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

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Tuesday 27 October 2020

Notice of Meeting

Dear Member

Planning Sub-Committee (Heavy Woollen Area)

The **Planning Sub-Committee (Heavy Woollen Area)** will meet remotely at **1.00 pm** on **Wednesday 4 November 2020**.

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

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

A handwritten signature in black ink, appearing to read 'Julie Muscroft', on a light-colored background.

Julie Muscroft

Service Director – Legal, Governance and Commissioning

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

The Planning Sub-Committee (Heavy Woollen Area) members are:-

Member

Councillor Steve Hall (Chair)
Councillor Mahmood Akhtar
Councillor Nosheen Dad
Councillor Charlotte Goodwin
Councillor Michelle Grainger-Mead
Councillor John Lawson
Councillor Fazila Loonat
Councillor Mussarat Pervaiz
Councillor Andrew Pinnock
Councillor Cathy Scott
Councillor Kath Taylor
Councillor Graham Turner
Labour Group Vacancy

When a Planning Sub-Committee (Heavy Woollen 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
N Patrick
R Smith
J Taylor
M Thompson

Green

K Allison
S Lee-Richards

Independent

C Greaves
T Lyons

Labour

M Kaushik
W Simpson
M Sokhal
H Uppal

Liberal Democrat

A Marchington
A Munro

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 - 6

To approve the Minutes of the meeting of the Committee held on 13 February 2020.

3: Interests and Lobbying

7 - 8

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 also 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: Public Question Time

Due to current Covid-19 restrictions, Members of the Public may submit written questions. Questions should be emailed to governance.planning@kirklees.gov.uk no later than 10.00am on 3 November 2020.

In accordance with;

- Council Procedure Rule 51(10) any person may submit a maximum of 4 written questions
-

- Council Procedure Rule 11(5), the period for the asking and answering of public questions shall not exceed 15 minutes
 - Council Procedure Rule 11 (3), questions regarding the merits of applications (or other matters) currently before the Council for determination of which the Council is under a duty to act quasi judicially shall not be answered
-

6: Deputations/Petitions

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

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

Planning Applications

9 - 10

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 have registered no later than 5.00pm (via telephone), or 11.59pm (via email) on Monday 2 November 2020.

To pre-register, please contact andrea.woodside@kirklees.gov.uk or phone 01484 221000 (Extension 74993).

As this is a virtual meeting, members of the public will be contacted via telephone during the meeting and will be permitted to make a verbal representation of up to three minutes.

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.

7: Planning Application - Application 2020/91215

11 - 46

Outline application for erection of residential development at land at, Green Acres Close, Emley, Huddersfield

Ward affected: Denby Dale

Contact: Victor Grayson, Planning Services

8: Planning Application - Application 2020/90350 47 - 62

Demolition of existing buildings and erection of 7 dwellings and associated garages (within a Conservation Area) at Gomersal Hall, Oxford Road, Gomersal.

Ward affected: Liversedge & Gomersal

Contact: Nia Thomas, Planning Services

9: Planning Application - Application 2020/92540 63 - 70

Erection of detached garage at land adjacent to 51-53, Park Croft, Staincliffe, Batley.

Ward affected: Batley West

Contact: Katie Wilson, Planning Services

10: Planning Application - Application 2019/91534 71 - 88

Erection of 13 dwellings and associated works at land off, Heathfield Lane, Birkenshaw.

Ward affected: Birstall and Birkenshaw

Contact Officer: Nia Thomas, Planning Services

11: Planning Application - Application 2019/92670 89 - 106

Erection of 13 dwellings at land at, Peep Green Road, Hartshead, Liversedge.

Ward affected: Liversedge & Gomersal

Contact Officer: Louise Bearcroft, Planning Services

- 12: Planning Application - Application 2020/90652** 107 - 120
- Erection of extensions and alterations to existing disused building to form one dwelling at Lands Farm, Cliffe Lane, Gomersal.
- Ward affected: Cleckheaton, Liversedge & Gomersal
- Contact: Nia Thomas, Planning Services
-
- 13: Planning Application - Application 2020/91643** 121 - 140
- Demolition of existing buildings and erection of 15 dwellings, formation of new access and associated works land at Old White Lee Colliery, Leeds Road, Heckmondwike.
- Ward affected: Birstall & Birkenshaw
- Contact: Christopher Carroll, Planning Services
-
- 14: Planning Application - Application 2018/94162** 141 - 158
- Erection of dwelling and 3 outbuildings and works to access at Upper Langley Farm, Langley Lane, Clayton West.
- Ward affected: Denby Dale
- Contact: Rebecca Drake, Planning Services
-
- 15: Planning Application - Application 2019/94146** 159 - 166
- Erection of car showroom/office and MOT testing station at land at former, 750, Bradford Road, Batley.
- Ward affected: Batley West
- Contact: Sarah Longbottom, Planning Services
-

Planning Update

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

Contact Officer: Andrea Woodside

KIRKLEES COUNCIL

PLANNING SUB-COMMITTEE (HEAVY WOOLLEN AREA)

Thursday 13th February 2020

Present:

- Councillor Steve Hall (Chair)
- Councillor Bill Armer
- Councillor Michelle Grainger-Mead
- Councillor John Lawson
- Councillor Fazila Loonat
- Councillor Mussarat Pervaiz
- Councillor Andrew Pinnock
- Councillor Cathy Scott
- Councillor Mohan Sokhal
- Councillor Kath Taylor
- Councillor Graham Turner
- Councillor Harpreet Uppal

1 Membership of the Committee

Councillor Armer substituted for Councillor Goodwin.
Councillor Sokhal substituted for Councillor Akhtar.
Councillor Uppal substituted for Councillor Dad.

2 Minutes of Previous Meeting

RESOLVED – That the Minutes of the Meeting held on 9 January 2020 be approved as a correct record.

3 Interests and Lobbying

Councillor Turner advised that he had been lobbied on Application 2019/93284.

Councillors Scott and Turner declared an 'other' interest in Application 2016/94290 in their capacity as Cabinet Members as the application was submitted by Physical Resources and Procurement Service (Kirklees Council).

Councillor Loonat advised that she had been lobbied on Applications 2019/92515 and 2019/93261.

Councillor Scott advised that she had been lobbied on Applications 2019/92515 and 2016/94260.

Councillor Grainger-Mead declared an 'other' interest in Application 2019/93617 on the grounds that she knew the applicant and left the room during the consideration and determination of the application.

Planning Sub-Committee (Heavy Woollen Area) - 13 February 2020

4 Admission of the Public

It was noted that all agenda items would be considered in public session.

5 Deputations/Petitions

No deputations were received.

6 Public Question Time

The Sub-Committee received questions from Imtiaz Ameen in regards to

7 Site Visit - Application No: Application 2016/94290

Site visit undertaken.

8 Site Visit - Application No: Application 2019/93284

Site visit undertaken.

9 Local Planning Authority Appeals

RESOLVED – That the report be noted.

10 Planning Application - Application No: 2019/92515

The Sub-Committee gave consideration to Application 2019/92515 – Erection of first floor and two storey rear extensions at Mohaddis E Azam Education Centre and Masjid E Madani, 225c Ravenshouse Road, Dewsbury Moor.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received a representation from Imtiaz Ameen (on behalf of the applicant).

RESOLVED – That the consideration of the application be deferred in order to enable further discussions to take place with regards to the design of the proposal and the provision of parking.

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

For: Councillors Armer, Grainger-Mead, S Hall, Loonat, Lawson, A Pinnock, Scott, Sokhal, Turner, K Taylor and Uppal (11 votes)

Against: (no votes)

11 Planning Application - Application No: 2016/94290

The Sub-Committee gave consideration to Application 2016/94290 – Outline application for residential development land at George Street/William Street, Ravensthorpe, Dewsbury.

RESOLVED – That authority be delegated to the Head of Planning and Development to approve the application, issue the decision notice and complete the list of conditions including matters relating to;

- approval of reserved matters (details of appearance, landscaping, layout, scale and access to be sought before development commences
- plans and particulars relating to reserved matters details of appearance, landscaping, layout, scale and access be submitted and approved in writing
- application for reserved matters to be submitted within three years

Planning Sub-Committee (Heavy Woollen Area) - 13 February 2020

- time limit for commencing development following approval of final reserved matter
- development to be carried out in accordance with approved plans and specifications
- samples of fencing and roofing materials
- vehicle parking areas to be of permeable surfacing
- provision of electric vehicle charging points
- reporting of unexpected land contamination
- development to be carried out in accordance with the Flood Risk Assessment
- submission of drainage strategy
- submission of surface water drainage strategy
- development to be carried out in accordance with noise report
- submission of tree survey and method statement with any subsequent reserved matters application relating to layout
- details of storage and access for the collection of waste with any subsequent reserved matters relating to layout
- provision of visitor parking
- scheme detailing provision of a turning head at George Street with any subsequent reserved matters application relating to layout and access

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

For: Councillors Armer, Grainger-Mead, S Hall, Loonat, Lawson, A Pinnock, Scott, Sokhal, Turner, K Taylor and Uppal (11 votes)

Against: (no votes)

12 **Planning Application - Application No: 2019/93284**

The Sub-Committee gave consideration to Application 2019/93284 – Alterations to convert former church at Clayton West United Reformed Church, Church Lane, Clayton West.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received a representation from Chris Phillips (applicant).

RESOLVED – That authority be delegated to the Head of Planning and Development to approve the application, issue the decision notice and complete the list of conditions including matters relating to;

- standard three year timeframe for commencement of development
- development to be completed in accordance with the submitted plans and specifications
- nothing to be planted or erected within a strip of land measuring 2.4m deep from the carriageway edge of Church Lane along the full frontage of the site
- areas to be used by vehicles/parking to be surfaced and drained
- maximum gradient of private drives shall not exceed 1 in 10
- full details of replacement window frames
- provision of electric vehicle charging points
- full details of all boundary treatments

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

Planning Sub-Committee (Heavy Woollen Area) - 13 February 2020

For: Councillors Armer, S Hall, Loonat, Lawson, A Pinnock, Scott, Sokhal, Turner, K Taylor and Uppal (10 votes)

Against: (no votes)

Abstained: Councillor Grainger-Mead

13 **Planning Application - Application No: 2019/93261**

The Sub-Committee gave consideration to Application 2019/93261 – Variation of condition 7 (opening hours) on previous application 2002/90188 for change of use from workshops to combined workshop/office and showroom at Dual House, Wellington Street, Batley.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received a representation from Masum Karolia (applicant).

Under the provisions of Council Procedure Rule 36(1), the Sub-Committee received a representation from Councillor Zaman (ward member).

RESOLVED –

- 1) That the application be refused on the grounds that (i) the extension of the hours of operation of the premises from 07:00 to 19:00 from Monday to Sunday would exacerbate existing ongoing parking issues, particularly at weekends and evenings, further restricting on-street parking and access for residents, and to permit an extension to the hours of operation would result in the intensification and demand for parking within the vicinity of the site would not be in the interest of highway safety and efficiency, contrary to guidance within policies LP21 and LP24 of the Kirklees Local Plan.
- 2) That the extension of the hours of operation of the premises to between 07:00 to 19:00 for 7 days per week would result in a reduction in the quality of life and well-being of neighbouring residential occupants due to noise and activities that would be generated from the premises over significant periods of time, and the harmful impact upon the residential amenity of neighbouring occupiers would be contrary to the aims of policies LP24 and LP53 of the Kirklees Local Plan as well as Chapter 12 and 15 of the National Planning Policy Framework.

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

For: Councillors Armer, Grainger-Mead, S Hall, Loonat, Lawson, A Pinnock, Scott, Sokhal, Turner, K Taylor and Uppal (11 votes)

Against: (no votes)

14 **Planning Application - Application No: 2019/93617**

The Sub-Committee gave consideration to Application 2019/93261 – Erection of detached dwelling adjacent to The Hall, Liversedge Hall Lane, Liversedge.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Stuart Wrathmell (heritage consultant) and Sarah Reid (applicant).

Planning Sub-Committee (Heavy Woollen Area) - 13 February 2020

Under the provisions of Council Procedure Rule 36(1), the Sub-Committee received a representation from Councillor Kendrick (ward member).

RESOLVED – That, contrary to the Officers recommendation, the application be delegated to officers to approve on the grounds that (i) the revised proposal would cause significantly less harm to the setting of the listed building due to additional separation distance and reduced overall scale, and (ii) the personal circumstances of the applicant outweighed any harm that the development may have upon the significance of the listed building.

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

For: Councillors Armer, S Hall, Loonat, Lawson, A Pinnock, Scott, Sokhal, Turner, K Taylor and Uppal (10 votes)

Against: (no votes)

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KIRKLEES COUNCIL
DECLARATION OF INTERESTS AND LOBBYING
Planning Sub-Committee/Strategic Planning Committee

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

LOBBYING

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

Signed: Dated:

NOTES

Disclosable Pecuniary Interests

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

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

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

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

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

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

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

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

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

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

- the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
- if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Lobbying

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

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

PLANNING POLICY

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 statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

National Policy/ Guidelines

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 19th February 2019, 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.

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 04-Nov-2020

Subject: Planning Application 2020/91215 Outline application for erection of residential development Land at, Green Acres Close, Emley, Huddersfield, HD8 9RA

APPLICANT

Highstone Homes Ltd

DATE VALID

24-Apr-2020

TARGET DATE

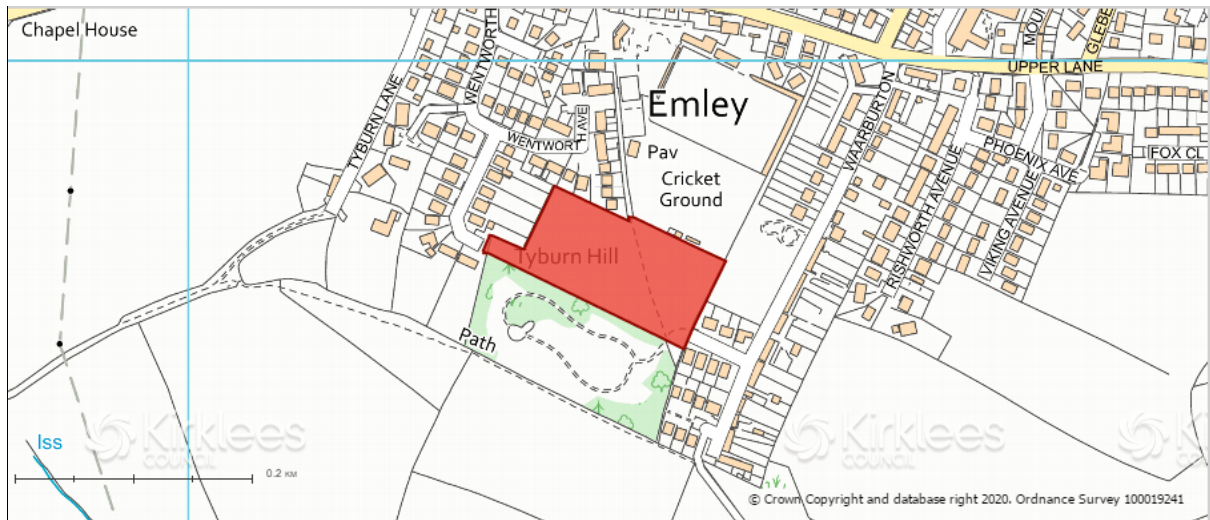
24-Jul-2020

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: Denby Dale

Ward Councillors consulted: Yes

Public or Private: Public

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report and to secure a Section 106 agreement to cover the following matters:

- 1) Affordable housing – 20% of units, with a policy-compliant tenure and unit size mix, to be provided in perpetuity.
- 2) Education – Financial contribution to be calculated with reference to number of units proposed at Reserved Matters stage, unit sizes and projected pupil numbers.
- 3) Highways and transport – Measures to encourage the use of sustainable modes of transport, including a financial contribution to be calculated with reference to details and number of units proposed at Reserved Matters stage, the highway impacts of the proposed development, and consultee responses. Improvements to off-site public rights of way.
- 4) Open space – Financial contribution towards off-site provision, to be calculated with reference to details proposed at Reserved Matters stage.
- 5) Biodiversity – Contribution towards off-site measures to achieve biodiversity net gain, to be calculated with reference to details proposed at Reserved Matters stage and opportunities for on-site and near-site compensation.
- 6) Management – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker).

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

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 Heavy Woollen Sub-Committee, as the site is larger than 0.5 hectares in size.

1.3 The application is essentially a resubmission of a previous application (ref: 2019/90380, considered by the Heavy Woollen Sub-Committee on 25/04/2019), but with a revised access proposal.

2.0 SITE AND SURROUNDINGS:

2.1 The application site is 1.18 hectares in size. The majority of the site is allocated for housing in the Local Plan (site allocation ref: HS137), however a small part of the site (approximately 60sqm, at the terminus of Wentworth Drive) is outside the site allocation.

2.2 To the north of the application site are residential properties on Wentworth Avenue and a cricket ground which is designated as urban green space in the Local Plan. To the east is a recreation field and residential properties on Green Acres Close. To the south is Emley's Millennium Green, most of which is in the green belt. To the west are residential properties on Wentworth Drive.

2.3 The application site, the Millennium Green, and some of the adjacent residential properties, occupy a relatively flat and elevated area of land (Tyburn Hill) approximately 200m AOD.

2.4 The application site is greenfield and is grassed. No buildings exist within the site's boundaries. A hard surface exists in the southeast corner of the site, providing access to the Millennium Green.

2.5 There are no protected trees on or immediately adjacent to the application site, however there are trees within the adjacent Millennium Green and elsewhere around the edges of the site.

2.6 The application site is dissected by public footpath DEN/21/20, and is edged by public footpath DEN/96/10 to the east. These are Public Rights of Way (PROWs).

2.7 The application site is not within or close to a conservation area. The site includes no listed buildings, however two Scheduled Ancient Monuments (Emley Standing Cross, which is also Grade II listed, and Emley Day Holes) are within walking distance of the site. The site also has some landscape sensitivity resulting from its location, surrounding topography and visibility from surrounding public open space, and from public footpaths.

3.0 PROPOSAL:

3.1 Outline planning permission (with details of access) is sought for residential development of the site. A single vehicular access is proposed from Wentworth Drive, and pedestrian access points are proposed where public rights of way already enter the site. The existing gated access points to Green Acres Close and the Millennium Green would be retained. Details of access through the site have not been submitted for approval.

3.2 Other matters (namely appearance, landscaping, layout and scale) are reserved.

3.3 Although the applicant does not seek approval of a layout or specific number of residential units, an indicative site layout plan has been submitted, showing 44 units arranged as detached, semi-detached and terraced dwellings, some with garages. A new estate road would extend eastwards across the site from Wentworth Drive, private drives would be provided off this estate road, and pedestrian access would be provided from the existing public footpaths. The alignment of public footpath DEN/21/20 would be largely maintained, with part of it becoming the footway of the proposed estate road.

3.4 Other application documents refer to a residential development of “approximately” 50 new dwellings. This number is also indicative.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 99/91668 – Planning permission was refused on 24/09/1999 for the formation of a grass full-size practice pitch and an all-weather training surface with associated lighting and the formation of millennium green, on a site that includes the current application site and land to the south which is now the Millennium Green. Refusal reasons related to 1) noise and disturbance to nearby residents, 2) visual intrusion caused by floodlights, 3) highways safety, and 4) development prejudicing the future development of Provisional Open Land. A subsequent appeal was dismissed 10/08/2000. Planning permission was granted 12/01/2000 for the change of use of agricultural land to the south to recreational use (ref: 99/92555) and planning permission was granted on 23/04/2001 for the erection of a millennium monument (ref: 2001/90226).

4.2 2019/90380 – Outline planning permission was refused on 26/04/2019 for the erection of residential development and associated access. The council’s reason for refusal was as follows:

1. The proposed development would intensify vehicular movements on Warburton, which would increase risks to pedestrian safety and the risk of conflicts between drivers, due to the lack of adequate footways, visibility and space for parking. The proposed development would therefore have a detrimental impact on highway safety. This would be contrary to Kirklees Local Plan Policies PLP5 (as modified) and PLP21 (as modified).

4.3 A subsequent appeal (ref: APP/Z4718/W/19/3239659) against the council’s refusal was dismissed on 23/12/2019, with the appeal Inspector stating:

“...the proposal would have a significant and unacceptable impact on pedestrian and highway safety in Warburton... My concerns relating to highway and pedestrian safety in Warburton are matters of overriding concern and consequently I conclude that the development would not accord with the highway safety and traffic impact requirements of Policies LP5 and LP21 of the LP; the SPD and paragraph 109 of the National Planning Policy Framework”.

4.4 Following the dismissal of the appeal and further research, the applicant ascertained that land at terminus of Wentworth Drive (previously described by the applicant as a ransom strip in the ownership of three parties) was adopted highway, and that vehicular access could therefore be taken through it.

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

5.1 The applicant requested pre-application advice from the council in May 2018. Written pre-application advice (ref: 2018/20216) was issued by the council on 07/02/2019, the main points of which are summarised as follows:

- Given proposed allocation of site for housing in the Local Plan, subject to highways, design, residential amenity, public rights of way and other matters being appropriately addressed, residential development at this site is acceptable in principle.
- Subject to details, residential development at this site is considered to be sustainable development.
- The proposed quantum and density of development was appropriate (44 units were shown on an indicative layout).
- Proposed indicative layout did not satisfactorily accommodate all of the site's constraints. Treatment of public rights of way needed revisiting, dwellings should relate better to the surrounding open spaces, risks of crime and anti-social behaviour should inform the layout, family-sized dwellings should face the open spaces, and side elevations and high fences should not line footpaths.
- A contribution towards off-site public open space provision would normally be appropriate, however some on-site provision may be appropriate here, if carefully designed along footpath.
- Early consideration of landscaping, boundary treatments and lighting would be appropriate.
- Two storey dwellings would be appropriate.
- Proposed short terraces, detached and semi-detached dwellings are appropriate.
- A variety of house types would be appropriate.
- High quality materials (including natural local stone and brick) would be appropriate.
- Car parking should be accessible, usable and overlooked, and should not dominate the street.
- Ball Strike Risk Assessment may be required. Applicant should consult with Sport England.
- Proposed development is unlikely to harm heritage assets, however a full assessment would be necessary.
- Proposed residential units should provide adequate outlook, privacy and natural light. Applicant is encouraged to follow the Government's Nationally Described Space Standard.
- 20% affordable housing required with a 54% Social or Affordable Rent / 46% Intermediate tenure split, Affordable housing should be peppercotted around site and designed to not be distinguishable from private accommodation.
- Proposed unit size and tenure mix should reflect known housing need.

- Providing vehicular access via Green Acres Close is far less appropriate than via Wentworth Drive, given Warburton's narrow carriageway widths, on-street parking, level of use, lack of footways, poor sight lines in places, and houses with front doors opening directly onto the road.
- Evidence required at application stage of applicant's efforts to secure access from Wentworth Drive.
- Should applicant demonstrate that vehicular access cannot reasonably be achieved from Wentworth Drive, applicant would need to mitigate the proposed development's unacceptable impact on highway safety caused by intensification of vehicular movements to Warburton.
- Proposed improvements to footpaths could encourage pedestrians to use these routes.
- Proposed works to Upper Lane / Warburton junction would improve sight lines and could be considered beneficial, however details are needed.
- Proposed works to Warburton are unnecessary or questioned.
- Warburton is unsuitable for any further intensification of use.
- Transport Assessment required, and its scope should be agreed with officers.
- Travel Plan required.
- Road Safety Audit and designer's response required.
- Construction Management Plan required.
- Detailed advice provided regarding parking, cycle storage, design of roads proposed for adoption, waste storage, and highways retaining structures.
- Contribution towards Metro cards may be necessary.
- Proposed development should provide convenient pedestrian routes, new and enhanced green infrastructure links, and a walkable neighbourhood.
- Access to Millennium Green (including for maintenance vehicles) must not be hindered by development.
- Site-specific Flood Risk Assessment, Surface Water Drainage Report, drainage maintenance plan, and temporary drainage (during construction) plan required. Infiltration may be possible at this site.
- Some adjacent trees should be regarded as constraints. Impact assessment required.
- Preliminary Ecological Appraisal required. This may identify a need for an Ecological Impact Assessment.
- Phase I Contaminated Land Report required.
- Electric vehicle parking spaces required.
- Noise Assessment required. Site may be subject to elevated levels of noise from adjacent sports pitches and recreation field. Health Impact Assessment required.
- Site is within a Development High Risk Area as defined by the Coal Authority. Coal Mining Risk Assessment required.
- Section 106 planning obligations likely to relate to affordable housing, education, highways, public open space and drainage.
- Pre-application public consultation is encouraged.

5.2 During the life of the current application the applicant submitted amended indicative layouts that removed previously-illustrated landscaping from the site's southeast corner (which would have restricted access to the Millennium Green), and that added a curved kerb and footway to the site's vehicular entrance at Wentworth Drive. In relation to highways matters, a Road Safety Audit and a designer's response were submitted, as was a points of access plan, an indicative plan of works to public footpath DEN/21/20, and an assessment of the Wentworth Drive / Beaumont Street junction. Gas monitoring information was also submitted in response to a request from Environmental Health officers. An amended Flood Risk Assessment, a Biodiversity Net Gain Assessment and a ball strike risk assessment were submitted by the applicant.

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 statutory Development Plan for Kirklees is the Local Plan (adopted 27/02/2019).

Kirklees Local Plan (2019):

6.2 The site is allocated for housing in the Local Plan (site allocation ref: HS137). The site allocation relates to 1.28 hectares (gross and net site area), sets out an indicative housing capacity of 44 dwellings, and identifies the following constraints:

- Potential third party land required for access
- Public right of way crosses the site
- Limited surface water drainage options
- Part/all of site within a High Risk Coal Referral Area

6.3 The site allocation also identifies the following site-specific considerations:

- Development on the site shall ensure access to the Millennium Green is retained
- The public right of way shall be retained

6.4 Relevant Local Plan policies are:

- LP1 – Presumption in favour of sustainable development
- LP2 – Place shaping
- LP3 – Location of new development
- LP4 – Providing infrastructure
- LP5 – Masterplanning sites
- LP7 – Efficient and effective use of land and buildings
- LP9 – Supporting skilled and flexible communities and workforce
- LP11 – Housing mix and affordable housing
- LP20 – Sustainable travel
- LP21 – Highways and access
- LP22 – Parking
- LP23 – Core walking and cycling network
- LP24 – Design

LP26 – Renewable and low carbon energy
 LP27 – Flood risk
 LP28 – Drainage
 LP30 – Biodiversity and geodiversity
 LP32 – Landscape
 LP33 – Trees
 LP34 – Conserving and enhancing the water environment
 LP35 – Historic environment
 LP38 – Minerals safeguarding
 LP47 – Healthy, active and safe lifestyles
 LP48 – Community facilities and services
 LP49 – Educational and health care needs
 LP50 – Sport and physical activity
 LP51 – Protection and improvement of local air quality
 LP52 – Protection and improvement of environmental quality
 LP53 – Contaminated and unstable land
 LP63 – New open space
 LP65 – Housing allocations

Supplementary Planning Guidance / Documents:

6.5 Relevant guidance and documents:

- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Kirklees Housing Strategy (2018)
- Kirklees Strategic Housing Market Assessment (2016)
- Kirklees Joint Health and Wellbeing Strategy and Kirklees Health and Wellbeing Plan (2018)
- Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
- Negotiating Financial Contributions for Transport Improvements (2007)
- Providing for Education Needs Generated by New Housing (2012)
- Highway Design Guide (2019)
- Waste Collection, Recycling and Storage Facilities Guidance – Good Practice Guide for Developers (2017)
- Green Street Principles (2017)
- Kirklees Interim Affordable Housing Policy (2020)
- Viability Guidance Note (2020)

Climate change

6.6 On 12/11/2019 the council adopted a target for achieving “net zero” carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

National Planning Policy and Guidance:

6.7 The National Planning Policy Framework (2019) 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 4 – Decision-making
- 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 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
- Chapter 17 – Facilitating the sustainable use of materials.

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

6.9 Relevant national guidance and documents:

- National Design Guide (2019)
- Technical housing standards – nationally described space standard (2015, updated 2016)
- Fields in Trust Guidance for Outdoor Sport and Play (2015)
- Planning for Sport Guidance (2019)

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been advertised as a major development that would affect a public right of way.

7.2 The application has been advertised via five site notices posted on 20/05/2020, an advertisement in the local press dated 15/05/2020, and letters delivered to addresses adjacent to the application site and further afield. Of note, given that access to the application site is now proposed from Wentworth Drive, consultation letters were sent to all properties on Wentworth Drive, Wentworth Avenue and Manderlay Gardens. This is in line with the council's adopted Statement of Community Involvement. The end date for publicity was 18/06/2020. In light of Coronavirus, Covid-19 consultation letters asked that comments be made within 35 days (rather than the statutory 21).

7.3 227 representations were received from occupants of neighbouring properties, members of the public and the Emley Millennium Green Trustees (and their solicitors). These have been posted online. Photographs of road congestion, video footage of a bird of prey, and commissioned reports (IOP Consulting, June 2020 and Northern Transport Planning Ltd, June 2020) were submitted with representations. The following is a summary of the points raised:

- Objection to principle of development here, notwithstanding site allocation. Proposal would bring no benefit. The adverse impacts of the proposal would significantly and demonstrably outweigh any benefits. Derelict buildings should be developed instead.
- Low cost housing is already available for sale in Emley – more is not needed.
- Loss of open space.
- Proposal is disproportionate to size to the village. Character of old village would be harmed. Development would not contribute to local character or distinctiveness. Development would cause extensive further urbanisation in a rural transitional area.
- Emley cannot support any more housing. Area is already well served by new housing developments.
- Previous reason for refusal is just as valid for current proposal.
- Previous refusal on limited grounds does not mean all other aspects of scheme are acceptable.
- Traffic and congestion concerns. Chapel Lane / Beaumont Street / Upper Lane are already very busy. 100 additional vehicles would pass through Wentworth Drive daily. Beaumont Street / Wentworth Drive junction was designed in 1975 for 40 houses with car ownership 50% less than it is now. Bend in road, newly-positioned bus stop and volume of traffic make turning out of Wentworth Drive difficult. Emergency vehicles would struggle to get through village. Traffic prevents older people leaving their homes. Emley already carries traffic to/from the M1. Online shopping has increased traffic. HGVs, agricultural vehicles and buses travel through the village. Other developments in Skelmanthorpe, Scissett and Clayton West will add to traffic in Emley. Local sports fixtures also generate traffic. Road widening, speed restrictions, footways and other measures are needed to accommodate the additional traffic. This and other developments should be refused until Flockton bypass and other improvements are implemented. Efficiency of local highway network would be reduced.
- Highway safety objections. Wentworth Drive / Beaumont Street lacks visibility, there is a blind rise, low winter sun affects visibility, vehicles parked at this junction further reduce visibility and turning space, traffic speeds through, near misses occur, minor collision has occurred, and additional traffic would add to existing risks. Vehicles swerve into the mouth of Wentworth Drive to avoid collision. Cyclists are often forced off the road and are deterred from cycling in Emley. Danger to children using nearby roads. Road Safety Audit has not been submitted.
- Local roads and footways are already inconvenient, inadequate and dangerous for people with disabilities.
- Residents of the proposed development are unlikely to commute by bicycle.

- Refuse vehicle currently has to reverse the entire length of Wentworth Drive. Comments of KC Waste Strategy noted. Turning space needed. Bend in Wentworth Drive is already hazardous. Chapel Lane / Beaumont Street / Upper Lane have several junctions and concealed entrances, and are often heavily parked. Chapel Lane is narrow and lacks footways in places. Vehicles mount footway to pass.
- Concern regarding increased traffic on Warburton. Unclear if access is still proposed from Green Acres Close. Objection to unofficial use of Green Acres Close for access. Access onto Warburton is inappropriate due to road width and lack of parking. Green Acres Close is too narrow to accommodate waggon.
- Unclear how ransom strip issue at Wentworth Drive has been resolved. Risk that developer may not take access from the west, and may revert to Green Acres Close access proposal. Vehicular access into the site via the gated entrance at Green Acres Close would not be prevented. If this access was approved there would be no way of ensuring that it remained gated nor that it would not be used as an access to the site.
- Query as to why a geotechnical survey of Warburton and Green Acres Close was carried out on 25/03/2020.
- Routes of construction traffic queried.
- Roads are already in a poor condition, and stability of roads is queried. Four mine shafts close to entrance to Wentworth Drive may not have been capped properly – query as to whether this has been investigated.
- Applicant's traffic survey relates to Warburton, and not to the Wentworth Drive / Beaumont Street junction, and is out-of-date. Traffic survey or officer observations at Wentworth Drive would not provide a true account if carried out during lockdown.
- Generic thresholds regarding Transport Statements and junction assessments should not apply where there is significant local concern.
- Applicant's Transport Statement is inadequate and omits key information regarding roads and junctions.
- Concern regarding Highway Development Management officer comments.
- Lack of visitor parking in proposal.
- Pedestrian routes to/from site are unsafe. Footway of Wentworth Drive unpassable by pedestrians due to overgrown hedge, wheelie bins and parked vehicles. Development would endanger older people, children, dog walkers and horse riders. With the previous application it was noted that pedestrian routes needed to be improved. Applicant does not propose improvements to ends of footpaths meeting Upper Lane.
- Claimed public right of way (where units 17, 31, 32 and 33 are indicatively shown) would be blocked. Layout should be amended to accommodate this route.
- Clarification required as to whether public rights of way across site could in fact be retained.
- Lack of public transport in Emley. Village only has an hourly bus service. All residents of the proposed development would travel by car.
- Lack of local facilities. Emley only has one shop. Schools and GPs are oversubscribed. No guarantee that education funding would be spent on local schools, or would increase capacity. Playground and youth club are barely adequate. Lack of local employment opportunities.
- Local utilities are under strain and cannot support the proposed development.

- Increased pollution. Adverse impact on air quality caused by emissions.
- Light pollution would affect wildlife and prevent star gazing. Objection to lighting of footpath.
- Increased noise, including from improved footpath.
- Adverse impact on health and wellbeing. Development would cause stress to residents.
- Loss of amenity (including privacy) for adjacent residents.
- Climate change impact. Development would be unsustainable and contrary to council's climate change declaration. Sustainable modes of transport are not an option in Emley, and would not be used by residents of the proposed development.
- Traffic, noise, dust and disturbance (including to wildlife) during construction.
- Adverse impact on Millennium Green. Detrimental effect on its character, nature and tranquillity. Application site's zone of influence extends into the Millennium Green, and impacts will therefore need to be considered. Attenuation tanks should not be provided within 6m of the Millennium Green boundary. Risk of artificial light from the development affecting Millennium Green "dark zone". Millennium Green is a conservation area. Development and boundary treatment should be spaced away from boundary, to allow maintenance of Millennium Green fences. Millennium Green would have to be dug up to provide drainage connection to watercourse. Value of Millennium Green has been proven during pandemic.
- Proposed refuse vehicle turning area would encroach into Millennium Green car park.
- Query if disabled access to Millennium Green would be maintained.
- Development footprint should be kept away from adjacent hedgerows and trees. Buffer zone should be provided. Viability of proposed vehicular access questioned, as it would intrude into overhang of existing hedgerows and trees. Developer should set up a management company responsible for maintaining hedgerows and trees.
- Impact on flora and fauna, including bats and other species. Loss of habitat. Adjacent trees are nested by many bird species. Birds of prey visit the site. Millennium Green is a release site for rescued hedgehogs.
- Application lacks ecological survey of the site and Millennium Green.
- Site is within a High Risk Coal Referral Area.
- Query as to whether a methane drainage survey including boring and extraction been carried out.
- Noted that Lead Local Flood Authority have objected to the application. Drainage problems exist in the village. Run-off from development may affect surrounding streets. Watercourse (to which a connection is proposed) is within a high flood risk area.
- Laying connection to watercourse would require uprooting of trees and hedgerows, and disruption to farm.
- Additional traffic would put Emley Standing Cross at risk.
- Unfair for development to adversely affect viability of adjacent sports facilities.
- Ball strike risk assessment must be submitted.
- Inaccuracies in applicant's documents regarding local facilities.
- Claimed social and economic benefits of development are queried.
- Development would be targeted by criminals.
- Increased risk of anti-social behaviour along footpath.

