

# Public Document Pack



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

**Julie Muscroft**

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Tuesday 6 April 2021

## Notice of Meeting

Dear Member

### **Planning Sub-Committee (Heavy Woollen Area)**

The **Planning Sub-Committee (Heavy Woollen Area)** will meet remotely at **1.00 pm on Wednesday 14 April 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".

**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 Mussarat Pervaiz  
Councillor Andrew Pinnock  
Councillor Cathy Scott  
Councillor John Taylor  
Councillor Kath Taylor  
Councillor Graham Turner  
Councillor Aleks Lukic  
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

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Pages

**1: Membership of the Sub-Committee**

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

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**2: Minutes of Previous Meeting**

1 - 6

To approve the Minutes of the Meeting of the Sub-Committee held on 17 February 2021.

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**3: Declaration of Interests and Lobbying**

7 - 8

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.

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**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.

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**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.

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## Planning Applications

9 - 10

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

Please note that any members of the public who wish to speak at the meeting must have registered no later than 5.00pm (via telephone), or 11.59pm (via email) on Monday 12 April 2021.

To pre-register, please contact [andrea.woodside@kirklees.gov.uk](mailto: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.

### **6: Planning Application - Application No: 2020/91601** 11 - 26

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.

Wards affected: Denby Dale

Contact: Louise Bearcroft, Planning Services

#### **Wards**

**Affected:** Denby Dale

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### **7: Planning Application - Application No: 2019/91239** 27 - 42

Demolition of existing public house and erection of four dwellings at The Shears, 201, Halifax Road, Hightown, Liversedge.

Wards affected: Liversedge and Gomersal

Contact: Sarah Longbottom, Planning Services

#### **Wards**

**Affected:** Liversedge and Gomersal

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### **8: Planning Application - Application No: 2015/90321** 43 - 66

Demolition of existing buildings and erection of 43 dwellings with associated access, parking, landscaping and open space at Park Farm, off Smithies Lane, Heckmondwike.

Ward affected: Heckmondwike

Contact: Sarah Longbottom, Planning Services

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**Wards**

**Affected:** Heckmondwike

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**9: Planning Application - Application No: 2020/91215** 67 - 110

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

Ward affected: Denby Dale

Contact: Victor Grayson, Planning Services

**Wards**

**Affected:** Denby Dale

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**10: Planning Application - Application No: 2020/92368** 111 - 136

Erection of 14 dwellings with garages and formation of new access road Land south of, Leeds Road, Mirfield.

Wards affected: Mirfield

Contact: Nick Hirst, Planning Services

**Wards**

**Affected:** Mirfield

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**11: Planning Application - Application No: 2020/91747** 137 - 152

Demolition of former dairy/snooker centre/storage and erection of 9 light industrial units at land adjacent to 60, Northgate, Cleckheaton.

Wards affected: Cleckheaton

Contact: Adam Walker, Planning Services

**Wards**

**Affected:** Cleckheaton

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**12: Planning Application - Application No: 2020/90501** 153 - 164

Change of use and alterations to convert trade counter retail unit to function room and store at former Harrisons Electrical Warehouse, Huddersfield Road, Dewsbury.

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Ward affected: Dewsbury West

Contact: Josh Kwok, Planning Services

**Wards**

**Affected:** Dewsbury West

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**13: Planning Application - Application No: 2021/90302** 165 - 172

Erection of first floor extensions and alterations to form first floor accommodation at 1, Penn Drive, Hightown, Liversedge.

Wards affected: Cleckheaton

Contact: Josh Kwok, Planning Services

**Wards**

**Affected:** Cleckheaton

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**14: Planning Application - Application No: 2020/94233** 173 - 180

Change of use of car sales offices to hot food takeaway store at 491, Bradford Road, Batley.

Wards affected: Batley West

Contact; Josh Kwok, Planning Services

**Wards**

**Affected:** Batley West

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**Planning Update** 181 - 190

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 17th February 2021**

Present: Councillor Steve Hall (Chair)  
Councillor Mahmood Akhtar  
Councillor Nosheen Dad  
Councillor Michelle Grainger-Mead  
Councillor John Lawson  
Councillor Aleks Lukic  
Councillor Nigel Patrick  
Councillor Mussarat Pervaiz  
Councillor Andrew Pinnock  
Councillor Cathy Scott  
Councillor Mark Thompson  
Councillor Graham Turner

**1 Membership of the Sub-Committee**

Councillor Thompson substituted for Councillor K Taylor.

Councillor Patrick substituted for Councillor J Taylor.

**2 Minutes of Previous Meeting**

**RESOLVED** – That the Minutes of the Meeting held on 4 November 2020 be approved as a correct record.

**3 Declaration of Interests and Lobbying**

Councillors Dad, Grainger-Mead, S Hall, Lukic, Patrick, Pervaiz, A Pinnock, Thompson and Turner indicated that they had been lobbied on Application 2019/91836.

Councillors Dad, Patrick, Scott, Grainger-Mead, S Hall, Lawson, Lukic, Pervaiz, A Pinnock, Thompson and Turner indicated that they had been lobbied on Application 2020/91215.

Councillors Grainger-Mead, S Hall, Lawson, Lukic, Pervaiz, A Pinnock, Scott, Thompson and Turner indicated that they had been lobbied on Application 2020/91601.

Councillors S Hall, Pervaiz and Scott indicated that they had been lobbied on Application 2020/90084.

Councillors Dad, Grainger-Mead, S Hall, Pervaiz and Scott indicated that they had been lobbied on Application 2020/92661.

## **Planning Sub-Committee (Heavy Woollen Area) - 17 February 2021**

Councillor Patrick declared an 'other' interest in Application 2019/91836 and advised that he would not participate in the discussion or vote on the item as the applicant was a supporter of his mayoral charity.

Councillor Lukic declared an 'other' interest in Application 2019/91836 on the grounds that members of his extended family lived near to the application site.

Councillor Thompson declared an 'other' interest in Application 2019/91836 on the grounds that he a representative on Kirklees Active Leisure Board of Trustees.

### **4 Admission of the Public**

It was noted that no exempt agenda items were listed for consideration.

### **5 Deputations/Petitions**

No deputations or petitions were received.

### **6 Public Question Time**

No questions were asked.

### **7 Review of Planning Appeal Decisions 2020**

The Sub-Committee received a report which provided an overview of planning appeal decisions for the period January to December 2020. The report advised that there had been 31 appeals (including 3 tree work appeals) during this time, and that 77% had been dismissed.

It was noted that 30 of the decisions had been determined under delegated powers, and that 1 had been determined by Committee, all of which had been dismissed. A list of the appeals and decisions was attached at Appendix 1 to the report.

**RESOLVED** – That the report be noted.

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

The Sub-Committee gave consideration to a report which set out details of an amended proposal for an Order to divert part of public footpath Spenborough 110, under Section 119 of the Highways Act 1980, in order to facilitate the development of Spen Valley Leisure Centre. The report provided details regarding the amendments which included improvements to the surface, additional width and the removal of steps.

The Sub-Committee were advised that the Council had previously made a Section 119 Highways Act 1980 Diversion Order in March 2020, which had been subject to an objection at formal stage and that the amended proposal sought to address the points raised within the objection.

The report requested that authorisation be given to the amended Order and that it be noted that it is not intended to progress the original Order. The Sub-Committee



## Planning Sub-Committee (Heavy Woollen Area) - 17 February 2021

were requested to authorise the Service Director to make and seek conformation of an Order, as set out in para 2.8 of the considered report.

**RESOLVED** - 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) (Option 2).

**9**

### **Planning Application - Application No: 2019/91836**

The Sub-Committee gave consideration to Application – Erection of 34 dwellings at land adjacent to Inkerman Court, Barnsley Road, Denby Dale.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Graham Brown, Joel Collins, Jim Keir and Julian Slater (local residents) and Stewart Brown (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;
  - three years to commence development
  - development to be carried out in accordance with approved plans and documents
  - submission of a Construction (Environmental) Management Plan
  - submission of details of temporary (construction-phase) surface water drainage arrangements
  - submission of details of temporary waste collection and storage (should development be phased, and/or dwellings become occupied prior to completion of the development)
  - provision of site entrance and visibility splays prior to works commencing
  - submission of details relating to internal adoptable roads
  - submission of details of surfacing and drainage of parking spaces
  - submission of details of highways structures
  - cycle parking provision prior to occupation
  - provision of electric vehicle charging points (one charging point per dwelling with dedicated parking)
  - submission of details of waste storage and collection
  - submission of details of any retaining walls
  - submission of an Arboricultural Method Statement and Tree Protection Plan
  - submission of a detailed drainage design for surface water and land drainage, and a detailed exceedance flow routing plan
  - no piped discharge of surface water from the development prior to the completion of surface water drainage works
  - submission of an intrusive site investigation report (phase II report)
  - submission of a remediation strategy
  - arrangements in the event that unexpected contamination is encountered
  - submission of a validation report
  - submission of details of sound insulation measures
  - submission of details of crime prevention measures

## Planning Sub-Committee (Heavy Woollen Area) - 17 February 2021

- external materials (details and samples to be submitted)
  - submission of details of boundary treatments
  - submission of details of external lighting
  - submission of a full landscaping scheme, ecological design strategy and landscape and ecological management plan
  - submission of details of biodiversity enhancement and net gain
  - restriction on removal of trees and hedgerows during nesting season
  - removal of permitted development rights for extensions and outbuildings
- 2) That the Construction Management Plan makes provision for discussion of issues with local residents.
- 3) That authority be delegated to the Head of Planning and Development to secure a S106 Agreement to cover (i) affordable housing – seven affordable housing units (1 bedroom starter homes to be provided in perpetuity) (ii) open space - £45,194 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 (iii) education – contribution of £36,007 (iv) sustainable transport – measures to encourage the use of sustainable modes of transport (including a financial contribution of £30,017) 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 (v) biodiversity – contribution (amount to be confirmed) towards off-site measures to achieve biodiversity net gain (vi) 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) and (vii) 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.
- 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 mitigation and 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, Dad, Grainger-Mead, S Hall, Lawson, Lukic, Pervaiz, A Pinnock, Scott and Thompson (10 votes)

Against: (no votes)

Abstained: Councillor Turner

**10 Planning Application - Application No: 2020/91215**

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

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Guy Loveridge, Barry Brook and Paula Kemp (local residents), Mark Eastwood MP and Paul Butler/Martin Whittaker (on behalf of the applicant).

**RESOLVED –**

1) That the application be deferred in order to enable information to be submitted to a future meeting regarding the status of a strip of land at the terminus of Wentworth Drive.

2) That the Reserved Matters Application, when received, be submitted to Committee for determination.

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

For: Councillors Akhtar, Dad, Grainger-Mead, S Hall, Lawson, Lukic, Patrick, Pervaiz, A Pinnock, Scott, Thompson and Turner (12 votes)

Against: (no votes)

**11 Planning Application - Application No: 2020/91601**

The Sub-Committee gave consideration to Application 2020/91601 – Change of use from agricultural land to A4 (drinking establishment) and erection of extensions and alternations at Dunkirk Inn, 231 Barnsley Road, Lower Denby, Huddersfield.

**RESOLVED –** That the application be deferred in order to enable an assessment of (i) the highway statement and (ii) a submitted document titled ‘Report for submission to Committee’.

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

For: Councillors Akhtar, Dad, Grainger-Mead, S Hall, Lawson, Lukic, Patrick, Pervaiz, A Pinnock, Scott, Thompson and Turner (12 votes)

Against: (no votes)

**12 Planning Application - Application No: 2020/90084**

The Sub-Committee gave consideration to Application 2020/90084 – 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.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Zahid Ahmed and Raees Choudry (local residents), Antonio Caparelli (on behalf of local business) and Iyaz Ayub (applicant).

## Planning Sub-Committee (Heavy Woollen Area) - 17 February 2021

**RESOLVED** – That the application be refused on the grounds that (i) the proposed development would result in the total loss of a non-designated heritage asset known as Crossfield Farm, 17 Woodland Grove, Dewsbury and that the harm resulting from the loss of the asset would not be outweighed by the potential socioeconomic benefits of the development, and to therefore 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 and (ii) the layout of the proposed development would fail to provide satisfactory access for emergency vehicles, and 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.

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

For: Councillors Grainger-Mead, S Hall, Lawson, Lukic, Patrick, A Pinnock, Scott, Thompson and Turner (9 votes)

Against: (no votes)

Abstained: Councillors Akhtar, Dad and Pervaiz

### 13 **Planning Application - Application No: 2020/92661**

The Sub-Committee gave consideration to Application 2020/92661 – Change of use of public house to education centre and prayer room at the Nelson Inn, 145 Slaithwaite Road, Thornhill Lees, Dewsbury.

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

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

- development to commence within three years
- development to be undertaken in accordance with the submitted plans and specifications
- the use of the site shall be limited to 15 students or 10 worshippers on site at any time
- 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
- surfacing and drainage of the car park before the use is first implemented
- provision of an electric charging point before the use is first implemented

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

For: Councillors Akhtar, Dad, Grainger-Mead, S Hall, Lawson, Patrick, Pervaiz, A Pinnock, Scott, and Turner (10 votes)

Against: Councillor Lukic (1 vote)

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

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

**LOBBYING**

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

Signed: ..... Dated: .....

## **NOTES**

### **Disclosable Pecuniary Interests**

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

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

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

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

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

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

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

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

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

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

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

### **Lobbying**

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

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

## **PLANNING POLICY**

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

The statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> 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 19<sup>th</sup> February 2019, the Planning Practice Guidance Suite (PPGS) first launched 6<sup>th</sup> March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

## **REPRESENTATIONS**

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

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

## **EQUALITY ISSUES**

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

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

In the event that a specific development proposal has particular equality implications, the report will detail how the duty to have “due regard” to them has been discharged.

## **HUMAN RIGHTS**

The Council has had regard to the Human Rights Act 1998, and in particular:-

- Article 8 - Right to respect for private and family life.
- Article 1 of the First Protocol - Right to peaceful enjoyment of property and possessions.

The Council considers that the recommendations within the reports are in accordance with the law, proportionate and both necessary to protect the rights and freedoms of others and in the public interest.

## **PLANNING CONDITIONS AND OBLIGATIONS**

Paragraph 54 of The National Planning Policy Framework (NPPF) requires that Local Planning Authorities consider whether otherwise unacceptable development could be made acceptable through the use of planning condition or obligations.

The Community Infrastructure Levy Regulations 2010 stipulates that planning obligations (also known as section 106 agreements – of the Town and Country Planning Act 1990) should only be sought where they meet all of the following tests:

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

The NPPF and further guidance in the PPGS launched on 6th March 2014 require that planning conditions should only be imposed where they meet a series of key tests; these are in summary:

1. necessary;
2. relevant to planning and;
3. to the development to be permitted;
4. enforceable;
5. precise and;
6. reasonable in all other respects

**Recommendations made with respect to the applications brought before the Planning sub-committee have been made in accordance with the above requirements.**



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## Report of the Head of Planning and Development

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 14-Apr-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

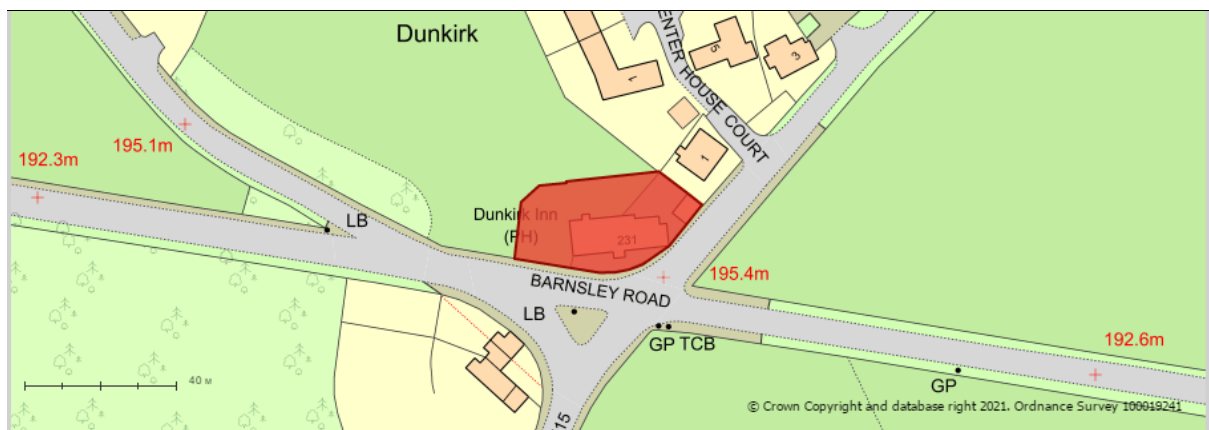
18-Dec-2020

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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

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**Electoral wards affected: Denby Dale**

**Ward Councillors consulted: No**

**Public or private: Public**

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**RECOMMENDATION: DELEGATE approval of the application to the Head of Planning and Development in order to complete the list of conditions including those contained in this report and issue the decision.**

## **1.0 INTRODUCTION:**

- 1.1 A report recommending refusal of this application was considered by the Heavy Woollen Sub-Committee on 17/02/2021. At that meeting it was resolved to defer the committee's decision to allow officers to assess a Highway Statement and other information that had been submitted the day before the committee, and to present the results of those assessments at a future meeting of the sub-committee.
- 1.2 Since the last Committee, the information has been assessed and officers have worked with the applicants to revise the proposed scheme in such a way that it conforms to local plan policies and can be recommended for approval. The Highways issues have now been resolved and officers have received confirmation from the Council's Highways Development Management team stating that the final highway comments have now been supplied, which indicate that the additional information is satisfactory from a highway perspective and that HDM are, therefore, not wishing to raise any objection to the scheme.
- 1.3 In addition, the proposed extensions have now been reduced in scale, to around 33% over the original size of the building and the red line boundary has been reduced, so that it now has been drawn much more tightly around the existing public house buildings.
- 1.4 Therefore, this report has been updated with an amended officer recommendation of approval. This recommendation can now be justified, based on the pub being a valuable community facility and the proposals now being considered acceptable in terms of their visual impact and their effect on the local highway infrastructure.
- 1.5 Councillor Watson has been updated about these recent developments. In an email to Officers, in response, he wrote; "...*The reason for seeking the referral to committee was as a consequence of the fact that the matter had been ongoing for some time and therefore I felt it really needed to be driven towards an outcome one way or another. It seems from your email that as a consequence of further work by council officers and the consultants retained by the applicant it has been possible for this matter to now be brought to a close and having regard to this the reason for seeking the referral to committee falls away.*

*I for one would certainly not wish to see resources utilised unnecessarily in preparing the committee to deal with an application that they probably don't now need to and therefore I would be quite content for a decision to be granted under the powers that are delegated to officers if you consider that to be appropriate now...".*

- 1.6 The above request has been carefully considered however, in light of the application previously been considered at the Heavy Woollen Sub-Committee, it has been agreed with the Chair that, although the application has now been amended and the recommendation is to approve, that it still be decided by members of this Sub-Committee in the interests of transparency in the decision-making process.

## **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 Officers have liaised with the applicant's agents and negotiated revised drawings for this proposal. It now represents an increase of around 33% by volume from the original building. The footprint has been reduced by halving the size of the side extension and reducing the rear extension. This has been

possible by making greater use of the existing accommodation at first floor level for seating, than was previously proposed. The red line boundary has also been reduced.

#### **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.
- Additional highway comments, which have resolved the previous concerns of HDM.
- Reductions in the scale of the extensions and a smaller red line boundary.

#### **6.0 PLANNING POLICY:**

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> 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** – No objection: the final highway comments have now been supplied, which indicate that the additional information is satisfactory from a highway perspective and that HDM are, therefore, not wishing to raise any objection to the scheme.

### 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 business.*

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 trading, 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.
- 10.10 The scale of the proposal has been substantially reduced since the application was deferred from the last Heavy Woollen Sub-Committee meeting. The proposed extensions would now represent approximately only 30% of the original building, which is considered appropriate in this Green Belt setting. Accordingly, the proposed works are now at a scale where it is considered that they can be accepted as constituting development that can be allowed under the “very special circumstances” exception to inappropriate development within the Green Belt. The reason for this is that the public house is a valuable community facility, and the extensions are now no more than is reasonably necessary to allow this facility to continue in operation. The scale of the extensions has been reduced to around 33%. The footprint has been reduced by halving the size of the side extension and reducing the rear extension. This has been possible by making greater use of the existing accommodation at first floor level for seating, than was previously proposed. The red line boundary has also been reduced, so that it now tightly follows the footprint of the public house building.

#### Highway Safety Matters

- 10.11 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.
- 10.12 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 (HDM) have recently supplied revised consultation comments regarding this scheme following further information submitted by the applicants and an assessment of this information. These revised comments state: *“Further to previous comments and deferral at Huddersfield Sub Planning Committee, assessment of the off-street parking requirements of the site have been supplied by Sanderson Associates including the use the TRICs database to justify the level of off-street parking. This comparison with other sites suggests that a car park capacity of 36 spaces would suffice for the Dunkirk Inn. Furthermore, this was suggested for a property volume greater than that*

*now being submitted by the applicant. The car park has now been lined to improve efficiency. Whereby previously cars parked as and where they wished, the formalised bays should allow the full capacity of the facility to be used. Highways DM officers accept the information supplied as satisfactory to address previous concerns. As such, the scheme is now acceptable from a highway perspective. As the car park is now lined, and servicing and delivery arrangements are likely to remain unchanged, no specific conditions are deemed necessary".* HDM can, therefore, now support the proposals, which are in accordance with highway safety 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 Given that the scale of the proposed extensions has now been substantially reduced, the proposal would now meet the requirements laid down in 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. These concerns have now been resolved with amendments to the red line boundary, reducing the application site to a tight line around the existing public house buildings.
- 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 extensions would generate carbon emissions. However, this is an existing public house building and, on balance, it is considered the proposal would not 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 Since the last Committee, the information has been assessed and officers have worked with the applicants to revise the proposed scheme in such a way that it conforms to local plan policies and can be recommended for approval. The Highways issues have now been resolved and officers have now received confirmation from the Council's Highways Development Management team stating that the final highway comments have been supplied, which indicate that the additional information is satisfactory from a highway perspective and that HDM are, therefore, not wishing to raise any objection to the scheme.

11.2 In addition, the proposed extensions have now been reduced in scale, to around 33% over the original size of the building and the red line boundary has been reduced, so it is now drawn tightly around the existing public house buildings. Therefore, this report has been updated with an amended officer recommendation of approval. This recommendation can now be justified, based on the pub being a valuable community facility and the proposals now being considered acceptable in terms of their visual impact, effect on the Green Belt and their effect on the local highway infrastructure.

**12.0 CONDITIONS (summary list – full wording of conditions, including any amendments/ additions, to be delegated to the Head of Planning and Development)**

1. 3-year timeframe
2. Development in accordance with the plans and specifications
3. Details/samples of roofing/walling materials including details of the green roofs
4. Details of all boundary treatments including details of retaining walls
5. Phase 1 Preliminary Risk Assessment Report
6. Phase II Intrusive Site Investigation Report
7. Remediation Strategy
8. Implementation of Remediation Strategy
9. Validation Report
10. Noise from fixed plant and Equipment – Wording from Environmental Services consultation response
11. Kitchen Extract Scheme
12. A scheme for fats, oils and grease entering the drainage network
13. Construction site working times
14. Car parking condition
15. Details of waste/recycling facilities
16. Electric vehicle recharging points

**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: 14-Apr-2021

**Subject: Planning Application 2019/91239 Demolition of existing public house and erection of four dwellings The Shears, 201, Halifax Road, Hightown, Liversedge, WF15 6NR**

#### APPLICANT

A Mitchell

#### DATE VALID

11-Apr-2019

#### TARGET DATE

06-Jun-2019

#### EXTENSION EXPIRY DATE

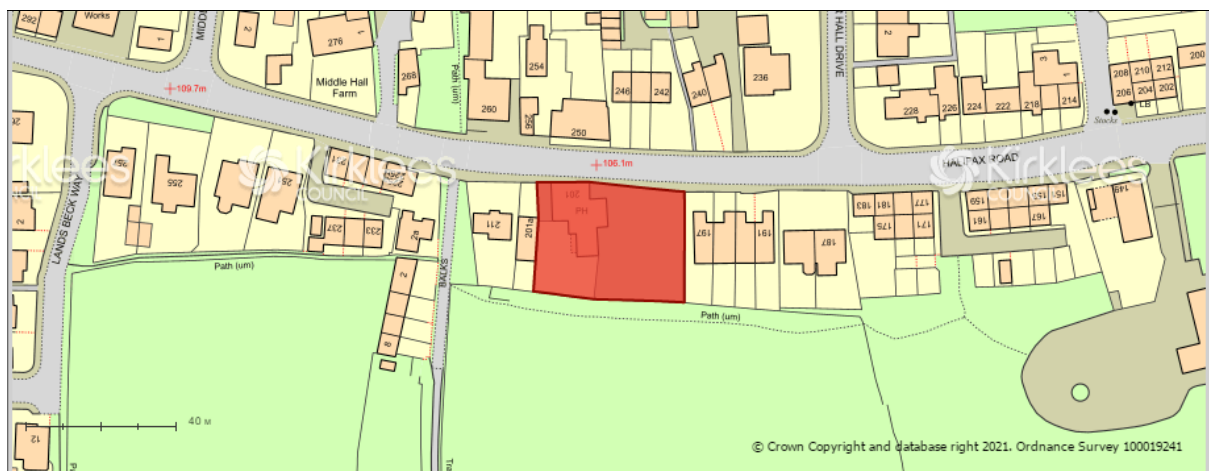
09-Sep-2019

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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

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**Electoral wards affected: Liversedge and Gomersal**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**RECOMMENDATION:**

**REFUSE**

**1.The Shears Inn dates from the late 18<sup>th</sup> century and makes an important contribution to the townscape of Hightown. The Inn has an important part in the history of the Luddite movement in Yorkshire. It is a non-designated heritage asset and identified in the West Yorkshire Historic Environment Record. The proposed development would result in the complete loss of the building and its replacement with a development that would not respect or enhance the local townscape, and deliver a minimal additional public benefit. Consequently, the proposed development would be contrary to Policies LP24 and LP35 of the Kirklees Local Plan and paragraphs 192 and 197 of the National Planning Policy Framework.**

**1.0 INTRODUCTION:**

1.1 The application is brought to the Heavy Woollen Planning Sub Committee for determination due to the significant number of representations received.

**2.0 SITE AND SURROUNDINGS:**

2.1 The application site comprises a public house known as The Shears Inn, and its associated car park located on the southern side of Halifax Road, Hightown. The site is surrounded predominantly by residential development to the north, east and west, whilst the rear boundary of the site adjoins the allocated Green Belt. Existing development adjacent to the site comprises varied, short terraced rows and detached properties or semi-detached pairs in larger plots.

2.2 The building is registered as an Asset of Community Value.

**3.0 PROPOSAL:**

3.1 Permission is sought for the demolition of the public house and the erection of four detached dwellings. These would have a 2 ½ storey scale, orientated with main elevations facing north and south. Private driveways would be located to the front of the dwellings, with each having an area of private amenity space to the rear.

3.2 The proposed dwellings would be constructed of artificial stone with artificial stone slate roofs.

#### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

4.1 2009/92257 – Erection of single storey kitchen extension and alterations - approved

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

5.1 Throughout the course of the application, the applicant provided additional information with respect to the justification for the loss of the pub, in addition to a Heritage Impact Assessment.

5.2 Amended plans have also been received with respect to the parking layout, and an additional street scene elevation was submitted to demonstrate the relationship of the proposed development with adjacent existing development.

#### **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<sup>th</sup> February 2019).

6.2 The application site is unallocated on the Kirklees Local Plan.

6.3 Kirklees Local Plan (2019):

**LP1** – Presumption in favour of sustainable development

**LP2** – Place shaping

**LP7** – Efficient and effective use of land and buildings

**LP11** – Housing Mix and Affordable Housing

**LP21** - Highway Safety and Access

**LP22** - Parking

**LP24** – Design

**LP35** – Historic Environment

**LP38** – Minerals safeguarding

**LP48** – Community Facilities and Services

**LP 51** – Protection and improvement of local air quality

6.4 National Planning Guidance:

**Chapter 5** – Delivering a sufficient supply of homes

**Chapter 6** – Building a strong, competitive economy

**Chapter 8** – Promoting healthy and safe communities

**Chapter 11** – Making efficient use of land

**Chapter 12** – Achieving well designed places

**Chapter 15** – Conserving and enhancing the natural environment

**Chapter 16** –Conserving and enhancing the historic environment

6.5 Supplementary Planning Guidance:

- **Highways Design Guide** Supplementary Planning Document

## 7.0 PUBLIC/LOCAL RESPONSE:

7.1 As a result of the initial site publicity, 306 individual representations have been received in relation to the proposed development. The comments received are summarised as follows:

### Historic Context

- The existing building is of great historical interest due to its association with the Luddite Rebellion of 1812 and should stay as a pub because of its history
- The demolition of the pub will result in substantial harm to the significance of the building and be contrary to paragraph 197 of the NPPF; the application lacks clear and convincing justification
- The Council for British Archaeology considers that the Shears Inn would qualify as a locally listed heritage asset if Kirklees Council had such a list, on the strength of its communal and historical value as its association with historical events and individuals is strong
- The demolition of the Shears Inn would fail to meet the requirements of LP 35 of the Kirklees Local Plan
- CBA believe there is scope for the conversion of the Shears Inn to residential and enough space on the site to support one or two new build dwellings to ensure the viability of the scheme. A fresh application that seeks to achieve this may be more acceptable to both the local community and the LPA
- The Shears Inn is a Registered Asset of Community Value therefore the Council has a duty under its own Policy LP 48 to protect and prevent destruction
- Historic Buildings in North Kirklees are being lost one by one thanks to the desire to building houses everywhere
- The Pub features in many heritage trails, books, websites locally and nationally and as such has a role to encourage tourism to the area and promote local spend.
- The Shears forms part of the group of locations known as 'Shirley Country' which attract literary tourists to the Kirklees district.
- There are plenty of brownfield sites in desperate need of redevelopment where new houses could be built
- There are no other buildings in Kirklees where luddites are known to have met and sworn their oath
- Query whether this building is listed
- The building should be conserved for future generations as an important land mark in local history
- The building is a beautiful example of a coach house of that era and has been sympathetically restored
- The history of the Shears is connected to the local church
- There is a sculpture down the road celebrating

### Visual Amenity

- Some residents will lose their lovely view
- The application should be rejected as it will change the character of the area and the landscape that now exists
- Most of the existing housing is older terrace properties without garage space. Any new build would not integrate into the existing surroundings

### Highway Safety

- Halifax Road is a very busy road and to have houses built there would be a safety hazard
- Query whether a traffic survey will be done to assess the impact of further traffic in the area

### Environmental Considerations

- The building is not falling down – structurally it does not need to be demolished. It is environmentally unsound to demolish buildings unnecessarily. In these circumstances the Shears building should be retained.

