

Public Document Pack



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

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Tuesday 9 February 2021

Notice of Meeting

Dear Member

Planning Sub-Committee (Heavy Woollen Area)

A Meeting of the **Planning Sub-Committee (Heavy Woollen Area)** will meet remotely at **1.00 pm** on **Wednesday 17 February 2021**.

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 Michelle Grainger-Mead
Councillor John Lawson
Councillor Aleks Lukic
Councillor Mussarat Pervaiz
Councillor Andrew Pinnock
Councillor Cathy Scott
Councillor John Taylor
Councillor Kath Taylor
Councillor Graham Turner
Vacancy (Independent Group)

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
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 Sub-Committee

To receive any apologies for absence, or details of substitutions to Sub-Committee membership.

2: Minutes of Previous Meeting

1 - 10

To approve the Minutes of the meeting of the Committee held on 4 November 2020.

3: Declaration of Interests and Lobbying

11 - 12

Sub-Committee Members will advise (i) if there are any items on the Agenda upon which they have been lobbied and/or (ii) if there are any items on the Agenda in which they have a Disclosable Pecuniary Interest, which would prevent them from participating in any discussion or vote on an item, or any other interests.

4: Admission of the Public

Most agenda items will be considered in public session, however, it shall be advised whether the Sub-Committee will consider any matters in private, by virtue of the reports containing information which falls within a category of exempt information as contained at Schedule 12A of the Local Government Act 1972.

5: Deputations/Petitions

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

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

6: Public Question Time

Due to current Covid-19 restrictions, Members of the Public may submit written questions to the Committee. Questions should be emailed to governance.planning@kirklees.gov.uk no later than 10.00am on Tuesday 16 February 2021.

In accordance with:

- 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.
- Council Procedure Rule 11 (5), the period for the asking and answering of public questions shall not exceed 15 minutes.
- Council Procedure Rule 51(10) any person may submit up to a maximum of 4 written questions.

7: Review of Planning Appeal Decisions 2020

13 - 20

To receive an overview of planning appeal decisions (January to December 2020).

Wards affected: All

Contact: Julia Steadman, Planning Services

8: Application (amended proposal) for Diversion Order - Public Footpath Spenborough 110 (part), near Spen Valley Leisure Centre, Bradford Road, Liversedge

21 - 42

To consider an Application (amended proposal) for diversion order - public footpath Spenborough 110 (part), near Spen Valley Leisure Centre, Bradford Road, Liversedge (Highways Act 1980, Section 119).

Ward affected: Liversedge and Gomersal

Contact: Giles Cheetham, Definitive Map Officer

Planning Applications

43 - 44

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 15 February 2021.

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

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.

9: Planning Application - Application No: 2019/91836 45 - 80

Erection of 34 dwellings at land adjacent to Inkerman Court, Barnsley Road, Denby Dale, Huddersfield.

Ward affected: Denby Dale

Contact: Victor Grayson, Planning Services

10: Planning Application - Application No: 2020/91215 81 - 120

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

Ward affected: Denby Dale

Contact: Victor Grayson, Planning Services

11: Planning Application - Application No: 2020/91601 121 - 138

Change of use from agricultural land to A4 (Drinking Establishment) and erection of extensions and alterations at Dunkirk Inn, 231, Barnsley Road, Lower Denby, Huddersfield.

Ward affected: Denby Dale

Contact: Louise Bearcroft, Planning Services

- 12: Planning Application - Application No: 2020/90084** 139 -
152
- Demolition of existing house and barn and erection of office block/storage with canopy over parking area at Crossfield Farm, 17, Woodland Grove, Dewsbury Moor, Dewsbury.
- Ward affected: Dewsbury West
- Contact: Josh Kwok, Planning Services
-

- 13: Planning Application - Application No: 2020/92661** 153 -
160
- Change of use of public house to education centre and prayer room at Nelson Inn, 145, Slaithwaite Road, Thornhill Lees, Dewsbury.
- Wards affected: Dewsbury South
- Contact: Jennifer Booth, 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)

Wednesday 4th November 2020

Present: Councillor Steve Hall (Chair)
Councillor Mahmood Akhtar
Councillor Charlotte Goodwin
Councillor Michelle Grainger-Mead
Councillor John Lawson
Councillor Andrew Pinnock
Councillor Cathy Scott
Councillor Mohal Sokhal
Councillor Graham Turner

Observers: Councillor Gwen Lowe

Apologies: Councillor Nosheen Dad
Councillor Fazila Loonat
Councillor Kath Taylor

1 Membership of the Committee

Apologies for absence were received from Councillor K Taylor.

Councillor Sokhal substituted for Councillor Pervaiz.

It was noted that Councillor Dad and Councillor Loonat were currently on maternity leave.

2 Minutes of Previous Meeting

RESOLVED – That the Minutes of the Meeting held on 13 February 2020 were approved as a correct record.

3 Interests and Lobbying

Councillor Scott advised that she had been lobbied on Applications 2020/91215, 2020/90350, 2019/92670, 2020/90652, 2020/91643 and 2018/94162.

Councillor Akhtar advised that he had been lobbied on Applications 2020/91215, 2020/90350 and 2018/94162.

Councillor Lawson advised that he had been lobbied on Applications 2020/90350, 2019/91534, 2019/92670 and 2020/90652.

Councillor Goodwin advised that she had been lobbied on Applications 2020/91215, 2020/90350 and 2020/90652.

Planning Sub-Committee (Heavy Woollen Area) - 4 November 2020

Councillor Grainger-Mead advised that she had been lobbied on Applications 2020/91215, 2020/90350, 2019/92670, 2020/90652, and 2020/91643.

Councillor Turner advised that he had been lobbied on Applications 2020/91215, 2020/90350, 2020/90652 and 2020/91643.

Councillor A Pinnock advised that he had been lobbied on Applications 2020/91215, 2020/90652 and 2020/91643.

Councillor S Hall advised that he had been lobbied on Applications 2020/91215, 2020/90350, 2020/92540, 2019/92670, 2020/90652, 2020/91643, 2018/94162 and 2019/94146.

4 Admission of the Public

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

5 Public Question Time

No questions were asked.

6 Deputations/Petitions

No deputations or petitions were received.

7 Planning Application - Application 2020/91215

The Committee gave consideration to Application 2020/91215 – Outline application for erection of residential development at land at Green Acres Close, Emley.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Guy Loveridge, Paula Kemp, Nick Bean and Rachel Evans (local residents), Mark Eastwood MP and Paul Butler (applicant's agent).

RESOLVED - That the determination of the application be deferred to enable further information to be submitted regarding highways concerns, including parking provision and junction analysis.

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

For: Councillors Akhtar, Goodwin, Grainger-Mead, S Hall, Lawson, A Pinnock, C Scott and Turner (8 votes)

Against: (no votes)

Abstained: Councillor Sokhal

8 Planning Application - Application 2020/90350

The Committee gave consideration to Application 2020/90350 – Demolition of existing buildings and erection of 7 dwellings and associated garages (within a conservation area) at Gomersal Hall, Oxford Road, Gomersal.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Ruth Wilcox, Brian Wilcox and Chris Wild (local residents) and David Storrie (applicant's agent).

RESOLVED –

- 1) 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;
 - time limit for commencing development
 - in accordance with plans
 - materials shall be natural stone for the external walls and natural blue or stone tiles for the roof samples to be submitted
 - drainage in accordance with the plan submitted
 - electric vehicle charging points
 - development shall be carried out in accordance with woodland management plan and tree planting schedule
 - submission of ecological design strategy
 - removal of permitted development rights for extensions and outbuildings
 - permeable surfacing for hardstanding
 - written scheme of archaeological investigation to be submitted and approved by the local planning authority in writing
 - submission of phase 1 preliminary risk assessment
 - submission of phase 2 intrusive site investigation report
 - submission of remediation strategy
 - implementation of remediation strategy
 - submission of validation report
 - visibility splays to be provided prior to the commencement of the development
 - scheme detailing arrangements and specification for layout and parking
 - schedule for the means of access to the site for construction traffic
 - in accordance with recommendations within the arboricultural method statement

- 2) That an additional condition be added to remove permitted development rights for the erection of gates in order to preserve the character of the conservation area.

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

For: Councillors Akhtar, Goodwin, S Hall, Lawson, A Pinnock, Scott, Sokhal and Turner (8 votes)

Against: (no votes)

Abstained: Councillor Grainger-Mead

9 Planning Application - Application 2020/92540

The Committee gave consideration to Application 2020/92540 – Erection of detached garage at land adjacent to 51-53 Park Croft, Staincliffe, Batley.

Under the provisions of Council Procedure Rule 36(3), the Sub-Committee received a representation from Councillor Lowe (ward member).

Planning Sub-Committee (Heavy Woollen Area) - 4 November 2020

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 time frame
- Development to be completed in accordance with approved plans and specifications
- Colour of brickwork to be red/brown

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

For: Councillors Akhtar, Goodwin, Grainger-Mead, S Hall, Lawson, A Pinnock, Scott, Sokhal and Turner (9 votes)

Against: (no votes)

10 **Planning Application - Application 2019/91534**

The Committee gave consideration to Application 2019/91534 – Erection of 13 dwellings and associated works at land off Heathfield Lane, Birkenshaw.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Jake Hinchliffe and David Storrie (on behalf of the applicant).

RESOLVED –

1) 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;

- 3 year time period for implementation
- Development must be completed in accordance with the approved plans
- Submission of drainage maintenance and management scheme
- Programme of archaeological recording to be submitted by a qualified and experienced archaeological consultant or organisation, in accordance with a written scheme of investigation
- 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
- Provision of electric vehicle charging points (1 EVC per dwelling)
- Submission of a phase II intrusive site investigation report
- Submission of remediation strategy
- Implementation of remediation strategy
- Submission of validation report
- Reporting of unexpected contamination
- Noise report assessment (future occupiers of the development)
- Removal of permitted development rights for outbuildings and extensions within red line boundary
- Permeable surfacing for hardstanding and estate road
- Details of junction new estate road
- Internal adoptable standard roads
- Scheme detailing location and cross sectional information for all new retaining walls adjacent to existing/proposed adoptable highway

Planning Sub-Committee (Heavy Woollen Area) - 4 November 2020

- 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
- Details of storage/access for waste
- Full landscape proposals to be submitted (including hard and soft landscaping, details relating to existing trees and vegetation and replacement tree planting)
- Samples of materials to be submitted and subsequently approved
- Construction phase temporary drainage, flood risk and pollution mitigation
- Bat/bird box provision on dwellings
- Obscure glazing some windows where necessary

2) That additional conditions also be included regarding (i) the inclusion of semi-mature trees within the landscaping scheme and (ii) the removal of permitted development rights for the erection of gates.

3) That authority be delegated to the Head of Planning and Development to secure a S106 Agreement to cover (i) public open space provisions including off site commuted sum (£24,501) and future maintenance and management responsibilities of open space within the site (ii) 20% of a total number of dwellings to be affordable – 3 intermediate units to be provided on site and (iii) financial contribution towards ecology (£41,912).

4) That, pursuant to (3) above, in circumstances where the S106 Agreement has not been completed within three months of this decision, the Head of Planning and Development shall be authorised to consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured, and would therefore be permitted to determine the Application and impose appropriate reasons for refusal under delegated powers.

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

For: Councillors Akhtar, Goodwin, Grainger-Mead, S Hall, Lawson, A Pinnock, Scott, Sokhal and Turner (9 votes)

Against: (no votes)

11 **Planning Application - Application 2019/92670**

The Committee gave consideration to Application 2019/92670 – Erection of 13 dwellings at land at Peep Green Road, Hartshead, Liversedge.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received a representation from David Storrie (applicant's agent)

RESOLVED –

1) That authority be delegated to the Head of Planning and Development to address outstanding drainage and ecology matters, complete consultation process with Calderdale Council, approve the application, issue the decision notice and complete the list of conditions including matters relating to;

Planning Sub-Committee (Heavy Woollen Area) - 4 November 2020

- three years to commence development
- approved plans and documents
- areas to be surfaced and drained in accordance with details to be approved
- visibility splays to be provided
- scheme of the junction and associated highway works
- scheme of proposed internal adoptable estate roads
- details of storage/access for waste
- scheme of retaining walls adjacent to adoptable highway
- scheme detailing surface water attenuation in highway footprint
- noise assessment report and mitigation scheme
- phase II intrusive site investigation report
- remediation strategy
- implementation of remediation strategy
- validation report
- electric vehicle charging points
- external materials
- boundary treatments
- landscaping details
- biodiversity enhancement, net gain, and ecological design strategy
- temporary surface water drainage
- drainage conditions
- removal of permitted development rights

2) That authority be delegated to the Head of Planning and Development to secure a S106 Agreement to cover (i) affordable housing – three affordable housing units; two social/affordable rented dwellings and one intermediate dwelling to be provided on site and identified as plots 6, 11 and 12 (ii) open space – full off-site contribution (£24,501) and (iii) biodiversity net gain – secure off-site biodiversity improvement works to two parcels of land within a distance of approximately 1km from the application site.

3) That, pursuant to (2) above, in circumstances where the S106 Agreement has not been completed within three months of this decision, the Head of Planning and Development shall be authorised to consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured, and would therefore be permitted to determine the Application and impose appropriate reasons for refusal under delegated powers.

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

For: Councillors Akhtar, Lawson, A Pinnock, Scott, Sokhal and G Turner (6 votes)
Against: Councillors Goodwin and Grainger-Mead (2 votes)

- 12 Planning Application - Application 2020/90652**
The Committee gave consideration to Application 2020/90652 – Erection of extensions and alterations to existing disused building to form one dwelling at Lands Farm, Cliffe Lane, Gomersal, Cleckheaton.

Planning Sub-Committee (Heavy Woollen Area) - 4 November 2020

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Ryan Gill, Trudie Wassell, Ben Cheetham and Geraldine Hickling (local residents) and Darren Bailey (applicant's agent).

RESOLVED – That the application be refused on the grounds of (i) concerns parking congestion and (ii) over-intensification of development on the site.

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

For: Councillors Akhtar, Goodwin, Grainger-Mead, S Hall, Lawson, A Pinnock, Scott, Sokhal and Turner (9 votes)

Against: (no votes)

13 **Planning Application - Application 2020/91643**

The Committee gave consideration to 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.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received a representation from Jay Everett (applicant's agent).

RESOLVED – That the application be refused on the grounds that;

(i) by virtue of the proposed design, scale, layout and encroachment of development and the enclosure of land into gardens it would result in a greater impact on openness than the existing development which would materially detract from the Green Belt setting and represent inappropriate development, with no very special circumstances demonstrated and that 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 (ii) 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 which is contrary to Policies LP21 and LP24 Kirklees Local Plan, as well as Chapter 9 of the National Planning Policy Framework (iii) 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 and, 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 (iv) 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 and that to permit such development would be contrary to Policy LP53 of the Kirklees Local Plan and chapter 15 of the National Planning Policy Framework (v) 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, which is contrary to Policy LP35 of the Kirklees Local Plan and chapter 16 of the National Planning Policy Framework (vi) it has not been demonstrated that the development can take place on the site, which is designated as a Minerals Safeguard Area for Surface

Planning Sub-Committee (Heavy Woollen Area) - 4 November 2020

Coal Resource Surface Coal Resource with Sandstone and/or Clay and Shale which is contrary to Policy LP38 of the Kirklees Local Plan and chapter 17 of the National Planning Policy Framework (vii) 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, and that 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.

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

For: Councillors Akhtar, Goodwin, Grainger-Mead, S Hall, Lawson, A Pinnock, Scott, Sokhal and Turner (9 votes)

Against: (no votes)

14 **Planning Application - Application 2018/94162**

The Committee gave consideration to Application 2018/94162 – Erection of dwelling and three outbuildings and works to access Upper Langley Farm, Langley Lane, Clayton West.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Alan Powell (applicant's agent) and Edward Tipler (applicant).

RESOLVED – That the application be refused on the grounds that (i) the application site is located upon land designated as Green Belt on the Kirklees Local Plan, within which development is severely restricted (ii) the applicant has failed to demonstrate that there is an essential and permanent requirement for a new dwelling on this site (iii) such a 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 and (iv) 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.

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

For: Councillors Akhtar, Goodwin, Grainger-Mead, S Hall, Lawson, A Pinnock, Scott, Sokhal and Turner (9 votes)

Against: (no votes)

15 **Planning Application - Application 2019/94146**

The Committee gave consideration to Application 2019/94146 – Erection of car showroom/office and MOT testing station at land at former 750 Bradford Road, Batley.

Under the provisions of Council Procedure Rule 36(3), the Sub-Committee received a representation from Councillor Lowe (ward member).

Planning Sub-Committee (Heavy Woollen Area) - 4 November 2020

RESOLVED – That the application be delegated 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: 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.

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

For: Councillors Akhtar, Goodwin, Grainger-Mead, S Hall, Lawson, A Pinnock, Scott, Sokhal and Turner (9 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.



Name of meeting: PLANNING SUB-COMMITTEE (*Heavy Woollen*)

Date: 17th February 2021

**Title of report: A Review of Planning Appeal Decisions
(*January 2020 – December 2020*)**

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

Electoral wards affected: All

Ward councillors consulted: No

Public or private: Public

Has GDPR been considered? Yes. There no GDPR implications.

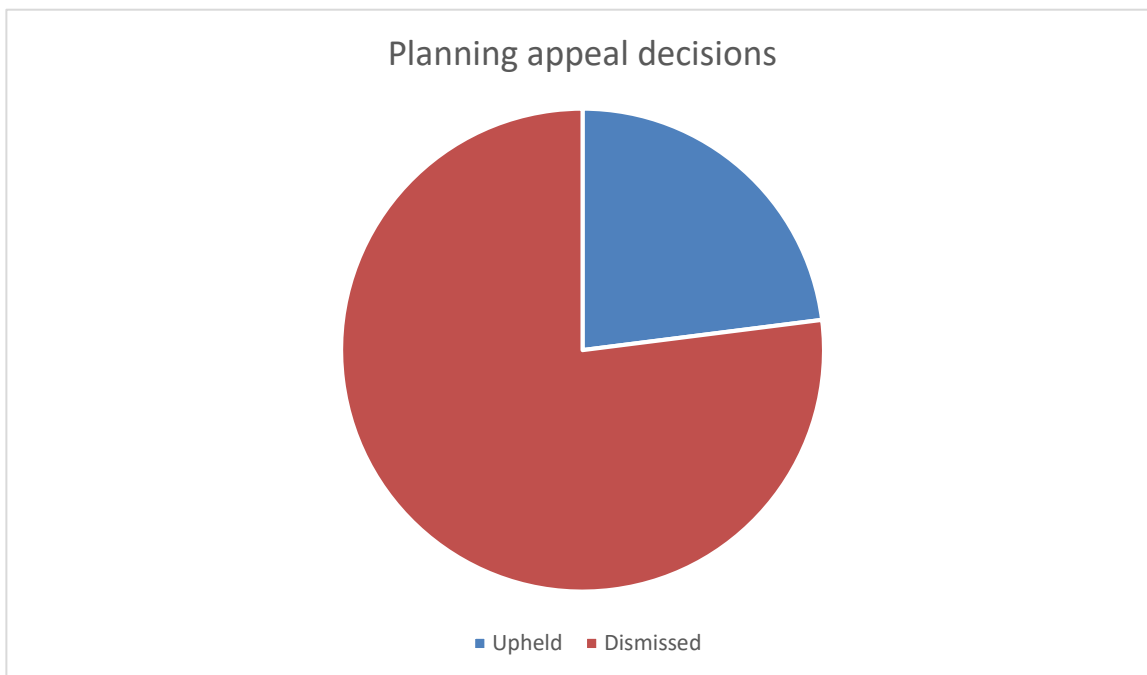
1. Purpose of report

1.1 For information purposes

2. Key Points

Planning Appeals

- 2.1 Between January 2020 and December 2020, the council have received 31 planning appeal decisions in the electoral wards within the Heavy Woollen Sub-Committee area of the district. Of these, 77% were dismissed. Appendix 1 provides a list of relevant appeals and the level of the decision.
- 2.2. Figure 1 below shows a breakdown of planning application appeals (including tree works, certificate of lawfulness and prior notification applications) whether dismissed or upheld.



Trees appeals

2.3 Of the 31 planning appeals, there were 3 tree works appeals. One application was dismissed (2019/90089), one upheld (2018/93239) and the other was part upheld/part dismissed (2019/92767).

Application for award for costs

2.4 2 applications for an award of costs were lodged against the council. Of this 1, has been awarded (2019/93993).

Delegated and Committee Decisions

2.5 Of the 31 appeals, 30 decisions were determined under delegated powers. Of these, 23 were dismissed (77%). 1 application was determined by the Planning Committee, in which was subsequently dismissed (100%).

Appendix 1 provides a list of relevant appeals.

Council's appeal performance in relation to Central Government Standards: Criteria for designation (revised 2020)

2.6 The Government measures the performance of local authorities in deciding applications for planning permission, pursuant to section 62B of the Town and Country Planning Act 1990. This includes assessing local planning authorities' performance on the 'quality' of their decisions on applications for major and non-major development. This is measured by the proportion of decisions on

applications that are subsequently overturned at appeal. If an authority is 'designated' as underperforming, applicants have the option of submitting their applications directly to the Planning Inspectorate (who act on behalf of the Secretary of State) for determination.

- 2.7 The criteria for designation, as revised in December 2020, sets out the threshold for designation on applications for both major and non-major development above which the local planning authority is eligible for designation. This is 10% of an authority's total number of decisions on applications made during [a specific 2 year period] being overturned at appeal.
- 2.8 To note, the latest published performance tables from the MHCLG (March 2019) provides Experimental Statistics to enable local authorities to validate the information held. Using these tables, for the 24 months to the end of March 2019, a total of 2.1% of decisions on Major applications were overturned at appeal. This equates to 6 appeals overturned from the 191 applications Kirklees determined in the same period.

The corresponding information for non-major decisions was a total of 3.7% decisions overturned at appeal. This related to 123 decisions being overturned at appeal, 0.6% as a percentage of the 4,325 applications Kirklees determined in the same period. From the information held by MHCLG, Kirklees would not fall within the criteria for designation.

Compliance

- 2.9 Between January 2020 and December 2020, Planning Enforcement have also served 142 notices throughout the district. A breakdown of each type of notice can be found in table 1 below. Of these, 9 enforcement notice appeals were received in the East Area, all of which were upheld and dismissed in the favour of the council (100%).

Type of Notice	No. served
Enforcement Notice	34
Breach of Condition Notice	21
Planning Contravention Notice	80
Temporary Stop Notice	7
Stop Notice	0
Other	0
Total	142

3. **Implications for the Council**
Not applicable
4. **Consultees and their opinions**
Not applicable

5. **Next steps**
Not applicable
6. **Officer recommendations and reasons**
To note
7. **Cabinet portfolio holder recommendation**
Not applicable
8. **Contact officer and relevant papers**
Julia Steadman – Head of Development Management
9. **Director responsible**
David Shepherd – Strategic Director for Economy and Infrastructure.