- Query as to why site is referred to as land at Green Acres Close, when access is proposed from Wentworth Drive.
- Number of proposed units is inconsistent across application documents.
- Application documents have not been updated since the last application was considered.
- No pre-application consultation took place. Lack of public consultation on application is underhand. Lack of consultation with Emley Millennium Green Trustees.
- Concern that application is being considered during an unprecedented pandemic. Due process is not being followed. Lockdown would have prevented public meeting or consultation being held. Application is not being subjected to public scrutiny.
- No evidence of applicant's claim that there is local support for delivery of new homes.
- Council should disregard additional council tax income that would be generated.
- Application is a waste of council time and taxpayer's money.
- Application is an attempt to enrich the landowner and developer to the detriment of residents.
- Development is contrary to National Planning Policy Framework and the Local Plan.

7.4 Cllr Turner referred to the initial indicative layout and noted that the proposal would use the car park for the Millennium Green and would make access to the Millennium Green very difficult. In later comments, Cllr Turner stated:

- *I am still of the opinion that the access to this site is inadequate.*
- *Taking vehicles from the site down Wentworth Drive to allow access to the main road network will overload what is already a difficult and very busy junction.*
- *The junction is often blocked by cars parking on Wentworth and on Chapel Lane.*
- *The site lines are regularly obscured by vehicle parking on the road due to the lack of off street parking.*
- *Upper Lane is in effect a one lane, again due to on street parking and any extra traffic using that as a route to either the motorway network or Wakefield or South Yorkshire will add to this existing problem.*
- *The whole road network in Emley is busy and which ever direction you choose to leave the village involves using small narrow roads.*

7.5 Cllr Simpson made the following comments:

- *As highlighted by Cllr Turner, it appears that the Millennium Green parking would be badly affected. This would be an issue in of itself, as well as causing on-street parking issues.*
- *Without the above, I was already concerned about the parking provision (whether or not it meets policy I do not know, but I do not believe the policy is adequate for our villages anyway). With the above included I think this will cause a number of parking issues.*

- *It has been suggested that it is possible that the developer could/would be entitled to undertake works on/under the Millennium Green itself to facilitate the development. This would be wholly unacceptable in my view, if this is true.*
- *The statements and suggestions around sustainable travel in the plans are wrong and ludicrous. Emley is one of the most isolated of our villages with a poor bus service that does not link directly into the other villages. It is by no means accessible by foot, cycle or public transport in any way other than being able to walk to the pub, first school and small Londis. Statements made such as 'the site is highly accessible by foot, cycle and public transport to a number of local facilities' and 'minimises trips by private car' are frankly ludicrous.*
- *The application describes Skelmanthorpe as a small town, which is neither true nor helpful.*
- *The application describes 'a mini-supermarket; a post-office; a hot food takeaway'. There is no 'mini-supermarket' it is a small corner shop and the post office is a small function within that. Similarly, unless this has changed very recently, there is no hot food takeaway.*
- *I am very concerned that the plans provided thus far show that no thought has yet been given to the junction by which the development will be accessed (from the main road) - the Upper Lane/Wentworth Drive junction. This junction is a serious concern of mine. Cars approach the junction at great speed coming into the village. The only thing that slows the traffic is the almost permanent obstructions of cars parking on the main road which essentially make this section one way and brings vehicles into conflict. This is what I suspect generated the speed measurement in the application, though I do not know where the cables were placed. I do know however that speeding here is an issue. There is also the bus stop at the junction, on the opposite side of the road to where cars are usually parked. There are numerous other junctions in the immediate and close vicinity. In my view, this section of Upper Lane, specifically at this point of access, has the greatest potential for serious highways issues in the entire village and it is clear to me that increased traffic here would make it less safe. The developer should consult and create a highways plan to mitigate the increase in journeys by making this section of highway safer however possible. I do not think it is acceptable, as the developer says in their application, to say that 'the proposed development will not materially exacerbate the existing situation' and wash their hands of it, or pretend that issues do not exist or will not be effected.*
- *I believe that trip generation figures should not only be included for the additional dwellings, but a measurement of existing traffic from the Wentworth estate should be taken to give Committee Members and officers a fuller understanding of traffic at this junction at peak times.*
- *The Access statement says that 'access is the only material change to the previous application'. If this is the case, then why is it only an outline application? It could have a number of material changes for all we know without the details and a full application, and they may well attempt to force these through if successful at this first stage. As far as this application is concerned the only thing that is the same is the site and the developer.*

- *I am particularly concerned by the junction/access issue and I feel it is absolutely vital that the developer looks at this again and provides a full plan for mitigation in consultation with highways before this reaches the stage at which a decision can be considered.*

7.6 In later comments, Cllr Simpson added:

- *I remain very concerned about the access included in the proposal, in particular the Wentworth Drive / Beaumont St junction, and believe that highways safety and access would be made less safe without mitigations being put in place.*
- *Unless a double yellow line scheme is incorporated at the junction as a condition, I believe that this should be rejected – or in the least deferred until a more satisfactory proposal for the access and road safety can be presented.*
- *As can be seen from the attached picture, vehicles regularly park closely to the proposed access from the main road, which is at the entrance to the village, and cars also park on the main road making it a one way most of the time – as well as a bus stop used by school services next to the junction.*
- *I know that the issue of parked cars is a constant issue here and has been for many years. I attended the site yesterday and can confirm that vehicles were again parked dangerously at the junction edge. This is a consistent issue that needs to be addressed.*
- *In the least, a yellow line scheme should be devised to prevent cars from parking within 10m of the junction edge on both the main road and Wentworth Drive, and these lines should be extended this further down the main road (on the side of the junction) to ensure visibility and safer traffic flows.*

7.7 Mark Eastwood MP wrote to object to the application, stating:

- *I am concerned that this particular planning application has not had enough public consultation for such a significant development of this size. I do not feel it is appropriate that the developer is allowed to rely upon public consultation from a previously rejected application when this is a new application with a notably different unique access point.*
- *Concerning the new access point, I worry about access, particularly Wentworth Drive and the junction with Beaumont Street.*
- *There is insufficient off-road parking for residents on Beaumont Street, and both the White Horse Inn and Band Room, often hold events which result in cars parking on the street and causing problems for those accessing the Wentworth estate.*
- *I am concerned that the applicant has not given due consideration to the re-sited bus stop, which adds to visibility problems exiting Wentworth Drive, due to people queueing for bus services.*
- *At the junction of Wentworth Drive and Beaumont Street, vehicles travelling along Beaumont Street westbound, frequently have to manoeuvre their car into the entrance of Wentworth Drive, to avoid the traffic coming the other way. For those vehicles that are travelling east and approaching a blind rise, they often have to cross onto the other side of the road due to the parked cars on the side opposite the entrance to Wentworth Drive. This would be a problem in itself if it were*

just cars. However, matters are made worse because HGV's, double-decker buses and large agricultural vehicles often use the route.

- *Slightly further up from Beaumont Street towards the centre of the village, into Upper Lane, there is blind vehicular access to crucial village landmarks - Emley AFC, the Cricket Club, Youth Club, Community Centre and the Wentworth Bar.*
- *Any additional volume of traffic at this already precarious spot could lead to more accidents problems. I would also like to raise my concerns at why a traffic survey has not been afforded for Wentworth Drive, yet I note a traffic study for Warburton has been - albeit somewhat out of date.*
- *The geographical nature of Emley Village means that using the car for many people is vital. Cycling or walking to work is not an option, and public transport here is not as frequent as some of the more urban communities across Kirklees.*
- *I along with many residents are also concerned that Emley First School will not see the benefit of any extra educational funds from this development.*
- *I am not aware that an ecological survey has been undertaken either of the site or the Millennium Green, where rescued wildlife including hedgehogs are being released post-injury and rehabilitation. I have particular concerns about the protection of hedgehogs. The hedgehog is an extraordinary creature with a long and celebrated history in this country. The Government's 25 Year Environment Plan sets out the Government's ambition for nature recovery and our threatened and iconic species. The framework is clear that local authorities must "identify, map and safeguard" wildlife sites as part of their local plans.*
- *Hedgehog numbers are declining in numbers, and I am therefore concerned about the role habitat loss plays. The destruction of habitat due to construction traffic accessing via Warburton/Green Acres is something that concerns me and that an ecological survey has not been undertaken exacerbates this concern.*
- *Given the concerns outlined above (and I know there are many more that others have raised which I have not touched upon). A significant development such as this, in my opinion, should at the very least be afforded a new public consultation. Transparent, open discussion with residents is at the heart of responsible development, and this is particularly relevant when regular working practices are disrupted, as has happened with the coronavirus outbreak.*

7.8 Denby Dale Parish Council objected to the proposed development, referring to drainage, parking and highways issues, and making the following points:

- *Excess traffic on Wentworth Drive.*
- *Dangerous junction from Wentworth Drive into Beaumont Street, due to the bus stop, on street parking and brow of the hill adjacent.*
- *The roads in Emley have been neglected for years and as a result the main out road to Wakefield which is Upper Lane is riddled with hollows. The lane is used for on street parking, reducing the flow of traffic to just one lane. This results in traffic queueing. The other road out of the village Church Street is also neglected and sunk in places.*
- *On the plan the turning circle for dustbin wagons is too small.*
- *There will be a tendency for traffic to try and get out down Warburton which is only one lane wide and has no pavement.*

- 7.9 The additional information submitted during the life of the application did not necessitate public re-consultation.
- 7.10 Responses to the above comments are set out later in this report.

8.0 CONSULTATION RESPONSES:

The following is a brief summary of consultee advice (more details are contained within the assessment section of the report, where appropriate):

8.1 Statutory:

Coal Authority – No objection, however further, more detailed considerations of ground conditions, foundation design and gas protection measures may be required at a later stage. Application site falls within the defined Development High Risk Area, therefore within the site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. The Coal Authority's information indicates that the site is located in an area where historic unrecorded underground coal mining is likely to have taken place at shallow depth. Applicant's Geoenvironmental Appraisal draws upon appropriate sources of coal mining and geological information along with the results of an intrusive site investigation. The Coal Authority would recommend that further comments be sought from the council's Environmental Health / Public Protection Team regarding gas monitoring requirements and any resultant need for the incorporation of gas protection measures within the proposed development.

Sport England – Objection withdrawn, subject to conditions. Analysis and recommendations in applicant's ball strike risk assessment are satisfactory. Applicant's assessment demonstrates that it will be possible to develop new housing to the south of the cricket ground without the latter's continued existence being prejudiced, provided ball-stop netting is installed along the development's boundary in accordance with the assessment's recommendations. The absence of an objection from Sport England is subject to the following conditions being attached to the decision notice should the Local Planning Authority be minded to approve the application:

1) The Reserved Matters application shall detail ball-stop netting of a height and location specified within the mitigation approach section of the Labosport report reference LSUK.20-0563. The fencing shall be erected and brought into use prior to the occupation of any dwelling within the ball strike risk zone.

2) Prior to the commencement of development a scheme for the management and maintenance of the approved ball-stop netting shall be submitted to and approved by the Local Planning Authority (following consultation and advice from Sport England). The approved scheme shall be brought into effect upon first occupation of any dwelling within the ball-strike risk zone, and shall remain in operation whilst the cricket ground and approved dwelling houses remain in use.

Any amendment to the above wording, or use of another mechanism in lieu of the above conditions, should be discussed with Sport England. Sport England does not object to amendments to its recommended conditions, provided they achieve the same outcome and it is consulted on any amendments. If the council decides not to attach the above conditions (or an agreed variation), Sport England would wish to maintain its objection to the application.

KC Highways – In summary, Highways Development Management (HDM) concluded that the proposals are acceptable and recommended the imposition of conditions regarding internal adoptable roads and improvements to a Public Right of Way. The sequence of negotiations is set out below:

The initial highways consultation response made several comments requiring further clarification as follows:

- 1) The 2019 application included footpath improvement works including surfacing and lighting which are not included as part of this application. The applicants were asked to explain why these are not considered necessary with this application.
- 2) Whilst it is acknowledged that the number of proposed dwellings is at a level that would not usually even require a Transport Statement, given the level of objections to this proposal and concerns raised regarding the capacity of the Wentworth Drive / Beaumont Street junction HDM recommended that a PICADY assessment of the junction be undertaken to demonstrate that the junction has sufficient capacity.
- 3) A stage 1 Road Safety Audit together with designer's response was required to consider the road safety implications associated with the proposed access from Wentworth Drive, the Wentworth Drive / Beaumont Street junction and the route from Beaumont Street to the proposed site.

Following these comments, the applicant provided further information in response to the comments of HDM, as follows:

- 1) PROW Improvements – Improvements are proposed to PROW DEN/21/20, which include widening to 2m, tarmac surfacing and the provision of street lighting. This footpath runs diagonally through the site, connecting to Upper Lane opposite Church Street. Both PROW DEN/21/20 and 96/10, which runs along the eastern boundary of the site, are shown to be improved within the extents of the application site.
- 2) Capacity of the Wentworth Drive / Beaumont Street – Guidance states that no assessment is needed for developments between 0 and 50 dwellings, a Transport Statement (which excludes junction capacity assessment) is required for developments of between 50 and 80 dwellings, and a Transport Assessment (which includes junction capacity assessment) is only needed for developments of 80+ dwellings. The development comprises 44 dwellings and is therefore below the threshold even required for a Transport Statement. The level of traffic generated, whether applying our bespoke trip rates or your robust internal, trips rates remain low. No capacity assessment of the Wentworth Drive / Beaumont Street junction is therefore provided.

3) A Road Safety Audit has been prepared by Via Solutions. The scope of the Road Safety Audit is to consider the safety implications of the proposed highway works to provide a new access to serve a new residential development on the site. The works considered within this Audit are related to the proposed access junction and its linkage to the remainder of the highway network and the improvements to part of the PROW (DEN21/20).

In response, HDM summarised the recommendations of the Road Safety Audit, as follows:

- 1) A corner radius should be provided to northern footway of the access road leading into the site from Wentworth Drive.
- 2) The pedestrian route along north side of Wentworth Drive leading into the new access road could be affected by turning vehicles using the existing turning head if it not taken out.
- 3) Potential use of PROW DEN/21/20 by motorcycles and a recommendation that staggered barriers are provided to both ends of the improved section of the footpath.
- 4) A designer's response to the Road Safety Audit generally accepts the comments of the Audit and recommended suitable amendments to the proposals.

HDM concluded by stating that the proposals are now considered acceptable and suggested the following conditions should accompany any approval:

Internal adoptable roads: No development shall take place until a scheme detailing the proposed internal adoptable estate roads including works to tie into the existing adopted section of Wentworth Drive have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include full sections, drainage works, street lighting, signing, surface finishes and the treatment of sight lines, together with an independent safety audits covering all aspects of work. Before any building is brought into use the scheme shall be completed in accordance with the scheme shown on approved plans and retained thereafter.

Reason: To ensure that suitable access is available for the development.

Improvements to public right of way DEN/21/20: Prior to development commencing, a detailed scheme for the provision of a improvements to public right of way DEN/21/20 which include widening to 2m, tarmac surfacing and the provision of street lighting with associated signing and white lining shall be submitted to and approved in writing by the LPA. The scheme shall include construction specifications, white lining, signing, surface finishes together with an independent Safety Audit covering all aspects of the work. Unless otherwise agreed in writing by the LPA, all of the agreed works shall be implemented before any part of the development is first brought into use.

Reason: In the interests of highway safety and to achieve a satisfactory layout.

KC Lead Local Flood Authority – Objection and request for further information regarding flow routing through the site, infiltration testing and rates, and surface water management.

8.2 **Non-statutory:**

KC Biodiversity Officer – Preliminary Ecological Appraisal (PEA) report provides an adequate baseline to determine the current application and that the proposals are unlikely to result in significant ecological harm. The submitted information does not include any details of biodiversity net gains on the site. The biodiversity baseline on the site (pre-development) should be quantified, therefore a completed Biodiversity Metric for the site's ecological baseline should be submitted. Condition requiring Ecological Design Strategy recommended.

KC Education – £35,301 education contribution required (assuming 50 units, all with two or more bedrooms).

KC Environmental Health – Regarding air quality, condition requiring electric vehicle charging points recommended. Conditions regarding site contamination recommended. Noise report lacks background noise information and is unacceptable, therefore condition requiring noise report recommended. Condition securing Construction Environmental Management Plan recommended.

KC Landscape – Concern that no existing vegetation would be retained. Retentions should be shown on plan, and should be reinforced with additional planting. Some dwellings appear close to existing hedgerow and trees, which may cause maintenance problems and nuisance. Root protection areas should be recognised and shown. Opportunities exist for treeplanting along new routes. Enhanced landscaping scheme expected. 44 dwellings would trigger a need for open space and a Local Area of Play. Given local deficiencies, £82,927 off-site contribution (towards the nearby facility at Warburton) required, without prejudice. Details of bin storage required. Condition recommended regarding landscaping.

KC Public Rights of Way – No objection, if it is clarified and confirmed that “access” consent is sought only for agreement to the proposed main site all-purpose access.

KC Strategic Housing – Nine affordable housing units required (five social/affordable rent, four intermediate).

KC Trees – No objection to principle of development. Adjacent trees may be impacted by the development of this site. Some of the properties along the southern boundary may be too close to the trees, however with minimal design changes this could be overcome. Any detailed application will need to be supported by sufficient arboricultural information to show that the adjacent trees have been taken account of in any finalised design.

KC Waste and Recycling – Detailed advice provided regarding layout, and conditions recommended.

West Yorkshire Police Crime Prevention Design Advisor – Support principle of development. Comments made regarding indicative layout, boundary treatments and other aspects of the development.

Yorkshire Water – Recommend conditions regarding separate surface and foul water drainage systems, and completion of surface water drainage works. Developer must provide evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical before considering disposal to public sewer. No objection in principle to applicant's Flood Risk Assessment, whereby surface water will drain to a watercourse located to the south of the proposed development. A new surface water sewer would have to pass through the adjacent Millennium Green – if this land has the status of Common Land and/or Village Green, Yorkshire Water's powers to lay pipes in private land are likely to be impacted. The landowners' consent will be required for the construction of a new outfall structure to a watercourse. No assessment of the capacity of the local sewerage has been undertaken with regard to its capacity for surface water arising from the development.

9.0 MAIN ISSUES

- Land use and principle of development
- Sustainability and climate change
- Urban design issues
- Residential amenity and quality
- Point of access
- Highway and transportation issues
- Flood risk and drainage issues
- Ecological considerations
- Trees
- Environmental and public health
- Sport England
- Ground conditions
- Representations
- Planning obligations
- Other planning matters

10.0 APPRAISAL

Land use, principle of development and quantum

- 10.1 Planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
- 10.2 The Local Plan sets out a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum.
- 10.3 Full weight can be given to site allocation HS137 (formerly H358), which allocates the site for residential development.
- 10.4 Regarding site allocation H358, the Inspector's Report of 30/01/2019 stated at paragraph 306:

H358, east of Wentworth Drive, Emley – The site is contained between dwellings off Wentworth Drive and Warburton Road, and is well related to the built-up form of the village. The Council’s highways evidence indicates the main site access can be achieved from Wentworth Drive, and no other fundamental constraints to development have been identified. The site contains a PROW and provides access to the adjoining Millennium Green, and this should be referenced in the policy for reasons of effectiveness (SD2-MM213). Subject to this modification, I am satisfied that the proposal is sound.

- 10.5 Ordnance Survey maps from 1893 onwards annotate parts of Tyburn Hill as “Allotment Gardens”, however these annotations do not clarify precisely which land was used as allotments. That use has ceased in any case, and aerial photographs from 2000 onwards do not indicate the application site was in use as allotments over the last 20 years. Therefore, it is considered that the proposed development does not conflict with the final sentence of Local Plan policy LP61 which protects small, valuable green spaces (including allotments) not identified on the Policies Map, or with policy LP47 which encourages the provision of allotments.
- 10.6 Subject to highways, design, residential amenity, public rights of way and other matters being appropriately addressed, it is considered that residential development at this site is acceptable in principle, and would make a welcome contribution towards meeting housing need in Kirklees.
- 10.7 The site is within a wider mineral safeguarding area relating to surface coal resource (SCR) with sandstone and/or clay and shale. Local Plan policy LP38 therefore applies. This states that surface development at the application site will only be permitted where it has been demonstrated that certain criteria apply. Criterion c of policy LP38 is relevant, and allows for approval of the proposed development, as there is an overriding need (in this case, housing need, having regard to Local Plan delivery targets) for it.
- 10.8 Given the above, and notwithstanding local objections to the principle of development here, it is considered that the proposed residential use, and the principle of residential development at this site, is policy-compliant.

Sustainability and climate change

- 10.9 As set out at paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF goes on to provide commentary on the environmental, social and economic aspects of sustainable development, all of which are relevant to planning decisions.
- 10.10 Subject to further details that would be submitted at Reserved Matters stage, it is considered that residential development at this site can be regarded as sustainable, given the site’s location adjacent to an already-developed area, its proximity to some (albeit limited) local facilities, and the measures related to transport that can be put in place by developers.

- 10.11 Emley and the application site are not isolated and inaccessible, however it is noted that public transport provision in the village is limited – there is no railway station within walking distance, and a Huddersfield-Wakefield bus provides an hourly (at best) service. Although Emley has a relatively extensive network of public rights of way, it is noted that distances between settlements, topography, and shortcomings such as a lack of footpath lighting and footpaths meeting streets without footways mean residents of the proposed development are unlikely to travel on foot in large numbers on a daily basis when moving to and from their homes, workplaces and other destinations. Cycling, although possible along roads, is unlikely to be taken up in large numbers by residents, due to the area’s topography and lack of dedicated cycle paths. A major residential development in Emley that was entirely reliant on the private car is unlikely to be considered sustainable, therefore at Reserved Matters stage the applicant would need to propose effective measures to discourage private car journeys, and promote the use of sustainable modes of transport. The council’s proposals for the Core Walking, Cycling and Riding Network (which extends to the western edge of Emley) would need to be referred to in the applicant’s proposals. It is recommended that the provision of electric vehicle charging points be secured by condition.
- 10.12 Regarding the social infrastructure currently provided and available in Emley (which is relevant to the sustainability of the proposed development), it is noted that local GP provision is limited, and this has been raised as a concern in many representations made by local residents. Although health impacts are a material consideration relevant to planning, there is no policy or supplementary planning guidance requiring a proposed development to contribute specifically to local health services. Furthermore, it is noted 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. Direct funding is provided by the NHS for GP practices and health centres based on an increase in registrations. Local education needs are addressed later in this report in relation to planning obligations. Several residents have pointed out that the applicant’s description of other local facilities includes errors, and while these are noted, it is also noted that Emley currently has a shop offering Post Office services, two churches, two pubs, a school, and sports and recreation facilities, such that at least some of the social and community needs of residents of the proposed development can be met within Emley, which further indicates that residential development at this site can be regarded as sustainable.
- 10.13 Further reference to, and assessment of, the sustainability of the proposed development is provided later in this report in relation to transport and other relevant planning considerations.

Urban design issues

- 10.14 Chapters 11 and 12 of the NPPF, and Local Plan policies LP2, LP7 and LP24 are relevant to the proposed development in relation to design, as is the National Design Guide.

- 10.15 The application site is located at the edge of an existing, well-established settlement. Residential development exists immediately to the east and west of the site, and this means the proposed development would sit comfortably within its context without appearing as a sprawling, inappropriate enlargement to Emley. Although the proposed development would be visible from several public vantagepoints, its visual impact would not be significant or adverse in the context of the surrounding development already built. Green belt land to the south of the site would continue to provide green framing around the enlarged settlement, and urban green space to the north would continue to provide relief in the form of an undeveloped green space between built-up areas.
- 10.16 The proposed site layout shown in drawing 3049-0-002 rev F, and the number of dwellings illustrated, must be regarded as indicative, given that the applicant does not seek approval of appearance, landscaping, layout and scale, and has not specified a number of units for approval. Any layout to be fixed at Reserved Matters stage would need to result in a policy-compliant, high quality development with local distinctiveness, would need to relate well to the public rights of way that pass through the site, would need to ensure areas of public realm are adequately addressed and overlooked, would need to be informed by the applicant's ball strike risk assessment, and would need to respond to the comments of the West Yorkshire Police Architectural Liaison Officer and other consultees.
- 10.17 With 44 units indicatively illustrated in a 1.18 hectare site, a density of approximately 37 units per hectare would be achieved. This is close to the 35 units per hectare density specified (and applicable "where appropriate") in Local Plan policy LP7 and it is noted that site allocation HS137 refers to an indicative capacity of 44 units, albeit for a 1.28 hectare site.
- 10.18 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.
- 10.19 Details of elevations, house types, materials, boundary treatments, landscaping and other more detailed aspects of design would be considered at Reserved Matters stage. Full details of any levelling and regrading works, and of any necessary retaining walls and structures, would also need to be provided at Reserved Matters stage.
- 10.20 In light of the above assessment, it is considered that the relevant requirements of chapters 11 and 12 of the NPPF, and Local Plan policies LP2, LP5, LP24 and LP35 would be sufficiently complied with. There would also be an acceptable level of compliance with guidance set out in the National Design Guide.

Residential amenity and quality

- 10.21 Local Plan policy LP24 requires developments to provide a high standard of amenity for future and neighbouring occupiers, including by maintaining appropriate distances between buildings.
- 10.22 The principle of residential development at this site is considered acceptable in relation to the amenities of neighbouring residential properties.

- 10.23 As noted above, the site layout shown in drawing 3049-0-002 rev F is indicative, however it is nonetheless appropriate to comment on it in relation to the amenities of existing neighbouring residents, to inform future design work. Based on this layout and the limited information submitted at this outline stage, it is considered likely that impacts upon the outlook, privacy and natural light currently enjoyed by neighbouring residents will be acceptable, or can be made acceptable through careful (re)design. The proposed 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. The proposed dwellings would, or could, be positioned far enough away from neighbouring properties to not adversely affect the amenities currently enjoyed by existing residents.
- 10.24 In terms of noise, although residential development would introduce (or increase) activity and movements to and from the site, given the quantum of development that would be proposed at Reserved Matters stage, it is not considered that neighbouring residents would be significantly impacted. The proposed residential use is not inherently problematic in terms of noise, and it is not considered incompatible with existing surrounding uses. The increased number of people and vehicles passing through Wentworth Drive would certainly affect the amenities of those existing residents, however it is considered that this impact would not be so great as to warrant the refusal of outline planning permission on amenity grounds.
- 10.25 A condition is recommended, requiring the submission and approval of a Construction Management Plan. 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.
- 10.26 The amenities and quality of the proposed residential accommodation is also a material planning consideration, although it is again note that details of the proposed development's appearance, landscaping, layout and scale are reserved at this stage.
- 10.27 All units shown on the applicant's indicative layout would benefit from dual aspect, and are capable of being provided with adequate outlook, privacy and natural light. Dwellings could be provided with adequate outdoor private amenity space.
- 10.28 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.
- 10.29 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. At Reserved Matters stage the applicant would be encouraged to meet these standards.

Point of access

- 10.30 Following the dismissal of appeal ref: APP/Z4718/W/19/3239659 on 23/12/2019 and further research, the applicant team ascertained that land at terminus of Wentworth Drive (previously described by the applicant as a ransom strip in the ownership of three parties) was adopted highway, and that vehicular access could therefore be taken through it.
- 10.31 Of note, during the life of the previous application and appeal, the council did not accept that vehicular access via Wentworth Drive was not possible. The applicant did not demonstrate that the possibility of providing access from Wentworth Drive had been fully explored. Site allocation HS137 does not specify whether the site should be accessed from either Wentworth Drive or Green Acres Close, however the “Potential third party land required for access” text included in the site allocation indicates that the council expected access to be provided from Wentworth Drive, and this access point has always been preferred by the council.
- 10.32 Relevant notice has been served by the applicant on the owners of the land at the terminus of Wentworth Drive.
- 10.33 For the avoidance of doubt, and given that relevant legislation defines “access” as “the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes...” (therefore, it can include access through a site), the applicant submitted an access points plan, which – along with the submitted location plan – would be the only drawing listed on the council’s decision letter. Approval of this plan would confirm that only points of access (and not access through the site) are approved.
- 10.34 Residents have noted that a gated vehicular access from Green Acres Close is shown on the applicant’s drawings, and have expressed concern that vehicular access into the site at this point would not be prevented, nor would there be a way of ensuring that this access point remained gated. To address this concern, a relevant condition is recommended, prohibiting its use for everyday access by residents, and limiting its use to that required for the Millennium Green and the emergency services.

Highway and transportation issues

- 10.35 Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed effectively and safely by all users. The policy also states that new development will normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.
- 10.36 Paragraph 108 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 109 of the NPPF adds that

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

- 10.37 Existing highways conditions around the application site must be noted. The site meets the terminus of Wentworth Drive to the west and the terminus of Green Acres Close to the east. Wentworth Drive has footways on both sides of the carriageway, has no yellow road markings, and connects to the wider highway network at Beaumont Street (which is a continuation of Upper Lane) to the north. Green Acres Close serves nine dwellings, has vehicular and personnel gates at its terminus (providing access to the application site and the Millennium Green), and connects to the wider highway network via Warburton, which already serves over 80 dwellings, and which has no footways along the majority of its length, has poor sight lines in places, has existing driveways with poor sight lines, has houses with front doors opening directly onto the carriageway, and has reduced carriageway width (for both pedestrians and vehicles) in places due to on-street parking.
- 10.38 The majority of representations made in response to the council's consultation have raised concerns regarding highway safety and congestion, with many raising concerns regarding additional traffic at the Wentworth Drive / Beaumont Street junction.
- 10.39 The applicant's Transport Statement notes that, in order to calculate the level of traffic generated by the proposed development, a turning count was undertaken at the nearby junction of Upper Lane / Warburton on 20/06/2019 (a Thursday) and 22/06/2019 (a Saturday) over a 24-hour period. These counts have been used by the applicant to interpolate bespoke trip rates for the proposed development. Based upon these rates the proposed development is estimated by the applicant to generate 27 two-way movements in the morning peak (07:00 to 08:00) and 25 two-way movements in the afternoon peak (16:00 to 17:00).
- 10.40 A highways consultant commissioned by residents commented that the estimate of traffic generation produced by the applicant was unreliable as it was based on trips generated by properties on Warburton which were unlikely to be representative of the proposed development. With the site poorly located for access to public transport and local facilities, the consultant stated that the council's favoured trip rate of 0.7 vehicle movements per hour per dwelling was instead appropriate. This would indicate 35 additional vehicle movements per hour. The consultant stated that traffic generated by the proposed development would therefore exceed the relevant materiality threshold, with material impacts on safety and operation anticipated on Wentworth Drive and at the junction with Beaumont Street.
- 10.41 The council's Highways Development Management officers considered the above information, and agreed with the residents' consultant's conclusion regarding traffic generation (namely, that the bespoke trip generation figures quoted by the applicant may be unrepresentative and that 0.7 vehicle movements per dwelling referred to in the applicant's 2019 Transport Statement should be used). Officers noted, however, that this resulted in an increase of only seven two-way movement in the peak hours, which is not considered significant.

- 10.42 Vehicle speed surveys were undertaken along Beaumont Street on 11/03/2020 (a Wednesday) during sunny / intermittent shower weather conditions. The survey recorded 200 vehicles in each direction on the approach to the Wentworth Drive junction. The results show that the 85th percentile wet weather vehicle speeds were 30mph eastbound and 28mph westbound. No personal injury collisions have been recorded within the five-year period ending 20/03/2020 at this junction.
- 10.43 The highways consultant commissioned by residents has argued that the Wentworth Drive / Beaumont Street junction is characterised by sub-standard highway features in relation to visibility and stopping sight distance. The consultant went on to note that on-street parking is evident adjacent to the junction, with conflicting turning movements arising from the proximity of other junctions and accesses such that the material increases in traffic arising from the proposed development would be unacceptable on road safety grounds.
- 10.44 The council's Highways Development Management officers noted these concerns but have advised that the applicants have demonstrated that sight lines of 2.4m x 41m and 2.4m x 37m can be achieved at the Wentworth Drive / Beaumont Street junction. These are considered acceptable based on Manual for Streets guidance which is considered appropriate to this site.
- 10.45 However, notwithstanding the above conclusion (nor that the number of indicatively-proposed dwellings is at a level that would not usually even require a Transport Statement), given the level of objections to this proposal and concerns raised regarding the capacity of the Wentworth Drive / Beaumont Street junction, officers recommended that a PICADY assessment of the junction should be undertaken to demonstrate that the junction has sufficient capacity.
- 10.46 In response, the applicant referred to relevant guidance that states that no assessment is needed for developments of up to 50 dwellings, that a Transport Statement (which excludes junction capacity assessment) is required for developments of between 50 and 80 dwellings, and that a Transport Assessment (which includes junction capacity assessment) is only needed for developments of 80+ dwellings. The applicant noted that the proposed development indicatively comprises 44 dwellings and is therefore below the threshold even required for a Transport Statement. The applicant further argued that the level of traffic generated, whether applying the applicant's bespoke trip rates or the council's robust internal rates, remains low.
- 10.47 Notwithstanding the above response from the applicant, a capacity assessment of the Wentworth Drive / Beaumont Street junction was eventually provided. This demonstrates that the junction is operating well within capacity.
- 10.48 In response to other comments made by Highways Development Management officers, a Road Safety Audit and designer's response has been submitted by the applicant. This recommended a minor change to the footway at the terminus of Wentworth Drive, and staggered barriers to public footpath DEN/21/20 to deter use by motorcyclists. The designer's response generally accepts the recommendations of the audit, and suitable amendments have been made to the proposals.

- 10.49 Improvement works to public footpath DEN/21/20 are also proposed in the form of widening to 2m, tarmac surfacing and the provision of street lighting. These are welcomed, and would help the development comply with Local Plan policies LP20, LP24dii and LP47e, which promote and require the creation of safer pedestrian environments, walkable neighbourhoods, good connectivity and permeability, and layouts that encourage active and sustainable travel. The provision of improvements at the point where this footpath meets Upper Lane were also considered (as the road lacks a footway here, and pedestrians step out from the footpath directly onto the carriageway), however there is insufficient space here to add a footway without unacceptably reducing carriageway width (which is already limited due to the position of the historic Emley Standing Cross, a Grade II listed building and Scheduled Ancient Monument).
- 10.50 Alterations to public rights of way within the extents of the application site would be detailed at Reserved Matters stage. As regards the other well-trodden pedestrian routes that cross the site, any layout to be proposed at Reserved Matters stage should accommodate existing desire lines wherever possible, however it is noted that a public right of way does not currently exist where units 17, 31, 32 and 33 are indicatively shown.
- 10.51 Access to the adjacent Millennium Green would not be restricted by the proposed development.
- 10.52 Given that the submitted site layout plan is indicative, commentary on the detailed design of the internal estate roads is not necessary at this stage. Matters such as gradients, carriageway widths, forward visibility and refuse storage would be considered when a layout and quantum of development is proposed. There is adequate space within the application site for policy-compliant provision of on-site parking (including visitor parking) and cycle parking for the indicative 44 units, however details of this provision would be considered at Reserved Matters stage.
- 10.53 A pre-commencement condition is recommended, requiring the submission of the above-mentioned Construction Management Plan. This would need to include details of construction traffic routes.