### Other Matters

- Cleckheaton and the surrounding areas are already at gridlock, due to the increased housing and a lack of investment in local services and infrastructure.
- A shame that an alternative use for the building has not currently been found
- The Shears Inn is a focal point for the community and well used venue to meet and socialise so the loss of this amenity would be a shame
- The Shears is a viable pub business but it seems that the owners have not tried to sell it as such, despite its potential.
- There is no great need for the sort of properties this project is going to provide
- The four dwellings proposed will be expensive and lack enough garden space for a family
- Schools cannot cope with the existing number of families and doctors and dentists are already oversubscribed
- Four residential properties would have a major impact on the sewerage and waste system in the area
- The development would de-value local houses
- Demolition of the Shears would be another step towards a nation of isolation and separation

### In support

- As the business is failing I would not object to dwellings being built; will be another lovely addition to Halifax Road
- We are happy for the Shears to be demolished providing any houses built are within the building line of adjacent properties so as not to disturb our views, take light or invade privacy

7.2 A period of re-publicity has been undertaken following receipt of additional information. The comments received in respect of this will be reported in the update.

7.3 Ward Councillor Lisa Holmes contacted the case officer and asked to be kept informed of updates on the application.

## 8.0 CONSULTATION RESPONSES:

### 8.1 Statutory:

**KC Highways Development Management:** Requested amendments in relation to parking layout. This has now been submitted and, with the inclusion of conditions, considered acceptable.

### 8.2 Non-statutory:

**KC Conservation and Design:** Object on heritage and design grounds with particular regards to policies LP24 and LP35 of the Local Plan and paragraphs 192 and 197 of the NPPF. The proposed development would result in the loss of a non-designated heritage asset, an Asset of Community Value and harm to townscape character. Minimal public benefits would arise from the development to weigh against the harm to the loss of the non-designated heritage asset.

**KC Planning Policy:** No Objections as applicant has satisfied the requirements of Policy LP 48

**KC Environmental Services:** No objections subject to imposition of condition requiring provision of electric vehicle charging points and footnote relating to hours of construction

## 9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Impact on Non-Designated Heritage Asset
- Residential amenity
- Highway issues
- Representations
- Other matters

## 10.0 APPRAISAL

### Principle of development

- 10.1 Paragraph 11 of the NPPF and Policy LP1 of the KLP outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation. The dimensions of sustainable development will be considered throughout the proposal. Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted.
- 10.2 The site is unallocated on the Kirklees Local Plan. This is supported by policy LP1 of the Local Plan and Chapters 1 and 5 of the NPPF which establish a general principle in favour of residential development.

- 10.3 In respect of housing land supply, as set out in the Authority Monitoring Report (AMR), the assessment of the required housing (taking account of under-delivery since the Local Plan base date and the required 5% buffer) compared with the deliverable housing capacity, windfall allowance, lapse rate and demolitions allowance shows that the current land supply position in Kirklees is 5.88 years supply. The 5% buffer is required following the publication of the 2020 Housing Delivery Test results for Kirklees (published 19<sup>th</sup> January 2021).
- 10.4 As the Kirklees Local Plan was adopted within the last five years the five year supply calculation is based on the housing requirement set out in the Local Plan (adopted 27<sup>th</sup> February 2019). Chapter 5 of the NPPF clearly identifies that Local Authorities should seek to boost significantly the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development
- 10.5 Paragraph 68 of the NPPF recognises that “small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should...  
*“support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes”*. The development site forms a small plot within a predominantly residential area. Although the Local Planning Authority can demonstrate a five year land supply, the development of this windfall site could contribute to the housing delivery by providing four dwellings, likely to be built fairly quickly.
- 10.6 Notwithstanding the above, local and national policy require additional tests to ensure the proposed residential development is appropriate. Policy LP7 of the KLP and Chapter 11 of the NPPF establish a need to provide appropriate densities of dwellings. Policy LP11 of the KLP and Chapter 5 of the NPPF seek to ensure an appropriate mix of dwelling types and sizes.
- 10.7 With respect to density alone, Policy LP7 of the KLP establishes a minimum target density of 35 dwellings per hectare, where appropriate. The application site comprises an area of 0.1 ha, and 4 dwellings are proposed which is considered appropriate and in compliance with Policy LP7 and Chapter 11 of the NPPF. Notwithstanding this, Policy LP7 also states that to ensure the best use of land and buildings, proposals should encourage the re-use or adaptation of vacant or underused properties. The proposed development would not achieve this.
- 10.8 The proposed development consists of four 4 bedroom detached dwellings. These would comprise the same house type (with Plots 2 and 4 handed). Notwithstanding other material considerations set out below, as the proposal relates to a small development, the proposed arrangement is considered to be acceptable by officers in respect of meeting the aims of Policy LP11 of the KLP and Chapter 5 of the NPPF.

## Loss of Community Facility

10.9 Policy LP48 of the KLP states that:

*Proposals which involve the loss of valued community facilities such as shops, public houses and other facilities of value to the local community will only be permitted where it can be demonstrated that:*

- a. there is no longer a need for the facility and all options including the scope for alternative community uses have been considered; or*
- b. its current use is no longer viable; or*
- c. there is adequate alternative provision in the locality to serve the local community which is in an equally accessible location; or*
- d. an alternative facility of equivalent or better standard will be provided, either on-site or equally accessible; and*
- e. any assets listed on a Community Asset Register have satisfied the requirements under the relevant legislation.*

10.10 The applicant is required to demonstrate only one of the criteria from a) to d) above. With regards to criteria c), the applicant has submitted a map which shows pubs near to The Shears. The Cross Keys is located approx. 0.37 km to the west of The Shears and is currently trading. It is considered that this is an alternative to The Shears serving the local community in an equally accessible location.

10.11 The applicant has also provided some financial accounts (prior to the pandemic) which support the information provided in their Planning Statement, citing the fact that the pub business is no longer viable.

10.12 In respect of criteria e, the existing building has been nominated as an Asset of Community Value. This requires, the owner of the building, in the event that they wish to sell it, to notify the Local Authority of their intention. The Local Authority would then need to notify the nominator and publicise the owner's intention to sell the asset. If a community interest group was to express an interest in buying the asset they must have made a written request to be treated as a potential bidder within the first 6 weeks. If not, the owner is free to sell the asset at the end of the 6 week period. If a community group does express an interest, the owner cannot sell the asset for 6 months, unless it is to the community group themselves. This is to allow the group time to prepare a business plan and raise the finance. The owner can sell to whoever they choose at the end of the 6 month period. With respect to criteria e of Policy LP 48, it should be noted that at the current time the owner is not intending to sell the asset, and as such, no notification has been received by the Local Authority.

10.13 In summary, Officers consider that whilst some form of development could be supported on the site, the principle of the proposed development is not acceptable. An assessment of the application in respect of all relevant material considerations is set out below.



## Urban Design

- 10.14 Relevant design policies include Policies LP2 and LP24 of the KLP and Chapter 12 of the NPPF. These policies seek for development to harmonise and respect the surrounding environment, with Policy LP24 (a) stating; *'[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'*.
- 10.15 The site is located within a linear development pattern fronting Halifax Road. The existing Public House is located close to the highway with the associated parking area to the east. Some older neighbouring residential properties have a similar relationship with the road, whilst later, larger properties are relatively well set back. The proposed development comprises 4 detached dwellings on long narrow plots separated by just over 2 metres and would be set back from the road to enable the provision of private driveways and turning areas. Amendments were sought during the course of the application with respect to the design of these areas which, on initial submission, appeared to be relatively dominant within the street scene.
- 10.16 The proposed dwellings would be 2 ½ storeys in scale including attic accommodation with porches to the front and first floor balconies to the rear. roofs with eaves parallel to the street. Proposed materials of construction are artificial stone with concrete tile roof, with wood-effect upvc windows and doors and dark grey aluminium bi-fold doors.
- 10.17 The proposed layout of the development is of particular concern to Officers as it would weaken the quality of the local townscape by replacing a building providing strong containment to views with a development set back from the road by approximately 8m, and dominated by parked vehicles. Whilst the townscape of Hightown is varied, short terraced rows and detached properties or semi-detached pairs in larger plots are more common. There does not appear to be a local precedent for development of this type.
- 10.18 With regards to the form of the development, front porches are not typical in the immediate vicinity, nor are first floor balconies.
- 10.19 The proposed materials of construction of the development are found within the immediate locality, generally on later developments that in Officers' opinion, have weakened the townscape. Natural stone walling and stone or slate roofing are more traditional and would better respect the local character of the area.
- 10.20 In summary, the overall design and layout of the development is not considered to promote good design, contrary to Policy LP24 of the KLP and chapter 12 of the NPPF.

## Impact on Non-Designated Heritage Asset

- 10.21 The Shears Inn makes a positive contribution to the local townscape of Hightown. It forms a pinch point with 250 Halifax Road that frames views along the street in both directions. They are considered to be an important pairing because the townscape of Halifax Road in the vicinity of the Shears (between Lands Beck Way and Fairfield Court) is relatively fragmented and has evolved in a piecemeal fashion. The earliest buildings date from the 17<sup>th</sup> century (Middle

Hall Farm, listed Grade II) and the 18<sup>th</sup> century (The Shears and 260 Halifax Road). Many short terraced rows were added in the 19<sup>th</sup> century. Then, in the 20<sup>th</sup> century some of those terraces built back-to-back were replaced and infill development occurred. The Shears and No.250 therefore provided continuity with the past and screen from view some of the later development that does not contribute to the character of the street scene.

- 10.22 The Shears is a non-designated heritage asset with historic significant interest. It is recorded in the West Yorkshire Historic Environment Record. The Shears Inn was originally constructed as a dwelling for William Howlgate, shopkeeper of Hightown and his wife Sarah, their initials are recorded on the datestone H.W.S 1773. William Howlgate died in 1776. By 1803 part of the building was in use as a public house. The history of the Luddite movement is of national interest and The Shears had an important part in the history of that movement in Yorkshire and the events of 1812. The interior of the Inn has been much altered since that time, however the plan form of the building as a double-fronted double-pile plan house (two rooms to front, two to the back) can still be read and could be restored.
- 10.23 To the front elevation, the Shears has a door surround with carved lintel and mullioned windows with carved hood moulds. These are all vernacular building details particularly distinctive to the Pennine areas of Yorkshire and Lancashire. The stone type is not the same as that found elsewhere on the building or on other listed buildings in the local area. It is unclear how old these features are or how they came to be in the building, but they are shown in photographs dating from the mid-20th century.
- 10.24 The proposed development would result in the complete loss of The Shears Inn, a non-designated heritage asset and Asset of Community Value.

Paragraph 192 of the NPPF requires that:

In determining applications, Local Planning Authorities should take account of:

- a) The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) The desirability of new development making a positive contribution to local character and distinctiveness.

The proposed development would not respect or enhance the character of the townscape or the Shears Inn. The Shears Inn is also an Asset of Community Value as a public house. If that use is no longer viable, then Officers consider that it would be more sustainable to re-use and adapt the existing building than to demolish it.

- 10.25 Policy LP 35 of the Local Plan requires that proposals which would remove, harm or undermine the significance of a non-designated heritage asset, or its contribution to the character of a place will be permitted only where benefits of the development outweigh the harm having regard to the scale of the harm and the significance of the heritage asset.

- 10.26 This reflects the wording of paragraph 197 of the NPPF which requires that 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.
- 10.27 As set out above, the proposals would result in the total loss of the non-designated heritage asset and its contribution to the character of Hightown. The Shears Inn is closely associated with nationally important historic events. With regard to benefits, some form of monument has been offered to the front of the new dwellings, but this would be a poor substitute for the loss of the building.
- 10.28 The applicant has submitted a confidential desk top opinion of residual value. This considers two options: the conversion of the existing building to residential use plus the construction of one detached dwelling, and the construction of four new detached dwellings. It concludes that neither is particularly viable.
- 10.29 The proposed development would result in the loss of a non-designated heritage asset, an Asset of Community Value and harm to townscape character. Minimal public benefits would arise from the development to weigh against the harm to the loss of the non-designated heritage asset. On this basis, the development would be contrary to Policies LP24 and LP35 of the KLP and guidance contained within Chapters 12 and 15 of the NPPF

#### Residential Amenity

- 10.30 The proposed development would result in a linear form of development infilling the gap between existing residential properties. As a result, the principal elevations of the dwellings would be to the front and rear, with non-habitable room windows within the side elevations of each plot serving a landing and a downstairs toilet. Plot 1 would be located alongside No.201a Halifax Road, whilst Plot 4 would be located alongside No.197. The layout and design of the proposed dwellings is such that their ground floor rear projecting elements would be located within the site, and not adjacent the shared boundaries. In addition, the dwellings would not project forward of the neighbouring dwellings. Notwithstanding this, 201a Halifax Road has a first floor bedroom window within the side elevation facing the application site. There is no other window serving this room, and the proposal would bring development within very close proximity of this window. It is understood that No.201a is within the ownership of the applicant, however there is concern with respect to the impact on future occupiers of the property as a result of this oppressive outlook. The applicant has advised that the room in question is used only occasionally. Should the application be considered acceptable, there could be scope for providing an additional opening within an alternative elevation of No.201a which would address this concern, and as such this is not considered to amount to a reason for refusal in its own right.
- 10.31 The proposed dwellings include balconies to the rear which could result in overlooking within the site, and in particular to the gardens of the new dwellings. To protect the amenity of future occupiers of the development, it would be necessary to impose conditions requiring the provision of adequate screening to the side elevations of the balconies. Such balconies would be required to be appropriate from not only a residential amenity perspective but also from a visual amenity perspective too in order to comply with the aims of Policy LP24 of the KLP.

- 10.32 Each dwelling would have an area of private amenity space to the rear comprising a patio area and lawn as shown on the submitted site plan, and this is considered, by officers, to provide an adequate level of amenity for future occupiers of the development.
- 10.33 The sizes (in sqm) of the proposed residential units are 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. 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.

House Type	Number of units	Proposed (GIA, m <sup>2</sup> )	NDSS (GIA, m <sup>2</sup> )
4-bed	4	182	121

- 10.34 The proposed 4-bed units would exceed the NDSS minimum in this instance.
- 10.35 The proposed development would constitute a compatible use within this predominantly residential location, which would have no significant detrimental impact upon the residential amenity of existing occupiers, and would provide a good standard of amenity for future occupiers with the inclusion of the suggested condition relating to the balcony treatments. On this basis, the proposals would accord with Policy LP24 of the KLP and guidance contained within Chapter 12 of the NPPF.

#### Highway issues

- 10.36 The application site is located on the southern side of the A649 Halifax Road. The proposed development would involve the demolition of the existing public house and the erection of four dwellings on the site. The originally submitted plans indicated the provision of separate driveways to serve each dwelling, providing internal turning and off street parking provision for two vehicles per dwelling.
- 10.37 Amendments were requested during the course of the application in order to secure widened points of access, bin collection points, and widening of the pavement to the site frontage. Negotiation also took place with the applicant to explore options for improving the design of the parking layout from a visual amenity perspective, whilst meeting the requirements of KC Highways DM.
- 10.38 Following receipt of amended plans, the proposals are considered acceptable from a highways safety perspective and would accord with the aims of Policies LP21 and LP22 of the KLP as well as the aims of the Highways Design Guide SPD.

## Representations

10.39 The comments made in representations are addressed as follows:

### Historic Context

Loss of Building/Social History

**Response:** The loss of the Non Designated Heritage Asset is not considered to be outweighed by the provision of 4 dwellings. The applicant was asked to consider the retention of the building although considers this to be unviable.

### Visual Amenity

Some residents will lose their lovely view

**Response:** Whilst the development would restrict public views of the Green Belt, the loss of a private view is not a material planning consideration

The application should be rejected as it will change the character of the area and the landscape that now exists

**Response:** The impact on visual amenity is addressed above. The proposed development is considered to detract from the townscape and character of the area.

Most of the existing housing is older terrace properties without garage space. Any new build would not integrate into the existing surroundings

**Response:** The impact on visual amenity is addressed above.

### Highway Safety

Halifax Road is a very busy road and to have houses built there would be a safety hazard

**Response:** The development comprises 4 houses which would not significantly impact upon the highway network.

Query whether a traffic survey will be done to assess the impact of further traffic in the area

**Response:** This would not be proportionate to the scale of the development.

### Environmental Considerations

The building is not falling down – structurally it does not need to be demolished. It is environmentally unsound to demolish buildings unnecessarily. In these circumstances the Shears building should be retained.

**Response:** Officers consider that the building could be used for an alternative purpose. The applicant considers a conversion to be unviable.

### Other Matters

Cleckheaton and the surrounding areas are already at gridlock, due to the increased housing and a lack of investment in local services and infrastructure.

**Response:** The development comprises 4 dwellings which would significantly impact upon local services and infrastructure.

A shame that an alternative use for the building has not currently been found

**Response:** This is noted.

The Shears Inn is a focal point for the community and well used venue to meet and socialise so the loss of this amenity would be a shame

**Response:** This is noted.

The Shears is a viable pub business but it seems that the owners have not tried to sell it as such, despite its potential.

**Response:** This is noted.

There is no great need for the sort of properties this project is going to provide

**Response:** This is noted.

The four dwellings proposed will be expensive and lack enough garden space for a family

**Response:** This is noted.

Schools cannot cope with the existing number of families and doctors and dentists are already oversubscribed

**Response:** The number of dwellings proposed would not have a significant impact on local community facilities.

Four residential properties would have a major impact on the sewerage and waste system in the area

**Response:** The number of dwellings proposed would not have a significant impact on the local foul drainage system.

The development would de-value local houses

**Response:** This is not a material planning consideration.

Demolition of the Shears would be another step towards a nation of isolation and separation

**Response:** This is noted.

The comments in support are noted.

### Other Matters

10.40 *Minerals Safeguarding* - The site is within a wider mineral safeguarding area relating to sandstone. Policy LP38 of the KLP therefore applies. This states that surface development at the application site will only be permitted where it has been demonstrated that certain criteria apply. The site comprises an area in excess however the site is surrounded to two sides by existing development and by the road to the north, therefore is very unlikely to offer any future opportunities for mineral extraction.

10.41 *Air Quality and Sustainable Transport* - Along with reduction of air pollution, the NPPF also encourages the promotion of sustainable transport. The West Yorkshire Low Emission Strategy Planning Guidance has been drafted to take a holistic approach to Air Quality and Planning. Taking this into account, it is considered that promoting green sustainable transport could be achieved on this site by the provision of electric vehicle charging points (EVCP) which can be conditioned to secure the charging points for the proposal to comply with the aims of Chapters 9 and 15 of the NPPF and Policies LP24 and LP51 of the Local Plan.

- 10.42 *Climate Change Emergency* - Chapter 12 of the Local Plan relates to climate change and states that:

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

- 10.43 The inclusion of a condition requiring EVCP, a residential development built to current Building Regulations standards and the use of reclaimed or locally sourced materials in the construction of the development could assist in contributing to climate adaptation and resilience in accordance with Chapter 12 of the Local Plan and Policy LP2 of the KLP.

## **11.0 CONCLUSION**

- 11.1 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.
- 11.2 The proposed development would result in the loss of a non-designated heritage asset, an Asset of Community Value and harm to townscape character. Minimal public benefits would arise from the development to weigh against the harm to the loss of the non-designated heritage asset.
- 11.3 It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material considerations.

## 12.0 REFUSE

1. The Shears Inn dates from the late 18<sup>th</sup> century and makes an important contribution to the townscape of Hightown. The Inn has an important part in the history of the Luddite movement in Yorkshire. It is a non-designated heritage asset and identified in the West Yorkshire Historic Environment Record. The proposed development would result in the complete loss of the building and its replacement with a development that would not respect or enhance the local townscape, and deliver a minimal additional public benefit. Consequently, the proposed development would be contrary to Policies LP24 and LP35 of the Kirklees Local Plan and paragraphs 192 and 197 of the National Planning Policy Framework.

### Background Papers:

Web link to application details:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f91239>

Certificate of Ownership – Certificate A signed and dated 10/04/2019.



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## Report of the Head of Planning and Development

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 14-Apr-2021

**Subject: Planning Application 2015/90321 Demolition of existing buildings and erection of 43 dwellings with associated access, parking, landscaping and open space Park Farm, Off Smithies Lane, Heckmondwike, WF15 7PQ**

#### APPLICANT

Park Farm

#### DATE VALID

08-Apr-2015

#### TARGET DATE

08-Jul-2015

#### EXTENSION EXPIRY DATE

08-Feb-2019

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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**

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**Electoral wards affected: Heckmondwike**

**Ward Councillors consulted: No**

**Public or private: Public**

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## **REFUSE**

**1. Significant highway improvement works are required to bring Smithies Lane up to adoptable standards in order to serve the proposed development. The existing section of highway referred to as Phase I on the submitted details is not suitable to be adopted in its current form. As such it would not be possible for the remaining phasing of the works to be joined into this as required to serve the proposed development. Without securing the required highway improvement works, to allow the intensification of use of this substandard access would be detrimental to highway safety and contrary to Policy LP21 of the Kirklees Local Plan.**

### **1.0 INTRODUCTION:**

- 1.1 The application is brought to Heavy Woollen Planning Sub-Committee as the application is for a residential development comprising of a site in excess of 0.5 hectares. This is in accordance with the Council's Scheme of Delegation.
- 1.2 The application was previously brought to the Heavy Woollen Planning Sub Committee on 23 August 2018 where Members agreed with Officers' recommendation to approve the application subject to conditions.
- 1.3 The application is brought back to the Heavy Woollen Planning Sub-Committee as the applicant has failed to agree to the pre-commencement conditions considered necessary and reasonable to make the development acceptable. In particular, these relate to the submission of details for the required phased highway improvement works along the access road to the development. In the absence of these works, the proposed development would be detrimental to highway safety, and therefore Officers recommend that the application should be refused.
- 1.4 For clarification, the previous officer report included in the 23 August 2018 agenda is attached below, at Appendix I.

### **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site is located within the Ponderosa Park complex and comprises of a number of industrial buildings, green houses and other buildings. The main uses on the site are commercial and craftwork associated with the Ponderosa Therapeutic centre. The craftwork element has now re-located to a new site off Smithies Lane. The application site is to the north-east of the main Ponderosa complex on higher ground that rises up from Smithies Lane with a levels difference of up to 17m.

2.2 The existing buildings on site range from single storey to a large three storey industrial type building central within the site.

2.3 To the North West of the site lies Heckmondwike town centre with industrial premises to the North off Smithies Lane and a wooded embankment beyond. To the East is the former Spenborough sewage treatment works, to the South is a farm and the Ponderosa Park complex with three residential properties, to the West is predominantly open fields with the village of Norristhorpe beyond.

### **3.0 PROPOSAL:**

3.1 Full planning permission is sought for the erection of 43 dwellings with associated access, parking, landscaping and open space at a brownfield site within the Ponderosa complex, Heckmondwike. The development would consist of:

- 8 x 2 bed dwellings
- 19 x 3 bed dwellings
- 11 x 4 bed dwellings
- 5 x 2 bed apartments

3.2 Each dwelling would be unique in terms of its design and appearance with a strong emphasis on agricultural and industrial structures. A mixed palette of materials is proposed, including stone, brick, render and some timber cladding. The layout of the proposed development would closely-spaced, centred around the large building within the middle of the site.

3.3 Due to the levels of the site and the existing buildings, the development would effectively be in three tiers, with a road around the centre of the development. Access would be via Smithies Lane where improvements are proposed to the highway, as well as to the junction into the Ponderosa complex.

3.4 Footpath connectivity through the site to link up with the Spen Valley Greenway, as well as to the Dewsbury Country Park, are proposed.

### **4.0 HIGHWAY CONSIDERATIONS:**

4.1 The application seeks permission for the demolition of existing buildings and erection of 43 dwellings (a mix of two, three and four bedrooms) with associated access, parking, landscape and open space.

4.2 The details which follow relate to the highway improvement works which were proposed by the applicant which would need to be secured by condition to ensure their delivery:.

4.3 The proposed site layout is indicated on drawing number 0149-03 Rev M. Access is proposed from Station Lane via Smithies Lane to an estate road 5.5m wide with a 2 m wide footway. The proposed parking, servicing arrangements and layout are considered acceptable.

- 4.4 Traffic counts during the morning (0730 – 0930hrs) and evening ( 1630 – 1830 hrs) peak periods have been undertaken at the Station Lane / Smithies Lane to determine the base flows at the junction. The junction analysis for the baseline condition has been undertaken and the results indicate that no delays are generally experienced at the Station Lane / Smithies Lane junction.
- 4.5 Traffic Generation associated with the proposed development proposal is predicted to be 35 two way trips in both the AM and PM peak periods. Further junction analysis at Station Lane/Smithies Lane junction has been undertaken to determine the impact of the proposed trip generation at the junction. The results show that the junction would operate satisfactorily with no likely queues.
- 4.6 A number of highway works were originally proposed (as referred to in the committee report included at Appendix I) and were shown on drawing number 1505907, indicating the phasing of the proposed highway works. The phasing diagram indicated four phases and the works under each phase are outlined below:

**Phase 1**

- Carriageway width from Smithies Lane (Phase 1) to development access road ( phase 3) to be 6.5m in width to cater for future development and facilitate HGV usage to and from the existing reclamation site;
- Drainage works.

**Phase 2**

- Proposed 2m wide footway along Smithies Lane from the extent of the existing Section 38 agreement to the start of bridleway, encompassing a vehicular drop crossing facility for the vehicular access to No. 440 Smithies Lane;
- Proposed 3.5m wide bridleway and fence along Smithies Lane including a gabion wall along that section of road and a 4m bridleway crossing near the business park; and
- Proposed 3.5m wide footway/cycleway including a fence from the bridleway crossing near the business park up to the proposed development access.

**Phase 3**

- A proposed footpath including steps across the bendy section of the estate road;
- Proposed 2m wide footpath to connect to Public footpath 141; To PROW specification;
- Proposed 2m wide footpath to connect to Public footpath 143; To PROW specification;
- The site access road of 5.5m width from off Smithies Lane, which will incorporate a turning head that it has been demonstrated, will be able to accommodate the turning manoeuvres of a 11.6m long refuse vehicle.

**Phase 4**

- A connection to the strategic route for pedestrians and cyclists through land within the applicant's control (up to public footpath MIR/9/40).

- 4.7 Within the application site, the access road will be required to be constructed to an adoptable standard with sufficient parking for the dwellings as well as visitors. As shown on the submitted plans, the development would provide sufficient facilities for refuse/emergency vehicles as the design solution ensures that these vehicles can enter and exit the site via the circular 'loop road' around the central part of the development.
- 4.8 Adequate and appropriate control for the delivery of on-site and off-site infrastructure improvements was required to be secured by condition. Such conditions are necessary to make the development acceptable in planning terms. Following Members' resolution to approve the application at the Heavy Woollen Planning Sub Committee on 23 August 2018, the applicant was provided with a list of pre-commencement conditions requiring their agreement. In response to this, the applicant sought to undertake negotiations with Officers in respect of the conditions pertaining to the highway improvement works. This involved the Council's Section 38 team producing a preliminary estimate of the costs for the works to bring the first section of Smithies Lane up to adoptable standard (Phase I) as set out above. The costs estimated for Phase I alone would only rectify works that have been undertaken incorrectly by the applicant. However, Phase I is not suitable to be adopted in its current form. As such it would not be possible for the remaining phasing of the works to be joined into this as required to serve the proposed development. This would be detrimental to highway safety and contrary to Policy LP 21 of the Kirklees Local Plan.

#### **RESIDENTIAL AMENITY - Additional Information**

- 4.9 The sizes (in sqm) of the proposed residential units are 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. 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.
- 4.10 Whilst some units would be slightly below the NDSS, it is acknowledged that each dwelling has a slightly different design and takes into account the volume of the existing buildings, due to its Green Belt setting. The space standards set out in the NDSS need to be weighed against the impact of the development on the openness of the Green Belt.

#### **5.0 CONCLUSION**

- 5.1 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.

- 5.2 The applicant has failed to agree to the pre-commencement conditions considered necessary and reasonable to make the development acceptable. In particular, these relate to the submission of details for the required phased highway improvement works along the access road to the development. In the absence of these works, the proposed development would be detrimental to highway safety and would not constitute sustainable development.
- 5.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and/or the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material considerations.

## **6.0 RECOMMENDATION**

- 6.1 To conclude, significant highway improvement works are required to bring Smithies Lane up to adoptable standards in order to serve the proposed development. The existing section of highway referred to as Phase I on the submitted details is not suitable to be adopted in its current form. As such it would not be possible for the remaining phasing of works to be joined into this as required to serve the proposed development. The intensification of use of the access that would result from the proposal development would be detrimental to highway safety and contrary to Policy LP 21 of the Kirklees Local Plan.
- 6.2 The application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development does not accord with Policy LP21 of the Kirklees Local Plan and that the adverse impacts of development would significantly and demonstrably outweigh its benefits with assessed policies within the NPPF taken as a whole.

### **Background Papers:**

Application and history files.