Appendix 1 – List of planning application appeals including tree works decided between January and December 2020 (Heavy Woollen Area)

1. 2018/92169 adj, 6, Dean Fold, Highburton, Huddersfield, HD8 0QD - Outline application for erection of dwelling (within a Conservation Area) – Officer Decision – Appeal Dismissed
2. 2018/92832 Woodley, 10, Busker Lane, Skelmanthorpe, Huddersfield, HD8 9EP - Outline application for erection of detached dwelling – Officer Decision – Appeal Dismissed
3. 2018/93239 10, Over Hall Road, Mirfield, WF14 9LQ - Works to tree TPO 10/02 – Officer Decision – Appeal Upheld
4. 2018/93471 adj, 301a, Oxford Road, Gomersal, Cleckheaton, BD19 4LA - Erection of detached dwelling – Officer Decision – Appeal Dismissed
5. 2019/90089 46, Leeds Road, Littleton, Liversedge, WF15 6HX - Work to trees TPO 42/80 – Officer Decision -Appeal Dismissed
6. 2019/90498 adj, 41, Stockhill Street, Dewsbury, WF13 2JE - Erection of detached dwelling with integral garage – Officer Decision – Appeal Dismissed
7. 2019/90576 Brownhill Farm, Old Lane, Birkenshaw, BD11 2JL - Outline application for erection of detached dwelling – Officer Decision – Appeal Dismissed
8. 2019/91735 245, Roberttown Lane, Roberttown, Liversedge, WF15 7LJ – Erection of extensions, dormer window to rear, erection of double garage, demolition of existing garage and external alterations - Officer Decision – Appeal Dismissed
9. 2019/91736 29, Back Slaithwaite Road, Thornhill Lees, Dewsbury, WF12 9DS - Erection of single storey extension to front – Officer Decision – Appeal Dismissed
10. 2019/91764 18 B, Wells Road, Thornhill, Dewsbury, WF12 0LE - Erection of one dwelling – Officer Decision – Appeal Dismissed
11. 2019/91831 41, Storthes Hall Lane, Kirkburton, Huddersfield, HD8 0PT - Erection of raised terrace to rear – Officer Decision – Appeal Dismissed
12. 2019/91830 adj, 41, Storthes Hall Lane, Kirkburton, Huddersfield, HD8 0PT - Outline application for erection of one detached dwelling – Officer Decision – Appeal Dismissed

13. 2019/92734 9, Chapel Fold, Staincliffe, Batley, WF17 7AY - Erection of extensions and dormer windows to front – Committee Decision (councillor request contrary to officer recommendation) – Appeal Dismissed
14. 2019/92767 323B, Bradford Road, Cleckheaton, BD19 3UQ - Work to tree TPO Sp2/70 – Officer Decision – Appeal part upheld/part dismissed
15. 2019/93050 Land Adj, 88, Oakway, Birkenshaw, BD11 2PQ - Erection of one detached dwelling – Officer Decision – Appeal Upheld
16. 2019/93190 Land at, Cliff Hollins Lane, East Bierley, Bradford, BD4 6RQ - Demolition of existing stables and erection of detached dwelling – Officer Decision – Appeal Upheld
17. 2019/93193 2, Lynwood Close, Birkenshaw, Bradford, BD11 2EU – Erection of two storey side and single storey rear extension, conversion of loft to living space - Officer Decision – Appeal Dismissed
18. 2019/93271 Park Farm House, 18, Manor Road, Farnley Tyas, Huddersfield, HD4 6UL - Erection of detached garage, replacement porch and extension, alterations and formation of associated landscaping/parking – Officer Decision – Appeal Upheld
19. 2019/93351 adj, 5, Field Head Farm Court, Shepley, Huddersfield, HD8 8FH - Erection of detached dwelling and formation of vehicle parking and storage – Officer Decision – Appeal Dismissed
20. 2019/93387 91, Marsh Lane, Shepley, Huddersfield, HD8 8AP –Demolition of existing garage utility/store, erection of single storey extension and detached garage - Officer Decision – Appeal Dismissed
21. 2019/93552 4, Green Nook Close, Upper Cumberworth, Huddersfield, HD8 8FR -Erection of detached dwelling with associated parking and garden – Officer Decision – Appeal Dismissed
22. 2019/93670 8, Millers Croft, Birstall, Batley, WF17 0RN - Erection of front and rear dormers – Officer Decision – Appeal Dismissed
23. 2019/93914 Mina House, 47/51, Daisy Hill, Dewsbury, WF13 1LF - Alterations to convert vacant unit (A1) to form 5 apartments (C3) (within a Conservation Area) – Officer Decision – Appeal Dismissed
24. 2019/93944 Woodleigh, Vicarage Road, Savile Town, Dewsbury, WF12 9PD – Change of use of domestic accommodation to consulting rooms and erection of single storey extension to outbuilding - Officer Decision – Appeal Dismissed
25. 2019/93993 Meadowlands, Bristfield Road, Bristfield, Dewsbury, WF12 0PA - Erection of garage to side and garden room to rear – Officer Decision – Appeal Upheld

26. 2019/94069 3 Corn Mill Cottage, Corn Mill Bottom, Long Lane, Shelley, Huddersfield, HD8 8JJ - Formation of sub-terranean garage and alterations to patio – Officer Decision – Appeal Dismissed
27. 2020/90224 125, Oxford Road, Dewsbury, WF13 4EH – Erection of detached dwelling and first floor extension to existing dwelling (modified proposal) - Officer Decision – Appeal Dismissed
28. 2020/90673 11, Oakfield Drive, Lower Hopton, Mirfield, WF14 8PX - Erection of dormer extension with balcony and increase in gable height – Officer Decision – Appeal Dismissed
29. 2020/90898 Walton Cross Paddock, 148A, Windy Bank Lane, Hightown, Liversedge, WF15 8EX - Prior notification for change of use from agricultural building to one dwelling – Officer Decision – Appeal Dismissed
30. 2020/91135 53 , Scarborough Street, Savile Town, Dewsbury, WF12 9AY - Erection of single storey rear extension – Officer Decision – Appeal Upheld
31. 2020/92124 56, Lemans Drive, Dewsbury, WF13 4AL - Erection of extensions, front and rear dormers and exterior alterations- Officer Decision – Appeal Dismissed

Appeals lodged but subsequently withdrawn

2014/91289 7, Lees Avenue, Thornhill Lees, Dewsbury, WF12 0AN – Erection of two storey side and rear extensions, single storey front extension and 2 no. dormers on front elevation - Officer Decision – Appeal Withdraw

Appeals lodged against non-determination

2020/90251 6, Sugar Lane, Dewsbury, WF12 7AN - Erection of two storey and single storey side extension with raised terrace – Non determination – Appeal Dismissed

2020/90842 Wood Lea, Stretch Gate, Shelley, Huddersfield, HD8 8ES - Wood Lea, Stretch Gate, Shelley, Huddersfield, HD8 8ES – Certificate of lawfulness for proposed erection of out-building -Non- determination – Appeal Dismissed



Name of meeting and date: Planning Sub-Committee (Heavy Woollen Area)

Date: 17 February 2021

Title of report: Application (amended proposal) for diversion order - public footpath Spenborough 110 (part), near Spen Valley Leisure Centre, Bradford Road, Liversedge. Highways Act 1980, section 119

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Is it in the Council's Forward Plan?	No
Is it eligible for "call in" by Scrutiny?	Yes
Date signed off by <u>Director</u> & name	Colin Parr – 5 February 2021
Is it also signed off by the Assistant Director for Financial Management, IT, Risk and Performance?	Yes: James Anderson on behalf of Eamonn Croston
Is it also signed off by the Service Director (Legal Governance and Commissioning)?	Yes: Julie Muscroft
Cabinet member portfolio	Not applicable

Electoral wards affected: Liversedge & Gomersal

Ward councillors consulted: Cllr David Hall, Cllr Michelle Grainger-Mead and Cllr Lisa Holmes consulted.

Public or private: Public report

1. Summary

1.1 An amended proposal has been received from Kirklees Council for an order to divert part of public footpath Spenborough 110, under section 119 of the Highways Act 1980, which the applicant states is made in the interests of the landowner, to facilitate the development of Spen Valley Leisure Centre ("SVLC").

1.2 The amendments to the proposal include improvements to the surface, additional width, removal of steps - with an appropriately graded approach to the Spen River crossing (1 in 12 max.) and, between the housing and the Leisure Centre site, moving the proposed new path away from palisade fencing to improve the setting. The Council previously made a section 119 Highways Act 1980 diversion order, in

March 2020, under officer-delegated powers (see App E). That order was subject to an objection at formal stage, not raised during our preliminary, informal consultation.

- 1.3 The amended proposal from the Kirklees SVLC project team looks to address the points raised in objection to the order. Officers look to bring this matter before members, to acknowledge and authorise the amended proposal, and to note that it is not intended to progress the original order.
- 1.4 The Council may make and confirm a diversion order under section 119 of the 1980 Act if it considers that it is expedient to do so, when the following criteria are met: -
 - 1.4.1 The diversion must be in the interests of the owner, lessee or occupier of the land involved or in the interest of the public
 - 1.4.2 The alternative path to be provided should not be substantially less convenient for the public
 - 1.4.3 The point of the junction of the alternative path with other highways must not be altered unless the alternative path still ends on the same or a connected highway and it is substantially as convenient to the public.
 - 1.4.4 Any temporary circumstances preventing or diminishing the use of the path shall be disregarded.
 - 1.4.5 When seeking confirmation, the Council must have regard for the effect which the diversion would have on public enjoyment of the path, as a whole.
 - 1.4.6 When seeking confirmation, the Council must have regard for any material provision of any Rights of Way Improvement Plan ("ROWIP") for the area.
- 1.5 The effect of the proposal is shown on the appended App A Plan 1. The route to be diverted is shown by the bold solid line between points A & B, and the new route to be created is shown by the bold dashed line between points B & C.

The applicant is proposing the new route will be up to 3 metres wide, instead of the current route's recorded 1.2 metre width. The new route will narrow from 3 metres as it negotiates the gradient down to the bridge over Spen River. The proposed new path will run adjacent to the west boundary of the new pool car park, further east than the original diversion proposal.

- 1.6 The new footpath route is proposed to be constructed of various surface types, including macadam and planings.
- 1.7 All the land is within the ownership of Kirklees Council, part is vested with Community Development Service and part by Streetscene and Housing, Parks and Open Spaces.
- 1.8 A further preliminary public consultation has been held on the amended proposal; the details are listed in section 4 of this report, and updates will be reported to members.
- 1.9 Option 1 for committee is not to authorise the making of an order. The public footpath would remain on the current alignment unless the earlier order is progressed.

1.10 Option 2 is for the committee is to authorise the Service Director of Legal, Governance & Commissioning **to make and seek confirmation** of an Order under section 119 of the Highways Act 1980 to divert public footpath 110 (part).

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

2.1 Section 119 of the Highways Act 1980 gives an authority the power to divert footpaths, bridleways, or restricted byways, if it is satisfied that the relevant criteria are satisfied.

2.2 Account must be taken of the effect of the order on the rights of the public as described above at 1.4.

2.3 Circular 1/09 is guidance published by DEFRA for local authorities regarding PROW matters. Section 5 deals with changes to the public rights of way network.

2.4 A location plan is appended at App B.

2.5 An extract of the executive summary of the ROWIP is appended at App C.

2.6 A Leisure Centre site plan showing the proposed diversion route is appended at App D.

2.7 Option 1 is to decide to refuse the application to make the order.

2.8 Option 2 is to authorise the Service Director of Legal, Governance & Commissioning **to make and seek confirmation** of an order under section 119 of the Highways Act 1980. This would authorise confirmation of the order by the Council if unopposed, or seeking confirmation of an opposed order by forwarding it to the Secretary of State to confirm.

3. **Implications for the Council**

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

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

3.2 **Economic Resilience (ER)**

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

3.3 **Improving Outcomes for Children**

3.3.1 See 3.1.1

3.4 **Reducing demand of services**

3.4.1 See 3.5.

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

3.5.1 The Council receives applications to change public rights of way.

3.5.2 The Council may make orders which propose to change public rights of way and may recharge its costs of dealing with applications and making orders, as appropriate.

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

4. Consultees and their opinions

- 4.1 Cllr David Hall has offered no comment to date on the new proposal.
- 4.2 Cllr Michelle Grainger-Mead has no issue with the new proposal
- 4.3 Cllr Lisa Holmes has no comment to date on the new proposal.
- 4.4 Peak and Northern Footpath Society has no objection to the new proposal.
- 4.5 North Kirklees Ramblers, Open Spaces Society, Auto Cycle Union, Byways & Bridleways Trust, Kirklees Bridleways Groups, Huddersfield Rucksack Club, Spen Valley Civic Society, BT, British Gas, YEDL, NTL, West Yorkshire Fire Service, NAVTEC, West Yorkshire Ambulance, Yorkshire Water, MYCCI, Freight Transport, Passenger Transport Executive, RAC, KCOM, Atkins Telecoms, Road Haulage Association and West Yorkshire Police offered no response.
- 4.6 Notices were posted on site for 14 days.

5 Next steps

- 5.1 If the order is made and is unopposed, then the Council may confirm it, and may bring it into effect.
- 5.2 If the diversion order is made, there will be a statutory 28-day notice period during which time representations and objections may be made. Any opposed Order could only be confirmed after referral to the Secretary of State, DEFRA. This may result in a public inquiry
- 5.3 If the order is opposed, it may be forwarded to the Secretary of State at DEFRA to determine.

5.4 If the order is not made, then the public footpath Spenborough 110 would remain on its current legal alignment, unless the earlier order is pursued.

6 Officer recommendations and reasons

6.1 **Officers recommend** that members choose option 2 at paragraph 2.8, that the Service Director of Legal, Governance and Commissioning be authorised to make and seek confirmation of an Order under Section 119 of the Highways Act 1980 to divert Spenborough public footpath 110 (part).

6.2 **Officers consider** that the proposed diversion would satisfy the relevant criteria to make and confirm an order.

7 Cabinet Portfolio Holder's Recommendations

Not applicable

8 Contact officer:

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

9 Background papers

9.1 PROW file 872/DIV/11/110 and Rights of Way improvement Plan

9.2 Appendices

9.2.1 App A - Plan 1

9.2.2 App B - location plan

9.2.3 App C - ROWIP extract

9.2.4 App D - diversion route proposal on SVLC site plan

9.2.5 App E - diversion order made March 2020 for earlier proposal

10 Service Director responsible

10.1 Sue Procter: Service Director, Environment

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Name of meeting and date:

Planning sub-committee (Heavy Woollen Area) 17 February 2021

Title of report:

Application (amended proposal) for diversion order - public footpath Spenborough 110 (part), near Spen Valley Leisure Centre, Bradford Road, Liversedge. Highways Act 1980, section 119

1. Purpose of report

Members are asked to consider and decide whether to authorise the making of an order to divert part of public footpath Spenborough 110 at the Spen Valley Leisure Centre, which would stop up part of public footpath 110 and provide a diversionary route. The public footpath route to be stopped up, and the proposed diversionary route to be created are shown on appended plan 1 at App A. Members are asked to make a decision on the Council's making and confirmation of a relevant diversion order.

2. Summary of Report

An application has been made to the Council for an order to stop up part of public footpath Spenborough 110 at the Spen Valley Leisure site and provide an alternative route, in the interests of the landowner.

Background context – members should note that the Council made an earlier order for an order under delegated powers, which attracting one objection. This amended proposal seeks to address the issues raised, offering improvement to the proposed new route, in terms of width, surface, as well as improving gradients and removing steps. The application amended proposals have been submitted by members of the Council's project team for the Spen Valley Leisure Centre redevelopment.

3. Ward Councillor comments

Ward members have been consulted, prior to the making of the earlier order, and recently on the amended proposal.

No objection has been received from members. Cllr Granger-Mead raises no issue with the amended proposal. Officers would update members as appropriate on any further comment.

4. Officer recommendations and reasons

Officers recommend that members authorise the making of an order to divert public footpath Spenborough 110 (part) on land at and adjacent to the Spen Valley Leisure Centre, and for officers to seek confirmation of the diversion order. Officers consider that the proposal is appropriate, expedient and would satisfy the relevant legal criteria, described in the full report.

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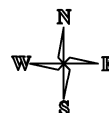
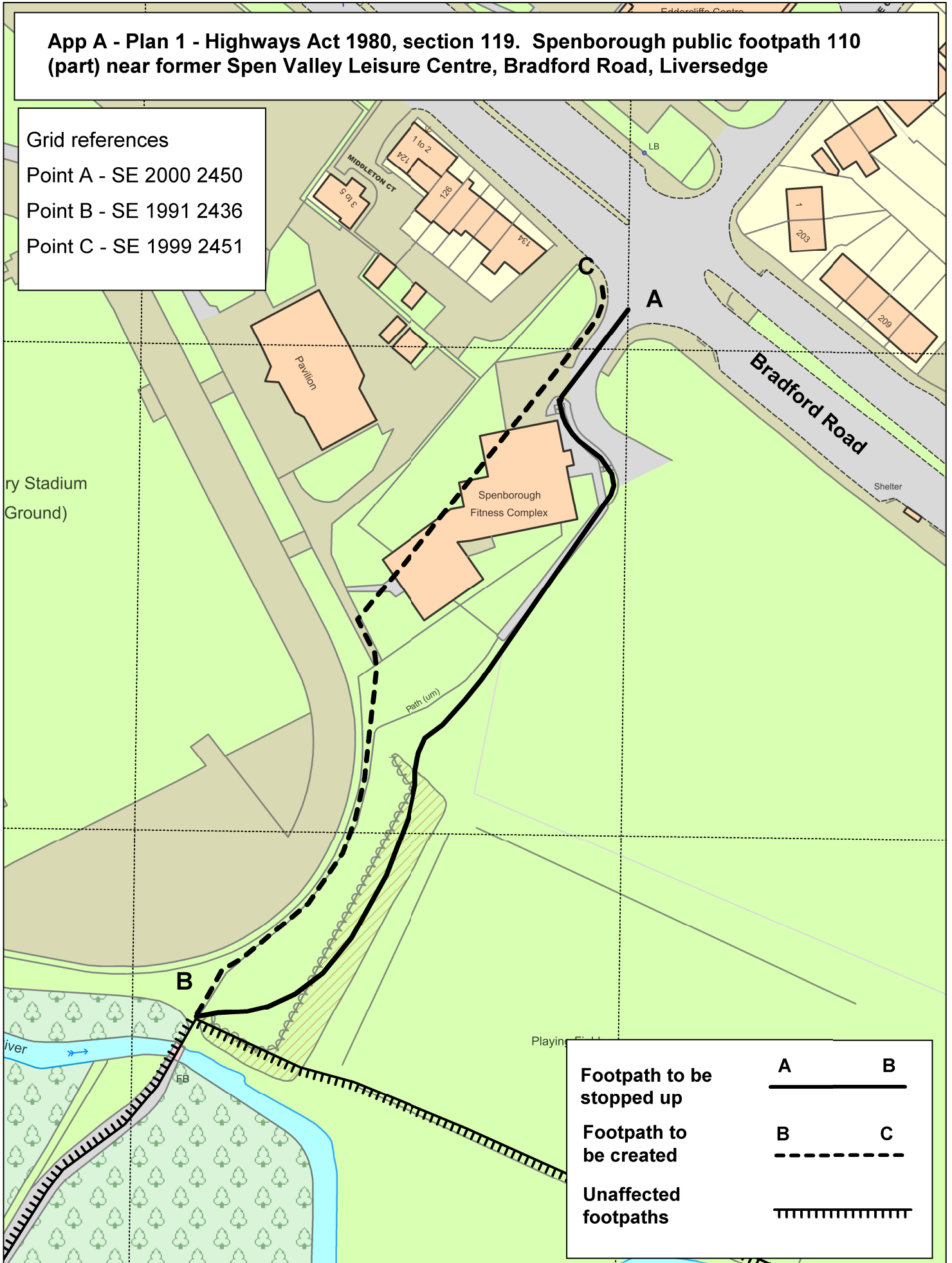
App A - Plan 1 - Highways Act 1980, section 119. Spenborough public footpath 110 (part) near former Spen Valley Leisure Centre, Bradford Road, Liversedge

Grid references

Point A - SE 2000 2450

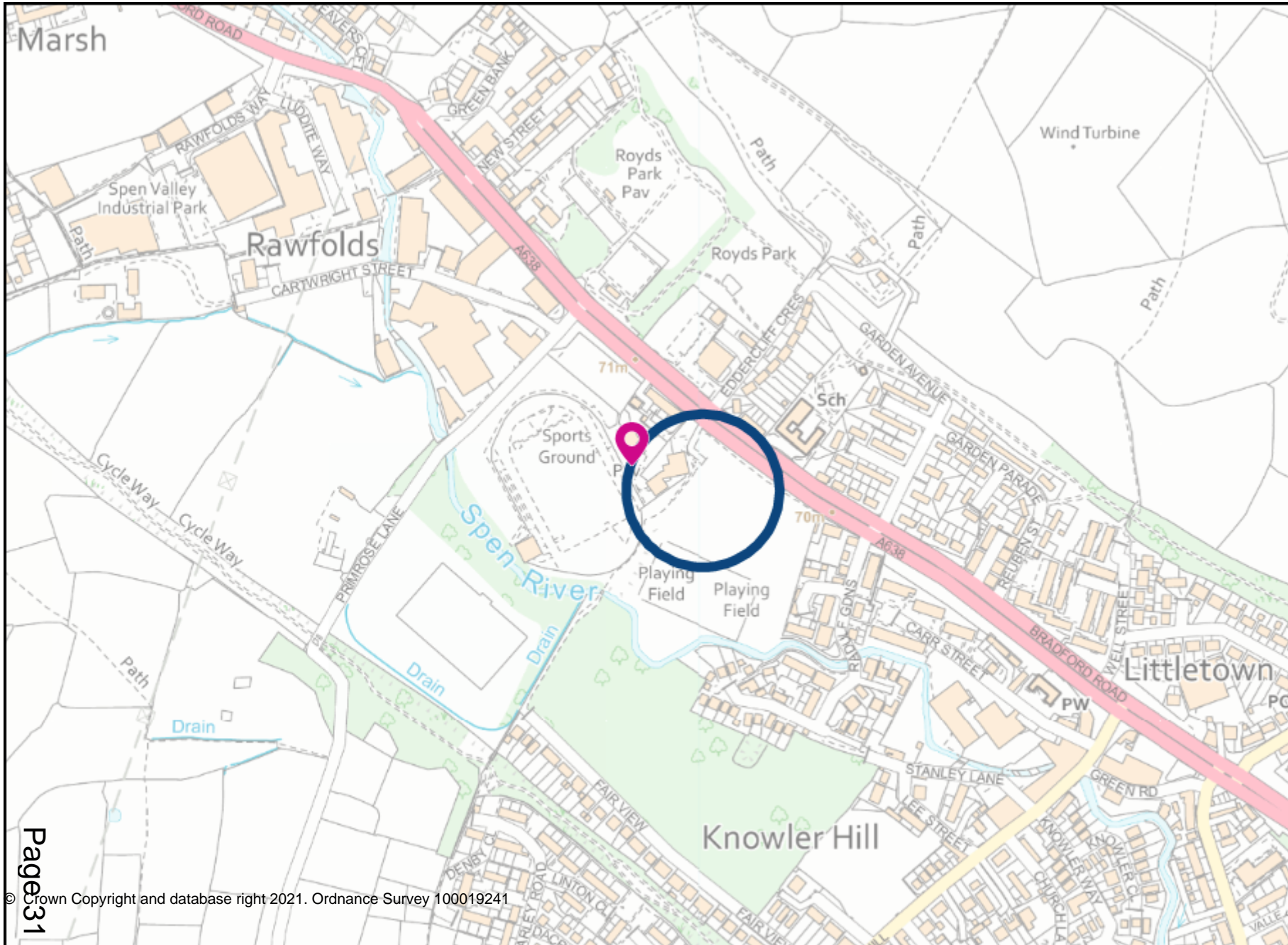
Point B - SE 1991 2436

Point C - SE 1999 2451



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App B - Location Plan

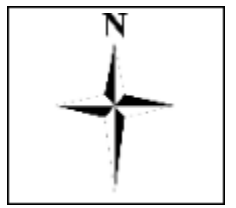


Kompass
Kirklees Mapping Service

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Ordnance Survey
100019241

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Executive Summary

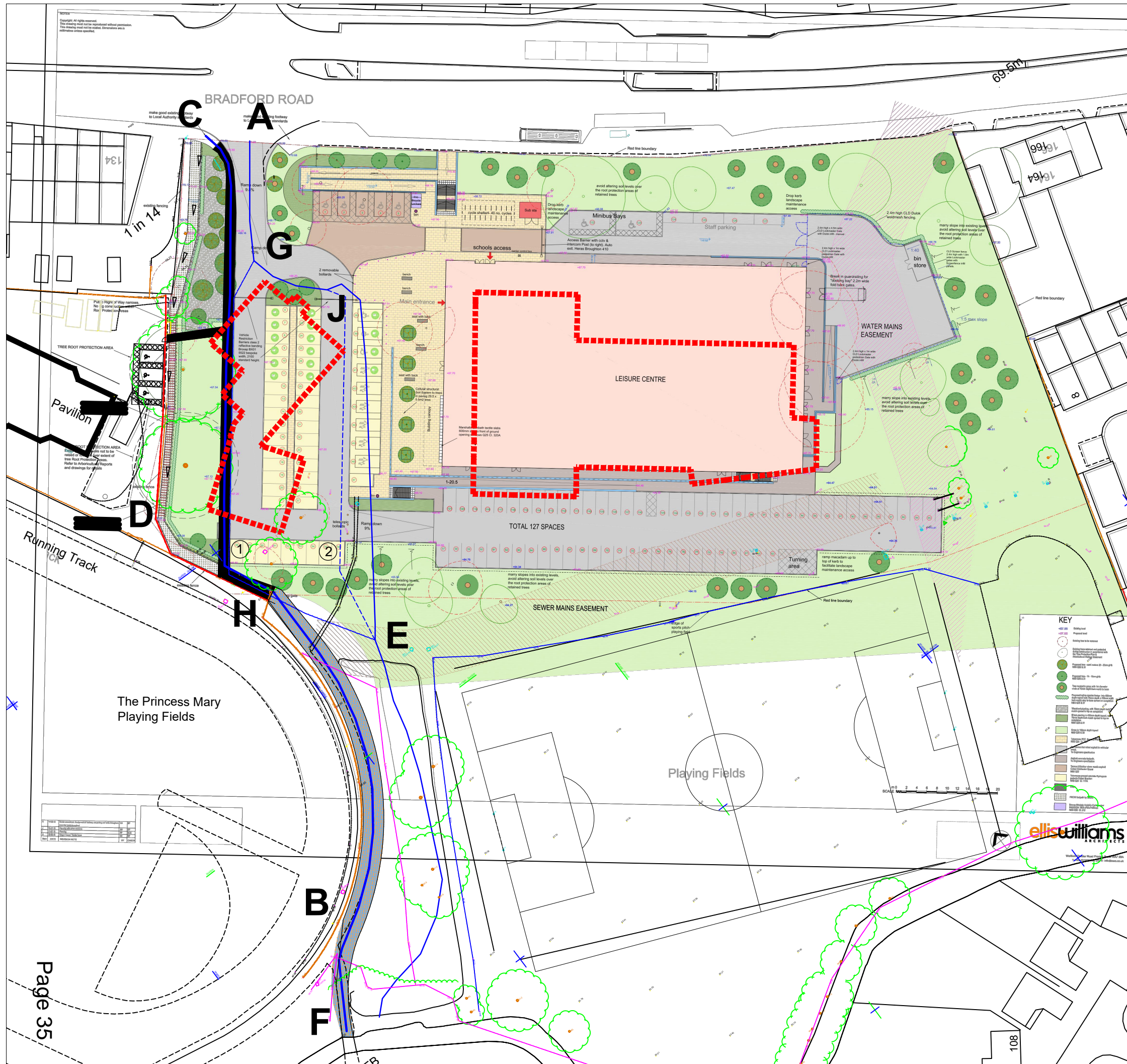
The public rights of way network is a significant part of Kirklees' heritage and a major recreational resource. It enables people to get outdoors and away from increasing motor traffic and to enjoy the countryside which they would not otherwise have access - or simply to use it for fresh air and exercise. These rights of way are also important in the daily lives of many people who use them for travelling, particularly on short journeys, to shops, schools and other facilities as well as being an important link between neighbourhoods and settlements.

As part of Kirklees Vision, the Rights of Way Improvement Plan is to have a rights of way network; that is accessible for all, helps towards improving the health and well being of our residents, supports the economy through tourism and helps to reduce Kirklees' "carbon footprint". It aims towards improving sustainable transport with member authorities within West Yorkshire as well as working with other neighbouring authorities whose aims and objectives are the same or similar. The aims of the plan are to:

1. Protect, improve and develop the rights of way network as an important means of access both within urban areas and the wider countryside to meet with the present and future needs of the public.
2. Ensure the condition of the rights of way network is maintained and enhanced in keeping with the needs of local communities.
3. Afford opportunities for safe and sustainable travel and for access to work, schools, shops and other facilities and amenities as well as providing further opportunities for outdoor recreation and enjoyment of the area.
4. Improve the accessibility of rights of way for all members of the community in particular those from ethnic and deprived areas and especially for those with mobility problems or other impairments.
5. Identify opportunities to further improve public access in Kirklees by working with partners and volunteer groups in providing well-connected, well maintained, traffic free routes that are safe, attractive and well used by residents and visitors.
6. Enable and encourage people to enjoy the benefits of regular exercise whilst going about their daily business and to take advantage of the wide variety of countryside that exists within Kirklees.
7. Ensure the rights of way network contributes to the development of economic opportunities in Kirklees through tourism.