Flood risk and drainage issues

- 10.54 The site is within Flood Zone 1, and is larger than 1 hectare in size, therefore a site-specific Flood Risk Assessment (FRA) was submitted by the applicant.
- 10.55 The applicant's FRA appropriately recommends site investigation to ascertain whether infiltration (for the disposal of surface water) would be possible – infiltration would indeed be the preferred surface water disposal method, and the Lead Local Flood Authority's data suggests the site is likely to be highly suitable for infiltration.
- 10.56 Of note, notwithstanding what is stated at paragraph 3.4 of the applicant's initial and amended FRA ("It is understood that a route through adjacent land to the south of the site has been agreed to allow a discharge to the watercourse some 400m away from the site") and the comments of Yorkshire Water, no detailed drainage proposal including a connection to that existing

watercourse has been submitted. Several residents have expressed concern that such a connection would involve excavation and the laying of pipework across the Millennium Green, and through farmland, causing disruption and losses of trees and hedgerows. Emley Millennium Green Trustees have also advised that no consent for such excavation and pipe laying has been issued.

- 10.57 With the previous outline application, the Lead Local Flood Authority (LLFA) raised no objection to the granting of outline planning permission for residential development at this site. For the current application, the LLFA have made similar comments, but have raised an objection that will stand until information relating to flow routing, infiltration testing and surface water management has been submitted. It is, however, not considered necessary to pursue detailed information regarding drainage and flood risk at this outline stage, given that a proposed site layout, and details of the number of residential units (and their locations in relation to potential sources and mitigation of flood risk) would not be fixed. A detailed drainage scheme would be required at Reserved Matters stage, as would details of flooding routes, permeable surfaces, rainwater harvesting, water butts, and rainwater gardens and ponds.

Ecological considerations

- 10.58 The application site is greenfield land, and is grassed. Trees and shrubs exist along the site's edges. The site is within a Biodiversity Opportunity Zone (Pennine Foothills) and an Impact Risk Zone of a Site of Special Scientific Interest.
- 10.59 The applicant submitted a Preliminary Ecological Appraisal Report which states that on-site habitats do not represent a significant constraint to development, and that no protected species have been identified. The report does not recommend that any further, detailed ecological studies be carried out, but recommends "standard" precautions regarding nesting birds and hedgehogs.
- 10.60 For the previous application, the council's Biodiversity Officer raised no objection to the proposed development, stating that it was unlikely to result in significant ecological harm, subject to conditions. For the current application, given the requirements relating to net biodiversity gain that now apply, it is considered that outline planning permission can be approved at this site, subject to a condition stating:

Prior to the submission of the Reserved Matters referred to in Condition 1, details of the site's baseline ecological value shall be submitted to and approved in writing by the Local Planning Authority. These details shall inform the design of the development, and shall include details of measures needed to secure a biodiversity net gain. The development shall be implemented in accordance with the measures approved at Reserved Matters stage.

- 10.61 A condition requiring the submission of an Ecological Design Strategy is also recommended.

- 10.62 It is considered possible to develop the site for residential use while providing the required biodiversity net gain, in accordance with relevant local and national policy, including Local Plan policy LP30 and chapter 15 of the NPPF.

Trees

- 10.63 There are no protected trees on or immediately adjacent to the application site, however there are trees within the adjacent Millennium Green and elsewhere around the edges of the site. Many of these are worthy of retention, some may overhang the site boundary, and some should be regarded as constraints at the application site.
- 10.64 Some of the dwellings indicatively shown along the site's southern boundary may be too close to existing trees, however with minimal design changes these concerns could be overcome. When a detailed layout is prepared prior to Reserved Matters stage, the applicant would need to provide a good level of separation between the proposed dwellings and these trees, and a full assessment of potential impacts upon these trees would need to be carried out.
- 10.65 The council's Arboricultural Officer has raised no objection in principle to residential development at this site.

Environmental and public health

- 10.66 The proposed development would cause an increase in vehicle movements to and from the site, however air quality is not expected to be significantly affected. To encourage the use of low-emission modes of transport, electric/hybrid vehicle charging points would need to be provided in accordance with relevant guidance on air quality mitigation, Local Plan policies LP21, LP24 and LP51, the West Yorkshire Low Emission Strategy (and its technical planning guidance), the NPPF, and Planning Practice Guidance.
- 10.67 The health impacts of the proposed development are a material consideration relevant to planning, and compliance with Local Plan policy LP47 is required. Having regard to the adjacent sports and recreation facilities, the affordable housing that would be secured, pedestrian connections (which can help facilitate active travel), measures to be proposed at conditions and Reserved Matters stage to minimise crime and anti-social behaviour, and other matters, it is considered that the proposed development would not have negative impacts on human health.

Sport England

- 10.68 As the application site is immediately adjacent to a cricket field, Sport England were consulted on the current application. Initially, the applicant did not submit a ball strike risk assessment in relation to the adjacent facility, and as with the previous application, Sport England submitted an objection in relation to ball strike risk.

10.69 Although officers were of the view that ball strike risk should not prevent the principle of residential development being accepted at this site (it is noted that no quantum or layout would be approved at this outline application stage, and that mitigation measures (if needed) can be detailed and considered at Reserved Matters stage), the applicant responded to Sport England's concerns by submitting a ball strike risk assessment during the life of the application. This states that "...all but the fastest shots for community-level cricket will be stopped by a 17m high mitigation system" and "In order to completely remove the risk of any ball surpassing the boundary, a 25m mitigation system would be required". The report goes on to state that a 17m height mitigation is a sensible and sufficient solution in reducing the risk of cricket balls surpassing the boundary and landing in the proposed residential area, although the report does not recommend the specific design of a mitigation.

10.70 Upon receipt of the applicant's ball strike risk assessment, Sport England were reconsulted, and their objection was withdrawn, subject to two conditions (set out under paragraph 8.1 above) being applied. Following further communication with the applicant, on 06/10/2020 Sport England agreed to their recommended conditions being modified as follows:

1) The Reserved Matters application shall detail ball-stop netting of a height and location specified within the mitigation approach section of the Labosport report reference LSUK.20-0563 or an appropriate alternative that delivers the required mitigation to protect the operation of the cricket ground and the approved dwellings. The approved scheme shall be brought into use prior to the occupation of any dwelling within the ball strike risk zone.

2) Prior to the commencement of development a scheme for the management and maintenance of the approved ball-stop netting or an appropriate alternative mitigation measure shall be submitted to and approved by the Local Planning Authority (following consultation and advice from Sport England). The approved scheme shall be brought into effect upon first occupation of any dwelling within the ball-strike risk zone, and shall remain in operation whilst the cricket ground and approved dwelling houses remain in use.

10.71 Officers recommend that these conditions be applied. Of note, the conditions as worded above do not necessarily require the erection of 17m high ball strike mitigation (such as netting or fencing). Such an installation would be of concern, given its visual impact. Furthermore, an installation of that height would require planning permission in its own right, such that it would be inappropriate to secure its provision by condition – instead, the development description for the current application would need to be changed and a re-consultation exercise would be necessary. However, with the "or an appropriate alternative" wording included in the first condition above, alternatives to netting could be proposed by the applicant at Reserved Matters stage, and members of the public would have an opportunity to comment on those proposals as and when the council carries out consultation on that application.

- 10.72 Of note, should Members resolve to grant outline planning permission without the above conditions, the current application would need to be referred to the Secretary of State for Housing, Communities and Local Government, who would have 21 days to advise the council whether the application is to be “called in”.

Ground conditions

- 10.73 With regard to ground contamination, the applicant submitted a Geoenvironmental Appraisal. Environmental Health officers requested details of gas monitoring carried out at the site. This had been submitted by the applicant, and the comments of Environmental Health officers will be reported in the committee update. Appropriate conditions are recommended to ensure compliance with Local Plan policy LP53.
- 10.74 The application site is within the Development High Risk Area as defined by the Coal Authority, therefore within the site and surrounding area there are coal mining features and hazards. This is, however, not a reason for refusal of outline planning permission. The applicant’s site investigation found the Flockton Thin coal seam to be intact coal across the site, and the deeper Second Brown Metal seam was not encountered. No evidence of mineworkings was identified during the investigation. In light of these findings, and the absence of an objection or contrary advice from the Coal Authority, no conditions relating to the site’s coal mining legacy are considered necessary. However, as noted by the Coal Authority, further, more detailed consideration of ground conditions, foundation design and gas protection measures may be required at detailed design stage.
- 10.75 Residents have stated that four mine shafts close to the entrance to Wentworth Drive may not have been capped properly, however there is no evidence (currently before the council) that this is the case, nor has the matter been raised in the Coal Authority’s consultation response.

Representations

- 10.76 A total of 227 representations were received from occupants of neighbouring properties. The comments raised, which are summarised in section 7 above, have been addressed in this report.

Planning obligations

- 10.77 Although affordable housing, education, open space and highways-related measures could be secured by condition at this outline stage, the applicant has asked that any approval of outline planning permission be subject to a Section 106 agreement, securing planning obligations. This is indeed possible, although without a number of units, layout or other aspects of the development being fixed at this stage, financial contributions cannot be included in the agreement (although, in some cases, caps based on the maximum number of units likely to be acceptable at this site, could be set out). To mitigate the development’s impacts and to secure the public benefits of relevance to the planning balance, the following planning obligations would need to be secured:

- 1) Affordable housing – 20% of units, with a policy-compliant tenure and unit size mix, to be provided in perpetuity.
- 2) Education – Financial contribution to be calculated with reference to number of units proposed at Reserved Matters stage, unit sizes and projected pupil numbers.
- 3) Highways and transport – Measures to encourage the use of sustainable modes of transport, including a financial contribution to be calculated with reference to details and number of units proposed at Reserved Matters stage, the highway impacts of the proposed development, and consultee responses. Improvements to off-site public rights of way.
- 4) Open space – Financial contribution towards off-site provision, to be calculated with reference to details proposed at Reserved Matters stage.
- 5) Biodiversity – Contribution towards off-site measures to achieve biodiversity net gain, to be calculated with reference to details proposed at Reserved Matters stage and opportunities for on-site and near-site compensation.
- 6) Management – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker).

10.78 Notwithstanding the above references to Reserved Matters, it is in any case recommended to applicants that these details be submitted at Reserved Matters stage, so that each of these matters (and financial viability, if applicable) can be considered concurrently with the layout and quantum of the proposed development, and amendments (to improve viability) can be made if necessary.

Other planning matters

10.79 The provision of training and apprenticeships is strongly encouraged by Local Plan policy LP9, and although the proposed development does not meet the relevant threshold (housing developments which would deliver 60 dwellings or more), any agreement by the applicant to provide a training or apprenticeship programme to improve skills and education would be welcomed. Such agreements are currently not being secured through Section 106 agreements – instead, officers are working proactively with applicants to ensure training and apprenticeships are provided.

10.80 Solicitors acting for the Emley Millennium Green Trustees have advised that there are no registered rights to access the Millennium Green for any purpose, including but not limited to the laying of pipes for any purpose. As noted above, access to the adjacent Millennium Green would not be restricted by the proposed development. Any other rights the Emley Millennium Green Trustees may have agreed with the Savile Estate are not a planning matter, and any dispute (arising from the proposed development) regarding those rights would need to be resolved between those parties.

10.81 The availability of houses for sale elsewhere in Emley is not a reason for withholding outline planning permission. Market churn is normal and is not an indication of a lack of demand for housing (or a certain housing type) in Emley.

10.82 Financial gains made by the landowner and applicant (should outline planning permission be granted) are not material planning considerations.

11.0 CONCLUSION

11.1 The application site is allocated for residential development under site allocation HS137, and the principle of residential development at this site is considered acceptable.

11.2 The site is constrained by public rights of way, the adjacent cricket ground, adjacent trees, coal mining legacy, ecological considerations, drainage and other matters relevant to planning. While these constraints would necessitate further, careful and detailed consideration at Reserved Matters stage, none are considered to be prohibitive to the principle of residential development at this site, therefore it is recommended that outline permission be granted.

11.3 The proposed vehicular point of access and pedestrian points of access are considered acceptable in highways terms.

11.4 The NPPF 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. The proposed development has been assessed against relevant policies in the development plan and other material considerations. Subject to conditions and further consideration at Reserved Matters stage, it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) 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 Planning and Development)

1. Standard OL condition (submission of Reserved Matters)
2. Standard OL condition (implementation of Reserved Matters)
3. Standard OL condition (Reserved Matters submission time limit)
4. Standard OL condition (Reserved Matters implementation time limit)
5. Development in accordance with plans and specifications
6. Flood risk and drainage – full scheme to be submitted
7. Separate systems of foul and surface water drainage to be provided
8. Details of access and internal adoptable roads
9. Restricted access from Green Acres Close
10. Ecology and biodiversity net gain (including submission of an Ecological Design Strategy)
11. Tree protection measures to be implemented prior to commencement
12. Restriction on timing of removal of hedgerows, trees and shrubs.
13. Landscaping – full details to be submitted
14. Construction Management Plan to be submitted
15. Electric vehicle charging points to be provided

16. Contaminated land
17. Coal mining legacy – details of intrusive site investigation to be submitted
18. Details of ball strike risk mitigation to be submitted at Reserved Matters
19. Details of management and maintenance of ball strike risk mitigation to be submitted pre-commencement
20. Submission of details of crime prevention measures.
21. Submission of details of noise mitigation measures.

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f91215>

Certificate of Ownership – Certificate B signed

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 04-Nov-2020

Subject: Planning Application 2020/90350 Demolition of existing buildings and erection of 7 dwellings and associated garages (within a Conservation Area) Gomersal Hall, Oxford Road, Gomersal, Cleckheaton, BD19 4AT

APPLICANT

Mr Kidd, Holroyd Miller

DATE VALID

03-Feb-2020

TARGET DATE

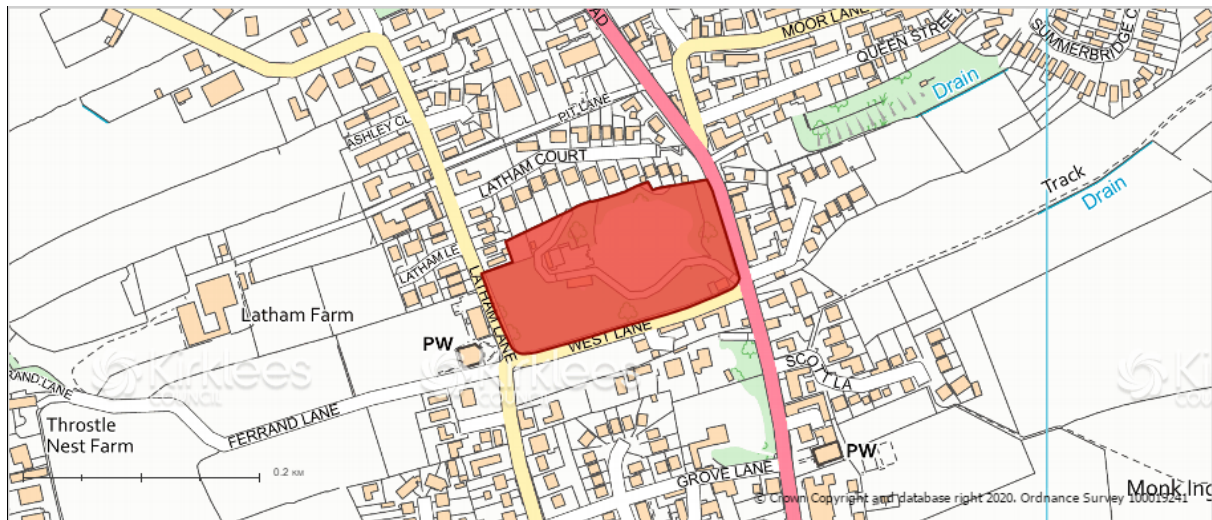
30-Mar-2020

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: Liversedge and Gomersal

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

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

1.0 INTRODUCTION:

- 1.1 The application is being heard at Heavy Woollen Sub Committee due to the significant number of representations that have submitted in response to the statutory publicity of the application.
- 1.2 The reason for the application being decided by Members of the Heavy Woollen Planning Sub Committee has been confirmed by the Chair of the Planning Sub Committee as acceptable.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site relates to a large piece of open land, which currently accommodates one dwelling, Gomersal Hall. The dwelling is of a grand appearance and has large grounds. The application site is bounded by mature trees to all sides and the site is also characterised by high boundary walls on the sides facing the highways of Oxford Road and West Lane.
- 2.2 Surrounding the site is predominantly residential, with mostly detached dwellings in large gardens surrounding the site. A range of materials are evident and many of the existing dwellings have also been extended.
- 2.3 The site allocated as Gomersal Conservation Area on the Kirklees Local Plan.

3.0 PROPOSAL:

- 3.1 Planning permission is sought for the demolition of Gomersal Hall and the erection of 7 dwellings in the garden area.
- 3.2 The access to the site is from West Lane and would involve the removal of protected trees. As seen on the submitted site plan, part of the boundary wall would have to be reduced to facilitate the access. There would be a private access road to serve the dwellings, and this would run around an area of public open space/ mature trees in the centre of the site. The proposed development would also improve the access on the junction of West Lane and Oxford Road.

- 3.3 As well as dwellings, the site will accommodate several garages to provide parking for the occupiers of the dwellings.
- 3.4 The dwellings are all detached and have an area of hardstanding associated with them.
- 3.5 The boundary treatments within the site vary; from 1.8m high screen brick walls, 1.2m brick and railing garden wall, 1.1m railing and 1.3m timber post and rail fence. This is seen on the boundary treatment details plan.
- 3.6 The dwellings would be constructed from traditional materials for the external walls and roofing materials.
- 3.7 'The Lodge', to the southeast of the site, would be unaffected by the proposed development.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 99/90820 – Outline application for residential development (4 detached dwellings) and associated access drive and access drive to serve Gomersal Hall and Lodge REFUSED
- 4.2 2019/20098 – Pre application enquiry for demolition of existing dwelling and construction of 15 dwellings ADVICE GIVEN

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

- 5.1 The case officer and the agent have been in discussions relating to the impact on the character of the conservation area, including the trees and boundary wall, and the design and layout of the dwellings. The amendments that have been sought are considered acceptable. The development will also provide a biodiversity net gain, following negotiations with the agent on the ecological information that was provided.

6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is allocated as Gomersal Conservation Area on the Kirklees Local Plan.

Kirklees Local Plan (2019):

- 6.2 LP1 – Promoting sustainable development
- LP2 – Place shaping
- LP7 – Efficient and effective use of land and buildings
- LP21 – Highway Safety
- LP22 – Parking Provision
- LP24 – Design
- LP28 – Drainage

LP30 – Biodiversity and geodiversity
LP33 - Trees
LP35 – Historic environment
LP38 – Minerals Safeguarding
LP51 – Local air quality

Supplementary Planning Guidance / Documents:

6.3 Highways Design Guide Supplementary Planning Document

West Yorkshire Low Emissions Strategy and Air Quality and Emissions
Technical Planning Guidance

National Planning Guidance:

- 6.4 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 14 – Meeting the challenge of climate change, coastal change and
flooding
Chapter 15 – Conserving and enhancing the natural environment
Chapter 16 – Conserving and enhancing the historic environment
Chapter 17 – Facilitating the sustainable use of minerals

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been advertised in accordance with the Council's adopted
Statement of Community Involvement.

7.2 As a result of the statutory publicity, 28 representations have been received,
raising the following concerns:

- Historic buildings
- Protected trees are a valuable asset
- Wildlife habitat network/ biodiversity
- Design of dwellings must enhance CA
- Access much safer than existing
- Materials
- Highways and traffic generation
- Protect green space
- Drainage issues
- Residential amenity
- Planning history of site
- Coal mining
- Conditions if application is to be approved
- Infrastructure of Gomersal is being overstretched
- Phase II queries
- Public consultation period queries
- Climate change, resulting from the loss of trees

7.3 Councillor Holmes, ward member for Liversedge and Gomersal, has raised the following concerns:

- Not in-keeping
- Proposed access/ highway safety issues

7.4 Officer comments will be made in the representations section of this report.

8.0 CONSULTATION RESPONSES:

The following is a brief summary of consultee advice (more details are contained within the assessment section of the report, where appropriate):

8.1 Statutory:

K.C Highways Development Management – no objection

K.C Environmental Health – no objection

8.2 Non-statutory:

K.C Conservation and Design – concern raised initially, but addressed following receipt of amended plans

K.C Trees – no objection following negotiations and subject to conditions

K.C Ecology – no objection following negotiations and subject to conditions

K.C Lead Local Flood Authority – no objection

Yorkshire Wildlife Trust – comments made

K.C Landscape – no objection

K.C Environmental Health – no objection

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 The site is within the Gomersal Conservation Area. Section 72 of the Listed Buildings & Conservation Areas Act (1990) requires that special attention shall be paid, in the exercise of planning functions, to the desirability of preserving or enhancing the appearance or character of the conservation area. This is mirrored in Policy LP35 of the Kirklees Local Plan, together with guidance in Chapter 16 of the NPPF.
- 10.2 Chapter 5 of the National Planning Policy Framework states that planning decisions should support the Government's objective, which is to boost the supply of homes. Albeit on a small scale, Officers are satisfied that this aim of the National Planning Policy Framework is achieved.
- 10.3 Officers have considered visual amenity (including the impact on the character of the conservation area), residential amenity, highway safety and other material planning considerations in this report.

Urban Design issues

- 10.4 Consideration has been given to the layout of the proposed development and the context of the Conservation Area in which it is proposed. Gomersal does not have a Conservation Area Appraisal and, therefore, Officers have considered LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework as the basis for the assessment, as well as the Heritage Statement submitted by the agent.
- 10.5 Chapter 11 of the National Planning Policy Framework also states that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Policy LP11 of the Kirklees Local Plan. Policy LP7 of the Kirklees Local Plan reiterates this.
- 10.6 LP7 states that housing density should ensure efficient use of land, in keeping with the character of the area and the design of the scheme, with a net density of 35 dwellings per hectare being achieved, where appropriate.
- 10.7 In this case, the application site is approximately 2 hectares in area and, therefore, in accordance with LP7, 70 dwellings should be expected to be accommodated on such a site. In this case, most of the site is undevelopable, due to the protected trees on the site and the character of the Gomersal Conservation Area. It is particularly characterised by its open nature, as is this site.
- 10.8 Given these constraints, the development is accepted by Officers as an appropriate use of the land, achieving the highest number of dwellings practicable, whilst also remaining in-keeping with the character of the area and retaining the majority of protected trees on the boundaries of the site and the high stone boundary wall, both of which provide amenity value to the area and add to the character of the Conservation Area.

- 10.9 The proposed layout is considered by Officers to respect the character of the Gomersal Conservation Area, with large dwellings being erected in large plots, similar in nature to those surrounding the application site. The first dwelling that will be visible when entering the site is of a large-scale design and would provide a 'grand' entrance to the site. The other dwellings have been carefully designed, to respect the locality. The retention of the three mature trees, in the centre of the site, and the open aspect of the site is, for Officers, important to retain its 'open feel' nature, which significantly contributes to the special character of the Gomersal Conservation Area.
- 10.10 The materials are traditional in appearance, with natural stone and roof slates being used in the construction of the dwellings. Due to the sensitive, historic, context of this site, a condition is recommended to Members that samples of the proposed materials are provided, prior to the construction of the dwellings.
- 10.11 The applicant has also provided a plan showing the proposed boundary treatments within the site. These include high stone walling, a timber post and rail fence, metal railing and brick and railing garden walling. Courtyard gates are also proposed. Officers consider that the entrance to the site would be respectful of its character and, therefore, appropriate.
- 10.12 To facilitate access into the development, several protected trees would need to be felled and the high stone boundary wall will be reduced in height as per the submitted plan. Officers have carefully considered the extent to which this work could harm the character of the Conservation Area. The K.C Conservation Officer states that there could be substantial harm arising from the break in this continuous and heavily treed boundary treatment. However, in line with the NPPF, Officers have concluded that the high quality of the proposed development, and the public benefits that this provides, would outweigh any harm caused by the development, in accordance with paragraph 195 of the National Planning Policy Framework. This is especially the case since the submission of a Woodland Management Plan, that K.C Trees have reviewed. The Woodland Management Plan will be discussed further within this report and it is noted that measures are suggested to mitigate any loss of public amenity.
- 10.13 In addition to the above, the retention of the historic outbuildings would be a benefit to the scheme and, should future occupiers of Plot 2 wish to utilise these buildings, a planning application would be required to ensure that any re-design of these buildings is sensitive to its context. This was discussed with Officers at the pre-application advice stage.
- 10.14 It is important for Members to also note that there is a condition recommended to remove the permitted development rights for extensions and outbuildings for future occupiers of the proposed dwellings. This is to ensure that the garden plots are not over-developed, that the trees will be retained and continue to add amenity to the local area, as well as to ensure that the design of any future additions is acceptable and will retain the character of the development.

- 10.15 Finally, Officers have assessed the architectural and historic merit of Gomersal Hall, in respect of its proposed demolition. In this case, the Conservation Officer has confirmed that the loss of this building will not result in harm to the site, as the building does not constitute a non-designated heritage asset. Officers would respectfully advise Members that the development is considered acceptable from this perspective.
- 10.16 The proposed development is, in the opinion of Officers, compliant with Local Plan Policies LP7, LP24 and LP35 and Chapters 11, 12 and 16 of the National Planning Policy Framework.

Residential Amenity

- 10.17 The impact on residential amenity is acceptable. Officers have considered the impact on the occupiers of existing neighbouring properties.
- 10.18 It is important for Members to note the relationship between proposed dwellings and existing residential properties to the north, east and west of the site. It is noted that some of the properties on the northern boundary (on Latham Court) have habitable room windows facing into the application site. Officers note the closest distance between these properties is approximately 27 metres. This is sufficient to avoid a harmful impact on residential amenity, in terms of potential overbearing and overlooking impacts. The relationship with properties to the east have a further distance – the existing properties are on the other side of Oxford Road and those to the West on Latham Lane are, also, on the other side of the road.
- 10.19 Officers have considered the amenity of the future occupiers of dwellings within the site. The relationship between habitable room windows of the proposed dwellings within the site is acceptable to ensure that there would be no direct overlooking from habitable room windows and the garden areas of the dwellings are of a sufficient size to ensure that the occupiers have a good level of amenity.
- 10.20 It is important for Members to note that the layout of the dwellings and their gardens has been carefully designed to ensure that, where there are protected trees in the gardens, there are areas of side garden, for example. As well as this, there is an area of Public Open Space within the site.
- 10.21 Officers are satisfied that the proposed development will comply with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

Highway issues

- 10.22 Highways Development Management have been consulted on the planning application. The proposal shows access to the housing development to be taken from West Lane. The current access, on the corner of the site of West Lane and Oxford Road, will also have improvements.

- 10.23 The plan shows the felling of protected trees and the reduction in the height of a stone boundary wall running along West Lane, which is required to facilitate the required sightlines. Highways Officers are satisfied that the visibility splays can be achieved, and a condition has been recommended to Members to this effect, to ensure that, before development commences, the frontage wall is reduced in height and all obstructions cleared. It is important for Members to note that the proposed access is a considerable improvement compared with the existing access and the proposed development of 7 dwellings would not result in such significant traffic movements that would result in highway safety concerns in this respect.
- 10.24 Within the site, there is a proposed internal road layout that is adequate to accommodate a 11.85m long waste collection vehicle. The agent has provided a swept path analysis, to demonstrate that this can be achieved on site. Highways DM Officers have noted that this can be achieved.
- 10.25 The parking provision within the site is acceptable and includes visitor parking spaces. The hardstanding, which has been reduced to overcome concerns in terms of the harsh appearance of the hard landscaping initially proposed, would be constructed from permeable surfacing, to ensure that it does not result in surface-water flooding. A condition can be recommended to Members to this effect.
- 10.26 Subject to the above, Officers are satisfied that the proposed development complies with Local Plan Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF.

Drainage issues

- 10.27 In line with Policy LP27 of the Kirklees Local Plan and Chapter 14 of the NPPF, the Local Lead Flood Authority have been consulted on the planning application. The Local Lead Flood Authority informed Officers that there is an ongoing flooding issue on the junction of West Lane and Oxford Road and this is known to be related to an issue with the combined sewer running down Oxford Road and, therefore, an initial objection was raised on the basis of the lack of Yorkshire Water consent and no attenuation details being provided. The Local Lead Flood Authority has confirmed that soakaways are not an option of this site. This is because, at the lowest point, there is a line of terraced properties which could be affected from nearby concentrated infiltration. The Local Lead Flood Authority has confirmed it would object to the use of soakaways and, therefore, Officers consider that it would be unreasonable to request investigation of this.
- 10.28 The drainage design provided by the agent shows a connection into a Yorkshire Water sewer. Following confirmation that this is acceptable from Yorkshire Water's perspective, and discussions with the LLFA that concluded that soakaways are not an option on this site, the Local Lead Flood Authority is now satisfied with the drainage details proposed and a condition has been recommended to ensure that the drainage is undertaken in accordance with the submitted plan. It is important to note that Officers have recommended this condition to Members and to also note that attenuation details are not required as per the Local Lead Flood Authority's initial comments, due to this being the only solution on site. Yorkshire Water has stated its required discharge rate and adherence to this would be required.

10.29 Accordingly, Officers are satisfied that the proposal complies with Policy LP28 of the Kirklees Local Plan and Chapter 14 of the NPPF.

Representations

10.30 As a result of the statutory publicity, 28 representations have been received raising the following concerns:

- Historic buildings
Officer comment: see visual amenity section of this report
- Protected trees are a valuable asset
Officer comment: see visual amenity and other matters section of this report
- Wildlife habitat network/ biodiversity
Officer comment: see other matters section of this report
- Design of dwellings must enhance Conservation Area
Officer comment: see visual amenity section of this report
- Access much safer than existing
Officer comment: see highway safety section of this report
- Materials
Officer comment: Officers are recommending to Members that samples of materials will be submitted, should the application be approved
- Highways and traffic generation
Officer comment: see highway safety section of this report
- Protect green space
Officer comment: the site is not identified in the Local Plan as a valuable green space. However, its importance to the character of the Conservation Area is noted and the proposed development, in the opinion of Officers, retains the open space and effectively uses the land for housing
- Drainage issues
Officer comment: see drainage section of this report
- Residential amenity
Officer comment: see residential amenity section of this report
- Planning history of site
Officer comment: this is noted
- Coal mining
Officer comment: the site is in a low coal mining risk area and, therefore, there is no concern in this regard

- Conditions if application is to be approved
Officer comment: Officers' recommendation is that the proposed development is acceptable, subject to conditions as discussed throughout this report
- Infrastructure of Gomersal is being overstretched
Officer comment: the development proposal is for 7 dwellings. It is small-scale and Officers are satisfied that this development would not put significant pressure on local infrastructure. Members should note the development does not trigger any contributions
- Phase II queries
Officer comment: the site is in a low coal mining risk area and, therefore, there is no concern in this regard. However, a condition will be recommended for a Phase II report to be submitted
- Public consultation period queries
Officer comment: the application was advertised by site notice and neighbour letter in accordance with the Council's Statement of Community Involvement
- Climate change, resulting from the loss of trees
Officer comment: see other matters section of this report. Members can note that Officers are recommending a condition for the provision of electric vehicle charging points, as a method of supporting the Council's response to the climate change emergency

10.31 Councillor Holmes, ward member for Liversedge and Gomersal, has raised the following concerns:

- Not in keeping
Officer comment: see visual amenity section of this report
- Proposed access/ highway safety issues
Officer comment: see highway safety section of this report

Planning obligations

10.32 Due to the scale of the development that is proposed, being under 10 dwellings, no contribution in relation to affordable housing, open space or education is required.

Other Matters

Air Quality

10.33 Policy LP51 of the Kirklees Local Plan relates to climate change and states that "Effective spatial planning is an important part of a successful response to climate change, as it can influence the delivery of appropriately sited green infrastructure and the emission of greenhouse gases. Planning can also help increase resilience to climate change impact through the location, mix and design of development". This is also reflected in the NPPF as a core land use planning principle. The NPPF emphasis that responding to climate change is central to economic, social and environmental dimensions of sustainable development.

10.34 This application has been assessed, whilst taking into account the requirements summarised, and provides opportunity for development that is considered to meet the dimensions of sustainable development. Furthermore, the inclusion of electric vehicle charging point(s) to serve the development, which is recommended to be secured via condition, would contribute positively to the Council's aims in tackling climate change.

Protected Trees

10.35 There are protected trees around the peripheries of the site on the eastern, western and southern boundaries and, therefore, through the assessment of the proposed development, careful consideration was given to the impact on the protected trees, in terms of the requirement to fell trees to facilitate an access to the site and the future maintenance of the woodland following occupation.

10.36 The K.C Trees Officer was not supportive of the loss of mature trees on West Lane, as this would have a detrimental impact on the tree scape within the Conservation Area, which is not desirable and, therefore, further information was required to understand the quality of the trees, the positioning of trees within domestic gardens and the long term maintenance plan for the trees.

10.37 Officers have assessed the proposed development and taken on board the comments raised by the Tree Officer. It is noted that the public benefits of effectively utilising this piece of land for a well-designed development, which respects the open character of the Gomersal Conservation Area, is, alongside the woodland management plan and future tree planting plan, considered by Officers to result in public benefits that would outweigh the harm causing by the loss of protected trees at the access point. Adequate mitigation has been provided to compensate for the impact on the Conservation Area and the loss of public amenity.

10.38 The Woodland Management Plan, which includes works to bring the woodland back into native habitat, will be a benefit to the locality and the conservation area and the works it specifies are, in the opinion of Officers, sufficient to mitigate the loss of existing trees on site. The retention of the large mature trees in the centre of the site is welcomed.

10.39 In terms of the protected trees within the garden areas of the proposed dwellings, careful consideration has been given to ensure that the development would not result in future pressure to fell. The agent has reduced the red line boundary to take the protected trees outside of domestic curtilages and permitted development rights would be removed to ensure that no future development could result in harm from additions to the dwellings. In this way, the Local Planning Authority can assess the impact of any future proposed works, on the protected trees.

10.40 Officers are satisfied that, subject to conditions requiring the development to be built in accordance with the Woodland Management Plan and the Tree Planting Plan, the proposal is acceptable due to the public benefits that it provides, complying with Policies LP24 and LP33 of the Kirklees Local Plan and Chapters 12 and 15 of the NPPF with regards to trees.

Ecology

- 10.41 The site is within the Kirklees Bat Alert Layer and the Kirklees Wildlife Habitat Network and K.C Ecology and the Yorkshire Wildlife Trust have commented on the application and initially raised concerns due to the loss of habitat, through losing protected trees on site.
- 10.42 A Woodland Management Plan (WMP) has subsequently been submitted and K.C Ecology Officers are satisfied that the WMP addresses concerns about the woodland being included in the curtilages of the dwellings, with the reduction in the red line boundary. Officers also note that the WMP states that there are measures to bring the woodland back into its native form and this will benefit ecology.
- 10.43 Due to the requirement to provide biodiversity net gain, and in this instance Officers are of the opinion that this is important in order to overcome the concern raised by felling protected trees, a condition has been recommended for an Ecological Design Strategy to be submitted, to advise on the mitigation and enhancement that will be required at the site, for example bird and bat boxes.
- 10.44 Subject to conditions re the above, Officers consider that the proposal complies with Policy LP33 of the KLP and Chapter 15 of the National Planning Policy Framework.

Coal Mining

- 10.45 The site is in an area of low coal mining risk and, therefore, a Coal Mining Risk Assessment is not required and consultation with the Coal Authority has not been undertaken.
- 10.46 In line with Policy LP53 of the Kirklees Local Plan and Chapter 15 of the NPPF, no conditions are required should the application be approved. However, Officers will include a footnote, to advise the applicant, should unexpected coal mining workings be found during construction.