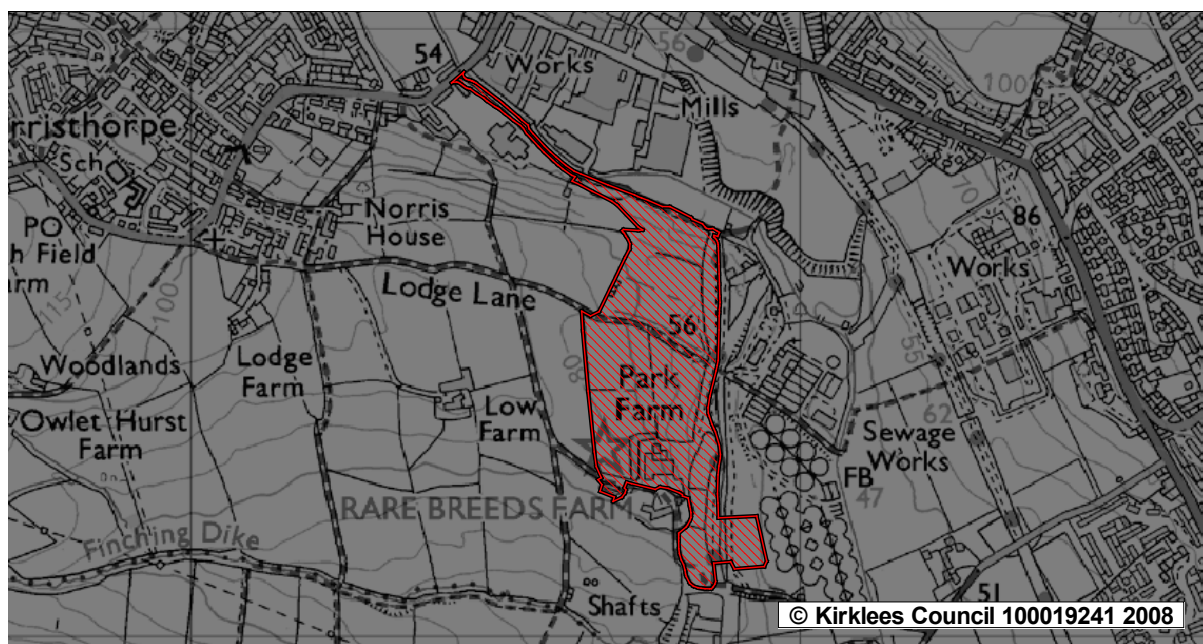
Website link to the application details:-

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2015%2f90321>

Certificate of Ownership – Certificate B signed and Notice served on Yorkshire Water

APPENDIX I

**LOCATION PLAN**



**Map not to scale – for identification purposes only**

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**Electoral Wards Affected: Heckmondwike**

No

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

**1.0 INTRODUCTION:**

- 1.1 The application is brought to Heavy Woollen Planning Sub-Committee as the application is for a residential development comprising of a site in excess of 0.5 hectares. This is in accordance with the Council's Scheme of Delegation.
- 1.2 The application was previously brought to the Heavy Woollen Planning Sub Committee on 10 December 2015 where Members agreed with Officers' recommendation which was as follows:

CONDITIONAL FULL PERMISSION SUBJECT TO THE DELEGATION OF AUTHORITY TO OFFICERS TO:

(I) ADDRESS ALL OUTSTANDING PLANNING MATTERS WHICH INCLUDE PUBLIC RIGHTS OF WAY AND DETAIL OF HIGHWAY IMPROVEMENT WORKS;

(II) SECURE BY WAY OF PLANNING OBLIGATION THE FINANCIAL CONTRIBUTIONS DETAILED IN THE REPORT;

(III) IMPOSE ALL NECESSARY AND APPROPRIATE CONDITIONS ARISING FROM THE OUTSTANDING MATTERS; AND

(IV) SUBJECT TO THERE BEING NO SUBSTANTIVE CHANGES THAT WOULD ALTER THIS RECOMMENDATION, TO ISSUE THE DECISION

12.1 The application is brought back to the Heavy Woollen Planning Sub Committee as the applicant has failed to complete the required S106 legal agreement relating to the financial contributions required for Public Open Space, Education, and Affordable Housing Provision. The applicant has subsequently submitted a Viability Appraisal which has been independently assessed on behalf of the Council and the conclusion of the Viability appraisal were accepted by the Council's consultant. The consultant's conclusions are that the proposed development is unable to support any affordable housing or education contribution.

1.4 For clarification, there are no outstanding matters relating to public rights of way or highway improvement works. The details relating to these are addressed in the report and conditions are recommended with respect to the specific phasing of the works.

## **2.0 SITE AND SURROUNDINGS:**

2.1 The application site is located within the Ponderosa Park complex and comprises of a number of industrial buildings, green houses and other buildings. The main uses on the site are commercial and craftwork associated with the Ponderosa Therapeutic centre. The craftwork element has now relocated to a new site off Smithies Lane. The application site is to the north-east of the main Ponderosa complex on higher ground that rises up from Smithies Lane with a levels difference of up to 17m.

2.2 The existing buildings on site range from single storey to a large three storey industrial type building central within the site.

2.3 To the North West of the site lies Heckmondwike town centre with industrial premises to the North off Smithies Lane and a wooded embankment beyond. To the East is the former Spenborough sewage treatment works, to the South is a farm and the Ponderosa Park complex with three residential properties, to the West is predominantly open fields with the village of Norristhorpe beyond.

## **3.0 PROPOSAL:**

3.1 Full planning permission is sought for the erection of 43 dwellings with associated access, parking, landscaping and open space at a brownfield site within the Ponderosa complex, Heckmondwike. The development would consist of:



- 8 x 2 bed dwellings
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3.2 Each dwelling would be unique in terms of its design and appearance with a strong emphasis on agricultural and industrial structures. A mixed palette of materials is proposed, including stone, brick, render and some timber cladding. The layout of the proposed development would be closely-spaced, centred around the large building within the middle of the site.

3.3 Due to the levels of the site and the existing buildings, the development would effectively be in three tiers, with a road around the centre of the development. Access would be via Smithies Lane where improvements are proposed to the highway, as well as to the junction into the Ponderosa complex.

3.4 Footpath connectivity through the site to link up with the Spen Valley Greenway, as well as to the Dewsbury Country Park, are proposed.

#### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

4.1 2011/92060 - Outline application for erection of continuing care retirement community ECO complex - Refused and dismissed at appeal due to no 'very special circumstances' being demonstrated.

**N.B. (This was on a different part of the site not occupied by any buildings and therefore Greenfield in nature)**

2014/92598 – Erection of workshop units - Approved

4.1 There are several other applications within the wider Ponderosa site; none of which are considered directly relevant to this application.

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

5.1 Following the Heavy Woollen Planning Sub Committee on 10 December 2015, a draft Section 106 agreement was prepared, however this has not been completed by the applicant. The applicant has since submitted a Viability Appraisal which has been independently assessed and concludes that it is not viable to provide any contributions with respect to affordable housing and education.

#### **6.0 PLANNING POLICY:**

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 48 of the National Planning Policy Framework

(2018). In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2018), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

6.2 The application site is located within the allocated Green Belt on the UDP proposals map and on the Kirklees Publication Draft Local Plan.

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

**H1** – Housing Needs of district  
**H10** – Affordable housing  
**H12** – Arrangements for securing affordable housing  
**H18** – Public open space  
**BE1** – Design principles  
**BE2** – Design of new development  
**BE11** – Materials  
**BE12** – Space about buildings  
**BE23** – New development and crime prevention  
**T10** – Highway safety  
**T16** – Safe pedestrian routes in new developments.  
**T17** – Needs of cyclists  
**T19** – Parking standards  
**NE9** – Retention of mature trees  
**EP4** – Development and noise  
**EP11** – Landscaping and ecology  
**G6** – Development and contamination  
**R13** – Developments affecting Public Rights of Way  
**T18** – Strategic routes for pedestrians and cyclists

6.4 Kirklees Publication Draft Local Plan

**PLP1** - Presumption in favour of sustainable development  
**PLP3** - Location of new development  
**PLP7** - Efficient use of land and buildings  
**PLP11** - Housing mix and economy  
**PLP 20** - Sustainable travel  
**PLP21** - Highway safety and access  
**PLP22** - Parking  
**PLP24** - Design  
**PLP28** - Drainage  
**PLP30** - Biodiversity and Geodiversity  
**PLP32** - Landscape  
**PLP33** – Trees  
**PLP49** - Education and Healthcare needs  
**PLP53** - Contaminated and unstable land

6.5 National Planning Policy Framework:

**Chapter 2** – Achieving sustainable development  
**Chapter 5** - Delivering a sufficient supply of homes

- Chapter 6** – Building a strong, competitive economy
- Chapter 8** – Promoting Healthy and Safe Communities
- Chapter 9** – Promoting sustainable transport
- Chapter 11** – Making efficient use of land
- Chapter 12** – Achieving well designed places
- Chapter 13** – Protecting Green Belt Land
- Chapter 14** – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15** – Conserving and enhancing the natural environment

## 6.6 Supplementary Planning Guidance/Documents

SPD 2 (2008) – Affordable Housing

Kirklees Council Interim policy on affordable housing

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

## 7.0 **PUBLIC/LOCAL RESPONSE:**

7.1 As a result of the publicity for the application, two representations were received. The planning concerns raised are summarised as follows:

- Access to the public footpaths would be directly affected by these proposed dwellings.
- Junction of Smithies Lane/entrance to Ponderosa is particularly bad.
- Hope the full road would be adopted to prevent speeding cars.

## 8.0 **CONSULTATION RESPONSES:**

8.1 Below is a summary of the consultation responses received at the time of submission of the application; where appropriate these are expanded upon in the assessment section of this report:

### 8.2 **Statutory:**

**K.C. Highways Development Management** – No objections subject to conditions regarding the upgrading of the surrounding highway network.

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

**Environment Agency** – No objections subject to conditions.

**Yorkshire Water** – Do not object to the application but records show some water mains running through the site which may affect layout. Recommend conditions.

**Coal Authority** – No objections subject to conditions.

### 8.3 **Non-statutory:**

**K.C. Environmental Services** – No objections subject to conditions.

**KC Arboricultural Officer** – No objections subject to a landscaping plan.

**K.C. Planning Policy** – No comments received.

**K.C. Ecology & Biodiversity Officer** – No objections subject to conditions.

**K.C. Kirklees Public Rights of Way Officer** – No objections in principle to the development but require further information and details with regard to future connectivity to existing PROW's as well as the new footpath/cycleway link.

**K.C. School Organisation & Planning** – Education contribution required.

**K.C. Strategic Housing** – Affordable housing required.

**K.C Parks & Open Spaces** – The provision for Public Open Space on site is acceptable subject to an agreement regarding its long term management and maintenance.

## **9.0 MAIN ISSUES**

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

## **10.0 APPRAISAL**

### Principle of development

10.1 The application site is located within the allocated Green Belt on the UDP proposals map. The application site contains a number of buildings ranging in height from single storey to three storeys (central within the site) and as such is a previously developed (brownfield) site within the Green Belt. These buildings were, up until recently, used for commercial use linked to Ponderosa, as well as craftwork associated with the therapeutic centre for people with learning difficulties.

10.2 Chapter 13 of the NPPF sets out national planning policy relating to the protection of Green Belt land. Paragraph 143 states that development within the Green Belt is classed as inappropriate and should only be approved with 'very special circumstances' which outweigh the harm. However, Paragraph 145 of the NPPF states that certain developments need not be inappropriate. One such example is:

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

- *not have a greater impact on the openness of the Green Belt than the existing development; or*
- *not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the Local Planning Authority*

10.3 In this case, the principle of development was considered to be acceptable at the time of the Committee resolution in 2015 - officers are satisfied that the application site (i.e. where the dwellings are proposed) is previously developed (brownfield) and can, subject to other matters, be considered for potential re-development.

10.4 An assessment of the footprint and volumes of the existing buildings on site compared with the proposed development is a quantitative assessment as to the overall impact of a development. These measurements are:–

**Existing footprint    3,759.87 sqm (40,471 sqft)**

**Proposed footprint    3,704.60 sqm (39,876 sqft)**

**Existing Volumes      20,867.47 m3**

**Proposed Volumes    16,120.63 m3**

10.6 These figures show that there would be a 2% reduction in footprint and a 23% reduction in the volume, demonstrating that the proposed development would have no greater impact upon the openness of the Green Belt than the existing situation and would actually result in an improvement to the openness. Furthermore, whilst the proposed development would retain the existing footprint, there would be more space between the buildings which would open up the views through the buildings and would therefore allow for greater openness through the Green Belt than the existing situation.

10.7 Officers consider that the applicant has satisfactorily demonstrated that the development proposed would have no greater impact on the openness of the Green Belt having regard to the scale, mass and form of the development proposed in comparison to that of the existing development on site. There would also be no greater impact on the visual amenity of the Green Belt having regard to the amount and scale of existing and proposed development within the site, space within the proposed layout, and prevention of any urban sprawl. As such, the proposal is considered to comply with the aims of paragraph 89 of the NPPF.

### **Sustainable Development**

10.8 At the heart of the NPPF is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan-making and decision-taking. Paragraph 2 of the NPPF also states that the purpose of the planning system “is to contribute to the achievement of sustainable development.” Achieving sustainable development means that the planning system has three overarching objectives which are interdependent and need to be pursued in mutual supportive ways (paragraph 8 of NPPF)

In terms of the development proposed:

10.9 Economic

A proposal for 43 dwellings provides some economic gains by providing business opportunities for contractors and suppliers. In accordance with the NPPF, new houses would support growth and satisfy housing needs, thereby contributing to the building of a strong economy.

10.10 Social

There would also be a social gain through the provision of new housing at a time of general shortage. The site is a relatively short distance from Heckmondwike Town Centre and employment and entertainment provision within the wider Heavy Woollen area. Wider connections are available from the bus services in Heckmondwike with bus stops located on Norristhorpe Lane. The proposal would also be subject to an affordable housing requirement which would be a positive component of the social role of development.

10.11 Environmental

The development of a previously developed (Brownfield) site represents an opportunity for environmental gain. National Policy encourages the use of brownfield land for development. The submitted bat/ecological reports highlight the ecological opportunities that the redevelopment proposal would also offer.

10.12 In addition to this, the location of the site offers an opportunity to provide wide ranging connectivity onto the surrounding Public Footpath network as well as to the Dewsbury Country Park and the Spen Greenway. The proposals include the upgrading of an existing Bridleway (SPE/142/10) along Smithies Lane to provide a demarcation of the road for all users. Furthermore, the proposal would include new links to existing PROW's (SPE/141/30 & SPE/143/30) which run north and south of the application site.

10.13 In addition to this and in line with Policy T18 (ii) of the UDP, a new PROW would be formed to the east of the site, running north/south which would provide a new route through the application site and provide some connectivity to the wider PROW network. Having this PROW connectivity would also provide a link onto the Spen Greenway which is located to the east of the site as well as to Dewsbury Country Park located to south. These are considered to be significant environmental benefits which add a large amount of weight in favour of the proposal.

10.14 Taking all of the above into consideration, the proposal is considered to represent a sustainable form of development which would provide significant improvements to the surrounding PROW network, providing connectivity to local amenities and outdoor recreational facilities.

**Employment considerations:**

10.15 The application site forms part of the wider Ponderosa complex which contains several inter-linked elements:

- Ponderosa visitor farm
- Ponderosa rural crafts centre
- Ponderosa therapeutic centre

- Ponderosa Café & Restaurant
- Woodlands Conference centre

10.16 The existing buildings on the site are used for activities related to the therapeutic centre and are workshops and other uses for people with learning difficulties. The intention is to relocate these uses to elsewhere within the wider Ponderosa site. Permission was granted in 2014 for new workshop units to be located to the north of the site within the Ponderosa Business Park, and this permission has now been implemented. Subject to permission being granted for this development, then these previously approved workshop units would replace the buildings on this application site. As such, there would be no loss of employment as a result of the proposed development.

10.17 In terms of re-using the buildings for alternative employment uses, whilst the existing buildings do not have any restrictive planning conditions in terms of their use(s) or hours or operation; their configuration, scale, age and building types do not lend themselves easily to other commercial uses. Furthermore, there is a clear association with the wider Ponderosa complex which would potentially make it difficult to successfully market the buildings for other, unrelated, uses.

10.18 In addition to this, there are three dwellings located to the south of the site (accessed via Lodge Lane) which could potentially be impacted by any future commercial use on the site, especially as they could operate relatively unrestricted with regard to hours of operation etc.

10.19 Officers therefore consider that having an unrestricted business/industrial operation in this location would not be suitable for the amenities of the surrounding occupants.

10.20 In light of the above, officers are satisfied that the requirements of Policies B1 and B4 of the UDP and Policy PLP 8 of the PDLP have been addressed and the development is considered to be acceptable with regard to the loss of these industrial units.

10.21 Due to the size, scale and numbers of dwellings proposed, the scheme is subject to a number of contributions with regard to affordable housing, public open space and education. The table below details the policy requirements in relation to the development and the contributions to be delivered by the development, as set out in December 2015:

<b>Provision/Contribution</b>	<b>Policy Requirement</b>	<b>Contributions/costs</b>
Affordable Housing	15% of residential floor space for Brownfield developments	15% of residential floor space
Education	£106,256	£106,256
Public Open Space	30sq.m per dwelling (or equivalent for off-street contributions)	On site contribution of 2010sqm of POS over two areas(policy requirement is 1290sqm)

- 10.22 All contributions were proposed to be provided when the application was brought to the Heavy Woollen Planning Sub Committee on 10 December 2015. These were to be secured via a Section 106 Agreement prior to the decision notice being issued. However, whilst a draft agreement was prepared, this was not completed and the applicant has recently submitted a Viability Appraisal.
- 10.23 Para. 57 of the NPPF advises that where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. In this case, the Viability Appraisal submitted by the applicant was independently assessed on behalf of the Council and the conclusions of the viability appraisal were accepted by the Council's consultant. The consultant's conclusions are that the proposed development is unable to support any affordable housing or education contribution. Officers' advice to Members is that they can consider whether, in the interest of housing delivery and enabling a brownfield site to come forward, whether a pragmatic approach to enable this site is appropriate.

### **Highway considerations:**

- 10.24 The application seeks permission for the demolition of existing buildings and erection of 43 dwellings (a mix of two, three and four bedrooms) with associated access, parking, landscape and open space.
- 10.25 The proposed site layout is indicated on drawing number 0149-03 Rev M. Access is proposed from Station Lane via Smithies Lane to an estate road 5.5m wide with a 2 m wide footway. The proposed parking, servicing arrangements and layout are considered acceptable.
- 10.26 Traffic counts during the morning (0730 – 0930hrs) and evening ( 1630 – 1830 hrs) peak periods have been undertaken at the Station Lane / Smithies Lane to determine the base flows at the junction. The junction analysis for the baseline condition has been undertaken and the results indicate that no delays are generally experienced at the Station Lane / Smithies Lane junction.
- 10.27 Traffic Generation associated with the proposed development proposal is predicted to be 35 two way trips in both the AM and PM peak periods. Further junction analysis at Station Lane/Smithies Lane junction has been undertaken to determine the impact of the proposed trip generation at the junction. The results show that the junction would operate satisfactorily with no likely queues.
- 10.28 A number of highway works are proposed and drawing number 1505907 indicates the phasing of the proposed highway works. The phasing diagram indicates four phases and the works under each phase are outlined below:

#### **Phase 1**

- Carriageway width from Smithies Lane (Phase 1) to development access road ( phase 3) to be 6.5m in width to cater for future development and facilitate HGV usage to and from the existing reclamation site;
- Drainage works.

#### **Phase 2**



- Proposed 2m wide footway along Smithies Lane from the extent of the existing Section 38 agreement to the start of bridleway, encompassing a vehicular drop crossing facility for the vehicular access to No. 440 Smithies Lane;
- Proposed 3.5m wide bridleway and fence along Smithies Lane including a gabion wall along that section of road and a 4m bridleway crossing near the business park; and
- Proposed 3.5m wide footway/cycleway including a fence from the bridleway crossing near the business park up to the proposed development access.

### **Phase 3**

- A proposed footpath including steps across the bendy section of the estate road;
- Proposed 2m wide footpath to connect to Public footpath 141; To PROW specification;
- Proposed 2m wide footpath to connect to Public footpath 143; To PROW specification;
- The site access road of 5.5m width from off Smithies Lane, which will incorporate a turning head that it has been demonstrated, will be able to accommodate the turning manoeuvres of a 11.6m long refuse vehicle.

### **Phase 4**

- A connection to the strategic route for pedestrians and cyclists (policy UDP T18) through land within the applicant's control (up to public footpath MIR/9/40).

10.29 Within the application site, the access road will be constructed to an adoptable standard with sufficient parking for the dwellings as well as visitors. The development will provide sufficient facilities for refuse/emergency vehicles as the design solution ensures that these vehicles can enter and exit the site via the circular 'loop road' around the central part of the development.

10.30 Existing Public Rights of Way will be protected and there would, in officers opinion, be substantial improvements to public access onto these existing PROW's by the provision of footpath links or a new footpath/cycleway located through the site, providing a significant benefit by connecting footpaths throughout the immediate locality and providing a significant link between Mirfield and Spen (with links connecting to Heckmondwike and Dewsbury).

10.31 On this basis, and upon adequate and appropriate control for the delivery of on-site and off-site infrastructure improvements, there are no objections to the development proposal which would comply with current planning policies regarding highway safety and access.

### **Impact on visual amenity:**

10.32 Policies BE1, BE2 and BE11 of the UDP and Policy PLP 24 are considerations in relation to design, layout and materials. The layout of buildings should respect any traditional character the area may have. New development should also respect the scale, height and design of adjoining buildings and be in keeping with the predominant character of the area.

- 10.33 The design ethos for this development is to create a bespoke set of dwellings which would harmonise well within the context of the semi-rural/Green Belt setting. To this end, a great deal of work has been undertaken with regard to the design of the development to achieve a high quality development. Each dwelling/building would have a different design and appearance representing agricultural and farming buildings.
- 10.34 Due to the levels of the site and the scale of the existing buildings, the proposed development would replicate this existing footprint, with the feature of the development centrally placed within the site (a two and half storey mill type building). Buildings to the west (highest part of the site) would be between one and one and half storeys which would reflect the existing buildings on site. The area to the east (lowest part of the site) would contain two storey dwellings, again which would reflect the scale of existing buildings on site. As such, Officers consider that the overall scale of the development would harmonise well within its surroundings and would have a positive contribution upon the character and appearance of the wider area.
- 10.35 Turning to the design of the development, as stated previously, the proposal would be bespoke with each building being of a different design. There would be a varied use of materials, including stone, brick, render and timber cladding. This again, is considered acceptable by Officers as it would be reflective of how a rural development such as this would have evolved. The design of the development would replicate different types of buildings one would expect to see, including:-
- converted barns;
  - farmhouses;
  - workers cottages (traditional terraces);
  - agricultural buildings (typical of what would be found of a farmstead);
  - cottages;
- 10.36 Each of these types of buildings would have an individual style with different characteristics typical for the style of building proposed. On the 'converted barns', each dwelling would have large 'barn arch' type openings which is a feature found on these types of buildings. Likewise, the farmhouse properties would have a traditional appearance with symmetrical openings.
- 10.37 The large building central within the site would maintain this appearance as it would replicate a large agricultural building constructed of materials typical of such a building.
- 10.38 The western part of the site would contain smaller single or one & half storey weaver's cottage type dwellings. It is the view of officers that their design and appearance would harmonise well with the surrounding development and given their small scale, would not have a significant impact upon the openness of the Green Belt (fields) beyond.
- 10.39 Officers consider that the proposed development would be of a high standard, with exceptional care being paid to the individual design of the dwellings/buildings so as to replicate a typical farmstead type complex. The mix of materials would further enhance the development and provide an acceptable form of development.

10.40 On the basis of the above, the application is considered, by officers, to accord with the aims of Policies BE1, BE2 and BE11 of the UDP, Policy PLP24 of the PDLP and chapters 5 and 12 of the NPPF.

**Residential Amenity:**

10.41 The location of the proposed development would be within a semi-rural location where there are few other residential units within close proximity. There are however, three dwellings to the south of the site (The Barn, Park Farm and Park House) which are un-associated with the proposed development. There would be a minimum distance of 24m between the proposed dwellings and these existing properties (Plot 19 and The Barn). This distance is in excess of the distances set out in policy BE12 of the UDP and as such, would not create any undue issues with regard to overlooking.

10.42 Internally within the site however, the development would be slightly below the recommended distances set out in policy BE12 of the UDP (maximum of 3m-5m shortfall). However, the pre-amble which accompanies policy BE12 does allow for distances less than those set out in the policy in certain cases. Paragraph 4.27 of the UDP states:

*“On new development, the principle criteria for determining space requirements should be good design, respect for site levels and the space for existing and future residents.”*

10.43 In this case, the design and layout of the development is considered to be an important factor when assessing space standards. The levels of the site are also a key factor when assessing any potential impact upon residential amenity.

10.44 The site has three distinct areas which are defined by their respective levels within the site - the eastern, central, and western areas. The eastern part of the site is the lowest with the western part being the highest. The layout and scale of the development would respect these level differences and would ensure that there would be minimal overall impact upon the amenity of any future residents of the development. Furthermore, the design ethos of the development is such that it seeks to replicate a tight knit farmstead where a sense of community is a key feature. This requires a degree of flexibility when assessing any potential impact upon residential amenity. In addition to this, there would only be a minimal shortfall between certain plots when assessed against the aims of Policy BE12, with the largest shortfall being 5m between plots 37, 38 and 39 to plots 34, 35 and 36 (16m where 21m is recommended). These plots are to the west of the site and are addressed by the levels difference across the site. This means that the overall impact is considered, by officers, to be minimal.

10.45 Taking the above into account, Officers consider that the proposed development, due to its scale, layout and appearance, would have a minimal impact upon the residential amenities of any future occupants of the development. Furthermore, the proposal would comply with the aims of Policy BE12 of the UDP with regard to distances to existing dwellings located to the south, on Lodge Lane.

## **Trees and ecology:**

### Trees:

- 10.46 There are no trees either within the application site or within close proximity to the site which are subject to a Tree Preservation Order (TPO). The trees which are within the site are of poor quality and do not meet the requirements for a new TPO to be served.
- 10.47 An amended landscaping plan has been submitted which addresses officers' previous concerns that it lacked any meaningful detail with regard to the species proposed. Whilst this amended plan does, to some degree, address the concerns highlighted previously, the landscaping scheme is limited to the location of the dwellings. Given the extensive nature of the development which includes footpath links, officers consider that a more detailed landscaping scheme is required which covers the wider area. Furthermore, no details have been provided with regard to its longer term vitality and maintenance which is considered to be an important part of the scheme.
- 10.48 Officers are satisfied that the above can be secured via appropriate conditions. As such, subject to conditions regarding landscaping and future maintenance, the application would comply with the aims of policies BE1, EP11, and NE9 of the UDP as well as the aims of the NPPF.

### Ecology:

- 10.49 An ecological survey and bat roost assessment have been submitted with the application. The ecological survey has established that the site is of very limited ecological interest and none of the buildings or trees present have any bat roost potential. An old swallow nest was found in one of the buildings and other birds are likely to use some of the trees and shrubs for nesting.
- 10.50 The submitted report makes a series of recommendations which include:-
- Provision for nesting barn owls.
  - Provision for nesting swallows either by incorporating these into outbuildings or by providing canopies erected on new buildings.
  - The inclusion of bat boxes and bird boxes within and integral to the new dwellings. These should include bird boxes for swifts and sparrows integral to buildings and starling boxes on the more mature trees within the site.
  - Provision for nesting birds in the gabion walls to be installed along the eastern boundary of the site.
  - The use of traditional bitumen roof liners where the roofs are constructed with traditional stone slates or other materials which provide gaps suitable for roosting bats.
  - A landscape management plan which details how the landscaping will be managed to enhance biodiversity within and beyond the site.
- 10.51 The Council's Ecologist recommends that these recommendations are conditioned in line with section 10 of the submitted Ecological report.
- 10.52 The principle of the proposed landscaping scheme is considered to be acceptable however, for the reasons set out previously; it is recommended that

further details are required by condition. Subject to these conditions, the application would comply with the aims of chapter 15 of the NPPF.

#### **Flood Risk / Drainage:**

- 10.53 The application has been submitted with a Flood Risk Assessment which has been assessed. Both the Environment Agency and Kirklees Flood Management and Drainage offer no objection to the application, subject to conditions relating to the management of surface water run-off and to ensure the disposal of foul, surface, and land drainage.
- 10.54 Yorkshire Water has also been consulted on the application and whilst not objecting to the proposal, has raised concerns that there are some sewers and water mains which cross the site to the western part of the site, potentially affecting the layout of the proposed development. Maps have been provided which show the actual position of these sewers which have been overlaid onto the proposed site block plan.
- 10.55 Upon further investigation, the water main in question has been capped off/diverted several years ago. Photographic evidence has been provided which show this. As such, there would be no impact from the layout to any water mains or sewers. Conditions are to be attached to any approval which would ensure a satisfactory development with regard to drainage.

#### **Other Issues (remediation, air quality, historic coal mining):**

- 10.56 The site is identified as potentially being contaminated from past / present industrial/commercial use. As such, conditions relating to the submission of a contaminated land report and the carrying out of any relevant remediation works are necessary in order to comply with Policy G6 of the UDP, as well as the aims of chapter 15 of the NPPF.
- 10.57 In line with the Council's objectives for promoting sustainable methods of transport as well as helping to reduce carbon emissions, a condition relating to the provision of electric car charging points is recommended. This would be in accordance with the aims of the NPPF.
- 10.58 The application site is located within a high risk area for historic coal mining activity and as such, has been accompanied with a Coal Mining Risk Assessment (CMRA). The Coal Authority records indicate that the site contains coal seams that are likely to outcrop at or close to the surface and historic, unrecorded coal mining is likely to be present at shallow depth. Five mine entries (shafts) are located within or immediately adjacent to the application site.
- 10.59 The Coal Mining Risk Assessment Report concludes that it is likely that coal at shallow depth beneath the site may have been worked and that coal is likely to be encountered close to the surface. It also notes the potential for the presence of unrecorded shafts within the development area and the presence of recorded shafts on Smithies Lane.

- 10.60 The risk assessment report recommends a scheme of intrusive site investigate works including a site scrape of the development site and the locations of the recorded mine entries to locate any mine entries present within the site. Rotary boreholes are also recommended to a depth of 30m.
- 10.61 The Coal Authority supports the application and the recommendations within the risk assessment subject to a condition requiring this work to be undertaken.
- 10.62 As such, the application is considered to comply with the requirements set out within the NPPF with regard to ground conditions.

### **Representations**

- 10.63 Two representations have been received as a result of the original site publicity and the planning concerns are addressed as follows:

Access to the public footpaths would be directly affected by these proposed dwellings.

**Response:** Existing (and proposed) Public Rights of Way would not be impacted by the proposal. No dwelling would affect access onto or from these PROW's.

Junction of Smithies Lane/entrance to ponderosa is particularly bad.

**Response:** Officers acknowledge this. The application proposes significant improvements to the highway network, including the junction of Smithies Lane/Ponderosa entrance. This will improve the highway network.

Hope the full road would be adopted to prevent speeding cars.

**Response:** The whole of Smithies Lane will be brought up to an adoptable standard and adopted.

## **11.0 CONCLUSION**

- 11.1 The proposal is for the redevelopment of a previously developed (brownfield) site which would not have any materially greater impact upon the openness of the Green Belt or the purpose of including land within it than the existing buildings on the site. As such, the principle of the development is considered, by officers, to be in accordance with the aims of the NPPF.
- 11.2 It has been demonstrated that the loss of this employment site would not conflict with Policy B4 of the Kirklees Unitary Development Plan and Policy PLP8 of the Kirklees Publication Draft Local Plan and in addition the development would facilitate the relocation of this business to more suitable premises within the district.
- 11.3 The development would not prejudice visual amenity or highway safety and there would be no significant detrimental impact on residential amenity.
- 11.4 In respect of financial contributions, the application has been accompanied by a viability appraisal which asserts that affordable housing and education contributions would render the scheme unviable. It is considered by officers that, to enable a brownfield site to come forward for housing that the benefits

of the overall development outweigh the harm that would arise through not securing affordable housing and education contributions in this instance.

