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

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Wednesday 28 July 2021

Notice of Meeting

Dear Member

Planning Sub-Committee (Huddersfield Area)

The **Planning Sub-Committee (Huddersfield Area)** will meet in the **Council Chamber - Town Hall, Huddersfield** at **1.00 pm** on **Thursday 5 August 2021**.

This meeting will be live webcast. To access the webcast please go to the Council's website at the time of the meeting and follow the instructions on the page.

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

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

Julie Muscroft

Service Director – Legal, Governance and Commissioning

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

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

Member

Councillor Terry Lyons (Chair)
Councillor Paul Davies
Councillor James Homewood
Councillor Mohammad Sarwar
Councillor Mohan Sokhal
Councillor Sheikh Ullah
Councillor Harpreet Uppal
Councillor Bill Armer
Councillor Timothy Bamford
Councillor Donna Bellamy
Councillor Bernard McGuin
Councillor Anthony Smith
Councillor Susan Lee-Richards

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

Substitutes Panel

Conservative

A Gregg
V Lees-Hamilton
R Smith
M Thompson
D Hall
J Taylor

Green

K Allison

Independent

C Greaves

Labour

M Akhtar
E Firth
S Hall
M Kaushik
J Ramsay

Liberal Democrat

PA Davies
J Lawson
A Marchington
A Munro
A Pinnock

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Sub-Committee

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

2: Minutes of previous meeting

1 - 6

To approve the Minutes of the meeting of the Committee held on 17 June 2021.

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.

4: Admission of the Public

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

5: Deputations/Petitions

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

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

6: Public Question Time

The Sub-Committee will receive any public questions.

In accordance with:

- Council Procedure Rule 11 (3) questions regarding the merits of applications (or other matters) currently before the Council for determination of which the Council is under a duty to act quasi judicially shall not be answered.
- Council Procedure Rule 11 (5), the period for the asking and answering of public questions shall not exceed 15 minutes and any person may ask no more than two questions.

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 register no later than 5.00pm (for phone requests) or 11:59pm (for email requests) on Monday 2 August 2021.

To pre-register, please email governance.planning@kirklees.gov.uk or phone Richard Dunne on 01484 221000 (Extension 74995)

You will be able to address the Committee virtually. Please include in your email the telephone number that you intend to use when addressing the Committee. You will receive details on how to speak at the meeting in your acknowledgement email.

Members of the public who wish to attend the meeting in person will be required to register by the same deadline outlined above. Measures will be in place to adhere to COVID secure rules, including social distancing requirements. This will mean that places will be limited.

Please note that in accordance with the council's public speaking protocols at planning committee meetings verbal representations will be limited to three minutes.

7: Planning Application - Application No: 2020/91186

11 - 32

Reserved matters application for erection of 20 dwellings pursuant to outline permission no. 2018/91198 for residential development land at, Westcroft, Honley, Holmfirth.

Contact officer: Adam Walker, Planning Services

Ward(s) affected: Holme Valley North

- 8: Planning Application - Application No: 2021/91384** 33 - 64
- Erection of 13 dwellings (resubmission) land south of, 5-25, Clay Well, Golcar, Huddersfield.
- Contact Officer: Victor Grayson, Planning Services
- Ward(s) affected: Golcar
-
- 9: Planning Application - Application No: 2021/91367** 65 - 88
- Change of use from agricultural to storage and processing of timber, improvement of field access, formation of access track and hardstanding and erection of wood store Land east of, Hillock Farm, Dean Road, Holmfirth.
- Contact Officer: Ellie Worth, Planning Services
- Ward(s) affected: Holme Valley South
-
- 10: Planning Application - Application No: 2021/91136** 89 - 104
- Siting of mobile home for use as holiday accommodation, construction of raised platforms, erection of 'Tiki bar' and pergola and formation of vehicular access from Manchester Road with electronic gates and associated hardsurfaces Mulberry Brook, Manchester Road, Slaithwaite, Huddersfield.
- Contact officer: Stuart Howden, Planning Services
- Ward(s) affected: Colne Valley
-
- 11: Planning Application - Application No: 2021/91682** 105 - 126
- Change of use from dwelling house (Class C3) to residential care home (Class C2) Wall Nooks, Wall Nook Lane, Cumberworth, Huddersfield.
- Contact Officer: Laura Yeadon, Planning Services.
- Ward(s) affected: Holme Valley South
-

Planning Update

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

Contact Officer: Richard Dunne

KIRKLEES COUNCIL

PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)

Thursday 17th June 2021

Present: Councillor Terry Lyons (Chair)
Councillor Paul Davies
Councillor James Homewood
Councillor Mohammad Sarwar
Councillor Mohan Sokhal
Councillor Sheikh Ullah
Councillor Harpreet Uppal
Councillor Donna Bellamy
Councillor Bernard McGuin
Councillor Anthony Smith

Observers: Councillor Andrew Cooper
Councillor Nigel Patrick

Apologies: Councillor Bill Armer
Councillor Timothy Bamford
Councillor Susan Lee-Richards

1 Membership of the Sub-Committee

Apologies were received from Councillors Bill Armer, Timothy Bamford and Susan Lee-Richards.

2 Minutes of previous meeting

The minutes of the meeting held on 21 April 2021 were approved as a correct record.

3 Declaration of Interests and Lobbying

Councillor Bellamy declared that she had been lobbied on application 2020/91820.

Councillors McGuin and Ullah declared that they had been lobbied on application 2021/90743.

4 Admission of the Public

All items were considered in public session.

5 Deputations/Petitions

No deputations or petitions were received.

6 Public Question Time

No questions were asked.

7 Application for a Definitive Map Modification Order (DMMO) to vary the particulars of public footpath Holmfirth 60 at Wolfstones Heights Farm, Netherthong

The Sub Committee considered a report that outlined details of an application for a Definitive Map Modification Order (DMMO) to vary the particulars of public footpath Holmfirth 60 at Wolfstones Heights Farm, Netherthong.

The report outlined the context and background to the matter, information required to take a decision, next steps and officer recommendations and reasons.

Under the provisions of Council Procedure Rule 37 the Sub Committee received representations from Noel Scanlon and Greg Cropper (objectors).

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

RESOLVED -

1. That the Council makes an order to modify the Definitive Map and Statement Modification to vary the particulars contained in the Map and Statement for footpath Holmfirth 60 to record a width for length A-E varying between 3 and 4 metres, between physical boundaries. With removal of reference to two stiles at points B and C, and a wicket gate at point D, and inclusion as a limitation a 1.2m gap alongside a gate at point B; and

2. That should the Order be opposed, and the matter referred to the Secretary of State, that the Council should actively support the confirmation of the Order at any public inquiry or hearing.

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

For: Councillors: Davies, Homewood, Lyons, McGuin, Sarwar, A Smith, Sokhal, Ullah and Uppal (9 votes)

Against: Councillor Bellamy (1 vote)

8 Planning Application - Application No: 2020/91820

The Sub Committee gave consideration to Planning Application 2020/91820 Change of use and refurbishment of existing buildings to form outdoor learning facility with classrooms (F.1(a)) and ancillary overnight accommodation Land off, Manchester Road, Marsden, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Sub Committee received representations from Caroline Tamworth (objector), James Robert and Leigh Ogden (on behalf of the applicant).

RESOLVED –

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 considered report including:

1. Three years to commence development.
2. Development to be carried out in accordance with the approved plans and specifications.
3. Limit use to 32 children (with 8 adults as chaperone).
4. Lighting strategy (for Green Belt and Ecological purposes).
5. Existing structure not to be demolished.
6. Material samples to be provided.
7. Details of window concealment system.
8. Parking bays not to be resurfaced or marked out.
9. Electric vehicle charging point details to be submitted.
10. Waste storage screening to be detailed.
11. To secure the retention of the stone posts around the site.
12. Removal of storage containers prior to use commencing.
13. Biodiversity Management Plan to secure 10% net biodiversity gain.
14. Submission of details of bat boxes and location within the site.
15. Canteen and kitchen to be ancillary use only.
16. Submission of cycle stand details.
17. Use limited to F.1(a) – Provision of education, only.
18. Construction Management Plan

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

For: Councillors: Davies, Homewood, Sarwar, A Smith, Sokhal, Ullah, Uppal and Lyons (8 votes).