West Yorkshire Archaeological Society

- 10.47 West Yorkshire Archaeological Society (WYAS) have commented on the application as follows:

“The present Gomersal Hall dates from the 1890s. An earlier hall is named and shown on the First Edition Ordnance Survey Six-inch to the Mile map, surveyed in 1847 - 51 and published in 1854.

This earlier Gomersal Hall was located in the north-east corner of the application site, which had by the 1840s been landscaped to provide a small area of parkland. The house’s date of origin is not currently known, although the term “hall” was applied to many early post medieval dwellings with little or no associations with the aristocracy”.

- 10.48 It is noted by Officers that the demolition of Gomersal Hall and the erection of 7 dwellings may uncover important archaeological evidence, dating from the medieval periods. WYAS advise Officers that field work should be carried out prior to the determination of the planning application, to understand the extent of archaeological interest at the site. However, it is important for Members to note that Conservation Officers are satisfied to deal with this field work, and subsequently any record keeping, as a pre-commencement condition.
- 10.49 This non-designated heritage asset should be fully archaeologically evaluated in accordance with Policy LP35 of the Kirklees Local Plan and Chapter 16 of the NPPF.
- 10.50 Officers are satisfied that a condition can be recommended for works to be undertaken at the pre-commencement stage of development.

Minerals Safeguarding

- 10.51 The site is over 1000sq m and is within a wider mineral safeguarding area and, therefore, Local Plan Policy LP38 applies. This policy is important to ensure that known mineral reserves are protected from permanent development, which may sterilise such resources through encouraging the extraction of minerals, if feasible, prior to non-mineral extraction taking place.
- 10.52 This policy states that surface development at the application site will only be permitted where it has been demonstrated that certain criteria apply. Criterion c of Policy LP38 is relevant, as it allows for approval of the proposed development, where there is an overriding need (in this case, housing need, having regard to Local Plan delivery targets).

11.0 CONCLUSION

- 11.1 The concerns summarised above have been carefully considered. However, when assessing this planning application in relation to national and local planning policy, along with all other material planning considerations, officers are of the opinion that the principle of residential development on this site in Gomersal Conservation Area is acceptable.
12. The NPPF 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. The proposed development has been assessed against relevant policies in the development plan and other material considerations. Subject to conditions, it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) and it 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 Planning and Development)

1. Time limit for commencing development
2. In accordance with plans
3. Materials shall be natural stone for the external walls and natural blue or stone tiles for the roof. samples to be submitted
4. Drainage in accordance with plan submitted
5. Electric vehicle charging points
6. Development shall be carried out in accordance with woodland management plan and tree planting schedule
7. Submission of ecological design strategy
8. Removal of Permitted Development rights for extensions and outbuildings
9. Permeable surfacing for hardstanding
10. Written scheme of archaeological investigation (WSI) has been [submitted to and] approved by the local planning authority in writing
11. Submission of Phase I preliminary risk assessment
12. Submission of Phase II Intrusive Site Investigation report
13. Submission of remediation strategy
14. Implementation of remediation strategy
15. Submission of validation report
16. Visibility splays to be provided prior to the commencement of development
17. Scheme detailing arrangements and specification for layout and parking
18. Schedule for the means of access to the site for construction traffic
19. In accordance with recommendations within the Arboricultural Method Statement

Background Papers:

Website link to application details:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020/90350>

Certificate A signed and dated 31.1.2020

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Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 04-Nov-2020

Subject: Planning Application 2020/92540 Erection of detached garage Land adjacent, 51-53, Park Croft, Staincliffe, Batley, WF17 7SS

APPLICANT

S Ali

DATE VALID

09-Sep-2020

TARGET DATE

04-Nov-2020

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: Batley West Ward

Ward Councillors consulted: Cllr Gwen Lowe, Cllrs Yusra Hussain

Public or private: PUBLIC

RECOMMENDATION:

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

1.0 INTRODUCTION:

1.1 This application is brought before the Heavy Woollen Planning Sub Committee for determination in accordance with the Council's Scheme of Delegation on account of a request from Cllr Gwen Lowe as there is concern regarding problems this larger garage will cause with access to the adjoining plots and as there has been significant local representation to the proposal.

2.0 SITE AND SURROUNDINGS:

2.1 Land adjacent to 51 – 53, Park Croft is a roughly rectangular shaped area located in a corner at the head of a residential cul-de-sac. It is to the western side of 51, Park Croft and to the southern side of 53, Park Croft.

2.2 It currently contains a detached double garage in the south-eastern corner, a single garage in the north-western corner with open ground to the side in the south western corner.

2.3 The application site is between the side of the existing double garage and a free-standing wall on the boundary with land in the south western corner.

2.4 The application site has been cleared of a garage and a concrete base laid. To the front it has shared access to the head of Park Croft.

2.5 The surrounding land is residential in nature, predominantly two-storey semi-detached or terraced houses that have been extended in various ways and have a variety of outbuildings in their grounds.

3.0 PROPOSAL:

3.1 The proposal is to erect a detached garage.

3.2 The amended plans show that it would be as follows:

- Rectangular footprint approximately 6.7m wide x 6.6m deep (the original footprint proposed measured 6.7m wide x 8.0m deep). Front elevation in line with existing double garage to the east.
- Mono pitched roof 2.5m overall height at the front and 2.25m overall height at the back.

- One garage door to the front, no other openings.
- The walls would be brick and the roof surfaced in metal sheets. The garage door would be roller shutter.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 No relevant planning history.

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

5.1 Amended plans received, which reduced the depth of the garage by approximately 1.4m. These are shown on dwg. no. PCB/01A and PCB/02B.

The application form was amended, notice served on 9th September 2020 and certificate B completed.

6.0 PLANNING POLICY:

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

Kirklees Local Plan (2019):

6.2 LP1 – Presumption in favour of sustainable development
 LP2 – Place shaping
 LP21 – Highway safety and access
 LP22 – Parking
 LP24 - Design

Supplementary Planning Guidance / Documents:

6.3 None relevant.

National Planning Guidance:

6.4 Chapter 9 – Promoting sustainable transport
 Chapter 12 – Achieving well designed places

7.0 PUBLIC/LOCAL RESPONSE:

7.1 Final publicity date expired 7th October 2020. Publicity was by neighbour notification letters, in accordance with standard Kirklees practice at that time. 41 supporting, 21 objecting and 3 comments have been received at the time of publishing this agenda.

A summary of the comments received in response to the initially submitted scheme and objecting is set out below:

- Proposed development by reason of its size, depth, width and height would have an unacceptably adverse impact upon properties immediately bordering the site and surrounding area

- It should be as originally built
- Overshadowing impact
- Concrete slab protrudes and makes for a degree of difficulty manoeuvring vehicles
- Incorrect certification declared

8.0 CONSULTATION RESPONSES:

The following is a brief summary of consultee advice (more details are contained within the assessment section of the report, where appropriate):

8.1 Statutory:

K C Highways Development Management – no objections to the amended scheme.

8.2 Non-statutory:

None

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of the KLP 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. It goes on to set out that: “The council will always work pro-actively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.”
- 10.2 Policy LP24 of the KLP is also relevant and states that “good design should be at the core of all proposals in the district”.
- 10.3 In this case, the principle of a garage is considered acceptable and shall be assessed against other material planning considerations below.
- 10.4 The proposal will be assessed having regard to the following Local Plan policies.
- LP1 - Presumption in favour of sustainable development: Take into account whether the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits.

- LP21 – that proposals must ensure the safe and efficient flow of traffic and safe access.
 - LP22 – appropriate parking to be provided given the type of development and the accessibility of the site.
 - LP24 – Proposals should provide a high standard of amenity for future and neighbouring occupiers.
- 10.5 The assessment will furthermore have regard to the aims of the NPPF policies set out above.

Urban Design issues

- 10.6 Chapter 12 of the NPPF sets out that decisions should ensure that, amongst other things, developments are sympathetic to local character, including the surrounding built environment (para.127 of the NPPF). Policy LP24 of the KLP expands on this further, setting out that good design should be at the core of all proposals in the district.
- 10.7 With regard to a stand-alone garage, the form, scale, layout and details of all development respects and enhances the character of the townscape.
- 10.8 In this instance the existing site contains other single and double garages with mono-pitched roofs and either painted brickwork, or combination of dark brown boarding and concrete panels surfaced in multi spar aggregate.
- 10.9 In the wider area the houses have predominantly red / brown coloured brickwork walls and several of the properties immediately to the south have single-storey extensions or garages / garages in matching brickwork.
- 10.10 The proposed double garage would have brickwork walls and a mono-pitched roof surfaced in metal sheets. Provided that the brickwork is a red / brown colour it is considered that the proposed garage would blend in with the character of the surrounding area.

Residential Amenity

- 10.11 Policy LP24 of the KLP sets out that proposals should promote good design by ensuring that they provide a high standard of amenity for future and neighbouring occupiers.

10.12 In relation to the neighbouring double garage to the east:

- 10.13 The proposed garage would abut the mutual boundary (approximately 0.3m closer than the previous garage) however the amended plans show that the front elevations would be in line with each other, and the overall heights are similar. The proposed building is within the application site boundary and access rights for maintaining the side elevations of the structures would be a civil matter.

10.14 The proposed garage would project beyond the rear elevation of the neighbouring double garage approximately 1.4m, and it is considered to have very limited overshadowing or overbearing impact and no overlooking impact.

10.15 In relation to the single garage and parking space to the west:

10.16 The proposed garage would abut the mutual boundary wall (approximately 0.1m closer than the previous garage). During consideration of the application the depth of the proposed garage has been reduced approximately 1.4m so now the front elevation is in line with the neighbouring double garage to the east.

10.17 The overall height of the proposed garage is 2.5m which is considered quite normal for a garage and it has a mono-pitched roof. It has potential to cast some additional shade on the surrounding area, but in officer opinion this would be quite limited and acceptable for a double garage on a garage site.

10.18 The proposed building is within the application site boundary and access rights for maintaining the side elevations of the structures would be a civil matter.

10.19 57 and 58, Woodsome Estate

10.20 These are a pair of two-storey semi-detached houses to the south of the application site. They both have significant single-storey extensions to the rear, which are close to the mutual boundary.

10.21 In this instance, whilst the proposed garage would also be close to the mutual boundary, it is a single-storey structure designed with a flat roof and orientated to the north and so is unlikely to block direct sunlight. It is considered that the rear gardens of these properties are already significantly enclosed by their rear existing extensions and so the impact of the proposed development would be relatively restricted over and above the existing situation.

10.22 Overall, it is considered that the proposed garage would minimise impact upon the residential amenities of the neighbouring properties and is compliant with policy LP24 of the Kirklees Local Plan.

Highway issues

10.23 The initially submitted plans showed the front elevation of the proposed garage approximately 1.4m in front of the neighbouring double garage to the east.

10.24 The Council's Highways development management officers were consulted and commented that there were concerns about the proposal narrowing the turning head for this and other garages. As such, they requested swept path analysis for a large car accessing and exiting the new garage to be provided, or for the proposal to extend only to the side and rear. Some swept path analysis was received and considered unacceptable.

10.25 An amended plan was then submitted, with the depth of the garage reduced by approximately 1.4m, so that the front elevation is in line with that of the neighbouring double garage to the east. The amended plans are considered acceptable in terms of highway safety and satisfy policies LP21 and LP22 of the KLP.

Representations

10.26 41 supporting, 21 objecting and 3 comments have been received at the time of publishing this agenda.

10.27 The comments in support are noted and the comments raising concern are summarised and addressed below:

- The proposed development by reason of its size, depth, width and height, would have an unacceptably adverse impact upon properties immediately bordering the site and surrounding area.

Response: The proposed garage has now been reduced by removing approximately 1.4m from its depth at the front, so its front elevation is now in line with that of the neighbouring double garage to the east. The scale of the proposed double garage is now similar to a standard double garage. It also has a mono-pitched roof which is a common feature of garages and the overall height is normal for a garage.

Note: An assessment of the impact upon the neighbouring sites and surrounding property is given in residential amenity section above and found to be acceptable.

- It should be as originally built

Response: This is noted. However, the amended proposed garage is only marginally wider than the former garage (approximately 0.4m) and a little deeper (approximately 0.6m) than a standard garage. The impact that it would have on visual and residential amenity, together with highway safety, have been assessed above, and found to be acceptable.

- Overshadowing impact

Response: The scale of the proposal and impact upon the neighbouring sites has been assessed in the residential amenity section above and found to be acceptable.

- Concrete slab protrudes and makes for a degree of difficulty manoeuvring vehicles.

Response: Highways DM has assessed the scheme and found it to be acceptable.

- Incorrect certification declared.

Response: The initially submitted application form declared certificate A, the agent was informed and changed this to certificate B, with notice served on two other addresses.

Other Matters

10.28 Procedural matter: amended plans have been received which reduce the scale of the proposed garage at the front. These have been made available on the website. Advertisement of amended plans is at the discretion of the local planning authority and, in this instance, was not carried out as the amended scheme is smaller than the initially submitted scheme.

11.0 CONCLUSION

- 11.1 It is considered that the proposed garage would be in-keeping with the character of the surrounding area and would not significantly harm neighbouring land or highway safety. Hence it is in accordance with policies LP21, LP22 and LP24 of the Kirklees Local Plan and support the aims of the NPPF chapters 9 and 12.
- 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 The proposed development has been assessed against relevant policies in the development plan and other material considerations. It is considered that the proposed development would constitute sustainable development (with reference to paragraph 14 of the NPPF) 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 Planning and Development)

1. Standard three year time frame
2. Development to be completed in accordance with approved plans and specifications
3. Colour of brickwork to be red / brown

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2F92540>

Certificate of Ownership – Notice served on 9th September 2020. Certificate B completed

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 04-Nov-2020

Subject: Planning Application 2019/91534 Erection of 13 dwellings and associated works Land off, Heathfield Lane, Birkenshaw, BD11 2HW

APPLICANT

Moonfleet Ltd

DATE VALID

17-May-2019

TARGET DATE

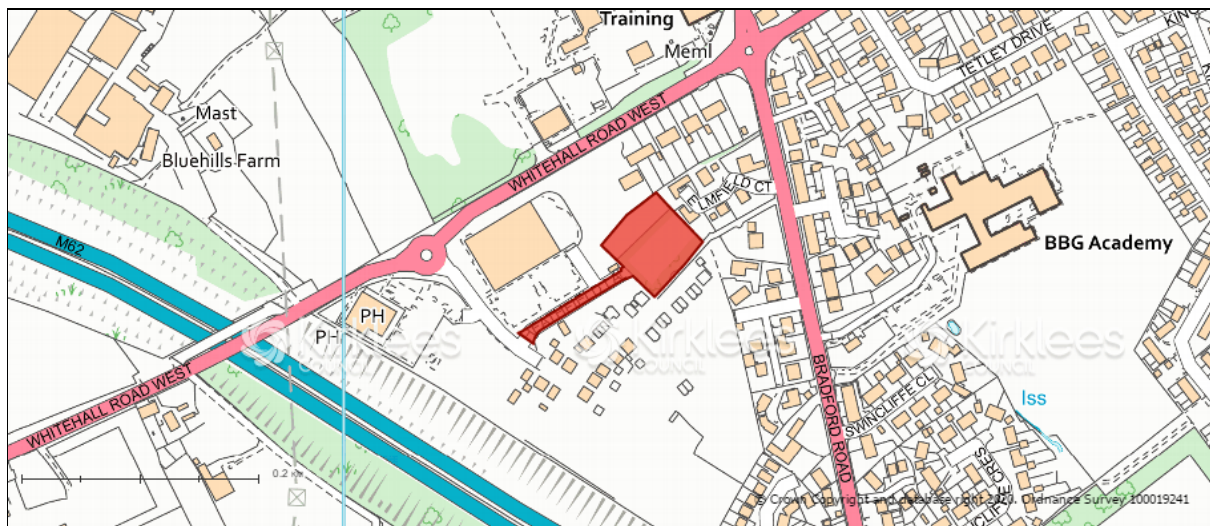
16-Aug-2019

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: Birstall and Birkenshaw

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development 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 provisions including off site commuted sum (£24,501.00) and future maintenance and management responsibilities of open space within the site
2. 20% of total number of dwellings to be affordable – 3 intermediate units to be provided on site.
3. Financial contribution towards Ecology (£41,912.00)

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

1.0 INTRODUCTION:

- 1.1 The application has been brought to Heavy Woollen Sub Committee due to the significant number of representations that have been received.
- 1.2 The reason for the application being decided by Members of the Heavy Woollen Planning Sub Committee has been confirmed by the Chair of the Planning Sub Committee as acceptable.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site at Heathfield Lane is an area of vacant land which is grassed over and has vegetation on it. The site is bounded by protected trees to the southeast and east of the site and the land slopes downwards to the east.
- 2.2 Surrounding the site is predominantly residential to the north, east and south, with open land to the north-west which is part of the housing allocation. To the south-west, there is a large industrial unit and associated car park, along with a public house further to the south-west close to the A58.
- 2.3 The site is allocated for housing on the Kirklees Local Plan (allocation HS85). It is not located in a Conservation Area.

3.0 PROPOSAL:

- 3.1 Planning permission is sought for the erection of 13 dwellings, as shown on the submitted site plan.
- 3.2 The site would be accessed from Heathfield Lane and would have a private access road running through the site to provide access to the new dwellings.
- 3.3 The dwellings would have reasonable sized gardens and would be 2.5 stories in height. The design of the dwellings varies, and each dwelling has its own parking area to the front. Visitor parking would also be provided.
- 3.4 The dwellings would be constructed from a variety of materials, of which samples will be conditioned should the application be approved.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2016/92633 – Erection of 125 dwellings (with two apartment blocks) including means of access and associated infrastructure APPROVED (Heathfield Lane)
- 4.2 2008/92423 – Erection of 12 detached houses with garages WITHDRAWN
- 4.3 2010/90082 – Erection of 15 dwellings with garages and 6 apartments REFUSED (dismissed at appeal)
- 4.4 2020/92802 – Erection of 10 dwellings with associated infrastructure PENDING CONSIDERATION (part of housing allocation HS85).

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

- 5.1 Amendments have been sought to increase the number of dwellings on the site to increase the density, as well overcome Highways England objections, tree concerns, biodiversity considerations, highways and access concerns and design considerations. The agent has provided additional information on these points and the development is now, in the opinion of Officers, acceptable subject to conditions and S106 obligations.

6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is allocated for housing on the Kirklees Local Plan (allocation HS85).

6.2 Kirklees Local Plan (2019):

LP1 – Presumption in favour of sustainable development
LP2 – Place shaping
LP5 – Master planning sites
LP7 – Efficient and effective use of land and buildings
LP11 – Housing mix and affordable housing

LP21 – Highway Safety
LP22 – Parking Provision
LP23 – Core walking and cycling network
LP24 – Design
LP28 - Drainage
LP30 – Biodiversity and geodiversity
LP32 - Landscape
LP33 – Trees
LP38 – Minerals Safeguarding
LP47 – Healthy, active, and safe lifestyles
LP51 – Local air quality
LP52 – Protection and improvement of local air quality
LP53 – Contaminated and unstable land
LP63 – New open space

6.3 Supplementary Planning Guidance / Documents:

- Highways Design Guide Supplementary Planning Document
- Kirklees Local Plan allocations and designations
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance
- Kirklees Strategic Housing Market Assessment (2016)

6.4 National Planning Guidance:

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 14 – Meeting the challenge of climate change, coastal change and flooding
Chapter 15 – Conserving and enhancing the natural environment
Chapter 17 – Facilitating the sustainable use of minerals

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been advertised in accordance with the Council's adopted Statement of Community Involvement.

7.2 As a result of the statutory publicity, 18 representations have been received raising the following concerns:

- Protected trees
- History of the site
- Residential amenity
- Highways
- Drainage
- Publicity of the planning application
- Activity on the site whilst planning application being considered
- Consultation responses
- Ecology/wildlife
- Air quality
- Education
- Visual amenity

7.3 Ward Councillor Smaje has also commented on the application raising the following concerns:

- Protected trees
- Air quality
- Gated access/private road is going to cause maintenance in the future
- Landscaping/loss of trees following legal action is not outweighed by public benefits of providing affordable housing

7.4 Ward Councillor Thompson has also commented on the application raising the following concerns:

- Estate next door was heavily contested and restricted to a particular number of houses, including green space, affordable housing
- More than enough properties on this piece of Birkenshaw – heavily polluted and high pollution zone
- Cannot support the application

7.5 Officer comments will be made in Section 6 of this report.

8.0 CONSULTATION RESPONSES:

The following is a brief summary of consultee advice (more details are contained within the assessment section of the report, where appropriate):

8.1 Statutory:

Highways England – holding objection withdrawn following submission of additional information

K.C Highways Development Management - no objection subject to conditions

K.C Lead Local Flood Authority – no objections subject to conditions

8.2 Non-statutory:

Natural England – no comment to make

Northern Gas – no objection

Yorkshire Water – no objection subject to conditions

K.C Trees – objection to principle of facilitating access through protected trees

K.C Ecology - no objection. Biodiversity net gain achieved through metric 2.0.

K.C Landscape – open space financial contribution required. Comments made re landscaping plans – condition can be imposed.

K.C Strategic Housing – provision of 3 intermediate units acceptable.

Police Architectural Liaison Officer – comments made

K.C Public Health – comments made

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Landscape issues
- Housing issues
- Highway issues
- Drainage issues
- Planning obligations
- Representations
- Other 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. The National Planning Policy Framework is a material consideration in planning decisions.
- 10.2 The Local Plan sets out a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum.
- 10.3 The application site was previously allocated for business and industry use on the Kirklees Unitary Development Plan but is allocated for Housing in the Local Plan (site reference HS85) which relates to a piece of land to the northwest of the application site. Full weight can be given to this site allocation document which identifies the following constraints that are relevant to the site:
- Noise source near site – industry noise
 - Potentially contaminated land
 - Site is close to archaeological site
 - Part/all of the site within a high-risk coal referral area
- 10.4 An indicative capacity of 24 dwellings is noted in the supporting text of the site allocation. However, it is important for Members to note that only part of the housing allocation is being developed as part of the application. The North-Western part of the site is being considered as per the details of application 2020/92802, which proposes 10 dwellings.
- 10.5 Subject to highways, design, residential amenity and other matters being appropriately addressed, it is considered that residential development on this site is acceptable in principle and would make a contribution towards meeting housing need in the Kirklees district.

Urban Design issues

- 10.6 The size of the application site is approx. 0.5ha and therefore, in accordance with Policy LP7 of the Kirklees Local Plan, which states that 35 dwellings per hectare should be achieved where possible, 17 dwellings should be achieved on this site.
- 10.7 The applicant initially proposed a development of 10 dwellings and following Officer advice requiring the density to be increased, this was increased to 13 dwellings. Given the constraints of the site in terms of the 'undevelopable area' due to protected trees in particular, 13 dwellings is acceptable in this instance.
- 10.8 As part of the assessment of the application, consideration was also given to LP5 of the Kirklees Local Plan, which is in place to ensure that developments "make effective use of the site through the application of appropriate densities in terms of scale, height and massing and its relationship with adjoining buildings and landscape". The agent has confirmed that it would not be viable to develop the housing allocation as a whole and has instead provided a master planning statement to advise Officers and Members why master planning cannot be achieved in this instance.
- 10.9 The Master Planning Statement states that the rest of the housing allocation would not be prejudiced by the proposed development and this is being subsequently developed as per 2020/92802. Access to the North Western portion of the site is shown to be taken from Whitehall Road West. It is noted by the agent that both sites have a distinct physical separation and the layout proposed would not prejudice the development of additional houses on the parcel of land to the Northwest. Officers accept this stance and will carefully consider the relationship between the two pieces of land when looking at 2020/92802.
- 10.10 The layout of the dwellings on the application site is acceptable. There will be limited hardstanding to reduce the effect of hard landscaping on the street scene and the proposed dwellings will have reasonable sized amenity spaces for the enjoyment of future occupiers. The design and materials are acceptable in this area of unallocated land and would not result in incongruous features. The materials are similar to those in the near vicinity at the adjacent site (approved under 2016/92633) which are varied and include red brick, buff brick, stone and render. Should Members resolve to approve the application, a condition has been recommended to ensure that samples of the materials are assessed prior to construction. The affordable housing units on the site would be indistinguishable in terms of their design and would be pepper potted amongst houses for market sale.
- 10.11 As a result of the loss of the protected trees, Officers have recommended that a landscaping plan is submitted via discharge of condition. This is to provide enhanced visual amenity value to the area, whilst providing partial mitigation (amongst other public benefits mentioned in this report) for the loss of the protected trees. The agent has provided a landscaping plan, but Officers are not satisfied with the positioning of the trees close to habitable room windows, as well as the species of some of landscaping proposals. For example, Ash trees are proposed but due to Ash dieback, it is Officers' opinion that this is not appropriate landscaping.

- 10.12 Careful consideration has been given to those dwellings facing the street scene when immediately entering the site. Additional fenestration detailing has been included in the side elevations of the dwellings to provide some visual interest, instead of a blank elevation when entering the site. Additionally, a condition will be recommended to remove permitted development rights for future outbuildings and extensions to ensure that the impact on the protected trees is acceptable and they are retained for their amenity value to the area, and to avoid overdevelopment of gardens.
- 10.13 In conclusion, the proposed development would have, in the opinion of Officers, an acceptable impact on visual amenity and Officers are satisfied that the development would result in an effective use of land on a designated housing allocation on the Kirklees Local Plan and would provide public benefits. The proposed development complies with Local Plan Policies LP5, LP7 and LP24 and Chapters 2, 11 and 12 of the National Planning Policy Framework.

Residential Amenity

- 10.14 Officers are satisfied with the impact on residential amenity, both in terms of the relationship of the proposed dwellings and the existing dwellings surrounding the site, and the future occupiers of the proposed housing.
- 10.15 In relation to the dwellings on Elmfield Court, the proposed dwellings, Plots 8 and 13, are closest to existing dwellings on Elmfield Court and therefore, consideration has been given to the amenity of the occupiers of these dwellings. Firstly, in relation to Plot 8 and no. 4 Elmfield Court, there is a distance of approximately 12 metres between the side elevations. There are no openings in the side elevation facing this existing property and any future openings are controlled by the General Permitted Development Order and boundary treatment at ground floor. In the side elevation of no. 4 Elmfield Court, there are habitable room windows that Officers have assessed in terms of how they would be affected.
- 10.16 Officers have considered that the properties are orientated away from each other slightly, so the main bulk and massing of the properties will not have a direct relationship that would result in significant overbearing that would warrant refusal of the planning application, including the levels differences where no. 4 is on a slightly higher level than the application site. The proposed dwelling would be set forward of no.4 and would not affect the full rear elevation of the existing property. Officers are satisfied that, on balance, the impact on residential amenity is acceptable.
- 10.17 With regards to no. 3 Elmfield Court, the relationship between the dwellings is close and therefore, careful consideration was given to how this part of the site could be developed. It is noted that the dwelling at no. 3 Elmfield has a habitable room conservatory and openings in its side elevation. For this reason, Officers have negotiated with the agent to reduce the overall scale of this element of the building to a reduced height. Considering this, the fact that the extension part of the dwelling will be of a significantly reduced height in relation to the main dwelling, and the fact that it will not project along the full length of the dwelling and is set in from the boundary by 1.6m, with a further 2.3m to the side elevation of no. 3 Elmfield Court. In view of the above, the relationship between the dwelling is considered, on balance, acceptable in

terms of overbearing. There would be no overlooking and any future first floor side openings will be controlled by the General Permitted Development Order. Boundary treatments, which could subsequently be approved through discharge of conditions

- 10.18 The relationship between the dwellings within the development is acceptable. There is a reasonable distance between habitable room windows to avoid direct overlooking and each of the gardens of the new dwellings is of a reasonable size to allow for a good level of amenity for the future occupiers. It is also important to note that the gardens on the eastern part of the site are of a sufficient size to ensure that the protected trees will not be under pressure to be felled once the dwellings are occupied. This matter will be discussed further in the other matters section of this committee report.
- 10.19 Officers note the site plan indicates the proposed boundary treatments within the site. Officers have not agreed these details, careful consideration needs to be given to the most sensitive type of boundary treatment that respects the character of the area and provides privacy in respect of residential amenity. Officers have suggested a condition to Members that requires these details to be provided at discharge of condition stage.

Landscape issues

- 10.20 Policy LP32 of the Kirklees Local Plan states that proposals should seek to enhance the landscape character of the area considering, in particular, the setting of settlements and buildings within the landscape. The agent has provided a site plan which demonstrates the landscaping on site. Officers have worked with colleagues in K.C Landscape who have raised concerns in relation to the positioning of the trees on site which are required to provide part of the mitigation for the loss of the protected trees to facilitate access to the site from Heathfield Lane. The current landscaping plan shows a lime tree within several metres of habitable room windows of the proposed houses which would result in an unsustainable scheme which Officers consider would be fraught with difficulty in terms of their future maintenance. In terms of visual amenity, the tree planting will help break up the built form and provide amenity value within the development site. As well as this, the species of the trees and planting within the landscaping plan include Ash trees which suffer from ash dieback and are not a suitable species for the site, which has to provide adequate mitigation for the loss of the protected trees and the biodiversity habitats that will be lost as a result of the development.
- 10.21 Considering the above, given that K.C Landscape is satisfied that there is scope within the development site to provide acceptable mitigation and tree planting, Officers recommend to Members that a landscaping scheme is conditioned for a future discharge of condition application. It is imperative that the scheme is carefully designed and opportunities for tree planting are incorporated into the street where possible.
- 10.22 Policy LP63 relating to new open space has also been considered. K.C Landscape Officers have advised that within the Birkenshaw ward, there are currently deficiencies in Natural and Semi Natural Greenspace. A calculation has been undertaken in line with Policy LP63 which suggests a payment of £24,501.00 to the local community park in Birkenshaw, in lieu of the on-site provision of 1428.26 sq. metres of open space (including a local area of play)

that would otherwise be required. Officers have confirmed that the agent is in agreement to this payment and this will be secured through a S106 agreement.

- 10.23 In terms of ecology, Officers have considered Policy LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework when assessing the proposed development and the ecological information has been submitted. The agent has provided an ecological design strategy, a tree planting plan and a biodiversity metric calculation using the Warwickshire Method.
- 10.24 Officers are of the opinion that biodiversity net gain could not be achieved on site through the current layout, and there are no other pieces of land within the applicant's control that could accommodate biodiversity net gains. For this reason, given the scale of development, off site compensation needs to be provided, through calculation of the Metric.
- 10.25 It is noted that there will be the loss of at least 2 habitat units and therefore, a sum of £41,912 is appropriate to offset this loss and to satisfy the aims of Policy LP30 and Chapter 15 of the National Planning Policy Framework. Officers have suggested a condition to Members that this contribution can be secured through S106.
- 10.26 The submitted Ecological Design Strategy and Tree Planting Plan is sufficient in terms of providing on site mitigation for biodiversity on site although it would be preferable for some of the habitat boxes to be incorporated into the proposed dwellings where possible. Given that the loss of protected trees and habitats on the site is significant, a further condition will be recommended by Officers to require the provision of bat/bird on the dwellings.

Housing issues

- 10.27 Officers have considered Policy LP11 of the Kirklees Local Plan which states that on developments of 10+ houses, 20% of the dwelling should be affordable units. Therefore, this application for 13 dwellings triggers this requirement. Officers have consulted with K.C Strategic Housing who have stated that the Kirklees Council tenure mix is 55% social or affordable rent housing and 45% intermediate housing. In this case, the applicant has offered 3 intermediate affordable housing units to be part of the development. Officers are satisfied that given the small scale of the development on a housing allocation site, the provision of 3 intermediate dwellings is satisfactory to provide a public/social benefit to the scheme. This will be secured by S106 agreement.
- 10.28 With regards to housing mix, K.C Strategic Housing have advised that there is a requirement for affordable 3+ bedroom housing in the Birkenshaw Ward, which can be accommodated within this development (which has 3, 4 and 5 bed houses), thus Officers are satisfied that the proposed development would meet local housing need. Affordable housing will be distributed evenly within the development and would not be different from market housing in terms of design and quality.

Highway issues

- 10.29 The proposal has been assessed by Officers and is considered acceptable. The access to the site would be from Heathfield Lane to the south and the site layout shows an access road to be built to serve the 13 properties. A swept path analysis has been produced to demonstrate that a refuse vehicle and emergency services can access the site safely.
- 10.30 The gated access has been removed and conditions have been recommended to ensure that the necessary details are provided should the road be made up to adoptable standards via a S38 agreement.
- 10.31 The parking provision is deemed to be acceptable and sufficient to avoid any displacement of vehicles outside of the site and there is sufficient scope within the site to accommodate bin collection points – Officers have recommended a condition to Members.
- 10.32 Subject to the inclusion of necessary conditions, Officers are satisfied that the proposed development complies with Local Plan Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework.

Drainage issues

- 10.33 Highways England commented on the planning application and stated that the proposed development could affect the M62 highway drain and therefore, until discussions with the Local Lead Flood Authority had been resolved, Highways England provided a holding objection to the application.
- 10.34 The concern related to how connections from the proposed development via a culverted watercourse would affect the M62 as discussed above. The Local Lead Flood Authority initially stated that further information was regarding to the drainage design.
- 10.35 Officers worked with the agent who provided drainage details which stated that the surface water systems under the M62 was not an option and therefore that other alternatives should be explored.
- 10.36 The agent has stated that there is a public sewer which the site can be drained to and this acceptable to the Local Lead Flood Authority. Highways England objection has also been withdrawn subject to a condition ensuring that a detailed construction phase temporary drainage, flood risk and mitigation scheme is provided.
- 10.37 Yorkshire Water have also been consulted on the planning application and have no objection in principle to the drainage systems shown on plan (20) 004 A.
- 10.38 In conclusion, following amendments to the scheme, Officers are satisfied that the proposed development complies with Local Plan Policy LP28 and Chapter 14 of the National Planning Policy Framework.

Representations

10.39 All comments have been considered. As a result of the statutory publicity, 18 representations have been received raising the following concerns:

- Protected trees
Officer comment: see other matters section of this report
- History of the site
Officer comment: the history of the site has been considered. The public benefits of the scheme have been assessed by officers who are satisfied that they outweigh the loss of the protected trees to facilitate the access.
- Residential amenity
Officer comment: see residential amenity section of this report.
- Highways
Officer comment: Highways DM do not have an objection to the proposed development. See highway safety section of this report.
- Drainage
Officer comment: see drainage section of this report. Highways England and LLFA have no objection to the planning application.
- Publicity of the planning application
Officer comment: a site notice and neighbour letters were sent initially. Following the publicity of amended plans, neighbour letters were sent to adjoining neighbours. This is in accordance with the Council's publicity agreement.
- Activity on the site whilst planning application being considered
Officer comment: site clearance does not constitute development.
- Consultation responses
Officer responses: consultation responses are on the website.
- Ecology/wildlife
Officer comment: see landscape issues section of this report.
- Air quality
Officer comment: Environmental Health has confirmed that the site is not within an air quality management zone. Is it not located close enough to the main roads to be adversely affected. See other matters section of this report.
- Education
Officer comment: This development, including the allocation for housing, as a whole, does not trigger a contribution towards education. The trigger is 25 dwellings. The indicative capacity of the housing allocation, as a whole, is 24 dwellings.
- Visual amenity
Officer comment: see visual amenity section of this report. Officers are satisfied with the impact on the character of the area of this development. Landscaping details are to be conditioned.