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

1. Time limit to implement permission
2. Development in accordance with approved plans
3. Samples of materials
4. Internal adoptable estate roads
5. Surfacing of parking areas
6. Highway and footway improvements
7. Electric vehicle charging points
8. Development to be carried out in accordance with Coal Mining Risk Assessment
9. Phase II Site Investigation Report
10. Site Remediation
11. Validation Report
12. Drainage
13. Temporary Surface Water drainage for construction phase
14. Assessment of watercourse
15. Stand-off distance to watercourse
16. Arboricultural Method Statement
17. Landscaping Scheme
18. Development to be carried out in accordance with Bat Mitigation/Method Statement
19. Biodiversity enhancement measures

**Background Papers:**

Application and history files.

Website link to the application details:-

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2015%2f90321>

Certificate of Ownership – Certificate B signed and Notice served on Yorkshire Water

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## Report of the Head of Planning and Development

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 14-Apr-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

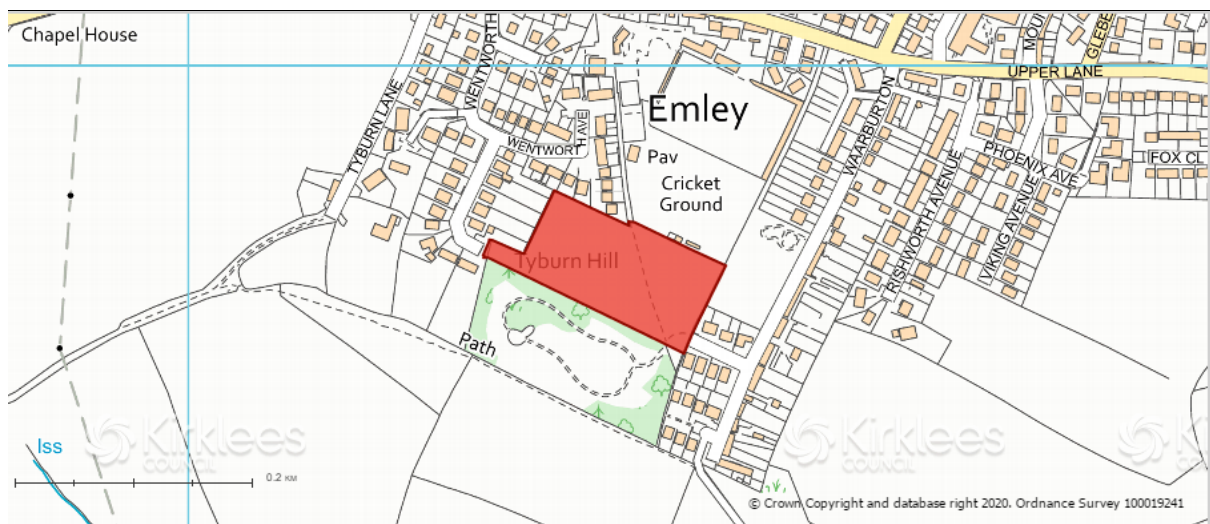
24-Dec-2020

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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**

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**Electoral wards affected: Denby Dale**

**Ward Councillors consulted: Yes**

**Public or Private: Public**

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**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 (TRO) 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.
- 1.5 A second report relating to the current application was considered by the Heavy Woollen Sub-Committee on 17/02/2021. At that meeting it was resolved to defer the committee's decision to allow officers to prepare information regarding the status of the strip off land at the terminus of Wentworth Drive, and to present that information at a future meeting of the Sub-Committee.

## **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.
- 5.4 Following the Sub-Committee's deferral on 17/02/2021, the applicant submitted the findings of further parking surveys carried out at the Wentworth Drive / Beaumont Street junction, as well as the findings of a speed survey and a solicitor's letter relating to the strip of land at the terminus of Wentworth Drive.

## **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, updated 2021)
- 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 the Coronavirus / Covid-19 epidemic, 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 waggons.
- 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 Shortly before, and following, the Sub-Committee's deferrals on 04/11/2020 and 17/02/2021, 12 further representations were received, including a further representation from the Emley Millennium Green Trustees. Concerns already made (and summarised at paragraph 7.3 above) were raised, and the following further points were made:

- No evidence that ransom strip issue has been resolved. Land is still in fragmented ownership. Details are needed, as access is not a reserved matter. Risk that unresolved issue would result in Warburton being used for access. Ransom strip is not adopted highway. Incorrect to say it has been re-designated as adopted highway. Only constructed highway can be adopted. Section 38 application to adopt the land could only follow approval of planning permission. Council is ignoring misuse of information.
- Maintenance access rights for Emley Millennium Green have still not been addressed.
- Millennium Green is within zone of influence of application site. Impact on Millennium Green must be fully assessed. Ecological survey of Millennium Green has not been carried out.
- Traffic survey was carried out during lockdown.
- Local roads flood, or are impassable when it has snowed.
- Number of proposed dwellings should be reduced, to reduce traffic at Wentworth Drive / Beaumont Street junction. 20 dwellings would be preferable.
- Double yellow lines at Wentworth Drive / Beaumont Street junction would only move the problem elsewhere, and would not slow down traffic.
- Proposed improvements to public right of way DEN/21/20 are welcomed.
- DEN/21/20 meets Upper Lane where there is no footway. Unsafe crossing point. Council has previously rejected improvements to this public right of way.
- Occupiers of the development would be wholly reliant on private vehicles.
- Sustainable development not proposed.
- No guarantee that education contribution would be put towards local school.
- British hedgehogs are now classified as officially vulnerable to extinction by the International Union of Conservation of Nature (IUCN). Millennium Green is a hedgehog release site. Proposed development would have an effect on hedgehogs and their habitat.

- Recommendations and suggestions made by officers have not been listened to.
- Full planning application, rather than outline, is required.

7.10 Cllr Simpson stated that the concept of a Traffic Regulation Order (for the Wentworth Drive / Beaumont Street junction) had his support, and that yellow line markings were essential. He added that whoever draws up the TRO scheme should attend the site at a peak times to see how that area operates with the parked vehicles, and given the multiple junctions. Cllr Simpson stated that the details need to be right so as to not create more issues in the vicinity.

7.11 The additional information submitted during the life of the application (including the recently-submitted Wentworth Drive / Beaumont Street junction parking surveys, speed survey and solicitor's letter) did not necessitate public re-consultation.

7.12 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 and March 2021 parking surveys, 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.*

March 2021 comment: Applicant's March 2021 parking surveys are noted. Highways Development Management have also undertaken surveys on Wednesday 31/03/2021 (06:45 and 18:00).

At 06:45, three cars were parked on Wentworth Drive away from the junction and two cars were parked on Beaumont Street. At 18:00 one car was parked on Wentworth Drive away from the junction, three cars were parked on Beaumont Street and one on Chapel Lane. Overall, when compared to the applicant's surveys these results show just one additional car at the junction at 06:45 and the same number of vehicles at 18:00.

The updated parking surveys undertaken over seven days show a slight increase when compared to the previous results, however 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 the proposed development.

Notwithstanding the above, the applicant has confirmed that should officers or Members still consider it necessary to implement parking restrictions in the vicinity of the junction, the applicant is willing to offer a contribution to fund the implementation of a Traffic Regulation Order (TRO) to control parking in the vicinity of the junction.

Highways Development Management views regarding this proposal are unchanged and based on the survey information it is our 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 TRO. However, given 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 Covid 19 restrictions are lifted.

KC Lead Local Flood Authority – No objection, subject to conditions requiring details of drainage system, overland flows and flood routing, and temporary drainage.

Overall, the amount of information provided is suitable for outline stage (with only approval of access sought). Applicant has assessed the surface water discharge options using the hierarchy of preference, and carried out infiltration testing, showing that infiltration methods of discharge are likely to be feasible on site, especially in the northern part of the site. LLFA has no objection in principle to provision of soakaways on site, providing it is shown that they are feasible through further assessment, as stated in section 5.3.3 of the applicant's Flood Risk Assessment. If the soakaways are not feasible, discharge into the watercourse (as stated in section 5.3.4) would be accepted. However, a condition survey of the watercourse will be expected, to ensure that it is in a suitable condition to accept the flows. If the infiltration solution is not feasible, the LLFA would have no objection in principle to a 3l/s discharge rate, as proposed in section 5.3.5, providing an appropriate assessment of discharge point is carried out (as above). Section 5.3.6 states that attenuation for up to the 1 in 30 year event will be provided in underground tanks. The

applicant will need to ensure that the 1 in 100 + climate change event is managed on site, no buildings are flooded and there is no risk to the users of the development.

Section 38 road adoption by Kirklees as a Highway Authority cannot take place unless sewerage located under the carriage way is adopted first.

As part of a Section 106 agreement the council are required to ensure the site is managed in a safe and suitable way up until adoption by a regulatory body. This requirement should also apply to drainage on the site.

## 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 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. 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**

- Responses to reasons 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

### Responses to reasons for deferral

#### *Land at the terminus of Wentworth Drive*

- 10.1 In response to the Sub-Committee's deferral of 17/02/2021, officers have prepared the relevant adoption documentation regarding the status of the strip of land at the terminus of Wentworth Drive, and will include extracts from these documents in the committee presentation. Additional commentary is also provided in the following paragraphs.
- 10.2 Of note, the adoption documentation does not contradict the HM Land Registry information that local residents have obtained. The strip of land is indeed still in fragmented, third party ownership, however the land is *also* adopted highway. In relation to the current application (and the council's consideration of it), the key question here is not who has registered title to the strip of land (which, in this case, is a grassed verge), but whether the verge forms part of the public highway. Where a verge forms part of the public highway, the title which is registered with HM Land Registry is "subsoil" title only. In other words, the registered title holders own the subsoil, but the surface is part of the public highway.
- 10.3 On large residential developments such as Wentworth Drive, the highway layout and extent is usually agreed between the developer of the land and the local highway authority. This is then drawn up in an agreement under the Highways Act. Under the terms of the agreement, the developer agrees to construct the highway and dedicate it to public use, while the local authority agrees to adopt the new highway upon satisfactory completion. When the highway authority adopts the new highway upon satisfactory completion, it issues a certificate of completion and adoption.
- 10.4 In this case, the relevant documents (in determining if the grassed verge at the terminus of Wentworth Drive forms part of the public highway) are 1) the historic Highways Act agreement between the developer and the highway authority, and 2) the subsequent certificate of completion and adoption which was issued by the highway authority upon satisfactory completion of the new highway.
- 10.5 The Highways Act agreement in this instance was made under Section 40 of the Highways Act 1959 between Kirklees Council's predecessor (in this role): the former West Yorkshire Metropolitan County Council, and the developer of Wentworth Drive: Dunford Building Services Ltd. The agreement was dated 06/04/1979.
- 10.6 The certificate of completion and adoption, issued upon satisfactory completion of the works by Dunford Building Services, was issued on 18/05/1981 by the former County Council.
- 10.7 It is clear that the grassed verge was part of the highway extent dedicated by the developer and subsequently adopted by the County Council. This is not unexpected, as the former County Council is likely to have insisted on the verge forming part of the highway, to avoid blighting future development opportunities on the adjoining land.



- 10.8 Further commentary (similar to the above) was set out in the applicant's solicitor's letter dated 01/04/2021, which additionally stated that the grassed verge has the same adopted status as the carriageway, that the above-referenced documentation establishes that Wentworth Drive is an adopted highway, and that once a highway is created and adopted it can only cease to be a public highway if there is a due process of stopping up (a formal statutory procedure with formal requirements which, at Wentworth Drive, has not occurred).
- 10.9 The solicitor's letter goes on to state that it would be wrong to assert that if land was owned by some party other than the council, this would be inconsistent with the land being adopted highway. The letter notes that the concept of ownership and adoption are separate matters, and that the question of ownership is no bar to public use of the road (or verge, which has the same status) or indeed to doing works to such a road for connections to development sites. It is indeed common for third party ownership to apply to land that is adopted highway – in such scenarios, the local highway authority's responsibility is often referred to as being applicable to the "top two spits" (i.e., the surface and such part of the subsoil required for the maintenance of the highway).
- 10.10 In a final key point, the solicitor's letter states that the council (as Local Planning Authority) should not withhold planning permission on the grounds that the proposed development would be reliant on access via land in third party ownership. The letter states:
- "...there is no principle in law that requires the planning decision maker to be satisfied that the development, if approved, can be lawfully carried out. Planning permission does not alter or in any way interfere with land ownership. The planning process works in law so as to allow applications to be made and permission to be granted on land which the applicant does not own or even control. Any individual can apply for planning permission on land which is outside their ownership".*
- 10.11 Of note, and as detailed in section 24 of the submitted application form, prior to submitting the current application for outline planning permission, the applicant served formal notice on the third party owners of the land in question, as well as on the council as Local Highway Authority. No representations were received by the council (as Local Planning Authority) from those parties in relation to the current application.
- 10.12 Some of the concerns of local residents regarding the proposal to provide vehicular access via Wentworth Drive are based on an assumption that the applicant would attempt to revert to proposing access via Green Acres Close and Warburton at a later date, should vehicular access from Wentworth Drive prove not to be possible. However, notwithstanding the certainty of the status of the strip of land at the terminus of Wentworth Drive (as set out in the above paragraphs), it is noted that the applicant has only applied for approval of vehicular access from Wentworth Drive, and that vehicular access via Green Acres Close and Warburton has been firmly rejected at appeal on highway safety grounds. Furthermore, a relevant condition is recommended, limiting the use of the Green Acres Close gate to that required for the Millennium Green and the emergency services. In light of the above-mentioned appeal decision, it is considered that this condition would be fully enforceable.

*Wentworth Drive / Beaumont Street junction*

- 10.13 As noted in the previous committee report, following the Sub-Committee's deferral on 04/11/2020, the applicant carried out parking surveys at the Wentworth Drive / Beaumont Street junction. The surveys were undertaken on Thursday 17/12/2020 (06:00 to 10:00 and 15:00 to 19:00) and on Saturday 19/12/2020 (17:00 to 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.
- 10.14 Of note, the nearby public house (the White Horse) was closed at the time the surveys were carried out.
- 10.15 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”.*
- 10.16 In light of concerns expressed by some Members (at the meeting of 17/02/2021) regarding these findings, the applicant carried out additional parking surveys at the Wentworth Drive / Beaumont Street junction. These related to the same survey area as the December 2020 surveys, were undertaken over a seven-day period between Wednesday 10/03/2021 and Tuesday 16/03/2021, and recorded the location of all parked vehicles every 15 minutes on weekdays (06:00 to 10:00 and 15:00 to 19:00) and at the weekend (17:00 to 23:00). Again, the nearby public house (the White Horse) was closed at the time the surveys were carried out, however the applicant has pointed out that schools were open following the relaxation of restrictions on 08/03/2021, and additionally noted that as a high proportion of residents would have been working from home due to lockdown restrictions, the surveys are likely to have recorded greater volumes of resident parking on street than would ordinarily occur.
- 10.17 Officers remain of the view that it is unfortunate that post-lockdown/epidemic survey data is not available, however given the announced reopening dates for pubs and other hospitality (partial/phased, beginning with pub gardens reopening on 12/04/2021, with further relaxations due on 17/05/2021 and 21/06/2021, all subject to tests being met), it would be unreasonable to delay the determination of the application until after the nearby pub has resumed normal business.

- 10.18 The applicant's March 2021 surveys largely verified the earlier (December 2020) findings. As previously, low numbers of parked vehicles were recorded on Wentworth Drive, Beaumont Street and Chapel Lane, although slightly higher numbers (than in December) were recorded. During weekdays, a maximum of six vehicles were recorded within the survey area in the morning periods, and a maximum of eight were recorded in the afternoon/evening periods. On average, 3.8 vehicles were recorded within the survey area during weekdays. During the weekend survey period, a maximum of six vehicles, and an average of 4.5 vehicles were recorded.
- 10.19 To provide further verification of the applicant's findings, Highways Development Management officers carried out surveys on Wednesday 31/03/2021 (06:45 and 18:00). At 06:45, three cars were parked on Wentworth Drive away from the junction and two cars were parked on Beaumont Street. At 18:00 one car was parked on Wentworth Drive away from the junction, three cars were parked on Beaumont Street and one on Chapel Lane. Overall, when compared to the applicant's March 2021 surveys these results show just one additional car at the junction at 06:45 and the same number of vehicles at 18:00.
- 10.20 In response to concerns regarding highway safety in relation to existing traffic speeds, the applicant noted the findings of an earlier speed survey carried out close to the Wentworth Drive / Beaumont Street junction (specifically, Upper Lane westbound and Chapel Lane eastbound) on Wednesday 19/06/2020 (10:30 to 16:00) which recorded 85th percentile wet weather speeds of 30mph eastbound and 28mph westbound. In addition to that earlier survey, a further survey was carried out by the applicant on Thursday 11/03/2021, and this recorded "broadly comparable" speeds of 30.4mph eastbound and 31.9mph westbound. For completeness, the applicant has recalculated visibility splays using these slightly higher recordings, and has submitted drawing 19093/IN/04 which demonstrates that appropriate visibility can still be achieved at the Wentworth Drive / Beaumont Street junction.
- 10.21 In response to the applicant's December 2020 and March 2021 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 have, however, reiterated 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.
- 10.22 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.

- 10.23 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. The funding of the TRO would need to be made payable prior to commencement of works.
- 10.24 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

- 10.25 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.
- 10.26 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.
- 10.27 Full weight can be given to site allocation HS137 (formerly H358), which allocates the site for residential development.
- 10.28 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.*

- 10.29 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.
- 10.30 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.

- 10.31 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.
- 10.32 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

- 10.33 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.
- 10.34 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.
- 10.35 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.
- 10.36 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.

- 10.37 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

- 10.38 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.
- 10.39 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.
- 10.40 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.
- 10.41 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.
- 10.42 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.

- 10.43 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.
- 10.44 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

- 10.45 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.
- 10.46 The principle of residential development at this site is considered acceptable in relation to the amenities of neighbouring residential properties.
- 10.47 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.
- 10.48 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.
- 10.49 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.

- 10.50 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.
- 10.51 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.
- 10.52 At Reserved Matters stage, the applicant would be encouraged to provide accessible 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.
- 10.53 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.
- 10.54 Should outline planning permission be granted, at the subsequent Reserved Matters stage the applicant will be advised to meet these standards.

#### Point of access

- 10.55 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. Further detail regarding the status of this land is provided at paragraphs 10.1 to 10.12 of this committee report.
- 10.56 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.
- 10.57 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.

- 10.58 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

- 10.59 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 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.
- 10.61 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.
- 10.62 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.
- 10.63 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).

- 10.64 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.
- 10.65 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.
- 10.66 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. The findings of later speed surveys are detailed at paragraph 10.20 of this committee report. No personal injury collisions have been recorded within the five-year period ending 20/03/2020 at this junction.
- 10.67 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.
- 10.68 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, and have further illustrated acceptable visibility in the recently-submitted amended drawing 19093/IN/04. These are considered acceptable based on Manual for Streets guidance which is considered appropriate to this site.

- 10.69 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.
- 10.70 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.
- 10.71 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.
- 10.72 Details of the applicant's further assessments of the Wentworth Drive / Beaumont Street junction (submitted following the Sub-Committee's deferrals of 04/11/2020 and 17/02/2021) are provided at paragraph 10.13 onwards of this committee report. The findings of these surveys have not attracted adverse comment from Highways Development (HDM) officer.
- 10.73 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.
- 10.74 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. The proposed widening and resurfacing works 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.
- 10.75 The proposed provision of street lighting along the footpath has been given careful consideration, given the potential for amenity impacts upon adjacent residential properties, and given that lighting of part of a footpath could encourage people to use less safe sections of footpath that remain unlit. Bollard lighting was considered, however this would not normally be specified for a footpath, it would be more vulnerable to vandalism, it would not significantly improve safety (although it could help increase a *perception* of safety), and it would attract an objection from the West Yorkshire Police Designing Out Crime Officer as it would not provide sufficient upwards lighting

spread to illuminate a person's face for identification purposes and to establish intent. Potential light pollution and amenity problems can be limited by rear shields that would restrict light spill from 5m high columns. Illumination of a further section of the footpath (dotted green on drawing 19093/GA/02) is not proposed, however this is not considered problematic as the unilluminated section of footpath would be short and may borrow light from adjacent uses.

- 10.76 The applicant would prefer these footpath 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.
- 10.77 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).
- 10.78 Related to this point, residents have stated that the council (when considering application ref: 2019/90380 and making representations at appeal ref: APP/Z4718/W/19/3239659) had rejected earlier proposals for improvements to this footpath, and that officer advice has been inconsistent. To clarify, concerns were raised regarding improvements to footpath DEN/21/20 in the context of the previous application and appeal where the applicant proposed to introduce significant vehicular traffic to Warburton (which lacks footways for much of its length) and did not propose any pedestrian access to the site from Wentworth Drive. As part of those earlier proposals, the applicant attempted to rely (at least partly) on the proposed footpath improvements as a way of addressing concerns that pedestrians (moving north-south) would have to share carriageway space with vehicles using Warburton. Under the current proposals, the applicant is proposing access via Wentworth Drive (therefore, a pedestrian connection via existing and proposed footways would be created) and is not proposing to introduce additional vehicular traffic to Warburton (therefore, pedestrians using that road would be at less risk). In this current context, therefore, residents of the proposed development would have a wider choice of north-south walking routes, and there is now less concern regarding highway safety risk to pedestrians.
- 10.79 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.
- 10.80 Access to the adjacent Millennium Green would not be restricted by the proposed development.
- 10.81 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.

- 10.82 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

- 10.83 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.

- 10.84 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 Lead Local Flood Authority (LLFA) data suggests the site is likely to be highly suitable for infiltration. The applicant's later, amended Flood Risk Assessment (rev D) now includes details of the infiltration testing undertaken on site, as requested by the LLFA. 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.

- 10.85 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.

- 10.86 In updated comments, the LLFA raised no objection to the granting of outline planning permission for residential development at this site.

- 10.87 It is not considered necessary to pursue further, 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. In accordance with LLFA advice, conditions to secure these details are recommended.

### Ecological considerations

- 10.88 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.
- 10.89 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.
- 10.90 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.
- 10.91 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.*

- 10.92 A condition requiring the submission of an Ecological Design Strategy is also recommended.
- 10.93 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

- 10.94 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.

- 10.95 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.
- 10.96 The council's Arboricultural Officer has raised no objection in principle to residential development at this site.

#### Environmental and public health

- 10.97 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.
- 10.98 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

- 10.99 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.
- 10.100 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.

10.101 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.*

10.102 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.

10.103 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

10.104 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.



10.105 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.

10.106 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

10.107 A total of 240 representations were received from occupants of neighbouring properties. The comments raised, which are summarised in section 7 above, have been addressed in this report.

10.108 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

10.109 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 (TRO) to restrict parking at the Wentworth Drive / Beaumont St junction.

10.110 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

- 10.111 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.
- 10.112 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.
- 10.113 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.

10.114 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: 14-Apr-2021**

**Subject: Planning Application 2020/92368 Erection of 14 dwellings with garages and formation of new access road Land south of, Leeds Road, Mirfield, WF14 0JE**

**APPLICANT**

Ben Manning, Manning  
Properties Ltd

**DATE VALID**

06-Aug-2020

**TARGET DATE**

05-Nov-2020

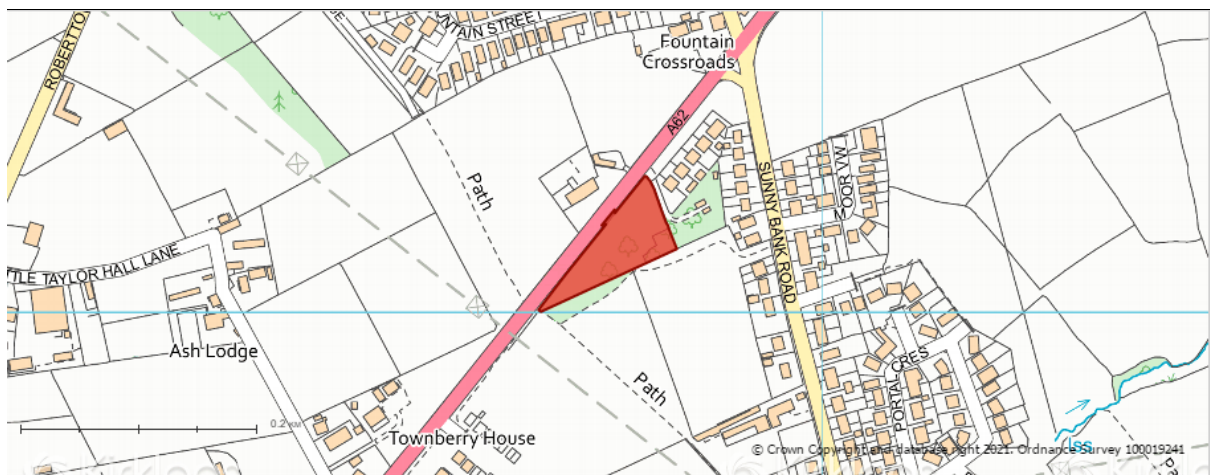
**EXTENSION EXPIRY DATE**

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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**

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**Electoral wards affected: Mirfield**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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## **RECOMMENDATION**

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

- 1. Affordable Housing – 3 units (20%), each as discounted market sales housing.**
- 2. Open Space (offsite) – £21,753 contribution to off-site enhancements to local open space, to address shortfalls in specified open space typologies on site.**
- 3. Ecology – £40,020 contribution towards off-site measures to achieve biodiversity net gain;**
- 4. Management and maintenance (Drainage and on-site POS) – The establishment of management and maintenance arrangements of any land not within private curtilages or adopted by other parties, and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker).**

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

## **1.0 INTRODUCTION**

- 1.1 This application seeks full planning permission for a residential development of 14 dwellings.**
- 1.2 The application is brought to committee at the request of Councillor Martyn Bolt due to concerns over highway safety, impact upon a nearby business, and drainage.**
- 1.3 The Chair of Sub-Committee confirmed that Cllr Bolt’s reason for making this request is valid, having regard to the Councillors’ Protocol for Planning Committees.**

## **2.0 SITE AND SURROUNDINGS**

- 2.1 The site is triangular in shape and has an area of 0.45ha. It is in a natural state, with grass and low-level vegetation throughout and trees lining the boundaries and scattered within the site.
- 2.2 Along the north boundary is Leeds Road: opposite the site and across Leeds Road is a commercial garage. To the east are residential properties and a smaller vacant area of land in a similar state to the application site. Together, the application site and the east vacant land make housing allocation HS67. To the south and south-west west are open fields which have received planning permission for residential development (commenced, ongoing at the time of writing), with commercial development beyond. The site is on the north edge of Mirfield and is to the south of Liversedge and Heckmondwike.
- 2.3 None of the site's trees currently benefit from Tree Preservation Orders (TPOs). The site is within Flood Zone 1 and a Development Low Risk Area as defined by the Coal Authority. PROW MIR/1/10 is adjacent to the south-western tip of the site.

## **3.0 PROPOSAL**

- 3.1 The application seeks full permission for the erection of 14 dwellings, some with garages, and the formation of new access road.
- 3.2 The dwellings comprise 4 x 3-bed units and 10 x 4-bed units. All units are to be semi-detached and are two storeys. Those adjacent to Leeds Road have hipped roofs, while those within the site have pitched roofs. All 4-bed units have a detached single garage, with the exception of plot 14 which has a shed. 3-bed units would have two off-road parking spaces, while 4-bed units would have three (note: the plan shows plot 14, a 4-bed unit, with two parking spaces; notwithstanding this, the driveway's length is sufficient for three).
- 3.3 A single new access is to be formed from Leeds Road, turning into a central access road running through the site's centre from east to west. The 4-bed units would be arrayed along the south of the new road and would front onto it. The 3-bed units would be to the north of the new road and would be accessed from it, however they would front onto Leeds Road.
- 3.4 Many of the trees along the frontage to Leeds Road are to be retained, although some would be removed. A 1m high railing is to be erected along the majority of the boundary with Leeds Road, to be supplemented by hedgerow. The portion of the frontage that is the rear garden of plot 14 would be a 2m high brick and timber screen (1m brick with 1m timber above). Boundary treatments within the site elsewhere are to be 2m high timber fencing. The site's levels currently slope down from Leeds Road. The land is to be made level through retaining walls (via gabion baskets) along the south boundary. These are to vary in height from 4m (west edge) to 1m (east edge).
- 3.5 An area of Public Open Space (169sqm) is to be sited to the west of the entrance and adjacent to Leeds Road: the surface water attenuation tank would be sited beneath this area. The development's two visitor parking spaces would be sited alongside this POS.

- 3.6 Three 3-bed units have been proposed as affordable housing (representing 20% of proposed units).
- 3.7 The submitted plans have demonstrated that the remainder of the housing allocation (HS67), the land to the east, may be accessed through this site as/when required.

#### **4.0 RELEVANT PLANNING HISTORY (including enforcement history)**

##### **4.1 Application Site**

None

##### **4.2 Surrounding Area**

*rear of 183, Sunny Bank Road (field to the east)*

2011/91056: Outline application for erection of two dwellings – Refused

2012/91433: Outline application for erection of one dwelling – Refused

*Sunnymead, 113 Leeds Road*

2016/90840: Demolition of existing dwelling and outbuildings and erection of detached dwelling, detached garage, and detached outbuilding ancillary to 113 Leeds Road, Mirfield, WF14 0DJ – Conditional Full Permission

*Land at Slipper Lane (to the site's south)*

2014/90688: Outline application for erection of commercial floorspace (B1c, B2, B8) including details of engineering operations to form serviced employment plots and full application for the erection of 166 dwellings – S106 Outline Permission

2018/90802: Removal of condition 31 (B8 floorspace) and variation of conditions 23 (Residential) (Road Safety Audits) and 30 (Industrial) (Road Safety Audits) on previous application 2014/90688 for outline application for erection of commercial floorspace (B1c, B2, B8) including details of engineering operations to form serviced employment plots and full application for the erection of 166 dwellings – S106 Variation Approved

2018/93622: Reserved matters application pursuant to permission no 2018/90802 for removal of condition 31 (B8 floorspace) and variation of conditions 23 (Residential- Road Safety Audits) and 30 (Industrial-Road Safety Audits) on previous application 2014/90688 for outline application for erection of commercial floorspace (B1c, B2, B8) including details of engineering operations to form serviced employment plots – Approval of Reserved Matters

2019/90756: Variation of condition 2. (plans and specifications) on previous permission no. 2014/90688 for outline application for erection of commercial floorspace (B1c, B2, B8) including details of engineering operations to form serviced employment plots and full application for the erection of 166 dwellings – S106 Variation Approved



2019/94152: Reserved matters application pursuant to application no 2018/90802 for development of 16,723sq metres employment floor space together with associated internal roads, parking and landscaping in relation to the reserved matters of layout, scale, appearance and landscaping. Together with the discharge of conditions 3, 6, 13, 14, 15, 16, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 32, 33 and 34 in so far as they relate to Phase 2 – Approval of Reserved Matters

**None:** Numerous DOCs associated with the above applications have been applied for but are not directly relevant in themselves.