Each highway authority is required to prepare "A Statement of Action" for the management of its Rights of Way Network and for securing improvements to local rights of way, with particular regards to the matters dealt with in the criteria contained in the Countryside and Rights of way Act 2000.

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Key

C - H 2m wide path, tarmac

H - B 3m wide path, plantings

B - F Ramped to existing footbridge

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**HIGHWAYS ACT 1980
WILDLIFE AND COUNTRYSIDE ACT 1981
KIRKLEES COUNCIL (PUBLIC FOOTPATH SPENBOROUGH 110 (PART) NEAR
SPEN VALLEY LEISURE CENTRE, BRADFORD ROAD, LIVERSEDGE)
PUBLIC PATH DIVERSION AND DEFINITIVE MAP AND STATEMENT
MODIFICATION ORDER 2020**

This Order is made by the Council of the Borough of Kirklees ("the Authority") under Section 119 of the Highways Act 1980 ("the 1980 Act") because it appears to the authority that in the interests of the owner of the land crossed by the footpath described in paragraph 1 of this order it is expedient that the line of the path should be diverted.

This order is also made under Section 53A(2) of the Wildlife and Countryside Act 1981 ("the 1981 Act") because it appears to the authority that the West Yorkshire Metropolitan County Council Definitive Map and Statement for the Kirklees Metropolitan District Area requires modification in consequence of the occurrence of an event specified in Section 53(3)(a)(i) of the 1981 Act, namely the diversion (as authorised by this order) of a highway shown or required to be shown in the map and statement.

The applicant Kirklees Council has agreed to defray any compensation which becomes payable in consequence of the coming into force of this order and any expenses which are incurred in bringing the new site at the path into a fit condition for use by the public.

BY THIS ORDER:

1. The public right of way over the land situate near Spen Valley Leisure Centre, Bradford Road, Liversedge and shown by a bold continuous line on the map contained in this Order and described in Part 1 of the Schedule to this order ("the Schedule") shall be stopped up after 14 days from the date of confirmation of this order and thereupon the West Yorkshire Metropolitan County Council Definitive Map and Statement for the Kirklees Metropolitan District Council shall be modified by deleting from it that public right of way.
2. Notwithstanding this order, where immediately before the date on which the footpath is diverted in pursuant of this order there is apparatus under, in, on, over, along or across that footpath belonging to statutory undertakers for the purpose of carrying on their undertaking, the undertakers shall continue to have the same rights in respect of the apparatus as they then had.
3. There shall at the end of 14 days from the date of confirmation of this order be a public footpath over the land situate near Spen Valley Leisure Centre, Bradford Road, Liversedge described in Part 2 of the Schedule and shown by a bold broken line on the map contained in this order and thereupon the West Yorkshire Metropolitan County Council Definitive Map and Statement for the Kirklees Metropolitan District Council shall be modified by adding that path to it.
4. The West Yorkshire Metropolitan County Council Definitive Map and Statement for the Kirklees Metropolitan District Council shall be modified as described in (Part 4) of the Schedule to this order.

5. This Order may be cited as the "Kirklees Council (Public Footpath Spenborough 110 (Part) near Spen Valley Leisure Centre, Bradford Road, Liversedge) Public Path Diversion and Definitive Map and Statement Modification Order 2020".

GIVEN under the Corporate Common Seal)
of the Council of the Borough of Kirklees)
this Twelwe day of March Two Thousand)
and Twenty)

[Handwritten Signature]



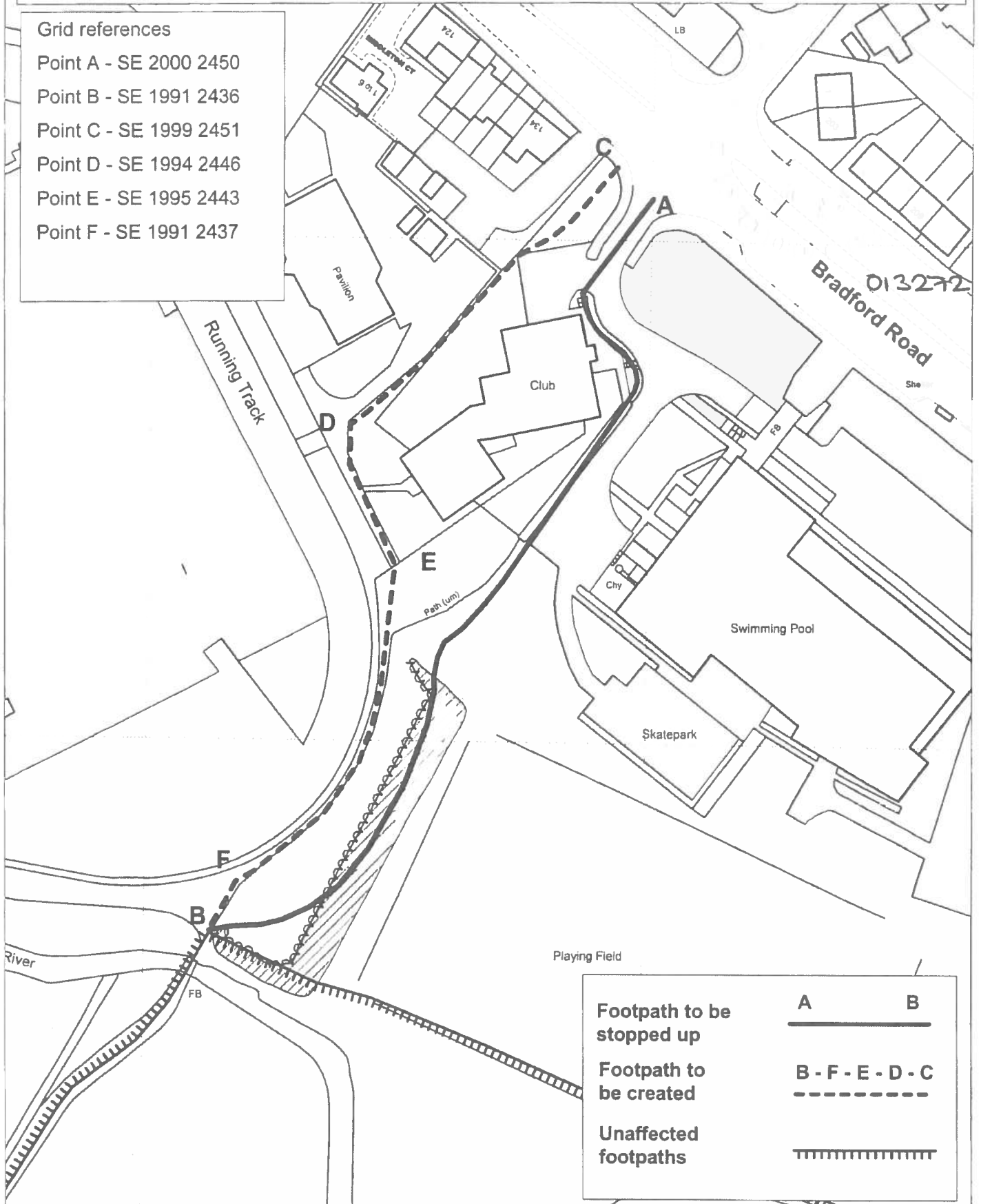
013272

~~Service Director – Legal, Governance and Commissioning~~/Authorised Signatory

Highways Act 1980, section 119. Spensborough public footpath 110 (part) near Spen Valley Leisure Centre, Bradford Road, Liversedge

Grid references

- Point A - SE 2000 2450
- Point B - SE 1991 2436
- Point C - SE 1999 2451
- Point D - SE 1994 2446
- Point E - SE 1995 2443
- Point F - SE 1991 2437



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Ordnance Survey 100019241



Map prepared on 28 January 2020

Scale 1 : 1000

**HIGHWAYS ACT 1980
WILDLIFE AND COUNTRYSIDE ACT 1981
KIRKLEES COUNCIL (PUBLIC FOOTPATH SPENBOROUGH 110 (PART) NEAR
SPEN VALLEY LEISURE CENTRE, BRADFORD ROAD, LIVERSEDGE)
PUBLIC PATH DIVERSION AND DEFINITIVE MAP AND STATEMENT
MODIFICATION ORDER 2020**

SCHEDULE

PART I

Description of site of existing path

Public footpath Spenborough 110 having a width of 1.2 metres and shown on the plan annexed hereto by a bold solid line commencing at point A at grid reference 2000 2450 and proceeding in a south south-westerly then south easterly then south south-westerly direction for 192 metres to point B at grid reference 1991 2436.

PART 2

Description of site of new path

Public footpath Spenborough 110 having a width of 2 metres shown on the plan annexed hereto by a bold dashed line commencing at Bradford Road at point C at grid reference 1999 2451 and proceeding in a south-westerly then south easterly then south south-westerly direction for 190 metres to point B at grid reference 1991 2436.

Width: C – D, 2 metres, 1.8 metres surfaced Tarmac
D – E, 2 metres, crushed stone
E – F, 2 metres, 1.8 metres surfaced planings
F – B, 2 metres, 1.2 metres surfaced steps

Length: 190 metres

Surface: Tarmac 75
Crushed Stone 30
Planings 85

PART 3

MODIFICATION OF DEFINITIVE MAP AND STATEMENT

AREA: Spenborough

Title of Legal Event giving rise to modification	Highways Act 1980, section 119. Wildlife and Countryside Act 1981, section 53(A)(2)
	Kirklees Council (Public Footpath Spenborough 110 (Part) near Spen Valley Leisure Centre, Bradford Road, Liversedge) Public Path Diversion and Definitive Map and Statement Modification Order 2020

Modification of the Definitive Map

Annexed map ref no.	Path no.	modification	from point	to point	via points	Width (m)	Approx length (m)
1	110	Footpath deletion	A	B		1.2	192
1	110	Footpath addition	C	B	D, E and F	2	190

Modification of the Definitive Statement

Path Number	Map ref	Description of Route	Nature of Surface	Length (m)	Width (m)	General
110	SE 12 SE / 1924	Footpath commencing at its junction with Bradford Road (A638) and proceeding in a south westerly then southerly direction to Halifax Road at Knowler Hill	part earth, part metalled tarmac, crushed stone, planings	548 190	1.2 2	1 field gate 1 foot bridge 2 stiles 1 wicket gate Steps

Dated 12 March 2020

**HIGHWAYS ACT 1980
WILDLIFE AND COUNTRYSIDE ACT 1981
KIRKLEES COUNCIL (PUBLIC FOOTPATH SPENBOROUGH 110 (PART) NEAR
SPEN VALLEY LEISURE CENTRE, BRADFORD ROAD, LIVERSEDGE)
PUBLIC PATH DIVERSION AND DEFINITIVE MAP AND STATEMENT AND
MODIFICATION ORDER 2020**

**Kirklees Council
Legal, Governance and Monitoring
2nd Floor
High Street Buildings
High Street
Huddersfield**

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: 17-Feb-2021

Subject: Planning Application 2019/91836 Erection of 34 dwellings Land adjacent to Inkerman Court, Barnsley Road, Denby Dale, Huddersfield, HD8 8XA

APPLICANT

Stewart Brown, Yorkshire
Country Properties

DATE VALID

12-Jun-2019

TARGET DATE

11-Sep-2019

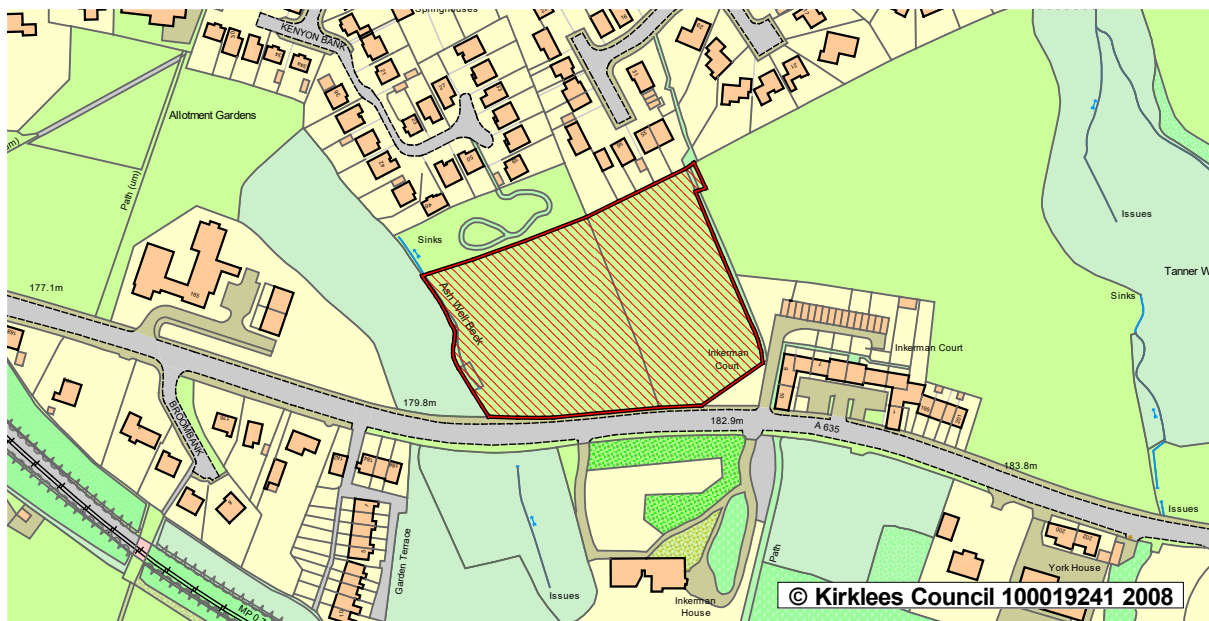
EXTENSION EXPIRY DATE

24-Dec-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: 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 – Seven affordable housing units (1-bedroom starter homes) to be provided in perpetuity.
- 2) Open space – £44,969 contribution towards off-site provision, and an additional contribution payable in the event that development comes forward at the adjacent allocated site (HS136) and the cumulative impacts of the developments require mitigation.
- 3) Education – Contribution of £36,007.
- 4) Sustainable transport – Measures to encourage the use of sustainable modes of transport, and a contribution towards Travel Plan monitoring payable in the event that development comes forward at the adjacent allocated site (HS136) such that a Travel Plan is required.
- 5) Biodiversity – Contribution (amount to be confirmed) towards off-site measures to achieve biodiversity net gain.
- 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).
- 7) Traffic Regulation Order – Funding of consultation on, and implementation of (if deemed appropriate, following consultation) a Traffic Regulation Order reducing the speed limit on Barnsley Road to 40mph.

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 full planning permission, for a residential development of 34 dwellings.
- 1.2 The application is presented to the Heavy Woollen Sub-Committee as the site is larger than 0.5 hectares in size.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site is 1.02 hectares in size and is located on the north side of Barnsley Road, Denby Dale.
- 2.2 The application site is previously undeveloped (greenfield) land, was previously in agricultural use, and is partly grassed and partly overgrown with shrubs.
- 2.3 Beyond a small area of public open space to the north of the application site there are two-storey detached dwellings at Kenyon Bank, and single- and two-storey dwellings to the north at Inkerman Way. To the east of the application site is Inkerman Court, a group of 10 two-storey stone-built dwellings arranged around a courtyard, with an attached terrace (195 to 201 Barnsley Road) further to the east.
- 2.4 The application site generally slopes downhill from south (approximately 185m AOD) to north (approximately 175m AOD).
- 2.5 A watercourse (Ash Well Beck) flows northwards along the application site's western edge.
- 2.6 There are trees and shrubs along some of the site's edges, and Tree Preservation Order DD2/51/w29 protects trees along the site's western edge.
- 2.7 Public footpath DEN/66/40 runs along the site's east edge, connecting Barnsley Road with Inkerman Way. An easement between Barnsley Road runs through the site to the open space to the north.
- 2.8 The application site is allocated for residential development (site allocation ref: HS141). The adjacent site to the east, on the other side of the public footpath, is also allocated for residential development (ref: HS136).
- 2.9 A Biodiversity Opportunity Zone (Pennine Foothills) covers the site. A Wildlife Habitat Network covers the banks of Ash Well Beck to the west, and areas to the south on the opposite side of Barnsley Road.
- 2.10 The site is not in a conservation area, and there are no listed buildings within or near to the site.

3.0 PROPOSAL:

- 3.1 The applicant seeks full planning permission for the erection of 34 dwellings.
- 3.2 A single, new vehicular access point is proposed from Barnsley Road. From this point, two new estate roads would spread downhill, with a private drive extending from the easternmost estate road. A right-hand turn pocket is proposed in Barnsley Road, outside the proposed vehicular access point.
- 3.3 Dwellings would be arranged in a terrace of eight houses close to Barnsley Road, behind which a mix of detached and semi-detached dwellings, and two short terraces, are proposed. All dwellings would be two storeys in height, some with rooms in their attic spaces, and some with three-storey rear elevations.

- 3.4 An area of on-site open space is proposed at the northwest corner of the site, adjacent to the existing open space to the north. A proposed gate would formalise a pedestrian connection between Barnsley Road and Kenyon Bank.
- 3.5 No pedestrian connection is proposed to public footpath DEN/66/40.
- 3.6 Of the 34 dwellings proposed, seven would be provided as affordable housing (starter homes). This represents a 20.6% provision.
- 3.7 All dwellings would have off-street parking, with some dwellings having attached, detached or integral garages.
- 3.8 Surface water would be directed to an attenuation tank at the northwest corner of the site, from which water would flow (via a hydrobrake) to Ash Well Beck.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 88/06500 – Outline permission for residential development refused on 14/03/1989.

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

- 5.1 Pre-application advice was requested by the applicant in June 2018 in relation to a residential development of 35 units. A pre-application meeting was held on 26/09/2018 (attended by the applicant team, Cllr Turner and officers), and the council issued a pre-application advice letter on 04/04/2019 (ref: 2018/20261). The main points made in that letter are summarised as follows:

- Full planning permission required.
- Site is allocated for residential development. Subject to planning matters being satisfactorily addressed, residential development at this site would be acceptable in principle, and can be considered to be sustainable development.
- 35 dwellings would be policy-compliant.
- Proposed layout is largely logical and acceptable, although site's southeast corner would not be the best location for open space.
- Masterplan with adjacent allocated site would be preferable, but not a requirement.
- Proposed dwelling typologies acceptable. Varied house types required.
- Natural stone should be proposed. Two-storey development appropriate.
- Public footpath DEN/66/40 should be satisfactorily addressed and overlooked, with garden gates provided.
- North-facing windows could provide natural surveillance to existing open space to the north.
- Site offers very few locations where high, close-boarded fencing would be appropriate. Dry stone walls should be retained.
- High quality landscaping required.
- Existing and proposed levels should be confirmed.
- Proposal would not harm heritage assets.
- Proposed unit size mix is acceptable, although one-bedroom units would help meet known need. Compliance with Nationally Described Space Standards is encouraged.

- Adequate private amenity space is proposed.
- 510sqm of amenity greenspace and 469sqm of space for children and young people required. This space would need to include a local area of play (LAP). Off-site contribution also required.
- 20% affordable housing required, split 54% affordable/social rent / 46% intermediate. Seven affordable units required, provided as a mix of one-, two- and three-bedroom units, pepper-potted, and designed to be indistinguishable from private units.
- Entrance visibility splays can be based on the 85th percentile wet weather speed on each approach to the proposed junction. Speed surveys should be included in Transport Assessment, along with a Stage 1 Road Safety Audit.
- Barnsley Road footway should be widened to 2m. 2m wide footways required into site entrance. Manoeuvring space for a 11.85m refuse vehicle required. Advice provided regarding gradients and other aspects of internal highway design.
- Adequate on-site parking, connections to public rights of way network, and Travel Plan required.
- Pedestrian connection between Barnsley Road and existing open space to north is supported.
- Flood risk assessment and drainage strategy required. Drainage hierarchy must be followed, although soakaways may not be viable at this site. On-site attenuation required. Details of management and maintenance of drainage would need to be secured.
- Layout should be designed to avoid pressure on protected trees to the west. Additional trees required along Barnsley Road frontage. Tree survey and arboricultural impact assessment required.
- Preliminary Ecological Appraisal and Ecological Impact Assessment required.
- Phase I contaminated land report required.
- Electric vehicle charging points required.
- Noise assessment required.
- Planning obligations relating to affordable housing, education, highways, public open space and drainage likely to be required.
- Local pre-application consultation encouraged.

5.2 Section 8.0 of the applicant's Design and Access Statement states that the applicant circulated a mailshot among local residents regarding the proposals, prior to submitting the current application.

5.3 During the life of the current application, the applicant submitted amended layouts, details of amended house types, details of levels and boundary treatments, schedules of accommodation, drainage and flood routing information, details to address Section 38 matters, amended plans showing a right-turn pocket in Barnsley Road, and other highways information (including details of a week-long speed survey).

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 application site is allocated for residential development in the Local Plan (site allocation HS141, formerly H634). HS141 relates to 1.02 hectares (net and gross), sets out an indicative housing capacity of 35 dwellings, and identifies the following constraints:

- Third party land required to achieve sufficient visibility splays.
- Public right of way crosses the site.

6.3 The site allocation also notes (as a site-specific consideration) that the site could be accessed in conjunction with housing site HS136.

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
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 Interim Affordable Housing Policy (2020)
 - 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 Management Design Guide for New Developments (2020)
 - Green Street Principles (2017)
 - Viability Guidance Note (2020)
- 6.6 A draft Housebuilder Design Guide SPD, Open Space SPD and Biodiversity Net Gain Technical Advice Note were published by the council in 2020. These have undergone public consultation but have not been adopted to date.

Climate change:

- 6.7 The council approved Climate Emergency measures at its meeting of full Council on 16/01/2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.
- 6.8 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:

- 6.9 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 17 – Facilitating the sustainable use of materials.

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

6.11 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 has been advertised as a major development that would affect a public right of way.

7.2 The application has been advertised via four site notices posted on 01/07/2019, a press notice published on 28/06/2019, and letters sent to the occupants of neighbouring properties. This is in line with the council's adopted Statement of Community Involvement. The end date for publicity was 22/07/2019.

7.3 149 representations were received in response to this initial consultation. These have been posted online and included an objection from the Upper Dearne Valley Environmental Trust, a report prepared by IOP Consulting (dated July 2019), and a report prepared by Northern Transport Planning (dated July 2019) on behalf of residents. The following is a summary of the points raised:

- Objection to principle of development.
- Objection to loss of green belt land. Brownfield land should be developed instead. Development should be encouraged in Dewsbury. Other areas need investment. Site should not have been released for development. Site is widely used by ramblers, cyclists, dog walkers, children and more. When Kenyon Bank was developed, assurance was given that land beyond it would not be developed.
- Housing not needed. There is no housing shortage. Brexit will reduce housing demand. Denby Dale already has pipeline of 100 new homes. New homes already being built at Wood Nook, and haven't been sold. Denby Dale is full and overpopulated.
- Cumulative impacts of developments should be considered.
- Development wouldn't provide housing for older people, despite ageing population. Bungalows should be proposed.

- Highway safety concerns. Site is on a hazardous blind corner opposite a busy pool. Large trees overhang and shade the road, affecting visibility. Low sun can also affect visibility. Emerging vehicles would cause accidents. Accidents occur on Barnsley Road. Fatal accident will occur. Vehicles stray over central white line markings. Fast traffic passes the site. Speed survey confirmed speeds of up to 82mph. Speed surveys inadequate. Speed limit should be reduced to 30mph. Road narrowing would not help. Parking restrictions would move problems further along the road. Difficult for pedestrians to cross Barnsley Road. Safe crossing point needed. Danger for playing children. Increased traffic on Miller Hill and Bank Lane which are already dangerous roads for pedestrians due to neither having a footway. Nearby roads are narrowed to one lane by parking. Increased traffic and safety risks to Norman Road.
- Local roads are already congested. Emergency vehicle access would be restricted by additional traffic. Developments in Scissett have worsened congestion. Increased damage to local roads. Increased population will mean shops require more deliveries. Transport Assessment incorrectly identifies site as an urban location. Traffic survey carried out on Dearneside Road should be revisited. Applicant's trip generation predictions are unreliable.
- Parking problems already exist due to swimming pool opposite. Lack of parking at village centre and Denby Dale station. Village only has two blue badge spaces. Proposed garages too small. Each house would have an average of two cars. New residents will park on Barnsley Road. Visitor parking isn't proposed.
- Proposed layout unsuitable for refuse collection vehicles.
- No space for construction vehicles.
- Bus and train services are inadequate. More buses and trains required. Walking and cycling unrealistic due to topography. There is no safe pedestrian route to the site after dark.
- Footpath to east shouldn't be blocked.
- Increased flood risk. Properties on Inkerman Way would be affected. Adjacent gardens already flood. Culvert behind Kenyon Bank has flooded. Application site currently soaks up water. Kenyon Bank and other parts of Denby Dale flooded in 2007. Previous application was refused on drainage grounds. Proposed on-site storage inadequate. Ponds, open swales and reed beds should be proposed. Applicant incorrectly states that water would flow from north to south. Drains and sewers under Inkerman Way are at capacity, are noisy, and cannot cope.
- Inadequate sewers. Council will need to pay for upgraded sewers.
- Adverse impact on utilities.
- Adverse impact on character of Denby Dale and Barnsley Road. Natural village boundaries and the rural nature of Denby Dale would be eroded. Site currently helps separate Denby Dale from Upper/Lower Denby. Denby Dale is becoming a small town. Urban sprawl. Denby Dale is an area of outstanding beauty.
- Council's density policy not complied with. Density is too high.
- Development would be an eyesore. Development's materials will look new. Out of keeping with surroundings.
- Layout and materials are acceptable.
- Adverse impact on historic buildings of Inkerman Court.
- Secured by Design not complied with.