10.40 Ward Councillor Smaje has also commented on the application raising the following concerns:

- Protected trees
Officer comment: see other matters section of this report
- Air quality
Officer comment: Environmental Health have confirmed that the site is not within an air quality management zone. Is it not located close enough to the main roads to be affected. See other matters section of this report.
- Gated access/private road is going to cause maintenance in the future
Officer comment: the access to the site is not gated. Highways DM are satisfied with the proposed development
- Landscaping/loss of trees following legal action is not outweighed by public benefits of providing affordable housing
Officer comment: this opinion is noted. As stated within this report, Officers are satisfied that, on balance, the public benefits of the development would outweigh the loss of the trees following legal action. The balanced argument is set out within this report.

Ward Councillor Thompson has also commented on the application raising the following concerns:

- Estate next door was heavily contested and restricted to a particular number of houses, including green space, affordable housing
Officer comment: this is noted. It is important for Members to note that this site is part of a wider allocation for housing on the Kirklees Local Plan, therefore the principle of development of housing on this land has been established.
- More than enough properties on this piece of Birkenshaw – heavily polluted and high pollution zone
Officer comment: see other matters section of this report on air quality
- Cannot support the application
Officer comment: this is noted.

Planning obligations

10.41 The size of the site proposes 13 dwellings and would, therefore, trigger contributions relating to public open space and affordable housing, each of which would require a financial contribution.

10.42 To accord with Local Plan policy LP11, 20% of the proposed development's residential units would need to be secured as affordable housing.

10.43 The K.C Landscape team have commented on the application and stated that the development triggers open space requirements and a requirement for children and young people's provision as per the Fields in Trust requirements in the form of a Local Area of Play. No open space has been provided on site and, therefore, a financial contribution of lieu of this is required. It has been

calculated at £24,501.00 and will be used at the local community park in Birkenshaw, addressing the quantity deficiencies within the Birkenshaw ward. This would be secured through condition and S106 agreement.

- 10.44 The final contribution that is required relates to ecological contributions, to ensure that, as a result of the loss of habitats as set out above, the development would not result in a net loss of biodiversity on site. This sum would be £41,912.00. Officers have assessed the ecological impact of the development in the report above.
- 10.45 Conditions imposed on grants of planning permission must satisfy the 6 tests for a condition (necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects).
- 10.46 Conditions relating to contributions, in this instance, all meet the 6 tests set out in Paragraph 55 of the National Planning Policy Framework. The contributions are required to make the development acceptable and to mitigate the impact caused by it.

Other Matters

Air Quality

- 10.47 The site is positioned between Whitehall Road West and Heathfield Lane, with the M62 running to the south of the site. Concerns have been raised by interested parties in relation to the impact that the proposed development would have on air quality. In this case, K.C Environmental Health have confirmed that the small scale of the development is not considered to significantly impact on the air quality of the area and that the site is set well back and screened from the main roads to ensure that the occupiers of the dwellings in the future would be affected by the poor air quality coming from Whitehall Road West and the M62.
- 10.48 A condition has been recommended by Officers to ensure that an electric vehicle charging point is provided per residential dwelling to mitigate the impacts on climate change in accordance with the Council's Climate Change Emergency strategy and to comply with Policy LP51 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

Trees

- 10.49 There are protected trees to the south, east and west of the application site and therefore, consideration has been given to the impact of the proposed development on the protected trees.
- 10.50 Officers have discussed the application with K.C Trees Officers who are objected to the proposed development due to the requirement to facilitate replacement protected saplings to facilitate the access to the development. This fails to comply with Policy LP33 of the Kirklees Local Plan which states that development proposals should normally retain any valuable or important trees where they make a contribution to public amenity and the distinctiveness of a specific location or contribute to the environment.

- 10.51 Officers negotiated with the agent to achieve 13 dwellings on the site to trigger a contribution towards affordable housing and public open space to create public benefits of the development. These public benefits, along with a tree planting scheme, will be achieved, to mitigate the loss of the sapling protected trees.
- 10.52 Policy LP33 of the Kirklees Local Plan also states that where tree loss is deemed to be acceptable, developers will be required to submit a detailed mitigation scheme. In this case, the agent has worked with Officers too ensure that there is scope for the site to re-accommodate the protected trees within it, as well as additional hard and soft landscaping to improve the visual amenity benefit of the site. Officers ask Members to note the condition recommending a detailed landscaping scheme to be submitted at discharge of condition stage. This detailed landscaping scheme will include the replanting of the protected trees elsewhere within the site.
- 10.53 Secondly, Officers have worked closely with the agent of the proposed development in order to ensure that the dwellings located close to the eastern boundary have large enough gardens to accommodate the mature protected trees that will not be felled as a result of the proposal. The dwellings are a sufficient distance from the trees to ensure that their canopies will not affect the living conditions of the occupiers and thus increase pressure to fell. A condition has been recommended to Members to ensure that permitted development rights are removed for future outbuilding and extensions in the curtilages of the dwellings so that any future works to dwellings will have to be assessed by the Local Planning Authority in respect of their impact on the protected trees and their roots.
- 10.54 Officers consider that the impact of the proposed development as a result of the protected trees fails to comply with Local Plan Policies LP24 and LP33 and Chapters 12 and 15 of the National Planning Policy Framework, however, the on balance, public benefits of the development outweigh this loss of protected trees which will be replaced within the landscaping scheme.

Minerals Safeguarding

- 10.55 The site is over 1000sq m and is within a wider mineral safeguarding area and therefore, Local Plan Policy LP38 applies. This policy is important to ensure that known mineral reserves are protected from permanent development which may sterilise such resources through encouraging the extraction of mineral, if feasible, prior to non-mineral extraction taking place.
- 10.56 This policy states that surface development at the application site will only be permitted where it has been demonstrated that certain criteria apply. Criterion c of Policy LP38 is relevant, and allows for approval of the proposed development, as there is an overriding need (in this case, housing need, having regard to Local Plan delivery targets) for it. This complies with the aims of Chapter 17 of the NPPF.

Archaeology

- 10.57 West Yorkshire Archaeological Society have commented on the application. The presumed route of a Roman road is plotted immediately to the south of the application site's southern boundary (West Yorkshire Historic Environment PRN 3526 and is a class III Site of Archaeological Importance, Road 712 runs roughly east to west). Previous archaeological evaluation to the east on this alignment did not record evidence of the road's presence, this may be because the route lies slightly to the north or south of the presumed line.
- 10.58 Therefore, this non designated heritage asset may be present within the site and should be fully archaeologically evaluated in accordance with Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework. Officers are satisfied that a condition can be recommended for works to be undertaken pre commencement of development.

11.0 CONCLUSION

- 11.1 To conclude, the concerns summarised above have been carefully considered however, when assessing this planning application in relation to national and local planning policy, along with all other material planning considerations, officers are of the opinion that the principle of residential development on this site which is allocated for housing on the adopted Kirklees Local Plan is acceptable. Furthermore, on the basis of the submitted information and subject to appropriate conditions and S106 contributions, the loss of the protected trees is considered by Officers to be, on balance, acceptable, and outweighed by the public benefits of the scheme.
- 11.2 The NPPF 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. The proposed development has been assessed against relevant policies in the development plan and other material considerations. Subject to conditions, it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) 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 Planning and Development)

1. 3 years time period for implementation
2. Development must be completed in accordance with the approved plans
3. Submission of drainage maintenance and management scheme
4. Programme of archaeological recording to be submitted by a qualified and experienced archaeological consultant or organisation, in accordance with a written scheme of investigation
5. Submission of a Construction Environmental Management Plan which shall include details of actions that will be taken to minimise adverse impacts on occupiers of nearby properties.
6. Provision of Electric Vehicle Charging Points (1 EVC per dwelling)
7. Submission of a Phase II Intrusive Site Investigation Report
8. Submission of remediation strategy
9. Implementation of remediation strategy

10. Submission of validation report
11. Reporting of unexpected contamination
12. Noise report assessment (future occupiers of the development)
13. Removal of Permitted Development rights for outbuildings and extensions within red line boundary
14. Permeable surfacing for hardstanding and estate road
15. Details of junction of new estate road
16. Internal adoptable standard roads
17. Scheme detailing location and cross sectional information for all new retaining walls adjacent to existing/proposed adoptable highway
18. Scheme detailing location and cross sectional information for all new retaining walls adjacent to existing/proposed adoptable highway all new surface water attenuation culverts/ tanks located within the proposed adoptable highway footprint
19. Details of storage/access for waste
20. Full landscape proposals to be submitted (including hard and soft landscaping, details relating to existing trees and vegetation and replacement tree planting)
21. Samples of materials to be submitted and subsequently approved
22. Construction Phase temporary drainage, flood risk and pollution mitigation
23. Bat / bird box provision on dwellings
24. Obscure glazing some windows where necessary

Background Papers:

Application and history files.

Website link to be inserted here

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

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019/91534>

Certificate A signed and dated 3rd May 2019

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Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 04-Nov-2020

Subject: Planning Application 2019/92670 Erection of 13 dwellings land at, Peep Green Road, Hartshead, Liversedge, WF15 8AW

APPLICANT

R Newton

DATE VALID

24-Jan-2020

TARGET DATE

24-Apr-2020

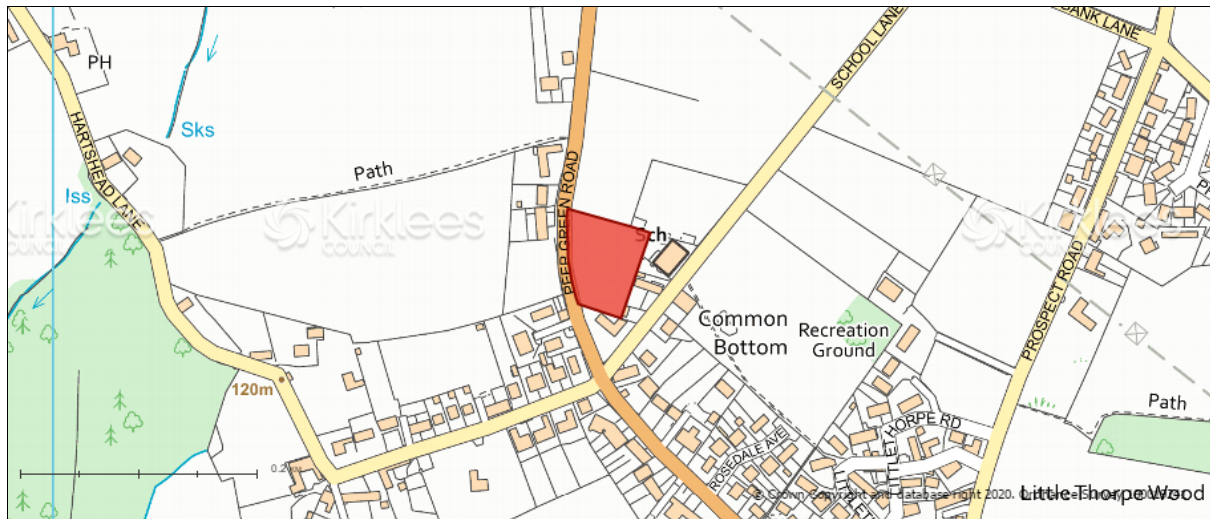
EXTENSION EXPIRY DATE

20-Feb-2020

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: Liversedge and Gomersal Ward

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development 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. Affordable Housing – Three affordable housing units; 2 social/affordable rented dwellings and 1 intermediate dwelling) to be provided on site and identified as plots 6, 11 and 12.
2. Open Space – Full off-site contribution of £24,501
3. Biodiversity net gain – Secure off-site biodiversity improvement works to two parcels of land within a distance of approximately 1km from the application site.

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

1.0 INTRODUCTION:

- 1.1 This is an application for full planning permission, for a residential development of 13 dwellings.
- 1.2 The application is presented to the Heavy Woollen Planning Sub-Committee due to the number of representations received.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site is 0.44 hectares in size, is in use for horse grazing, and is located to the east of Peep Green Road at Hartshead. It is bordered by undeveloped green belt land to the north, to the east is Hartshead Junior and Infant School, and to the south-east are neighbouring residential properties located off School Lane.
- 2.2 The proposed development site slopes from approximately 140m AOD in the north east corner to approximately 132mAOD in the south west corner. The application site is previously undeveloped (greenfield) land and is grassed. There is a tree line to the northern boundary not protected by a Tree Preservation Order.

2.3 The whole of the land within the red line boundary comprises a housing allocation site in the Kirklees Local Plan; ref HS112.

3.0 PROPOSAL:

3.1 The application seeks full planning permission for the erection of 13 dwellings. The dwellings would be arranged around a new estate road located centrally which would be accessed off Peep Green Road. Seven dwellings would front directly onto Peep Green Road with the remaining six to be sited in the eastern portion of the site.

3.2 The proposed layout is as follows:

- Plots 1-4 (3 bed) comprise a block of 4 terraced dwellings to the north of the estate road. The dwellings would be stepped down in height in response to the topography of the site, with plots 1-3 proposed as three storeys dwellings with the second floor contained within the roof space and lit by rooflights on the principal elevation, and plot 4 would be a two storey dwelling.
- Plots 5-7 (3 bed) comprise a block of 3 terraced dwellings to the south of the estate road. The dwellings would be stepped down in height in response to the topography of the site, with plots 5 and 6 proposed as three storey dwellings with the second floor in the roof space and lit by rooflights on the principal elevation, and plot 7 would be two storeys.
- Plots 8-10 (3 bed) comprise a terrace of three dwellings in the south-eastern corner of the site, plot 8 would be a two storey property, and plots 10 and 9 would be three storey dwellings with the second floor in the roof space and lit by rooflights on the rear elevation.
- Plots 11-13 (2 and 3 bed) comprise a terrace of three dwellings in the north-eastern corner of the site. All the dwellings would be two storeys in height, with plot 13 a three bedroom property and plots 11 and 12 two bed properties.

3.3 The proposed construction materials are natural stone and stone slate. Each dwelling would have 2 no off-street parking spaces and a private amenity space. The proposed landscaping works includes the provision of a vegetated wall and the retention of the tree screen to the northern boundary of the site and some additional tree planting within the site.

3.4 Three of the thirteen residential dwellings would be provided as affordable housing.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 2001/91685 – Erection of detached bungalow and detached garage – Refused.

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

5.1 Officers negotiated with the applicant to:

- Increase the number of dwellings from 10 to 13 to address local plan density expectations for this allocated housing site
- Secure additional information to address highway safety matters
- Secure details of biodiversity net gain
- Secure details of surface water drainage.

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 statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

6.2 Kirklees Local Plan (2019):

The whole of the site comprises site allocation HS112. The site allocation sets out an indicative housing capacity of 15 dwellings, and identifies the following constraints:

- Pedestrian facilities required within access arrangements
- Noise source near site – adjacent school

Kirklees Local Plan (2019):

6.3 **LP1** – Presumption in favour of sustainable development
LP2 – Place Shaping
LP7 – Efficient and effective use of land and buildings
LP11 – Housing Mix and Affordable Housing
LP20 – Sustainable travel
LP21 – Highways and access
LP22 – Parking
LP24 – Design
LP28 – Drainage
LP30 – Biodiversity and Geodiversity
LP32 – Landscape
LP33 – Trees
LP60 – New Open Space

Supplementary Planning Guidance / Documents:

6.4 Highways Design Guide
Affordable Housing

National Planning Guidance:

6.5 **Chapter 2** – Achieving Sustainable Development
Chapter 5 – Delivering a sufficient supply of homes
Chapter 8 – Promoting health and safe communities
Chapter 9 – Promoting sustainable transport
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 as a major development. The application initially proposed 10 dwellings and was subject to a period of publicity commencing August 2019.
- 7.3 The application was later amended to propose 13 dwellings and was re-validated with a new period of publicity commencing January 2020.
- 7.4 As a result of the initial publicity for the 10 dwellings, combined with the initial publicity period for the 13 dwellings, 86 representations have been received, including one letter of support and 85 objections.
- 7.5 A further period of amended plans publicity was undertaken commencing September 2020. As a result of this publicity a further 6 representations have been received bringing the total number of representations to 92.
- 7.6 A summary of the comments received is included below:

Letter of support

- New houses are needed in the area which will provide jobs and make the housing market move. There is a shortage of houses on the market in the Liversedge area.

Objections

Principle of Development

- This land was re designated from green belt without local consultation.
- Greenfield land should not be prioritised over brownfield, there are numerous undeveloped brownfield sites within the area.
- Query what evidence has been critiqued to conclude the housing need. Hartshead is a semi-rural village with few amenities for a large quantity of additional housing. Concern it would set a precedent endangering the character of the village, affecting residents and visitors.
- The benefit to the local economy is questionable and planning permission has been previously refused on this site
- The site has been used as a community resource. The Council should take into account efforts of local people to maintain and campaign for this land.
- The planning system is supposed to allow for representation of community views. The community will not benefit losing a valuable and well used open community greenspace.
- The proposal does not reflect the needs of the village.

Highway Safety

- Peep Green Road is a narrow road with fast and heavy traffic flow. The road bends at this point and is on an incline. Concern an access would be extremely dangerous as vehicles will be leaving and entering where the road dips and drivers accelerate.
- The approach to the junction down Peep Green lane is vulnerable due to the gradient and curve of the road. There have been accidents and near misses and exiting School Lane to turn right or cross at the junction is dangerous due to poor sight lines.
- The proposed access is close to Hartshead crossroads where visibility looking north along Peep Green Road is limited due to the bend. Negotiating this crossroads is difficult. Additional traffic will increase the hazardous nature of the crossroads.
- Concern it is impossible to create an adequate visibility splay due to the gradient of the road and geography of the area.
- Concern a lack of visitor parking may result in visitors parking on Peep Green Road adding to visibility issues. On-street parking already occurs by residents and parents dropping off/collecting school children.
- Peep Green Road is a short cut for motorists avoiding Leeds/Huddersfield Road and an escape route for Junction 25 of the M62.
- Cyclists will have limited time to react to the access.
- Traffic calming measures should be brought into use.
- Peep Green Road from the junction of Windy Bank Road has no footpath on the side and a pavement will have nowhere to go.
- Concern summer vegetation limits visibility.
- The Fire service use it as a route to Huddersfield
- Residents have asked for road calming measures
- Most cars pass in excess of the 30mph speed limit
- School traffic is a problem at opening and closing times.
- Heavy farm traffic/machinery passes along Peep Green road. There is a bend to the north of the site and the road slopes downwards to the crossroads where there is another bend. The footpath to run the length of the site appears to taper off at each end. Pedestrians would not be able to see traffic approaching from the north end as it would not be visible due to the bend in the road. The silent nature of Electric cars would give little warning.
- An accident on the side of the proposed site occurred involving a car and a motorbike travelling from the north end of Peep Green Road. The field wall opposite has been knocked down twice by vehicles travelling towards the crossroads.
- A previous 2001 application for a single dwelling with garage was refused on road safety grounds and road traffic has since increased.
- There are four bus stops within 50 yards of each other which adds to congestion and visibility issues (six transits per hour at peak times).
- Concern about pedestrians crossing a 'blind' bend.
- Concern about construction vehicles adding to danger and disruption.
- A pavement and realigning the field boundary will make no difference to the contour of the road.
- The slow sign and pedestrian crossing will not ease concerns, pedestrians are rising their lives crossing. Visibility splays serves no purpose at a blind bend.
- The speed survey data is inadequate, covers too short a period and is unrepresentative of normal traffic conditions.
- Speed surveys were undertaken between 12 midday and 3pm. They should be undertaken between 7am and 9.30 and 3pm and 6pm.

Visual Amenity

- Hartshead is a historic village of mainly renovated cottages, the few red brick modern properties stand out like a sore thumb. New houses will make another blot on the landscape.
- The layout and housing density is too high, the development is out of proportion to the size of plot and the village. A maximum of 4 dwellings would be suitable.
- The development would negatively impact on the appearance of the village and open outlook of the school. It would not be in keeping with the look of the village
- The sections provided are poor to allow a visual assessment.
- Aesthetically an estate cannot compare to the beauty of meadow land surrounded by mature trees.

Ecology

- The plans would destroy mature meadowland. The paddock is one of the only wild meadows in the village and an important area for insects.
- Concern about loss of a pocket of nature and the impact on wildlife and birds
- The loss of trees and noise and light pollution will adversely affect bats. The habitat is visited by birds of prey, pheasants and hedgehogs.
- Concern about loss of grazing land and nesting places for birds.
- Bats, other mammals and birds use the hedgerow and trees for nesting roosting and commuting. The removal would have a serious detrimental affect on local wildlife.
- Removal of the tree border to the north will cause dissemination of the established biodiversity.
- The land supports is a logical extension of the green network that allows movement of wildlife, this will be destroyed.
- Concern Parcel 1 of the net gain proposals may come forward for residential development. Concern Parcel 2 should have been adequately managed anyway.

Other Issues

- Concern the drainage system is at near full capacity. Run off was observed on the site during storm Ciara in February. Concern about loss of a flood area.
- Concern the view and privacy of existing dwellings will be adversely affected, including the bungalow to the south.
- Concern about overshadowing, overlooking and loss of outlook to the school and the impact from construction and noise. Concern the playground will be enclosed on 3 sides by buildings.
- Hartshead J & I School is over subscribed, the School are currently self funding an external library and extra room.
- Concern about carbon emissions.
- Concern the proposal does not include a mix of homes.
- Concern about strain on the sub station
- Concern some house types show a 'robe' room which could be converted into an additional bedroom.

Councillor Comments:

Councillor Grainger-Mead:

“I really think sites like this need to also be providing visitor parking. I see so many new estates that have cars all over the place. If developers could provide extra parking spaces at the outset, it makes for a much better street scene.”

8.0 CONSULTATION RESPONSES:

The following is a brief summary of consultee advice (more details are contained within the assessment section of the report, where appropriate):

8.1 Statutory:

K.C Highway Services – No objections were raised, subject to conditions. Following an initial consultation response, the applicant submitted further information which dealt with the several queries of HDM. Following this, HDM considered the application acceptable from a highways prospective, subject to the inclusion of conditions relating to: areas to be surfaced and drained, visibility splays to be provided, details of junction of new estate road, a method of storage/access for waste, and conditions relating to construction and design of associated physical structures.

K.C Lead Local Flood Authority – Awaiting final comments; an update will be reported to Members.

Yorkshire Water – No objections were raised, subject to conditions designed to protect the local aquatic environment and Yorkshire Water infrastructure.

8.2 Non-statutory:

K.C Environmental Services – No objections, subject to conditions relating to a noise assessment report and mitigation scheme, contaminated land, electric vehicle charging points, and construction site working times.

K.C Ecologist – No objections. In summary the proposals will provide units of higher value grassland habitat and scrub planting (as part of a woodland) than the habitats being lost from the site. The Council’s ecologist is satisfied that the proposals, both on-site and off-site will provide sufficient units to achieve a 10% net gain. Subject to a condition and Section 106 agreement to secure these proposals, ecological issues are addressed.

- **West Yorkshire Police** – No objections. Initially some concerns were raised. However, following some design changes and the receipt of updated plans, showing the gates to the gardens of Plots 9 and 12 being lockable, timber garden fencing being 1.8m in height, and an additional gate and fencing along the gable of Plot 10, the proposed layout was formally approved by the Designing Out Crime team.

K.C Landscape – No objections, subject to a contribution for off-site public open space at Hartshead recreation ground of £24,501. The reasons for this were that a development of over 11 dwellings triggers the requirement for

greenspace and a Local Area of Play (LAP). There is no public open space to be provided on site. However, the location of Hartshead recreation ground is very close to the application site.

K.C Strategic Housing – An affordable housing contribution is required of 2 social or affordable rented dwellings and 1 intermediate dwelling. This is because the Council seeks to secure 20% of dwellings on sites with 11 or more dwellings, for affordable housing. On-site provision (housing) is preferred. However, where the Council considers it appropriate, a financial contribution to be paid in lieu of on-site provision is acceptable.

9.0 MAIN ISSUES

- Principle of development
- Highway Issues
- Layout and Urban design issues
- Residential amenity
- Ecological Issues
- Drainage issues
- Other Matters
- Planning obligations
- Representations

10.0 APPRAISAL

Principle of development

- 10.1 Planning law requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
- 10.2 The Local Plan sets out a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum.
- 10.3 The application site comprises a housing allocation in the Kirklees Local Plan ref HS112 to which full weight can be given. Concerns have been raised in the representations received about the allocation of the site and the need for housing in this area. Allocation of this and other greenfield sites by the council was based on a rigorous borough-wide assessment of housing and other need, as well as analysis of available land and its suitability for housing, employment and other uses. The Local Plan, which was found to be an appropriate basis for the planning of the borough by the relevant Inspector, strongly encourages the use of the borough's brownfield land, however some development on greenfield land was also demonstrated to be necessary in order to meet development needs. The site is not designated as Urban Green Space or Local Green Space in the Local Plan but is greenfield land currently in use for horse grazing.
- 10.4 The 13 dwellings proposed would contribute towards meeting housing delivery targets of the Local Plan.

- 10.5 The application site is a sustainable location for a residential development as it is relatively accessible within an existing settlement served by public transport. Hartshead benefits from a Junior and Infant school, and recreation ground, and is located approximately 1km to the west of the local centre of Robberttown. The proposal for a residential development of 13 dwellings would amount to sustainable development and the principle of development is considered acceptable.

Highway Safety Issues

- 10.6 Access to the site is proposed directly from Peep Green Road which is a two way single carriageway road with street lighting present and a posted speed limit of 30 mph. Policy LP21 of the Kirklees Local Plan states proposals shall demonstrate that they can accommodate sustainable modes of transport and be accessed effectively and safely by all users.
- 10.7 A significant amount of concern has been raised in the representations received about the impact of the proposed development on highway safety. The concerns raised are précised in the representations section, and include concerns about the location of the proposed new access, taking into account the topography of the area and a bend in the road, proximity to a cross roads and to existing bus stops. Concerns are also raised that vehicles regularly speed through the village and that a pedestrian crossing would not address safety concerns. Concerns are also raised about the amount of parking allocated and possible overspill onto Peep Green Road, and that the speed survey data is inadequate, covers too short a period and is unrepresentative of normal traffic conditions.
- 10.8 Highways Development Management (HDM) initially requested additional information to make an informed assessment. This included details of the proposed visibility splay onto Peep Green Road and associated speed surveys, details of a pedestrian dropped crossing, gradients and drainage, refuse storage and collection, justification for the level of off-street parking, and an independent stage 1 safety audit and designer's response on the internal layout and site access arrangements.
- 10.9 The applicant has submitted a revised layout plan showing the visibility splays which would be achieved, accompanying speed surveys, a Stage 1 Road Safety Audit and vehicle tracking for a refuse vehicle. Visibility splays of 2.4m x 45m will be achieved to the north of the access, and 2.4 x 43m to the south. A pedestrian crossing is proposed at the junction of the entrance with Peep Green Road, and one to the south, and a SLOW road marking to the north of the access. Two visitor parking spaces are proposed near the entrance to the site.
- 10.10 HDM consider the additional information deals with all their previous queries and raise no objections subject to the inclusion of appropriate conditions. It is considered there would be no detrimental impact on highway safety and the proposal would accord with Policy LP21 of the Kirklees Local Plan.

Layout and Urban Design issues

- 10.11 The application site is in use for grazing and adjoins undeveloped green belt land to the north, and existing development along Peep Green Road and School Lane. Policy LP24 of the Kirklees Local Plan states proposals should ensure the form scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape. Concerns are raised in the representations received that the proposal would be out of keeping with the village and the density is too high.
- 10.12 In respect of the proposed density of development, the indicative capacity in the Kirklees Local Plan for this housing allocation is 15 dwellings. The application as initially submitted proposed 10 dwellings, which would have failed to meet housing delivery targets of the Local Plan. Consequently, the application was re-submitted proposing 13 dwellings. Taking into account the site constraints; in respect of existing neighbouring residential properties adjoining the site and the requirement to provide appropriate distances, a proposal for 13 dwellings is on balance considered to represent a suitable response to the site. Concerns have been raised in the representations received that the proposed density is too high, however fewer numbers would jeopardise Local Plan housing delivery.
- 10.13 Existing properties within Hartshead comprise a mix of detached, semi-detached and terraced properties, two storey and single storey properties, with the predominate building material being natural stone. The proposed development proposes 2no 2 bed properties and 11no 3 bed properties. The scale of the dwellings include both two storey and three storey properties, however the proposed second floors in the three storey properties would be wholly within the roof space and lit by a rooflight, thus giving the appearance of two storey properties. The proposed construction materials are natural stone and stone slates and it is considered their design, scale and fenestration detailing, and the stepping down of the ridge to respond to the topography of the site would preserve the visual amenity of the surrounding area.
- 10.14 The layout has taken account of comments made by the West Yorkshire Police Designing Out Crime officer who raises no objections to the scheme.
- 10.15 The proposed landscaping works includes the provision of a vegetated wall and the retention of the tree screen to the northern boundary of the site and some additional tree planting within the site. Full landscaping details would be secured by a landscaping condition, and ecological matters are discussed in detail later in the report.
- 10.16 A development of over 11 dwellings triggers the requirement for greenspace and a Local area of play (LAP). In this case, no public open space is proposed on-site, however Hartshead Recreation Ground is within the accessibility distance of the site, and an off-site contribution is considered appropriate.
- 10.17 Overall it is considered the proposed layout of the scheme, scale and appearance of the proposed dwellings, and proposed landscaping works would preserve the visual amenity of the surrounding area and accord with Policy LP24 of the Kirklees Local Plan.

Residential Amenity Issues

- 10.18 Policy LP24 of the Kirklees Local Plan states proposals should provide a high standard of amenity for future and neighbouring occupiers. The nearest neighbouring residential properties to the site which have the potential to be affected by the development include No.88 and No.90 Peep Green Road, No.102 Peep Green Road, and Nos. 64-72 School Lane. Hartshead Junior & Infant school also shares a boundary with the application site. Concerns have been raised in the representations received that the view and privacy of existing dwellings will be adversely affected, and concerns have been raised about overshadowing, overlooking and loss of outlook to the school.
- 10.19 In respect of the impact on No.88 and No.90 Peep Green Road, Plots 1-3 would front directly onto No.90 Peep Green Road. There would be a distance of over 21 metres to these neighbouring properties and due to this distance which would be achieved it is not considered there would be any detrimental overlooking impact. The proposed dwellings are two and three storeys in height, however the second floors are proposed to be wholly within the roof space and lit by rooflights. Taking into the proposed height of the properties and the intervening road it is not considered there would be any detrimental overshadowing impact
- 10.20 In respect of the impact on No.102 Peep Green Road, there would be no direct relationship with the nearest plot (Plot 7) and there would be no detrimental overlooking or overbearing impact.
- 10.21 In respect of the impact on No.72 School Lane, this is a bungalow property with attached garage located to the south of the application site. The distances which would be achieved from plots 8-10 in the south-eastern corner of the site to the rear elevation of this neighbouring property (not including the attached garage) are approximately 18 metres from the rear elevation of plot 8, 22 metres from the rear elevation of plot 9 and 23 metres from the rear elevation of plot 10. The topography of the site means a level difference is unavoidable, however taking into account the distances which would be achieved, it is considered there would not be any undue detrimental overlooking or overbearing impact. There would be a distance of approximately 10 metres at the closest point from the side elevation of plot 7 to the curtilage boundary of No.72 School Lane. Plot 7 proposes a ground floor lounge/dining room window on the side elevation, however it is considered appropriate screening at the boundary would prevent any detrimental overlooking of the private amenity space of this neighbouring property.
- 10.22 In respect of the impact on No.70 School Lane, this is an end terrace two storey property to the east of the application site which is sited perpendicular to School Lane. This property has a conservatory extension which overlooks the site, and this extension has been taken into consideration in the design of the layout. The layout has been designed to allow views through the site from the conservatory by siting plots 8-13 either side of this conservatory with landscaped front gardens and off-street parking provision. The positioning of the plots will avoid any detrimental overlooking or overbearing impact.

- 10.23 In respect of the proximity to Hartshead Junior & Infant School, plots 11-13 would be sited directly to the east of the shared boundary. No openings are proposed on the gable of Plot 11 and there would be no overlooking of the school grounds and building. Environmental Services have raised concerns that noise from the school may affect future occupants of these nearest plots and recommend a condition to secure a noise assessment report and mitigation scheme. Subject to the inclusion of a condition, noise issues can be addressed.
- 10.24 Overall, it is considered the proposed layout and the scale and design of the development will protect the amenity of existing neighbouring properties adjacent to the site, and also provide appropriate distances within the site, in accordance with Policy LP24 of the Kirklees Local Plan.

Ecology Issues/Landscape issues

- 10.25 This is a green field site and ecological information was requested to support the application. Concerns are raised in the representations received regarding the loss of grazing land and the impact on wildlife including birds, mammals and protected species. Due to the nature of the habitats present, the Council's ecologist considers the potential for significant ecological harm is limited and can be easily mitigated.
- 10.26 The proposals are however required to demonstrate a measurable biodiversity net gain in line with the requirements of the NPPF. The application is now supported by a Preliminary Ecological Appraisal (PEA) and Ecological Impact Assessment. There is some mitigation proposed on site in the form of retaining a tree screen, provision of a vegetated wall and sparrow and bat boxes, however these interventions fall short of the requirement. The supporting information has confirmed the proposal would result in a measured shortfall of c.2.16 biodiversity units.
- 10.27 The applicant has carried out a review of other land within their control in the vicinity of the site and has identified opportunities to deliver gains for biodiversity. The proposal involves two parcels of land, both in the same ownership with good access for management operations. The first parcel is a small area of arable land immediately north of the site which will provide grazing for 3 small horses once they move from the site. The second parcel is an area of plantation woodland 1km north west of the Site.
- 10.28 Parcel 1 is an area of intensively managed arable land under cultivation of oats. It is proposed to plant a new hedgerow to separate the new pasture from arable land to its north. This will comprise of a minimum of 3 native and local species. The frontage hedgerow to Peep Green Road will be restored / replanted with similar species. Stockproof fencing will be installed within the hedgerow boundaries. Nutrient levels within the field will be reduced through use of sacrificial cropping or sub-soil ploughing - to create a lower nutrient seed bed. Soil will be tested, allowing a suitable seed mix to be identified and applied to the field. After an initial establishment period the field will be managed through a combination of low intensity grazing, cutting (with crop taken) and targeted control of problem species. Regular monitoring will be in place to demonstrate compliance and provide feedback on management. Remedial measures will be put in place as required to meet the desired habitat and condition. Target habitat is 'Other Grassland' g3c at Moderate Condition.

- 10.29 Parcel 2 is an area of woodland planted approximately 15 years ago. The proposal is to move from a crowded plantation to a more functioning woodland habitat. Targeted thinning of the woodland will provide space for retained trees to achieve a natural form and allow light to lower levels encouraging more layers of woodland vegetation. Planting of scrub and understorey species will take place along the edges of the plantation and in thinned areas. Seeding of ground flora species will take place into bare ground resulting from thinning operations. Management will take the form of on-going small-scale thinning and the control of any problem species. Regular monitoring will be in place to demonstrate compliance and provide feedback on management. Remedial measures will be put in place as required to meet the desired habitat and condition. Target habitat is 'Other Woodland' with a Fairly Poor Condition.
- 10.30 In summary the proposals will provide units of higher value grassland habitat and scrub planting (as part of a woodland) than the habitats being lost from the site. The Council's ecologist is satisfied that the proposals, both on-site and off-site will provide sufficient units to achieve a 10% net gain. Subject to a condition and Section 106 agreement to secure these proposals, ecological issues are addressed. Concerns have been raised in the representations received that Parcel 1 of the net gain proposals may come forward in the future for residential development and that Parcel 2 should have been adequately managed anyway. In response to this, Parcel 1 is located within the Green Belt in the Local Plan where residential development is inappropriate development, and in any case the ecology works will be secured by conditions and a Section 106 agreement. The proposals to Parcel 2 will provide a higher value habitat and is considered to be acceptable.