Against: (0 votes)

Abstained: Councillors Bellamy and McGuin.

9 Planning Application - Application No: 2021/90887

The Sub Committee gave consideration to Planning Application 2021/90887 Outline application for erection of residential development Land west of, Lidget Street, Lindley, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Sub Committee received a representation from Nick Willock (on behalf of the applicant).

RESOLVED –

Delegate approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to:

Planning Sub-Committee (Huddersfield Area) - 17 June 2021

1. Complete the list of conditions including those contained within the considered report including:

1. Approval of Reserved Matters details of Access, Appearance, Landscaping, Layout and Scale to be sought before development commences.
2. Plans and particulars relating to Reserved Matters details of Access, Appearance, Landscaping, Layout and Scale to be submitted and approved in writing.
3. Application for Reserved Matters to be submitted within three years.
4. Development to be carried out in accordance with approved plans and specifications.
5. Submission of an Ecological Impact Assessment (EclA) with demonstration how the proposals will deliver a measurable biodiversity net gain of at up to 10% and development in accordance with EiA recommendations.
6. Submission of a Phase 1 Preliminary Risk Assessment.
7. Submission of a Phase 2 Intrusive Site Investigation Report.
8. Submission of a Remediation Strategy.
9. Implementation of a Remediation Strategy.
10. Submission of a Validation Report.
11. Provision of Electric Vehicle Charging Points.
12. Work to be carried out in accordance with the Council's set construction site working times.
13. Details of storage, bin presentation points and access for collection of wastes from the dwellings to inform the Reserved Matters of 'access' and 'layout'.
14. Details of temporary waste collection arrangements to serve occupants of completed dwellings whilst the remaining site is under construction.
15. Construction Management Plan, including point of access for construction traffic, details of the times of use of the access, the routing of construction traffic to and from the site, construction workers parking facilities and the provision, use and retention of adequate wheel washing facilities within the site.
16. Proposed design and construction details for all new surface water attenuation tanks/pipes/manholes located within the proposed highway footprint.
17. A scheme detailing the proposed internal road layout (to an adoptable standard).
18. Full detailed drainage design detailing foul, surface water and land drainage
19. Full details of the proposed means of managing surface water during the construction period including silt management to prevent blocking up of drainage systems.
20. Full detailed design of site levels including flow routing from the site including consideration of overland flow paths from drainage and gully bypass.
21. Noise assessment report and mitigation scheme.
22. Submission of Travel Plan.
23. Tree survey and impact assessment and arboricultural method statement.
24. Measures to promote carbon reduction and enhance resilience to climate change.
25. Full details of an invasive species management plan.
26. Full details of a Construction Environmental Management Plan.

2. Secure a Section 106 agreement to cover the following matters:

- 1) Affordable housing – 20% of dwellings to be affordable with a preferred split of 55% social or affordable rent to 45% intermediate housing;

Planning Sub-Committee (Huddersfield Area) - 17 June 2021

- 2) Open space – contribution to off-site open space to be calculated at Reserved Matters stage based upon the level of on-site provision at that time and to be spent within the vicinity of the site;
- 3) Education - additional places may be required to be spent on priority admission area schools within the geographical vicinity of this site, with the contribution to be calculated at Reserved Matters stage based upon the numbers of dwellings proposed at that time;
- 4) A contribution to sustainable transport methods, to be determined at Reserved Matters stage based upon the number of dwelling units;
- 5) Biodiversity – Contribution (amount to be confirmed at the Reserved Matters stage) towards off-site measures to achieve biodiversity net gain.
- 6) Arrangements to secure the long-term maintenance and management of on-site public open space and the applicant's drainage proposals

3. Pursuant to (2) above, in the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution 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.

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

For: Councillors: Davies, Homewood, Sarwar, Sokhal, Ullah, Uppal and Lyons (7 votes).

Against: Councillors: Bellamy, McGuin and A Smith (3 votes).

10 **Planning Application - Application No: 2021/90743**

The Sub Committee gave consideration to Planning Application 2021/90743 Alterations to convert existing barns to café and seating area and formation of parking facilities Gledhill Farm, Kaye Lane, Almondbury, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Sub Committee received representations from Stephen King (Objector) and Steven Griffiths (applicant).

Under the provisions of Council Procedure Rule 36 (3) the Sub Committee received a representation from Councillor Andrew Cooper (ward members).

RESOLVED –

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 considered report and the update report including:

1. Development to commence within 3 years of permission.
2. Development to be undertaken in accordance with submitted plans/specifications.

Planning Sub-Committee (Huddersfield Area) - 17 June 2021

3. Internally, the café to be strictly contained to the red dashed area of the livery building as displayed in drawing No. TS112-2, and shall not exceed a floor area of 143m².
4. Cooking odour impact assessment prior to the first use of the café to be submitted and approved.
5. Details of surface improvements and widening the first 30 metres of the access lane into site from Kaye Lane, widening in accordance with Drawing No. H3451/02, to be submitted and approved and the approved scheme completed prior to the first use of the café.
6. The car park laid out in with accordance with Drawing No. TS112-2 prior to the first use of the café.
7. A scheme detailing the boundary treatments (including acoustic fencing) between the site and the neighbouring residential properties of No.126 and 132 Kaye Lane to be submitted and approved prior to the first use of the café.
8. A method statement for enhancing biodiversity prior to the first use of the café.
9. No heat exchange unit, air conditioning unit or other plant installed until an acoustic report is submitted and approved.
10. Noise assessment to be submitted and approved prior to an outdoor seating area in connection with the café.
11. Artificial lighting scheme to be submitted and approved prior to the installation of any external artificial lighting.
12. Energy Statement to be submitted and approved prior to the first use of the café.
13. Details of bin/refuse collection and storage areas to be submitted and approved prior to the first use of the café.
14. Hours restricted to customers to 09:00 to 18:00 any day, as well as deliveries and no deliveries on Sundays or Bank Holidays.
15. Work to stop and Phase I survey to be submitted if unsuspected contamination encountered.
16. The menage area, included within the application site, shall be retained as such and shall not be used for customer or staff parking.

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

A vote for deferment.

For: Councillors: Bellamy, McGuin, A Smith and Lyons (4 votes)

Against: Councillors: Davies, Homewood, Sarwar, Sokhal, Ullah and Uppal (6 votes)

A vote to approve the application.

For: Councillors: Davies, Homewood, Sarwar, A Smith, Sokhal, Ullah, Uppal and Lyons (8 votes)

Against: Councillor Bellamy (1 vote)

Abstained: Councillor McGuin.

KIRKLEES COUNCIL

DECLARATION OF INTERESTS AND LOBBYING

Planning Sub-Committee/Strategic Planning Committee

Name of Councillor

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

LOBBYING

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

Signed:

Dated:

NOTES

Disclosable Pecuniary Interests

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

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

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

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

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

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

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

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

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

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

(b) either -

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

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

Lobbying

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

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

PLANNING POLICY

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

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

National Policy/ Guidelines

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

REPRESENTATIONS

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

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

EQUALITY ISSUES

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

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

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

HUMAN RIGHTS

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

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

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

PLANNING CONDITIONS AND OBLIGATIONS

Paragraph 55 of The National Planning Policy Framework (NPPF) requires that Local Planning Authorities consider whether otherwise unacceptable development could be made acceptable through the use of planning condition or obligations.