- Inadequate social infrastructure. Lack of local school places. No school is within a child's walking distance. Local healthcare inadequate. Residents already struggle to secure GP appointments. Inadequate refuse and recycling facilities. Section 106 contributions should improve schools, GP and library provision. Village lacks police, fire and ambulance stations.
- Query as to how Section 106 contributions would be spent, and why Community Infrastructure Levy is not being charged.
- Availability of access to existing open space to the north should not be assumed by applicant. This space does not require improvement. Use of this space and path would cause loss of privacy, and path is unlit and lacks natural surveillance. Increased access and use would affect sense of safety, as people from a wider area, not known to existing residents, would be present. Access from the north is via private land, and path to side of 50 Kenyon Bank is not a public right of way. Open space does not currently experience anti-social behaviour, but it would if access is provided.
- Adverse impact on wildlife. Inadequate ecological surveys provided. Surveys were carried out in February. Site is visited by "red list" birds. Bats present at the site. Badgers have been present close to the site. Cats of new residents would kill wildlife. Wildlife corridor would be interrupted. Site is used for the release of hedgehogs. Biodiversity net gain has not been demonstrated.
- Harm to adjacent woodland.
- Lack of landscaping information. Landscaped boundary needed between existing and proposed open spaces.
- Proposed open space should be at the heart of the development.
- Arsenic and lead need to be removed from the site. Natural gas present at site.
- Overshadowing of properties to the north.
- Overlooking of properties to the north and of Inkerman Court. If dwellings are built along site's northern edge, they should be bungalows.
- Increased noise. Residents of Norman Road and other streets would be affected.
- Increased air pollution.
- Borough's carbon footprint would be increased.
- Disruption and convenience caused during construction.
- Increase light pollution, preventing astronomy.
- Objection to increased footfall along public footpaths that pass existing homes.
- Adverse impact on mental health. Disturbance to sleep. Increased stress.
- Increased crime and security risks.
- Dwellings won't be affordable, including for local young people. Houses aren't for first-time buyers. Four- and five-bedroom houses are unaffordable and shouldn't be allowed.
- Affordable housing welcomed.
- Social housing would have negative impact on village character.
- Permission ref: 2018/92022 should be taken into account.
- Street views/elevations should be provided.
- Levels information should be provided.
- Devaluation of neighbouring properties.
- Masterplan needed for Dearne Valley.
- Applicant's reports are subjective and unreliable.
- Council's consultation has been disorganised.

- Applicant hasn't consulted with local residents.
- Objections would be futile.
- Applicant is prematurely advertising development online, suggesting bribery and corruption, and that consent is already a done deal. Applicant's website refers to 35 dwellings.
- Development is proposed for profit reasons. Greedy banks should not be fed.

7.4 On 07/07/2019 Cllr Turner asked for Members of the Sub-committee to visit the site.

7.5 On 09/08/2019 Cllr Simpson made the following comments:

As the consultee reports have outlined, the LLFA require further information on this application as well as KC Ecology requiring additional information and surveys to be completed.

I am also concerned about the safety of the application's access on Barnsley Road, as the speed of the road is high and I do not believe the visibility splays are adequate to ensure that safe access will be assured.

For these reasons alone I would ask Committee to ensure that the application is not accepted.

The council is also aware that an application is currently being drawn up for the adjacent housing allocated site.

These applications will likely have, and should have, connectivity and coordination. Moreover, the ecological, flood, drainage and transport effects of each site will be intrinsically linked.

Hereby, I believe it would be appropriate for this application to be in the least deferred so that the committee can consider it in conjunction with an application for the adjacent site. If this cannot be done, I would ask you ensure that this application is rejected on the grounds stated above.

As a further comment, I wish to state that for developments in locations such as this, which are not within the close vicinity of a bus stop, the provision of Metrocards as part of a sustainable transport contribution may not be the most effective use of S106 contribution for the residents. Nor would the provisions of bicycles, given the topology of the ward and distance to likely workplaces. Given the location of this particular development, fairly close to the ward's only rail station, I would suggest that discounted rail travel may be a more effective use of funds, if this were possible. For applications which are on bus routes more creative solutions, such as direct improvements to particular bus services, as Graham and I have discussed informally with officers would be positive. I would welcome a review into the way use 'sustainable travel' S106 funds to give ourselves more options when it comes to allocating funds and to ensure that our sustainable travel offers are most appropriate for the developments they are raised from.

7.6 Denby Dale Parish Council objected to the proposed development on the grounds of access to and from Barnsley Road, drainage problems due to inadequate capacity of existing sewers which are already overloaded, problems of surface water on the site's slope, and biodiversity. The Parish Council also believed that the submitted plans were inaccurate.

7.7 The case officer met residents of Kenyon Bank on site on 24/07/2019.

7.8 Following the submission of an amended drawings and information, a second round of consultation was carried out. Letters were sent to residents and interested parties. 35 further representations were received, including a further report prepared by Northern Transport Planning (dated January 2021) on behalf of residents. These representations have been posted online. The following is a summary of the further comments made:

- Previous objections have not been addressed.
- Highway safety concerns. Each of the three lanes at the site entrance should be 3m wide, yet the carriageway is only 8.5m wide. Right-turn lane should be reconsidered. Filter lanes can cause confusion and danger. HGVs coming downhill (westbound) have greater stopping distances and would not be able to slow down enough when they meet a vehicle waiting to turn right. Proposals don't address previous speed and visibility concerns. Carriageway narrowing would cause more accidents. Vegetation is still growing past the kerb of Barnsley Road, affecting visibility. Impartial review of the highway proposals should be commissioned by the council. Risk assessments needed. Fallen leaves cause skidding on Barnsley Road. Residents undertake U-turns on Barnsley Road, and proposals would increase risk of related accidents.
- Applicant and officers haven't addressed how the proposed filter lane will impact on the safety of vehicles entering and leaving the two entrances/exits to Inkerman House and Inkerman Pool, where (pre-epidemic) there were up to around 70 vehicle movements per hour (entering/exiting/turning onto Barnsley Road) between the hours of 08:30 and 19:30 Monday to Friday and a similar number per hour between 07:30 and 16:00 on Saturdays.
- In icy conditions, residents will leave their vehicles on Barnsley Road. Parking has proved inadequate at other sites. Proposed garages won't be used for parking.
- Electric vehicle charging points required.
- Drainage concerns have not been addressed. Surface water proposals are unclear and flood risk information is unconvincing. Size of proposed water storage tank has been reduced, and is still inadequate. Support Lead Local Flood Authority's objections.
- Local sewers are still inadequate.
- Elevations of dwellings closest to Kenyon Bank have not been submitted.
- Loss of sunlight to north.
- Further ecological surveys have still not been submitted.
- Council's public consultation was carefully minimised.
- Residents were not given enough time to comment on KC Highways comments, and those comments do not note that parking occurs on Barnsley Road.

7.9 Responses to the above 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:

8.3 KC Highways Development Management – Right-turn pocket acceptable – although the standard width for this facility would be 3m, the vast majority of vehicles using it will be narrower than the proposed pocket, and this is a more substantial provision than the two existing right-turn pockets in place at the crossroads outside The Dunkirk PH that each measure approximately 1.8m in width.

Proposed visibility splays are below those quoted in the Design Manual for Roads and Bridges (DMRB) for a road with a 50mph speed limit. However, speed surveys found that the 85th percentile speeds of vehicles were significantly below 50mph. Furthermore, a survey carried out by Highways Development Management (HDM) officers produced similar results. The proposed splays are commensurate with the measured 85th percentile speeds.

Although the splays are deemed acceptable for the current nature of the road, the applicant has offered to provide a financial bond to allow for the investigation, public consultation, and potential installation of a reduction in speed limit from 50mph to 40mph for a length of road to be determined by the council's Highway Safety department. It would seem likely that this would constitute a length from the junction with Wakefield Road (A636) to a point to the east of the site beyond the visibility splay. The Highway Safety department has been consulted on this proposal, but have not yet given an indication of the suitability of the plan.

Each dwelling would benefit from off-street parking in line with the Highway Design Guide SPD. The exception to this is the terrace of affordable housing, with each one-bedroomed dwelling having only one off-street space. However, given this property type is a genuine one-bedroomed property, with shared lounge and kitchen space on the ground floor, the shortfall is acceptable on balance in this instance. Nine visitor spaces are provided, although some are on-street or in turning heads widened to accommodate the additional vehicle. This accords with the one visitor space per four dwellings requested by HDM.

The enclosed bin storage facilities to the front of plots 1-8 are welcomed, but similar high-quality facilities should be provided for plots 15 and 32 to avoid on-street storage.

The two visitor parking spaces in front of plot 20 appear to conflict with the swept path to turn a refuse vehicle, allowing it to access and exit the site in a forward gear. Given access is taken directly from the A635, this turning facility is paramount to the highway safety of the site. Swept path analysis of an 11.85m refuse vehicle should be provided with these spaces taken into consideration, or the visitor parking bays re-located.

For street-sweeping reasons, the 90 degree angle in front of plot 34 should be chamfered.

8.4 KC Lead Local Flood Authority – On 29/01/2021 the Lead Local Flood Authority confirmed that their earlier objection would be withdrawn if unit 13 was changed to a smaller house type, as this would provide more space for flood routing and drainage maintenance.

8.5 Non-statutory:

8.6 KC Ecology – Applicant's preliminary ecological information is not suitable to support the application, and it recommends further survey for reptiles. In relation to breeding birds, the current understanding of the habitats present is sufficient to make a reasonable assessment of the significance of the effect on breeding birds (in this case significant at a site level), therefore further breeding bird survey is not necessary. However, the proposals will need to include mitigation/compensation measures in respect of impacts. The proposals show the loss of woodland habitat. This is a habitat of principle importance and any loss will need to be mitigated in accordance policy LP30. Representations have been made relating to a higher hedgehog population density within and around this site – this will also need to be addressed as part of the proposals. Supporting information should comprise an Ecological Impact Assessment supported by additional reptile survey and including an assessment of impacts to important ecological features, including the population of hedgehogs. The supporting information will also need to include sufficient detail of required mitigation.

8.7 KC Education – Education contribution of £36,007 required.

8.8 KC Environmental Health – Recommendations set out in Phase I Contaminated Land Report by RGS dated July 2018 (ref: J4308/18/E/EDS) are agreed. Phase II Contaminated Land Report by Haigh Huddleston and Associates dated April 2019 cannot be reviewed as the gas monitoring is incomplete. Four site contamination conditions are therefore recommended. Conditions also recommended requiring electric vehicle charging points and a noise report.

8.9 KC Landscape – Details of landscaping and open space required, including in relation to levels and accessibility. Responsibility for management of open space needs to be clarified. Denby Dale ward is deficient in parks and recreation grounds, and natural and semi-natural green space. Local Area of Play (LAP) required but is not proposed. Two existing facilities with 720m distance could receive enhancements: Sunny Bank playground and Upper Denby recreation ground. £44,969 contribution required in lieu of on-site provision. More street trees would help break up proposed hard surfaces. Conditions recommended, and further advise provided regarding landscaping.

- 8.10 KC Strategic Housing – 20% affordable housing required. On-site provision is preferred. In Kirklees Rural East there is a significant need for 1- and 2-bedroom affordable housing, as well as a need for 3-bedroom (and larger) affordable housing. Proposed development should provide seven affordable dwellings. Social/affordable rent would be preferred to starter homes, as area has a higher level of owner-occupation compared to other parts of Kirklees. Four social/affordable rent and three intermediate dwellings would be appropriate. Starter home market prices must be relevant to local incomes – reference should be made to the Strategic Housing Market Assessment.
- 8.11 Yorkshire Water – No objection to proposed separate systems of drainage, the proposed amount of foul water to be discharged to the combined public sewer, or the proposed amount of surface water to be discharged to the watercourse. Condition recommended regarding piped discharge of surface water. 225mm public combined sewer crosses part of the site, and this must be taken into account in the proposed design.

9.0 MAIN ISSUES

- Land use and principle of development
- Quantum and density
- Sustainability and climate change
- Masterplanning and urban design
- Residential amenity and quality
- Unit sizes
- Affordable housing
- Highway and transportation issues
- Flood risk and drainage issues
- Trees, landscaping and biodiversity
- Environmental and public health
- Ground conditions
- Representations
- Planning obligations
- Other matters

10.0 APPRAISAL

Land use and 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 is allocated for residential development. Full weight can be given to site allocation HS141. Allocation of this and other greenfield (and previously green belt) sites was based on a rigorous borough-wide assessment of housing and other need, as well as analysis 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 release of green belt land was also demonstrated to be necessary in order to meet development needs. Regarding this particular site, in her report of 30/01/2019 the Local Plan Inspector (referring to the site when it was numbered H634, and to the adjacent site which was numbered H233) stated:

The sites are identified in the Council's Green Belt Review and site assessment work as having a less important Green Belt role and where development would have limited impact on Green Belt function. Taking account of their containment and the urban fringe character of Barnsley Road, I concur with these findings. In this context, and taking account of identified housing needs and their proximity to the village, I conclude that exceptional circumstances exist to justify the release of the sites from the Green Belt.

- 10.4 The 34 dwellings proposed would contribute towards meeting housing delivery targets of the Local Plan.
- 10.5 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.
- 10.6 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.

Quantum and density

- 10.7 To ensure efficient use of land Local Plan policy LP7 requires developments to achieve a net density of at least 35 dwellings per hectare, where appropriate, and having regard to the character of the area and the design of the scheme. Lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or to secure particular house types to meet local housing needs. Kirklees has a finite supply of land for the delivery of the 31,140 new homes required during the Local Plan period, and there is a need to ensure that allocated sites are efficiently used (having regard to all relevant planning considerations) to ensure the borough's housing delivery targets are met.
- 10.8 With 34 units proposed in a site of 1.02 hectares, a density of approximately 33.3 units per hectare would be achieved. This falls slightly short of the 35 units per hectare minimum density set out in Local Plan policy LP7, and the 34 units proposed is one unit short of the indicative site capacity figure (35 dwellings) set out in site allocation HS141. These shortfalls, however, are minor, and having regard to the site's constraints, the quantum, density, unit size mix and layout of the proposed development is considered acceptable.

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 The application site is a sustainable location for residential development, as it is relatively accessible and is located at the edge of an existing, established settlement that is served by public transport. Furthermore, Denby Dale has a wide range of facilities (including social infrastructure), such that many of the daily, economic, social and community needs of residents of the proposed development can be met within the area surrounding the application site, which further indicates that residential development at this site can be regarded as sustainable.
- 10.11 Regarding climate change, measures would be necessary to encourage the use of sustainable modes of transport. Adequate provision for cyclists (including cycle storage and space for cyclists), electric vehicle charging points, and measures to encourage the use of sustainable modes of transport have been proposed or would be secured by condition or via a Section 106 agreement. A development at this site which was entirely reliant on residents travelling by private car is unlikely to be considered sustainable. Drainage and flood risk minimisation measures would need to account for climate change.
- 10.12 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.

Masterplanning and urban design

- 10.13 Chapters 11 and 12 of the NPPF, and Local Plan policies LP2, LP5, LP7 and LP24 are relevant to the proposed development in relation to design, as is the National Design Guide.
- 10.14 The site is subject to constraints in relation to topography, local character, drainage, highways, and the adjacent residential properties, public footpath and TPO-protected trees. All of these considerations will (or should) influence the design of any development at this site.
- 10.15 The application site is immediately adjacent to another allocated site (HS136) to the east, which is 2.07 hectares in size, and where an indicative capacity of 72 units is set out in the relevant site allocation. No planning application for the development of that site has been submitted to the council.
- 10.16 Local Plan policy LP5 (regarding masterplanning) is relevant to this application, as is paragraph 6.41 of the Local Plan, which states that the council will continue to positively support measures to ensure the best use of land and buildings, including through the application of relevant policies to ensure land is not sterilised for development. In light of this relevant policy, it

is appropriate to apply aspects of a masterplanning approach to site allocations HS141 and HS136 when assessing the current application. Although the council could not reasonably insist on a single application being submitted for the two sites, and could not require the two sites to be developed simultaneously by the same developer or designed by same team, development that makes best use of the allocated land, and that does not sterilise (or otherwise compromise) any part of the site allocations, is essential.

- 10.17 The text accompanying site allocation HS141 states that the application site could be accessed in conjunction with the adjacent site HS136. Although in some respects a vehicular connection between the two allocated sites would be advantageous (a U-shaped road through the two sites, connected to Barnsley Road at two new junctions, would reduce the need for reversing within the sites), such a connection is not considered essential, as the two allocated sites both have frontages to Barnsley Road, and can be accessed independently of one another.
- 10.18 Due to their topography, the two allocated sites can also be drained independently of one other. Subject to attenuation, development at the application site can drain to Ash Well Beck to the west, whereas the adjacent site generally slopes downhill towards the northeast, and could drain to Haley Well Beck (again subject to attenuation, and if infiltration proves inappropriate at that site). Neither site would rely on the other for drainage pipework routing or optimal locations of attenuation.
- 10.19 Consideration has been given to whether a single, consolidated open space for both allocated sites would be preferable, however it is considered that separate provisions would instead be appropriate, given that provision at the application site can be located adjacent to (and can complement) the existing open space to the north, and given that open space may need to be provided at the adjacent site in any case, in relation to on-site drainage attenuation, to address topography, and to complement or buffer the adjacent woodland, green belt and wildlife habitat network.
- 10.20 In conclusion with regard to masterplanning, the proposed development can be considered acceptable without development being simultaneously proposed at the adjacent site, and without fully-integrated and inter-dependent proposals (in relation to access, drainage and open space) being brought forward at the two allocated sites. Further consideration of masterplanning matters is considered later in this report in relation to planning obligations.
- 10.21 The proposed layout takes into account topography and the maximum gradients stipulated in the council's Highway Design Guide SPD. Although the proposed layout would necessitate the reversing of refuse collection vehicles, some such reversing would be inevitable in any acceptable layout here, due to the size and shape of the site. The proposed layout is legible, and includes a pedestrian connection to the open space (and, ultimately, Kenyon Bank) to the north. This proposed pedestrian connection accords with Local Plan policies LP20, LP24dii and LP47e, and would provide a convenient route (away from main road traffic) to the centre of Denby Dale.

- 10.22 It is considered that a pedestrian connection between the estate road of the proposed development and the public footpath to the east (DEN/66/40) is not necessary, as it would only benefit a small number of new residents, and providing an east-west pedestrian connection between private curtilages here could unnecessarily expose side and/or rear garden boundaries to access and could increase their vulnerability to crime. The majority of new residents would be able to access the existing footpath via a short stretch of the footway of Barnsley Road without having to detour significantly, and the above-mentioned pedestrian connection to Kenyon Bank reduces the need for another pedestrian route from the development to the centre of Denby Dale in any case.
- 10.23 The proposed terrace of eight houses along the site's Barnsley Road frontage is an appropriate response to the site's context, as it would reflect the typologies and density of existing development at Inkerman Court and 195 to 201 Barnsley Road to the east. The proposed location of these dwellings (and units 9 and 34) would improve natural surveillance of the road. The provision of private garden gates at the back of the footway of Barnsley Road would further improve the relationship between the road and the proposed dwellings that would face it, and would further reflect the garden-road relationship that exists at 195 to 201 Barnsley Road.
- 10.24 Flood routing considerations have informed the proposed layout, footprints, levels and initial boundary treatment proposals. The proposed development's estate road layout would help prevent surface water running into or pooling within residential curtilages, and ground levels and kerbs would need to be designed to direct any surface water flow away from building thresholds.
- 10.25 Off-street car parking is proposed in front or side driveways, or in integral, detached or attached garages. No parking spaces are proposed in front of the Barnsley Road elevation of the terraced dwellings. With appropriate landscaping, the car parking proposed throughout site would not have an overdominant or otherwise harmful visual or streetscape impact.
- 10.26 Ten house types are proposed, and variations to some of those house types are also illustrated in the applicant's submission. 14 terraced, eight semi-detached and 12 detached dwellings are proposed. All dwellings would be two storeys in height, although some would have attic rooms, and four units would have three-storey elevations facing northwards, due to the site's topography. The proposed mix of unit types and sizes, and the proposed two and three storeys, would be suitably reflective of existing development nearby and typically found in settlements in southern Kirklees. Conventional massing, roof forms and elevational treatments are proposed. The number of, and variations to, house types would add interest to the proposed street scenes. Pitched roofs, gables, quoin and kneeler detailing, chimneys and other features are proposed, and these details are considered acceptable.
- 10.27 Acceptable materials (natural stone, slate, uPVC and glass-reinforced polyester) are proposed, however a condition requiring details and samples of all external materials is recommended.

- 10.28 Some details of boundary treatments have been submitted by the applicant, however a condition requiring the submission of full details of all boundary treatments is recommended. Dry stone walls are proposed in appropriate locations. Some rear and side garden boundaries would be exposed to public access, and security would need to be considered when proposals for boundary treatments are assessed at conditions stage, however the use of 1.8m timber fencing in locations visible from the public realm (including along footpath DEN/66/40) would not be considered acceptable. The nine dwellings that would back onto this footpath should be provided with rear garden gates (this can be secured at conditions stage), for the convenience of their residents, and to help activate this pedestrian route. Under the current proposals, the existing dry stone wall to Barnsley Road would be rebuilt on the line of the proposed visibility splay.
- 10.29 A condition related to crime and anti-social behaviour prevention measures is recommended.
- 10.30 The proposed development would not adversely affect the settings of heritage assets, including nearby non-designated heritage assets such as the buildings of Inkerman Court and Inkerman House.
- 10.31 In light of the above assessments, it is considered that the relevant requirements of chapters 11 and 12 of the NPPF, and Local Plan policies LP2, LP5, LP7 and LP24, 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

- 10.32 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.
- 10.33 Acceptable separation distances are proposed between the proposed dwellings and existing neighbouring properties. The proposed distances would ensure existing neighbours would not experience significant adverse effects in terms of natural light, privacy and outlook. Residents have expressed concern that no elevation of the north edge of the site (showing the north-facing elevations of units 13 and 22 to 26) has been submitted by the applicant, however individual elevations of those units have been provided – those drawings, together with the submitted site layout plan, enable all parties to adequately assess the impacts and appearance of those dwellings. Of note, although three-storey elevations (with ground floor rear balconies) are proposed at units 22 to 25, rear garden depths of at least 9.5m are proposed for those units, and existing gardens to the north (of four dwellings on Inkerman Way) are at least 13m deep. There are also garages and intervening vegetation in the existing rear gardens, which would help limit overlooking and overshadowing impacts. Concerns have also been expressed by residents regarding the amenity impacts of unit 13, however although this unit would have a north elevation with approximately 1.5m of additional height (beneath its two storeys, due to topography), it would stand adjacent to the existing open space which provides approximately 25m of spacing between that plot and the curtilage of 39 Kenyon Bank to the north. Unit 13 has also recently been amended to an “S” type unit, which has increased the space between its north elevation and curtilage.

- 10.34 The open space to the north of the application site was secured in connection with planning permission ref: 93/00097 and was detailed under planning application 98/90146. Several residents of Kenyon Bank have expressed concern that the proposed development, including the proposed gate on the application site's northern boundary, would lead to a greater level of access to, and more intensive use of, the existing open space. Residents have stated that they are used to that space being used largely by local residents known to them, and are therefore concerned that use by people from a wider area would introduce security concerns. Residents have also stated that more intensive use of the open space would result in losses of amenity, due to the topography of the open space in relation to windows and private gardens. Access through the open space has been referred to in representations, with residents noting that the path to side of 50 Kenyon Bank is not a public right of way, and is unlit.
- 10.35 Officers, however, are not aware of any restriction that would currently prevent the use of this open space by people who do not reside in the existing adjacent dwellings. Furthermore, the open space is maintained by the council (via an easement and gated access from Barnsley Road), and the path to the side of 50 Kenyon Bank is not gated or subject to signed restrictions. It appears that, although existing residents have become accustomed to limited, local use of this open space, there is nothing to prevent its wider use by the public, either now or once the proposed development (if granted planning permission) is built. While residents' amenity concerns are noted, policy LP5 of the Local Plan (in relation to masterplanning) emphasises the need to increase accessibility to existing open spaces, while other policies encourage good neighbourhood connectivity and permeability. When visiting the site, officers noted that the route of the easement between the open space and Barnsley Road appeared to be well-used.
- 10.36 In terms of noise, although residential development would increase activity and movements to and from the site, given the quantum of development proposed, and given that traffic associated with the development would not pass existing dwellings (other than those on Barnsley Road, which is already a relatively busy highway that carries through-traffic), it is not considered that neighbouring residents would be significantly impacted. The proposed residential use is not inherently problematic in terms of noise, and is not considered incompatible with existing surrounding uses.
- 10.37 A condition requiring the submission and approval of a Construction (Environmental) Management Plan (C(E)MP) is recommended. 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. Details of dust suppression measures would also need to be included. A separate condition, requiring details of temporary (construction-phase) drainage arrangements is recommended, as is an informative regarding hours of noisy construction work.

- 10.38 The quality of the proposed residential accommodation is also a material planning consideration.
- 10.39 All of the proposed dwellings would benefit from dual aspect, and would be provided with adequate outlook, privacy and natural light. The detached garage of unit 9 would be located fairly close to the dwelling's front elevation, however overall that dwelling would have good outlook. Adequate distances would be provided within the proposed development between new dwellings.
- 10.40 All dwellings would have WCs at ground level, providing convenience for visitors with certain disabilities. No dwellings would have ground floor bedrooms, although the largest units would have studies and/or other habitable rooms at ground floor level that could be converted to bedrooms.
- 10.41 All of the proposed dwellings would be provided with adequate private outdoor amenity space proportionate to the size of each dwelling and its likely number of residents.
- 10.42 No noise assessment has been submitted by the applicant. Elevated levels of noise may affect the application site, particularly where plots 1 to 9 and 34 would meet the footway of Barnsley Road. KC Environmental Health officers have therefore recommended a condition be applied, requiring the submission of a report that assesses existing noise levels, and specifies measures (if required) to ensure new residents would not be adversely affected by noise.
- 10.43 The proposed 34 dwellings trigger a need for a Local Area for Play (LAP). The applicant has submitted an open spaces plan which states that 1,063sqm of on-site open space is proposed. This would include the open space above the attenuation tank at the northwest corner of the site, and the "landscape corridor" proposed along the east bank of Ash Well Beck, behind units 9 to 12. Taking into account the proposed on-site provision (which counts as amenity green space and natural and semi-natural green space), the applicant's proposals will still necessitate a financial contribution towards off-site open space. This must be calculated in accordance with Local Plan policy LP63, and the methodology set out in the draft Open Space SPD, taking into account the fact that Denby Dale ward is deficient in parks and recreation grounds and natural and semi-natural green space (in terms of quality). For the proposed development, a contribution of £44,969 would be required. This would include funding for a LAP. It is recommended that this contribution be secured in the required Section 106 agreement, along with provisions to secure details of the management and maintenance of open spaces.
- 10.44 The adjacent allocated site (HS136) has an indicative site capacity of 72 units. Although no planning application for the development of that site has been submitted, consideration should be given to the potential for cumulative impacts (and cumulative requirements) if the two allocated sites are developed. With 34 units proposed at the current application site, and the possibility of approximately 72 units being proposed at the adjacent site in the future, the 106 units in total would trigger a need for a Local Equipped Area for Play (LEAP), and the provision of allotments. In applying a masterplanning approach to the two sites, the current proposals – while not

great enough to trigger a need for a LEAP and allotments – should be required to contribute towards that provision. Therefore, the recommend Section 106 Heads of Terms additionally include a further contribution payable in the event that development at the HS136 site is brought forward. To reduce uncertainty for the current applicant, reasonable time limitations and a sum cap can be included in the Section 106 agreement's wording.