Drainage issues

- 10.31 The proposed development site is located within Flood Zone 1, according to the Environment Agency's Flood map for planning and the surface water flood risk on site is classed as very low. Kirklees Lead Local Flood Authority (LLFA) hold records of flooding to properties located south east of the site - flooding to driveways and the carriageway. Concerns have been raised in the representations received that the existing system is at near full capacity.
- 10.32 The proposed development site slopes from approximately 140m AOD in the north east corner to approximately 132mAOD in the south west corner. There are several watercourses located in proximity to the site, and there are separate foul and surface water sewers located alongside Peep Green Road and along School Lane. The surface water sewer discharges into the open section of the watercourse located south/south east of the development.
- 10.33 The applicant has undertaken testing which has confirmed infiltration is not suitable. They intend to discharge surface water into the public sewer at a rate of 3.5l/s as shown in the Engineering Feasibility drawing.
- 10.34 Yorkshire Water has no objection to the proposed amount of curtilage surface water to be discharged to the public surface water sewer at a restricted rate of 3.5 litres/second and to the proposed points of discharge of foul and surface water to the respective public sewers.

- 10.35 Kirklees Lead Local Flood Authority do not object to the principle of discharging surface water at a restricted rate into an existing public surface water sewer as shown on the Engineering Feasibility drawing. They have previously objected to the detail, as two discharge rates were previously shown, 3.5l/s and 3/6l/s, and requested supporting calculations. The rate is confirmed to be 3.5 l/s and final comments are awaited from the LLFA about the acceptability of the proposed rate of discharge.
- 10.36 The engineering drawing shows the location and size of the proposed attenuation tank located in the southern part of the site to provide 70m³ of attenuation for storm events up to 1 in 100 years plus 30% climate change. Final comments are awaited from the Lead Local Flood Authority and this will be reported to Members in the update.

Other Matters

Contaminated Land

- 10.37 Environmental Services have reviewed the Phase I Contaminated Land Report and agreed with the general findings. They raise no objections subject to a condition to secure a Phase 2 Intrusive Site Investigation Report. Contaminated Land matters can be addressed by condition.

Climate Change

- 10.38 On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.
- 10.39 The proposal to erect thirteen new dwellings would generate significant carbon emissions. However, this is a small scale major development site and measures to encourage electric vehicle use by providing electric vehicle re-charging points will be conditioned, which will assist in helping the climate change emergency.

Planning obligations

- 10.40 The following planning obligations are required:

Affordable Housing: The Council seeks to secure 20% of dwellings on sites with 11 or more dwellings, for affordable housing. For this development 3 units are sought. In terms of affordable tenure split, across the district Kirklees works on a split of 55% social or affordable rent to 45% intermediate housing. Therefore 2 social or affordable rented dwellings and 1 intermediate dwelling are required. These are shown as plots 6, 11 and 12.

Public Open Space – A development of over 11 dwellings triggers the requirement for greenspace and a Local area of play (LAP). Given there is no public open space on site, and Hartshead Recreation is in close proximity, an off-site lump sum is required of £24,501.

Biodiversity Net Gain – In addition to the more limited on site proposals, the scheme will provide two units off-site; higher value grassland habitat and scrub planting. The Council's ecologist is satisfied that the proposals, both on-site and off-site will provide sufficient units to achieve a 10% net gain.

10.41 The above obligations can be secured by a Section 106 agreement.

Representations

10.42 A total of 92 representations have been received comprising 1 letter of support and 91 objections. Matters raised regarding the principle of development, highway safety, ecology and visual amenity are assessed in the relevant sections above. In so far as the comments raised have not been addressed above:

- The proposal does not reflect the needs of the village.
Response: The proposal will provide on-site affordable housing which will be continued to meeting local housing needs.
- Hartshead J & I School is over subscribed, the School are currently self funding an external library and extra room.
Response: The size of the development does not trigger an education contribution.
- Concern about carbon emissions.
Response: Measures to encourage electric vehicle use by providing electric vehicle re-charging points will be conditioned, which will assist in helping the climate change emergency.
- Concern the proposal does not include a mix of homes.
Response: The proposal as amended for 13 dwellings proposes a mix of three bed and two bed properties, and as mentioned will provide three on-site affordable units.
- Concern about strain on the sub-station
Response: This is not a material planning consideration.
- Concern some house types show a 'robe' room which could be converted into an additional bedroom.
Response: Bed 1 in house types E and D have a walk-in wardrobe. This a typical feature in a modern house type and it is not considered it could be easily converted into a further bedroom of a reasonable size which would impact on the number of bedrooms and therefore the amount of off-site parking required to serve the dwellings.

10.43 Councillor Comments:

Councillor Grainger-Mead has referred to the need to provide visitor parking spaces to make for a better street scene. In this case, for clarification, the development will provide three visitor parking spaces. Highways DM raise no objection in this regard.

11.0 CONCLUSION

11.1 The application site is allocated for residential development under site allocation HS112, and the principle of residential development at this site is considered acceptable.

11.2 The site has constraints in the form of adjacent residential development (and the amenities of these properties), topography, ecological considerations, and other matters relevant to planning. These constraints have been sufficiently addressed by the applicant or can be addressed at conditions stage. Approval of full planning permission is recommended, subject to conditions and planning obligations to be secured via a Section 106 agreement.

11.3 The NPPF 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. The proposed development has been assessed against relevant policies in the development plan and other material considerations. Subject to conditions, it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) 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 Planning and Development)

1. Three years to commence development
2. Approved plans and documents
3. Areas to be surfaced and drained in accordance with details to be approved
4. Visibility splays to be provided
5. Scheme of the junction and associated highway works
6. Scheme of proposed internal adoptable estate roads
7. Details of storage/access for waste
8. Scheme of retaining walls adjacent to adoptable highway
9. Scheme detailing surface water attenuation in highway footprint.
10. Noise Assessment report and mitigation scheme
11. Phase 2 Intrusive Site Investigation Report
12. Remediation Strategy
13. Implementation of Remediation Strategy
14. Validation Report
15. Electric Vehicle Charging Points
16. External Materials

17. Boundary treatments
18. Landscaping Details
19. Biodiversity enhancement, net gain and Ecological Design Strategy
20. Temporary surface water drainage
21. Drainage conditions
22. Removal of permitted development rights

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f92670>

Certificate of Ownership –Certificate A signed

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 04-Nov-2020

Subject: Planning Application 2020/90652 Erection of extensions and alterations to existing disused building to form one dwelling Lands Farm, Cliffe Lane, Gomersal, Cleckheaton, BD19 4EU

APPLICANT

J Bean

DATE VALID

10-Mar-2020

TARGET DATE

05-May-2020

EXTENSION EXPIRY DATE

25-Sep-2020

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: Liversedge and Gomersal and Cleckheaton

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

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

1.0 INTRODUCTION:

1.1 The application has been brought to Heavy Woollen Sub Committee due to a request from Ward Councillor Andrew Pinnock, who raised the following concerns:

- Overall scheme queries – how many dwellings
- Numbers of dwellings on the site has gradually increased
- Number of dwellings allowed off a long private drive, Cliffe Lane is not on a bus route
- Unsatisfactory parking
- Concern about the amount of amenity space required for the new dwelling and the relationship between the new dwelling and those existing on site

1.2 The Chair of the Sub-Committee has accepted that the reason for making this request is valid having regard to the Councillor's Protocol for Planning Sub-Committees.

2.0 SITE AND SURROUNDINGS:

2.1 The site at Lands Farm relates to a unit within a former farm complex which has been converted into residential dwellings. The specific application site is an addition to the main former farmhouse building.

2.2 Surrounding the site is open land to the north, east and south of the site, with a small cluster of other residential buildings to the west.

2.3 The site is allocated as Green Belt on the Kirklees Local Plan and is not located in a conservation area.

3.0 PROPOSAL:

3.1 Planning permission is sought for alterations and extensions to disused existing agricultural building to form one dwelling.

3.2 The changes can be seen on the submitted plans which have been amended during the course of the planning application.

3.3 The amenity space and parking areas can be seen on the submitted site plan.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 2012/93048 – Alterations and extension to existing dis-used agricultural buildings to form 3 dwellings APPROVED (Lands Farm)

4.2 2018/91433 – Erection of first floor and conversion of existing barn to one dwelling WITHDRAWN

4.3 2019/90384 – Alterations and extension to existing disused agricultural building to one dwelling REFUSED (Lands Farm)

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

5.1 The case officer has been in negotiations with the agent with regards to the concerns raised as part of the previous planning application. This relates to the design and scale of the originally proposed building, the associated amenity space and parking. Ownership concerns were also considered and evidence provided to overcome objectors' concerns.

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 statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

6.2 Kirklees Local Plan (2019):

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP21** – Highway Safety
- **LP22** – Parking Provision
- **LP 24** – Design
- **LP30** – Biodiversity and geodiversity
- **LP33** – Trees
- **LP35** – Historic environment
- **LP51** – Local air quality
- **LP57** – The extension, alteration or replacement of existing buildings
- **LP60** – The re use and conversion of buildings

6.3 Supplementary Planning Guidance / Documents:

None

6.4 National Planning Guidance:

- **Chapter 5** - Delivering a sufficient supply of homes
- **Chapter 9** – Promoting sustainable transport
- **Chapter 12** – Achieving well-designed places
- **Chapter 13** – Protecting Green Belt Land
- **Chapter 15** – Conserving and enhancing the natural environment
- **Chapter 16** – Conserving and enhancing the historic environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 As a result of two periods of publicity, 16 comments have been made on the planning application. The comments have been considered and the main points raised are as follows:

- Parking and access difficulties
- Highway safety issues (emergency vehicles and farm vehicles)
- Site is active farm
- Impact on listed building, Lands Farm
- Overdevelopment
- Existing building not on plans
- Previous planning history
- Residential amenity
- Fire regulations
- Planning history
- Green Belt
- Drainage

7.2 Officer comments will be made in the representations section of this committee report.

7.3 No parish/town council comments are required.

8.0 CONSULTATION RESPONSES:

The following is a brief summary of consultee advice (more details are contained within the assessment section of the report, where appropriate):

8.1 Statutory:

K.C Highways Development Management – no objection following receipt of amended site plan. Turning will not be affected and parking provision is acceptable

8.2 Non-statutory:

K.C Environmental Health (comments from previous application) – no objection.

K.C Trees (comments from previous application) – no objection

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 The application site is located on land allocated as Green Belt on the Kirklees Local Plan. The proposal is for extensions and alterations to facilitate the creation of a new dwelling.
- 10.2 Chapter 13 of the National Planning Policy Framework requires Local Planning Authorities to regard the construction of new buildings as inappropriate development. Exceptions to this include the re-use of buildings provided that the buildings are of a permanent and substantial construction and the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. Both of these exceptions are applicable in this case provided that the proposed development preserves openness and does not conflict with the purposes of land within the Green Belt.
- 10.3 Policy LP60 of the Kirklees Local Plan reiterates the first exception as stated above, by stipulating that the conversion or the re-use of buildings in the Green Belt will normally be acceptable where:
- a) The building to be re-used or converted is of a permanent and substantial construction
 - b) The resultant scheme does not introduce incongruous domestic or urban characteristics into the landscape
 - c) The design and materials to be used, including boundary and surface treatments are of a high quality and appropriate to their setting
- 10.4 In this case, from the site visit, it is clear that the building is of a permanent and substantial construction and therefore the principle of the change of use of existing dwellings (the main farmhouse) to form an additional dwelling (as proposed) could be acceptable.
- 10.5 To begin with, the principle of converting the building is acceptable for the reasons stated above, with LP57 of the Kirklees Local Plan also being considered due to the initial plans showing an extension to the main building. However, the case officer raised initial concerns relating to the scale and design of the building in relation to the host dwelling. Subsequent amendments have been submitted which are acceptable and LP57 is no longer relevant, given that the building will not be extended. The scale of the building will be reduced through demolition of part of the building to the southeast, and the height of the existing building will also not be increased, meaning that the conversion of the building is acceptable in principle.
- 10.6 The building conversion to residential use, along with the parking and amenity space required to facilitate the conversion could be considered to constitute appropriate development in the Green Belt subject to an assessment of relevant material planning considerations.

- 10.7 The relevant points of the Kirklees Local Plan policies will be discussed below to assess the impact on the character of the proposed dwelling in the Green Belt.

Impact on visual amenity

- 10.8 The impact on visual amenity is, on balance, considered by Officers to be acceptable. Policy LP24 of the Kirklees Local Plan states that good design should be at the core of all proposals by ensuring the form, scale and layout and details of the development respects and enhances the character of the townscape, heritage assets and landscape.
- 10.9 Policy LP60 is also relevant and states that the design and materials to be used, including boundary and surface treatments are of a high quality and appropriate to their setting and the activity can be accommodated within detriment to landscape quality, residential amenity or highway safety.
- 10.10 In this case, the original building, with a monopitch roof is agricultural in its appearance, in the context of its location within a former farmstead. Given that the amended plans result in demolition of part of the building and the retention of the main character and appearance of the building, Officers consider that the proposal is acceptable in this regard.
- 10.11 The functional appearance of the building is retained and converted into a dwelling by the insertion of openings. This is acceptable. The changes to the building including the replacement of the profile metal roof sheets with roof slates would not substantially change the character and appearance of the building, nor would it detract from the traditional building style. The agricultural nature of the building would remain evident following conversion, and the original form of the building would remain the dominant element of the site, which currently is read as an ancillary building within the site. It would remain as such. In the opinion of Officers, the building would not be overly prominent and uncharacteristic, and would not result in harm to the openness of the Green Belt. Considering the small scale of the amenity space to the side of the proposed dwelling, it is considered necessary to remove permitted development rights for Classes A, B, D and E of the GPDO 2015, for both openness of the Green Belt, to avoid overdevelopment of the site/ lack of amenity space and residential amenity for the occupiers of no. 1 Lands Fold.
- 10.12 On the previous refusal at the site, a reason for refusal was imposed in relation to the urban form of the area and the impact on the character of the area as a result of the development. In this case, given that the appearance of the building is very similar to that which currently exists on site, the building would not appear out of character, nor would it appear unconnected to the site in which it is located. It is important for Members to note that this development proposal is considered to overcome the previous reason for refusal and would comply with LP24 of the Kirklees Local Plan. Policy LP24 of the Kirklees Local Plan states that the layout of all developments should respect and enhance the layout of the landscape.

- 10.13 As well as this, the resultant domestic activity such as additional journeys to and from the site have been considered. Whilst it would result in an intensification of the residential use of the site over and above the existing situation, the layout of the amenity space and parking has been altered since the previous permission, and is not considered to, given the existing hardstanding and building, detract from the existing rural character of the site to result in a harmful impact on the openness of the Green Belt as a result of the domestic paraphernalia.
- 10.14 It is noted that the previous refusal stated that due to the poor relationship between the building and garden area, this would create an incongruous feature within the site that would be unusual in this context. In this case, the amendments that have been sought ensure that a private garden area would be created and the relationship between the dwelling and the garden is acceptable by virtue of its repositioning and design.

Impact on setting of Grade II listed building (Lands Farm)

- 10.15 The Grade II listed building is located on the eastern part of the site, screened from the proposed development by the existing residential conversion. Considering the distance and the built form between the two buildings, it is not considered that the conversion of the application building to a residential dwelling would result in harm to the setting of the Grade II listed building, complying with the objectives of Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.
- 10.16 For the reasons stated above, and the minimal alterations required to the appearance of the building, and the design of the garden area, the proposed development, on balance, complies with Policies LP24 and LP60 of the Kirklees Local Plan and Chapters 12 and 13 of the NPPF.

Impact on residential amenity

- 10.17 Officers have considered the impact on nearby residential properties as Members can see below.

Impact on occupiers of 1 Lands Fold

- 10.18 From research into application ref: 2012/93048, the window closest to this neighbouring building serves a kitchen, with their parking area directly outside. A close relationship between the application site and this window currently exists.
- 10.19 The proposed development would result in an unassociated occupiers' garden area in close proximity to this window. The reason for refusal of the previous application has been considered. It is noted that there is a larger distance between this window and the garden area, and there is a boundary treatment/ stone wall in between the sites. This boundary treatment, along with the distance, is considered to, on balance create an acceptable relationship between the properties and not harm cause a harmful overbearing or overlooking impact that would warrant a reason for refusal of the planning application. The occupiers of 1 Lands Fold can use their access and the occupiers of the new dwelling have a private amenity space that will not be significantly overlooked.

Impact on occupiers at no. 2 Lands Fold

- 10.20 This neighbouring dwelling has a kitchen window in close proximity to the proposed building at ground floor level, with a bedroom window at first floor level (2012 plans). The bedroom window is the only window serving bedroom 2 and therefore consideration has to be given to the impact on the occupiers of this dwelling.
- 10.21 In this case, there is an existing close relationship between no.2 Lands Fold and the existing building. However, in this case, the proposal will include the demolition of part of the building which is located closest to this neighbouring building, and the height of the building would not be increased. For this reason, the proposed development would improve the situation between these two dwellings and there would be no harmful overbearing impact on the occupiers of this dwelling.
- 10.22 There would be no impact of overlooking/loss of privacy due to the fact that there are no openings proposed in the rear elevation of the proposed dwelling.

Impact on occupiers of The Flat

- 10.23 This dwelling has what are considered to be habitable room windows in the elevation facing the application property at first floor level, with garages at ground floor level. However, in this case, there are no openings in the rear elevation of the proposed dwelling and therefore there would be no overlooking/loss of privacy.
- 10.24 As the proposed development will not bring development closer to The Flat (in fact the proposed development would demolish part of the existing building closest to The Flat), there would be no overbearing impact on the occupiers of this dwelling as a result of the proposals.

Impact on occupiers of Ash Tree Cottage

- 10.25 Ash Tree Cottage is located to the northwest of the site and does not have a direct relationship with the application building. Considering that the building, if approved, would not extend closer to this property, there would be no overbearing or overshadowing impact as a result of the increase in height of the proposed dwelling.
- 10.26 In terms of overlooking/loss of privacy, the habitable room openings proposed in the main elevation would face onto the area of hardstanding and garage to the northwest of the site which is not currently private. For this reason, it is not considered that this would result in a harmful level of residential amenity as a result of a loss of privacy.

Amenity of future occupiers

- 10.27 It is noted that Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework are consistent in their approach to the impact on the amenity of future occupiers of any proposed dwellings, requiring a good standard of living for future occupiers of new dwellings.

- 10.28 In this case, following the re-design of the associated garden space and the proposed boundary treatment and distance between the garden area and no.1 Lands Fold, the garden space is adequately private to ensure an acceptable level of amenity. The area is, on balance, acceptable.
- 10.29 The internal floor space of the proposed dwelling is acceptable and will comply with National Space Standards for a one-bedroom dwelling.
- 10.30 Overall, Officers consider that the impact on residential amenity is acceptable, on balance, and the proposed development complies with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

Highway issues

- 10.31 The impact on highway safety is acceptable. Following a consultation with Highways DM, the amended site plan has overcome the previous reason for refusal of the application for the conversion of the dwelling.
- 10.32 The site plan shows parking to the front of the building, to the southeast. Consideration has been given to the 2012 application and the possible displacement of vehicles from this approval.
- 10.33 Whilst it is noted that the proposed garden area is to the front of no.1 Lands Fold and would alter the parking arrangements shown on the site plan from the 2012 permission (which shows parking spaces to the front), the agent has provided a site plan that shows how two vehicles could be accommodated within the Lands Farm complex, whilst not affecting the turning area. Highways DM are satisfied that this would not result in a loss of parking spaces and the previous reason for refusal has been overcome.
- 10.34 The parking for the newly converted dwelling is to the southeast and this is acceptable provision due to the scale of the building. This location will allow vehicles to continue to use the access track and intensification of the use of the site would not result in highway safety issues.
- 10.35 As per the previous application, Highways DM have confirmed that the arrangements in relation to turning on the site are considered acceptable and no highway safety issues will result from the proposed development. It is important for Members to note that the previous application was refused on the grounds of failing to demonstrate that parking would not be affected, this application provides sufficient information in this regard.
- 10.36 Officers are satisfied that the proposed development complies with Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework.

Representations

- 10.37 As a result of two periods of publicity, 16 comments have been made on the planning application. The comments have been considered and the main points raised are as follows:

- Parking and access difficulties

Officer comment: see highway safety section of this report.

- Highway safety issues (emergency vehicles and farm vehicles)

Officer comment: see highway safety section of this report.

- Site is active farm

Officer comment: this is noted.

- Impact on listed building, Lands Farm

Officer comment: see other matters section of this report.

- Overdevelopment

Officer comment: the building itself will not change in scale, it will require a small area of amenity space and parking

- Existing building not on plans

Officer comment: the building which is subject of this application is on 2012 plans for the redevelopment of the site. It is labelled as a garage/ outbuilding for domestic purposes

- Previous planning history

Officer comment: the relevant planning history has been considered and the reasons for refusal on the previous permission have been overcome

- Residential amenity

Officer comment: see residential amenity section of this report.

- Fire regulations

Officer comment: this is not a material planning consideration in relation to the utilities required within the new unit.

- Green Belt

Officer comment: assessment against LP60 of the KLP and Chapter 13 of the NPPF in relation to Green Belt has been made. The impact on the openness of the Green Belt is acceptable.

- Drainage

Officer comment: see other matters section of this report.

10.38 Ward Councillor Andrew Pinnock has made the following comments:

- Overall scheme queries – how many dwellings

Officer comment: there are currently 9 dwellings on the site.

- Numbers of dwellings on the site has gradually increased

Officer comment: this is noted

- Number of dwellings allowed off a long private drive, Cliffe Lane is not on a bus route

Officer comment: see highway safety section of this report. The scale of development is small.

- Unsatisfactory parking
Officer comment: see highway safety section of this report. There is an acceptable level of parking provision and existing parking will not be displaced.
- Concern about the amount of amenity space required for the new dwelling and the relationship between the new dwelling and those existing on site
Officer comment: see residential amenity section of this report

Other Matters

Red line boundary

- 10.38 The red line boundary is considered to overlap into the ownership of the adjoining property particularly the area where the proposed alteration to reposition the south eastern flank wall. Certificate B provided by the applicant confirms the person who was owner of the adjoining building 21 days prior to the application being submitted was notified of the application in accordance with Article 13 of the TCP(DMPO) Order 2015. The owner specified on the notice was previously notified of the application under the publicity procedure under article 15 of the TCP(DMPO) and therefore the 21 period for representations have been given by virtue of article 33.

Climate Change

- 10.39 On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.
- 10.40 Considering the small scale of the proposed development, it is not considered that the proposed development would have an impact on climate change that needs mitigation. The imposition of a condition for an electric vehicle charging point has been recommended. This is satisfactory to address the climate change emergency given the small scale of the proposed development. The proposed development complies with Policy LP51 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

Ecology

- 10.41 The site is in a bat alert layer and therefore consideration needs to be given to the impact of the proposed development on protected species. In this case, from the site visit, it appears that the building was relatively well sealed and there was no evidence of bats or bat roosts. For this reason, a footnote would be added to the decision notice to provide advice to the applicant should bats or bat roosts be found during construction. The proposed development complies LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

Description of development

- 10.42 It is not clear whether the building within the application site has been converted into residential use, with the applicant confirming that the use of the building is agricultural, both during the course of the previous, subsequently withdrawn application, the meeting with the case officer and the current planning application. Whilst the 2012 permission has been implemented into residential use, and therefore the site may have a lawful C3 use, the description of development is not considered to prejudice members of the public, with a clear red line boundary and plans identifying the building. Additionally, during the course of the previous applications which were subsequently withdrawn and refused, the description of development was not queried.

Drainage

- 10.43 The application form states that foul water will be connected to the mains sewer which is acceptable. It also states that surface water runoff is also proposed to be disposed of through the mains sewer. Policy LP28 of the Kirklees Local Plan preamble states the following:
- 10.44 “When proposing new developments, surface water issues need to be addressed in terms of existing surface water and potential increases to run-off resulting from the development. Effective management of surface water can help to prevent increased flood risk”
- 10.45 In this case, a solution to surface water runoff is not proposed through the means of a sustainable system of urban drainage and therefore consideration has to be given to the extent that the proposed development meets Policy LP28 of the KLP.
- 10.46 In this case, the agent has confirmed that the building will be connected to an existing mains sewer. Given that this is an existing connection, this is acceptable for this small-scale development.
- 10.47 The proposal complies with Policy LP28 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

11.0 CONCLUSION

- 11.1 To conclude, the concerns summarised above have been carefully considered however, when assessing this planning application in relation to national and local planning policy, along with all other material planning considerations, Officers are of the opinion that the principle of residential development on this site is acceptable, subject to appropriate conditions.

11.2 The NPPF 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. The proposed development has been assessed against relevant policies in the development plan and other material considerations. Subject to conditions and further consideration at Reserved Matters stage, it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) 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 Planning and Development)

1. 3 years time to implement plans
2. Development to be carried out in accordance with plans
3. Provision of one electric vehicle charging point
4. Removal of Permitted Development rights for extensions, openings and buildings
5. Prior to occupation, the stone boundary wall shown on plan ref 007B shall be erected

Background Papers:

Link to planning application details:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020/90652>

Certificate of Ownership – Cert B signed.

Link to previously refused planning application:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f90384+>

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Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 04-Nov-2020

Subject: Planning Application 2020/91643 Demolition of existing buildings and erection of 15 dwellings, formation of new access and associated works land at, Old White Lee Colliery, Leeds Road, Heckmondwike, WF16 9BH

APPLICANT

Beaufort Land and
Developments Ltd

DATE VALID

12-Jun-2020

TARGET DATE

11-Sep-2020

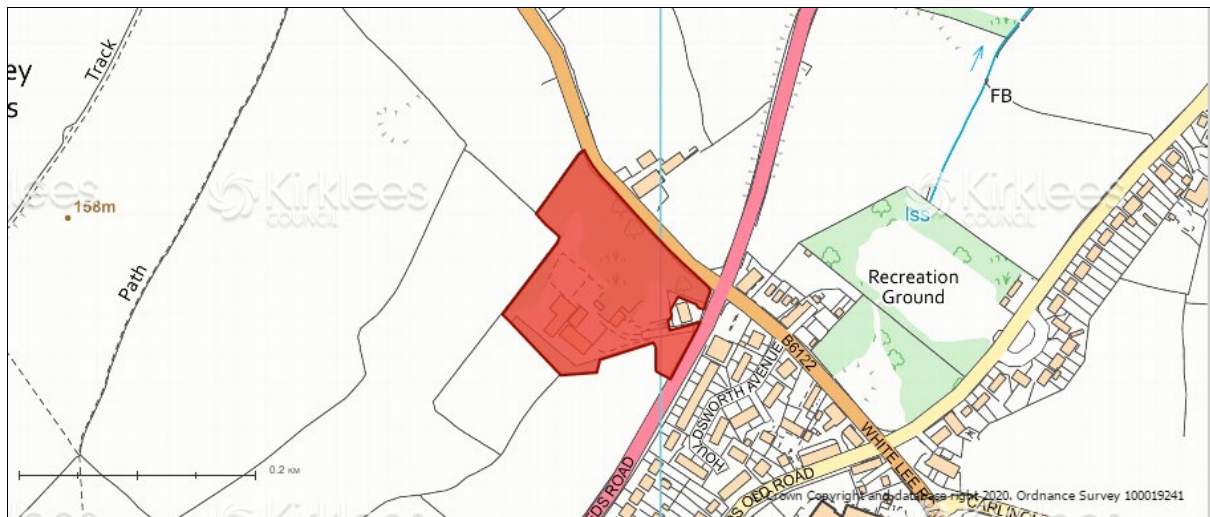
EXTENSION EXPIRY DATE

11-Nov-2020

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: Birstall and Birkenshaw

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

Refuse planning permission for the following reasons:

1) By virtue of the proposed design, scale, layout and encroachment of development and the enclosure of land into gardens would result in a greater impact on openness than the existing development. This would materially detract from the Green Belt setting and represent inappropriate development, with no very special circumstances demonstrated. To permit such development would be contrary to Policies LP24, LP32 and LP59 of the Kirklees Local Plan, as well as Chapters 12 and 13 of the National Planning Policy Framework.

2) It has not been demonstrated that an appropriate and safe access road can be achieved in line with the guidance set out in the Highways Design Guide Supplementary Planning Document. Therefore, the development would create unacceptable risks to highway safety. This is contrary to Policies LP21 and LP24 Kirklees Local Plan, as well as Chapter 9 of the National Planning Policy Framework.

3) The submitted information fails to demonstrate that the proposal would not result in a significant loss or harm to biodiversity and that the necessary mitigation can be employed to minimise biodiversity impacts. Furthermore, no information has been provided to demonstrate that the proposal would result in a biodiversity net gain. As such, the proposal would be contrary to Policies LP24 and LP30 of the Kirklees Local Plan and chapter 15 of the National Planning Policy Framework.

4) It has not been demonstrated that the site is safe, stable and suitable for the proposed residential development in an area with a coal mining legacy. To permit such development would be contrary to Policy LP53 of the Kirklees Local Plan and chapter 15 of the National Planning Policy Framework.

5) The submitted information fails to demonstrate that the proposal would not acceptably remove, harm or undermine the archaeological significance of the site's coal mining legacy of the late 19th and early 20th century, without the necessary mitigation. This is contrary to Policy LP35 of the Kirklees Local Plan and chapter 16 of the National Planning Policy Framework.

6) It has not been demonstrated that the development can take place on the site, which is designated as a Minerals Safeguard Area for Surface Coal Resource Surface Coal Resource with Sandstone and/or Clay and Shale. This is contrary to Policy LP38 of the Kirklees Local Plan and chapter 17 of the National Planning Policy Framework.

7) In the absence of a completed Section 106 agreement the development fails to provide for affordable housing, public open space, landscape maintenance and management, sustainable travel, flood risk and drainage management and maintenance, and biodiversity net gain. Without such contribution, the proposal would fail to accord with Policies LP4, LP11, LP20, LP21, LP30, LP32 and LP63 of the Kirklees Local Plan as well as chapters 4, 5, 9, 14 and 15 of the National Planning Policy Framework.

1.0 INTRODUCTION:

- 1.1 This is a full planning application for the demolition of existing buildings and erection of 15 dwellings, formation of new access and associated works. The application has been submitted by Addison Planning on behalf of Beaufort Land and Developments Ltd.
- 1.2 The application is presented to the Heavy Woollen Sub-Committee as the site is larger than 0.5 hectares in size and is for residential development. This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site measures 1.78 hectares in size and is known as the 'Old White Lee Colliery.' It can be found to the north of Leeds Road and the west of Muffit Lane. The site slopes in a general west to east direction with some undulations throughout, from approximately 133m AOD in the east to approximately 124m AOD in the west at Leeds Road.
- 2.2 The south- western portion of the site is characterised by a cluster of brick and metal clad industrial units as well as an hardstanding area that formerly used as a specialist metal works company, formerly Metallizers Ltd. Mature trees and overgrown vegetation can be found around the industrial units, particularly along the site's south-western boundary. Access to the industrial units can be found to the east at Leeds Road, which also serves an existing residential bungalow property at 93 Leeds Road, who has an interest in the site.
- 2.3 The north-eastern portion of the site is characterised by scattered mature trees and a large area of semi-improved grassland. A boundary stone wall delineates the site from Muffit Lane. An overgrown, historic access road that connected with Muffit Lane may have been present in this location. However, this access road is not clearly highlighted on historic maps.
- 2.4 Beyond the site boundaries are agricultural fields, particularly to the north and west. A cluster of vernacular stone residential properties can be found at Muffit Lane to the east. To the south there is an Indian restaurant and residential properties, which form part of the settlements of Batley and Heckmondwike.

3.0 PROPOSAL:

- 3.1 The proposal would include the demolition of the existing industrial structures and amendments to the existing access road so that it just served 93 Leeds Road.

- 3.2 The proposal would result in the erection of 15 dwelling houses in the western portion of the site, sited around a cul-de-sac road layout that connects with Muffit Lane to the north east. Public open space in the form of soft landscaping is proposed between the proposed dwelling houses and Muffit Lane in the eastern portion of the site.
- 3.3 The proposal consists of six different house types, which includes three 2-bed terraced dwellings, seven 3-bed dwellings, in either a terrace or a semi-detached combination, three 4-bed dwellings, either detached or semidetached, and two 5-bed detached dwellings. All the dwelling houses have been designed in accordance with the Technical housing standards – nationally described space standard.
- 3.4 All of the dwelling houses are two storeys and are characterised by dual gable-built forms. Features that define the dwelling houses include either/or front gables, door canopies, porches, sill and header detail, eaves detail, chimney stacks and pots, integral garages. The materials are proposed to be a mix of reconstituted stone, white render, and a red multi-brick, with grey tile roofing or red pan tile.
- 3.5 Parking provision for each dwelling house is either in the form of private driveways, parking space allocation, or garage. The 2/3-bed dwellings are allocated two parking space, while 4+ bedroom dwellings are allocated three parking spaces, inclusive of adjoining or integral garage spaces. In addition to the allocated parking spaces there are one visitor parking space per four dwellings, along with one cycle space per residential unit.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 None relevant

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

- 5.1 A formal pre-application enquiry (Reference: 2018/20474) was submitted in November 2018 for 33 dwelling houses. In response to discussions with officers, the scale of the proposal was reduced to 15 dwelling houses.
- 5.2 Officers concluded that the principle for a residential development could be considered acceptable as part of the site is recognised as being a brownfield site in the Green Belt. In terms of the detail, a reduced level of development was welcomed, when compared with the previous enquiry submission. However, an appropriate layout and design should be sought, that was not considered suburban in character as what was proposed. Instead, a unique residential development that considers its rural context, with no greater impact on the openness of the Green Belt should be achieved. Further consultation with the Coal Authority, LLFA, Highways was considered necessary to address the issues raised before a planning application was submitted.
- 5.3 In an email dated 17/07/2020 officers expressed concerns about the proposal, particularly in relation to Green Belt policy, including Local Plan policy LP59, NPPF paragraph 145, Planning Practice Guidance paragraph: 001 reference ID: 64-001-20190722. The main concerns were:

- The proposal would result in encroachment into the Green Belt and a greater impact on openness.
- The proposed footprint of the built form is greater than the existing buildings they are replacing.
- The proposal is suburban in character with standard house types with the use of detached garages.
- Particular concern regarding the height and scale of the proposed houses with steep roof pitches.
- Greater spread of the built form with the introduction of buildings along the northern boundary when there are currently none there.
- Subdivision of the plot resulting in enclosed domestic gardens with standard garden boundary treatments.
- The proposed open space adjacent to Muffit Lane should not be a 'parkland' and should appear as a natural as possible.

5.4 Officers also made the applicant aware of the concerns raised by other consultees, regarding the design of the proposed highway, as well as the proposed refuse storage and collection. Also, consultees had requested additional information regarding drainage, coal mining features, bats and biodiversity net gain.

5.5 There has been an exchange of various email correspondence with draft sketch ideas. Virtual meetings have also been held with the applicant team on 28/08/2020 and on 29/09/2020.

5.6 In an email dated 02/10/2020, officers requested a fundamental change to the proposal in line with the pre application enquiry advice. In an email dated 14/10/2020 the applicant confirmed that the applicant would like the application as currently submitted to progress to determination.