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

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

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

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

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

Report of the Head of Planning and Development

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 05-Aug-2021

Subject: Planning Application 2020/91186 Reserved matters application for erection of 20 dwellings pursuant to outline permission no. 2018/91198 for residential development land at, Westcroft, Honley, Holmfirth, HD9 3UL

APPLICANT

Worth Homes Ltd, M H
Mitchell, R H Mitchell, J S
Mitchell

DATE VALID

21-Apr-2020

TARGET DATE

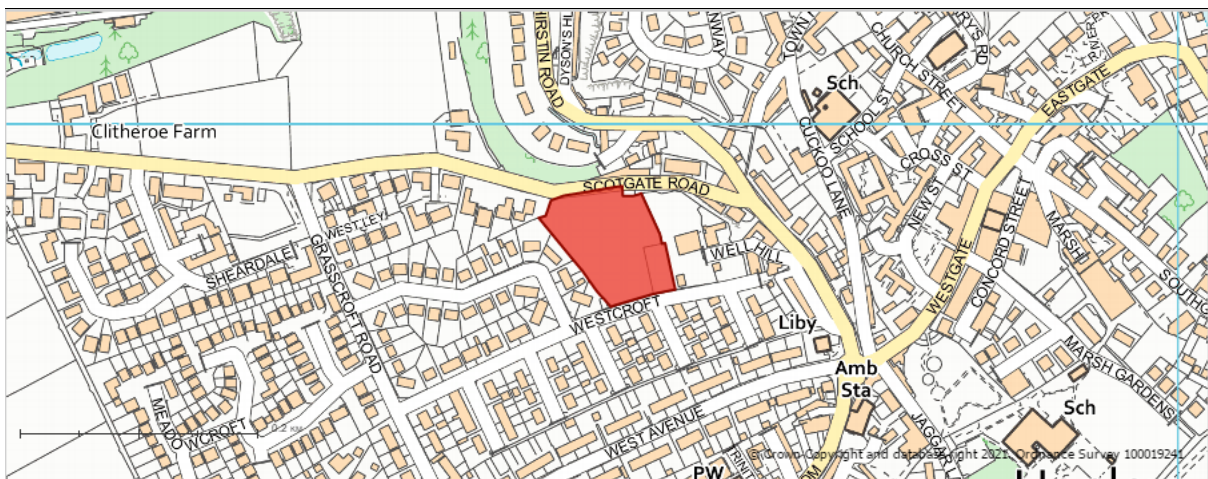
21-Jul-2020

EXTENSION EXPIRY DATE

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Holme Valley North

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION: Approve the Reserved Matters

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 matter set out below:

1. Contribution towards sustainable travel measures (Metro Cards) (£10,180)

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 is brought forward to the Huddersfield Sub-Committee in accordance with the resolution of the Sub-Committee when the Outline permission was approved.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site comprises an area of 0.72 hectares, located off Westcroft in Honley. The land is undeveloped and is currently overgrown and bound by a stone wall along its frontage, which is in part a retaining structure. There is also a gated access to the site off Westcroft. The site gradually slopes upwards from Westcroft towards the north.
- 2.2 The site is flanked to the west by dwellings along with a small substation to part of the boundary. A substantial detached property borders the site to the east, with a line of trees along a proportion of the boundary. There are dwellings to the south on the opposite side of the road. The site extends northwards to Scotgate Road, which is located at a significantly lower level to the majority of the site, with a tree covered embankment adjacent to the road. Some of these trees in the northern part of the site are protected.
- 2.3 The south eastern corner of the site lies within the Honley Conservation Area, with the Conservation Area extending to the east and north of the site.

2.4 The vast majority of the site is allocated for housing in the Local Plan (HS171).

3.0 PROPOSAL:

3.1 The site has outline planning permission, which approved the principle of residential development only. This application is now seeking approval of the reserved matters, namely the scale, layout, appearance, access and the landscaping of the site.

3.2 The proposal is for 20 dwellings, which comprise of a mixture of detached, semi-detached and terraced dwellings. All of the dwellings are two storeys in height, with the exception of plots 11 and 12 which include accommodation within their roof space. The dwellings would be faced in natural stone and slate.

3.3 A simple priority junction would be formed off Westcroft and this would serve nineteen of the dwellings. One of the dwellings would have its own individual driveway onto Westcroft (plot 20).

3.4 A small area of landscaped amenity space is provided to the south western corner adjacent to the access; this area would include a new oak tree. A drystone wall would be formed to the site frontage and a new hedgerow to the western boundary would provide a buffer to the adjacent houses. Trees are to be retained to the northern part of the site and supplemented with new planting.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 2018/91198 Outline application for erection of residential development – Approved by Huddersfield Sub-Committee 21/06/18

4.2 2018/91229 Works to TPO – Granted 10/05/18

4.3 2020/91698 Tree Notification - Dead or Dangerous Tree within a Conservation Area – Noted

4.4 2015/91391 Outline application for erection of detached dwelling with integral garage – Approved

4.5 2012/91139 Extension to time limit to previous permission 2009/91432 for outline application for erection of one dwelling with integral garage

4.6 2009/91432 Outline application for erection of one dwelling with integral garage – Approved

4.7 2006/95398. Outline application for 17 no dwellings. Refused as a greenfield site, when other brownfield sites were available and a 5 year supply of deliverable housing sites was deemed to be available. This was in accordance with guidance within PPG3 (Housing 2006). This has been superseded by the NPPF.

4.8 93/0082 Outline application for residential – Refused, and subsequent appeal dismissed.

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

- 5.1 The original proposal was for 24 dwellings, but this has been reduced to 20 so as to provide a more spacious development. There have been design changes to the dwellings, including a reduction in the number of three storey properties and improving the relationship between plot 1 and Westcroft.
- 5.2 The revised layout has mitigated the impact on existing dwellings whilst also addressing concerns with the dominance of parking within the street scene. Additional separation has also been provided between new dwellings and protected trees to the north. The size of plots 7-10 has been increased so as to comply with Nationally Described Space Standards.
- 5.3 Additional information has been submitted to support the highways, drainage, trees and ecological assessments.
- 5.4 A formal pre-application enquiry was submitted for 24 dwellings and as part of this, advice was provided on matters relating to layout, scale, appearance, access and landscaping as well as heritage issues.

6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).
- 6.2 The site comprises housing allocation HS171 within the Kirklees Local Plan plus a small area of unallocated land that falls within the Honley Conservation Area.
- 6.3 Kirklees Local Plan (2019):

LP1 – Presumption in favour of sustainable development
LP2 – Place shaping
LP3 – Location of new development
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 standards
LP24 – Design
LP27 – Flood risk
LP28 – Drainage
LP30 – Biodiversity and geodiversity
LP32 – Landscape
LP33 – Trees
LP35 – Heritage
LP65 – Housing allocations

6.4 Supplementary Planning Guidance / Documents:

Highway Design Guide SPD
Open Space SPD
Housebuilders Design Guide SPD

6.5 Neighbourhood Development Plans

The Holme Valley Neighbourhood Development Plan has reached an advanced stage of preparation and the independent Examiner's Report has been received. Although the plan has yet to be subject to a referendum in the affected area, it is a material planning consideration in decision making and weight has been attributed in accordance with NPPF (July 2021) paragraph 48.

The emerging Policies relevant to this application which are to be put forward to referendum, including key considerations from these Policies, are:

Policy 2: Protecting and Enhancing the Built Character of the Holme Valley and Promoting High Quality Design.

Includes "Proposals should be designed to minimise harmful impacts on general amenity for present and future occupiers of land and buildings" and [proposals] "should protect and enhance local built character and distinctiveness and avoid any harm to heritage assets..."

Policy 6: Building Homes for the Future General Principles.

Includes "Housing should be suitable in terms of design, house size and tenure; adequate parking for residents and visitors; proposals will be expected to demonstrate that densities make best and efficient use of land and reflect local settlement character; All major housing development schemes should demonstrate how they address the identified local housing need of the Rural West sub-area in terms of density, size, tenure and type of development."

Policy 12: Promoting Sustainability.

"All new buildings should incorporate technologies which generate or source energy from renewable, low carbon sources"

Policy 13: Protecting Wildlife and Securing Biodiversity Net Gain.