- 10.45 Although some details of landscaping proposals have been shown on the applicant's drawings, a condition is recommended, requiring further details of the development's outdoor spaces and their purpose, design, landscaping and management.

Unit sizes

- 10.46 The applicant proposes the following unit size mix (by bedrooms):

- 8x 1-bedroom
- 3x 2-bedroom
- 12x 3-bedroom
- 7x 4-bedroom
- 4x 5-bedroom

- 10.47 Overall, this mix is considered acceptable, as it would cater for a range of household sizes, would help create a mixed and balanced community, and would help avoid visual monotony across the site.

- 10.48 The sizes (in sqm) of the proposed residential units is also a material planning consideration. Local Plan policy LP24 states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, and the provision of residential units of an adequate size can help to meet this objective. The provision of adequate living space is also relevant to some of the council's other key objectives, including improved health and wellbeing, addressing inequality, and the creation of sustainable communities. Recent epidemic-related lockdowns and increased working from home have further demonstrated the need for adequate living space.

- 10.49 Although the Government's Nationally Described Space Standards (March 2015, updated 2016) (NDSS) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed, as set out in the council's draft Housebuilder Design Guide SPD. NDSS is the Government's clearest statement on what constitutes adequately-sized units, and its use as a standard is becoming more widespread – for example, as of April 2021, all permitted development residential conversions will be required to be NDSS-compliant.

- 10.50 Earlier information provided by the applicant indicated that the eight one-bedroom terraced houses (which include the seven proposed affordable units) would not be NDSS-compliant. However, the applicant subsequently remeasured the proposed floorspace, and noted that the Government's NDSS guidance allows for attic storage space (with adequate headroom) to be counted. The applicant has now confirmed that all but one dwelling would be NDSS-compliant, and the one non-compliant unit falls short of the relevant NDSS standard by only 0.7sqm. The proposed unit sizes are as follows (grey highlights the non-compliant unit):

House type	House type description (all 2-storey unless otherwise stated)	Number of units	Size (GIA sqm)	NDSS (GIA sqm, lowest number of occupants)
A	1-bed terraced	8	58	58
B	2-bed semi	3	71.8	70
B1	3-bed semi (3-storey)	4	117.1	90
C	3-bed detached	1	85.5	84
C1	3-bed detached	1	106.3	84
C2	3-bed semi (2.5-storey)	3	100.9	90
C3	3-bed semi	1	83.3	84
G	4-bed semi	1	122.2	97
L1	4-bed detached (2.5-storey)	1	179.3	103
N	4-bed detached	1	164	97
P	4-bed detached	1	146.5	97
R	3-bed semi	2	93	84
S	4-bed detached	3	145.5	97
T	5-bed detached (2.5-storey)	4	195.7	116

- 10.51 The proposed unit sizes are considered acceptable, having regard to the other matters that influence amenity (including outdoor space, outlook and natural light, considered earlier in this report), and again noting the policy position in relation to NDSS, as well as paragraph 018 of the "Housing: optional technical standards" section of the Government's online Planning Practice Guidance (ref: 56-018-20150327).

Affordable housing

- 10.52 Local Plan policy LP11 requires 20% of units in market housing sites to be affordable. A 55% social or affordable rent / 45% intermediate tenure split would be required, although this can be flexible. Given the need to integrate affordable housing within developments, and to ensure dwellings of different tenures are not visually distinguishable from each other, affordable housing would need to be appropriately designed and pepper-potted around the proposed development.
- 10.53 The 20% policy requirement would be equivalent to 6.8 affordable units, therefore this 31-unit development would normally necessitate the provision of seven affordable units.

- 10.54 Seven of the proposed 34 units would indeed be affordable. In terms of unit numbers, this represents a 20.6% provision, which meets the requirement of policy LP11. It is recommended that this number of affordable units be secured via Section 106 agreement.
- 10.55 The applicant has stated that the seven affordable units would be starter homes, whereas the council's preferred tenure mix is 55% social or affordable rent / 45% intermediate. The applicant has argued that starter homes are appropriate in the borough's southern villages as they enable already-local people to get on the property ladder in locations where options may be limited. The applicant has stated that most of the interest in the starter homes recently constructed at the applicant's site in Miry Lane, Netherthong has been from younger members of existing local families. These points are noted, and it is accepted that providing housing of specific tenures can help foster social sustainability by enabling existing residents to stay local and maintain community. It is also noted that starter homes are indeed a form of affordable housing. The applicant's proposed deviation from the council's preferred tenure mix therefore only attracts limited negative weight.
- 10.56 All affordable housing would need to be provided in perpetuity.
- 10.57 All seven starter homes would be located in the eight-unit terrace proposed along the site's street frontage and would be one-bedroom units. Although a wider mix of affordable unit sizes, and better distribution across the site, would have been preferred, given the tenure of these units and the sizes of the households which they are intended to accommodate, this aspect of the proposals does not attract significant negative weight. The applicant has stated that the provision of all these units in a single terrace can help foster a sense of community among those residents.
- 10.58 Although the proposed affordable provision would include the development's smallest units, similar detailing and the same materials are proposed for all dwellings, which would help ensure that the seven affordable units would not be visually distinguishable from the development's market units. The terrace that would accommodate the seven affordable units would also include one private unit.

Highway and transportation issues

- 10.59 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.

- 10.60 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 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.
- 10.61 The application site has a frontage to Barnsley Road (the A635) approximately 90m in length. This stretch of Barnsley Road is subject to a 50mph speed limit, and there are bends in the road to the east and west of the application site. Barnsley Road is used by HGVs, including vehicles moving to and from local quarry sites. Directly outside the application site, Barnsley Road has no yellow line markings along its kerbs, and local residents have provided photographic evidence of vehicles parked here. A vehicular access to Inkerman House/Pool is located opposite the application site, and there are other vehicular access points (including to Garden Terrace and Inkerman Court) further to the east and west. Barnsley Road has a footway on the north side (the application site's side) of its carriageway, however there is only a grass verge on its south side. The application site has a dry-stone wall along the back of the footway, with a single gated opening which provides access (across the application site, via an easement) to the public open space to the north of the site.
- 10.62 Public footpath DEN/66/40 runs along the site's east boundary – this boundary has dry stone walls in various states of repair, as well as unsightly wire and timber fencing, and there is a gated opening at the northeast corner of the site.
- 10.63 A single, new vehicular access point is proposed from Barnsley Road. To the west of this access point, a 2.4m x 103.6m visibility splay is proposed. To enable this provision the applicant proposes to rebuild the existing dry stone wall along a new alignment further into the application site, and additionally proposes the narrowing of the carriageway of Barnsley Road (to 7.3m) to the west of the application site. To the east of this access point, based on a 2.4m deep splay and due to the bend in Barnsley Road, eastwards visibility already extends far (and sufficiently) beyond the site, such that a visibility splay length has not been specified by the applicant.
- 10.64 A right-hand turn pocket is proposed in Barnsley Road, outside the proposed vehicular access point (i.e., not where the carriageway would be narrowed). This would be accommodated within the existing carriageway, and would be 2.5m wide, leaving 3m of carriageway width for each of the running lanes either side of the pocket. The lane serving the right-turn pocket would be 65m long.

- 10.65 From the new vehicular access point, two new estate roads would spread downhill, with a private drive extending from the easternmost estate road. Parking is proposed in detached and integral garages, and in private driveways. Nine on-street visitor parking spaces are also proposed.
- 10.66 The adequacy of visibility at the proposed site entrance has been the subject of discussions at pre-application stage and during the life of the current application. As a starting point, and as the length of the required visibility splays is partly determined by vehicle speeds along the existing highway, a 50mph speed limit would normally suggest 160m long visibility splays would be required. However, notwithstanding legal speed limits, visibility requirements can be determined with regard to the speeds that vehicles actually travel – this approach is allowed for in the Manual for Streets and the Design Manual for Roads and Bridges. Speed surveys were therefore carried out on Barnsley Road. Using this information, and with reference to the 85th percentile speed (i.e., the speed at or below which 85% of all vehicles travel under free-flowing conditions), appropriate lengths of visibility splays can be determined.
- 10.67 A pre-application speed survey was carried out by the applicant team on Barnsley Road over a 2 hour and 45 minute period on 11/09/2018 (a Tuesday), from which the applicant ascertained the mean vehicle speed to be 37.79mph, the 85th percentile dry weather speed to be 41.71mph, and the 85th percentile wet weather speed to be 39.22mph. In addition, two radar speed surveys were carried out by the applicant team on Barnsley Road between 14:45 and 16:45 on 12/12/2018 (a Wednesday) and between 09:45 and 12:15 on 14/12/2018 (a Friday). On both occasions the applicant reported taking just over 200 readings in free-flowing conditions. Interpreting these results, the applicant has stated that the 85th percentile wet weather speeds were 42.19mph and 41.62mph in the respective surveys.
- 10.68 To verify the applicant's speed survey findings, Highways Development Management (HDM) officers undertook a speed survey on Barnsley Road on the morning of 04/10/2019 (a Friday). 50 readings were taken over approximately 50 minutes, with the average speed of vehicles noted at 38.72mph. Based on the findings of this survey, officers put the 85th percentile speed at 46mph.
- 10.69 At the request of officers, seven days of further speed surveys were then undertaken by the applicant team on 22 to 28/09/2020, using installed tubes that measured all-day eastbound and westbound speeds. Based on these surveys, the applicant put the 85th percentile speed (eastbound) at 44.3mph.
- 10.70 The extensive speed survey work carried out by the applicant team and officers provides a reliable basis upon which appropriate visibility splay lengths can be ascertained.

- 10.71 Taking into account stopping sight distances and the gradient of Barnsley Road, the applicant's Transport Assessment (which pre-dated the week-long speed survey in September 2020) concluded that the required visibility at the site entrance is 103.51m, or 105.91m if a 2.4m bonnet length is included. This has been disputed by some residents, with reports by Northern Transport Planning (commissioned by residents, and dated July 2019 and January 2021) stating that 120m long visibility splays are needed. However, officers are of the view that, with a 2.4m x 103.6m visibility splay proposed to the west of the proposed site entrance, and adequate visibility already available to the east, the proposed location of the vehicular access point is considered acceptable in highways safety terms.
- 10.72 Notwithstanding this acceptability, the applicant has additionally offered to provide a financial bond to allow for the investigation, public consultation, and potential installation of a reduction in the speed limit outside the site from 50mph to 40mph along a length of road to be determined by the council's Highway Safety department.
- 10.73 This offer is welcomed, however in light of the above assessment it is not recommended that the applicant's offer be accepted for highway safety reasons. There are, however, other reasons (relevant to planning) for accepting this offer. A reduced speed limit would assist in improving the amenities of residents of the proposed development to an acceptable degree, by reducing noise at the dwellings proposed nearest to the road and reducing noise along the footway that would be used by new residents. Slower traffic would also increase the likelihood of new residents using more sustainable modes of transport (walking and cycling), which is an objective supported by Local Plan policies. There may also be benefits in relation to reduced emissions, reduced fear of perceived highway safety risks (of note, traffic passing at speed is generally more disconcerting to pedestrians than slower traffic, even where the actual highway safety risk is no greater), and an increased likelihood of public rights of way being used (of note, several north-south footpaths meet Barnsley Road on both sides of the highway). The fact that Barnsley Road has street lighting and existing access points with poor visibility further suggests that a reduced speed limit would be appropriate.
- 10.74 Of note, the applicant's offer would not guarantee that a reduction in the speed limit would be introduced – implementation of such a change would be subject to local consultation (although officers are aware that some local residents support a lower speed limit). It is also noted that the new speed limit (if deemed appropriate) would not be determined at this stage, although it is noted that Highways Safety officers have previously stated that a 30mph speed limit would not be appropriate here. The extent of a reduced speed limit would also not be determined at this stage, however the relevant Traffic Regulation Order (TRO) could extend for the entire 2km length of Barnsley Road from its junction with the A636 to The Dunkirk PH – this would appropriately extend past a possible vehicular entrance to future development at the adjacent allocated site (HS136), and past the York House site where planning permission has previously been granted for a five-unit residential development (ref: 2018/92022) and where a further application is currently under consideration (ref: 2020/94314).

- 10.75 To further improve safety at the proposed new vehicular access point, the applicant intends to provide a 2.5m wide right-turn pocket to allow drivers to wait safely out of the 3m eastbound and westbound running lanes. Although the standard width for this facility would be 3m, the vast majority of vehicles using it will be narrower than the proposed pocket, and the applicant has proposed a more substantial provision than the two existing right-turn pockets in place at the crossroads outside The Dunkirk PH (which each measure approximately 1.8m in width). Sub-3m pockets exist at several other site entrances in the borough. The relatively low numbers of vehicles that would access the application site further indicates that this proposed arrangement is acceptable.
- 10.76 Residents have expressed concern that overhanging trees on the south side of Barnsley Road to the east of the application site limit visibility for westbound traffic, increasing the likelihood of vehicles (including HGVs, which have longer braking distances) shunting cars that are waiting in the right-turn pocket. This point is noted, but is a highway maintenance concern, rather than a reason to secure an alternative site access arrangement.
- 10.77 Residents have also expressed concern regarding previous accidents on Barnsley Road, with some residents stating that a fatal accident occurred directly outside the application site. Accident data (for a five-year period, 01/01/2013 to 31/06/2018) has been reviewed in the applicant's Transport Assessment and mapped at Appendix B. No "slight", "serious" or "fatal" accidents were recorded during this period for the stretch of Barnsley Road outside the application site.
- 10.78 The proposed slight reduction in carriageway width to the west of the application site (to 7.3m) has not attracted objections from the council's Highways Safety officers.
- 10.79 Movements into and out of the nearby access to Inkerman House/Pool have been considered in relation to the proposed carriageway alterations. The operator of that facility has stated that there are as many as 70 vehicle movements per hour at that access point when the pool is open. It is, however, noted that neither the new vehicular entrance nor the carriageway narrowing are proposed directly in front of the access to Inkerman House/Pool, and it is further noted that drivers will already be slowing down (as they approach the access to Inkerman House/Pool, with the intention of turning into it) before they reach the application site. As such, it is considered that the proposed development would not introduce new or increased highways safety risk in relation to movements associated with Inkerman House/Pool.
- 10.80 The applicant's Transport Assessment predicts that the proposed 34-unit development would generate approximately 26 two-way vehicle movements in the a.m. peak hour, and 28 two-way vehicle movements in the p.m. peak hour. This is not considered significant in the context of the local highway network's capacity. Residents have expressed concern that the applicant's assessment was based on trip generation data relevant to an urban location, rather than a village, however it is considered that a reassessment based on a different data set would have still resulted in predicted vehicle movements that would not cause a severe adverse effect in relation to traffic and congestion.

- 10.81 Regarding the proposed development's internal arrangements, the proposed layout is largely compliant with the council's Highway Design Guide SPD. Amendments to address the last outstanding concerns of HDM officers were submitted on 03/02/2021, and the further comments of HDM officers will be reported in the committee update.
- 10.82 Acceptable off-street parking is proposed for the proposed residential units in accordance with the council's Highway Design Guide SPD. The applicant's floor plans confirm that the proposed garages would be of an adequate size in compliance with paragraph 5.15 of the Highway Design Guide SPD. The provision of one parking space for each of the "A" type terraced dwellings is considered acceptable, as these are genuinely one-bedroom properties, and provision of additional parking spaces for these units is likely to result in unacceptable waste storage arrangements and street scene impacts. Nine parking spaces for visitors are proposed, which is considered adequate. The proposed creation of a new vehicular access point on Barnsley Road would prevent visitors to Inkerman House/Pool from parking along that part of the road, however this would not result in a significant loss of available parking spaces, relative to what would remain available.
- 10.83 Details of secure, covered and conveniently-located cycle parking for residents would be secured by a recommended condition.
- 10.84 Storage space for three bins, and refuse collection points, will be required for all dwellings. Further details of waste collection, including details of management to ensure waste collection points are not used for fly-tipping or permanent bin storage, are required by recommended condition. The same condition would require refuse collection points in locations that would not obstruct access to private driveways. A further condition, requiring details of storage and access arrangements should development of the site be phased (and should some residential units become occupied before the development is completed) is also recommended.
- 10.85 Having regard to paragraph 5.19 of the council's Highway Design Guide SPD, the proposed development is not of the size that would normally necessitate the submission of a Travel Plan. However, should development come forward at the adjacent allocated site (HS136), the total number of units across the two sites would trigger the requirement for a Travel Plan. It would therefore be appropriate to secure a contribution towards Travel Plan monitoring (payable in the event that development is brought forward at the adjacent site) under the current application via a Section 106 agreement.
- 10.86 Public footpath DEN/66/40 has potential for greater use once land either side of it is developed, as it provides a route from Barnsley Road to the centre of Denby Dale and its facilities, however as noted above, a pedestrian connection between the proposed estate road and this footpath is not considered necessary. The open space proposed at the application site's northwest corner, and its pedestrian connection to Kenyon Bank, would help create an appropriately connected, walkable, permeable neighbourhood in compliance with Local Plan policies LP20, LP24dii and LP47e, and is welcomed.

Flood risk and drainage issues

- 10.87 The site is within Flood Zone 1, and is over one hectare in size, therefore the applicant submitted a site-specific Flood Risk Assessment (FRA). The site generally slopes downhill from the south to the north, and a watercourse (Ash Well Beck) exists directly to the west of the application site. The nearby stretch of the beck has two trash grilles protecting the watercourse's culverted sections from blockages. These grilles are maintained by the council and are cleaned on a cyclical basis. There have been a small number of incidents of flooding along the culverted sections of Ash Well Beck to the north of the application site, however these incidents have not affected the application site.
- 10.88 Several residents of Kenyon Bank and Inkerman Way have stated that their rear gardens flood during/following periods of heavy rain. Indeed, when visiting the site on 24/07/2019, the case officer observed very wet ground in parts of the open space between Kenyon Bank and the application site. Accordingly, and in light of the applicant's findings, infiltration has been ruled out (as a method of surface water disposal) by officers.
- 10.89 The applicant proposes to dispose of surface water via an attenuation tank at the northwest corner of the site, from which water would flow (via a hydrobrake) to Ash Well Beck, entering this existing watercourse at a rate of 5 litres per second.
- 10.90 The Lead Local Flood Authority (LLFA) initially objected to the proposed development, stating that the adequacy of Ash Well Beck (for the discharge of surface water) had not been demonstrated, and that inadequate provisions for flood routing had been proposed. Following the submission of further information and amended drawings (including drawings which changed unit 13 from an "N" type to an "S" type unit, which would have a smaller footprint), the LLFA confirmed on 29/01/2021 that their outstanding concerns had been addressed.
- 10.91 Details of temporary (construction-phase) surface water drainage arrangements would be secured via a recommended condition.
- 10.92 Foul water from the proposed development would discharge to the existing sewer beneath public footpath DEN/66/40. Residents have expressed concern that existing sewers are at capacity, and would not be able to cope with additional flows, however this aspect of the proposals has not attracted an objection from Yorkshire Water, and is considered acceptable. A resident of an existing property on Inkerman Way has additionally expressed concern that this sewer passes beneath their extension, and that noise from the sewer would increase as a result of increased flows, however it cannot be ascertained precisely how noise from the sewer might change as a result of the development, nor whether this would have a material impact in relation to neighbour amenity.

Trees, landscaping and biodiversity

- 10.93 The application site is previously undeveloped (greenfield) land, was previously in agricultural use, and is partly grassed and partly overgrown with shrubs. There are also trees and shrubs within and along some of the site's edges, and a Tree Preservation Order DD2/51/w29 protects trees immediately to the west. A Biodiversity Opportunity Zone (Pennine Foothills) covers the site, and a Wildlife Habitat Network covers the banks of Ash Well Beck to the west, and areas to the south on the opposite side of Barnsley Road.
- 10.94 KC Ecology initially expressed concern that inadequate information had been submitted by the applicant. Similar concerns have been raised by residents, with many noting the presence of hedgehogs and other protected species. KC Ecology accepted that a breeding bird survey was not required, but that a reptile survey was.
- 10.95 An Ecological Impact Assessment (rev 3, dated February 2021) (EclA) was submitted by the applicant on 02/02/2021. This includes details of a reptile survey carried out in 2019, and other surveys. The EclA notes that no evidence of reptiles, bats or badgers was found, but that toads were found, that several species of bird were likely to nest at the site, and that it should be assumed that hedgehogs are present. The report goes on to state that nesting birds and habitat associated with grassland and scrub would be negatively affected by proposed development. The applicant has therefore proposed mitigation measures intended to reduce impacts, and to enhance the woodland corridor to the west. The beck and woodland corridor would be protected from impacts through the provision of a fenced buffer strip during construction, and through the correct storage of materials away from the watercourse. The applicant further advises that measures should be fully detailed in an Ecological Design Strategy (EDS) which would include specifications, quantities, locations, timing and resources, as appropriate to the measures concerned. It is recommended that conditions be applied to secure these measures.
- 10.96 A net biodiversity gain also needs to be demonstrated in accordance with Local Plan policy LP30 and chapter 15 of the NPPF. Such a gain has not yet been demonstrated by the applicant. Net gain is measurable, and the degree of change in biodiversity value can be quantified using a biodiversity metric. A condition and Section 106 obligations are recommended, requiring the applicant to provide the necessary calculation, and to explore all options for on-site compensatory works. If adequate compensatory works cannot be achieved on-site, the applicant must look for nearby, available sites where compensatory works can be implemented with the agreement of the relevant landowner. If no such sites can be found by the applicant, a financial contribution can be made which the council would be required to spend on compensatory measures at an available site.
- 10.97 Conditions related to boundary treatments and lighting can be used to ensure walls and fences are designed to be hedgehog-friendly, and that external lighting would be directed away from watercourse.

- 10.98 Outdoor spaces around the site (outside private curtilages) would need to be defined, landscaped and managed to ensure they do not become ambiguous, leftover spaces at risk of anti-social behaviour such as fly-tipping.
- 10.99 The proposed dwellings would be located far enough away from the TPO-protected trees to the west, however a condition is nonetheless recommended, requiring the submission of an Arboricultural Method Statement and Tree Protection Plan.

Environmental and public health

- 10.100 With regard to the West Yorkshire Low Emission Strategy, a condition is recommended, requiring the provision of electric vehicle charging points. In addition, measures to discourage high emission vehicle use and encourage modal shift (to public transport, walking and cycling) and uptake of low emission fuels and technologies, would be secured via the recommended Section 106 obligations.
- 10.101 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 proposed dwelling sizes, affordable housing, pedestrian connections (which can help facilitate active travel), measures to be proposed at conditions 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.
- 10.102 Regarding the social infrastructure currently provided and available in Denby Dale (which is relevant to the public health impacts and the sustainability of the proposed development), and specifically local GP and dental provision, there is no policy or supplementary planning guidance requiring the 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.

Ground conditions

- 10.103 Regarding site contamination, KC Environmental Health have confirmed that the applicant's Phase 1 report is adequate, but that the Phase 2 report cannot be approved at this stage, as gas monitoring has not been completed. The four conditions (relating to site contamination) suggested to by KC Environmental Health are recommended.
- 10.104 The application site is within the Development Low Risk Area as defined by the Coal Authority, therefore no Coal Mining Risk Assessment needed to be submitted by the applicant. A relevant condition is recommended.

Representations

- 10.105 A total of 184 representations were received from occupants of neighbouring properties. The comments raised have been addressed in this report.

Planning obligations

10.106 To mitigate the impacts of the proposed development, the following planning obligations would need to be secured via a Section 106 agreement:

- 1) Affordable housing – Seven affordable housing units (1-bedroom starter homes) to be provided in perpetuity.
- 2) Open space – £44,969 contribution towards off-site provision, and an additional contribution payable in the event that development comes forward at the adjacent allocated site (HS136) and the cumulative impacts of the developments require mitigation.
- 3) Education – Contribution of £36,007.
- 4) Sustainable transport – Measures to encourage the use of sustainable modes of transport, and a contribution towards Travel Plan monitoring payable in the event that development comes forward at the adjacent allocated site (HS136) such that a Travel Plan is required.
- 5) Biodiversity – Contribution (amount to be confirmed) towards off-site measures to achieve biodiversity net gain.
- 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).
- 7) Traffic Regulation Order – Funding of consultation on, and implementation of (if deemed appropriate, following consultation) a Traffic Regulation Order reducing the speed limit on Barnsley Road to 40mph.

10.107 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.

Other planning matters

10.108 A condition removing permitted development rights from some of the proposed dwellings is recommended. This is considered necessary for the dwellings proposed with smaller gardens, as extensions under permitted development allowances here could reduce the private outdoor amenity spaces to an unacceptable degree.

10.109 The comments of Denby Dale Parish Council are noted, however the alleged inaccuracies in the submitted drawings have not been specified by the Parish Council.

10.110 The impact of the proposed development on property prices is not a material planning consideration.

- 10.111 The availability of other dwellings in Denby Dale is not necessarily an indication of oversupply or a lack of local demand, and is not a reason for refusal of planning permission for more housing. Market churn is to be expected, and there may be a variety of reasons why other properties remain unsold.
- 10.112 Several residents have stated that they did not receive the applicant's pre-application mailshot mentioned at paragraph 5.2 above, although two residents mentioned that they had indeed been contacted by the applicant. While pre-application consultation is encouraged in accordance with paragraph 40 of the NPPF, such consultation is not mandatory.
- 10.113 The timing of the publication of the latest comments of Highway Development Management officers has been raised as a concern by residents, however the council is not required to publish consultee responses prior to commencing public consultation, and residents were not prevented from commenting on the highways-related aspects of the propose development. It is normal for consultation of officers and residents to be carried out simultaneously.
- 10.114 The Upper Dearne Valley Environmental Trust (UDVET) have stated that a wider masterplan (for the valley) is needed before a decision is made on the current application. While the idea of wider masterplanning has merit, it is noted that the Local Plan provides an informed, sound basis for the planning and development of the borough, that cumulative impacts can be considered at application stage, and that no Neighbourhood Plan has been prepared for Denby Dale by local organisations.
- 10.115 The Community Infrastructure Levy (CIL) is not being applied in Kirklees.