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 statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

Kirklees Local Plan (2019):

6.2 The site is within land designated as Green Belt in the Local Plan.

6.3 Relevant policies are:

LP1 – Presumption in favour of sustainable development

LP2 – Place shaping

LP3 – Location of new development

LP4 – Providing infrastructure

LP7 – Efficient and effective use of land and buildings

LP8 – Safeguarding employment land and premises

LP11 – Housing mix and affordable housing

LP20 – Sustainable travel

LP21 – Highway safety and access

LP22 – Parking

LP24 – Design
LP26 – Renewable and low carbon energy
LP27 – Flood risk
LP28 – Drainage
LP30 – Biodiversity and geodiversity
LP32 – Landscape
LP33 – Trees
LP34 – Conserving and enhancing the water environment
LP38 – Minerals safeguarding
LP47 – Healthy, active and safe lifestyles
LP48 – Community facilities and services
LP49 – Educational and health care needs
LP51 – Protection and improvement of local air quality
LP52 – Protection and improvement of environmental quality
LP53 – Contaminated and unstable land
LP59 – Infilling and redevelopment of brownfield sites (Green Belt)

Supplementary Planning Guidance / Documents:

6.4 Relevant guidance and documents:

- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Kirklees Housing Strategy (2018)
- Kirklees Strategic Housing Market Assessment (2016)
- Kirklees Joint Health and Wellbeing Strategy and Kirklees Health and Wellbeing Plan (2018)
- Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
- Negotiating Financial Contributions for Transport Improvements (2007)
- Providing for Education Needs Generated by New Housing (2012)
- Highway Design Guide (2019)
- Waste Collection, Recycling and Storage Facilities Guidance – Good Practice Guide for Developers (2017)
- Green Street Principles (2017)
- Kirklees Interim Affordable Housing Policy (2020)
- Viability Guidance Note (2020)

Climate change:

6.5 On 12/11/2019 the council adopted a target for achieving “net zero” carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target. However, it includes a series of policies, which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

National Planning Policy and Guidance:

6.6 The National Planning Policy Framework (2019) 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 4 – Decision-making
- 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 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
- Chapter 17 – Facilitating the sustainable use of materials.

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

6.8 Relevant national guidance and documents:

- National Design Guide (2019)
- Technical housing standards – nationally described space standard (2015, updated 2016)
- Fields in Trust Guidance for Outdoor Sport and Play (2015)

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application had been advertised via four site notices, a press notice and neighbour notification letters. This is in line with the council's adopted Statement of Community Involvement. The end date for publicity was 18th July 2020

7.2 3 representations were received in response to the council's consultation. Redacted version of these representations have been posted online. All representations raised concerns to the proposed development. The following is a summary of the points raised:

- Adverse impact on rat running, traffic and highway safety on Muffit Lane.
- Quite a lot of trees have been lost on the site which should be replanted along Muffit Lane
- A modern Green Belt play area would not be in-keeping with the natural theme
- Unacceptable impact on properties of the views of open fields
- Development will set a precedence for further development of the fields beyond the development boundaries.

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

8.0 CONSULTATION RESPONSES:

8.1 The following is a brief summary of consultee advice (more details are contained within the assessment section of the report, where appropriate):

8.2 Statutory:

KC Highways: Objection due concerns regarding the proposed site access and highway design in relation to the Highways Design Guide SPD and due to insufficient information to enable an informed highways assessment.

KC Lead Local Flood Authority: No objection subject to the relevant planning conditions regarding management and maintenance, detailed design of surface water drainage and temporary drainage provision; as well as the imposition of a planning obligation for management and maintenance agreement for site drainage from the point at which it is brought into operation up until the time it is adopted by the local sewerage undertaker.

The Coal Authority: Objection due to the lack of a Coal Mining Risk Assessment.

The Environment Agency: No comment.

Yorkshire Water: No objection subject to the necessary planning conditions to protect the local aquatic environment and Yorkshire Water infrastructure.

8.3 Non-statutory:

Northern Gas: No comment received.

KC Conservation and Design: No comments received.

KC Ecology: Objection due to insufficient information. Further bat surveys, in addition to assessment of the presence of two ponds within 100m of the site, should be undertaken and submitted within an EclA. Net gains for biodiversity have also not been demonstrated.

KC Environmental Health: No objections subject to the imposition of planning conditions regarding land contamination, noise and electric vehicle charging points.

KC Landscape: Concerns expressed that to consume the entire hard standing and building footprint of the site with dwellings and domestic gardens of a residential estate, despite the provision of the POS buffer to the east, will potentially adversely impact the openness and natural character afforded by the Green Belt. This is particularly the case from Muffit Lane. The feeling of rurality with the expansive views should not give way to a semi urbanised environment through the introduction of a residential estate road and amenity greenspace typical of the same. Dwellings are not just the buildings in themselves but their boundary fencing, sheds and inevitable associated domestic paraphernalia. Some examples of this can be seen by the photos provided in the Landscape and Visual Appraisal. Muffit Lane, Heckmondwike in the view from viewpoint 6, the domestic setting, when compared to views

from viewpoint 3. Development of the existing building footprint could accommodate residential development if the character and mitigative screening were addressed to minimise the visual impact and minimise erosion of the Green Belt. This development of 15 dwellings triggers the requirement for greenspace, Birstall and Birkenshaw Ward being deficient in Natural and semi natural and lack of accessibility within the distance for parks and recs and amenity greenspace. A total of 1440.30 sqm m of greenspace would be required to be provided. Clarification is sought regarding the size of the POS typologies to be provided on site, to work out the off-site financial contribution.

KC Policy: Objection due to the development being considered as inappropriate development within the Green Belt contrary to NPPF paragraph 145 and Local Plan policy LP59.

KC Strategic Housing: 3 units are sought from this development. If 1056m2 existing buildings is confirmed as vacant, this will be reduced to a contribution of 1.3 units. In terms of affordable tenure split, across the district Kirklees works on a split of 55% social or affordable rent to 45% intermediate housing, but this can be flexible. If VBC is applicable, a financial contribution would be accepted. Estimated financial contribution (based on 1.3 units) is £170,496.

KC Trees: No objection subject to the provision of a landscape management plan with regards to long term management and maintenance of the landscaping and open space, which could be secured via condition.

KC Waste Strategy: Concerns expressed. Further clarification requested and queries made with regards to the proposed bin storage, collection and presentation points. The access road is proposed to be private and generally a Refuse Collection Vehicles do not use roads that are not built to adoptable standards. It is not clear from the submitted documents if the access road will meet the adoptable highway standards required.

WY Archaeology: Concerns raised due to insufficient information. A desk top survey and fabric appraisal to determine if any remains related to mining survive. Demolition may result in the total loss of important evidence relating to mining in the late 19th and early 20th century.

WY Police Designing Out Crime: No objection to the principle of development. Concerns and comments made with regards to defensible space, boundary treatments, the road not being to adoptable standards, vulnerability of visitor parking spaces, and the use of shared pedestrian access into rear gardens

9.0 MAIN ISSUES

- Principle of development
- Urban design
- Housing mix and density
- Residential amenity
- Highways and transportation
- Flood risk and drainage
- Landscape, trees and biodiversity
- Ground conditions
- Planning obligations
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 Planning law requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
- 10.2 The NPPF states that the purpose of the planning system “*is to contribute to the achievement of sustainable development.*” The NPPF explains how achieving sustainable development means that the planning system has three overarching objectives, which are economic, social and environmental. These objectives are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives). The NPPF stresses the presumption in favour of sustainable development.
- 10.3 The site is not allocated or designated as a Primary Employment Area within the Local Plan but the proposal would mean the loss of a former general industrial and employment site (Class B2). Officers accept that the red line boundary contains land that is considered as previously developed land (brownfield land) as defined in the Glossary of the Local Plan and Annex 2 of the NPPF.
- 10.4 The proposal would mean the redevelopment of previously developed land on the edge of a settlement with access to shops and services. In addition, the proposal could be considered as a windfall site and the provision of 15 dwelling houses would provide a modest contribution to the Council’s housing land supply. As such, the proposal would accord with Local Plan polices LP1 and LP3 in terms of a housing development being located within a sustainable location.
- 10.5 The site is within the Green Belt. NPPF paragraph 133 states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 134 explains how the Green Belt serves five purposes, which is to check unrestricted sprawl, to prevent neighbouring towns merging, to assist in safeguarding the countryside from encroachment, to preserve the setting and special character of historic towns and to assist in urban regeneration.
- 10.6 NPPF paragraph 145 states that the construction of new buildings is inappropriate in the Green Belt. NPPF paragraph 143 explains that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. NPPF paragraph 145 does, however, list the types of development (involving the construction of new buildings) as exceptions that can be regarded as appropriate, including:

g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- *not have a greater impact on the openness of the Green Belt than the existing development; or*
 - *not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.*
- 10.7 Local Plan policy LP59 and supporting text endorses NPPF paragraph 145 criteria g. It states that normally the existing footprint should not be exceeded, but that it may be possible to redistribute the footprint around the site if there would be no greater impact on openness.
- 10.8 A cluster of former industrial buildings on the site means that the current built form is confined in the main to the centre/back (west) of the site with access to/from Leeds Road. There is no built form on the area of hardstanding to the east of the buildings and to the north, west and south is undeveloped land. The proposal shows access to the site would be gained via a new access road from Muffit Lane. The character of Muffit Lane in this location is unmanaged countryside and the creation of a new access road to serve 15 dwelling houses would very significantly impact on the openness of the Green Belt and the character of this part of Muffit Lane. The proposal would result in a new residential development being spread out over a greater area than that occupied by the existing buildings, closer to both Leeds Road and Muffit Lane, as well as further north, south and west. The increase and redistribution of the building footprints would result in a greater impact on the openness of the Green Belt by spreading development to areas where none currently exists and by making the development more visible as well as increasing activity over a wider area.
- 10.9 It is considered that the proposal ignores the site's current unique building arrangement. Instead, it would potentially introduce a typical suburban residential development, predominately defined by an estate road fronted by houses with driveways, garages and gardens behind. The proposal would introduce a very significant degree of fragmentation and enclosure of land into private gardens. The enclosure of land inside private gardens with all the resultant change in character, increase in activity and domestic paraphernalia that would result, would significantly intensify the use of a large proportion of the site over and above its current character and function.
- 10.10 This application is therefore considered to constitute inappropriate development in the Green Belt. Substantial weight should be given to any harm caused to the Green Belt by reason of inappropriateness and any other harm, and very special circumstances will not exist unless the harm so caused is outweighed by other considerations. For these reasons, the principle cannot be supported.

Urban design

- 10.11 Local Plan policy LP59 states that regard should be had to relevant design policies to ensure that the resultant development does not materially detract from its Green Belt setting. The relevant policies in this case are Local Plan policies LP24 and LP32. Local Plan policy LP24 states that the form, scale, layout and details of all development should respect and enhance the character of the townscape, heritage assets and the landscape. Local Plan

policy LP32 states that proposals should be designed to take into account and seek to enhance the landscape character of the area, in particular the setting of settlements and buildings within the landscape.

- 10.12 Understanding different landscape characters helps to ensure that development is sensitive to its location and contributes to environmental, social and economic objectives set out in the Local Plan. The existing character of this site is of an isolated cluster of functional industrial brick and metal clad buildings. Some of the industrial buildings have large footprints and of varying orientations and roof heights, partly screened by tree cover to the west and with some of the roofs visible when viewed from Muffit Lane.
- 10.13 The proposal is designed with a standard suburban layout of roads fronted by suburban looking detached, semi-detached and terraced dwelling houses and with prominent areas of car parking, most with substantial private gardens to the rear. An access road and managed Public Open Space would change Muffit Lane's predominate countryside character. The proposal has an entirely suburban character that is wholly incongruous in this Green Belt setting. One of the purposes of the Green Belt is to safeguard the countryside from encroachment and the scheme would result in the encroachment of a residential estate into the countryside. Therefore, when assessing the proposal against Local Plan policies LP24, LP32 and LP59, it is considered that there is insufficient merit in the design of the scheme to outweigh the substantial harm to the Green Belt caused by inappropriateness and to the reasons for including land in the Green Belt.
- 10.14 Officers remain of the opinion that there could be other more acceptable design solutions, with development concentrated in the footprint of the former industrial buildings. Officers are of the view that the existing access with Leeds Road should be utilised to facilitate an appropriate size of development and in order to eliminate the very substantial harm to openness caused by a new estate road access from Muffit Lane. Officers believe that the residential dwellings should be smaller in scale and height to ensure there is no greater impact on openness than the existing buildings. The character, form and appearance of the dwelling houses should be distinctive and take design cues from the site's former industrial heritage and/or from the dwellings with an historic rural vernacular found on Muffit Lane. Officers are also of the opinion that undeveloped land should be preferably returned to its original state or a more appropriate use for the countryside.

Housing mix and density

- 10.15 The proposed housing mix is outlined in paragraph 3.3 of this report and is considered acceptable in addressing the housing need in the Batley and Spen sub area and creating a sustainable community. The application is supported by an Affordable Housing Statement which provides the necessary justification in relation to vacant building credit. The Planning Practice Guidelines state that where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. Therefore, either 1.3 dwelling units on-site or an equivalent financial contribution of £170,496 would be required for the proposal to accord with Local Plan policy LP11, which could be secured by a planning obligation.

- 10.16 Local Plan policy LP7 developments should achieve a net density of at least 35 dwellings per hectare, where appropriate. Officers acknowledge that a lower net density would be acceptable on this site to ensure the development is compatible with its Green Belt setting and takes into consideration site constraints.

Residential amenity and quality

- 10.17 Local Plan policy LP24 and NPPF Chapter 12 both seek developments that have a high standard of amenity for existing and future users.
- 10.18 The proposal would not have an adverse impact on existing neighbouring residential amenity in terms of outlook, privacy and natural light as there is sufficient separation distance between the proposed dwelling houses and the nearest existing dwelling houses at Leeds Road and Muffit Lane.
- 10.19 Officers consider that all houses shown on the proposed site plan would benefit from dual aspect, and are capable of being provided with adequate outlook, privacy and natural light. All the houses would also have adequate outdoor private amenity space. The proposed houses would also be built in accordance with the Technical housing standards – nationally described space standard.
- 10.20 The development is within proximity to the A62 Leeds Road, a busy A route road. Environmental Health have raised concerns that road traffic noise may negatively affect future occupiers. No documents have been received that detail noise mitigation measures for the proposed development. The applicant must demonstrate that acceptable sound levels can be achieved indoors and in outdoor amenity areas, therefore, noise conditions would be considered necessary with any approval.
- 10.21 In terms of the potential amenity impacts of construction work at this site, including dust management could be controlled by planning condition requiring the submission and approval of a Construction Management Plan.
- 10.22 Subject to the necessary planning conditions, there are no reasons why new dwellings at the application site could not be provided without having an adverse impact on residential amenity.

Highways and transportation

- 10.23 The proposed residential development would result in the creation of a new access arrangement off Muffin Lane. The access road would consist of a 4.8m wide carriageway with a 2m footway and two separate footpaths tying into the existing footway along Muffin Lane. The supporting Transport Statement demonstrates how visibility splays would be in excess of 2.4m x 70m at the access location, in accordance with Manual for Street standards. Automatic speed surveys in the vicinity of the proposed access shows 85th percentile speeds of 24.2mph and 25.0mph in the northbound and southbound directions respectively. Officers consider that the speeds justify the visibility splays provided. A planning condition could be imposed to ensure the existing foliage is removed and a suitable surface applied at this access point. The existing access would be redesigned so that it only served the existing dwelling house.

- 10.24 Highways Development Management have not raised concerns regarding the proposed access arrangement onto Muffit Lane. However, to not impact on the openness of the Green Belt, officers would prefer the continued use of the existing access arrangement at Leeds Road rather than a new access arrangement at Muffit Lane.
- 10.25 The Design and Access Statement explains how the new access road would lead to a shared private access road which crosses the site in a courtyard format, which provides access to parking and private driveways. As outlined in the Highways Design Guide SPD paragraph 3.15, the Council expects new developments serving more than five dwellings should be laid out to adoptable standards and be able to be offered for adoption. Paragraph 3.16 explains how developments (in excess of five dwellings) with appropriate layouts may be considered acceptable to be served by private driveways under certain conditions. However, officers are of the opinion that insufficient information has been provided with respect to paragraph 3.16.
- 10.26 Highways Development Management have raised concerns about the proposed width of the access road shown at 4.8m. This is considered too narrow to facilitate this level of development, assuming the internal arrangement is to be adopted by the Council. No information is provided on the proposed gradients both at the site access and the internal estate road. The swept path analysis within the Transport Statement is unacceptable. The analysis shows that there would be no allowance for the passage of a car on the access road. It also shows that it may encroach on the visitor parking spaces shown on the proposed site plan drawing number 3060-0-001 F close to the entrance. This drawing also indicates a gated entrance to the site which is inconsistent with the other drawings. There are also other discrepancies between the swept analysis drawing when compared to proposed site plan drawing number 3060-0-001 F.
- 10.27 Further detailed comments have also been provided by Highways Section 38 with respect to pedestrian site access; horizontal and vertical alignments of the carriageway design; visitor parking arrangements; the need for hard margins; detailed drainage design within the adoptable highway; the need for a Stage 1 Road Safety Audit; consideration for mine shaft easements; and hatching clarification.
- 10.28 Highways Development Management and Waste Strategy have requested further information and clarification with regards waste storage, presentation, and collection for all dwelling houses. Officers have requested revised plans clearly showing sufficient space to the rear of properties to accommodate two bins and an access free of obstructions made available to a suitable collection point to the front of each property. Furthermore, the Council will not generally take a refuse collection vehicle into roads that are not built to adoptable standards. Based on the submitted documents, it is considered that the proposed access road would not meet the standards required.
- 10.29 Although, the above comments have been provided to the applicant further information or clarification has not been forthcoming. Therefore, insufficient information has been provided to demonstrate an appropriate highway design that accords with the guidance set out in the Highways Design Guide SPD. As such, officers consider that the proposed development would have a detrimental impact on highway safety, contrary to Local Plan policy LP21 and NPPF paragraph 109.

- 10.30 With regards to trip generations, the Transport Statement explains how the site already generates a level of traffic from the existing industrial use. The industry standard TRICS database has been interrogated to derive industrial and residential trip rates to ascertain the net increase in traffic as a result of the proposed development. It is estimated that there would be 12 vehicular movements for the morning peak hour (07:00-08:00) and 8 vehicular movements for the evening peak hour (16:00-17:00). When compared with the existing industrial use movements there is a total difference of 4 vehicular movements for the morning peak hour and 5 vehicular movements for the evening peak hour. There would be a slight increase in activity from the site contrary to the National Planning Practice Guidance paragraph: 001 reference ID: 64-001-20190722 with respect to the potential impact of development on the openness of the Green Belt. However, Highways Development Management consider the proposed trip rates acceptable in terms of the residual impact on the existing network.
- 10.31 In terms of road traffic accidents in the local vicinity, there has been one slight accident at the Muffit Lane / Leeds Road junction within the last five years. There are some slight accidents along Leeds Road as well as along White Leeds Road. There has been one serious accident at Muffit Lane and one serious accident at Huddersfield Road. However, Highways Development Management have not raised any objections to the proposal in relation to there being any existing highway accident patterns or problems in the vicinity of the site.

Flood risk and drainage

- 10.32 NPPF paragraph 155 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.
- 10.33 The submitted Flood Risk Assessment (FRA) considers the risk of flooding from various sources including rivers, groundwater, artificial sources and surface water. No objection has been raised by the Environment Agency, Yorkshire Water and the Lead Local Flood Authority (LLFA) to the assessment of flood risk and conclusions presented.
- 10.34 During the course of the application the LLFA requested an analysis of flow routing for the site to be provided, including any inflows from offsite and any flows originating on site, such as drainage exceedance or gulley bypass. This information has now been provided to the satisfaction of the LLFA.
- 10.35 The National Planning Practice Guidance (NPPG) paragraph: 080 reference ID: 7-080-20150323 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

- 10.36 During the course of the application, the LLFA requested further information that the drainage hierarchy had been considered. Subsequently, the applicant submitted a Percolation Testing Report which showed that infiltration features (soakaways) will not be feasible on site. As such, it is proposed that surface water would be discharged to a combined sewer at Leeds Road and that the necessary attenuation would be provided by cellular storage.
- 10.37 The proposed Drainage Strategy also shows how foul water drainage would be discharged into an existing combined sewer in Leeds Road.
- 10.38 There are now no objections by the LLFA and Yorkshire Water, subject to the imposition of the necessary conditions and planning obligations to ensure that the proposal accords with Local Plan policies LP27, LP28 and LP34 and NPPF chapter 14.

Trees, landscape and biodiversity

- 10.39 An Arboricultural Impact Assessment (AIA) has been provided with the application. It concludes that the site contained one tree that was categorised as moderate quality. Four trees, twelve groups and one hedge were categorised as low quality. Whilst seven trees, and four groups were classed as unsuitable for long term retention due to relatively short projected remaining life expectancies and/or projected conflict with built structures. The AIA goes on to explain how the construction of the proposed development would require the removal of three low quality trees, five low quality groups, parts of two further low quality groups, and one group that is considered unsuitable for long term retention. The Council's Tree officer has reviewed the application and has stated that there is no objection providing there is a landscape long term management and maintenance plan, which could be secured via condition.
- 10.40 A Landscape Visual Assessment (LVA) supports the planning application and officers acknowledge the assessment's findings in relation to assessing the impact of a proposal on the openness of the Green Belt. However, officers are of the opinion that, in itself, does not justify inappropriate development in the Green Belt and that this can only be done with a redesign of the proposal.
- 10.41 A Landscape Masterplan supports the planning application. The proposal includes a large area of public open space on either side of the access road from Muffit Lane. Supporting information explains that there would be a combination of clearing and maintenance of the existing overgrown vegetation, along with the retention of the stone wall running along Muffit Lane, and several mature trees and vegetation at key locations. A native hedge species is proposed to run alongside the retained wall and at key locations along the boundary. Additional woodland mix planting is also proposed to break up the large area of Public Open Space. New tree planting is proposed to run adjacent to the access road leading to the internal access road to the developable area, along with some proposed tree planting and ornamental shrub planting inside of the developable area of the site.

- 10.42 Concerns have been raised that the proposed landscape scheme could significantly change the character, appearance and understanding of the site from Muffit Lane. The proposed landscape scheme could potentially result in a landscape setting appropriate for a residential development rather than for the Green Belt's predominate rural setting. For example, the proposed Public Open Space may result in an increased activity due to its 'public' use with roads and footpaths dissecting the large space that is currently private, unmaintained and not managed. Furthermore, insufficient information has been provided to show that the proposed Landscape Masterplan would retain the site's key habitat features and demonstrate a biodiversity net gain.
- 10.43 A Preliminary Ecological Appraisal report (PEAR) has been provided with the application, which identifies the need for further bat surveys at the site. In addition, the Council's Ecologist has requested surveys of two nearby ponds as the site is considered suitable for amphibians and the proposal may have potential impact upon Great Crested Newts. Biodiversity net gains have also not been demonstrated and a completed Biodiversity Metric is requested to quantify the change in biodiversity pre and post development. Therefore, due to insufficient information the proposal is contrary to Local Plan policy LP30 and NPPF chapter 15.

Ground conditions

- 10.44 The application site is a former colliery site and falls within the defined Development High Risk Area. Therefore, within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.
- 10.45 The Coal Authority records indicate the site is within an area of probable shallow coal mining and thick coal seams outcropping within the site and surrounding area that could also have been subject to shallow workings by illicit means. In addition, there are two on site recorded mine entries of which the exact location is currently unknown and the Coal Authority has, in the past, been called upon to deal with 2no. surface hazards within the site. Mapping also shows associated infrastructure such as tramways and buildings on site.
- 10.46 The planning application is accompanied by a Phase 1 Environmental Desk Study Report, dated 21/11/2009 prepared for the proposed development by Rogers Geotechnical Services Ltd. Whilst this Report has identified the coal mining risks associated with the redevelopment of this site, the report author identifies that in order to establish the level of risk / mitigation strategy, a Coal Mining Risk Assessment is required.
- 10.47 A Coal Mining Risk Assessment has not been submitted and as such the application is contrary to Local Plan policy LP53 and NPPF chapter 15.
- 10.48 Environmental Health have reviewed the Phase 1 Report. There are significant source-receptor pathways on-site for various contaminants such as asbestos, metals, hydrocarbons which have been identified and officers generally agree with the report's findings. However, for the risk from 'mine gases', the report recommends that a Coal Mining Risk Assessment is needed. Therefore, due to the missing information regarding the coal mining legacy at the site, Environmental Health have little certainty in the risk rating

assignment for mine gases. Further information is required to improve the confidence of the risk assessment shown in the Phase I report. As such, Environmental Health have requested the necessary contaminated land planning conditions.

Representations

10.49 The majority of concerns raised in representations are addressed earlier in this report. Other matters raised are addressed as follows:

- Adverse impact on rat running, traffic and highway safety on Muffit Lane.
Officer response: The planning application is supported by a Transport Statement which has assessed the proposal's impacts on these matters. Highways Development Management has not raised any objections regarding these matters.
- Quite a lot of trees have been lost on the site which should be replanted along Muffit Lane
Officer response: Noted. The planning application is supported by a Landscape Masterplan and Arboricultural Impact Assessment. This information has been reviewed by the Council's tree officer who has raised no objections or commented on this matter.
- A modern Green Belt play area would not be in-keeping with the natural theme.
Officer response: The proposal would mean the establishment of a large Public Open Space to Muffit Lane. Based on the submitted information it is not understood that a 'play area' would be sited within this location. As already stated, officers have concerns that the proposed Public Open Space could significantly change the character, appearance and understanding of the site from Muffit Lane and represent encroachment. This is contrary to Local Plan policy LP59, NPPF chapter 13 as well as Planning Practice Guidance paragraph: 001 reference ID: 64-001-20190722.
- Unacceptable impact on properties of the views of open fields
Officer response: This is not a material planning consideration in this instance.
- Development will set a precedence for further development of the fields beyond the development boundaries.
Officer response: This area of land is located within the Green Belt and the Government attaches great importance to Green Belts. When considering any planning application, local planning authorities would ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Planning obligations

- 10.50 Planning obligations, that would need to be secured by a Section 106 agreement, would be necessary to mitigate against the impacts of the proposed development, should planning permission be granted. In accordance with paragraph 56 of the PPF, planning obligations should only be sought where they are:
- 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
- 10.51 No section 106 agreement has been submitted. It is considered that the necessary planning obligations are required to ensure the proposal is policy compliant, in relation to affordable housing (policy LP11), public open space (policy LP63) and landscape management and maintenance (policy LP32), sustainable travel (policies LP20, LP21 and LP4), flood risk and drainage management and maintenance (policies LP27 and LP28), and biodiversity net gain (policy LP30). As such, officers would not be able to support an application without these necessary planning obligations.

Other Matters

- 10.52 No information has been provided as to how the proposal would address the Council's climate change agenda. However, it is acknowledged that the proposed drainage strategy would take into consideration flood risk events associated with climate change, in accordance with Local Plan policies LP27 and LP28, as well as NPPF chapter 14.
- 10.53 Coal mining is recorded at White Lee from the 17th century and many small mine entries are shown in the vicinity on the Ordnance Survey First Edition six-inch to the mile map (surveyed 1847 – 51, published 1852). However, White Lee Colliery operated between 1888 and 1941. At present it is not known if the industrial buildings on the site relate to this final phase of mining or to the site's later engineering use. West Yorkshire Archaeology Advisory Service have advised that in the first instance the site should be subject to a desk top survey and fabric appraisal to determine if any remains related to mining survive. Depending on these results further archaeological and architectural recording may be necessary prior to demolition, which could be secured by planning condition. As such, insufficient archaeological information has been provided contrary to Local Plan policy LP35 and chapter 16 of the National Planning Policy Framework.
- 10.54 The site falls within a Minerals Safeguarding Area for Surface Coal Resource with Sandstone and/or Clay and Shale. No information has been provided by the applicant with respect to Local Plan policy LP38, which seeks to protect known mineral reserves from permanent development which may sterilise such resources.
- 10.55 The West Yorkshire Police Designing Out Crime officer has made a number of comments and recommendations, particularly with regards to home security, front to rear access paths, security, boundary treatments and location of visitor parking spaces. All comments made are advisory and have been referred to the applicant. In this instance, it is considered that some of

the advisory comments, mainly in relation to boundary treatments may conflict with Green Belt policy. Officers consider that a revised proposal subject to the relevant planning conditions could be satisfactorily developed in this location, whilst minimising the risk of crime through enhanced security and well-designed security features in accordance with Local Plan policy LP24 (e).

11.0 CONCLUSION

- 11.1 The application site is designated as Green Belt and as described in NPPF paragraph 133, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Officers consider that this proposal would represent encroachment due to the proposed design, scale and spread of development as well as the enclosure of land into gardens. The proposal would have a greater impact on openness than the existing former industrial premises, representing inappropriate development with no very special circumstances demonstrated, contrary to Green Belt policy.
- 11.2 The submitted information fails to demonstrate that the proposal would not have an adverse impact on highway safety, biodiversity and coal mining legacy. No information has been provided with regards to the site's archaeological interest as a former colliery or with regards to the site being located within a Minerals Safeguard Area for Surface Coal Resource Surface Coal Resource with Sandstone and/or Clay and Shale. Thus, the proposal has failed to accord with the relevant policies of the Local Plan and the guidance within the National Planning Policy Framework.
- 11.3 In the absence of a signed Section 106 agreement the proposal cannot be considered to be policy compliant with regards to affordable housing, public open space, landscape maintenance and management, sustainable travel, flood risk and drainage management and maintenance, and biodiversity net gain.
- 12.0** The application is recommended for refusal for the reasons set out at beginning of this report.

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020/91643>

Certificate of Ownership – Certificate B signed: Notice served on 93 Huddersfield Road, Heckmondwike.

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 04-Nov-2020

Subject: Planning Application 2018/94162 Erection of dwelling and 3 outbuildings and works to access Upper Langley Farm, Langley Lane, Clayton West, Huddersfield, HD8 9HY

APPLICANT

E Tipler

DATE VALID

18-Dec-2018

TARGET DATE

12-Feb-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: Denby Dale

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

REFUSE

1. The application site is located upon land designated as Green Belt on the Kirklees Local Plan, within which development is severely restricted. The applicant has failed to demonstrate that there is an essential and permanent requirement for a new dwelling on this site. As such the proposal constitutes inappropriate development in the Green Belt for which there are no very special circumstances that would justify allowing the proposal contrary to Green Belt policy. As such, the application fails to comply with the aims of Policies LP24 and LP55 of the Kirklees Local Plan as well as the aims of the Chapters 12 and 13 of the National Planning Policy Framework and would result in significant harm to the openness of the Green Belt and its rural character.

1.0 INTRODUCTION:

1.1 Full planning permission is sought for the erection of a dwelling and 3 outbuildings together with works to the access on land to the north of the former Upper Langley Farm, Langley Lane in Clayton West. The application is brought to Heavy Woollen Planning Committee in accordance with the scheme of delegation as the size of the site is over 0.5ha.

2.0 SITE AND SURROUNDINGS:

2.1 The application relates to a rectangular-shaped parcel of land located to the north of the former Upper Langley Farm. To the south, the site is bounded by the railway embankment of the Kirklees Light Railway and beyond this, the Pilling Lane residential development scheme is currently under construction. To the north, east and west of the site is agricultural land. A water course, Park Gate Dike, runs to the north of the site.

2.2 The red line boundary illustrates the site access from the adopted highway; this extends through the field to the north of the site and then eastwards along the existing track known as Langley Lane. Public Rights of Ways run around the edges of the site and along the access. There is a bridge over the watercourse which provides access to the site.

2.3 The applicant previously occupied Upper Langley Farm, which was located on the site of the current residential development scheme to the south. It is understood that the applicant tenanted this land prior to development commencing, and surrendered his land and farmstead following the grant of planning permission for the residential development scheme. The applicant

has since moved onto the site which remains in his ownership and is currently living in a large caravan on the site. The applicant has also moved many belongings onto this land too, which include vehicles, farm machinery, scrap metal/building materials, containers and the stone acquired from the demolition of the farmhouse.

3.0 PROPOSAL:

3.1 Planning permission is sought for the erection of a detached dwelling on this site, together with the erection of 3 detached outbuildings.

3.2 The dwelling would be single storey and have a maximum footprint of 19.9m x 12.7m. It would have a maximum height of 5.7m with approximately 2.6m to the eaves. Internally, the dwelling provides a large open-plan kitchen dining area with lounge, 3no. bedrooms, 1no. en-suite, a house bathroom, a home office, a utility room and a shower room. The dwelling would have the appearance of a typical domestic bungalow; it is designed with a number of gable roof forms and openings in all four elevations. It would be faced in stone salvaged from the demolition of the former farmhouse. The dwelling would be positioned in the north-eastern corner of the site.

3.3 In addition to this, 3no. outbuildings would be erected to the south of the dwelling. They would each have a footprint of 14m x 14m and a ridge height of 8.2m with 4m to the eaves. The outbuildings would be faced in reclaimed natural stone to the front elevation, with timber boarding and concrete block to the sides and rear. Each would contain a roller-shutter door on the front elevation and a pedestrian door to the side. 2no. of these buildings would be used as storage and third for vehicle maintenance.

3.4 A small area of the site is indicated as provided amenity space for the applicant and other areas are shown to be used by grazing animals. A site access would be formed through the field which would be surfaced in crushed gravel. This would lead to a parking area for 4no. cars.

3.5 In addition to this, works to the existing PROW that links the application site to Langley Lane are proposed. This land is currently grassed, with wheel tracks through. The proposal would also result in works to surface this PROW, together with the junction where the 3 PROWs converge. This will result in the provision of an approximately 3m wide track through this field. It is proposed that this would be surfaced in crushed gravel.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 2018/91387 – Erection of dwelling and 3 outbuildings – withdrawn
- Enforcement: COMP/18/0009: Alleged siting of residential caravan and storage use on the site

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

5.1 A meeting has been held with the agent on the application on the highways/PROW aspects of the scheme, as the agent wished for all highways issues to be addressed prior to addressing agricultural need and green belt issues. Discussions have also been held in relation to ecology matters and additional supporting information was provided.

5.2 A joint site visit has been held between, the case officer, applicant, agent and the agricultural consultant who has been involved in assessing this application.

5.3 Following this and the response from the Agricultural Consultant, there was further dialogue between the Agricultural Consultant and the agent in relation to agricultural need.

6.0 PLANNING POLICY:

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019). The application site lies within the Green Belt.

Kirklees Local Plan (2019):

6.2 Relevant Kirklees Local Plan Policies are set out below:

- LP 1 – Sustainable Development
- LP 21 – Highway Safety
- LP 23 – Core Walking and Cycling Routes
- LP 24 – Design
- LP 27 – Flood Risk
- LP 28 – Drainage
- LP 30 – Biodiversity and geodiversity
- LP 33 – Trees
- LP 51 – Protection and improvement of local air quality
- LP 53 – Contaminated and unstable land
- LP 55 – Agricultural and forestry workers dwellings

Supplementary Planning Guidance / Documents:

6.3 Kirklees Highways Design Guidance Supplementary Planning Document.

National Planning Guidance:

6.4 Relevant sections of the National Planning Policy Framework are set out below:

- Chapter 5 – Delivering a sufficient supply of homes (rural housing para 79)
- Chapter 6 – Building a strong, competitive economy (Supporting a prosperous rural economy para. 83)
- Chapter 12 – Achieving well-designed places
- Chapter 13 – Protecting Green Belt land
- Chapter 15 – Conserving and Enhancing the Natural Environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 As a result of this application, 14no. representations have been received from members of the public from two periods of publicity. Councillor Turner has also been in contact with the case officer to express concern about the proposed development due to Green Belt and highways issues.