Includes "All development proposals should demonstrate how biodiversity will be protected and enhanced".

6.6 National Planning Guidance (NPPF, 2021):

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

6.7 Other material considerations:

Kirklees Interim Affordable Housing Policy (January 2020)
Biodiversity Net Gain Technical Advice Note
Planning Practice Guidance

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been subject to two separate rounds of formal publicity. The first round of publicity was undertaken in 2020 and related to the original 24 dwelling scheme. The second round of publicity was undertaken in March 2021 and publicised the current scheme for 20 dwellings.

7.2 A total of 20 representations have been received – 12 representations in response to the first publicity period and 8 representations in response to the second round of publicity.

7.3 A summary of the comments received to the first round of publicity is provided below:

- 24 dwellings exceeds the site's indicative capacity in the Local Plan and this is more than what was indicated at outline stage
- Houses are too close to the Conservation Area and will be visible from the Conservation Area to the north, especially because some of them are three storey properties
- Development will reduce the green buffer to the Conservation Area to the north. Gardens backing onto Scotgate Road would have a detrimental impact on the Conservation Area as a result of rear boundary treatments, which would be set above Scotgate Road, and the likelihood that the gardens will be developed in the future with decking etc. Rear boundary fencing will also negatively impact on the outlook from properties on the opposite side of Scotgate Road.
- Less green/open space than was indicated at outline stage
- Object to the location of specific parking spaces close to existing property
- Housing on the site will detrimentally affect the character of the area
- Three storey houses not in keeping with the area
- Development is too close to existing houses
- Loss of privacy
- Loss of light/overshadowing

- Impact of development on residential amenity is exacerbated by some of the properties being three storeys. Properties with a lower roof line would be more acceptable.
- Impact on wildlife, including bats
- Concerns with the loss of trees on the site and impact of proposal on viability of trees to be retained
- A number of trees on the site require attention and need to be removed carefully and should be replaced
- All tree works should be undertaken by a qualified professional
- Impact on local infrastructure and services such as schools and doctors
- Impact of additional traffic on road network
- Unclear what the proposed facing materials are. Natural stone is appropriate given proximity to Honley Conservation Area
- Noise and disturbance from this number of houses
- Concern with impact on drainage (previous problems with sewer disposal on Westcroft when new housing was built)
- Development should include a surfaced pedestrian/cycle link to Scotgate Road. This is important because Scotgate Road is a route to school which is unsafe and unattractive. It is narrow, with on-street parking, without a continuous footway, and used as a rat-run. Its footway ends at the point where it would be met by a link from the development. The provision of this link would create a safe route to school via Westcroft.
- Start and finish times for building must include contractor start up and close down and not extend beyond the times stated for the benefit of surrounding residents
- Boundary treatments to existing property should be retained

7.4 A summary of the comments received to the second round of publicity is provided below:

- The total number of dwellings as amended still exceeds the site's indicative capacity in the Local Plan
- Welcome the reduction in the number of dwellings from 24 to 20
- The removal of three storey dwellings backing onto the existing houses to the west and the orientation of these dwellings addresses previous concerns with overlooking and loss of privacy
- Welcome the reduction in the number of houses but the amended layout increases overlooking

- Concern that the amended layout provides scope for additional development in the future, such as the landscaped area adjacent to plot 19
- The development, including garden areas and potential boundary fencing, will be visible from Scotgate Road to the north and will have a detrimental impact on the appearance of the Honley Conservation Area
- A foot and cycle link should be provided through the site from Westcroft to Scotgate Road; this would improve opportunities for active travel, access to the nearby woods and countryside as well as improving road safety
- Concern that the condition of one of the existing trees adjacent to Scotgate Road is such that it will fall and threaten adjacent property. This tree gets caught by high vehicles which leaves debris in the road and there are concerns that the development will weaken it, thus potentially increasing the likelihood of it falling. Request that the developer applies to remove this tree.
- A number of trees on the site have already been removed
- Concern that the tree within plot 20 will be retained because it overhangs the road
- Loss of outlook
- Loss of privacy
- Development will increase traffic within the village and prejudice highway safety, especially when considered with other developments that have been built/are being built in Honley
- Impact on local infrastructure and services such as schools and medical providers
- Loss of green space
- Loss of habitat for wildlife
- The road infrastructure of Honley cannot cope with the additional houses
- Garden fences should allow for the free movement of hedgehogs
- Properties should be provided with a compost bin
- Start and finish times for building must include contractor start up and closedown and not extend beyond the times stated for the benefit of surrounding residents
- What assurances are there that the drainage tanks being put in will be adequate and how do they work?
- Unclear what the facing materials will be

7.5 Holme Valley Parish Council – Support in principle but query whether the density of the development is appropriate; expect that there is a proportionate mix of affordable housing, - five of twenty, - and that ongoing plans include arrangements for renewable energy sources (solar panels, district heating &c) as described in the Holme Valley Parish Council draft Neighbourhood Development Plan.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

KC Highways Development Management - No objection subject to conditions

KC Lead Local Flood Authority - No objection

8.2 Non-statutory:

KC Conservation and Design – The development would cause slight harm to the setting of the Conservation Area although the layout, facing materials, retention of mature trees, topography and boundary treatment all help to mitigate the impact. The slight harm that has been identified and the public benefits to outweigh this harm should be demonstrated by the applicant.

KC Trees – No objection

KC Ecology Unit - No objection

Yorkshire Water – No objection

Police Architectural Liaison Officer – No objection

9.0 MAIN ISSUES

- Background
- Layout
- Scale
- Appearance
- Access
- Landscaping
- Heritage
- Drainage
- Trees
- Ecology
- Planning obligations
- Representations
- Other matters

10.0 APPRAISAL

Background

- 10.1 The application site comprises housing allocation HS171 in the Kirklees Local Plan plus an additional piece of land to the south east that has previously had outline planning permissions for the erection of one dwelling – most recently in 2015.
- 10.2 The application site has outline permission for residential development and the applicant is now seeking approval of the layout, scale, appearance, access and landscaping of the site (the ‘reserved matters’).

Layout:

Density and housing mix

- 10.3 Housing allocation HS171 has a gross site area of 0.64 hectares and a net developable area of 0.44 hectares when protected trees are removed from the developable area. The indicative capacity of the allocation is 15 dwellings.
- 10.4 The application site comprises an area of 0.72 hectares with the inclusion of the unallocated parcel of land to the south eastern corner.
- 10.5 The proposal is for a total of 20 dwellings. There are effectively 19 dwellings on the housing allocation and a single dwelling on the unallocated portion of the site. The density of development equates to 38.5 dwellings per hectare based on the developable area of the housing allocation plus the additional piece of land to the south east.
- 10.6 The number of dwellings has been reduced from 24 during the application process. Officers sought to decrease the quantum of development because it was considered that the original scheme was overly cramped and resulted in unacceptable relationships with neighbouring properties, gave rise to an overdominance of vehicular parking within the street scene and would have been likely to prejudice protected trees through additional pressure to fell or prune because of the proximity of dwellings to trees.
- 10.7 The proposed density of development exceeds the indicative capacity of the housing allocation. Officers have no objection to this in principle, provided that the development satisfies all relevant planning considerations, particularly with regards to the impact on protected trees, which the Local Plan identifies as the principal constraint to developing the land. Furthermore, the provision of additional housing over and above the site’s indicative capacity represents an efficient use of housing land which would boost the supply of housing in the District. Optimising the potential of a site to accommodate new housing is supported by Policy LP7 of the Local Plan and guidance in the NPPF. It would also be consistent with Policy 6 of the emerging Holme Valley Neighbourhood Plan.
- 10.8 The proposed layout provides a mixture of house types and sizes. There is a combination of terraced (4no.), semi-detached (8no.) and detached (8no.) house types providing between 2 and 5 bedroom properties. This housing mix is considered to be acceptable and as such the application is deemed to be in compliance with Policy LP11.

