was in any case the smaller and less visually prominent of the two extensions. So it is considered that the change to the development proposal as a whole, in terms of the impact it would have upon visual amenity, is minimal.
- 10.9 Furthermore, whilst it is acknowledged that planning officers made an error in calculating plot sizes for the previous application, the recalculation only reveals a small difference between no. 402 and its neighbour in terms of plot coverage (2.3%). It is reasonable to take this into account as a material consideration, but as the difference is very small it is not considered a sufficiently strong factor to justify an approval, based on the previous reason for refusal.
- 10.10 In conclusion it is considered that the changes in the plans since the refused scheme have not adequately addressed the reasons for refusal, that it would amount to overdevelopment of the site resulting in a visually assertive development out of character with, and harmful to the visual amenity of, the local area, contrary to the aims of Policies D2(ii), BE1(ii) and BE2(i) of the Unitary Development Plan and PLP24 (a) & (c) of the Publication Draft Local Plan and paragraph 127 of the National Planning Policy Framework.

Residential Amenity

- 10.11 The two-storey extension would be 24m from the nearest point on the curtilage of another residential property (in this case, 48-52 Inglewood Avenue) and 42m from the facing rear elevation of nos. 50-52 (no. 48 is still further away) and it is considered that it would not give rise to any significant overlooking or other undesirable impacts. The single-storey extension would be approximately 7m from the northern boundary of the site and it is considered that owing to its separation distance and small size it would not affect the amenities of no. 408.
- 10.12 In conclusion it is considered that the proposal as shown on the current plans would not result in a loss of amenity to any neighbouring residential property or adjacent land, and would thereby accord with the aims of Policies D2, BE14 and PLP24(b).

Landscape issues

- 10.13 As before, it is considered that the existing trees have only limited amenity value and do not merit a Tree Preservation Order. The development as proposed would not, in any case, involve works within the crown spread of a tree or necessitate any tree pruning or similar works. Several trees will, unavoidably, be lost if the proposed junction improvement to Birkby Road goes ahead. This does not form part of the application but the applicant has proposed that some replacement planting could be undertaken on the Birkby Road frontage. It is considered that the proposed development has no implications for the wider landscape.

Highway issues

- 10.14 The proposed development does not involve any new or amended means of access to the highway. Existing parking and manoeuvring arrangements within the site would be unaffected. The attached garage would be retained and there would be space enough within the site to park at least two vehicles near the southern end of the curtilage. Using standard swept paths, a car can easily undertake a three-point turn within the site.
- 10.15 In conclusion, the proposed development, if implemented in accordance with the submitted plans, would not create or materially add to highway safety problems, and would accord with the aims of Policies T10, T19, PLP21 and PLP22.

Representations

- 10.16 The concerns expressed are summarised below with officer responses:
- Overdevelopment and has not adequately addressed the reason for refusal
Response: The proposal is still considered to be overdevelopment for the reasons set out at length in paragraphs 10.4-10.10.

- The extensions will make it the most densely developed plot, and the plot coverage will be proportionately still greater if the highway improvement goes ahead.

Response: The analysis of the relative degree of coverage for different plots, in particular nos. 402 and 408, has been undertaken based on how the two dwellings would have appeared when Brigsteer was first built and the original plot divided to form two plots. It does not take into account any later, or proposed, additions in either case, nor does it take into account the proposed highway improvement which does not form part of this application and is outside the applicant's control.

- Already bigger than approved and with more bedrooms.

Response: Based on plans held by the Council and supplied by the applicant, the dwelling seems to have been built larger than shown on the approved plans, but not dramatically so. The most notable difference is not in the footprint but in the height of the walls from ground to eaves, which has allowed the inclusion of second-floor living space in what was originally approved as a two-storey dwelling. It should be noted that this in itself however is not a material planning consideration in the assessment of this application. The dwelling, it would appear, has been substantially completed for more than 10 years and there is no record of a breach of condition ever being challenged by the Council, and so any breach of condition that may have occurred relating to the design or scale is now immune from any enforcement action. Furthermore, as the operational development to construct the dwelling was substantially completed more than 4 years ago this would also preclude enforcement action being considered. Finally, an increase in the number of bedrooms does not necessarily require planning permission in and of itself since the layout of internal space is, in general, outside of planning control.

- Loss of privacy caused by the south-facing upper floor window in the extension.