7.2 The representations received are summarised below:

- The site is Green Belt and of high environmental value
- The applicant could live in another dwelling
- The access road is already busy
- Concerns about contamination due to the former use
- Proximity to the river and it is felt that the land acts as a natural flood plain which should not be disturbed
- Concerns about the bridge over the watercourse
- Concerns about the impact on the PROW
- Concerns about the impact on wildlife, particularly on fish in the river

7.3 Denby Dale Parish Council comments:

This is not a sustainable development. The proposed dwelling and associated buildings are in an inaccessible location to any public road. The applicant seeks to form a new single-track roadway, along a Public Right of Way, through a sizeable acreage of cultivated Green Belt agricultural land. Vehicular access to the site over Park Gate Dike either from the new proposed roadway or any existing point has not been fully detailed. There would be insufficient safe access for fire tenders and refuse collection vehicles especially during winter conditions. The nearest bus stop on Wakefield Road is over a kilometre away, therefore all movements to shops, doctors and amenities would be by motor vehicle and all agricultural and delivery vehicles would have to negotiate a narrow single-track roadway with no passing places. The application is for a new dwelling which under Part 9 of the NPPF constitutes inappropriate development, impacting upon the openness of the Green Belt. Therefore, no special circumstances have been shown.

8.0 CONSULTATION RESPONSES:

The following is a brief summary of the consultee advice (more details are contained within the assessment section of the report, where appropriate):

8.1 **Statutory:**

- KC Highways DM (including PROW): no objection subject to condition
- The Environment Agency: no objection. Should become apparent that works are reviewed to strengthen the bridge, they should be reconsulted
- KC Lead Local Flood Authority (LLFA): no objection

8.2 Non-statutory:

- Agricultural Consultant – raised concern about a genuine agricultural need for a dwelling on the site
- KC Environmental Health: no objection subject to conditions
- KC Trees: no objection
- KC Ecology: no objection subject to condition

9.0 MAIN ISSUES

- Principle of development
- Design, visual amenity and openness of the Green Belt
- Residential amenity
- Highway Safety and PROW
- Drainage issues
- Ecology issues
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The statutory development plan is the starting point in the consideration of planning applications for the development or use of land unless material considerations indicate otherwise (Section 38(6) Planning and Compulsory Purchase Act 2004).
- 10.2 The site is located within the green belt on the Kirklees Local Plan, and the proposal is for a dwelling and 3no outbuildings. Paragraph 143 of the NPPF stipulates that as with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In paragraph 144, it goes on to state that Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Paragraph 145 stipulates a Local Planning Authority should regard the construction of new buildings as inappropriate in the Green Belt. The proposal does not fall under one of the exceptions in Paragraph 145 and is therefore inappropriate development.
- 10.3 Chapter 5 – rural housing - paragraph 79 of the NPPF states that 'planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply;
- a) There is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside.

As such the proposal could be considered under very special circumstances if it is demonstrated that there is both an essential and permanent need for a worker to be housed at their place of work.

- 10.4 In this instance, supporting information has been submitted alongside this application which sets out the context of the application and attempts to justify the need for the proposed development. By way of context, within the supporting information, it is set out that this proposal follows the approval of the residential redevelopment of the land to the south of the planning application site, which is currently been developed for 200 houses by Redrow Homes. This site previously contained Upper Langley Farm which was occupied by the applicant. Following the grant of planning permission, it is stated that the applicant tenanted this land and surrendered the land and farmstead to allow for this development to be carried out. As such, it is stated that the current proposal would seek replacement facilities in connection with the applicant's farming business. Within the supporting information, it is set out that the applicant and his family have had a beef cattle enterprise at Langley Farm and Upper Langley Farm since the 19th century, with the applicant taking over the farm business in 1982. It is asserted that the current application for the erection of a dwelling and 3no. outbuildings would enable the continuation of the farming enterprise at this location.
- 10.7 This supporting information has been reviewed by an Agricultural Consultant. The consultant has requested and reviewed supporting information, alongside the proposed development. In addition to this, the Agricultural Consultant has visited the site and entered into discussions with the farmer (applicant) and the agent in order to gain a detailed understanding of the farming operations that are taking place on the site in order to identify whether or not a genuine agricultural need exists on the site that would justify the proposed development. The Agricultural Consultant raises a number of concerns about the proposed development and the agricultural need that exists. These comments are replicated in Appendix 1.
- 10.4 Policy LP55 of the Kirklees Local Plan relates to agricultural and forestry workers dwellings and as such is relevant in the determination of the application. This sets out that in such cases, this type of development will normally be acceptable where there is both 'an essential and permanent need for the dwelling based on the functional requirements of the enterprise it is intended to serve'. This policy sets out key considerations on the matter in relation to agricultural need, siting, availability of existing accommodation, temporary permissions, and security of the long-term control, scale of the proposal and history of the holding. An assessment of the proposed development, using the comments of the Agricultural Consultant is set out below, in the context of this policy.
- 10.5 Policy LP55 criteria a) requires there to be both an essential and permanent need for a new dwelling based on the functional requirements of the enterprise it is intended to serve. To demonstrate that the need is essential attendance must be required at short notice at all times of the day or night, where failure to attend could result in serious loss of crops or livestock. An essential need may be demonstrated when animals are vulnerable, for example if animals are housed indoors for over-wintering from November to Spring. At section 4.9 to 4.18 of the supporting statement the applicant has given the number of livestock normally on the holding, but it is understood that

there are no animal sheds at Upper Langley farm nor are any proposed with this application. The livestock are land based/grass fed and kept permanently outdoors. There is a clear distinction to be made between general livestock and those that are vulnerable. As noted by the agricultural consultant, mature livestock grazing outdoors can be unattended for significant periods and consequently there is only a very modest requirement on this holding with respect to vulnerable livestock. An essential need has not therefore been adequately demonstrated.

- 10.6 To demonstrate that the need is permanent the requirement for someone to reside on site must be on a full-time basis and the enterprise should be sound, meaning that it is financially able to sustain the farming enterprise both now and as far as can reasonably be seen ahead. The need for a full-time worker is normally assessed using the 'standard man day' (SMD) calculation and a permanent need will not arise unless the unit can support at least 1 full time worker. The applicant has provided information that demonstrates that there is the need for the equivalent of 1.37 full time workers on this enterprise. The applicant's calculation includes a stated number of head of cattle, a contribution from the acreage of pasture as well as an allowance for management and routine maintenance. The Agricultural Consultant has questioned the stated number of cattle based on evidence that there may not be as many animals on the holding as the supporting information would suggest. Neither the acreage of pasture nor the routine managerial and maintenance activities, while a normal part of the function of the farming enterprise, require someone to be living on site. At paragraph 4.11 of the supporting information the applicant states not only that they are employed on a full time basis but also that there is one other full time worker as well as additional labour brought in at peak times, but there is nothing in the remaining information, in the SMD calculation or evidence on site to justify this statement. Given the above, together with the comments from the Agricultural Consultant, who states that the holding is 'barely more than a one man unit' it is considered that the need for a full-time worker would be marginal at best.
- 10.7 Permanence is also judged on whether the enterprise is operated on a sound financial basis and there is the prospect of it remaining so as far as can reasonably be seen ahead. In support of the proposal the applicant states that his family has operated a beef cattle enterprise at Langley farm since the 19th century and that the enterprise supports the applicant. However it cannot be overlooked that a significant amount of land was lost to this farm when the neighbouring residential development was approved, amounting to at least one third of the total land holding. Both the Design and Access statement and the supporting planning statement indicate that the applicant owns 10ha of land, but from plans submitted and from discussion on site it would appear that the applicant only owns approximately 4ha of land, with a further 15ha on an agricultural tenancy. This is therefore now a modest holding. While agricultural tenancies may be common the very small amount of land directly controlled by the applicant is a concern as it would render the enterprise wholly unviable should the remaining tenanted land become unavailable. As it is the enterprise only returns an income below the national living wage. It is a material consideration whether the house, once built, would impact on the viability of the enterprise for future occupants. In support of the scheme the applicant has stated that the presence of the house would generate more income but it is unclear how this would be the case, especially given that the applicant already lives on site (compliance ref: COMP/18/0009)

- 10.8 The applicant's intend to use material salvaged from the former farmhouse to construct the new house and have stated that they will not need to borrow capital to finance the build. While that may be the case, future buyers may need to service a mortgage or other loan from the income generated by the farm. If the holding with the house is unaffordable for an agricultural worker pressure would quickly arise for the agricultural occupancy condition to be removed. The Agricultural Consultant has stated that the floorspace of the proposed house would be excessive for the function it is intended to serve. Notwithstanding the number of bedrooms proposed, the overall floorspace is around 200sqm which significantly exceeds those set out within the Nationally Described Space Standards produced by the government as guidance in terms of floor areas for residential developments. For a 3 bedroom bungalow the Space Standards indicate a minimum GIA of 74 – 95sqm. Any new house must be commensurate with the size and functional requirement of the holding and not the personal preference or circumstances of the applicant. The applicant has stated that the new dwelling is a replacement for the one lost and in which he used to reside. It is not the case however that a farmhouse of the size commensurate with the original holding should automatically be replaced on the smaller holding as it is the needs of the holding that must be considered, not the needs of the applicant. Unless the authority can be satisfied that the house would not render the enterprise unviable for any future occupant, it cannot conclude that the need is permanent as far as can reasonably be seen ahead.
- 10.9 Policy LP55 criteria b) states that the new dwelling should be suitably located for the purpose for which it is intended. This means that it should be within or close to an existing farmstead and within sight and sound of vulnerable livestock. As there is no existing farmstead and no animal buildings it could be argued that the dwelling could be located anywhere on the farm. Furthermore, the plan shows the house positioned furthest from the access necessitating a long drive through land which is indicated to be grazed by young animals. It is also located where there must be doubt as to whether any animals on the remainder of the holding would be within sight and sound of it.
- 10.10 LP55 criteria c) requires the consideration of whether there is any other suitable accommodation nearby, whether there is another dwelling available on the holding or whether a dwelling could be provided through the conversion of a building. It is accepted that there is no other dwelling available on the holding and no buildings suitable for conversion. However, the application site is not isolated. It is located on the edge of Scissett, which is a sizable settlement, and in very close proximity to the large housing development that resulted in the loss of the farmstead and land. Scissett is a large enough settlement to have provide a range of available house types and sizes in the years since the applicant was required to vacate the farmhouse. Given that the LPA have concluded that there is a lack of an essential need for a full-time on-site presence on the site, residing in Scissett is considered to be a viable option in order to sustain the farming activities that currently take place.

- 10.11 Policy LP55 paragraph 4 states that any proposal for a new dwelling deemed disproportionate in scale or inappropriately sited or designed in terms of impact, including the treatment of land around it, will not be acceptable. The size of the house has already been considered in the assessment above. As well as the house, the application includes the construction of 3no. large outbuildings. These are proposed to constitute 2no. storage buildings and a vehicle maintenance building. The Agricultural Consultant has commented that from the plans provided, the door height is somewhat lower than would be expected for a conventional agricultural building and the roof pitch appears steep at 30 degrees. The span:depth ratio is also unusual. In support of the proposal it has been stated that the buildings meet the needs of the applicant, but it is the needs of the holding that must be considered. As they are proposed to be stone fronted their construction is unusually expensive for agricultural buildings and the fact that there are three of them, detached but in close proximity gives the appearance of a range of large garages. In fact when considered as a whole the design and location of the house, the long driveway and stone fronted outbuildings gives the proposal a domestic rather than an agricultural character, resulting in a scheme that looks like a house and outbuildings set in a large garden/paddock.
- 10.12 Policy LP55 paragraph 5 states that in all cases the history of the enterprise will be scrutinised and where fragmentation has occurred new dwellings will not normally be permitted. It is acknowledged that this enterprise has not been fragmented but it has been substantially reduced in size and as has been considered above the ability of the holding to support the development proposed is a material consideration.
- 10.13 In conclusion neither an essential nor a permanent requirement for a new dwelling on this site has been demonstrated to the satisfaction of officers. As such the proposal constitutes inappropriate development in the green belt for which there are no very special circumstances that would justify allowing the proposal contrary to Green Belt policy. The application fails to comply with the aims of Policy LP55 of the Kirklees Local Plan as well as the aims of the National Planning Policy Framework.

Design, visual amenity and openness of the Green Belt

- 10.14 Policy LP24 of the Kirklees Local Plan requires good design to be at the core of planning decisions. This echoes the guidance contained within Chapter 12 of the National Planning Policy Framework which also asserts the importance of achieving high quality design through the planning process. As set out above, the site and its access lie within Green Belt land and at Chapter 13 of the NPPF, the Government place great weight on protecting the openness of the Green Belt.
- 10.15 Whilst located adjacent the railway embankment, this site is nonetheless highly visible from public vantage points. PROWs bound the site on three sides and the southern boundary of the site is formed by the embankment itself. This makes the site highly visible to users of the Kirklees Light Railway from an elevated position. Whilst the current state of the site is noted, as set out above, this, together with the applicant's caravan, are subject to planning enforcement.

- 10.16 In terms of the design of the dwelling and outbuildings, when considered in isolation, and notwithstanding the concerns raised above about how these structures would serve an agricultural need, their design and scale could be considered acceptable. However, when considered as a part of the countrified setting in which they are proposed, introducing the proposed built form on the site, together with the works proposed to the access, would result in substantial harm to the openness of the Green Belt. The works to form the access would result in the introduction of a gravel-surfaced access track through the adjacent field along the route of the PROW, which would significantly alter the rural character of the field. The harm identified above is not outweighed by any very special circumstances. Officers consider that significant weight would be afforded to this harm.
- 10.17 As such, it is considered that the proposed development would represent an unacceptable level of harm to the openness of the Green Belt and the countrified character of the area. There are no very special circumstances to outweigh this harm and the application is considered to conflict with the aims of Policy LP24 of the KLP as well as Chapters 12 and 13 of the NPPF.

Residential amenity issues

- 10.18 Policy LP24 of the Kirklees Local Plan together with the aims of the National Planning Policy Framework require a good standard of amenity to be achieved through planning decisions for the existing and future occupiers of neighbouring land.
- 10.19 In this instance, the proposed development and associated works are located a significant distance away from residential properties. As such, there would be no significant adverse impact on the residential amenity of occupants of existing dwellings as a result of this application.
- 10.20 In terms of the amenity of the future occupants, the dwelling would have ample internal floorspace, as well as a garden area with terrace externally. There would be sufficient parking arrangements. As such, the occupants would have a good standard of amenity. Given the proposed use of the dwelling which is to be associated with farm activities, KC Environmental Health recommend that the agricultural occupancy condition is also applied in this instance.
- 10.21 In summary, the proposed development is considered to be acceptable in relation to residential amenity and complies with the aims of Policy LP24 of the Kirklees Local Plan and the aims of the NPPF.

Highway Safety and PROW issues

- 10.22 Langley Lane is a long unmade track that serves a number of dwellings around Emley Lodge. Barring some field entrances, there is little room for more than one vehicle to use the route at any one time.
- 10.23 Highways and PROW officers met with the applicant and agent following a previous application in 2018 to try and resolve a number of highway issues. There were many concerns, but some advice was given in terms of what information would be required to provide an informed assessment. These included surfacing details of the proposed new access, structural details of the

bridge over the Park Gate Dike and details of any improvements, and information in terms of sustainability (refuse collection, emergency vehicle access).

- 10.24 For the most part, this information has been supplied by the applicant to the satisfaction on Highways DM, given the proposed use of the dwelling for agricultural purposes that the applicant alleged was required in this location. In terms of bin collection and emergency access, KC Highways DM state that a lot of weight has been given to the existing use of the track by the Emley Lodge Cottages, although swept path analysis of a fire appliance accessing the site has been provided by the applicant.
- 10.25 The council's PROW team have also been consulted regarding the improvements to the section of public footpath not presently served by any dwellings, and have come to a compromise in terms of surfacing and width. Some concern remains regarding the suitability of the beck crossing to sustain a fire appliance and delivery vehicles, but analysis and any structural work required would be conditioned should the application be approved.
- 10.26 On balance, KC Highways DM state the proposed development is acceptable for the agricultural development proposed on the site. This is subject to conditions relating to surfacing being permeable, details of surfacing to be agreed, a structural survey in relation to works to the bridge, waste arrangements, together with a note about obstruction to the PROW. The proposed development is considered, on balance, to accord with the aims of Policies LP21 and LP22 of the Kirklees Local Plan.

Flood Risk and Drainage issues

- 10.27 The main section of the site is situated south of Park Gate Dike. This classed as a statutory main river. This river has been modelled by the Environment Agency to show the risk zones associated with this watercourse. The buildings proposed on this site are all within flood zone 1, this is the lowest risk zone from fluvial flooding sources.
- 10.28 The LLFA has been consulted on the application, who confirm that the site lies within Flood Zone 1. The comment that the main access to the site crosses Park Gate Dike and may become impassable in extreme weather events. In this event there are sufficient alternative routes for leaving the site to the south via the PROWs that bound the site to the side. As such, no objection is raised by the LLFA subject to a condition in relation to surface water drainage.
- 10.29 Discussion has been held with the Environment Agency who has reviewed the application. As set out in the highways section above, it is currently unknown as to whether any structural works to be bridge would be required to support the proposed use. The Environment Agency raise no objections at this stage, however, should the application be approved, they would want to be consulted at the discharge of condition stage should it be found that works to be bridge would be required. It is understood that this is to ensure that any proposed works would have an acceptable impact on flows through the river. No objections are raised in principle. This work would be subject to the EA's Environmental Permitting too and informative details have been passed on for the attention of the applicant should this application be approved. Comments are also made in relation to emergency evacuation routes, which are addressed in the LLFA's comments as set out above.

- 10.30 As such, the proposed development is considered acceptable in relation to flood risk and drainage subject to the conditions set out above. The application is considered to comply with the aims of Policies LP27 and LP28 of the KLP and the aims of Chapter 14 of the NPPF.

Ecology issues

- 10.31 The application site lies within the Kirklees Wildlife Habitat Network, bat alert layer and an area where Great Crested Newts have been previously recorded within 500m of the site. During the course of the application, a Preliminary Ecological Appraisal (PEA) was provided to support the proposed development. KC Ecology officers have reviewed this and considered that the PEA provides adequate assessment to conclude that negative ecological impacts will be limited provided certain mitigative measures are applied.
- 10.32 Should work be required on the bridge to provide access to the site across Park Gate Dike, updated surveys are recommended prior to the commencement of works in relation to Otter, water vole and white clawed crayfish. Given the nature of the type of work recommended by the survey, following further discussion, KC Ecology conclude that it would be acceptable to condition these elements should works be granted. They comment that white clawed crayfish may only be an issue should works to the channel be required and even so, are unlikely to be a constraint to any bridge works.
- 10.33 Should the application be approved, in order to prevent significant ecological harm and secure a biodiversity net gain on the site, KC Ecology Officers would recommend conditions relating to the production of a CEMP, a lighting design strategy for biodiversity and an Ecological Design Strategy. This would allow the proposed development to comply with the aims of Policy LP30 of the KLP and the aims of Chapter 15 of the NPPF.

Tree Issues

- 10.34 KC Trees officers have reviewed the proposed development and comment that there are no trees which would meet the criteria for a new TPO to be served that would be affected by this proposal. Therefore, KC Trees Officers raise no objection. The proposed development is considered to comply with the aims of Policy LP33 of the KLP and the aims of Chapter 15 of the NPPF.

Land Contamination and Stability

- 10.35 KC Environmental Health Officers have reviewed the application and raise no objection in principle. However, due to the former use of the site, the land is registered as being potentially contaminated and a suite of conditions is recommended should the application be approved. These relate to the submission of Contaminated Land reports, and a remediation strategy and validation report where required.
- 10.36 The land where building operations are proposed to take place is registered as a low-risk area with respect to coal mining legacy. As such, no consultation with the Coal Authority has taken place. With a stretch of the access track that would be surfaced and widened under this application does lie within a high-risk coal mining area, given the nature of the works, which are non-invasive into the ground, the proposal is considered acceptable from this perspective.

10.37 In summary, the proposed development is considered to comply with the aims of Policy LP53 of the KLP and the aims of Chapter 15 of the NPPF.

Climate emergency

10.38 On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target. However, it includes a series of policies, which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

10.39 Considering the small-scale of the proposed development, it is not considered that the proposed development would have a significant impact on climate change that needs mitigation. The imposition of a condition for an electric vehicle charging point has been recommended by KC Environmental Health Officers. This is satisfactory to address the climate change emergency given the small scale of the proposed development. The proposed development complies with Policy LP51 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

Representations

10.40 A summary of the representations, together with a response from the Officer, is set out below.

- The site is Green Belt and of high environmental value
Response: this matter is addressed within the report.
- The applicant could live in another dwelling
Response: this matter is addressed within the report.
- The access road is already busy
Response: highways matters are addressed within the report.
- Concerns about contamination due to the former use
Response: both KC Environmental Health and The Environment Agency have been consulted and raise no objection subject to conditions.
- Proximity to the river and it is felt that the land acts as a natural flood plain which should not be disturbed
Response: flood risk matters are addressed within the report.
- Concerns about the bridge over the watercourse
Response: this detail is addressed within the report
- Concerns about the impact on the PROW
Response: this is addressed within the report.

- Concerns about the impact on wildlife, particularly on fish in the river
Response: Ecology matters have been investigated and this is set out within the report.

11.0 CONCLUSION

- 11.1 In conclusion neither an essential nor a permanent requirement for a new dwelling on this site has been demonstrated to the satisfaction of officers. As such, the proposal constitutes inappropriate development in the green belt, for which there are no very special circumstances that would justify allowing the proposal contrary to Green Belt policy. The application fails to comply with the aims of Policy LP55 of the Kirklees Local Plan as well as the aims of the National Planning Policy Framework.

12.0 REASON FOR REFUSAL

1. The application site is located upon land designated as Green Belt on the Kirklees Local Plan, within which development is severely restricted. The applicant has failed to demonstrate that there is an essential and permanent requirement for a new dwelling on this site. As such, the proposal constitutes inappropriate development in the Green Belt, for which there are no very special circumstances that would justify allowing the proposal contrary to Green Belt policy. As such, the application fails to comply with the aims of Policies LP24 and LP55 of the Kirklees Local Plan as well as the aims of the Chapters 12 and 13 of the National Planning Policy Framework and would result in significant harm to the openness of the Green Belt and its rural character.

Background Papers:

Application and history files:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018/94162>

Certificate of Ownership –Certificate B signed.

Appendix 1: Comments from the Agricultural Consultant

In the light of the information provided in support of the application, I do not propose to dwell on the background details.

In essence, I have a number of concerns:-

1. *There appears to be a little confusion regarding the area of land owned. The Design and Access Statement and Planning Report both refer to the Applicant owning 10 Ha (24.7 acres). However, the Plans provided and conversation with the Applicant indicate only approximately 3.99 Ha (9.88 acres) is owned.*

On the above basis, I understand that the Holding includes approximately 3.99 Ha (9.88 acres) of land owned by the Applicant and 15.1 Ha (38.3 acres) tenanted under an Agricultural Holdings Act Tenancy. This is therefore a very modest Holding with a high proportion of tenanted land and, as approximately $\frac{1}{3}$ of the Holding has recently been taken for residential development, I must question the security/permanence of the remainder?. (There is also the possibility of the Applicant surrendering the tenancy and simply retaining the dwelling on his own modest land holding as a retirement home.)

- 2. I note the comments about the long established business, although the business is now significantly smaller than previously due to the land taken for development, and it has lost its farmhouse and farmstead. I would suggest it is therefore more akin to a new enterprise.*
- 3. I note the labour requirement calculations but the livestock numbers expressed in the supporting information are somewhat higher than advised on site. On this basis, and bearing in mind the modest land area, I feel this is barely more than a 1 man unit, with a very modest requirement in respect of vulnerable livestock. Also, as the livestock are "land based/grass fed", I would question the assertion that this is an intensive unit?.*
- 4. The application includes 2 storage buildings, a vehicle maintenance building and the proposed dwelling. From the plans provided, the buildings door height is somewhat lower than I would expect for a conventional agricultural building and the roof pitch appears steep at 30 degrees. The span:depth ratio is also unusual. I must therefore question whether the buildings are of agricultural design and construction?, and are being constructed to meet the agricultural needs of the holding?.*
- 5. From the plans provided, the dwelling extends to approximately 200sq m. The design and scale of the proposed dwelling are important aspects as they will have a direct relationship to the cost of construction, future running and maintenance, and the ability of the business to fund them. There is also the question of future sale and the likelihood that an inappropriate design/layout or over-extensive dwelling may be problematic or too large to be of interest to a future agricultural owner, manager or worker, leading to its obsolescence as an agricultural dwelling and giving rise to an early application for the removal of the occupancy condition.*

In considering the appropriate size of the dwelling, I would refer to the Department for Communities and Local Government Space Standard which indicates a minimum floor area of 74 – 95 sq m for a 3 bedroom bungalow and 90 – 117 sq m for a 4 bedroom bungalow. I also feel it is reasonable to have regard to provision by commercial house-builders. Clearly, they need to balance value for money with meeting the reasonable needs of families/buyers.

Allowing for a 3 to 4 bedroom design together with an office, I would suggest a reasonable floor area would be approximately 120 - 125 sq m, with a reduced ground floor "footprint" if a two storey dwelling were to be considered. Clearly, a dwelling more akin in scale to minimum requirements or commercial house builders need not be aesthetically unpleasing if reasonably designed. But I shall leave this to you to consider.

Finally, it is common practice in Leeds to exclude/restrict Permitted Development Rights in consents for agricultural dwellings and ensure the need for approval to alterations, additions/extensions etc in these sensitive green belt situations.

6. *Reference is made to there being no alternative existing residential property and I would question what consideration has been given to the use of one of the properties being built on the former farmstead ? Clearly this site/location performed an adequate function in the past ?.*
7. *The financial information provided, indicates that the net profit is significantly below the National Living Wage, which would indicate that the Holding would not be capable of providing a reasonable income for the proprietor, a return on borrowed capital to meet interest charges etc, a return on capital invested by the proprietor, and an amount for maintenance and future investment.*

Whilst the specific “Financial Test” for agricultural dwellings has been removed, sustainability is at the heart of the NPPF and I would contend that financial sustainability/profitability is essential to give confidence to a business to grow; support strong, vibrant and healthy communities; and ensure investment in protecting and enhancing the environment.

8. *I note the proposed access. Whilst this is clearly a Highways issue, the length, route and obstacles appear considerable to make provision for delivery and livestock vehicles which are commonly articulated and can be upto 44 tonnes gross.*

On the above basis, I do not feel that a convincing case has been made in support of the application.

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Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 04-Nov-2020

Subject: Planning Application 2019/94146 Erection of car showroom/office and MOT testing station land at former, 750, Bradford Road, Batley, WF17 8NL

APPLICANT

C-Jay Barroughclough,
Nextcar

DATE VALID

23-Dec-2019

TARGET DATE

17-Feb-2020

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: Batley West

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

DELEGATE the application to the Head of Planning and Development in order to allow officers to inform The Planning Inspectorate of the Council's intention to REFUSE the application for the following reason:

1. The proposed development, by virtue of the engineering operations required, particularly in regard to the significant extent of hard surfacing and retaining features, would have a significantly harmful impact upon the visual amenity and character of the application site and wider street scene. This would be contrary to Policy LP24 of the Kirklees Local Plan and government guidance contained within Chapter 12 of the National Planning Policy Framework which seeks to achieve well designed places and add to the overall quality of an area.

1.0 INTRODUCTION:

- 1.1 This application seeks permission for the erection of a car showroom/office and MOT testing station on land at the former 750, Bradford Road in Batley. The applicant has appealed on the grounds of non-determination. As such, the Council is required to inform The Planning Inspectorate of what their decision would have been, should they have been allowed to progress with the determination of the application.
- 1.2 The application is brought to Heavy Woollen Planning Sub-committee at the request of Councillor Lowe in line with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site comprises an 'L' shaped parcel of land positioned to the north east of Bradford Road in Batley. The site previously held a car showroom with vehicle repair centre and 2 cottages. The site has now been cleared but has continued in part to be used for car sales.
- 2.2 There is a change in land levels from Bradford Road to the rear of the site with a slope upwards to the residential properties on Wensleydale Parade.

3.0 PROPOSAL:

- 3.1 Planning permission is sought for the erection of a car showroom/office and MOT testing station on land at the former 750, Bradford Road, Batley.

3.2 The proposed MOT testing station would be located on the north western part of the site, whilst the car showroom/office would be located on the opposite side of the access road to the south of residential properties on Wensleydale Parade. A car display area on two levels would comprise the north eastern part of the site. A retaining wall would be required to facilitate this.

3.3 The external areas of the site would be hard surfaced in tarmac.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 There have been several applications on the site for residential development. None of the approvals have been implemented.

2017/92762 – Erection of 13 dwellings – approved

2011/90550 – Extension to time limit for implementing previous permission ref 2008/90163 for erection of 20 apartments and 5 dwellings and associated infrastructure - approved

2008/90163 – Erection of 20 apartments and 5 dwellings and associated infrastructure - approved

2006/90866 – Demolition of existing building and erection 17 no. 2 bed and 24 no. 1 bed apartments in 3 blocks and associated works 0 refused

2005/91522 – Erection of 24 dwelling units in 3 blocks with associated highway access - approved

2004/94398 – Erection of 31 no 2 bed apartments in 3 blocks with associated highway access – withdrawn

Enforcement

COMP/20/0018 – Unauthorised commencement of works (excavation/clearing) – ongoing

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

5.1 Amended plans have recently been received from the applicant since the appeal was lodged. However, as the appeal was lodged in relation to the original plans, it is these which are the subject of this assessment.

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 statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

Kirklees Local Plan (2019)

- 6.2 **LP1** – Presumption in favour of sustainable development
LP2 – Place shaping
LP21 – Highways and access
LP22 – Parking
LP24 – Design
LP28 - Drainage
LP53 – Contaminated and Unstable Land

National Planning Guidance:

- 6.3 **Chapter 2** – Achieving sustainable Development
Chapter 9 – Promoting sustainable transport
Chapter 12 - Achieving Well Designed Places
Chapter 14 – Meeting the challenges of climate change, flooding and coastal change
Chapter 15 – Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 As a result of the publicity process, 15no. representations have been received on the application. The comments raised in the representations are summarised as follows:

- Work started, trees felled and fencing erected before planning permission has been granted
- Potential impact on residential amenity arising from floodlighting of forecourt
- The previous car sales company experienced a high level of crime from vehicle break-ins which affected neighbouring residents due to noise of car alarms, smashed windows and frequent police presence
- Insufficient parking provision is proposed for both car sales and MOT uses on the site
- Will result in displacement of parking for residents
- The development is too close to the junction and will result in highway safety issues with people parking on Bradford Road
- Query how emergency vehicles would access the residential properties
- Design and materials of proposed car showroom building are in keeping with its surroundings
- Concern regarding commencement of ground works, given high level of land contamination, without consultation with residents
- There is another car showroom and MOT testing centre within 200 yards of the site; may be left with another empty plot of land here
- Were supportive of application for residential development which could still be implemented; more housing is needed here.
- Development would result in obstruction of right of way for properties on Wensleydale Parade, and therefore result in a breach of covenant
- Privacy for residents will be removed
- Development will result in noise nuisance to residents

- 7.2 Councillor Lowe has also been involved in discussions during the course of the application.

8.0 CONSULTATION RESPONSES:

The following is a brief summary of consultee advice (more details are contained within the assessment section of the report, where appropriate):

8.1 Statutory:

KC Highways DM: no objection following receipt of further information, subject to conditions

The Coal Authority: no objection

Non-statutory:

KC Lead Local Flood Authority: no objection following receipt of further information subject to condition

KC Trees: no objection subject to condition

KC Environmental Health: no objection subject to conditions

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Highway issues
- Landscape issues
- Drainage issues
- Land contamination
- Representations

10.0 APPRAISAL

Principle of development

10.1 The site is unallocated land within the KLP, and this section of Bradford Road is characterised by a mix of development types, comprising both residential, commercial and industrial uses. Part of the site has previously been used for car sales.

10.2 The principle of development is considered to be acceptable. This is subject to all material considerations being adequately addressed. An assessment of the application in relation to these material considerations is set out below.

Urban Design issues

10.3 Due to site topography, there is a change in levels between Bradford Road and the rear of the application site. The submitted plans indicate that the MOT garage and car showroom would be located on the lower part of the site close to Bradford Road, whilst the development would involve the provision of a further raised level, supported by a retaining wall, on the eastern part of the site which would serve as the car sales/display area. This upper level would be accessed via a ramp alongside Newley Avenue, on the eastern boundary of the site.

- 10.4 The proposed development would involve the full extent of the site being hard surfaced in tarmac in addition to extensive retaining features. As such, Officers have concerns in relation to the nature of the engineering operation required to form the raised car display area, in addition to the extent of hard landscaping proposed and the harm that this would cause to the visual amenity and character of the streetscene.
- 10.5 Paragraph 130 of the NPPF sets out 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, which is considered to be the case, by officers, in this case. As such, and on the basis of the above, the application fails to comply with the aims of Policy LP24 of the KLP as well as chapter 12 of the NPPF in terms of the impact on visual amenity.

Residential Amenity

- 10.6 The site is located adjacent to residential properties to the north west and south east, although it is noted that there are a mixture of other commercial and industrial uses along this section of Bradford Road.
- 10.7 The proposals are considered to have no significant impact upon residential amenity, and KC Environmental Services raise no objections to the development, subject to the imposition of conditions relating to details of artificial lighting and hours of use. Imposition of such conditions would ensure that the proposals were in accordance with Policy LP24 of the KLP and guidance contained within Chapter 12 of the NPPF.

Highway issues

- 10.8 The site is situated off the A652 Bradford Road approximately 2.3 km east of the centre of Batley and 200m to the south east of the signalised junction of the A62 Huddersfield Road and A652 Bradford Road. At this location, the A652 Bradford Road is a single carriageway primary route with centre hatch markings along the site frontage. Bradford Road provides access to many side roads and is lit and subject to a 30mph speed limit in the vicinity of the site frontage.
- 10.9 Vehicular and pedestrian access to the application site is directly from Bradford Road.
- 10.10 To the rear of the site there are 22 terraced properties on Wensleydale Parade, which will be served via the new site access from Bradford Road and the existing unmade road to the western flank of the application site.
- 10.11 KC Highways DM initially raised a number of concerns with the proposals with respect to access and parking provision for the residential properties and proposed development, visibility and servicing arrangements. Through the course of the application, further information was submitted in relation to these matters. This was considered to address the previous concerns, and as such, the proposed development is now considered to be acceptable from a highway safety perspective, in accordance with Policies LP21 and LP22 of the KLP.

Landscape/Trees issues

- 10.12 KC Trees have reviewed the application. They state that having assessed the tree information that has been provided, and taking account of the planning history on site, there are no objections to the proposals. However, a landscaping scheme, to include some mitigating tree planting, would be required should permission be granted.
- 10.13 Subject to this, the application is considered to accord with the aims of Policy LP33 of the KLP and the aims of the NPPF.

Drainage issues

- 10.14 The application has been reviewed by the KC Lead Local Flood Authority (LLFA). Following receipt of further information, the LLFA raise no objections subject to condition. The application therefore complies with the aims of Policy LP28 of the KLP.

Contaminated Land

- 10.15 The supporting information has been reviewed by KC Environmental Health. No objection is raised subject to conditions.
- 10.16 The Coal Authority has also been consulted and raises no objections.
- 10.17 The application therefore complies with the aims of Policy LP53 of the KLP and Chapter 15 of the NPPF subject to conditions

Representations

- 10.8 15 no representations have been received in relation to the application. With respect to material planning considerations, the concerns raised primarily relate to the impact of the development on residential amenity and highway safety matters which have been addressed above.

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 The proposed development is considered to be harmful to visual amenity and the character of the streetscene due to the extensive engineering operations that are proposed.
- 11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration.

12.0 RECOMMENDATION

The application is recommended for refusal for the reason set out at the beginning of this assessment.

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019/94146>

Certificate of Ownership –Certificate A signed