Residential Amenity

- 10.9 There are existing dwellings to the west, which back onto the application site, and comprise two storey properties and dormer bungalows. The new dwellings that back onto the western boundary are all two storeys in height and the submitted plans show that the new houses would be set at a lower level to these existing properties. Separation distances between new and existing dwellings would be at least 21m and the orientation of the dwellings further helps to mitigate any potential for direct overlooking. The rear elevations of the new houses would be at least 10.5m from the existing gardens to the west and a new hedgerow along the western boundary would provide a landscaped buffer. The amended layout has significantly improved the relationship with the existing houses to the west of the site and as such officers are now satisfied that the development would provide an acceptably high standard of amenity for existing and future residents.
- 10.10 There is a substantial detached property to the east of the site (No.9 Well Hill), which is set at a lower level to the development. The closest new dwelling is plot 20, which is offset from 9 Well Hill and has its side elevation facing onto the shared boundary. There are also a small number of new dwellings that would back onto this existing property at distances of 23m-27m. Some screening would be provided along the boundary by an existing hedgerow and trees, which would be supplemented with some new planting and timber fencing. Officers consider that the relationship with the property to the east to be acceptable.
- 10.11 There are also existing dwellings opposite the site on Westcroft. The nearest dwellings on Westcroft are side-on to the site and include an attached garage to their side elevation. New dwellings are separated by approximately 19m and 28m from the attached garages, which ensures ample separation.
- 10.12 To the rear of the site is Scotgate Road and there are a handful of dwellings that lie opposite the site and front directly onto the highway. These properties are set at a much lower level to the application site. The existing houses would be separated by an undeveloped green buffer, with the gardens of the new dwellings then providing physical separation between the buildings. Separation distances between habitable windows would be in the order of 21m to 27m. Existing trees within the northern part of the site, some of which are protected, along with new tree planting in this location would also help to screen the new dwellings from the nearest houses on Scotgate Road. Officers consider that these factors are such that the development would not unduly the amenity of neighbouring properties to the north.
- 10.13 It is recommended that permitted development rights are withdrawn for extensions and additions to the dwellings so as to protect the amenity of neighbouring occupiers.

Visual amenity

- 10.14 The proposed layout provides pockets of open space which would help to enhance the overall quality of the development. The south western corner of the site would form an area of amenity space immediately adjacent to the main access off Westcroft, which would provide a degree of openness to the

development. A newly planted oak tree is proposed within this area and would provide an attractive feature within the street scene. The northernmost part of the site would be undeveloped and would form a grassland/wildflower area with trees. This would help to soften the edge of the development as viewed from Scotgate Road and the Honley Conservation Area.

- 10.15 The reduction in the number of dwellings has allowed for a somewhat more spacious form of development and has enabled the amount of parking to the front of dwellings to be reduced and broken up with landscaping. Parking spaces have been provided to the sides of some of the dwellings and other spaces provided in tandem form to mitigate the prominence of parking within the development. This has improved the design of the scheme.
- 10.16 In conclusion, officers consider the proposed layout to be acceptable and in this regard the application accords with Policies LP7, LP11 and LP24 of the Kirklees Local Plan as well as guidance in the NPPF. It would also be consistent with Policy 2 of the emerging Holme Valley Neighbourhood Plan.

Scale

- 10.17 All of the proposed dwellings are two storeys in height, except for plots 11 and 12 which include an additional floor of accommodation within their roof space. Plots 11 and 12 are located towards the back (north) of the site and lie at the head of the estate road cul-de-sac.
- 10.18 The surrounding area is predominantly characterised by traditional two storey dwellings along with dormer bungalows. The proposed two storey dwellings are therefore in keeping with the character of the area. The three storey properties have been designed to minimise the additional height through the inclusion of an asymmetrical roof. As a result, the dwellings appear as two storey houses at the front. The eaves height is raised at the rear of these plots although the additional bulk and mass is not significantly different to a two-storey dwelling. In officers' opinion, the design and location of the three storey dwellings is such that plots 11 and 12 would not appear unduly prominent.
- 10.19 Turning to the size of the dwellings, the government's Nationally Described Space Standards (NDSS) deals with internal space within new dwellings. Although not adopted policy in Kirklees, the Council recognises the nationally described space standards as best practice to ensure that new homes are able to meet basic lifestyle needs and provide high standards of amenity for future occupiers – as set out within the Housebuilders Design Guide SPD.
- 10.20 All of the proposed dwellings comply with Nationally Described Space Standards.
- 10.21 In addition, all the dwellings would have a suitable amount of private outdoor amenity space.
- 10.22 In summary, officers consider that the scale of the proposed development is acceptable and satisfies policy LP24 of the Kirklees Local Plan and guidance in the NPPF. It would also be consistent with Policy 2 of the emerging Holme Valley Neighbourhood Plan.

Appearance

- 10.23 The proposed dwellings have a consistent design theme but with some variation provided across the different house types. The topography of the site also helps to introduce some variety to the appearance of the dwellings, with the houses stepping up in height from front to back. This includes, for example, plots 1 and 2 which comprise a pair of semi-detached dwellings that are set at different levels to one another. Certain dwellings, for example plot 6, help to provide breaks within the building line and other dwellings incorporate recessed elements to the side which provides some depth to these properties.
- 10.24 Plot 1 occupies a prominent corner position at the entrance to the development and immediately adjacent to Westcroft. This dwelling is side-on to Westcroft and officers have secured an amendment to the design of this dwelling to improve the interface with the street scene. This has been achieved by having a series of windows, including main habitable, secondary and non-habitable windows, in the side elevation to give this dwelling an active elevation and provide visual interest.
- 10.25 The proposed facing materials are natural stone and slate, which is considered appropriate given that a small part of the site falls within the Honley Conservation Area and much of the remainder of the site is immediately adjacent to the Conservation Area.
- 10.26 In conclusion, the appearance of the development is considered acceptable and in accordance with Policies LP24 and LP35, as well as guidance in the NPPF. It would also be consistent with Policy 2 of the emerging Holme Valley Neighbourhood Plan.

Access

- 10.27 Two points of access are proposed off Westcroft. There would be a main access in the form of a simple priority junction that would serve 19 of the dwellings and a private drive serving plot 20. Appropriate visibility is provided from the access points and Highways Development Management consider the proposed points of access to be acceptable.
- 10.28 Within the site, there would be an adoptable estate road that culminates in a turning head with two shared private drives spurring off. The applicant has demonstrated that there is sufficient space for vehicles to manoeuvre, including a refuse vehicle. A condition requiring detailed design of the adoptable estate road is recommended.
- 10.29 Bin collection points are indicated at the start of each of the shared private drives. A condition requiring details of the bin storage and collection points for all the dwellings is recommended and temporary refuse collection arrangements during the construction phase.
- 10.30 Each of the dwellings has an acceptable level of private parking and visitor parking spaces are also provided.

10.31 Based on the above, the application is considered to comply with Policies LP21 and LP22 of the Kirklees Local Plan. It would also be consistent with Policy 6 of the emerging Holme Valley Neighbourhood Plan.

Landscaping

10.32 To the southern site boundary, a drystone wall would be provided to the site's frontage which would tie the development in with the existing drystone retaining wall that runs to the east of the site down Westcroft. Part of this wall would provide a retaining function. The new wall would also extend around the return to the main access, enhancing the appearance of the site entrance. The provision of this wall can be conditioned. A drystone wall to the site frontage would be consistent with Policy 2 of the emerging Holme Valley Neighbourhood Plan.

10.33 To the west of the site, there is an existing wall to the boundary with the houses on Westcroft. This wall would remain in situ and a new hedgerow planted alongside it that would extend almost to Scotgate Road. This hedgerow would help to provide a green buffer between new and existing houses.

10.34 To the north of the site is an 'ecological enhancement zone'. This area occupies the north western corner of the site and a circa 2m wide strip of to the rear of plots 10-13. It would form an area of a grassland and wildflowers and contain numerous existing trees supplemented with new tree planting. This feature of the development is within an existing vegetated embankment and it would therefore help to retain some of the existing character of Scotgate Road.