## **5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme)**

5.1 The application was initially submitted for 12 dwellinghouses. Officers objected to this number of units as it was well below LP7's target density and the layout was considered an inefficient use of land. This led to the proposal being amended to 14 units.

5.2 Beyond the quantum of development, negotiations on numerous aspects of the proposal have taken place. These include securing access and evidence of appropriate possible drainage to the remainder of the allocation, improved access arrangements, the provision of a cycle track along the frontage, the provision of on-site public open space and on matters of design. The applicant has worked positively with officers, resulting in an application assessed as being compliant with policy.

## **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<sup>th</sup> February 2019).

[Kirklees Local Plan \(2019\) and Supplementary Planning Guidance / Documents](#)

6.2 The application site is part of land allocated for residential development in the Local Plan (site allocation ref: HS67). The site allocation HS67 has an indicative housing capacity of 22 dwellings. To the immediate south of the site is a Mixed-Use allocation (MXS6).

6.3 Local Plan policies relevant to the application are:

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP3** – Location of new development
- **LP5** – Master planning sites
- **LP7** – Efficient and effective use of land and buildings
- **LP11** – Housing mix and affordable housing
- **LP20** – Sustainable travel
- **LP21** – Highway safety and access
- **LP22** – Parking

- **LP23** – Core walking and cycling network
- **LP24** – Design
- **LP27** – Flood risk
- **LP28** – Drainage
- **LP30** – Biodiversity and geodiversity
- **LP32** – Landscape
- **LP33** – Trees
- **LP35** – Historic environment
- **LP38** – Minerals safeguarding
- **LP51** – Protection and improvement of local air quality
- **LP52** – Protection and improvement of environmental quality
- **LP53** – Contaminated and unstable land
- **LP63** – New open space

6.4 The following are relevant Supplementary Planning Documents or other guidance documents published by, or with, Kirklees Council

- Kirklees Local Plan Supplementary Planning Document – Highways Design Guide (2019)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Waste Management Design Guide for New Developments (2020)

6.5 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.

#### National Planning Guidance

6.7 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF), published 19<sup>th</sup> February 2019, and the Planning Practice Guidance Suite (PPGS), first launched 6<sup>th</sup> 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.

- **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

6.8 Other relevant national guidance and documents:

- MHCLG: National Design Guide (2021)
- DCLG: Technical housing standards – nationally described space standard (2015)

## Climate change

- 6.9 The Council approved Climate Emergency measures at its meeting of full Council on the 16<sup>th</sup> of January 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.
- 6.10 On the 12<sup>th</sup> of November 2019 the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target; however, it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the council would use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

## **7.0 PUBLIC/LOCAL RESPONSE**

### *Public representation*

- 7.1 The application has been advertised as a major development via site notices around the site and through neighbour letters to properties bordering the site, along with being advertised within a local newspaper. This is in line with the Council's adopted Statement of Community Involvement.
- 7.2 Following the amendment to the scheme's description, the application was readvertised via neighbour notification letter. These were sent to all neighbouring residents, as well as to those who provided comments to the original period of representation.
- 7.3 The final public representation period for the application expired on the 30<sup>th</sup> of November 2020. Eight representations were received in total, five within the original publicity period and three in the second. One of the representations received was in support of the proposal, with the others objecting. The following is a summary of the comments made:
- The site was previously used as a tip for many years, including asbestos.
  - Concerns that the proposal would lead to increased flooding in the area.
  - Objection to the location of the access point, due to perceived conflicts with the opposing commercial garage's access / egress points. The commercial garage opposite is accessed via HGVs and other large vehicles.
  - Questions whether the proposed development would lead to residents parking on Leeds Road.
  - Leeds Road has slow moving traffic which leads to air pollution. The road and adjacent business are noise pollutants.

- Object to the loss of green space in Mirfield, whereas there are available brownfield sites.
- Questions whether this site could be accessed via the adjacent ongoing development by Taylor Wimpy.
- Concerns that the development has increased from 12 to 14 units.
- It is noted that no pre-application consultation event took place.
- A supportive representation has been received contradicting many of the comments in opposition to the proposal. These include claiming the site was not used as a private or public tip, with no asbestos on site following it being cleared of waste in the 70s. Furthermore, it is disputed that the access would conflict with a neighbouring business.

7.4 Responses to the above comments are set out later in this report.

7.5 Later amendments and submissions of information were minor in scope and did not necessitate further public re-consultation  
*Ward members*

7.6 The site is within Mirfield Ward, with local members being notified of the proposal. Councillor Martyn Bolt has expressed concerns over the proposed development, as summarised below:

- Concerns over the highways impact of the proposal, including the access' sightlines, provision of cycle facilities, the impact of mud and construction traffic associated with the construction process, the access's location and its relationship with the adjacent commercial garage, and whether the access could be from the adjacent Taylor Wimpy site.
- Concerns over the proposal's proposed drainage arrangement, which was previously objected to by the Lead Local Flood Authority.
- Querying the suitability of units, specifically affordable dwellings, being adjacent to the highway.
- Concerns over the amount of Public Open Space on site.
- Questioning whether the dwellings comply with the Nationally Designated Space Standards.

*Parish Council*

7.7 Mirfield Town Council were notified of the proposal. No comments were received.

**8.0 CONSULTATION RESPONSES**

**8.1 Statutory**

K.C. Highways: No objection subject to condition.

K.C. Lead Local Flood Authority: Expressed initial objections. Provided advise and feedback during negotiations. Based on the final amended plans, no objection subject to conditions.

The Environment Agency: No response received.

Yorkshire Water: Have expressed concerns over the proposed discharge of surface water into a combined public sewer. However, the LLFA are satisfied that higher options on the hierarchy of drainage have been discounted.

## 8.2 **Non-statutory**

K.C. Conservation and Design: No objection.

K.C. Crime Prevention: Advice provided and shared with the applicant to consider.

K.C. Ecology: Expressed initial concerns but provided advice and feedback. Based on amended plans, no objection subject to condition and securing of an off-site contribution via S106.

K.C. Environmental Health: No objection subject to condition.

K.C. Landscape: No objection subject to conditions and securing on and off-site Public Open Space provisions via S106.

K.C. Public Right of Way: No objection, however have requested an advisory note be placed on the decision notice relating to an adjacent PROW.

K.C. Strategic Housing: Provided advice through negotiations on local housing needs. No objection subject to securing the affordable housing proposed via S106.

K.C. Trees: No objection subject to conditions.

## 9.0 **MAIN ISSUES**

- Principle of development
- Sustainable development and climate change
- Urban design
- Residential amenity
- Highway
- Drainage
- Planning obligations
- Other matters
- Representations

## 10.0 **APPRAISAL**

### Principle of development

- 10.1 Paragraph 47 of the National Planning Policy Framework (the Framework), which is a material consideration in planning decisions, confirms that planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. This approach is confirmed within Policy LP1 of the Kirklees Local Plan, which states that when considering development proposals, the Council would take a positive approach that reflects the presumption in favour of sustainable development contained within the Framework. Policy LP1 also clarifies that proposals that accord with the policies in the Kirklees Local Plan would be approved without delay, unless material considerations indicate otherwise.

- 10.2 The Local Plan identifies a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum. As set out in the Authority Monitoring Report (AMR), the assessment of the required housing (taking account of under-delivery since the Local Plan base date and the required 5% buffer) compared with the deliverable housing capacity, windfall allowance, lapse rate and demolitions allowance shows that the current land supply position in Kirklees is 5.88 years supply. The 5% buffer is required following the publication of the 2020 Housing Delivery Test results for Kirklees (published 19th January 2021). As the Kirklees Local Plan was adopted within the last five years the five-year supply calculation is based on the housing requirement set out in the Local Plan (adopted 27th February 2019). Chapter 5 of the NPPF clearly identifies that Local Authority's should seek to boost significantly the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development.
- 10.3 The site falls within part of a housing allocation, reference HS67, within the Kirklees Local Plan Allocations and Designations document (2019) to which full weight can be given. Therefore, residential development is welcomed within the site. However, both the Local Plan and National Planning Policy Framework set out expectations to ensure proposals represent the effective and efficient development of land.
- 10.4 LP7 requires development to achieve a net density of at least 35 dwellings per ha, where appropriate. Local Plan allocations have indicative capacity figures based on this net density figure. Within the Local Plan HS67 is expected to deliver 22 dwellings, with the application proposing 14. However, as noted, the application's red-line boundary does not cover all of HS67, excluding 0.2ha of the allocation. This excluded land is to the east of the current application.
- 10.5 The excluded land does not fall within the same ownership as the application site. Considering master-planning principles, as established by LP5, officers would not look to support partial development of a housing allocation which would prevent the future development of the remaining land. To address this the applicant has proposed a road design which allows for a future highway connection into the remainder of the allocation, and has evidenced that there are feasible methods of draining the neighbouring site. Regarding the proposed layout, there are not considered to be any aspects which would prohibit the reasonable development of the remainder of the allocation. Accordingly, in this case, officers are satisfied that the proposal would not prevent the future development of the remaining land of HS67 and does not conflict with the aims and objectives of LP5.
- 10.6 Returning to density, considering just the application site (0.45ha), the proposal has a density of 31 dwellings per ha. However, officers consider the site to have constraints which make seeking the minimum target density of 35 per ha to be inappropriate. These constraints are the shape of the land, being a sharp pointed triangle, and the topography along the south boundary. The layout and density proposed is considered by officers to be reasonable and effective response to the site's constraints, and is not considered in this case to breach the aims of LP7.

- 10.7 LP11 requires consideration of a proposal's housing mixture, which should reflect the proportions of households that require housing, achieving a mix of house size (2, 3, 4+ bed) and form (detached, semi, terrace, bungalow). The starting point for considering the mixture of housing types needed across the district is the Kirklees Strategic Housing Market Assessment (SHMA). The proposal seeks four 3-bed units and ten 4-bed units, which does not comply with the expectations of the district wide SHMA. Conversely, Strategic Housing's local data identifies a 'significant need' for 3 and 3+ bedroom homes in the Dewsbury and Mirfield area. Accordingly, officers are satisfied with the proposed housing mixture.
- 10.8 The site is a housing allocation in the Local Plan, with the proposal considered to represent an effective and efficient use of the allocation, in accordance with relevant planning policy. While only developing part of the allocation HS67, allowances have been made to ensure the remainder of the allocation remains developable in the future. The proposal would aid in the delivery of the Council's housing targets and the principle of development is therefore found to be acceptable. Consideration must then be given to the proposal's local impacts, considered below.

#### Sustainable development 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 site is within the urban envelope, within a location considered sustainable for residential development. It is accessible, lying within an existing established settlement and close to various local amenities and facilities. At least some, if not all, 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 other measures have been proposed or would be secured by condition (referenced where relevant within this assessment). 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.

#### Urban Design

- 10.12 Relevant design policies include LP2 and LP24 of the Local Plan and Chapter 12 of the National Planning Policy Framework. These policies seek for development to harmonise and respect the surrounding environment, with LP24(a) stating; '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'.

- 10.13 The site is bounded by Leeds Road to the north, which separates it from open fields, with the exception of a commercial garage. Existing residential development is located to the east and new residential development is currently being built to the south. Careful design is therefore needed to respect the established townscape while acknowledging the site's approach to the open environment. The site does have the constraint of difficult topography. While currently natural, the site is not considered to materially contribute to the setting and character of the area.
- 10.14 The proposed layout is considered to be a logical approach to the site's shape, arranged around a simple branching central access road, with dwelling positions reflecting the established urban grain of the surrounding built environment. Each dwelling has the typical layout of front garden, dwelling, and rear garden, with parking mostly to the side.
- 10.15 Plots 1-4 would face directly onto Leeds Road, while having access to the rear. They are noted to step forward of the neighboring dwellings to the north, however different separation distances to main roads are not unusual, and that proposed is not considered unduly small. The western most units, plots 13 and 14, would be tilted to the other units and present a side elevation to Leeds Road. This is a response to the site's triangular, narrowing shape, as any other orientation would give insufficient room for dwellings in this sizable area of the site. Plot 14's driveway separates the side elevation from Leeds Road, maintaining a modest separation distance. Occasional side elevations onto main roads are not without precedent and the arrangement is not considered visually unattractive as proposed.
- 10.16 The layout does not result in any ambiguous outdoor spaces, and enables good natural surveillance to the public realm. An area of clearly defined Public Open Space would be sited to the side of the access onto Leeds Road, forming an open and inviting entranceway. This would be an accessible location, for both future residents and others within the area. It would also aid in softening the site's appearance from Leeds Road, being set to the front of many of the units. The boundary to Leeds Road, with the exception of plot 14's garden space, was proposed as a low brick wall, to mimic that evident to the north, however following ecological input has been amended to railing, with hedgerows and trees retained and/or replanted. This would create an attractive green setting for the site, which would aid the transition from the urban environment to the south, to the open land to the north. Full details of landscaping are to be secured via condition but the indicative details provided at this time are welcomed. Rear gardens are to be divided by timber boundary fencing at 2m, although plot 14's rear garden's boundary to Leeds Road is to be 1m high brick walling with 1m fencing atop. Full details of boundary walling are to be secured via condition.
- 10.17 To address the site's land levels, which at present are varied and include steep falls, a retaining wall of gabion baskets is proposed along the south boundary. This is to vary in height from 1m to 4m at its greatest. The leveling of the site is necessary for vehicle access: other options would be to have split level properties, which is considered less visually preferable on this site. The wall is to the site's rear, with limited views towards it from public vistas. It will separate the site from the rear gardens of dwellings being built on the adjacent site, which will further limit its prominence. To enhance the visual appearance of the gabion baskets, officers are to seek it as a 'green wall', to include natural



elements, via the landscaping strategy condition. Given these considerations, and the proposed condition, officers do not oppose the proposed retaining wall.

- 10.18 Considering the appearance of the proposed dwellings, all units are semi-detached. This is the predominant form of dwellings fronting into Leeds Road in the area and, given the relative low number of units proposed, this mono-form is not opposed. The scale and height of the proposed units are appropriate for the site and mimic that of nearby dwellings. Units closest to Leeds Road have hipped roofs, to minimize the massing of development adjacent to the road and adds variation to the site. In terms of architectural features, the proposed dwellings would have a typical modern vernacular with an attractive and reasonably proportioned fenestration arrangement. As a result, the dwellings are considered visually attractive and suitably harmonise with the appearance of dwellings in the area.
- 10.19 The dwellings are to be faced in red-brick. Construction materials in the area are varied, with artificial stone, natural stone, render, and brick being evident. The adjacent residential development units are to be faced in a mixture of red, pale red and buff brick. In this context the proposed red-brick is considered acceptable. For roofing, dark grey concrete tiles are proposed. These likewise mimic the materials of the area. Nonetheless, samples of these materials are to be secured via condition, to ensure suitable end products are utilized.
- 10.20 The above assessment is based on the plans as submitted. Further development of the site, such as, have the potential to appear cramped or visually detrimental. Accordingly, it is considered reasonable and necessary to remove PD rights for outbuilding and extensions on visual amenity grounds.
- 10.21 The proposed works would notably change the character and appearance of the site and wider area. However, as existing, the site is considered to have limited visual amenity value. The proposed development is considered to be sufficiently well designed and it would result in an attractive continuation of the residential environment. Accordingly, the proposal is deemed to comply with the aims and objectives of Policies LP2 and LP24 of the KLP, and Chapter 12 of the NPPF.

#### Residential Amenity

- 10.22 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.
- 10.23 To the north-east of the site is no. 106 Leeds Road; plot 1 would be located to the side and set forward of this dwelling. However, the respective layout and separation distances are not anticipated to lead to any materially detrimental impacts upon no.106's residents, such as overbearing, overshadowing or overlooking.
- 10.24 There are no other existing neighbouring residential properties adjacent to the site's boundary. However, consideration must be given to the adjacent sites; the remainder of the housing allocated HS67 and the residential development ongoing on MXS6 to the south.

- 10.25 Officers are satisfied that the proposed development would not put undue pressure on the development of the remainder of HS67. The unit closest to the shared boundary, no. 5, has a side elevation hosting no habitable room windows facing into the neighbouring land with a driveway separating it from the boundary.
- 10.26 MXS6 is in the process of being developed, with new dwellings approved to be built adjacent to the application site's south boundary, via application 2019/90756 (note, 2019/90756 is a variation of condition to 2014/90688 and approved minor amendments to originally approved layout and unit types along the boundary in question). Plots 122 – 130 of 2019/90756 would have their rear elevations facing the rears of the current application's plots 5 – 12, while plot 121 of 2019/90756 would be to the side of plot 13. Separation distances for units facing each other are considered to be acceptable, being in excess of 28m. However, the application site is to be on a higher ground level, with a gabion retaining wall to be built upon the shared boundary. The gabion wall's height varies, from 4m to 1m, with a 2m fence atop. The wall would be kept separate from the curtilages of 2019/90756's approved dwellings by a 3 – 4m deep hedge / landscaped area and have a typical separation of 17m from facing rear windows. At its maximum 4m height the wall would not be to the rear of a property, but be to the site of the adjacent plot 121. Based on this relationship, officers are satisfied that the proposed retaining wall would not cause harmful overbearing upon future occupiers of the adjacent development. The 2m high fencing would prevent overlooking and the wall would be due north, preventing overshadowing. Nonetheless, officers are to impose conditions requiring further details on the retaining wall to ensure its impact is kept to a minimum. This includes having the new fencing set back from it, to lower the massing, and the submission of management and maintenance details.
- 10.27 Consideration must also be given to the amenity of future occupiers and the quality of the proposed units. Acceptable separation distances are shown between the proposed units. All side facing windows serve non-habitable rooms but are to be secured as obscure glazed via condition.
- 10.28 The site is next to Leeds Road, a busy highway. A noise impact assessment has been submitted to assess the level of noise and propose appropriate noise mitigation measures (for internal and external spaces). This has been reviewed by K.C. Environmental Health, who agree with the findings. The implementation of the noise mitigation measures is to be secured via condition.
- 10.29 Public Open Space of 169sqm would be provided on site and would contribute to the amenity of future and neighbouring residents. However, this falls below the required on-site contribution, calculated in accordance with Local Plan policy LP63 and the methodology set out in the draft Open Space SPD, nor would a dedicated Local Area of Play (LAP) be provided on site. However, future residents would have access to the large public open space of the adjacent development on MXS6. Nonetheless, to offset the proposal's shortfall in on-site public open space a contribution of £21,753 would be provided, to be spent on open space improvements in the local area. 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.

10.30 The sizes (in sqm) of the proposed residential units are 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. 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.

House Type	Number of units	Proposed (GIA, m <sup>2</sup> )	NDSS (GIA, m <sup>2</sup> )
3-bed	4	80	84
4-bed	10	104	97

10.31 The proposed 4-bed units would exceed the NDSS minimums however, as can be seen, the 3-bed units would be below the NDSS by 4sqm (the 3-bed units make up 28% of the proposal). Consideration has been given to whether the units could be increased in size, however this either causes inadequate parking to be provided or resulted in visually unattractive narrow framed units with small garden sizes.

10.32 While the shortfall is noted, at 4sqm it is not considered significant. It should also be noted that the NDSS, although a useful guide, is not adopted planning policy. The floorplan for this unit still indicates that it could deliver adequate living accommodation. It includes downstairs store and w.c. in addition to living, cooking and dining facilities at ground floor, with three adequately sized bedrooms and family bathroom at first floor. It should also be noted that garden sizes are considered commensurate to the scale of their host dwellings (both 3 and 4-bed unit types). All of the proposed houses would benefit from being dual aspect, and would have satisfactory outlook, privacy and natural light. Taking into account that the NDSS is currently guidance, overall, the scheme would deliver a sufficient quality of living accommodation for future residents in accordance with LP24.

10.33 The above assessment has been made on the application as submitted. When completed, dwellings would benefit from permitted development rights for enlargement and/or modification. Notwithstanding the above comments, further development of this site may cause harmful overdevelopment and/or impact occupiers' amenity and that of their neighbours. Accordingly, officers proposed to remove permitted development rights for alterations, extensions and outbuildings. Permitted development rights are also to be removed for new side facing windows.

10.34 To summarise, the proposed development is not considered detrimental to the amenity of neighbouring residents. Furthermore, the proposal would secure an acceptable standard of amenity for future residents. Subject to the proposed conditions, the proposal is deemed to comply with LP24 of the Kirklees Local Plan.

## Highway

- 10.35 Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed effectively and safely by all users. The policy also states that new development would normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.
- 10.36 Paragraph 108 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 109 of the NPPF adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.
- 10.37 A new access point is to be formed from Leeds Road. Adequate sightlines within the adopted highway have been demonstrated and are to be secured via condition. Cllr Bolt has raised concerns over the location of the access, due to its proximity to the in / out points of the adjacent commercial garage, and that no dedicated right hand turn area is proposed from Leeds Road into the site.
- 10.38 For a 14 units scheme, typical TRICS data for residential developments predicts 10 two-way vehicle movements in the AM and PM peak periods respectively, split as 7 departures and 3 arrivals in the AM peak and reversed for the PM. If considering HS67's full indicative capacity of 22, all of which would use the proposed access, the site would be expected to generate just 15 two-way movements. This would equate to 10 departures and 5 arrivals in the morning peak and 5 departures and 10 arrivals in the PM peak. Not all arrivals would be via right turn access.
- 10.39 The low volume of traffic associated with the proposed development is not considered by Highways Development Management to justify a dedicated right turn access lane, nor would it cause a conflict with the access and egress of the adjacent garage. Notwithstanding this, the applicant did consider alternative options for an access point. Any meaningful movement of the access resulted in the loss of units and difficult access arrangements. Additionally, Highways DM considered whether a right turn could be implemented; it was concluded that there is insufficient room within the highway to facilitate this. Nonetheless, as noted, due to the low volume of traffic associated with the development, neither of these interventions are required.
- 10.40 In regards to the wider network, the proposed level of traffic attributed to this site may be accommodated onto the highway network without causing harm to highway safety or efficiency. Considering whether there are any 'residual cumulative impacts', the adjacent development approved 166 dwellings and commercial structures: however, it included contributions for several highway

improvement in the local area to mitigate the proposal's own direct impact. The contributions which have reached their respective trigger point have been paid, with the Highway Authority in the process of technical planning so as to implement the improvement works. Accordingly, the proposed development is concluded to have neither direct or cumulative impacts upon the network's capacity.

- 10.41 The submitted road layout details and Stage 1 Road Safety Audit have been reviewed by K.C. Highways, who considered there to be no prohibitive reason preventing a scheme for adoption being brought forward at S38 stage. Full technical details of the new access road, to an adoptable standard, are to be sought via condition. Adequate internal turning for local refuse vehicles has been demonstrated (considered further below).
- 10.42 Considering parking layouts and provision, the 3-bed units would have 2 off-road parking spaces while the 4-bed units would have 3. This provision is in accordance with the recommended standards set out within the Kirklees highway's design guide and is welcomed. The delivery of these parking spaces and their retention (including spaces in garages) may be secured via condition. For visitor parking the highway's design guide seeks 1 per 4 dwellings, which would equate to 4 (rounded up) for the proposed 14 dwellings. The proposal has 2 dedicated visitor parking spaces. While a shortfall over the recommended standards, officers and highways development management are satisfied that the proposed street could accommodate two on-street vehicles without causing difficulties for residents or larger vehicles accessing the site.
- 10.43 LP20 relates to sustainable travel and sets out an expectation for applications to support alternative methods of travel to private vehicle. A hierarchy of pedestrians, cyclists, public transport and then private vehicles is set out. For walking, the site is within the urban environment. It is 350m from the nearest local convenience shop and 800m of three local centres identified by the Local Plan. For cycling, the application proposes to provide a 3m wide cycle / walkway along the site's frontage. This would connect to and continue on a similar planned route along the frontage of the neighbouring commercial and residential development. The provision of this may be secured via condition. Furthermore, a condition for the provision of secure cycle storage facilities per dwelling is proposed, to further enhance the attractiveness of cycling. Progressing to public transport, the site is within walking distance of bus stops on Sunny Bank Road and Roberttown Lane which offer services to Leeds, Huddersfield and other nearby towns / villages. Considering these circumstances, officers are satisfied that the proposal supports the set-out hierarchy of transport and complies with the aims and objectives of LP20 of the Local Plan.
- 10.44 Public Right of Way MIR/1/10 runs adjacent to the site's west boundary. The K.C. PROW team offer no object to the proposal, which is not envisioned to impact upon the use and amenity value of the PROW. However, a note has been requested outlining that the PROW should not be closed, blocked or otherwise interfered with during the development process. This is considered reasonable.

- 10.45 Given the scale and nature of the development officers would seek a Construction Management Plan via condition. This is to ensure the development does not cause harm to local highway safety and efficiency. This would be required pre-commencement, given the need to ensure appropriate measures from the start of works. K.C. Highways DM have also advised that a 'highway condition survey' be undertaken, via condition. This would include a review of the state of the local highway network before development commences and a post completion review, with a scheme of remediation works to address any damage attributed to construction traffic. This request is considered reasonable and a condition is proposed by planning officers.
- 10.46 In summary, officers are satisfied that, subject to the referenced conditions, the development would not cause harm to the safe and efficient operation of the Highway, in accordance with the aims and objectives of Policies LP21 and LP22 of the Kirklees Local Plan and the aims and objectives of Chapter 9 of the National Planning Policy Framework.

#### *Waste collection*

- 10.47 A turning head would be provided within the site, which has been demonstrated to be able to accommodate a refuse vehicle.
- 10.48 All units are shown to have a dedicated storage space for up to three bins in an accessible location in their rear garden spaces, which is welcomed and may be secured via condition.
- 10.49 Dedicated bin collection points are not provided. However, each dwelling has a driveway and/or path onto the highway where bins could be placed on collection day. As there is evidently sufficient space for waste collection, officers are satisfied that bins may be presented on the paths, off the public highway, on collection day, with minor inconvenience for occupiers without bins blocking either the road or pavement.
- 10.50 The proposed development is considered to have acceptable refuse storage and collection arrangements, which can be managed without harming the safe and efficient operation of the highway, in accordance with LP21(f).

#### Flood Risk and Drainage

- 10.51 Assessing flood risk, the site is within flood zone 1, which is land having a less than 1 in 1,000 annual probability of river or sea flooding (low risk). The application is supported by a Flood Risk Assessment, which concludes the site does not suffer from flood risk subject to appropriate foul and surface water drainage (considered below). This has been reviewed by the Lead Local Flood Authority (LLFA), who concur with its findings. Surface water flood routing has been considered by the LLFA and is concluded to be acceptable. Accordingly, there are no flood risk concerns.
- 10.52 Considering the proposed drainage, foul drainage would be via the main sewer. This has not been opposed by Yorkshire Water and is considered acceptable. Surface water, sustainable drainage systems of infiltration techniques are considered to be unsuitable on this site, which the LLFA concur with. The applicant has followed the hierarchy of drainage before reaching the

proposed discharge into public combined sewer solution. Technical details, including discharge rate and attenuation size, are supported by the LLFA. Nonetheless, to enable flexibility through the development process, the LLFA advise that the submission of full technical details be secured via condition.

- 10.53 The maintenance and management of the approved surface water drainage system (until formally adopted by the statutory undertaker) would need to be secured via a Section 106 agreement. Details of temporary surface water drainage arrangements, during construction, are proposed to be secured via a condition.
- 10.54 Considering the above, subject to the proposed condition and securing management and maintenance arrangements via the S106, the proposal is considered by officers and the LLFA to comply with the aims and objectives of policies LP28 and LP29 of the LP and Chapter 14 of the NPPF.

#### Planning obligations

- 10.55 Paragraph 56 of the NPPF confirms that planning obligations must only be sought where they meet all of the following: (i) necessary to make the development acceptable in planning terms, (ii) directly related to the development and (iii) fairly and reasonably related in scale and kind to the development. Should planning permission be granted, Officers recommend that this application should be subject to a Section 106 agreement to cover the following:

#### *Affordable Housing*

- 10.56 LP11 of the Local Plan and the Council's Interim Affordable Housing Policy requires major developments (10+ dwellings) to contribute 20% of total units as affordable housing. For this proposal, a 20% contribution would be 3 units, to be of sizes which local need and would contribute towards a balanced and sustainable development.
- 10.57 The applicant has offered 3 units, which is welcomed. The offered units are each 3-bed. K.C. Strategic Housing has identified a significant need for affordable 3 and 3+ bedroom homes in the area. On this basis, officers consider all the units being 3-bed to be acceptable and address identified local needs.
- 10.58 In terms of tenure, the Interim Affordable Housing Policy sets an expectation of affordable units to be split 55% affordable rent and 45% intermediate tenure. However, the applicant is proposing all units as 'discounted market sales housing' (requiring the dwellings to be sold at a discount of at least 20% below local market value). Given the scale of the overall development, having only a single or pair of social homes is not ideal for housing associations or similar groups to manage. Conversely, Strategic Housing have identified the Dewsbury and Mirfield area as having a low rate of home ownership (under 65%). Given these circumstances, three units of discount market sales housing is considered an appropriate form of affordable housing provision, considering local circumstances.

- 10.59 LP11 requires that market homes be indistinguishable from market housing in terms of achieving the same high quality of design. It is also considered good practise to 'pepper-pot' them around a site. Given the layout of the site, having the 3-bed units together, and the overall small number of dwellings, the spreading out of affordable housing has not been possible. Due to the circumstances of the development, and the specific desire for affordable 3-bed units, this is not opposed by officers. It is acknowledged that the 3-bed units fall below the recommended minimum floor spaces of NDSS. However, for the reasons given in paragraph 10.32 of this report, the minor shortfall is not considered materially detrimental to resident's amenity. The visual appearance, parking provision and garden space remain to the same standard as the proposed open market units. Accordingly, officers are satisfied that the proposed units are the same high quality of design as the other units on site.
- 10.60 Based on the above, officers consider the proposed affordable housing offer to be acceptable, in accordance with LP11 and Council's Interim Affordable Housing Policy. The affordable housing is to be secured via condition.