11.0 CONCLUSION

- 11.1 The application site is allocated for residential development under site allocation HS141, 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, drainage, 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. Development to be carried out in accordance with the approved plans and documents.
3. Submission of a Construction (Environmental) Management Plan.
4. Submission of details of temporary (construction-phase) surface water drainage arrangements.
5. Submission of details of temporary waste collection and storage (should development be phased, and/or dwellings become occupied prior to completion of the development).
6. Provision of site entrance and visibility splays prior to works commencing.
7. Submission of details relating to internal adoptable roads.
8. Submission of details of surfacing and drainage of parking spaces.
9. Submission of details of highways structures.
10. Cycle parking provision prior to occupation.
11. Provision of electric vehicle charging points (one charging point per dwelling with dedicated parking).
12. Submission of details of waste storage and collection.
13. Submission of details of any retaining walls.
14. Submission of an Arboricultural Method Statement and Tree Protection Plan.
15. Submission of a detailed drainage design for surface water and land drainage, and a detailed exceedance flow routing plan.
16. No piped discharge of surface water from the development prior to the completion of surface water drainage works.
17. Submission of an intrusive site investigation report (phase II report).
18. Submission of a remediation strategy.
19. Arrangements in the event that unexpected contamination is encountered.
20. Submission of a validation report.
21. Submission of details of sound insulation measures.
22. Submission of details of crime prevention measures.
23. External materials (details and samples to be submitted).
24. Submission of details of boundary treatments.
25. Submission of details of external lighting.
26. Submission of a full landscaping scheme, Ecological Design Strategy and Landscape and Ecological Management Plan.
27. Submission of details of biodiversity enhancement and net gain.
28. Restriction on removal of trees and hedgerows during nesting season.
29. Removal of permitted development rights for extensions and outbuildings.

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f91836>

Certificate of Ownership – Certificate B signed

Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 17-Feb-2021

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

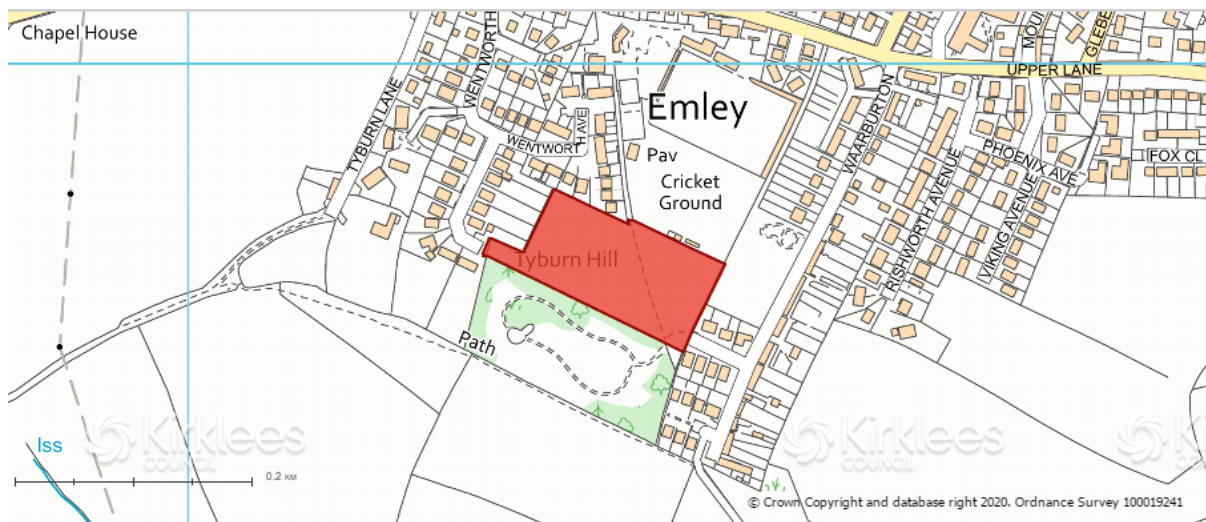
EXTENSION EXPIRY DATE

24-Dec-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: 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).
- 7) Traffic Regulation Order – Funding of consultation on, and implementation of (if deemed appropriate, following consultation) a Traffic Regulation Order to restrict parking at the Wentworth Drive / Beaumont St junction.

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.
- 1.4 A report relating to the current application was considered by the Heavy Woollen Sub-Committee on 04/11/2020. At that meeting it was resolved to defer the committee's decision to allow the applicant to carry out parking surveys at the Wentworth Drive / Beaumont Street junction, to enable further assessment of the impacts of the proposed development upon highway safety.

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 pepperpotted 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.
- 5.3 Following the Sub-Committee's deferral on 04/11/2020, the applicant submitted the findings of parking surveys carried out at the Wentworth Drive/ Beaumont Street junction.

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 Interim Affordable Housing Policy (2020)
- 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 Management Design Guide for New Developments (2020)
- Green Street Principles (2017)
- Viability Guidance Note (2020)

6.6 A draft Housebuilder Design Guide SPD, Open Space SPD and Biodiversity Net Gain Technical Advice Note were published by the council in 2020. These have undergone public consultation, but have not been adopted.

Climate change

- 6.7 The council approved Climate Emergency measures at its meeting of full Council on 16/01/2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.
- 6.8 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:

- 6.9 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.
- 6.10 Since March 2014 Planning Practice Guidance for England has been published online.
- 6.11 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).

7.3 228 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 over load 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 concerns 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 Following the Sub-Committee's deferral on 04/11/2020, a further representation was received from the Emley Millennium Green Trustees.

7.10 The additional information submitted during the life of the application did not necessitate public re-consultation. The recently-submitted Wentworth Drive / Beaumont Street junction parking survey also did not necessitate reconsultation.

7.11 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 – Having regard to the applicant’s December 2020 parking survey, the Wentworth Drive / Beaumont Street junction would continue to function safely (with the development implemented), without the need for junction improvements or a Traffic Regulation Order.

Previous comment: 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 junction – 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. Applicant has correctly calculated the site's ecological baseline value (4.81 habitat units and 0.47 hedgerow units), and that to achieve a 10% biodiversity net gain post-development, a minimum of 5.29 habitat units and 0.52 hedgerow units would need to be delivered. This should be taken into account when further design work is carried out, and the postdevelopment value of the site (measured using the Biodiversity Metric 2.0 or latest version, if available) should be supplied at Reserved Matters stage. 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

- Applicant’s response to reason for deferral
- 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

Applicant's response to reason for deferral

- 10.1 Following the Sub-Committee's deferral on 04/11/2020, the applicant carried out parking surveys at Wentworth Drive / Beaumont Street junction. The surveys were undertaken on Thursday 17/12/2020 between 06:00 and 10:00 and 15:00-19:00 and on Saturday 19/12/2020 between 17:00 and 23:00. The surveys recorded all parked vehicles within the agreed study area every 15 minutes. Low numbers of parked vehicles were recorded on Wentworth Drive, Beaumont Street and Chapel Lane. The extent of the survey area will be illustrated in the committee presentation.
- 10.2 Of note, the nearby public house (the White Horse) was closed at the time the surveys were carried out. This is unfortunate, however given that a reopening date (for pubs and other hospitality) is not yet know, it would be unreasonable to delay the determination of the application until after the nearby pub has resumed normal business.
- 10.3 Upon submitting the parking survey findings, the applicant stated:
- “Based on the findings of these surveys, no specific highway safety concern resulting from on street parking has been identified sufficient to justify any specific mitigation or interventions as a direct result of this development.*
- Notwithstanding the above, should Highways/Members still consider it necessary to implement parking restrictions in the vicinity of the junction Highstone are willing to offer a contribution (sum to be agreed but anticipated to be in the order of £5,000) to fund the implementation of a Traffic Regulation Order to control parking in the vicinity of the junction”.*
- 10.4 In response to the applicant's findings, Highways Development Management (HDM) officers advised that they remain of the view that the Wentworth Drive / Beaumont Street junction would continue to function safely (with the development implemented), without the need for junction improvements or a Traffic Regulation Order (TRO). HDM officers added, however, that as the nearby public house was closed at the time of the surveys, funding should be secured for the TRO to enable the junction to be monitored after the Covid 19 restrictions are lifted.
- 10.5 In light of the absence of evidence that the proposed development would cause a highway safety problem that requires mitigation it is not recommended that the applicant's offer (to fund a TRO) be accepted for evidenced highways safety reasons. It is, however, noted that fewer parked vehicles at this junction could assist in at least reducing fear of perceived highway safety risks. It is further noted that HDM officers have recommended that the matter be monitored – evidence of greater numbers of parked vehicles may be gathered once the nearby public house reopens, and adequate funding of a TRO would enable this monitoring to be carried out.
- 10.6 The approximate figure of £5,000 (offered by the applicant) is unlikely to cover the cost of the TRO. A more accurate figure would be included in the Section 106 agreement, once further advice from Highway Safety colleagues has been received.

- 10.7 Of note, the applicant's offer would not guarantee that parking restrictions would be introduced – implementation of such a change would be subject to local consultation. It is also noted that the hours and physical extent of parking restrictions (if deemed appropriate) would not be determined at this stage.

Land use, principle of development and quantum

- 10.8 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.
- 10.9 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.
- 10.10 Full weight can be given to site allocation HS137 (formerly H358), which allocates the site for residential development.
- 10.11 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.

- 10.12 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.
- 10.13 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.
- 10.14 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.

- 10.15 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

- 10.16 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.
- 10.17 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.
- 10.18 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.
- 10.19 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.

- 10.20 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

- 10.21 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.
- 10.22 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.
- 10.23 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.
- 10.24 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.
- 10.25 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.

- 10.26 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.
- 10.27 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

- 10.28 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.
- 10.29 The principle of residential development at this site is considered acceptable in relation to the amenities of neighbouring residential properties.
- 10.30 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.
- 10.31 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.
- 10.32 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.

- 10.33 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.
- 10.34 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.
- 10.35 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.
- 10.36 Although the Government's Nationally Described Space Standards (March 2015, updated 2016) (NDSS) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed, as set out in the council's draft Housebuilder Design Guide SPD. NDSS is the Government's clearest statement on what constitutes adequately-sized units, and its use as a standard is becoming more widespread – for example, as of April 2021, all permitted development residential conversions will be required to be NDSS-compliant.
- 10.37 Should outline planning permission be granted, at the subsequent Reserved Matters stage the applicant will be advised to meet these standards.

Point of access

- 10.38 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.
- 10.39 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.
- 10.40 Relevant notice has been served by the applicant on the owners of the land at the terminus of Wentworth Drive.

- 10.41 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.
- 10.42 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

- 10.43 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.
- 10.44 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.
- 10.45 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.

- 10.46 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.
- 10.47 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).
- 10.48 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.
- 10.49 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.
- 10.50 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.
- 10.51 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.

- 10.52 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.
- 10.53 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.
- 10.54 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.
- 10.55 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, and officers concurred with these findings.
- 10.56 As noted at paragraph 10.1 above, following the Sub-Committee's deferral on 04/11/2020, a parking assessment of the Wentworth Drive / Beaumont Street junction was carried out. This has not attracted adverse comment from Highways Development (HDM) officer.
- 10.57 In response to other comments made by HDM officers, a Road Safety Audit and designer's response were 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 accepted the recommendations of the audit, and suitable amendments have been made to the proposals.
- 10.58 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 applicant would prefer these works to be costed at outline application stage, and included in the Section 106 agreement, however these works would be more appropriately secured via a condition and S278 agreement.

- 10.59 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).
- 10.60 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.
- 10.61 Access to the adjacent Millennium Green would not be restricted by the proposed development.
- 10.62 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.
- 10.63 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

- 10.64 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. An amended FRA was submitted during the life of the application.
- 10.65 The applicant's earlier FRA appropriately recommended 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. However, the later, amended Flood Risk Assessment (rev D) now includes details of the infiltration testing undertaken on site, as requested by the Lead Local Flood Authority. The amended FRA confirms that the site may be suitable for soakaways as a means of surface water disposal. As soakaways have a bearing on site layout (as stand-off distances from buildings need to be maintained), discussion of a drainage strategy for the site will need to take place with officers when further design work is carried out. If infiltration systems are considered unfeasible for the site, then the development should drain to the identified watercourse to the south, or as a last resort to the public sewer.

- 10.66 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.
- 10.67 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

- 10.68 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.
- 10.69 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.
- 10.70 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, the applicant has correctly calculated the site's ecological baseline value (4.81 habitat units and 0.47 hedgerow units), and it is noted that to achieve a 10% biodiversity net gain post-development, a minimum of 5.29 habitat units and 0.52 hedgerow units would need to be delivered. This should be taken into account when further design work is carried out, and the post-development value of the site (measured using the Biodiversity Metric 2.0 or latest version, if available) should be supplied at Reserved Matters stage. Of note, a 10% biodiversity net gain is not currently a planning policy requirement, but may become mandatory by the time a Reserved Matters application is submitted for this site, if the Environment Bill is passed.

- 10.71 Given that the site's ecological baseline value could change before a Reserved Matters application is prepared, and given the requirements relating to net biodiversity gain that may become applicable in the near future, 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.

- 10.72 A condition requiring the submission of an Ecological Design Strategy is also recommended.
- 10.73 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

- 10.74 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.
- 10.75 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.
- 10.76 The council's Arboricultural Officer has raised no objection in principle to residential development at this site.

Environmental and public health

- 10.77 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.

- 10.78 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

- 10.79 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.
- 10.80 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.
- 10.81 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.

10.82 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.

10.83 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

10.84 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.

10.85 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.

- 10.86 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

- 10.87 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.
- 10.88 Representations have been made directly to Members and officers by representatives of the Millennium Green regarding legal obligations applicable to that open space. These concerns appear to have largely been triggered by the indicative layout plan submitted with the current application, however it is again noted that this plan would not be among the approved drawings and documents, if outline planning permission is granted. The indicative plan has only been submitted for information, to indicate how (in the applicant's opinion), a residential development might be laid out at this site. If the council grants outline permission, no layout or number of units would be fixed at that stage.

Planning obligations

- 10.89 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).

7) Traffic Regulation Order – Funding of consultation on, and implementation of (if deemed appropriate, following consultation) a Traffic Regulation Order to restrict parking at the Wentworth Drive / Beaumont St junction.

- 10.90 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

- 10.91 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.
- 10.92 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.
- 10.93 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.
- 10.94 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. Section 278 works to public footpath
11. Ecology and biodiversity net gain (including submission of an Ecological Design Strategy)
12. Tree protection measures to be implemented prior to commencement
13. Restriction on timing of removal of hedgerows, trees and shrubs.
14. Landscaping – full details to be submitted
15. Construction Management Plan to be submitted
16. Electric vehicle charging points to be provided
17. Contaminated land
18. Coal mining legacy – details of intrusive site investigation to be submitted
19. Details of ball strike risk mitigation to be submitted at Reserved Matters
20. Details of management and maintenance of ball strike risk mitigation to be submitted pre-commencement
21. Submission of details of crime prevention measures.
22. 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

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Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 17-Feb-2021

Subject: Planning Application 2020/91601 Change of use from agricultural land to A4 (Drinking Establishment) and erection of extensions and alterations Dunkirk Inn, 231, Barnsley Road, Lower Denby, Huddersfield, HD8 8TX

APPLICANT

Mark Ronan, The Bagden
Group

DATE VALID

10-Jun-2020

TARGET DATE

05-Aug-2020

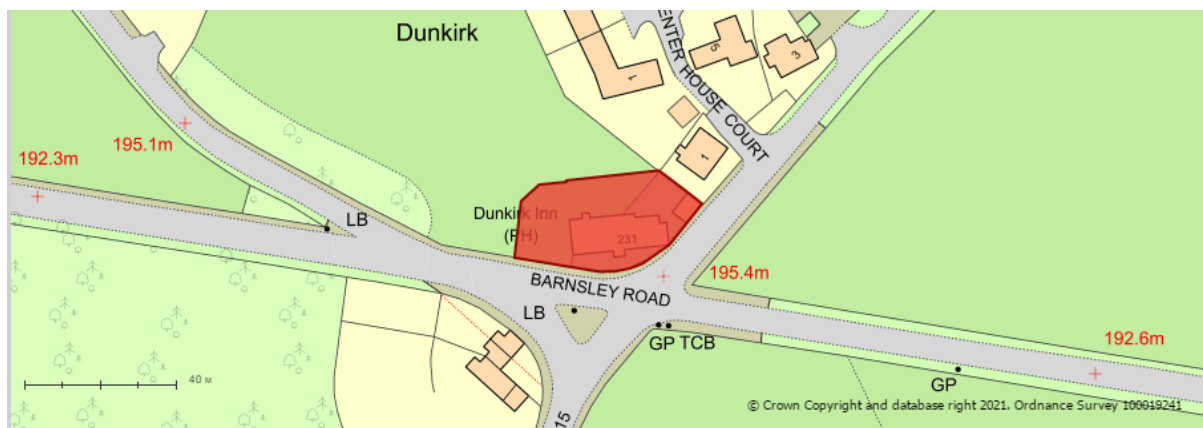
EXTENSION EXPIRY DATE

18-Dec-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: Denby Dale

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION: Refusal

1. The proposal extension to the existing public house by reason of its substantial scale and massing would result in harm to the openness of the green belt. This harm is further exacerbated by the fact that the curtilage of the existing building is insufficient in size to accommodate the proposed extension and requires encroachment into adjacent agricultural fields. The proposal would fail to accord with Policy LP57 of the Kirklees Local Plan and chapter 13 of the National Planning Policy Framework and constitutes inappropriate development in the green belt. It is considered the supporting information provided is not capable of constituting 'very special circumstances' which clearly outweigh the harm to the Green Belt.

2. The proposal to double the size of the building footprint towards the Grade II listed former barn at 1 Tenter House Court would cause less than substantial harm to the setting of the barn by developing within the green space between this building and the listed farm buildings. It is not considered this harm is outweighed by public benefits and the proposal would therefore fail to accord with Policy LP35 of the Kirklees Local Plan and chapter 16 of the National Planning Policy Framework.

3. The application fails to provide sufficient off-street parking to serve the expected increase in customers and peak vehicle numbers. The applicant's parking assessment confirms a need for 65 off-street parking spaces and the existing car park capacity is 37 spaces. The proposed use of a minibus service would not be so significant as to reduce peak vehicle numbers to 37 or fewer, and on-street parking cannot be considered as part of the available provision as it is not in the interests of highway safety to exacerbate existing on-street parking around the junction of the A635 Barnsley Road and Dry Hill Lane. The proposal would have a detrimental impact on highway safety contrary to Policies LP21 and LP22 of the Kirklees Local Plan.

1.0 INTRODUCTION:

1.1 The application is brought to Heavy Woollen Planning Sub-Committee at the request of Councillor Watson for the following reasons:

The Development Plan and The Various Policies

"I understand that this is proposed development in the green belt and therefore give the potential significance of the determination of the application on the viability of the business then this is an important local issue. There are likely to be issues relating to "Very Special Circumstances" vis a vis a high profile hospitality venue, local employment, the environment and so forth which lend themselves to a decision by politically accountable members.

Effect of Public Amenity

"I can see that issues of public amenity in relation to a hospitality venue could be of significant importance to local residents and, therefore, it would seem to me to be the case that there should be an opportunity for such issues to be given a full and open airing in public and that ultimately the decision taken should be fully open to public scrutiny. The best forum for this so as to ensure that all interested parties are able to set out their opinions on the merits and to ensure the application is thoroughly and transparently scrutinised is the sub-committee in my respectful submission.

The views of local people insofar as they are based on relevant planning issues

I have noted that there are a significant number of representations in response to the application and it seems, therefore, to have generated a substantial degree of local interest. With this in mind it would seem prudent to have these matters tested before, and ultimately determined by, the Heavy Woollen Sub-Committee.

- 1.2 The Chair of the Heavy Woollen Planning Sub-Committee has confirmed that Councillor Watson's reasons are valid having regard to the Committee Protocol.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site comprises The Dunkirk public house, located approximately 1.3 kilometres outside of the town centre of Denby Dale at the junction of the A635 Barnsley Road with Dry Hill Lane. The whole of the site and the surrounding area is located within the Green Belt in the Kirklees Local Plan.
- 2.2 The existing public house is a simple vernacular building with extensions and alterations to the eastern end of the site. On the ground floor is a bar/restaurant area, and on the upper floor a multi-use room. Prior to 2016 the upper floor was laid out as residential accommodation with some office space. Planning permission was granted in 2016 (ref 2016/92134) for extensions and alterations, which included the creation of a small function room with a roof deck, whilst retaining some residential accommodation and office space. The 'existing' plans submitted as part of this application show the whole of the first floor identified as a multi-use room.
- 2.3 The property has a limited curtilage area with an area of outdoor seating immediately to the front of the building secured by a dry stone wall, and a further outdoor area in the north-eastern corner, together with a drinks store. The building backs onto agricultural fields to the north and east, and to the rear of residential properties off Tenter House Court to the north-east including the grade II listed former barn at 1 Tenter House Court.
- 2.4 The public house is served by an unmarked car park located off Dry Hill Lane, which is separate to the public house building, at a distance of approximately 70 metres.

2.5 In the interests of clarity, works have been undertaken to extend the curtilage of the public house into the adjacent agricultural fields, to erect a dry stone boundary wall and to install temporary kitchens. The works to extend the curtilage form part of those applied for in this planning application and do not benefit from planning permission.

3.0 PROPOSAL:

3.1 The application seeks planning permission for a substantial extension to the side and rear of the existing public house building. To facilitate the extension the applicant requires to extend the curtilage of the public house into the agricultural fields to the rear of the building.

3.2 The proposed extension would be substantial in size and provide a new kitchen area and dining area, with the existing building retained as a bar. The upper floor would be a multi-use room, and a lift is proposed to provide accessible entry. The proposed new dining area would comprise of an oak frame glazed extension with a stone slate roof, and the kitchen extension would be reclaimed stone and artificial stone slate roofing tiles. A dormer is proposed on the rear elevation to house the lift.

3.3 To facilitate the extension, the existing curtilage area would be extended to the north and east into the adjacent agricultural fields. The new boundary would be secured by a retaining structure and a drystone wall. In the interests of clarity, the red line boundary has been reduced during the course of the application to omit a proposed kitchen garden area. On the plans as currently submitted, the proposed block plan still shows works (albeit outside of the amended red line boundary) to create a kitchen garden which would be accessed from the public house via a timber fence and gate.

3.4 The applicants intend to provide an accessible mini bus service to pick up and drop off staff and customers.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 89/02668 – Erection of illuminated signs – Consent Granted

91/04940 – Alterations to external wall – Conditional Full Permission

91/04941 – Outline application for erection of restaurant extension and change of use from bungalow to bedrooms (Hotel Annex) and part of flat into function room – Withdrawn

92/01243 – Outline application for erection of restaurant extension and change of use from bungalow to bedrooms (hotel annex) and part of flat into function room and extension to car park – Conditional Outline Permission

2003/95020 – Change of use of land and alterations to form car park and landscaping – Withdrawn

2004/93635 – Change of use of land to form car park, formation of new access and erection of single storey extension – Refused

2016/92134 – Erection of two storey infill extension to rear, formation of roof terrace over existing single storey, demolition of lean-to-store, erection of boundary wall with gate and erection of smoking shelter to the rear garden – Conditional Full Permission

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

5.1 Officers negotiated with the applicant to secure:

- A detailed explanation for the substantial scale of the extension, to include further evidence on the number of covers required to make the business viable and how this relates to the scale of extension required and evidence of consideration of smaller scale alternatives.
- Proposed staff numbers at peak times
- Capacity of the public house should the scheme be constructed
- Any proposed improvements to the pedestrian link between the car park and the public house
- Details of any 'Very Special Circumstances' the applicant wishes the Local Planning Authority to consider.

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

LP10 – Supporting the rural economy

LP16 – Food and drink uses and the evening economy

LP21 – Highways and access

LP22 – Parking

LP24 – Design

LP33 – Trees

LP35 – Historic Environment

LP48 – Community Facilities and services

LP53 – Contaminated and unstable land

LP57 – The extension, alteration or replacement of existing buildings

National Planning Guidance:

6.4 **Chapter 2** – Achieving Sustainable Development

Chapter 6 – Building a strong, competitive economy

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 The application was advertised as a minor application affecting the setting of a listed building. The final publicity expired 22.12.20. As a result of this publicity twenty representations have been received, including 12 letters of support, 4 objections and 4 other comments. A summary of the comments raised are as follows:

Comments in Support

- Vital this is approved so the diversity and amenity of the local area is maintained.
- The proposals are well designed and considered, and will significantly improve the offer this critical part of the local community has to offer.
- The special circumstances required have been demonstrated
- The livelihoods of many people depend on this
- A good enhancement to a fine establishment in the area.
- Wish to support to a local business that supports the local community
- Dunkirk is a lovely pub in a beautiful rural location. It will really benefit from an extended seating at the back.
- Considering the current plight of the industry, it is a credit to the owners to invest. A fantastic committee and enhancement to the community, they should be applauded not restricted.
- Support the application for the reasons stated in the access statement.
- At a time when villages have lost their local pub it is good to see that local people are trying to further develop their business providing jobs and revenue within our community.
- The plans will enhance the exceptional restoration of the building.
- Good to have local facilities with separate dining, on the north elevation acoustic/visual tree planting would assist blending in.
- The application will better serve the local community due to improving access for disabled and those with walking difficulties and will help make the establishment a sustainable business.
- The plans will be consideration and beneficial to the area.
- The facilities for disabled people are excellent and the changes they want to make will improve them even more, especially the access to the first floor and the changes to the toilet facilities there.
- The room at the first floor will be a godsend for the locals. A function room of this size and quality is very rare in this area, and the new lift will mean that everyone can get to it.
- Granting permission will further enhance community opportunities, the extension will also add to the local economy.