10.35 The gardens of plots 10-13 would extend up to the ecological enhancement zone and would be enclosed by a 1.8m hit and miss timber fence. This section of fencing would be parallel to Scotgate Road and would extend for approximately 35m. The fencing would be set up from Scotgate Road, although it would be set in from the roadside by around 2m which would mitigate its prominence. The same type of fencing would also enclose the rear boundaries of plots 7-9 but here the fencing would be set back from Scotgate Road by around 6-7m. The fencing lies within the crown spread of several protected trees and so in terms of construction it represents a low impact form of boundary treatment in this part of the site, in comparison to a wall for example. Officers do not consider that the proposed fencing in this location would unduly harm the appearance of the Conservation Area.

10.36 An existing hedgerow would be retained to the east of the site which would form the boundary with plot 20. Timber fencing would be provided to the boundaries of plots 6 and 7 where they adjoin the eastern boundary.

10.37 Within the site, rear gardens would be separated by 1.8m fencing. Some plot boundaries would include a low retaining wall in response to the topography of the site. A condition requiring retaining walls within the site to be faced in stone to match the dwellings is recommended.

10.38 As discussed earlier within this appraisal, an area of amenity space is to be provided to the south western corner of the site and an oak tree would be planted in this area. Other tree planting would be provided within front and rear gardens as well as adjacent to the visitor parking spaces.

10.39 Overall, the scheme provides a good amount of soft landscaping that would soften the appearance of the development and help assimilate it within the surrounding area. The drystone wall to the site frontage would also help in this regard. As such, the application is considered to satisfy Policy LP24.

Heritage

10.40 The Honley Conservation Area extends to the north and east of the site and takes in the south eastern corner of the site where plot 20 is proposed as well as a narrow strip of land along the northern edge of the housing allocation adjacent to Scotgate Road. At the eastern end of Westcroft is a short terrace of four Grade II listed weaver's cottages dating to the early-mid 19th century. In addition, one of the identified constraints of the housing allocation is that it is within an area that affects the setting of Castle Hill scheduled monument and the Grade II Listed Victoria Tower, which is roughly 2.5km to the north east.

10.41 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states "with respect to any buildings or other land in a conservation area... special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area." While most of the site does not fall within the Honley Conservation Area, the proximity of the site to the Conservation Area means that it would directly impact its setting. Section 66(1) of the Act requires local planning authorities to have special regard to the desirability of preserve the setting of listed buildings.

10.42 Chapter 16 of the NPPF provides guidance in relation to conserving and enhancing the historic environment and Policy LP35 of the Local Plan relates to the historic environment. Policy LP35 underlines the specific need to preserve the setting of Castle Hill.

10.43 The Council's Conservation and Design team have assessed the application. It is considered that the visibility of the site from the north would be limited by the fact that the new dwellings would be set back from Scotgate Road and obscured by trees. Harm to the setting of this part of the Conservation Area would therefore be slight, and this would be mitigated somewhat by the proposed facing materials which would reflect the local characteristics.

10.44 The site is bound by 9 Well Hill to the east, with the site boundary forming the boundary with the Conservation Area. Vistas from within the Conservation Area to the east of the site are restricted. When viewed from Cuckoo Lane on the opposite hillside within the Conservation Area, the proposal site is hidden behind mature trees and other developments, and from Thirstin Road the view is similarly limited.

10.45 Plot 20 is located directly within the Conservation Area and the principle of development in this location has already been accepted through previous applications.

10.46 The retention of existing trees and planting of new trees along with the construction of a drystone boundary wall on the southern boundary will soften the view of the development and minimise its impact on the setting of the Honley Conservation Area.

- 10.47 Officers consider that the impact of the development on the Conservation Area would be slight, and this harm would be outweighed by the wider public benefits of delivering new development on this housing allocation.
- 10.48 Turning to the nearby listed buildings to the east of the site, the protected mature trees along with the garden of 6 Well Hill, provide a visual buffer between the development and the listed buildings. A detached dwelling to the south of 8 Well Hill, approved in 2019 (2019/93994), would provide a further physical buffer if constructed. As such it is considered that the development would have no discernible impact on the setting of these listed buildings.
- 10.49 With respect to the impact on the setting on Castle Hill, it is considered that the development's position within an already built-up area and the site's topography, which is lower than neighbouring development to the west, would serve to significantly limit any potential harm.
- 10.50 Based on the above it is considered that the application complies with Policy LP35 of the Local Plan and guidance in the NPPF.

Drainage

- 10.51 Detailed drainage design is covered by a condition on the outline consent. However, given that layout is one of the matters under consideration, it is necessary to consider whether the proposal has made sufficient space for surface water drainage. The applicant has provided a drainage design which shows that surface water would be attenuated on-site within a tank below the amenity space in the south west corner of the site. Kirklees Lead Local Flood Authority (LLFA) raise no objections to the proposed layout.
- 10.52 The applicant has also submitted a temporary drainage scheme for the construction phase as part of the reserved matters application. The LLFA has confirmed that this is acceptable. A condition is recommended requiring the development to be carried out in accordance with the proposed temporary drainage scheme.

Trees

- 10.53 Amendments to the proposed site layout have addressed the tree officer's initial concerns regarding the proximity of dwellings to protected trees. The potential for pressure to arise to prune or fell trees in the future has therefore been mitigated to an acceptable extent.
- 10.54 The applicant has also provided an acceptable Arboricultural Method Statement that details how the development will be carried out without prejudicing protected trees.
- 10.55 New tree planting is to take place within the site which will help to compensate for the loss of existing trees, including a tree within the middle of the site that was planted relatively recently and replaced a protected sycamore that had been legitimately removed under a tree work application.

- 10.56 An oak tree would be provided to the site frontage within an area of amenity space and structured tree planting is proposed within the undeveloped area of land to the north of the site. New trees are also shown within private curtilage. Full details of the proposed tree planting, including the number, size, species and when they are to be planted can be secured by condition. It will also be necessary to ensure that the replacement trees are retained in the future; initially this can be controlled by a standard planning condition, but it is likely that formal protection through an amendment to the existing Tree Preservation Order will be required to achieve this.
- 10.57 The tree officer has recommended that further compensatory tree planting be provided within the amenity space in the south western corner of the site. This area would include the attenuation tank which constrains the potential of this area to accommodate further trees because of the need to avoid planting over the tank to protect it from potential damage from tree roots. As such, it is not considered that there is any scope to provide further planting, especially because any additional trees would need to be set away from the oak tree to provide light and space to grow.
- 10.58 In summary, it is considered that the development satisfies Policy LP33 of the Local Plan.

Ecology

- 10.59 The application is supported by a Landscape and Ecological Management Plan (LEMP), which details a series of measures to deliver biodiversity mitigation and enhancement. It is also supported by a Construction Environmental Management Plan (CEMP), which details how the construction will be carried out whilst minimising the impact on biodiversity.
- 10.60 The scheme includes several features to enhance biodiversity. These include a hedgerow along the full length of the western boundary that will provide a connective corridor for wildlife and will link to the proposed 'ecological enhancement zone' to the north. This enhancement zone would provide grassland and wildflower habitat and new tree planting (details of the planting to be secured by condition). Boundary fencing would allow for hedgehog movement.
- 10.61 Within the amenity space to the front of the site, a new oak tree and hedgehog hibernaculum would provide enhancement and bat and bird boxes are to be provided on a number of the proposed dwellings.
- 10.62 The Council's Ecologist has not raised any objection to the submitted details and the application is considered to comply with Policy LP30 of the Kirklees Local Plan as well as being consistent with Policy 13 of the emerging Holme Valley Neighbourhood Plan. Conditions are recommended requiring the development to be carried out in accordance with the LEMP and CEMP as well as a condition requiring the retention of the hedgerow to the western boundary.