#### *Public Open Space*

- 10.61 In accordance with LP63 of the Kirklees Local Plan new housing developments are required to provide or contribute towards new open space or the improvement of existing provision in the area. Based on the scale of the development 1344.28sqm of on-site Public Open Space is needed for the proposal, an off-site contribution of £22,943, or a mixture of the two.
- 10.62 The provision of 169sqm of on-site Public Open Space (Amenity Green Space) is welcomed, with that proposed being an appropriate layout and logical use of the site's available land. The provision, management, and maintenance of this on-site POS is to be secured via S106. An off-site contribution of £21,753 is required to off-set the shortfall, also to be secured via S106. With these secured via S106, the proposal is deemed to comply with LP63.

#### *Education*

- 10.63 Applications proposing over 25 dwellings require consideration as whether education contributions are required. The proposed development falls below this trigger. From a master planning perspective, the allocation's indicative capacity of 22 also falls below this threshold. Accordingly, education contributions are not sought on this proposal.

#### *Management and maintenance*

- 10.64 In addition to the contributions required, officers are to seek clauses requiring the appropriate management and maintenance of the site's drainage infrastructure prior to adoption by Local Ward. Another management and maintenance clause are proposed for the on-site public open space (as previously detailed).



## Other Matters

### *Air quality*

- 10.65 K.C. Environmental Health raised concerns that the site was in close proximity (within 20m) to Leeds Road, which is considered a potential source of poor air quality due to the volume of traffic it hosts. Therefore, the applicant was requested to provide an Air Quality Impact Assessment. This was submitted and reviewed by Environmental Health, who are satisfied with the conclusion that the site would not be subject to poor air quality. This is because it has been demonstrated air pollutant levels are well below the national air quality objectives and the traffic associated with the development itself is not predicted to have a significant impact on local air quality.
- 10.66 Notwithstanding the above, in accordance with government guidance on air quality mitigation, outlined within the NPPG and Chapter 15 of the NPPF, and local policy contained within LP24(d) and LP51 and the West Yorkshire Low Emission Strategy Planning Guidance seeks to mitigate Air Quality harm. Given the scale and nature of the development officers seek the provision of electric vehicle charging points, one per dwelling, on new development that includes car parking. The purpose of this is to promote modes of transport with low impact on air quality.
- 10.67 Subject to a condition requiring this provision, the proposal is considered to comply with LP24(d) and LP51 of the Local Plan.

### *Contamination*

- 10.68 Due to the scale of the proposed development appropriate contaminated land site investigations, and any necessary mitigation, are recommended via condition by K.C. Environmental Health. In the interest of the safety of future end users, Officers concur with this assessment, to comply with LP53 if the KLP.

### *Crime Mitigation*

- 10.69 The West Yorkshire Police Liaison officer has made a number of comments and recommendations, particularly with regards to home security, rear access security and boundary treatments. All of the comments made are advisory and have been referred to the applicant, with many incorporated into the proposal during the amendments. It is therefore considered that the site can be satisfactorily developed whilst minimising the risk of crime through enhanced security and well-designed security features in accordance with LP24(e)

### *Trees and Ecology*

- 10.70 There are numerous trees within and around the site, although none benefit from Tree Preservation Orders, either within the site or on neighbouring land. Nonetheless LP33 establishes a principle against the loss of trees of significant amenity value. The proposal would necessitate the removal of numerous trees from within the site and on its boundary. However, none of these trees are considered to be of significant amenity value, being poor quality and not enhancing the character of the area. Their loss could be

adequately mitigated against through appropriate re-planting, to be secured within a detailed landscape scheme via condition. The retention of those shown to be kept on plan is to be secured via a condition for an arboricultural method statement, to ensure they are protected and kept during the development process. Subject to this, the proposal is considered to comply with LP33 of the Local Plan.

- 10.71 The application is supported by an Ecological Impact Assessment (EclA). It concludes that the site has high ecological value, although it does not host either bats or other protected species. However, it makes numerous recommendations to ensure the impact upon local ecology is minimised. This includes the retention of trees and hedgerow, with replacement planting, to provide habitat for bats. A lighting strategy is to be secured via condition to ensure the site remains suitable for local bat populations. Measures are also proposed to mitigation low potential impacts upon newts, hedgehogs and badgers in the area. These measures have been reviewed by K.C. Ecology, who concur with the findings, subject to all recommendations being secured via condition.
- 10.72 Japanese knotweed, an invasive non-native species has been identified on site. A condition is to be imposed requiring a protocol be submitted and implemented, detailing the containment, control and removal of the plant, in the interest of preventing further propagation and harm to local ecology
- 10.73 In addition, a net biodiversity gain needs to be demonstrated in accordance with Local Plan policy LP30 and chapter 15 of the NPPF. Net gain is measurable, and the degree of change in biodiversity value can be quantified using a biodiversity metric. The applicant has undertaken the metric calculations and concluded, post on-site interventions, a net loss of circa 75% ecological units on site but a net gain of 12.56% for hedgerow units. The provision and retention of the hedgerow units is to be secured within the Ecological Design Strategy. For the ecological units, with a desired 10% net gain, this level of ecological unit loss would necessitate an off-site contribution of £40,020, to be spent on enhancements in the local area by the Council. This has been accepted by the applicant, with the agreed figure to be secured within the S106 agreement.
- 10.74 Subject to the proposed conditions and securing the S106, officers are satisfied that the proposal complies with the aims and objectives of LP30 of the Kirklees Local Plan.

#### *Minerals*

- 10.75 The application site falls within an area designed as a Mineral Safeguarded Area (Sandstone and/or Clay and Shale) in the Local Plan. This allocation indicates that there is the potential for these mineral resources to be underlying the site. The applicant has indicated that it would not be feasible to work these minerals due to the scale of the site, its urban setting, and the proximity of existing dwellings to the east and potentially the south, depending on the neighbouring development's progress.
- 10.76 Officers concur that local constraints would be such that mineral extraction in this location would not be viable. It would not be possible to allow adequate standoff areas to provide an amenity buffer between the existing residential

properties surrounding this site and allow a sufficient area to work the mineral resources. Furthermore, as a housing allocation, there is a clear need for the expedient delivery of the site.

- 10.77 It is therefore considered that the proposal complies with the aims and objectives of LP53 regarding mineral safeguarding issues.

#### Representations

- 10.78 Eight representations have been received to date. Most matters raised have been addressed within this report. The following are matters not previously directly addressed.

- The site was previously used as a tip for many years, including asbestos.

**Response:** This claim has not been substantiated. Regardless, a condition is proposed to require full contaminated land site investigation (as is standard practise for all major residential proposals). Should contamination be identified during these investigations, appropriate remediation and validation would be required to be demonstrated: this approach is supported by K.C. Environmental Health.

- Object to the loss of green space in Mirfield, whereas there are available brownfield sites.

**Response:** The allocation of this site and other Greenfield sites as housing allocations was based upon a rigorous borough-wide assessment of housing and other needs, as well as an analysis of available land and its suitability for housing through the Local Plan examination process. It was found to be an appropriate basis for the planning of the Borough by the Planning Inspector. Whilst the Local Plan strongly encourages the use of Brownfield land, some development on Greenfield land was demonstrated to be necessary in order to meet development needs. Furthermore, within the NPPF, the effective use of land by re-using brownfield land is encouraged but the development of Greenfield land is not precluded with the presumption in favour of sustainable development being the primary determinant.

- Questions whether this site could be accessed via the adjacent ongoing development by Taylor Wimpy.

**Response:** The adjacent Taylor Wimpy development received original received planning permission for residential development in 2015 (via 2014/90688), prior to the local plan and the application's site allocation as a housing site. Taylor Wimpy's approved layout does not lend itself to accessing the application site, which is also noted to be on a higher ground level. It would be unreasonable to both the application and Taylor Wimpy to enforce such an arrangement.

- Concerns that the development has increased from 12 to 14 units.

**Response:** The increase was undertaken following planning officers expressing concerns over the low density and perceived breach in policy LP7. While still not achieving the Local Plan's target density of 35 dwellings per ha, as outlined in paragraphs 10.6 of this report, the amended density of 14 units is considered to be acceptable.

- It is noted that no pre-application consultation event took place.

**Response:** While advisable, pre-application consultation events for developers are not compulsory for developments such as that being considered, by either local or national planning policy.

- A supportive representation has been received contradicting many of the comments in opposition to the proposal. These include claiming the site was not used as a private or public tip, with no asbestos on site following it being cleared of waste in the 70s. Furthermore, it is disputed that the access would conflict with a neighbouring business.

**Response:** Comments in support are noted.

10.79 Councillor Martyn Bolt also raised concerns and queries relating to the application. These have been addressed within the report.

## 11.0 CONCLUSION

11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

11.2 The proposal seeks residential development on part of a housing allocation HS67. The development does exclude part of HS67, however would allow for the future development of the remainder of the allocation. For the reasons given in this report, officers are satisfied that the proposal represents an efficient and effective development of the housing allocation, with an appropriate density considering the constraints of the site. Therefore, the principle of the proposed residential development is accepted.

11.3 Site constraints including topography, site shape, trees and ecology, and various other material planning considerations. Nonetheless, the proposed development adequately addresses each. The design and appearance of the proposed development is considered acceptable. The proposal is considered visually attractive and there would be no harm to the amenity of neighbouring residents or future occupiers. The proposed access and highway impacts have been assessed to be acceptable. Other planning issues, such as drainage, ecology and trees, have been addressed through the proposal.

11.4 The proposal would not harm material planning considerations. Furthermore, it would provide an enhancement to local affordable housing, providing 3 affordable dwellings, and open space, with circa 169sqm on-site and off-site contributions to enhance local facilities and ecology, in line with policy.

11.5 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval, subject to conditions and planning obligations to be secured via a Section 106 agreement.

## **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 specifications
3. Facing and roofing materials details to be provided.
4. Final site levels to be confirmed and agreed.
5. Landscaping Strategy, to include details of green gabion wall
6. Notwithstanding submitted plans, boundary treatment and retaining walls (gabion baskets) details to be submitted.
7. Gabion baskets management plan
8. Remove PD rights for alterations, extensions and outbuildings on all plots
9. All side facing windows to be obscure glazed
10. Implementation and retention of approved noise mitigation measures.
11. Provision of cycle / walkway improvement details along frontage, and provision arrangements.
12. Technical details of new road to adoptable standard.
13. Parking spaces proposed to be provided and retained, including all garages to be retained for vehicle storage.
14. Provision of bin-storage facilities, as shown on plan.
15. Construction Management Plan (CMP), to detail construction vehicle arrangements and process, to be submitted.
16. Highway condition survey to be undertaken and maintained.
17. Sightline to be provided and secured as shown on plans.
18. Submission of cycle storage details, and implementation.
19. Submission of technical drainage strategy
20. Temporary drainage strategy for during construction period.
21. Provision of Electric Vehicle Charging Points (1 per dwelling)
22. Contaminated Land (Phase 1, Phase 2, Remediation and Validation, as required)
23. Arboricultural Method Statement
24. Removal strategy for invasive knotweed
25. Submission of Ecological Design Strategy, to include securing hedgerow net gain.
26. To be done in accordance with Ecological Impact Assessment's recommendations
27. Submission of lighting strategy for ecological preservation.
28. Note: not to interfere with adjacent PROW.

### **Background Papers**

#### Application and history files

Available at:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2F92368>

#### Certificate of Ownership

Certificate A signed.

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## Report of the Head of Planning and Development

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 14-Apr-2021

**Subject: Planning Application 2020/91747 Demolition of former dairy/snooker centre/storage and erection of 9 light industrial units Land Adjacent, 60, Northgate, Cleckheaton, BD19 3NB**

#### APPLICANT

I Storer, D & M Middleton

#### DATE VALID

25-Jun-2020

#### TARGET DATE

24-Sep-2020

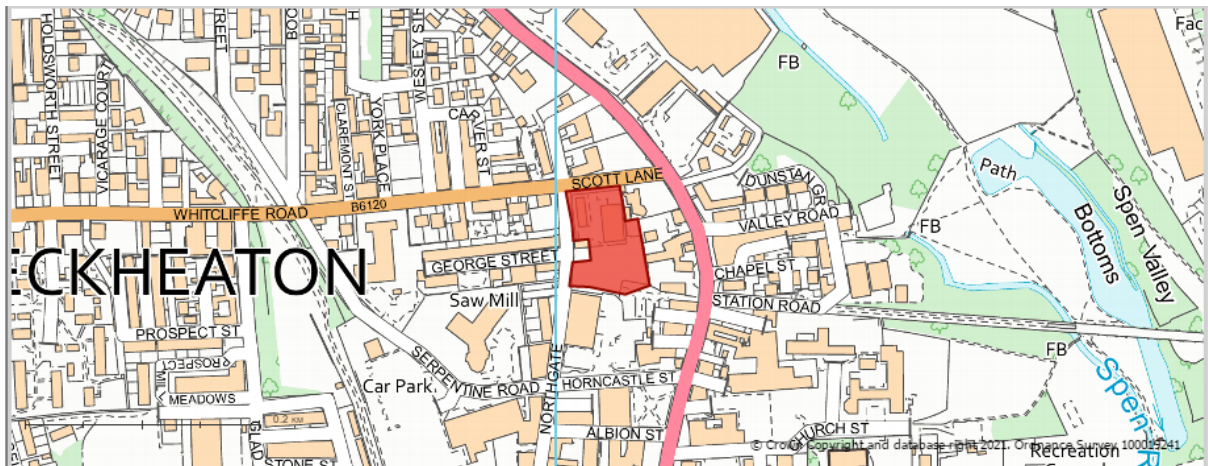
#### EXTENSION EXPIRY DATE

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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

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**Electoral wards affected: Cleckheaton**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**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 forward to the Heavy Woollen Sub-Committee at the request of Councillor Andrew Pinnock. Councillor Pinnock's reason for making the request is "the effect on the residential amenity of surrounding dwellings, and the effect on the local roads of an intensification of industrial (or business) uses."
- 1.2 The Chair of the committee has confirmed that Councillor Pinnock's reason is valid having regard to the Protocol for Planning Committees.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site comprises an area of vacant land that is approximately 0.45 hectares in size. The site slopes down from Northgate towards the east.
- 2.2 The northern part of the site was last used for a range of different uses, including a dairy, snooker hall and children's nursery. Derelict buildings relating to these former uses have remained on the site although it is understood that work to demolish them commenced in February 2021. This part of the site has an existing point of access from Scott Lane.
- 2.3 The southern part of the site forms an area of unkempt land covered largely with low lying vegetation. There is an existing point of access from Northgate that has been blocked off.
- 2.4 The site lies on the edge of Cleckheaton town centre. Immediately to the south is a Home Bargains store and to the eastern boundary is a dental practice, car dealership, car wash and other commercial uses. The site is bound to the north by Scott Lane with residential development beyond. Northgate runs parallel to the western boundary and towards the west are a mixture of dwellings, light industrial and office uses as well as a small domestic garage site. The site wraps around 60 Northgate, which forms a two-storey office/retail unit with a car park to one side.



### **3.0 PROPOSAL:**

- 3.1 This is a full application for the demolition of the existing buildings on the site and the erection of 9 light industrial units. The application describes the proposals as starter units.
- 3.2 Six units are proposed in the northern part of the site (units A-F) and three in the southern part (units G-I).
- 3.3 Units A-C are formed on two levels with pedestrian access onto Northgate and the vehicular access to the rear being at a lower level. The remainder of the units are single storey. The units would be constructed from composite colour coated panels, with the exception of units A-C which would be faced in stone where they front onto Northgate.
- 3.4 There would be a one-way vehicular access system with vehicles entering from Scott Lane and exiting onto Northgate.

### **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 The application site formed part of a much larger site that was the subject on an approved outline application (ref 2001/92868) and subsequent reserved matters approval (ref 2005/91881) for a superstore.
- 4.2 Planning permission for six industrial unit/starter units on the southern part of the site was approved under application 91/04914 (decision notice dated 1<sup>st</sup> December 1997).

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

- 5.1 There was a formal pre-application enquiry submitted in 2020 for a mixed-use residential and light industrial scheme on the site. This proposed 15 dwellings in the northern part of the site and several light industrial units in the southern part of the site. The overall principle of development was considered to be acceptable although the Police Architectural Liaison Officer raised strong concerns with the location of the dwellings facing onto Scott Lane.
- 5.2 The planning application was amended by the applicant to reduce the number of units from twelve to nine, by omitting three units in the southern part of the site.
- 5.3 Additional information was provided to address highways, drainage and ecological matters. Site illustrations were also provided to assist with the assessment of the proposals.

### **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<sup>th</sup> February 2019).

6.2 The site is unallocated in the Local Plan.

6.3 Kirklees Local Plan (2019):

LP1 – Presumption in favour of sustainable development

LP3 – Location of new development

LP7 – Efficient and effective use of land and buildings

LP21 – Highways and access

LP22 – Parking

LP24 – Design

LP27 – Flood Risk

LP28 – Drainage

LP30 – Biodiversity and geodiversity

LP51 – Protection and improvement of local air quality

LP52 – Protection and improvement of environmental quality

LP53 – Contaminated and unstable land

6.4 Supplementary Planning Guidance / Documents:

Highway Design Guide SPD

6.5 National Planning Guidance:

NPPF Section 2 – Achieving sustainable development

NPPF Section 6 – Building a strong, competitive economy

NPPF Section 8 – Promoting healthy and safe communities

NPPF Section 9 – Promoting sustainable transport

NPPF Section 11 – Making effective use of land

NPPF Section 12 – Achieving well-designed places

NPPF Section 14 – Meeting the Challenge of Climate Change, Flooding and Coastal Change

NPPF Section 15 – Conserving and enhancing the natural environment

**7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application was advertised by site notices, press advert and neighbour notification letters. Ten objections have been received from eight different people. A summary of the concerns raised is provided below.

- Concerns with the amount and nature of traffic that would be generated, particularly HGVs.
  - Surrounding road network is unsuitable for HGVs; heavy goods vehicles do not currently use & never have used Scott Lane or Northgate.
  - HGVs and other large vehicles would pose a danger to children and elderly people.
  - Noise, vibration and air pollution from site traffic.
  - HGVs and other larger vehicles would cause obstructions for local residents.
  - Impact of HGVs on Northgate/Horncastle Street junction.
  - Impact of traffic on road surface.

- The parking provision on site does not reflect the actual volume and types of vehicular traffic that would be associated with the development because works and heavy goods vehicles have been excluded from the parking and transport assessment.
- Conflict between the site's egress onto Northgate and the entrance to George Street.
- Development may cause on-street parking problems.
- No proper provision for pedestrians.
- Concerns that the units would be used for more intensive uses than 'light industrial'. The drawings show heavy wagons and articulated lorries and full height industrial doors.
- Light pollution/glare from the units and vehicles exiting the site.
- Noise from the units affecting neighbouring properties. Proposed building materials will provide poor noise insulation.
- Detrimental impact on users of adjacent offices.
- Development is incompatible within a residential area.
- Appearance of the units would have a negative impact on the area.
- Detrimental impact on visual amenity; materials and scale of buildings inappropriate within the site's context.
- Poor landscaping of the development.
- Detrimental impact on property values.
- There is not a need for new industrial units in this location given the prevalence of other available sites in this area.
- No previous industrial use on this site, contrary to statements made within the application submission.
- Land should be used for affordable housing or as a playground.
- Land is better suited to residential use.
- Integrity/stability of 60 Northgate and the adjacent public highway may be undermined by the construction of the development given the topography of the site, which falls away from Northgate.
- The proposed layout does not provide sufficient space to maintain the gable end of 60 Northgate.

- Risk of accidental vehicle collision to 60 Northgate; no preventative measures have been incorporated into the design.
- No pre-application consultation carried out by the applicant, contrary to the submitted 'Statement of Community Involvement'.
- Land ownership – The submitted land ownership certificate is incomplete and misleading because notice should have been served on Kirklees Council because they own the own the freehold to a proportion of the site.
- The Council has a beneficial interest in this application because it owns the freehold to part of the site and has entered into an Agreement for Sale with the applicant.
- Site address in the application is misleading
- Inconsistencies within the application submission – the intrusive site investigation report includes an incorrect postcode and refers to residential development on the site
- Insufficient supporting information – there is insufficient information to properly assess the impact on 60 Northgate and no lighting assessment, noise impact assessment, or air quality statement have been provided.
- The Council has not enforced planning obligations relating to a historic planning permission on part of the site (planning permission 91/04914 issued 1<sup>st</sup> December 1997 for six industrial unit/starter units).
- The application site should have been allocated for housing in the Local Plan. The southern part of the application site formed part of a rejected housing option in the Local Plan; the land was rejected because a retail store had recently been erected on part of the land (the current Home Bargains store) and the remainder of the land did not meet the size threshold for a housing allocation. If the northern part of the current application site had been included then the size threshold would have been met and the land could have been allocated for housing.

## 8.0 CONSULTATION RESPONSES:

### 8.1 Statutory:

**KC Highways Development Management** – No objection subject to conditions.

**KC Lead Local Flood Authority** – No objection subject to conditions.

**The Coal Authority** – No objection.

### 8.2 Non-statutory:

**KC Environmental Services** – No objection subject to conditions relating to contamination, noise, construction management plan and provision for electric vehicle recharging.

**KC Ecology Unit** – No objection in principle; details to secure a biodiversity net gain are required, either through on-site measures or an off-site contribution.

**Police Architectural Liaison Officer** – No objections; advice provided in respect of security measures that should be incorporated into the development.

## 9.0 MAIN ISSUES

- Principle of development
- Employment considerations
- Urban design issues
- Residential amenity
- Highway issues
- Drainage issues
- Ecology and trees
- Representations
- Other matters
- Climate change

## 10.0 APPRAISAL

### Principle of development

- 10.1 The site is an unallocated brownfield site situated immediately on the edge of Cleckheaton town centre which has been vacant for a considerable period of time.
- 10.2 It is proposed to erect nine light industrial starter units on the site. The proposal therefore provides an opportunity boost the supply of employment land in this part of the District whilst making use of derelict land. Furthermore, the site is situated in a sustainable location, with very good connectivity to the town centre and the transport links and amenities that it provides.
- 10.3 The principle of the development is consistent with the aims of the National Planning Policy Framework (NPPF) in terms of promoting sustainable economic growth and making effective use of land. The principle of the development is therefore considered to be acceptable subject to consideration of all relevant material planning considerations, as set out in the remainder of this report.

### Employment considerations

- 10.4 The application has largely been submitted on a speculative basis although the applicant has advised that there are three local companies who are lined up to occupy four of the proposed units. These are Westgate Glass (2 units), Mega Van Matts and Harrison Trim. Several other companies have also expressed an interest in the site.
- 10.5 Given that all the potential end-users are unknown at this stage it is not possible to specify the exact number of jobs that the development would support, however the applicant estimates that there would be in the region of 50 people working at the site. The Homes and Communities Agency's Employment Density Guide (3<sup>rd</sup> edition, November 2015) suggests that a development of

this size would be expected to support approximately 39 full-time members of staff. It is therefore considered that there would be somewhere in the region of this number of full-time equivalent jobs.

- 10.6 The provision of modern light industrial units would help to support employment opportunities and this weighs in favour of the proposed development.

#### Urban Design issues

- 10.7 The northern part of the site has been vacant since around the year 2000 when the snooker centre closed and up until recently contained some derelict structures relating to the former uses on the site. The southern part of the site forms an area of unkempt, scrubby land. The condition and appearance of the application site detracts from the character of the surrounding area.
- 10.8 The site slopes down from Northgate towards the eastern boundary, with a fall of some 3 to 4 metres.
- 10.9 To the south of the site is a large, modern retail unit that is faced in a mixture of brick, white render and grey cladding. Natural stone is prevalent on the residential and office buildings immediately surrounding the site and brick is also found on a number of buildings within the wider vicinity. On the opposite side of Northgate is a joinery workshop/sawmill that sits at the corner of Northgate and George Street where it is faced in a mixture of stone and timber.
- 10.10 The site lies within an area that forms the transition between the town centre and the dense residential area to the north west beyond Whitcliffe Road. Whilst the make-up of the area immediately surrounding the site includes a large amount of residential development, it also includes several non-residential uses and historically the application site contributed to this mixed-use character with the nursery, snooker hall and dairy. In this context, it is considered that light industrial units would not be out of keeping with the established character of the area.
- 10.11 The proposed layout has three adjoining units facing directly onto Northgate (units A-C). These units would be two storeys to the roadside and would be faced in natural stone with contrasting coloured panels; this elevation includes pedestrian doors and a series of windows. As such, it is considered that the design of these units would provide a positive interface with the streetscene.
- 10.12 Units A-C would sit directly adjacent to 60 Northgate. The plans show that the height of these units would be slightly lower than the ridge height of this existing building which will help to assimilate the proposals into the streetscene.
- 10.13 Units D-F are set within the site behind units A-C. Both blocks have a gable end facing towards Scott Lane, separated from the road by some tandem parking spaces and a boundary wall. The gable ends would be faced in grey cladding. These units follow the topography of the site by stepping up in height towards Northgate.

- 10.14 Officers are satisfied that the appearance of the development from Scott Lane is acceptable, although it should be enhanced with a high-quality boundary treatment such as natural stone walling. Stone boundary walls are characteristic of the area and this would help to integrate the proposals within the streetscene. The same applies to the proposed boundary wall to Northgate.
- 10.15 The three units in the southern part of the site units (G-I) are set towards the eastern boundary and would be viewed in the context of the commercial uses to the south and east that lie within the town centre. These units would be set back from, and would be at a lower level to, Northgate which helps to mitigate their prominence when viewed from the west.
- 10.16 In summary, the proposed development would improve the visual amenity of the area by regenerating an untidy and derelict piece of land. This type of development would not be out of keeping with the surrounding area and the layout, scale and appearance of the development are such that the proposals would successfully integrate with surrounding development. Approval of samples of the proposed facing materials can be secured by condition. The application is considered to comply with Policy LP24 of the Local Plan and guidance in the NPPF.

#### Residential Amenity

- 10.17 The site is in a mixed-use area, with residential and commercial premises surrounding the site. The proposals are for light industrial units which would fall within Use Class E(g). These are uses which can be carried out in a residential area without detriment to its amenity, including industrial processes. The principle of light industrial use is therefore acceptable in a residential area.
- 10.18 The proposed development is situated near residential properties which may be negatively impacted by noise. As the future occupiers of all the units are currently unknown, undertaking a noise assessment at this stage would not effectively predict the future noise impact from the operations at the various units. It is therefore recommended that a condition restricting the level of noise from each of the individual units is necessary. This will ensure that the combined noise from the whole site is controlled effectively.
- 10.19 It is recognised that vehicular activity to and from the site also has the potential to give rise to noise disturbance. To ensure that this is limited as far as reasonably practical, a condition restricting the hours of operation of the units is recommended. This would help to prevent noise nuisance at unsociable hours, specifically during the night.
- 10.20 The siting and the scale of the proposed units are such that the development would not result in any overbearing effects or overlooking issues in relation to neighbouring houses. Some of the units are in close proximity to the rear elevation of an existing dental practice (57 Bradford Road) as well as some offices at 60 and 103 Northgate, however, it is not considered that the amenities of the users of these existing properties would be unduly prejudiced by the proposed buildings.

- 10.21 To mitigate the impact of the construction of the development, a condition is recommended for a Construction Environmental Management Plan (CEMP) to ensure that all reasonable steps are taken to minimise and mitigate adverse effects from construction noise to safeguard residential amenity.
- 10.22 A number of concerns have been raised by local residents regarding the proposed development's impact on residential amenity, such as from noise, air pollution (including vehicle exhaust emissions) and glare from stray light from the units and/or service yard and light pollution. As stated above, officers are satisfied that noise can be adequately controlled by conditions and a further condition requiring details of any external lighting can also be imposed to help address the concerns with glare/light pollution. The nature of the proposal (light industrial) means that any industrial processes must be compatible within a residential area and so should not give rise to any significant air quality issues. More intensive industrial processes ('general industrial') fall within a separate use class (B2) and would not be permitted under this proposal. It is to be noted as well that the number of units has been reduced from 12 to 9 since neighbour representations were submitted.
- 10.23 Kirklees Environmental Services have not raised any objections to the application and, subject to conditions, officers consider that the proposal complies with policies LP24 and LP52 of the Local Plan and guidance in the NPPF.

#### Highway issues

- 10.24 It is proposed that the development would have a one-way vehicular access system with vehicles entering from Scott Lane and exiting onto Northgate. This is welcomed by Highways Development Management because it would overcome potential visibility concerns onto Scott Lane.
- 10.25 A total of 48 parking spaces are proposed and this level of parking is considered acceptable for the development, particularly considering its accessible location on the edge of the town centre. The plans also show space for refuse storage, although the location of the bin store immediately adjoining one of the units is unsatisfactory because of the risk posed by fire. A condition requiring revised details for the location of the proposed bin store and/or details of measures to address the risk posed by fire through the construction of the bin store is therefore recommended.
- 10.26 The nature of the units, which are relatively small starter units for light industrial purposes, means they are most likely be served by small to medium commercial vehicles. The vehicle tracking that has been submitted is for a 7.5m panel van, which would be typical for this type of development. Concerns have been raised by objectors regarding the site being used by articulated lorries and HGVs. The proposed layout of the site is such that these types of vehicle would be unable to properly load and unload from the individual units which would be a barrier to businesses that require the use of such vehicles.
- 10.27 It is considered that the traffic associated with a development of this scale and type can be accommodated on the local highway network without giving rise to any significant adverse impacts.



- 10.28 In summary the proposal is considered to be acceptable from a highway safety perspective and the application accords with Policies LP20, LP21 and LP22 of the Local Plan and guidance in the NPPF.

#### Drainage issues

- 10.29 Kirklees Lead Local Flood Authority (LLFA) have assessed the application, including additional information relating to surface water flow routing across the site.
- 10.30 The LLFA raise no objections to the application subject to conditions relating to the detailed surface water drainage design and measures to ensure suitable arrangements are in place for the future maintenance and management of the surface water infrastructure within the site. A condition is also recommended regarding temporary drainage during the construction phase.

#### Representations

- 10.31 Ten representations have been received. The main grounds of objection are in relation to highway safety and residential amenity issues as well as the visual impact of the development. All these matters have been addressed earlier within this report. A response to those matters that have not already been addressed is provided below.