Response: It is considered that the distance between the proposed extension and the nearest facing dwelling is too big for significant overlooking to occur.

- Insufficient parking space for the likely number of cars, and no swept path analysis.

Response: This issue has been fully examined in paragraphs 10.14-10.15 above. It is considered that the amount of parking and turning provision, which would remain unchanged, would be sufficient to serve the development in the event of an approval, and swept path analysis is not a standard requirement for applications of this type.

- Loss of trees including during construction.

Response: As previously stated, none of the trees on site is considered worthy of a tree preservation order. In the event of officers being minded to approve, further replanting could in any case be conditioned if deemed necessary.

- No proven right of way along lane, no right of access to shared turning head, ownership of boundary walls is disputed, and it has not been demonstrated that safe access could be gained during construction.

Response: Notice has been correctly served on the owners of the lane. The plans involve no alterations to the lane. Access during construction, including any temporary removal of boundary walls that might be required, is deemed to be a private civil matter. The development would be unlikely to result in a material increase in refuse collection vehicles or other large vehicles on the lane so the rights of use over any shared turning head within the lane, or absence thereof, are not material to the application.

- Highway safety problems will become worse if the highway improvement scheme goes ahead because vehicles will pull into the lane off Birkby Road at a greater speed.

Response: The proposal involves no change to private access arrangements and would not affect intervisibility, so this cannot be treated as a material consideration.

- The applicant is named as Acumen Architects on the form – if they really intend to occupy the property it will need a change of use to commercial. Alternatively why does it not give the name of the current or intended occupant?

Response: The form has been filled in correctly and the application is valid. The fact that Acumen Architects are named as the applicant does not imply that they intend to occupy the property.

10.17 Comments in support of the application are summarised below with officer responses:

- The house as built was passed for the purposes of Building Regulations.

Response: Building Regulations and Planning are two separate regimes of control and it does not follow that the house was built fully in accordance with the plans approved for planning purposes.

- The occupants of no. 402 have historically played an active role in maintaining the shared lane.

Response: This is not deemed to be a material consideration in determining the application.

- The house has accommodated 4 or more cars in the past without difficulty.

Response: A precise analysis of how many cars can be safely parked within the site has not been undertaken, but officers are satisfied the proposal would not give rise to increased highway safety problems.

- The development will not cause overlooking.

Response: Noted.

- It will harmonise with its surroundings and would be done in matching materials.

Response: For the reasons set out in paragraphs 10.4-10.10 of the Assessment it is considered the development would not be in harmony with its surroundings, notwithstanding the use of matching materials.

- Plot coverage is considerably higher for no. 408.

Response: It is acknowledged in paragraphs 10.6-10.7 above that the degree of plot coverage is greater for no. 408.

- Replacement of trees would be a net benefit; would not involve any loss of protected trees.

Response: It is noted that the applicant has shown a willingness to carry out replanting and that none of the existing trees is covered by a tree preservation order.

- Some of the objectors' letters raise issues that are not material from a planning point of view.

Response: Again, this is noted and has been highlighted where appropriate in officer responses to the grounds of objection.

Other Matters

- 10.18 *Construction access.* It is important to note that a Construction Management Plan is not a standard requirement for Minor or Householder development and such a plan has not been requested by officers in this case.

11.0 CONCLUSION

- 11.1 It is considered that the proposed development, taking into account the Sub-Committee decision to refuse application 2018/90978, which the new scheme has not adequately addressed, and all other material considerations, would amount to overdevelopment and would not adequately respect the character of the existing dwelling or its surroundings. It is therefore recommended that permission is refused.

12.0 REASON FOR REFUSAL

1. The proposed extensions, by reason of their scale, and in the context of, and bulk and footprint of, the existing dwelling relative to its plot size, would amount to overdevelopment of the site. This would result in a visually assertive development out of character with, and harmful to, the visual amenity of the local area. This would be contrary to the aims of Policies D2(ii), BE1(ii) and BE2(i) of the Unitary Development Plan and PLP24 (a) & (c) of the Publication Draft Local Plan and paragraph 127 of the National Planning Policy Framework.

Background Papers:

Application and history files.

Website link to be inserted here

Certificate of Ownership – Notice served on nos. 402, 404, 406, 408, 410 Birkby Road, 21-Nov-2018.

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