Planning obligations

- 10.63 Affordable housing, open space and education requirements are all secured through conditions on the outline permission. The applicant is required to discharge these conditions through a separate application and this will also require a Section 106 agreement.

- 10.64 Based on the layout that has come forward, the development will be required to provide four affordable dwellings (representing 20% of the total number of units). The applicant has indicated that the four terraced dwellings would be offered as the affordable units. These are two bed dwellings and would help to meet the identified need for smaller affordable properties in Holme Valley North; this would be consistent with Policy 6 of the emerging Holme Valley Neighbourhood Plan.
- 10.65 A small amount of on-site open space is provided within the proposed layout however the development will be required to provide an off-site sum to fully meet its obligations in terms of Policy LP63 of the Local Plan. Based on the proposed layout, the off-site contribution would be in the region of £30,000.
- 10.66 The quantum of development as proposed falls below the threshold for an education contribution.
- 10.67 Measures to promote sustainable travel were not secured at outline stage and as such it is considered necessary for this to be addressed through the current reserved matters application. A contribution of £10,180 towards Metro Cards, to promote the use of public transport by occupiers of the development, is to be secured via a Section 106 agreement.

Representations

- 10.68 A total of 20 representations have been received – 12 representations in response to the plans for 24 dwellings and 8 representations in response to the amended plans for 20 dwellings. The concerns raised have been summarised at section 7 of this report.
- 10.69 Issues raised in relation to the principle of development on the land and the loss of green space are not germane to this application. The principle of development has already been established by the outline consent and most of the site is now allocated for housing in the Local Plan.
- 10.70 Similarly, it has already been accepted that the site would generate a certain level of traffic movements. The proposed quantum of development is consistent with that indicated at outline stage and it is considered that the level of traffic can be safely accommodated on the local highway network. It is not considered that the scale of development requires any off-site highway mitigation measures.
- 10.71 Matters relating to the density of development, heritage impacts, residential amenity, urban design, trees, ecology and drainage have all been addressed within this appraisal.
- 10.72 Of those matters that have not been addressed, an officer response is provided as follows:
- Impact on local infrastructure and services such as schools and doctors

Officer response: The application is solely seeking approval of the reserved matters (layout, scale, appearance, landscaping and access) and consideration of the impact on local infrastructure does not fall to be considered.

- Noise and disturbance from this number of houses

Officer response: The proposal is for housing within an established residential area and so the proposed use of the site is compatible with its surroundings.

- Development should include a surfaced pedestrian/cycle link to Scotgate Road. This is important because Scotgate Road is a route to school which is unsafe and unattractive. It is narrow, with on-street parking, without a continuous footway, and used as a rat-run. Its footway ends at the point where it would be met by a link from the development. The provision of this link would create a safe route to school via Westcroft.

Officer response: This issue was also raised at outline stage. The applicant has commented as to why such a link would be unsuitable:

“The gradient of the site means the footpath would be steep and would have to traverse the full width of the site. The construction of any footpath would require major engineering works, which would be challenging within the root protection area of the trees. The main concern is that there is no footway adjacent to the Scotgate Road, so a footpath down the bank would end abruptly in the carriageway, which would impact on highway safety. The sloping nature of the site would add to this safety issue. Furthermore, a public footpath through the site would be contrary to Secure by Design Principles, where public access in egress into a site should be restricted to areas with good natural surveillance. It should also be noted that currently there is no access through the site so the development will not be closing off any formal or informal routes.”

Officers have accepted the applicant’s justification for not providing a link to Scotgate Road.

- Start and finish times for building must include contractor start up and close down and not extend beyond the times stated for the benefit of surrounding residents

Officer response: A condition requiring a construction management plan (CMP) to mitigate the impact of construction activities on local residents is recommended. The applicant has sought to provide such a plan as part of the reserved matters but the CMP in its current form is unacceptable for residential amenity purposes.

- Concern that the amended layout provides scope for additional development in the future, such as the landscaped area adjacent to plot 19

Officer response: The area of public open space within the site would be designated as such and therefore benefit from protection. Planning permission would be required for any additional houses and is likely to be resisted.

- Concern that the condition of one of the existing trees adjacent to Scotgate Road is such that it will fall and threaten adjacent property. This tree gets caught by high vehicles which leaves debris in the road and there are concerns that the development will weaken it, thus potentially increasing the likelihood of it falling. Request that the developer applies to remove this tree.

Officer response: this is outside the scope of matters assessed by this application.

Other matters

- 10.73 The Police Architectural Liaison Officer has not raised any objections to the proposals.
- 10.74 Electric vehicle recharging points are required for the development – as stipulated by condition 7 of the outline permission. The applicant has indicated recharging points on the site layout plan, but the information provided to date is insufficient for the details to be approved as part of this application. The applicant will need to submit amended details – either as part of this application or through a separate discharge of condition application.
- 10.75 Condition 13 on the outline permission requires a construction management plan for traffic. The applicant has provided an acceptable construction traffic management plan for traffic as part of this application, which can be approved and will fulfil the requirements of the condition.

Climate change

- 10.76 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.
- 10.77 As part of this application, a contribution to promote sustainable travel measures is to be secured. The development is required to be provided with electric vehicle recharging points. These measures will help to mitigate the impact of this development on climate change.
- 10.78 Policy 12 of the emerging Holme Valley Neighbour Hood Plan promotes sustainability and seeks for all new buildings to incorporate technologies which generate or source energy from renewable, low carbon sources. Holme Valley Parish Council has made similar comments in their representation. To address this matter a condition is recommended requiring details of a scheme for such measures to be incorporated into the development. This would help to mitigate the impact of the development on climate change.

11.0 CONCLUSION

- 11.1 The proposal delivers an efficient use of this land whilst protecting the viability of protected trees and ensuring an acceptability high standard of amenity for existing and future residents. The proposed layout and access arrangements would not harm highway safety and the applicant has demonstrated that the layout provides sufficient space for the proposed drainage arrangements. The development incorporates a range of measures that would deliver a net biodiversity gain.
- 11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.8 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. Development in accordance with approved plans
2. Approval of samples of natural stone and slate to be used for facing materials
3. Submission and approval of a construction plan for residential amenity is this already on the outline
4. Development in accordance with the highway measures set out in the submitted Construction Management Plan
5. Development in accordance with the submitted temporary drainage arrangements
6. Development in accordance with the submitted Arboricultural Method Statement
7. Development in accordance with the submitted Landscape and Ecological Management Plan
8. Development in accordance with the submitted Construction Environmental Management Plan
9. Detailed design of the adoptable estate road
10. Details of bin storage and presentation points
11. Details of temporary refuse bin collection arrangements during the period of construction
12. Private vehicle parking areas surfaced and drained
13. Detailed specification of all new tree and hedgerow planting
14. Retention of the new tree and hedgerow planting and details of future maintenance arrangements
15. Front boundary wall constructed of natural stone
16. Retaining walls faced in material to match the dwellings

17. Removal of permitted development rights for extensions and outbuildings
18. Scheme for low carbon energy technologies to be incorporated into the development

Background Papers:

Application and history files.