#### *Development would cause obstruction on the surrounding roads*

**Officer response:** The development would have different points of ingress and egress and provides sufficient turning and parking spaces within the site. There are also parking restrictions on the adjacent roads (double yellow lines on Scott Lane and single yellow lines on Northgate). These factors would help to prevent obstructions and parking issues for neighbouring properties.

#### *Impact of traffic on road surface*

**Officer response:** The proposed development is not of a scale that would justify highway resurfacing works although a condition is recommended to ensure that damage to the road surface arising from the construction phase is remedied by the developer.

#### *Poor landscaping of the development*

**Officer response:** There is limited scope for soft landscaping and a condition requiring details of the boundary treatment of the site is recommended. Officers consider that the boundary wall to Scott Lane and Northgate should be constructed from natural stone to harmonise with the surrounding area.

#### *Detrimental impact on property values*

**Officer response:** This is not a material planning consideration.

#### *There is not a need for new industrial units in this location given the prevalence of other available sites in this area.*

**Officer response:** The 'need' for the units is not a material planning consideration and is a commercial decision for the developer. The provision of additional employment floorspace (designed with reference to present-day commercial needs) is nevertheless considered to be a benefit in planning terms.

No previous industrial use on this site, contrary to statements made within the application submission

**Officer response:** Officers have considered the previous uses of the site when considering the application.

Land should be used for affordable housing or as a playground  
Land is better suited to residential use

**Officer response:** The land is unallocated in the Local Plan. The Local Planning Authority is required to make a decision on the scheme that has been proposed under this application, having regard to all material planning considerations.

Integrity/stability of 60 Northgate and the adjacent public highway may be undermined by the construction of the development given the topography of the site, which falls away from Northgate.

**Officer response:** Risks arising from land instability is a material planning consideration although the NPPF clearly states that where a site is affected by land stability issues, responsibility for securing a safe development rests with the developer and/or landowner (paragraph 179). A condition requiring details of any highway retaining structures is recommended to address potential impacts on highway safety. With regards to the impact on 60 Northgate, the developer has a responsibility to ensure that adjoining private property is not prejudiced and issues with structural integrity would fall under Building Regulations legislation.

The proposed layout does not provide sufficient space to maintain the gable end of 60 Northgate

**Officer response:** The end of unit C is very close to the gable end of 60 Northgate although there is a gap between the buildings. The issue of maintenance is not a material planning consideration although it is considered that access to the side wall of 60 Northgate is physically achievable.

Risk of accidental vehicle collision to 60 Northgate; no preventative measures have been incorporated into the design.

**Officer response:** There is no requirement from a planning point of view for such measures to be incorporated.

No pre-application consultation carried out by the applicant, contrary to the submitted 'Statement of Community Involvement'.

**Officer response:** There is no formal requirement for an applicant to undertake consultation with neighbouring occupiers although it is accepted good practice.

Land ownership – The submitted land ownership certificate is incomplete and misleading because notice should have been served on Kirklees Council because they own the own the freehold to a proportion of the site.

The Council has a beneficial interest in this application because it owns the freehold to part of the site and has entered into an Agreement for Sale with the applicant.

**Officer response:** The Council owns the freehold to the northern part of the site and some small slithers of land within the southern part of the site. The applicant has confirmed that they have entered into a legal agreement with the Council to purchase this land, which is subject to planning permission being obtained. The applicant has provided a copy of the legal agreement to the Local Planning Authority. The agreement is dated 20<sup>th</sup> April 2020 and pre-dates the

submission of the planning application, which was received on 11<sup>th</sup> June 2020 (application validated 25<sup>th</sup> June 2020). The Council's Disposals and Acquisitions team have also confirmed that they have an ongoing involvement with the prospective land transfer. While the applicant should have included the Council on the Ownership Certificate, it is accepted that the applicant had, in effect, served notice on the Council 21 days before the date the application was submitted.

The planning application has been assessed solely on its planning merits and no regard has been paid to any financial gain to the Council that would result from the land transfer.

Site address in the application is misleading

**Officer response:** It is considered that the site location provided by the applicant adequately describes the site's location.

Inconsistencies within the application submission - the intrusive site investigation report includes an incorrect postcode and refers to residential development on the site

**Officer response:** Issues with the intrusive site investigation report were also identified by Kirklees Environmental Services, who have recommended that a condition be imposed requiring an updated site investigation report that fully reflects the proposed end use.

Insufficient supporting information – there is insufficient information to properly assess the impact on 60 Northgate and no lighting assessment, noise impact assessment, or air quality statement have been provided.

**Officer response:** Officers are satisfied that the level of information provided has enabled a proper assessment of the impact on 60 Northgate. For example, the submitted Streetscene drawings demonstrate the adjacent units (A-C) would be lower in height than 60 Northgate. Noise and lighting are proposed to be addressed through conditions. Air quality is addressed later in this report.

The Council has not enforced planning obligations relating to a historic planning permission on part of the site (planning permission 91/04914 issued 1<sup>st</sup> December 1997 for six industrial unit/starter units).

**Officer response:** This planning permission was not carried out and therefore the associated planning obligations do not apply.

The application site should have been allocated for housing in the Local Plan. The southern part of the application site formed part of a rejected housing option in the Local Plan; the land was rejected because a retail store had recently been erected on part of the land (the current Home Bargains store) and the remainder of the land did not meet the size threshold for a housing allocation. If the northern part of the current application site had been included then the size threshold would have been met and the land could have been allocated for housing.

**Officer response:** The Local Plan was adopted in February 2019 and the application site comprises unallocated land within the Plan. The application has been assessed on this basis.

### Ecology and trees

- 10.32 The site has relatively limited ecological value and the risk of significant ecological impacts due to the proposed development is low. The proposal would nevertheless result in a net biodiversity loss and Policy LP30 of the Local Plan and the NPPF require that new development provides a biodiversity net gain.
- 10.33 A biodiversity net gain has not currently been demonstrated by the applicant. On-site measures to deliver ecological enhancements should be provided. Alternatively (if a net gain cannot be achieved on-site), off-site mitigation would be necessary – either through habitat improvements at a site within the applicant's control, improvements at a third-party land bank or a commuted sum to facilitate habitat improvements in an offsite location. Confirmation as to how a net gain will be achieved will be provided within the Agenda Update.
- 10.34 In addition the above, a condition requiring an Ecological Design Strategy is considered necessary. This should include bat/bird box provisions within the new buildings and appropriate planting within the areas of the site that are shown to provide soft landscaping.
- 10.35 A bat survey was submitted with the application which confirmed that the buildings/structures on the site have negligible potential for roosting bats. An active bird nest was however recorded in one of the buildings. It is understood that works to demolish the buildings commenced in February this year, which is outside of the bird breeding season for nesting birds.
- 10.36 There are no trees on the site there are worthy of preservation.

### Other Matters

- 10.37 The site falls within The Coal Authority's Development High Risk Area. Relevant information relating to the legacy of coal mining and the potential impact on the development has been submitted. The Coal Authority is satisfied that this demonstrates that the application site is safe and stable for the proposed development.
- 10.38 A condition requiring an updated intrusive site investigation report is recommended to address land contamination issues, along with conditions relating to site remediation and validation.
- 10.39 The Police Architectural Liaison Officer raise no objection to the application, subject to suitable crime prevention measures being incorporated into the development. These include boundary treatments, gates to the vehicular accesses when the site is not in use, secure cycle parking and lockable bin store. Advice has also been provided in relation to other security measures such as building construction, external lighting and CCTV. It is considered that a condition requiring full details of the proposed security measures for the development is necessary. Security considerations relating to boundary treatments and external lighting will need to be balanced alongside visual and residential amenity considerations.

- 10.40 A condition requiring details of a scheme for the provision of electric vehicle recharging points is recommended. This will help to mitigate the impact of development on air quality.

#### Climate change

- 10.41 On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.
- 10.42 The proposal involves the reuse of previously developed (brownfield) land and in this regard represents an efficient use of land and resources.
- 10.43 The site is in a sustainable location on the edge of Cleckheaton town centre and so this will facilitate the use of public transport by the occupiers of the units. Electric vehicle recharging points would also be provided as part of the development. This helps to mitigate the impact of this development on climate change.

### **11.0 CONCLUSION**

- 11.1 The proposal would provide nine light industrial units that would boost the provision of modern commercial floor space in this area whilst bringing a vacant and untidy piece of land back into productive use.
- 11.2 The development would not result in any significant harm to residential amenity, subject to conditions to control noise. The development would not prejudice highway safety or result in any undue ecological or drainage/flood risk impacts.
- 11.3 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.4 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

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

1. Time limit (3 years)
2. Development in accordance with the approved plans
3. Approval of samples of facing materials
4. Details of boundary treatments
5. Construction management plans for highway safety and residential amenity
6. Temporary drainage scheme for construction phase
7. Detailed drainage design and arrangements for the future maintenance and management of surface water infrastructure within the site
8. Restrictions on the noise from each unit:  
*The combined noise from any vehicle movements, work activity, fixed mechanical services and external plant and equipment from each individual unit shall be effectively controlled so that the combined rating level of noise from all such equipment does not exceed 10dBA below the background sound level at any time. "Rating level" and "background sound level" are as defined in BS 4142:2014+A1:2019.*
9. Restriction on hours of operation to avoid night-time working
10. Details of external lighting to mitigate the impact on residential amenity
11. Updated intrusive site investigation report for land contamination
12. Site remediation and validation reports as necessary (informed by the updated intrusive site investigation report)
13. Scheme for electric vehicle recharging points
14. Pre and post development road condition survey with defects caused by the construction of the development to be remedied
15. Surfacing of the parking and turning areas within the site
16. Proposed points of ingress and egress to be signed accordingly (IN/OUT)
17. Details of waste storage arrangements
18. Details of any highway retaining structures
19. Ecological Design Strategy
20. Scheme for security measures to be incorporated into the development

### **Background Papers:**

Application and history files.

Website link:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f91747>

Certificate of Ownership: Certificate B signed - Notice served on Mr W Rushton

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## Report of the Head of Planning and Development

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 14-Apr-2021

**Subject: Planning Application 2020/90501 Change of Use and alterations to convert trade counter retail unit to function room and store Former Harrisons Electrical Warehouse, Huddersfield Road, Dewsbury, WF13 2RU**

#### APPLICANT

Patel, Patel and Adam,  
A&P Dewsbury Ltd

#### DATE VALID

17-Feb-2020

#### TARGET DATE

13-Apr-2020

#### EXTENSION EXPIRY DATE

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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

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**Electoral wards affected: Dewsbury West**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**RECOMMENDATION:**

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

**1.0 INTRODUCTION:**

- 1.1 The application is brought to the Heavy Woollen Planning Sub-Committee at the request of Councillor Aleks Lukic. The reason for the committee request is set out as follows.
- 1.2 “I have requested that this application be considered at committee as I have concerns about the amenity of residential neighbours on Pinfold Hill, about the parking situation and whether the guest number limit is adequately enforceable”.
- 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 The building is a large brick building with a grey metal clad pitched roof, located in an elevated position above the adjacent dual carriageway. There is a car park to the front of the building with an access from Pinfold Hill close to the junction with Huddersfield Road/Webster Hill.
- 2.2 The warehouse consists of a large storage area with a showroom and small trade counter; there is a further storage area on a mezzanine level above the showroom.
- 2.3 Immediately adjacent to the south east boundary of the site runs the Trans-Pennine railway on an elevated viaduct close to Dewsbury Railway Station.
- 2.4 To the north and east of the site are other small industrial buildings and workshops, and to the west, adjacent to the car park is a row of terraced dwellings.
- 2.5 The site is unallocated on the Kirklees Local Plan and outside of the defined Dewsbury town centre.



### **3.0 PROPOSAL:**

- 3.1 The proposal is for the change of use and alterations to convert the existing trade counter retail unit to a function room; the supporting information states that this would be used for birthday parties, weddings, parties generally and other celebratory events.
- 3.2 The proposals involve alterations to the external appearance of the building in the form of the application of coloured polymer render to the front elevation. The existing window frames will be painted grey.
- 3.3 A Transport Assessment has been submitted with the application which provides details of parking arrangements and how the premises would be accessed by other modes of transport including walking.

### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

91/01520 Erection of single storey warehouse and sales outlet – Approved

2019/90155 Change of use and alterations to convert trade counter retail unit to function room – Withdrawn

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

- 5.1 In view of the initial concerns raised by KC Highways Development Management Team, the applicant submitted a Car Park and Event Management Plan to explain how the anticipated traffic from this development would be managed such that it would not cause an overspill of parking needs to its immediate surroundings.
- 5.2 As well as this, due to the difference between the red line boundary of the current application and that of the withdrawn application, the applicant was requested to revise the floor plans, removing the prayer room, reception and store that are outside the current red line boundary.
- 5.3 The revised drawings were received on 26-Mar-2021. No further details or amendments 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 1** – Achieving sustainable development

**LP 2** – Placing shaping

**LP 13** – Town centre uses

**LP 16** – Food and drink uses and the evening economy

- LP 18 – Dewsbury town centre
- LP 21 – Highway safety
- LP 22 – Parking
- LP 23 – Core walking and cycling network
- LP 24 – Design
- LP 51 – Protection and improvement of local air quality
- LP 52 – Protection and improvement of environmental quality

### 6.3 National Planning Policy Framework

- Chapter 2** – Achieving sustainable development
- Chapter 6** – Building a strong competitive economy
- Chapter 7** – Ensuring the vitality of town centres
- Chapter 8** – Promoting healthy and safe communities
- Chapter 12** – Achieving well-designed places
- Chapter 15** – Conserving and enhancing the natural environment

## 7.0 PUBLIC/LOCAL RESPONSE:

7.1 This application was publicised by site notice and neighbour letter, which expired on 04-Apr-2020. Following this publicity, 3 written representations were received from the occupants of the adjoining premises, who raised the issues below.

- There is inadequate parking provision to support a development of this kind.
- The applicant is likely to go over the limit of 200 people and 3 days a week if the venue is to meet the need of its perspective customers.
- The two parking surveys conducted to inform the Transport Assessment are not adequate to provide a genuine representation of the existing parking situation in the vicinity of the site.
- The limit in relation to the number of guests is not enforceable by planning condition.

## 8.0 CONSULTATION RESPONSE:

### 8.1 Statutory

**Network Rail:** No observations to make on this application.

### 8.2 Non-statutory:

**KC Highways Development Management:** We consider the proposal will be on balance acceptable in terms of its impacts on the local highway network and road safety.

**KC Environmental Health:** Subject to two conditions, the development concerned is acceptable from an environmental health perspective.

**KC Planning Policies:** No objection to the change of use proposed, subject to the recommended condition.

## 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 proposal is for the change of use and alterations to convert a trade counter retail unit to a wedding function room and store. The application site is in an edge of Dewsbury Town Centre. Policy LP13 of the KLP and chapter 7 of the NPPF stipulate that proposals for main town centre uses should be located in town centres first and then edge of centres and only if no sequentially preferable premises are available should out of centre locations be considered.
- 10.3 The submitted Planning Statement states that the function room would be used for hosting Asian weddings with no licensed bar or food cooked on site. It would not be open to members of public, nor would it open at irregular hours. It is, therefore, considered on the basis of the information provided that the proposed use does not fall to be considered a leisure use, which is defined as a main town centre use in Annex 2 of the NPPF. Accordingly, the change of use to a wedding function room does not require a sequential test, nor does it need to be supported by an impact assessment in accordance with policy LP13 of the KLP and chapter 7 of the NPPF.
- 10.4 Notwithstanding the above, consideration has been given to the potential of impact on the vitality of Dewsbury Town Centre that might arise from the current scheme. On this occasion, given the function room is to be used for Asian weddings only and there are no sequentially-preferable premises within Dewsbury Town Centre that could accommodate this function room, officers are satisfied that it is acceptable in terms of its impact on the vitality of Dewsbury Town Centre.

- 10.5 The proposed use would fall within Use Class Sui Generis. Hence, the use of this function room for purposes other than those specified in the Design and Access Statement is likely to amount to a material change of use, which requires separate approval from the Local Planning Authority in writing. It is, therefore, considered not necessary to impose a condition restricting the use of this development to formal occasions only, as suggested by the Planning Policies Team. The impact on town centre vitality would remain acceptable even without this condition.
- 10.6 In summary, it is considered that the impact on town centre vitality would be acceptable in respect of policy LP13 of the KLP and chapter 7 of the NPPF. The principle of development in question is acceptable.

#### Impact on visual amenity

- 10.7 The main external alterations to the building would be the changes to the front elevation in the form of a polymer render and the painting of the existing window frames in a grey colour.
- 10.8 These alterations would be minimal and, in the opinion of officers, would help to improve the appearance of the front elevation with a more contemporary design.
- 10.9 Providing the colour of the render is appropriate, details of which can be secured via condition, the proposals, in terms of visual amenity, are considered to be in accordance with the aims of Policy LP24 of the KLP and Chapter 12 of the NPPF.

#### Impact on residential amenity (including noise and disturbance)

- 10.10 The proposed development would be within a mainly business / industrial area, however there are also residential properties close to the site, particularly those on Pinfold Hill which adjoin the car park. There are potential noise concerns therefore from a venue of this type and Environmental Health were consulted.
- 10.11 The Environmental Health Service has not objected to the proposals however, concerns have been raised based on previous experience of other similar venues. There is potential for disturbance both from guests celebrating outside of the building and from the significant increase in the volume of traffic using the car park.
- 10.12 A number of standard Environmental Health conditions have therefore been recommended, should planning permission be granted. These include:
- Entertainment noise inaudibility condition; this would require the submission of a noise report to show that all entertainment noise would be inaudible at properties on Pinfold Hill and Webster Hill.
  - Hours of use would be restricted to 17:00 to 22:00 Fridays and 11:00 to 22:00 Saturdays, Sundays and Bank Holidays

- 10.13 The above conditions are considered reasonable in order to address issues of residential amenity and as such the proposals are considered to be in accordance with Policies LP16, LP24 and LP52 of the KLP and Chapters 12 and 15 of the NPPF.

Impact on highway safety

- 10.14 The proposed wedding function room would have a maximum capacity of up to 200 guests. There would be 34 parking spaces provided within the site, according to the submitted site plan. Although it is appreciated that a similar change of use proposal was refused for highway safety reasons in 2019, the maximum capacity of the function room in this application has been significantly reduced compared to that of the refused application.
- 10.15 The applicant provided a Transport Assessment and a Parking and Event Management Plan in support of this development. The Highways Development Management Team was consulted on this application and advised, in view of all the information provided, that the development could be, on balance, acceptable in terms of highway safety and parking.
- 10.16 Paragraph 5.1.9 of the Transport Assessment estimates that a total of 46 spaces would be required to support this development with a maximum capacity of 200 guests. Referring to the submitted site plan, there would only be 34 parking spaces available within the site. In this respect, it is likely that there could be a shortfall of 12 parking spaces when the function room operates in its full capacity. As these figures are based on assumptions rather than on observed averages, there might be fluctuations and the actual parking demand might be above these figures on occasion might lead to parking and obstruction issues.
- 10.17 Notwithstanding the potential shortfall in parking provision, the application site is at the edge of Dewsbury Town Centre with an appropriate level of public car parking provision. Given the degree of shortfall anticipated and the time at which the weddings are to be held, it is considered that the unmet parking needs could be provided by the existing on-street parking spaces and public car parks within the town centre of Dewsbury. Furthermore, the accessible location of the application site means that the guests could potentially get there by public transport.
- 10.18 The submitted Parking and Event Management Plan identifies various measures through which the shortfall in parking provision would be addressed. It is considered that the proposed measures would assist in mitigating the potential of impact on highway safety and parking. In view of these mitigation measures and the cap concerning the number of guests, officers are of the opinion that the development could be, on balance, acceptable concerning its impacts on the local highway network.
- 10.19 The National Planning Practice Guidance provides that the local planning authority may grant planning permission for a specified temporary period only. Circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period.

- 10.20 In this case, as noted in paragraph 10.16, the car parking figures are based on assumptions rather than on empirical evidence. Therefore, it is appropriate to grant a temporary permission for 3 years to monitor any issues with parking caused by the development. If the Parking and Event Management Plan is proven to be inadequate to manage the impact of this development, then the subsequent application for permanent permission could be refused.
- 10.21 In addition to limiting the planning permission to temporary consent, a condition is also recommended to be imposed to restrict the maximum number of guests to 200 persons, in accordance with the Design and Access Statement. The traffic associated with the wedding function room should be managed in complete accordance with the Parking and Event Management Plan. This again would be secured by condition.
- 10.22 In summary, subject to all the conditions set out in the paragraphs, it is considered that the highway safety and parking impacts associated with this development would be managed in such a way that it would not give rise to significant conflicts with policies LP21 and LP22 of the KLP. The proposal is, on balance, acceptable from a highway safety perspective.

#### Other matters

##### *Climate emergency*

- 10.23 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.
- 10.24 The proposal is for the change of use of a trade counter retail unit to a wedding function room. 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*

- 10.25 The application is for a change of use to an existing building with all surface water and foul drainage to be retained as existing.

### *Planning enforcement*

- 10.26 Notwithstanding the above assessment on this application, if Members are minded to refuse the development proposed, the Planning Enforcement Team might take further actions in connection to the alleged unauthorised material change of use if it is considered expedient to do so. An update will be provided separately by the Planning Enforcement Officer following the determination of this application.
- 10.27 There are no other matters considered relevant to the determination of this application.

### Representations

- 10.28 This application was publicised by site notice and neighbour letter, which expired on 04-Apr-2020. Following this publicity, 3 written representations were received from the occupants of the adjoining premises, who raised the issues below.
- There is inadequate parking provision to support a development of this kind.  
**Response:** The impact on parking has been assessed in the highway safety section.
  - The applicant is likely to go over the limit of 200 people and 3 days a week if the venue is to meet the need of its perspective customers.  
**Response:** A condition is imposed to ensure that the function room does not host guest more than the agreed capacity.
  - The two parking surveys conducted to inform the Transport Assessment are not adequate to provide a genuine representation of the existing parking situation in the vicinity of the site.  
**Response:** The impacts on highway safety and parking have been assessed in the highway safety section.
  - The limit in relation to the number of guests is not enforceable by planning condition.  
**Response:** Following discussion with the Planning Enforcement Team and based on the previous experience on similar proposals, officers are satisfied that the conditions recommended will be enforceable that it will meet the relevant tests outlined in the NPPF and the NPPG.

## **11.0 CONCLUSION**

- 11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.2 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

## **Conditions**

1. Temporary planning permission for 3 years from the date of decision.
2. In accordance with the submitted plans.
3. All entertainment noise to be controlled as to be inaudible at the nearest residential properties.
4. 3 electric vehicle charging points be provided on site before the development is brought into use.
5. Development to be managed in accordance with the details provided in the Parking and Event Management Plan.
6. Maximum number of guests to be limited to 200 at any time

## **Background Papers:**

Application web link:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020/90501>

Certificate of Ownership: Certificate A signed and dated 16-Feb-2020





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## Report of the Head of Planning and Development

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 14-Apr-2021

**Subject: Planning Application 2021/90302 Erection of first floor extensions and alterations to form first floor accommodation 1, Penn Drive, Hightown, Liversedge, WF15 8DB**

#### APPLICANT

R Jagger

#### DATE VALID

27-Jan-2021

#### TARGET DATE

24-Mar-2021

#### EXTENSION EXPIRY DATE

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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

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**Electoral wards affected: Cleckheaton**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**RECOMMENDATION:**

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

**1.0 INTRODUCTION:**

- 1.1 The application is brought to the Heavy Woollen Planning Sub-Committee at the request of Councillor Kath Pinnock. The reason for the committee request is set out as follows.
- 1.2 “I remain concerned about the loss of amenity and the massing effect on the neighbouring property. I would like the application to be determined at committee.”
- 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 to 1 Penn Drive, which comprises a brick built detached bungalow, a lawned garden to the front and a driveway and an attached garage to the side. To the rear of the bungalow is a spacious garden enclosed by mature vegetation.
- 2.2 Penn Drive is purely residential characterised by detached and semi-detached bungalows of various designs and materials. Certain houses appear to have been extended. All bungalows on Penn Drive have a relatively large lawned garden to the front, which is an important element to the prevailing character, as well as the local street-scene.

**3.0 PROPOSAL:**

- 3.1 Planning permission is sought for the erection of extensions and alterations to from a first-floor accommodation. The ridge of the existing house would be elevated from 4.8m to 6.0m, whilst the width would be increased from 6.8m to 7.8m. In addition, the existing flat roof garage would be demolished and replaced by a dual pitched roof side extension.

3.2 The facing and roofing materials would be the same as existing. The first floor of the enlarged house would comprise two bedrooms, a home office, and a gaming room. There would be two extra windows in the front and rear elevations and one in the side elevation. Part of the front garden would be surfaced to provide more car parking spaces.

#### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

2020/20461 – Pre-application for first floor extensions and other alterations to an existing bungalow (1, Penn Drive)

2006/95135 – Erection of extensions (4, Penn Drive) – Approved

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

5.1 No amendments were sought on this occasion, as the development is considered acceptable in its current form.

#### **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 1** – Achieving sustainable development

**LP 2** – Placing shaping

**LP 21** – Highway safety

**LP 22** – Parking

**LP 24** – Design

#### **6.3 National Planning Policy Framework**

**Chapter 2** – Achieving sustainable development

**Chapter 12** – Achieving well-designed places

#### **7.0 PUBLIC/LOCAL RESPONSE:**

7.1 This application was publicised by neighbour letter, which expired on 12-Mar-2021. Following this publicity, seven written representations were received from the occupants of the adjoining houses, who raised the issues below.

- There would be extensive noise and disruption from construction works.
- The extensions would be massive and out of proportion to the street scene.
- The proposal would not comply with the House Extensions and Alterations Supplementary Planning Document (SPD).
- This development, if permitted, would result in the loss of a bungalow, and would therefore affect the housing mix of this neighbourhood.

- The privacy of the neighbouring occupiers would be prejudiced by the extensions.
- This development would make it more difficult for elderly people and disabled people to find appropriate accessible homes.

## **8.0 CONSULTATION RESPONSE:**

8.1 No formal consultations required for this application.

## **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.

### Impact on visual amenity

10.2 The proposal is for extensions and alterations to create a chalet bungalow. The enlarged bungalow would be 1.2m higher than the existing one. The width would increase from 6.8m to 7.8m. The flat roof garage would be demolished and replaced by a dual-pitched roof extension with a garage on the ground floor and a gaming room on the first floor.

10.3 The scale of development could be supported in terms of visual amenity because there is already a variety of house types in this neighbourhood including two storey detached houses, detached bungalow, and semi-detached chalet bungalow. The enlarged house would not appear overly dominating and incongruous in this local context.

10.4 The ridge of the existing building would only be raised by approximately 1.2m. This would be insignificant compared to the height of the building on site and those immediately adjacent at nos.2, 3, and 4 Penn Drive Furthermore, given no.1 is set at a lower land level than no.3, the development concerned is unlikely to disrupt the established roof line along Penn Drive.

- 10.5 When assessing the appropriateness of first floor extensions, careful consideration should be given to paragraph 118(e) of the NPPF, which stipulates that planning decisions should support opportunities to use the airspace above existing residential premises for new homes, where proposals would be consistent with the prevailing height and form of neighbouring properties and the overall street-scene. In addition, the recent changes to the GPDO mean that a first-floor extension to a bungalow could potentially be permitted without the need to apply for planning permission.
- 10.6 Officers' attention has also been drawn to section 5.7 of the emerging House Extensions and Alterations SPD. Paragraph 5.22 of this SPD provides that "increasing the height of the property by amending the roof pitch or eaves height will significantly affect the character and proportions of the building and will impact on the surrounding street scene and is usually not acceptable where the roof pitches and heights in the street scene are consistent."
- 10.7 On this occasion, as already set out in paragraphs 10.3 and 10.4, the height and roof pitch of the houses on Penn Drive vary considerably and, therefore, to permit this proposal does not conflict with paragraph 118(e) of the NPPF and paragraph 5.22 of the draft SPD. Furthermore, if a first floor extension is to be erected pursuant to Class AA of Part 1 of Schedule 2 of the GPDO, the visual impact arising from such an extension could have been much greater than that of the development under consideration. Consequently, the proposal is, on balance, acceptable in size.
- 10.8 The facing and roofing materials are to match those used in the construction of the existing bungalow. As such, no issues would arise from the selected materials of construction. The enlarged bungalow would have a dual pitched roof as existing. The proposed side extension would enhance the overall appearance of the main house through adopting a more sympathetic design.
- 10.9 As well as the above, given the existing houses in this locality are all slightly different in form and design, the proposed extensions and alterations would not detract from the character their surroundings, nor would they prejudice the street-scene of Penn Drive. The proposed design would be satisfactory in this regard.
- 10.10 In summary, despite the concerns raised in the written representation received, the above assessment demonstrates the proposal would be appropriate in scale, design, and appearance. It would not adversely affect the overall appearance of the existing house, nor would it prejudice the local character and the street-scene of Penn Drive. Thus, this development accords with policy LP24 of the KLP, and chapter 11 and 12 of the NPPF.

Impact on residential amenity (including noise and disturbance)

- 10.11 The development in question would increase the bulk of the existing house. Due to its proximity of the neighbouring house at 3 Penn Drive, it would have the potential of affecting the living conditions of these neighbours by way of overshadowing and overbearing impacts. The impact on residential amenity is addressed as follows.

- 10.12 3 Penn Drive is a similarly designed detached bungalow to the south-western aspect of the application site, with its gable wall fronting the road. The first-floor extensions would be directly adjacent to the site boundary but would not give rise to significant overshadowing and overbearing impacts upon these neighbours. This is because the roof would only be raised from its current level by 1.2m. On the opposite side of the site boundary is the flat roof garage of 3 Penn Drive, which means that the potential of overshadowing and overbearing impacts on its residents would be minimal. There would be no additional windows in the side elevation facing this adjoining site. As such, the privacy of the neighbours concerned would continue to be preserved as existing.
- 10.13 In addition to 3 Penn Drive, the occupants of 129 Quaker Lane could be affected by the first-floor extensions and alterations as well, despite to less extent than no.3. This house is a detached chalet bungalow to the north-eastern aspect of the application site. There is an electricity substation between these two houses. The first-floor extensions and other alterations would create a habitable room in the attic with a window in the gable wall facing towards the garden of this adjacent house. However, the likelihood of overlooking impact would be minimised by the separation distance between the proposed development and the house at this neighbouring site. It would also satisfactorily mitigate the overshadowing and overbearing impacts potentially arising from this development. On this basis, it is considered that the living conditions of these neighbours would be conserved.
- 10.14 To the rear of the application site is a two-storey detached dwelling known as 98 Hightown Road. Its rear garden might be visible from the bedroom window on the first floor of the enlarged house. However, it is acknowledged that the host building already has several habitable room windows in this elevation and, hence, the proposed development is unlikely to cause a greater impact on the privacy of these neighbours than the current situation. The ridge of the existing house would only be elevated by approximately a metre from the existing level. There would be no changes to the separation distance between the two buildings in question. As such, there would be no additional overshadowing and overbearing impacts on the occupants of this adjoining house.
- 10.15 For the same reasons given in relation to 98 Hightown Road, the bungalow on the other side of the road at 2 Penn Drive would not be adversely affected by the development under consideration. No other houses in the vicinity of the site would be unduly prejudiced in terms of residential amenity.
- 10.16 In short, it is considered that the proposal would establish an appropriate relationship with the surrounding buildings that it would preserve the living conditions of the occupants of the houses nearby. Consequently, it could be supported from a residential amenity perspective, in line with policy LP24(c) of the KLP.