Objections/Comments

Principle of Development

- The development is in the Green Belt
- The release of green belt unless for special circumstances is a major policy of the adopted local plan, so approval would be a departure from the policy's contained within the local plan, and the case for special circumstances has not been made
- The removal of land from the green belt to provide extra facilities for the pub does not demonstrate special circumstances.

- The justification for the size of the extension to comply with 2m social distancing rules are absurd.
- The extension would give the business an unfair advantage over existing businesses that can't expand.

Highway Safety

- The crossroads are an accident 'blackspot' with recent fatalities, and extra traffic will exacerbate this
- There are regularly parked cars running up to the junction with Barnsley Road. It is critical existing car parking spaces are not compromised and that the car park does not have a change of use to reduce capacity.
- There have been fatalities at the junction and more recently the dairy facility on Miller Hill has had large milk truck traffic, causing a bottleneck when turning in from the main Barnsley road to Miller Hill.
- Suggest an area of double yellow lines is extended past existing housing at the bottom of Miller Hill and that residents only parking bays for number 1 Miller Hill in particular are the only cars allowed in this area.
- Works have been going on since May and trade vehicles have regularly been parking at the junction between Barnsley Road and Dry Hill Lane.
- A new site entrance has been created on Barnsley Road near the junction with Miller Hill. The development would cause more distractions at an already dangerous junction.
- The Dunkirk has a large car park about 100 metres away along Dry Hill Lane. Despite this cars park on the roadside. This causes visibility issues for residents at Tenter House Court. Cars also park close to the junction of Dry Hill Lane and Barnsley Road which cause visibility issues. Wish to see double yellow lines up to the car park entrance and signage improved.
- Seek further encouragement for customers to use the car park.

Residential Amenity

- The kitchen garden could be a move to obtain permission to convert the land to commercial use, which could become a beer garden. This would cause issues of noise and privacy for 1 Tenter House Court. Request a covenant to stop it becoming a beer garden.
- It is not clear what the demarcation is for the area defined as a public outdoor space and which area is defined as the kitchen garden. This should be clearly marked with specific provision that prohibits the general public from areas not currently used as outdoor public spaces. Any additional access would cause noise pollution and privacy issues for neighbouring properties, particularly given the agricultural nature of the boundary walls, being a dry stone wall.
- It is unclear how the "naturally landscaped areas" & "Kitchen Garden" will not become an enlarged beer garden. This will impact on surrounding properties through noise pollution, the privacy of neighbours, being overlooked, and the impact on visual amenity.
- No clear plans (other than a Louvre location) have been provided with regard to kitchen extract and in particular odour control.
- The application makes reference to new lighting, however no detail has been given. Concern this will cause unnecessary light pollution.
- Concern that there is sufficient extraction and filtering of air from the kitchen to ensure cooking smells are non-invasive.

- Extraction fans should be carefully placed to direct the smell of food preparation away from properties at Tenter House Court.
- There are 3 bottle bank deposit stations in the car park which create noise issues for residents at Tenter House Court and Dry Hill Lane. Query if they could be locked overnight or removed.

Other Comments

- Works have already started. Query if Building Control has been consulted.
- It appears a large mature tree has been removed.
- The foul drainage system from Tenter House Court runs across the land of the proposed extension. Require care to not damage the system and requires a possible improvement to cope with additional capacity.
- Concern about demand on the existing sewer system and concern future maintenance will be restricted.
- Drainage must be adequate for increased usage from additional customers. In the case of failure the relevant water authorities and residents of Tenter House Court should have adequate access.
- Foundations have started to be laid for a cold storage unit in the garden area. This new outhouse is closely proximate to the boundary of properties on Miller Hill and Tenter House Court. This is not on the plans and it is important and should be in keeping with the construction of the pub as well as the neighbouring properties, one of which is a listed building.
- The main drainage for the properties at Tenter House Court runs through the area marked for the small garden and may run underneath the kitchen extension in part.
- Part 7 of the application form states that slates are to be stone to match existing but existing stone slates have been removed and replaced with artificial slates.

Denby Dale Parish council – No objections

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

The Coal Authority – No objection. No mine workings are present beneath the application site and the risk is negligible.

Highway Services – Object; DM would wish to see an increase in off-street parking provision or a reduction in the number of covers (and therefore parked cars) for the proposals to be acceptable from a highway safety perspective.

8.2 Non-statutory:

Conservation and Design – No objection

Environmental Services – No objections subject to conditions

Kirklees Council Arboricultural Officer – No objections

West Yorkshire Police Architectural liaison Officer – No objections

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 applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) is a material consideration in planning decisions.
- 10.2 The application site is located within the green belt. Paragraph 143 of the NPPF states inappropriate development is, by definition, harmful to the green belt and should not be approved except in very special circumstances. Paragraph 144 states when considering any planning application, 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 resulting from the proposal, is clearly outweighed by other considerations.
- 10.3 Paragraph 145 of the NPPF states a local planning authority should regard the construction of new buildings as inappropriate in the green belt. Exceptions to this include the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
- 10.4 Policy LP57 of the Kirklees Local Plan is also relevant. It states proposals for the extension, alteration or replacement of buildings in the Green Belt will normally be acceptable provided that:
- a. in the case of extensions the original building remains the dominant element both in terms of size and overall appearance. The cumulative impact of previous extensions and of other associated buildings will be taken into account. Proposals to extend buildings which have already been extended should have regard to the scale and character of the original part of the building.

- b. in the case of replacement buildings, the new building must be in the same use as and not be materially larger than the building it is replacing.
- c. the proposal does not result in a greater impact on openness in terms of the treatment of outdoor areas, including hard standings, curtilages and enclosures and means of access; and
- d. the design and materials should have regard to relevant design policies to ensure that the resultant development does not materially detract from its Green Belt setting.

- 10.5 The proposal to extend the building forms one of the exceptions set out in the NPPF, subject to the extension not resulting in disproportionate additions over and above the size of the original building. This is reflected in Policy LP57 of the Kirklees Local Plan which stipulates the original building must remain the dominant element. The existing public house is a simple vernacular building with extensions and alterations to eastern end of the site. The proposal extension has such a substantial footprint that even as a single storey extension the existing building would fail to be retained as the dominant element. By reason of its scale and massing it would result in harm to the openness of the green belt, notwithstanding the topography of the adjacent agricultural fields which slope upwards to the north. This is exacerbated by the fact that the curtilage of the existing building is insufficient in size to accommodate the extension and requires encroachment into the adjacent agricultural fields; excavation of existing agricultural land and the construction of boundary walls and retaining structures. This is contrary to the fundamental aim of Green Belt policy as stated in Paragraph 133 of the NPPF which is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts being their openness and permanence. The proposal would fail to accord with Policy LP57 of the Kirklees Local Plan and the NPPF. In these circumstances therefore, for the application to be acceptable very special circumstances would have to be demonstrated which clearly outweigh the harm.
- 10.6 The applicant's opinion that an extension smaller than that proposed is financially unsustainable. They have provided the following confidential documents for consideration:
- Economic Case
 - Report of the Directors and Unaudited Financial Statements for the Year Ended 31 March 2020.
 - Extension Size Justification Report
 - Alternative General Arrangements With Non Covid-19 Seating Plan
 - Alternative General Arrangements With Covid-19 Seating Plan
- 10.7 The applicant states that they have considered seven alternative layouts (including both Non-Covid and Covid seating plans) with a 1.8m reduction of the depth of the extension, removal of a bay of the oak frame and reorientation of the kitchen and back of house areas. Three are discounted by the applicants because the kitchen is not suitable for a full service and function, two are discounted because the change in covers is unacceptable in respect of profit and loss, and one is discounted because of unfavourable cover ratios and disruption of bar layout. Of the two options remaining, one is the proposed layout and the other relates to an even larger extension where the oak frame, dining and kitchen area increased by 2 metres.

The applicants conclude as follows “Following the interrogation, it has been shown that all of the Options provided, only Option 1 passes all the reasonable tests we have applied. These include operational performance, profit and loss calculations and the consideration of a worsening market”. They go on to say “Therefore, we confirm that the extension proposed is as needed in order to create a sustainable businesses.

10.8 The applicant has also provided the following information to be considered:

1. **The ‘Very Special Circumstances’**

- *The Dunkirk is the heartbeat and meeting place for many local groups and the community would be a much poorer place if this pub were lost.*
- *For many staff who work at the Dunkirk it is their livelihood and the very means by which they support their families.*
- *Given the topography of the land, the proposed extension height is lower than the existing boundary wall height and the extension is to the rear of the existing building. We believe this reduces the impact on the greenbelt.*
- *The Dunkirk is the ONLY facility of its kind in our area to have extensive facilities for wheelchair users. We have been thanked by numerous people with accessibility issues for the work we have done.*
- *The Dunkirk closed in 2016 because it was not economically viable with the loss of numerous jobs.*
- *A group of locals purchased the pub in 2016 and carried out a refurbishment to see if the pub could be turned around. Unfortunately, after a further 3 years of trading it was still a loss making business (despite paying zero rent).*
- *Two of the four people involved could not continue to lose money and left the business in 2019.*
- *The two remaining owners have put together a plan which requires substantial investment, and this includes the requirement for a building extension to the rear of the property to make the business viable (see detailed economic assessment).*
- *If the planning permission is granted this will secure 40 full and part time jobs.*
- *If planning permission is granted the business will continue to support numerous local suppliers who currently supply the business.*
- *If the planning permission is granted, the business will continue to contribute substantial amounts to the local economy.*
- *If the planning permission is granted, the staff facilities will be greatly improved.*
- *If permission is not granted the pub will be another statistic on the closure list of which we understand there have been circa 14,000 closures since the turn of the millennium.*
- *If permission is not granted the 40 jobs would be lost and local suppliers would suffer as a result.*

2. List of groups and people who use the Dunkirk:

- *We have a number of regular, vulnerable and elderly patrons, for whom the Dunkirk is their only social contact. We can provide a list of these people, but we would need to seek their permission to disclose their details.*
- *The Greenworks Group (a team of people with special needs).*
- *Various cycling groups.*
- *Denby Dale Badminton Club.*
- *Denby Dale Tennis Club.*
- *Upper Denby Cricket Club.*
- *Scissett Football Club.*
- *The Vasculitis Charity.*
- *Kirkwood Hospice.*
- *Denby Dale Library.*
- *Forget-me Not Trust.*
- *The Denby Dale Lions Charity.*
- *Numerous local businesses.*
- *Various family celebrations.*
- *Funeral gatherings.*
- *Farming community.*

Eight Supporting Documents from Community Groups (summarised below)

- Local Book Club Hosted by the Dunkirk
- Scissett Football Club The Dunkirk has offered their venue for fundraising and sponsor the playing strip for a Junior Team. Concern that if the Dunkirk closed, the future of Scissett FC would be in peril. Concern this would jeopardise the personal development of local people.
- Lions Club International - The Dunkirk has supported their fundraising for events
- Denby Dale Tennis Club Hosted Annual Dinner and Presentation Evenings at the Dunkirk
- Volunteers of the Kirkwood Hospice community café use the Dunkirk for regular get togethers
- Denby Dale Pie Hall Badminton Club use the Dunkirk after practice and matches, for meetings and functions. Consider if the pub ceased they would struggle to retain membership and could risk the loss of a community sports organisation.
- Greenworks Plus Supported employment provision who work with people with learning disabilities who work within the grounds of the Dunkirk. Will continue working there in the allotment and on other projects. The Dunkirk Inn have gifted a summerhouse.
- Ace Laundry Services, Scissett –Employment of local people and using small business and organisations.

10.9 The circumstances put forward are material considerations, but they would only overcome the presumption against inappropriate development if they were considered to constitute 'Very Special Circumstances'. The proposed development is inappropriate development in the Green Belt which may only be made acceptable by the existence of Very Special Circumstances which clearly outweigh the harm caused to the Green Belt by inappropriateness and any other harm. Policy LP10 of the Kirklees Local Plan seeks to improve the economic performance of the rural economy and the applicants note the proposal will allow staff levels to increase to 40. Policy LP10 makes clear however, that in all cases where development is proposed in the green belt regard must be had to the relevant policies in the local plan and relevant national planning guidance. The key consideration here is the substantial scale of the extension and the required encroachment/excavation of agricultural fields. It is noted the applicant has now reduced the red line boundary to omit a proposed kitchen garden/outdoor area, although the creation of this outdoor space remains on the current block plan with no clear demarcation/boundary treatment relating to the reduced red line boundary. The applicants have provided evidence that the public house is used socially and for meetings for individuals and local community organisations, with some expressing concerns that the closure of the public house would put their organisations at risk. Officers have not seen evidence for these claims however it is clear the public house is used frequently by local community groups. At the heart of the NPPF is a presumption in favour of sustainable development. The public house is not in a local centre and the desirability of retaining an existing business and associated jobs must be weighed against the impact to the openness of the green belt. It is considered the information provided are not considered capable of constituting 'very special circumstances' to justify and clearly outweigh the harm caused to the Green Belt by the construction of what is, by definition, inappropriate development and its impact upon the openness of the Green Belt.

Highway Safety Matters

10.10 Policy LP21 of the Kirklees Local Plan states 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. A number of concerns have been raised in the representations received which include that the crossroads are an accident 'blackspot' with recent fatalities, and that extra traffic will exacerbate this. There is also concern about existing on-street parking and visibility issues.

10.11 The Design and Access Statement supplied by the applicant explains that the development will increase kitchen space, the size of the dining area, and improve toilet facilities and staff quarters. This will allow staff levels to increase to 40, along with an increase in customer capacity. Additional information has been provided by the applicant with regard to parking provision. Highways Development Management (HMD) note the details provided suggest that there will be space for 37 vehicles in the existing car park, plus a further 8 spaces on-street that have been traditionally used by customers. HMD would not wish to encourage or exacerbate the on-street parking around this junction, so the on-street parking cannot be considered as part of the available provision. Furthermore, the submitted car park layout does not take into account existing storage units or the community bottle bank.

- 10.12 The parking assessment submitted by the applicant suggests up to 65 off-street parking spaces would be required at peak times to accommodate all vehicles associated with the drinking establishment. Although this may be slightly lowered by the proposed use of a minibus to taxi customers to and from the venue, it would seem unlikely that this could be so significant as to reduce peak vehicle numbers to 37 or fewer. Given the above, Highways DM would wish to see an increase in off-street parking provision or a reduction in the number of covers (and therefore parked cars) for the proposals to be acceptable from a highway safety perspective. HDM cannot therefore support the proposals in their current form which would be detrimental to highway safety and contrary to Policies LP21 and LP22.

Visual Amenity and Heritage Matters

- 10.13 The Dunkirk public house occupies a prominent position at the junction of Barnsley Road with Dry Hill Road and is located in proximity to the Grade II listed former barn at 1 Tenter House Court. Policy LP35 of the Kirklees Local Plan states development proposals affecting a designated heritage asset should preserve or enhance the significance of the asset. Furthermore, policy LP24 of the Kirklees Local Plan states proposals should promote good design by ensuring the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape.
- 10.14 Conservation and Design consider that doubling the size of the building footprint towards the Grade II listed former barn at 1 Tenter House Court would cause less than substantial harm to the setting of the barn by developing within the green space between this building and the listed farm buildings. They consider the harm is mitigated to some extent by setting the extension into the hillside with a dry-stone boundary wall to the north, and with natural stone external masonry and artificial stone slates which reflect the local vernacular and maintain local distinctiveness as required by Local Plan Policy LP35. In line with NPPF paragraph 196, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, the harm needs to be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Conservation and Design note that the Dunkirk Inn has been a public house since at least 1891 and therefore it has some historic value, particularly communal value, and has recently been restored to a high standard. Although the listed farm buildings already have viable uses, the applicant states that this proposal is required to ensure that the Dunkirk Inn itself retains a viable use. Conservation and Design therefore consider that if an assessment of the viability appraisal finds an extension of this size to be essential for the future viability of the public house, they would consider this to outweigh the less than substantial harm. In line with the above resolution of the principle of development, it is not considered this test is met and therefore the proposal would fail to accord with Policy LP35 of the Kirklees Local Plan.

Impact on Residential Amenity

- 10.15 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 which have the potential to be affected by the development are located off Dry Hill Lane and Tenter House Court to the north-east of the application site. Concerns regarding the impact on residential amenity have been raised in the representations received including concerns that the proposed kitchen garden could be a move to obtain permission to convert the land from agricultural use to a beer garden, and that any additional access for the public in outdoor spaces would cause noise pollution and privacy issues for neighbouring properties. There are also concerns there are no clear details for kitchen extraction or lighting.
- 10.16 In respect of the impact on No.1 Dry Hill Lane this is a bungalow property located to the north-east whose garden abuts the application site. The proposed development would bring the footprint of the building closer to this property, however the proposed kitchen extension would be single storey with a lean to roof and it is considered due to the intervening existing area of outside space, there would not be a detrimental overbearing impact on this neighbouring property. It is not considered there would be any detrimental loss of privacy to this neighbouring property.
- 10.17 In respect of the impact on No.1 Tenter House Court, this is the Grade II listed former barn. It is considered due to the extension being single storey there would be no detrimental overbearing impact. The proposed windows in the dining area are at a sufficient distance to avoid any detrimental overlooking impact. The use of a proposed kitchen garden is not clear, however the amended red line boundary now excludes this from consideration.
- 10.18. Environmental Services note the kitchen will require mechanical extraction plant and any noise from this operation will need to be controlled along with any other mechanical plant serving the premises i.e. chillers, condensers etc. A noise assessment condition would therefore be necessary. Cooking odours will also need to be controlled to ensure they do not cause a nuisance to neighbouring properties, and this matter can also be controlled by condition. Further conditions are also recommended to ensure the applicant prevents the discharge of fats, oils and grease from food service kitchens into the wastewater stream and to control construction noise to protect the amenity of neighbouring properties during the construction phase. Subject to conditions these matters would be addressed.
- 10.19. In conclusion it is considered there would be no detrimental impact on residential amenity in accordance with policy LP24 of the Kirklees Local Plan.

Climate Change

- 10.20 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. The proposal to erect a substantial extension would generate significant carbon emissions, however this is an existing public house building and on balance it is not considered the proposal would have a detrimental impact on the Climate Change agenda.

Other Matters

- 10.21 The application falls within The Coal Authority's defined Development Area and is supported by a Coal Mining Risk Assessment. The Coal Authority note the report conclusively states that no mine workings are present beneath the application site and assesses the risk to be negligible. The Coal Authority raise no objections to the application.
- 10.22 Environmental Services note the submitted Coal Mining Risk Assessment indicates the land is in a shallow coal mining area and ground gas may be present. Environmental Services therefore request a contaminated land assessment be provided, and this matter can be addressed by Condition.
- 10.23 The West Yorkshire Police Designing Out Crime Officer raises no objections.

Representations

- 10.24 A total of twenty representations have been received, including 12 letters of support, 4 objections and 4 other comments. The comments in support are noted.
- 10.25 In so far as the comments raised have not been addressed above:

Works have already started. Query if Building Control has been consulted.

Response: These comments are noted however the works undertaken which require planning permission are at the risk of the applicant and could be subject to enforcement.

It appears a large mature tree has been removed.

Response: The arboricultural officer raises no objections to the proposal

The foul drainage system from Tenter House Court runs across the land of the proposed extension. Require care to not damage the system and requires a possible improvement to cope with additional capacity / Concern about demand on the existing sewer system and concern future maintenance will be restricted / Drainage must be adequate for increased usage. In the case of failure the relevant authorities and residents of Tenter House Court should have adequate access. The main drainage for properties at Tenter House Court runs through the area marked for the garden and may run underneath the kitchen extension.

Response: No drainage details have been submitted for the proposed extension but this matter would be considered as part of an application for Building Regulations.

Foundations have started to be laid for a cold storage unit in the garden area. This outhouse is close to the boundary of properties on Miller Hill and Tenter House Court. This is not on the plans and should be in keeping with the construction of the pub and neighbouring properties.

Response: This comment is noted however the erection of an outbuilding has not been presented for consideration as part of this planning application.

Part 7 of the application form states that slates are to be stone to match existing but existing stone slates have been removed and replaced with artificial slates.

Response: This comment is noted.

11.0 CONCLUSION

- 11.1 The proposal extension to the existing public house by reason of its substantial scale and massing would result in harm to the openness of the green belt. This harm is further exacerbated by the fact that the curtilage of the existing building is insufficient in size to accommodate the proposed extension and requires encroachment into adjacent agricultural fields. The proposal would fail to accord with Policy LP57 of the Kirklees Local Plan and chapter 13 of the National Planning Policy Framework and constitutes inappropriate development in the green belt. It is considered the supporting information provided is not capable of constituting 'very special circumstances' which clearly outweigh the harm to the Green Belt.
- 11.2 The proposal to double the size of the building footprint towards the Grade II listed former barn at 1 Tenter House Court would cause less than substantial harm to the setting of the barn by developing within the green space between this building and the listed farm buildings. It is not considered this harm is outweighed by public benefits and the proposal would therefore fail to accord with Policy LP35 of the Kirklees Local Plan and chapter 16 of the National Planning Policy Framework. Furthermore, the proposal provides insufficient of-street parking to serve the expected increase in customers and peak vehicle numbers, and would have a detrimental impact on highway safety contrary to Policies LP21 and LP22 of the Kirklees Local Plan. Recommendation is for refusal.

Background Papers:

Website link:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f91601>

Certificate of Ownership –Certificate A signed:

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Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 17-Feb-2021

Subject: Planning Application 2020/90084 Demolition of existing house and barn and erection of office block/storage with canopy over parking area Crossfield Farm, 17, Woodland Grove, Dewsbury Moor, Dewsbury, WF13 3PE

APPLICANT

I Ayub

DATE VALID

10-Feb-2020

TARGET DATE

06-Apr-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: Dewsbury West

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION: REFUSAL

1. The proposed development would result in the total loss of a non-designated heritage asset known as Crossfield Farm, 17 Woodland Grove, Dewsbury WH13 3PE. The harm resulting from the loss of this asset would not be outweighed by the potential socioeconomic benefits of this development. Therefore, to permit the proposal in its current form would be contrary to Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.
2. The layout of the proposed development would fail to provide satisfactory access for emergency vehicles. In addition, the substandard visibility from the site access, coupled with the significant intensification of use would give rise to an unacceptable impact on highway safety and efficiency. Therefore, to permit this development in its current form would be contrary to Policies LP21 and LP24 of the Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework.

1.0 INTRODUCTION:

- 1.1 The application is brought to the Heavy Woollen Planning Sub-Committee upon request of the Council's Mayor Councillor Mumtaz Hussain. The reason for the committee request is set out as follows.
- 1.2 It is my view that the old building concerned cannot be restored because of the condition it is in. Therefore, I consider this development should be supported in order to facilitate re-use/ redevelopment of the site.
- 1.3 The Chair of the Sub-Committee has confirmed that this arrangement is appropriate, having regard to the Councillor's Protocol for Planning Committees and the Constitution.

2.0 SITE AND SURROUNDINGS

- 2.1 This application relates 17 Woodland Grove, comprising a derelict two-storey stone built detached house, set within an overgrown garden. This building has a traditional appearance with some distinctive architectural features in the front and rear elevations, although falling into a status of disrepair. It is identified as a non-designated heritage asset for its architectural merit and history. The boundary treatment comprises walls, fences, and trees. The site is accessible from Heckmondwike Road via a private road shared with the adjacent garage.
- 2.2 Woodland Grove and the adjacent Heckmondwike Road are characterised by a mix of residential and commercial developments. The land level drops gradually from the east to the west with all buildings on Grove Hall Road set at a lower level than that currently stands on site.

3.0 PROPOSAL:

- 3.1 Planning permission is sought for the demolition of a derelict building, the erection of an office and a canopy, the change of use of land for storing vehicles and other alterations.

- 3.2 The office would be single storey in height, constructed with fairfaced concrete block and tiles. The external dimensions of it would be 9.0m (D) x 66.0 (W) x 7.9m (H). It would be placed adjacent to the northern boundary of the site.
- 3.3 To the front of this office would be a hardstanding area for storage of vehicles. The submitted information suggests that the area has a capacity for storing 82 vehicles. A canopy would be erected above part of this area. Its external dimensions would be 27.0m (D) x 47.1m (W) x 5.9m (H).
- 3.4 The site would be occupied by an online car sales business, with all transactions completed remotely and the sold cars delivered to customers through a nationwide delivery service. The business would employ 3 to 4 members of staff and open on weekdays from 0900 to 1800. The site would be secured by 2.0m palisade fences.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

2019/20396 – Pre-application enquiry for demolition of derelict house, erection of office and canopy and use of remainder for storing vehicles (17, Woodland Grove) – Response issued

2014/93552 – Outline application for erection of 5 dwellings (17, Woodland Grove) – Refused

2012/90438 – Demolition of existing buildings and o/a for erection of residential development (17, Woodland Grove) – Withdrawn

2011//91653 – Demolition of existing buildings and outline application for residential development (9 dwellings) – Withdrawn

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

- 5.1 Significant concerns were raised at the outset of this application regarding the loss of a non-designated heritage asset and the lack of assessment on the historic significance of the asset. The applicant was also made aware of other issues in terms of highway safety, public footpath, and noise.
- 5.2 A heritage statement was provided subsequently, setting out the reasons the existing building could not, in the applicant's opinion, be re-used entirely or partially. The statement then concluded that the only viable option was to demolish this building and to construct a new purpose-built office for the car sales business. The applicant also provided a revised site layout to show the circulation of vehicles within the site.
- 5.3 This supplementary information was passed to the Highways Development Management Team and the Conservation and Design Team for consideration. No further details of amendments to the scheme were sought thereafter.

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).

The site is unallocated on the Kirklees Local Plan.

6.2 Kirklees Local Plan (KLP):

- LP 01** – Achieving sustainable development
- LP 02** – Placing shaping
- LP 21** – Highway safety
- LP 22** – Parking
- LP 23** – Core walking and cycling network
- LP 24** – Design
- LP 35** – Historic environment
- LP 52** – Protection and improvement of environmental quality
- LP 53** – Unstable and contaminated land

6.3 National Planning Policy Framework

- Chapter 2** – Achieving sustainable development
- Chapter 6** – Building a strong competitive economy
- 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

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 This application was publicised by site notice, news advert and neighbour letter, which expired on 12-Mar-2020. Following this publicity, 16 written representations were received from the occupants of the neighbouring houses, who raised the following issues.