#### Impact on highway safety

- 10.17 The proposal would intensify the residential use of the existing building, but it would not affect the parking arrangement of the site. There would remain an appropriate level of parking provision available to the occupants of this house, in line with the Highways Design Guide SPD and policy LP22 of the KLP.



- 10.18 The enlarged house would be occupied by one household as existing. Hence, the development concerned would not give rise to a material increase in traffic generation that would prejudice highway safety. It would be consistent with policy LP21 of the KLP and acceptable in highway safety terms.

### Other matters

#### *Climate emergency*

- 10.19 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.
- 10.20 The proposal is a small-scale domestic development to an existing dwelling. As such, no specific measures are required in terms of this development with regards to carbon emissions. However, there are controls in place in terms of Building Regulations, which will need to be adhered to as part of the subsequent construction process, which will require compliance with national standards.
- 10.21 There are no other matters considered relevant to the determination of this application.

### Representations

- 10.22 Seven written representations were received from the occupants of the adjoining houses following the statutory publicity. The issues below were raised these representations.
- There would be extensive noise and disruption from construction works.  
**Response:** The noise and disruption resulting from construction works are temporary and, therefore, not considered to cause a permanent adverse impact on the living conditions of the neighbours.
  - The extensions would be massive and out of proportion to the street scene.  
**Response:** This concern has been addressed in the visual amenity section.
  - The proposal would not comply with the House Extensions and Alterations Supplementary Planning Document (SPD).  
**Response:** The proposal is considered appropriate in view of the site-specific circumstances.
  - This development, if permitted, would result in the loss of a bungalow, and would therefore affect the housing mix of this neighbourhood.  
**Response:** The consideration of house type and mix is not directly relevant to the assessment of the current scheme, which is for the erection of extensions only.

- The privacy of the neighbouring occupiers would be prejudiced by the extensions.  
**Response:** The impact has been considered in this residential amenity section.
- This development would make it more difficult for elderly people and disabled people to find appropriate accessible homes.  
**Response:** The enlarged dwelling would remain as a (chalet) bungalow with two bedrooms provided on each floor.

## **11.0 CONCLUSION**

- 11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.2 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

### **Conditions**

1. Timeframe of 3 years for implementing the development.
2. In accordance with the submitted plans.
3. Facing and roofing materials to match the existing building.
4. Areas for parking be surfaced and drained prior to occupation.

### **Background Papers:**

Application web link:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021/90302>

Certificate of Ownership: Certificate A signed and dated 25-01-2021.

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## Report of the Head of Planning and Development

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 14-Apr-2021

Subject: Planning Application 2020/94233 Change of use of car sales offices to hot food takeaway Store, 491, Bradford Road, Batley, WF17 8LQ

#### APPLICANT

M H Hanif

#### DATE VALID

10-Dec-2020

#### TARGET DATE

04-Feb-2021

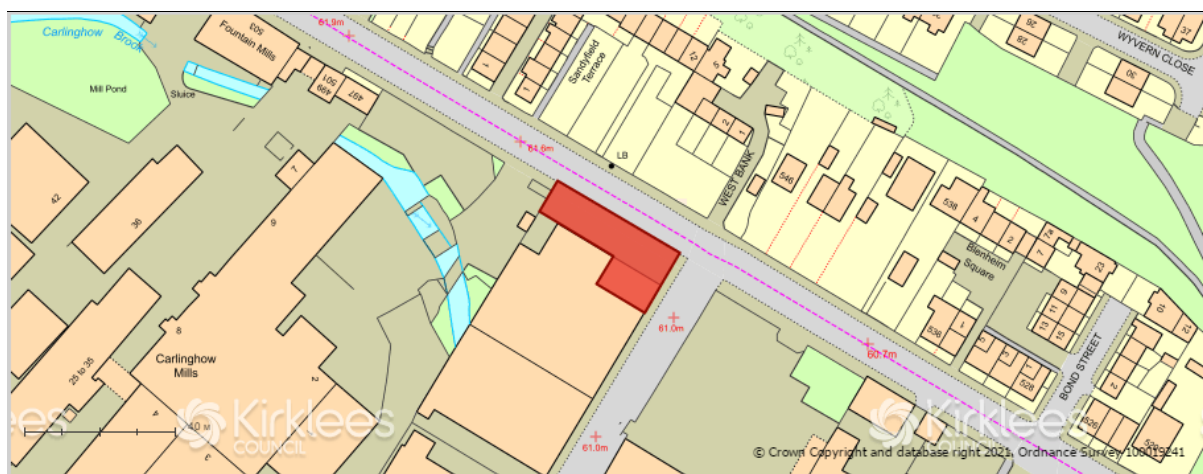
#### EXTENSION EXPIRY DATE

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

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral wards affected: Batley West**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**RECOMMENDATION:**

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

**1.0 INTRODUCTION:**

1.1 The application is brought to the Heavy Woollen Planning Sub-Committee at the request of Councillor Habiban Zaman. The reason for the committee request is set out as follows.

1.2 “I still feel the application needs to go to committee as:- (1) The residents are extremely unhappy and with the number of objections and telephone calls I have received, I feel it’s best that the committee decides and not an officer. (2)The takeaway will attract a large number of young people who will congregate in groups and in cars which will cause issues to the neighbouring residents. (3) The takeaway could also attract anti social behaviour which the residents are clearly opposing and want to life peacefully. (4) Parking in the vicinity is limited, customers would have to park on the main Bradford Road which is already congested and busy all day. (5) The residents are already complaining of users from the car show room blocking their access and feel this will increase with the number of users from the takeaway.”

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**

2.1 491 Bradford Road comprises a two-storey detached building and a car park. This building was last occupied by a car sales business known as BHP Enterprise but is vacant. The car park is enclosed by pole and chain fencing.

2.2 This section of Bradford Road is characterised by a mix of residential and commercial development. To the north-eastern aspect of the road are mostly residential development comprising two-storey stone-built terraced and detached houses. All buildings on the opposite side of the road are occupied by light industrial uses.

2.3 The Cross Bank Batley Conservation Area is located on the north-western aspect of the application site. The building on site and those immediately adjacent fall within Flood Zone 2 identified on the Flood Map for Planning.

### **3.0 PROPOSAL:**

3.1 Planning permission is sought for the change of use of a car sales office to a hot food takeaway. The premises concerned is approximately 114 square metres. The hours of use would be 12:00 to 22:30 Mondays to Saturdays and 12:00 to 22:30 Sundays and Bank Holidays.

3.2 The hot food takeaway would employ 2 members of staff; one would be full time and the other one would be part time. There would be 11 off street parking spaces available to the front for the perspective customers and delivery drivers. The access arrangement would be the same as existing. No external alterations are proposed to the shopfront of the existing building.

### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

No record of any similar application found on site and its immediate surroundings.

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

5.1 No amendments were sought on this occasion, as the development is considered acceptable in its current form.

### **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 but in the vicinity of the Cross Bank Batley Conservation Area.

6.2 Kirklees Local Plan (KLP):

**LP 1** – Achieving sustainable development

**LP 2** – Placing shaping

**LP 13** – Town centre uses

**LP 16** – Food and drink uses and the evening economy

**LP 21** – Highway safety

**LP 22** – Parking

**LP 24** – Design

**LP 27** – Flood risk

**LP 30** – Biodiversity and geodiversity

**LP 35** – Historic environment

**LP 52** – Protection and improvement of environmental quality

### 6.3 National Planning Policy Framework

**Chapter 2** – Achieving sustainable development

**Chapter 7** – Ensuring the vitality of town centres

**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 neighbour letter, which expired on 26-Jan-2021. Following this publicity, nine written representations were received from members of public, who raised the issues below.

- Inadequate parking in the vicinity of the site.
- This development could cause disruption to the flow of traffic on Bradford Road.
- This development, if permitted, could exacerbate the problems with rats and littering.
- There is already a takeaway close to the application site.
- Impact of odour when food is being prepared on site.
- The use of this building as a takeaway is not keeping with the character of the area.

### 8.0 **CONSULTATION RESPONSE:**

*KC Highways Development Management Team* – We consider sufficient parking is provided and therefore believes the proposal is acceptable.

*KC Environmental Health Service* – No objection to this development, subject to the recommended conditions.

*KC Public Health* – No comments received.

*KC Designing Out Crime Officer* – There are no concerns around this application from WYPF.

### 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 This application seeks to change the use of an existing vacant building from a car sales office to a hot food takeaway. The building is current vacant. Whilst the site in question is in an out of centre location, the use proposed does not fall to be considered a main town centre use defined in Annex 2 of the NPPF and, therefore, does not need to be supported by a sequential test. The proposal is acceptable in respect of its impact on town centre vitality, complying with policy LP13 and chapter 7 of the NPPF.
- 10.3 The proposed use would constitute a food and drink use. Hence, careful consideration must be given the relevant criteria set out in policy LP16 of the KLP. On this occasion, the Council's Environmental Health Services and Designing Out Crime Officer, respectively, advise that the impact of odour and the potential of antisocial behaviour are acceptable, subject to the recommended condition detailed in their consultation responses. In addition, the Highways Development Management Team consider the level of parking provision is adequate to mitigate the potential impact on the local highway network. On this basis, officers find that the development in question is in general conformity with policy LP16 of the KLP. The principle of development could be supported.

### Impact on visual amenity and historic environment

- 10.4 The proposal is for the change of use from a car sales office to a hot food takeaway. There are no external alterations proposed to the existing building. As noted in the site description section, all buildings to the south-western aspect of Bradford Road are occupied by non-residential uses. Therefore, to permit the proposed change of use would not have an adverse impact on the local character and the street-scene of Bradford Road. The visual impact resulting from this development is modest and acceptable in terms of policy LP24 of the KLP and chapter 12 of the NPPF.
- 10.5 Although the application site is in the vicinity of the Cross Bank Batley Conservation Area, the development concerned is unlikely to affect the significance of the Area, for it involves no alterations to the shopfront of the existing building. Given that, it is not necessary to publicise this application as affecting the setting of the Conservation Area. Overall, officers are satisfied based on the submitted information that the proposal accord with policy LP35 of the KLP and chapter 16 of the NPPF. It is acceptable from a heritage conservation perspective.

#### Impact on residential amenity (including noise and disturbance)

- 10.6 This application is for the change of use from a car sales office to a hot food takeaway. No information has been provided regarding the type of food that is proposed to be cooked, nor any details regarding the kitchen extract ventilation system.
- 10.7 The main concerns are with the odours caused by the food preparation and cooking process and the impact this will have on the amenity of the neighbouring residents living on the opposite side of Bradford Road. Therefore, it will be necessary to require further details regarding the proposed kitchen extract ventilation system. This must be properly risk assessed based on the type and amount of food to be cooked so that the correct level of ventilation is installed that can effectively disperse and control odours.
- 10.8 As well as the above, the type of termination flue will need to be considered and its position in relation to the ridge height of the building and ideally this should be marked on a plan. Consideration should also be given to the noise attenuation measures required for the extract fan. To achieve this, a condition should be imposed to require the submission of a kitchen extract scheme before the building is first open to public as a hot food takeaway.
- 10.9 Subject to this condition, the potential impact of noise and odour resulting from this development could be acceptable in relation to policies LP16, LP24 and LP52 of the KLP and chapter 15 of the NPPF. The current scheme is appropriate from a residential amenity perspective.

#### Impact on highway safety

- 10.10 The proposed development will use the existing access and egress from Bradford Road and it is anticipated there will be an intensification of use for this access. A designated bin storage area will be provided adjacent to the car park. At the site frontage, there is an area available for 11 off-street parking spaces to accommodate staff members and customers.
- 10.11 The level of parking provision indicated on the submitted site plan is considered sufficient for a site of this scale, as the takeaway will not cause a significant increase to parking and traffic within the vicinity of the site. There is on-street parking available adjacent the site if it is ever needed by customers.
- 10.12 For these reasons, the development under consideration would not give rise to any significant highway safety and parking issues. It would be consistent with policies LP21 and LP22 of the KLP and chapter 9 of the NPPF. The current scheme is satisfactory in highway safety terms.

#### Other matters

##### *Climate emergency*

- 10.13 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.

- 10.14 The proposal is for the change of use of an existing vacant building to a hot food takeaway. As such, no specific measures were required in terms of the planning application with regards to carbon emissions.

#### *Flood risk*

- 10.15 The site is partly within Flood Zone 2 on the Flood Map for Planning. In accordance with policy LP27 and chapter 14 of the NPPF, a site-specific Flood Risk Assessment should be submitted in support of this application. In this instance, no information has been provided on this matter.
- 10.16 It is noted both the current and proposed uses fall within the same vulnerability classification identified in the NPPG. Besides, the development concerned is not considered to increase the likelihood of flooding on site and off site. Therefore, whilst no FRA has been provided in support of this application, it is unlikely to substantiate a reason for refusal in view of the site context, as discussed earlier.

#### *Waste collection and disposal*

- 10.17 This application relates to an existing building, which benefits from established waste collection and disposal arrangements. For a hot food takeaway, all food produced on site is expected to be consumed off site. As such, it is not anticipated to result in a significant increase in terms of the amount of waste generated. The potential of littering could be controlled by other measures, which fall outside the development management process. Overall, whilst appreciating the potential of issue raised in the representation, it does not, in this instance, substantiate a reason for refusal in respect of policy LP16 of the KLP.
- 10.18 There are no other matters considered relevant to the determination of this application.

#### Representations

- 10.19 This application was publicised by neighbour letter, which expired on 26-Jan-2021. Following this publicity, nine written representations were received from members of public, who raised the issues below.
- Inadequate parking in the vicinity of the site.  
**Response:** This matter has already been considered in the highway safety section.
  - This development could cause disruption to the flow of traffic on Bradford Road.  
**Response:** The increase of traffic resulting from this development is not considered to be significant enough to have an adverse impact on highway safety.

- This development, if permitted, could exacerbate the problems with rats and littering.  
**Response:** This concern has been addressed in the other matters section.
- There is already a takeaway close to the application site.  
**Response:** The nearest takeaway referred to in the written representation received is known as Frankies at 598 Bradford Road. This is approximately 385m from the site in question. Given the distance between the proposed and existing hot food takeaway, the development is considered not to result in an overconcentration of hot food takeaways in this locality.
- Impact of odour when food is being prepared on site  
**Response:** A condition will be imposed to reduce the potential of impact of odour, in line with policies LP16 and LP52 of the KLP and chapter 15 of the NPPF.
- The use of this building as a takeaway is not keeping with the character of the area.  
**Response:** The proposal is not considered to have an adverse impact on the local character, given the wide range of uses already exist in the area nearby.

## 11.0 CONCLUSION

- 11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.2 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

### Conditions

1. Timeframe of 3 years for implementing the development.
2. In accordance with the submitted plans.
3. Kitchen extract scheme be submitted for approval prior to occupation

### Background Papers:

Application web link:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020/94233>

Certificate of Ownership: Certificate A signed and dated 09-Dec-2020

## KIRKLEES METROPOLITAN COUNCIL

### PLANNING SERVICE

#### UPDATE OF LIST OF PLANNING APPLICATIONS TO BE DECIDED BY

#### PLANNING SUB-COMMITTEE (HEAVY WOOLLEN AREA)

14 APRIL 2021

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**Planning Application 2020/91601**

**Item 6 – Page 11**

**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**

#### **10.0 APPRAISAL**

##### Highway Safety Matters

At paragraph 10.12, the Highways DM revised consultation response refers to the Huddersfield Sub-Committee as opposed to the Heavy Woollen Sub-Committee. For clarity, this application was deferred at the previous Heavy Woollen Planning Sub-Committee.

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**Planning Application 2019/91239**

**Item 7 – Page 27**

**Demolition of existing public house and erection of four dwellings**

**The Shears, 201, Halifax Road, Hightown, Liversedge, WF15 6NR**

#### **7.0 PUBLIC/LOCAL RESPONSE**

A further 137 objections have been received in relation to the recent period of re-publicity. These reiterate the concerns raised previously which are set out within the Committee Report on pages 30 to 31 and responded to by officers on pages 39 to 40.

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**Erection of 14 dwellings with garages and formation of new access road**

**Land south of, Leeds Road, Mirfield, WF14 0JE**

Clarification

Paragraph 10.39, contained within the ‘Highway’ section of the assessment, considers the need of a right-turn lane into the site from Leeds Road. The published report reads:

*‘Additionally, Highways DM considered whether a right turn could be implemented; it was concluded that there is insufficient room within the highway to facilitate this.’*

This should read:

*‘Additionally, Highways DM considered whether a right turn lane could be implemented; it was concluded that there is insufficient room within the existing highway to facilitate this.’*

Although it may be feasible, subject to detailed design, to undertake localised widening of the highway into the application site to enable the provision of a right-turn lane, this would encroach the entire length of the site and likely require a substantial re-design within the site, while adding substantial development costs. Given the assessment by officers that a right turn lane is not required, such an arrangement is not considered reasonable or necessary in this case.

**Demolition of former dairy/snooker centre/storage and erection of 9 light industrial units**

**Land Adjacent, 60, Northgate, Cleckheaton, BD19 3NB**

Amended 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 the main report, and to secure a Section 106 Agreement to cover the following matter:

1. Financial contribution to deliver offsite habitat improvements (£30,130).

Procedural matter:

The Council owns the freehold to part of the application site. Although the applicant had entered into a legal agreement with the Council to buy the land shortly before the planning application was submitted, formal notice of the applicant's intention to submit the application was not served and the Ownership Certificate within the application form did not identify the Council as one of the parties with an interest in the land. To regularise this matter, the applicant has now formally served notice on the Council and a revised Ownership Certificate has been submitted.

The committee can still determine the application however the Decision Notice cannot lawfully be issued until 21 days from the date when notice was served on the Council. This means that the Decision Notice can only be issued after the 29<sup>th</sup> April 2021.

Ecology:

As discussed at paragraph 10.33 on page 150 of the committee report contained in the agenda, a biodiversity net gain had not been demonstrated by the applicant. The applicant has now confirmed that a net gain will be provided through a financial contribution to facilitate habitat improvements in an offsite location; this would be within the District, at a location as close to the application site as possible. The contribution has been calculated as £26,200 plus a £3930 administration fee. This would need to be secured through a Section 106 Agreement. On this basis the application is considered to comply with Policy LP30 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

Additional representations:

Councillor Kath Pinnock has provided additional comments on the application and an officer response has been provided as follows.

- 1. It is most unfortunate that an attempt hasn't been made for a general re-development of that area. Partial development of this nature will close down some of the options for the remainder of the wider site, including better access onto Bradford Road.*

**Officer response:** The Local Planning Authority has been asked to consider the scheme proposed within the application. Officers consider that the proposal is acceptable having regard to all material planning considerations.

- 2. I am concerned that, given the proximity of the residents of George Street and Whitcliffe Road, that more attention hasn't been given to limiting noise nuisance from potential users. I understand that each unit will have noise limits but wonder how these are to be controlled, in practice.*

**Officer response:** The operators of the units would be required to adhere to the noise limits set out within the recommended condition. If an operator was found to be in breach of the condition, then it would be a matter for the Council's Planning Compliance team. Complaints could be readily investigated by Kirklees Environmental Services to establish whether noise limits were being exceeded.

3. *Highways concerns: I am surprised that Scott Lane is being considered as the route to exit onto Bradford Road. You may be aware that there is a major scheme of changes proposed to the A638 through Cleckheaton part of which involves a proposal to reduce the number of road junctions onto Bradford Road in order to ease traffic movements, buses in particular. Perhaps there needs to be a discussion with Highways colleagues before a decision is made.*

**Officer response:** Access to the development will be an 'in' only arrangement off Scott Lane with egress onto Northgate. It is considered that traffic heading towards Cleckheaton will do so Via Horncastle Street onto the A638 and traffic heading towards Chain Bar will turn left out of Scott Lane. Given that the proposed highway project to the A638 is at preliminary concept stage and has not reached public consultation yet, it is not considered to have implications for the proposed development. The Council's Major project team have been made aware of this application.

4. *Scott Lane: are you able to verify the claim made in the applicant's traffic assessment that it is part of a bus route? Has an assessment been made as to the visibility onto Bradford Road at the Scott Lane junction? Has consideration been given to prevent larger commercial vehicles not using the adjacent Coach Lane? What consideration has been given to movement into Scott Lane from Bradford Road being blocked by a vehicle coming out of Scott Lane and the implications that will have for road safety and congestion?*

**Officer response:** Enquires have been made with Metro who have confirmed that bus services do travel down Whitcliffe Road however they turn off down Serpentine Road before this development and where Whitcliffe Road turns into Scott Lane, so buses do not emerge from Scott Lane onto the A638 Bradford Road.

Highways Development Management consider that Scot Lane is adequate to accommodate the traffic movements associated with the proposed development, without resulting in any significant adverse harm to highway safety.

5. *I draw your attention to this statement in the Committee Report:*

***Impact of traffic on road surface***

*Officer response: The proposed development is not of a scale that would justify highway resurfacing works although a condition is recommended to ensure that damage to the road surface arising from the construction phase is remedied by the developer.*

*It seems to me that a further look at the appalling state of that section of Northgate should be considered before including this in the report. I have reported the state of Northgate on several occasions. Some of the worst potholes get filled and then more appear. It is well passed its useful life without adding construction vehicles and other HGVs onto the road.*

**Officer response:** It has been confirmed that Northgate is due for resurfacing works in the 2021/2022 financial year. If this is completed prior to occupation of the proposed development, then any damage to the carriageway would be repaired at the expense of the developer.

6. *While development of the site is welcome, I do think more attention needs to be paid to the impact on current residents who live opposite the site and to the impact on highway safety, especially the use of the sub-standard width Scott Lane.*”

A representation has also been received on behalf of Spen Valley Civic Society, which has also been sent to members of the committee. The representation is copied below.

*“The civic society have spent years trying to generate interest from Kirklees Council in respect of this key area of land, which borders Cleckheaton town centre and is within 100 metres of the town hall. The history as described in the officer’s report fails to do justice to the site which has lain derelict since the mid-1980’s, and was the subject of ‘something must be done about it’ discussions within the council for many years. It has been an eyesore throughout this time, which is shaming on the Council, as part of the site was in Council ownership until recently.*

*We are conflicted by the current application, as we recognise that the applicant, Mr Middleton is trying to do something positive in his application. However, we are dismayed that the outcome will be light industrial units, in what is effectively a town centre location where surrounding buildings are either shops or residential. We know from discussion with Mr Middleton that he has considered residential use for the site, but was put off at the consultation stage by the police who could not support such a proposal because of the close proximity of a probation hostel, with the implication that there would be an unacceptable crime risk. This is an appalling comment for the police to say, and which has no statistical evidence to support the statement.*

*On numerous occasions we have urged the Council to take the lead in working with the various landowners – as there are other pockets of derelict land adjoining this site – to develop a master plan to develop an integrated scheme for the whole area, given its central location – but without success. As recently as 2019 I walked the site with the then Service Director, who agreed that such an approach was an appropriate way forward.*

*We appreciate that Mr Middleton is keen to move ahead with development of this site, but we urge the Planning Sub-Committee to consider deferment in the hope that collaboration involving the Council and landowners can produce a blueprint which will lead to the development of something of which the people of Cleckheaton could be proud, such as an integrated housing scheme. Industrial units should be built on land allocated for industry, not adjacent to town centres.”*

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**Change of Use and alterations to convert trade counter retail unit to function room and store**

**Former Harrisons Electrical Warehouse, Huddersfield Road, Dewsbury, WF13 2RU**

Correction:

The Committee Report, on page 154, states that the electoral ward affected is Dewsbury West. This was a typing error made at the time of preparing the Officer Report and should, instead, have stated Dewsbury East.

The Location Plan in the Report correctly identifies the extent of the application site. All Members of Dewsbury East Ward were notified about the recommendation of this application in the email dated 04-Mar-2021. The written representations received in relation to this application during the statutory publicity were made with a clear understanding of the location of the site. Consequently, no persons have been prejudiced by this error and the subsequent amendment.

**7.0 PUBLIC / LOCAL RESPONSE:**

Councillor MasoodG Ahmed of Dewsbury South Ward requests that the following comments be considered by Members of the Committee before making a final decision on this application.

*“Good Afternoon Chair, Planning Committee Members and Officers.*

*I would like to make representation in support of my constituents planning application for Change of use and alterations to convert trade counter retail unit to function room and store at former Harrisons Electrical Warehouse, Huddersfield Road, Dewsbury.*

*Planning Committee Members who were present the last time this application came to committee back in 2019, at which I spoke in support of this, you will also remember my constituents were advised to liaise and work closely with Kirklees Council Planning, Highways and Environment Officers, if they wanted to resubmit the application, for which they have been doing for the past year and bit in these unprecedented times we are currently living in.*

*The planning application has had significant changes made to it since 2019, which I will go through.*

***Impact on highway safety***

*The proposed wedding function room would have a maximum capacity of up to 200 guests. There would be 34 parking spaces provided within the site, according to the submitted site plan. Although it is appreciated that a similar change of use proposal was refused for highway safety reasons in 2019, the maximum capacity of the function room in this application has been significantly reduced compared to that of the refused application.*



**As mentioned by the officers:** Subject to all the conditions set out in the paragraphs, it is considered that the highway safety and parking impacts associated with this development would be managed in such a way that it would not give rise to significant conflicts with policies LP21 and LP22 of the KLP. The proposal is, on balance, acceptable from a highway safety perspective

### **Impact on visual amenity**

Providing the colour of the render is appropriate, details of which can be secured via condition, the proposals, in terms of visual amenity, are considered to be in accordance with the aims of Policy LP24 of the KLP and Chapter 12 of the NPPF

### **Principle of development**

The impact on Dewsbury Town Centre vitality would be acceptable in respect of policy LP13 of the KLP and chapter 7 of the NPPF. The principle of this development in question is acceptable

### **Impact on residential amenity (including noise and disturbance**

A number of standard Environmental Health conditions have therefore been recommended, should planning permission be granted, which my constituent will comply with and undertake.

These include:

1. Entertainment noise inaudibility condition: this would require the submission of a noise report to show that all entertainment noise would be inaudible at properties on Pinfold Hill and Webster Hill.
2. Hours of use would be restricted to 17:00 to 22:00 Fridays and 11:00 to 22:00 Saturdays, Sundays and Bank Holidays<sup>10.13</sup>
3. The above conditions are considered reasonable in order to address issues of residential amenity and as such the proposals are considered to be in accordance with Policies LP16, LP24 and LP52 of the KLP and Chapters 12 and 15 of the NPPF

Kirklees Council Officers in Planning, Highways and Environment Health (Pollution & Noise Control) have all indicated that this application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

### **Conditions**

1. Temporary planning permission for 3 years from the date of decision.
2. In accordance with the submitted plans.
3. All entertainment noise to be controlled as to be inaudible at the nearest residential properties.
4. 3 electric vehicle charging points be provided on site before the development is brought into use.

5. Development to be managed in accordance with the details provided in the Parking and Event Management Plan. 6. Maximum number of guests to be limited to 200 at any time

Based on the recommendations and conditions by Kirklees Council Officers, I would ask that the planning committee support and approve this application.

Finally, I would just like to thank you all for your time in listening to me, have a nice evening.

Cllr Masood”

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**Planning Application 2020/94233**

**Item 14 – Page 173**

**Change of use of car sales offices to hot food takeaway**

**Store, 491, Bradford Road, Batley, WF17 8LQ**

Procedural Matter

Paragraph 1.1 of the Committee Report states

*“The application is brought to the Heavy Woollen Planning Sub-Committee at the request of Councillor Habiban Zaman. The reason for the committee request is set out as follows.”*

This paragraph should now read:

*“The application is brought to the Heavy Woollen Planning Sub-Committee at the request of Councillor Gwen Lowe, who agreed with the initial comments made by Councillor Habiban Zaman in her email dated 17-Feb-2021. The reason for the committee request is set out as follows.”*

After paragraph 1.2, insert an additional paragraph that reads

*“In addition, Councillor Lowe was concerned that the development, if permitted, could have a significant impact on the Cross Bank Batley Conservation because of its proximity to the application site.”*

The above amendments are required because Councillor Zaman, who made the initial committee request on 17-Feb-2021, is not a Member of Batley West Ward where the site is located and, therefore, is not eligible the power of committee referral provided to the Members of the affected electoral ward only.

Cllr Gwen Lowe of Batley West Ward subsequently emailed the case officer on 08-Apr-2021 requesting that this application be determined by the Committee, as she agreed with Cllr Zaman’s comments about the potential of impact arising from this development. She was also concerned that the proposal could have a significant impact on the Cross Bank Batley Conservation Area.

Since there have been no substantive changes to the reasons for the initial committee request, the subsequent request made by Cllr Lowe remains valid in respect of the Scheme of Delegation contained in the Constitution of the Council. No persons have been prejudiced by these amendments.

## **10.0 APPRAISAL**

### Impact on Residential Amenity

After paragraph 10.8, insert a new paragraph that reads

*“There are some houses on the opposite side of Bradford Road facing the application site. The hot food takeaway could potentially result in an increase in noise and disturbance by way of vehicle movements and customers or delivery drivers congregating outside the premises. Whilst the potential of impact is appreciated, the site is on a busy classified A road with regular flows of traffic throughout the day and night. The noise climate in this locality is materially different from that of a purely residential neighbourhood for example. In view of these considerations, as well as the separation distance between the takeaway and the noise sensitive development nearby, officers are of the opinion that the likelihood of noise and disturbance could be satisfactorily mitigated by imposing a planning condition that restricts the hours of use to 12:00 and 22:30 Mondays to Sundays. Subject to that, the proposal would not unduly prejudice the residential amenity of the houses on the opposite side of Bradford Road.”*

### **Conditions**

As set out above, an additional condition to those set out on page 180 of the committee agenda, restricting the hours of use, is recommended:

4. Restrict the hours of use to between 12:00 and 22:30 Monday to Sunday
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