- The redevelopment of this site can make it more secured and generally looks more pleasant than existing.
- The proposal could result in noise and disturbance upon the neighbours while construction works are taking place.
- Access to the site is difficult; it could not cope with the vehicle movements resulting from the 84 car parking spaces.
- Surfacing the existing grassed area could increase the surface water runoff and, therefore, the risk of flooding.
- The choice of materials is not sympathetic to the surrounding buildings.
- The privacy of the neighbouring residents could be jeopardised.
- The proposal is for a garage with workshops, not an office block.
- The proposal represents a more productive use of land than the current situation.

- The fact the building is a non-designated heritage asset should be taken into consideration.
- The proposal is likely to overdevelop the site because of its scale.
- The applicant did not serve the correct planning notice to the relevant landowner.

8.0 CONSULTATION RESPONSE:

8.1 Statutory

The Coal Authority: No objection, subject to two conditions

West Yorkshire Archaeology Advisory Service: The development, if approved, would result in the total loss of important evidence of the house's original form and historical development. Should the application be approved then an appropriate level of archaeological and architectural recording should be carried out prior to and potentially during demolition (a building record). This work can be secured by a suitably worded condition being placed on any grant of planning consent awarded by Kirklees Council.

8.2 Non-statutory:

KC Highways Development Management Team: Whilst it is noted that the car sales are to be done online, which could, as a result, reduce the number of customers visiting the site, the substandard visibility, coupled with the intensification of use from one dwelling to a large scale car sales business are likely to cause an unacceptable impact on highway safety and disruptions to the flow of traffic on Heckmondwike Road. Hence, we object to this development on highway safety grounds.

KC Environmental Health: No objections, subject five conditions

Public Rights of Way Team: Object to the proposed development because of the lack of information on how it would impact on the footpath and how such an impact would be mitigated.

9.0 MAIN ISSUES

- Principle of development
- Impact on visual amenity
- Impact on residential amenity
- Impact on highway safety and parking
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 Chapter 2 of the NPPF introduces the presumption in favour of sustainable development, which is the focus of policy LP1 of the Kirklees Local Plan. This policy stipulates that proposals that accord with policies in the Kirklees Local Plan will be approved without delay, unless material considerations indicate

otherwise. Policy LP24 of the KLP is the overarching policy in relation to the design of all proposals, requiring them to respect the appearance and character of the existing development in the surrounding area as well as to protect the amenity of the future and neighbouring occupiers, to promote highway safety and sustainability. These considerations, along with others, are addressed in the following sections of this report.

- 10.2 The application site is “land locked” surrounded by predominately residential development. To its eastern aspect is a garage and a car parking area. The site comprises a derelict building, set in an overgrown grassed area. The Council’s aerial photos and planning records appear to suggest that it has been vacant for a prolonged period. The existing building is admittedly in a state of disrepair. In this respect, the site is not being utilised to its full development potential.
- 10.3 Chapter 11 of the NPPF requires that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improvement the environment and ensure safe and healthy living conditions. As well as this, Local Planning Authorities have the responsibility to help create the conditions, in which businesses can invest, expand, and adapt. It follows that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- 10.4 In this case, the proposal would represent a more effective use of land than the current situation, contributing positively to the local economic growth through creation of three to four employment opportunities. Besides, it relates to an established business in Ravensthorpe that are looking to expand further. With these factors in mind, officers are satisfied that the proposal accords with chapters 6 and 9 and 11 of the NPPF. The principle of re-using/ re-developing the building and land adjacent could be considered favourably, so long as it contributes to the improvement of the environment and ensures safe and healthy living conditions of the neighbouring residents.
- 10.5 When considering the impact on environment, it is important to note that the building currently on site is identified as a non-designated heritage asset for its architectural merit and history, as well as its positive contribution to the built and historic environments. Consideration, therefore, must be given to chapter 16 of the NPPF and policy LP35 of the KLP that collectively set out the criteria, against which this application should be assessed.
- 10.6 On the matter of non-designated heritage asset, paragraph 197 of the NPPF states that the effect of an application on the significance of such an asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Paragraphs 198 and 199 prescribe the procedure, which Local Planning Authorities and developers should follow, where a proposal would result in the loss of the whole or part of a heritage asset.
- 10.7 In this case, permission is sought to demolish the entire building on site, which means that the non-designated heritage asset would be lost in its entirety. The Heritage Statement received on 16th July 2020 provides an assessment on the significance of the asset concerned and photographs of its interior and exterior. The applicant contends that the cost of repairing and

converting this building to create a house would exceed the average house price in the vicinity of the site. Therefore, conversion or partial redevelopment are not, in the applicant's opinion, an economically viable option.

- 10.8 Moreover, the site in question is in the vicinity of a MOT garage and only accessible via a private road from Heckmondwike Road. It is asserted that the current setting of the site makes it unsuitable for residential development. Consequently, the proposed redevelopment is thought to be the only viable option to bring the site back into a more effective use.
- 10.9 Notwithstanding the information provided in the Heritage Statement, the Conservation Officer is of the opinion that the preservation of this non-designated heritage asset could be secured through a slightly bigger residential scheme. This would allow the cost of repair and conversion be shared evenly across several new houses and, consequently, would make the scheme potentially more economically viable than suggested in the Heritage Statement. Besides, although some information has been provided regarding the estimated cost of repair, it is not entirely clear as to how these figures are calculated and what assumptions these calculations are based upon.
- 10.10 Heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of the existing and future generations. Thus, caution must be exercised when considering an application that would result in the total loss of a heritage asset. On this occasion, although the development under consideration does have some socioeconomic benefits in terms of supporting economic growth and job creation, these benefits are not significant enough to outweigh the loss of the non-designated heritage asset currently stands on site. The evidence provided in the Heritage Statement is not adequate to substantiate the applicant's assertion that the proposed redevelopment is the only viable option to achieve a more effective use of land than the current situation.
- 10.11 Therefore, in line with the guidance outlined in paragraph 197 of the NPPF and policy LP35 of the KLP, officers concluded that the proposal would give rise to an unacceptable impact on the historic environment, resulting from the loss of a non-designated heritage asset. Consequently, the principle of the current scheme could not be supported from a heritage conservation perspective.

Impact on visual amenity

- 10.12 The proposal comprises an office and a car park with a canopy above. The external front wall of the office would roughly align with that of the adjacent garage at 109 Heckmondwike Road. It would be single storey in height, comparable to the buildings immediately adjacent. To the front of the office would be a car park and a canopy. The canopy would be slightly lower than the office. There would be appropriate spacing between the proposed and existing buildings to avoid overdevelopment of the site and creation of a cramped built environment that would be harmful to visual amenity.

- 10.13 The site layout and scale are acceptable in visual amenity terms, for they would assist in preserving the established building and roof lines in this location. The development would be recessed considerably from Heckmondwike Road and largely screened from the road by the adjacent MOT garage. As such, the impact on the local street-scene is low and acceptable.
- 10.14 Heckmondwike Road is characterised by a mix of residential and commercial developments. To permit a car sales business, as proposed, is unlikely to cause a significant change to the prevailing character of its immediate surroundings. The office would be of a rectangular form with a dual pitched roof and several large openings in the front elevation for vehicle access. The appearance of this building is suitable for its intended purpose that is for storage of cars. There is already a variety of built forms in the vicinity of the site. These buildings are all constructed with different materials, which contribute to the diverse character of Heckmondwike Road.
- 10.15 The office is proposed to be constructed with fairfaced concrete block and tiles. Whilst noting the variation of materials already exists in this area, the use of concrete block is inappropriate from a visual amenity perspective, especially when considering the substantial size of the building in question. Notwithstanding that, should Members resolve to grant permission for this development, a condition could be imposed to require that the building should be constructed in brick or faced with coloured render. Subject to this condition, the impact associated with the materials of construction could be satisfactorily mitigated.
- 10.16 In conclusion, the development concerned is of a satisfactory quality in scale, layout, and design. With the recommended condition imposed, it would preserve the overall appearance of the buildings nearby and the local character and street-scene of Heckmondwike Road. The proposal complies with policy LP24 of the KLP and chapter 12 of the NPPF.

Impact on residential amenity (including noise and disturbance)

- 10.17 The application site is surrounded by residential development on three aspects. Hence, redeveloping the site for the proposed use has the potential of causing conflict with the noise sensitive use in the vicinity. The impact on the living conditions of the neighbouring residential properties on Barley Croft, Grove Hall Road and Woodland Grove are considered as follows.
- 10.18 Concerning the office, it would be close to the rear garden of the adjacent terraced houses on Barley Croft. It is considered, notwithstanding the close spatial relationship between the office and these houses, that there would be no substantial harm to the living conditions of these occupiers. This is because the office would be single storey in scale only. The height of it would not be significantly greater than that of the existing boundary treatment at the shared boundary. Moreover, there would be an appropriate separation distance between these terraced houses and the office so that the overbearing impact would be minimised. Accordingly, the office is acceptable in terms of residential amenity.
- 10.19 In respect of the canopy, it could affect the open aspect currently enjoyed by the occupants of the neighbouring houses on Grove Hall Road. Due to the

land level difference between the application site and these adjacent sites, the canopy might appear as a prominent structure while looking from the habitable room windows of these properties. Although the impact on these neighbours is acknowledged, the elevations drawing indicate that the canopy would be no higher than the office and that a separation distance of approximately 15.0m would be achieved between the canopy and all other houses on Grove Hall Road. Under those circumstances, officers do not find the potential of overbearing impact significant enough to warrant refusal of this application.

- 10.20 The houses on Woodland Grove are set at an angle with their gable walls facing towards the application site. Given this relationship and the separation distance between the development and the houses concerned, the residential amenity impact would be very modest and thus negligible.
- 10.21 The site and the new buildings upon it are to be occupied by an online car sales business. Given the nature of this business, it is expected that some sort of lighting would need to be installed for security purposes. Besides, it is likely that there would be some noisy activities associated with the proposed use such as car washing and valeting, vehicle movements including possible HGV vehicles used for transporting vehicles.
- 10.22 No information is provided regarding how the site would be used and where potentially noisy activities would be located within the site. That being said, the Environmental Health Service considers that any noise issues could be effectively addressed by locating noise activities away from noise sensitive locations, providing adequate mitigation measures and avoiding noise activities at the most noise sensitive times of day.
- 10.23 In view of that, if Members are minded to approve this application, a condition should be imposed to require that a noise report and lighting scheme should be submitted to the Local Planning Authority for approval before the development commence. In addition, the hours of use should be restricted to the hours of 0700 and 2000 Mondays to Saturdays and 0900 to 1800 Sundays and Bank Holidays. This, again, could be secured by condition. Provided all these conditions are imposed, the development concerned is unlikely to cause unacceptable noise and disturbance upon the residents, living in the vicinity of the site.
- 10.24 In short, the proposed development is acceptable from a residential amenity perspective and compliant with the policies LP24 and LP52 of the KLP as well as Chapter 15 of the NPPF.

Impact on highway safety

- 10.25 The proposal, if permitted, would result in a significant intensification of use, compared to the current situation. The site would have a capacity to store 82 vehicles outdoor. Whilst the number of vehicle movements might vary depending on the turnover of car sales made online, it is anticipated that the volume of traffic entering and exiting the site would increase considerably, as it would introduce a more intense use than existing. Further to this consideration, the visibility from the site access is substandard, partly due to the unauthorised erection of fences along the frontage of the adjacent MOT garage. The likely increase in trip generation, coupled with the poor sightline from the site access would potentially disrupt to the flow of traffic and, thereby, prejudice highway safety and efficiency.
- 10.26 The site is set back considerably from Heckmondwike Road. It is accessible via an existing private road, shared with the adjoining garage. Where a site is over 45.0 from the public highway, the advice from West Yorkshire Fire and Rescue Service stipulates that there should be vehicle access for a pump appliance to either 15% of the perimeter or within 45.0m of every point on the footprint of the building, whichever is less onerous. The submitted plan fails to demonstrate that the site layout is suitable for access of a fire appliance. The acceptability of the proposed layout is, therefore, questionable.
- 10.27 In terms of parking, all parking spaces shown on the site plan are of an appropriate size that is consistent with the Highway Design Guide SPD. There is a clearance distance of 6.0m between the rows of car parking spaces, consistent with the advice given in the initial consultation response. Taking account of these factors, the proposal is not found to have a significant detrimental impact on parking.
- 10.28 In short, the information provided in this application fails to demonstrate that a satisfactory layout could be achieved to facilitate access for emergency vehicles. The significant intensification of use, when combined with the substandard visibility from the site access would give rise to serious concerns in terms of the impact on the efficiency and operation of the local highway network. For these reasons, the current scheme is not acceptable from a highway safety perspective.

Other matters

Public footpath

- 10.29 The site is adjacent to public footpath DEW/104/10. The footpath is set at a lower level than the application site and is currently retained by a brick wall, which appears to be dilapidated. Significant concerns were raised by the PROW Team in terms of the position of car parking spaces 69 to 82 and the potential of impact on the already fragile retaining wall. There is no information submitted as to how releveling of the site would affect the retaining structure abutting the footpath.
- 10.30 Although the concerns raised by the PROW Team is acknowledged, the potential issues associated with the footpath is not insurmountable. If

Members resolve to approve this application, a condition could be imposed to require a scheme for the protection of the footpath, its access right and safety of its user be submitted to the Local Planning Authority for approval before the development commence. Subject to this condition, the impact on the public footpath could be addressed appropriately, in accordance with policy LP23 of the KLP.

Land contamination and stability

- 10.31 The site falls within a “Development High Risk Area” identified by the Coal Authority. In line with the relevant guidance, the applicant has submitted a Coal Mining Risk Assessment, which has been reviewed by the Coal Authority. After considering the submitted information, the Coal Authority confirms in the consultation response that there are no objections to the current scheme, provided that a site investigation and remediation scheme are subsequently submitted to and approved in writing by the Local Planning Authority before the development commence.
- 10.32 The site is not shown as being potentially contaminated from its former use and the proposed end use is not particularly sensitive to land contamination issues. However, the site has clearly been previously developed and there is a potential for contamination. Therefore, a condition is necessary requiring action should unexpected contamination be encountered at the construction stage. Subject to these conditions, the development is acceptable in terms of land contamination and stability, complying with policy LP53 of the KLP and chapter 15 of the NPPF.

Climate emergency

- 10.33 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.
- 10.34 The proposal is for redevelopment of the site to create a car sales business. To promote the use of ultra-low emission vehicles and to improve the local air quality, a condition should be imposed to require the provision of electrical vehicle charging points, in accordance with policies LP24 and LP51 of the KLP and chapter 14 of the NPPF.

Drainage

- 10.35 This application seeks to turn a large part of the overgrown garden to a hardstanding area for parking. It would potentially increase the surface water runoff compared to the current situation. The application form states that all surface water is to be discharged to the main sewer. This is not consistent with the hierarchy outlined above.

- 10.36 To reduce the risk of flooding and to comply with the Policy LP28 of the KLP, a condition should be inserted to the decision notice to require a scheme detailing surface water and land drainage be submitted and approved before the development commences. With this condition imposed, the proposed development could be supported in respect of policy LP28 of the KLP and chapter 14 of the NPPF.
- 10.37 There are no other matters considered relevant to the determination of this application.

Representations

- 10.38 16 written representations were received from the occupants of the neighbouring houses following the statutory publicity. The issues below were raised in these representations.
- The redevelopment of this site can make it more secured and generally looks more pleasant than existing.
Response: This is a material consideration and has been considered in the principle of development section.
 - The proposal could result in noise and disturbance upon the neighbours while construction works are taking place.
Response: The impact of noise and disturbance could be appropriately mitigated by planning conditions if this development is to be approved.
 - Access to the site is difficult; it could not cope with the vehicle movements resulting from the 84 car parking spaces.
Response: This matter has been considered in the highway safety section.
 - Surfacing the existing grassed area could increase the surface water runoff and, therefore, the risk of flooding.
Response: This issue has been addressed in the other matters section.
 - The choice of materials is not sympathetic to the surrounding buildings.
Response: This concern has been addressed in the visual amenity section.
 - The privacy of the neighbouring residents could be jeopardised.
Response: The development concerned would not prejudice the privacy of the neighbours. The reasons have been given in the residential amenity section.
 - The proposal is for a garage with workshops, not an office block.
Response: This proposal is for a car sales business. It is not for a garage or workshop, as confirmed by the applicant.
 - The proposal represents a more productive use of land than the current situation.
Response: This factor has been considered in the principle of development section.
 - The fact the building is a non-designated heritage asset should be taken into consideration.
Response: The impact on non-designated heritage asset has been considered in the principle of development section.
 - The proposal is likely to overdevelop the site because of its scale.
Response: The scale of development is appropriate, for all the reasons provided in the visual amenity section.

- The applicant did not serve the correct planning notice to the relevant landowner.

Response: The applicant provided photographic evidence that shows that the planning notice was sent to the relevant landowner on 02-Jun-2020.

11.0 CONCLUSION

- 11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.2 This application has been assessed against relevant policies in the development plan and other material considerations. Although officers acknowledge the socioeconomic benefit arising from this development and the importance of supporting businesses to expand, it is considered, on this occasion, that these benefit do not outweigh the total loss of a non-designated heritage asset. Furthermore, the potential impact on highway safety and efficiency is not acceptable in terms of policy LP21 and LP24 of the KLP.
- 11.3 It is considered that the development would not constitute sustainable development and is therefore recommended for refusal.

Background Papers:

Application web link:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020/90084>

Certificate of Ownership: Certificate B signed and dated 02-Jun-2020

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Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 17-Feb-2021

Subject: Planning Application 2020/92661 Change of use of public house to education centre and prayer room Nelson Inn, 145, Slaithwaite Road, Thornhill Lees, Dewsbury, WF12 9DW

APPLICANT

Acumen

DATE VALID

17-Aug-2020

TARGET DATE

12-Oct-2020

EXTENSION EXPIRY DATE

09-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: Dewsbury South

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 is brought to Planning Sub Committee given the level of representation to the application.
- 1.2 52 Representations have been received with 42 supporting the proposal and 10 objecting on the grounds of highway safety and a proliferation of similar facilities in the area.
- 1.3 The chair has reviewed the application and confirmed the application is acceptable to be heard by committee, in line with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site was last used as a public house. It is a single and two storey building with a car park with the front elevation facing into the car park and with a Calder & Hebble Navigation to the rear.
- 2.2 There are new residential properties to the east and a chemist and medical centre on the opposite side of Slaithwaite Road.

3.0 PROPOSAL:

- 3.1 The applicant is seeking permission to change the use of the public house to an education centre and prayer room. There are no external changes proposed.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 93/01549 - erection of signage - granted
97/93696 - formation of beer garden with external alterations - granted
07/94142 - erection of smoking shelter - granted

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

- 5.1 None

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 following policies are relevant to this application.

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP13** – Town centre uses
- **LP21** – Highway safety
- **LP 22** – Parking
- **LP 24** - Design
- **LP 27** - Flood risk
- **LP48** – Community facilities and service

Supplementary Planning Guidance / Documents:

6.3 None

National Planning Guidance:

6.4 The following chapters of the National Planning Policy Framework are relevant to this application.

- Chapter 7 – Ensuring the vitality of town centres
- Chapter 8 – Promoting healthy and safe communities
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was publicised by neighbour letter and on the Kirklees Website inviting comments till 13/10/2020.

7.2 52 representations were received – 42 supporting the proposal and 10 objecting.

7.3 The concerns raised in the objections related to highway safety in terms of parking and safe access and a concern regarding the number of such facilities in the vicinity.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

K.C. Highways Development Management – On balance, support the proposals subject to conditions.

8.2 Non-Statutory:

K.C. Environmental Health – Support the proposals subject to conditions.

K.C. Designing Out Crime officer – Support the proposal, various recommendations made in the interest of crime prevention, security and safety.

9.0 MAIN ISSUES

- Principle of development
- Impact on the local centre
- Impact on amenity
- Suitability of a change of community use
- 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.
- 10.2 The proposal is within a local centre and as such consideration will be required in terms of LP13 of the Kirklees Local Plan with regards to the impact of the proposals on the vitality and viability of the Local Centre.
- 10.3 Consideration will be required in terms of LP24 of the Kirklees Local Plan with respect to the impact on visual and residential amenity together with the character of the area.
- 10.4 The proposed change of use relates to the loss of a public house, which is a community use considered worthy of additional protections to a prayer room and education centre which can also be considered to be a community facility. As both uses are community facilities, consideration will be required with respect to LP48 of the Kirklees Local Plan.
- 10.5 Other considerations along with highway safety will also be considered.

Impact on the local centre

- 10.6 The site is within the Local Centre, Slaithwaite Road at Thornhill Lees which is currently made up of the following. A group of 6 retail units on the corner of Headfield Road, 5 of which appear to be occupied with two hairdressers, a takeaway, a sandwich shop and a mobile phone shop. A doctor's surgery and pharmacy on the corner of Slaithwaite Road and Parker Road. The public house which is the subject of this application opposite the doctor's surgery. A fish & chip shop on the corner of Slaithwaite Road and Ingham Road. Mullaco supermarket which is located to the rear of 153 to 191 Slaithwaite Road.
- 10.7 The proposal would result in the loss of the existing public house. However, it would be replaced with a community use which is generally considered to be acceptable in a local centre.

- 10.8 It is noted that there is another new build facility on the opposite side of the road accessed of Parker Road which provides similar facilities for up to 290 people and having a second facility so close would not result in a mix of uses to serve the local community.
- 10.9 Furthermore, there are other such facilities within and close to Thornhill Lees including two on Lees Hall Road, one on Brewery Lane, one on the corner of The Common and Overthorpe Road, one on the corner of Thornhill Road and the River Calder and another on Caledonian Road.
- 10.10 However, the number of similar facilities in the vicinity is not a factor in considering a proposal with respect to LP13 of the Kirklees Local Plan.

Impact on amenity

- 10.11 There are no exterior alterations proposed as part of the application and as such, the building itself would not alter in terms of its appearance. As such, the proposed change of use is considered to be acceptable in terms of visual amenity.
- 10.12 It is noted that the Environmental Health Officer has requested a condition regarding the provision of a noise assessment. However, given the nature of the proposed use, it is not likely to result in any further noise or disturbance than the current use as a public house subject to restricting the number of persons attending the site at any one time. As such, it is not considered to be reasonable or necessary to include a condition for the submission of a noise report and there is considered to be no undue harm caused to the amenities of the occupants of the neighbouring properties as a result of the change of use. The proposal is therefore considered to be acceptable in terms of residential amenity, in accordance with the aims of policy LP24 of the KLP.

Suitability of a change of community use

- 10.13 With regards to policy LP48 of the KLP, proposals which involve the loss of a valued community facility such as a public house are only considered to be acceptable where it can be demonstrated that there is no longer a need for that facility, it is no longer a viable use or there is an adequate alternate provision in the vicinity.
- 10.14 The character of Thornhill Lees has changed over the years and with these changes, the need for a Public House has declined.
- 10.15 The agent has confirmed that the property was on the market for three years prior to the submission of this application with no interest. This is likely to indicate that the use is no longer economically viable.
- 10.16 Whilst there are no other public houses located in Thornhill Lees, there are public houses within 1km of the area. Taking this into account, along with the change in the character of the area, this is considered to balance the requirements of policy LP48 of the KLP.

Highway issues

- 10.17 The application site is located on the heavily trafficked B6117 Slaithwaite Road opposite the junction with Parker Road. The site does have an existing car park for 7 to 8 cars to park off street and safely turn around within the site. It is noted that sight lines from the existing car park onto Slaithwaite Road are poor.
- 10.18 The details submitted indicate that proposed use would serve a maximum of 15 students at any one time. The submitted plans show one relatively small classroom and one prayer room with ancillary offices, storage and a self-contained unit at first floor. Following consultation with HDM, the proposals are considered acceptable from a highway safety perspective subject to the submission of a management plan before the use commences, to include the timings of classes and prayers and to include an attendance register and monitoring regime.
- 10.19 The Highways Officer has also suggested a condition restricting the number of users to 15 students or 10 worshippers on the site at any one time. Given the limitations of the site including the limited car parking and the size of the building, this is considered to be a reasonable condition and necessary to ensure the safe operation of the use in terms of highway safety and to comply with policy LP21 of the KLP.
- 10.20 On balance, given the limited capacity and subject to appropriate conditions, the proposal is considered to be acceptable with regards to highway safety and compliant with policies LP21 & LP22 of the KLP.

Representations

- 10.21 The representations received included a number of objections. The issues raised related to concerns regarding highway safety and the number of similar facilities in the area.
- 10.22 In terms of the highways concerns, the impact of the proposal has been fully considered in points 10.17 to 10.20 of this report.
- 10.23 It is appreciated that there are a number of similar provisions within the area. However, there is no scope within planning policy to restrict a specific type of use on the grounds of volume, saturation, or proliferation.
- 10.24 The representations in support of the scheme have also been noted.

Other Matters

- 10.25 The application details have been reviewed by the Designing Out Crime officer. No objections have been raised to the change of use. However, a number of recommendations have been included for the benefit of the site users in terms of security and safety. These recommendations have been published on the website for the applicant to review.

- 10.26 The consultation response from Environmental Health has asked for a condition requiring the provision of electric vehicle charging points. Policy LP24 does require development, where practicable, to encourage the use of electric and low emission vehicles. This is considered to be a reasonable request and compliant with LP24 of the Kirklees Local Plan.
- 10.27 The site is close to the River Calder and within flood zone 2. However, the use proposed is no more vulnerable than the existing use. The proposal is therefore considered to be acceptable in terms of LP27 of the Kirklees Local Plan.
- 10.28 There are no other matters relevant to the consideration of this proposal.

11.0 CONCLUSION

- 11.1 In conclusion the proposed use is, on balance, considered to accord with the relevant policies in terms of the Local Centre, Amenity, Highway Safety and Community facilities.
- 11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals accord with the development plan and it is recommended that planning permission be granted.

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

1. Development to be commence within 3 years.
2. Development to be undertaken in accordance with the submitted plans and specifications.
3. The use of the site shall be limited to 15 students **or** 10 worshippers on site at any time.
4. Submission and subsequent approval of a management plan, which shall include the timings of classes and prayers, an attendance register and monitoring regime, before the use is first implemented.
5. Surfacing and drainage of the car park before the use is first implemented.
6. Provision of an electric charging point before the use is first implemented.

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f92661>

Certificate of Ownership –Certificate A signed

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