Link to application details:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f91186>

Report of the Head of Planning and Development

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 05-Aug-2021

Subject: Planning Application 2021/91384 Erection of 13 dwellings (resubmission) land south of, 5-25, Clay Well, Golcar, Huddersfield

APPLICANT

Dax Bradley, Brierstone
LTD

DATE VALID

15-Apr-2021

TARGET DATE

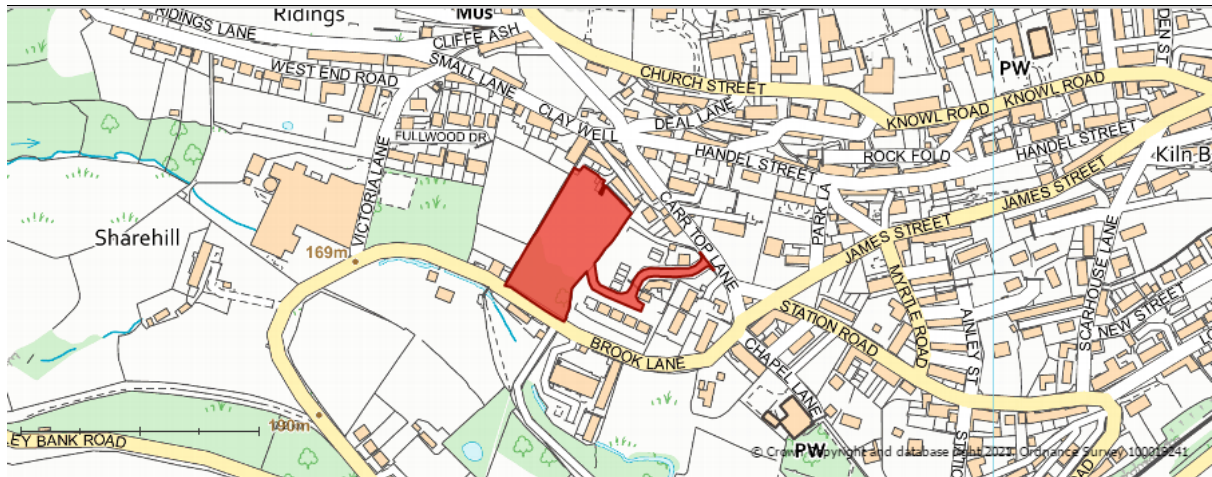
15-Jul-2021

EXTENSION EXPIRY DATE

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Golcar

Ward Councillors consulted: Yes

Public or private: PUBLIC

RECOMMENDATION:

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

- 1) Affordable housing – Three affordable housing units (two affordable/social rent, one intermediate) to be provided in perpetuity.
- 2) Open space – £29,123 off-site contribution and an additional contribution payable in the event that development comes forward at the adjacent site (site allocation ref: HS153) and the cumulative impacts of both developments require mitigation.
- 3) Education – Contribution payable in the event that development comes forward at the adjacent site (site allocation ref: HS153), the education contribution threshold (by both developments considered together) is met, and the cumulative impacts of both developments require mitigation.
- 4) Sustainable transport – Measures to encourage the use of sustainable modes of transport.
- 5) Management – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties (including the application site's protected woodland), and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker). Section 106 agreement to include a plan clearly defining all land which would be the responsibility of the management company.
- 6) Biodiversity – Contribution (amount to be confirmed) towards off-site measures to achieve biodiversity net gain.
- 7) Adjacent land – Agreement to allow vehicular, cycle, pedestrian and construction access to adjacent site (site allocation ref: HS153) without unreasonable hindrance.

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

1.0 INTRODUCTION:

- 1.1 This is an application for full planning permission, for a residential development of 13 dwellings.

- 1.2 The application is presented to the Huddersfield Sub-Committee as it relates to a site larger than 0.5 hectares in size and has attracted a significant volume of representations.
- 1.3 The application is a resubmission of application ref: 2019/90925, which the Huddersfield Sub-Committee resolved to approve at its meeting of 19/03/2020. That application was, however, subsequently refused on 26/03/2021 as the applicant had not completed the required Section 106 agreement.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site comprises site allocation HS158 (allocated for housing) and the estate road that serves the development under construction to the east. Although section 4 of the submitted application form states that the site is 0.39 hectares in size, the application site red line boundary includes a larger area, and in this report a site area of 0.74 hectares is used. This figure was also used when the previous application (ref: 2019/90925) was considered.
- 2.2 The site is within the Golcar Conservation Area. To the north of the site is a terrace of five Grade II listed cottages at 17-25 Clay Well, and the Grade II listed former factory/warehouse and dwellings at 27-29 Clay Well. To the southwest is a Grade II listed group of back-to-back buildings at 54, 54A, 56 and 58 Brook Lane. Undesignated heritage assets within and close to the site include footpaths, dry stone walls and field patterns.
- 2.3 The site slopes downhill from north (approximately 190m AOD) to south (approximately 170m AOD). No buildings exist within the site's boundaries other than a derelict stone building at the north end of the site. The site has previously been in agricultural use, and is previously-undeveloped (greenfield) land. Parts of the site are overgrown with self-seeded trees and shrubs, giving the site a ruderal character, although some clearance and movement of earth has occurred, some in connection with the development of the adjacent site. Tree Preservation Order 06/15/w1 protects the woodland within the southern part of the site, and the conservation area status of the site bestows protection on other trees. A Biodiversity Opportunity Zone (Valley Slopes), an SSSI Impact Risk Zone, and a Twite buffer zone cover the site.
- 2.4 A public footpath (COL/56/40) runs along the site's west boundary.
- 2.5 Land immediately to the west and east is also allocated for housing (site allocations HS153 and HS157).

3.0 PROPOSAL:

- 3.1 The applicant seeks full planning permission for the erection of 13 dwellings.
- 3.2 A new estate road is proposed as an extension to the estate road of the adjacent development (Hillcrest View, currently nearing completion), continuing north-westwards across the site and meeting the public footpath that runs along the site's western edge.

- 3.3 Dwellings would be arranged along this new estate road, provided as five detached houses, a pair of semi-detached houses, and in two short terraces. Eight 3-bedroom and five 4-bedroom dwellings are proposed. 12 of the proposed dwellings would have 3-storey elevations to one side, 2-storey elevations to the other. Natural stone walls and natural slate roofs are proposed.
- 3.4 No publicly-accessible open space is annotated on the applicant's drawings.
- 3.5 All dwellings would have off-street parking. Nine of the proposed dwellings would have integral garages.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2019/90925 – Full planning permission refused 26/03/2021 for the erection of 13 dwellings. Reason for refusal:

The proposed development, due to its lack of on-site affordable housing and open space, lack of related financial contributions to address these requirements off-site, and lack of a financial contribution towards education provision, would not sufficiently meet known housing need, would not provide adequate, usable outdoor space for its residents, would not make adequate provision for education, and would not sufficiently mitigate its impacts. Furthermore, with insufficient measures to encourage the use of sustainable modes of transport, to ensure land and infrastructure is managed, and to ensure access is provided to adjacent land, the proposed development would not be sustainable, would not sufficiently mitigate risk in relation to drainage and maintenance, and would not ensure development of adjacent land is enabled and that a connected, permeable neighbourhood would be created. This would be contrary to Kirklees Local Plan policies LP4, LP5, LP7, LP11, LP20, LP24, LP27, LP28, LP47, LP49 and LP63, and chapters 5, 8, 9, 11, 12 and 14 of the National Planning Policy Framework.

- 4.2 2017/93719 – Outline planning permission granted 14/03/2018 for residential development with details of point of access only.
- 4.3 95/90501 – Outline planning permission refused 31/03/1995 for approximately 23 residential dwellings.
- 4.4 94/93595 – Outline planning permission refused 10/01/1995 for approximately 23 residential dwellings.
- 4.5 The adjacent site to the west was granted outline planning permission for residential development (with details of access) on 14/03/2018 (ref: 2017/93638).
- 4.6 The adjacent site to the east was granted outline planning permission for residential development on 09/09/2015 (ref: 2015/90507), and reserved matters approval for a 19-unit scheme was subsequently granted at appeal on 14/11/2019 (refs: 2018/92848 and APP/Z4718/W/19/3229696). That scheme is currently under construction.

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

- 5.1 During the life of the current application, the applicant submitted new, amended or corrected documents including a biodiversity metric calculation and report, a Preliminary Ecological Appraisal and three versions of a Bat Mitigation Strategy, arboricultural information, swept path diagrams, flood risk and drainage information, construction management information, plans and elevations, a Design and Access Statement, a Transport Statement, a financial viability appraisal and related information, Phase I and II reports, and three versions of a Derelict Building Proposals document.

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 Site allocation HS158 relates to 0.64 hectares (gross) / 0.43 hectares (net, excluding the mixed deciduous woodland), sets out an indicative housing capacity of 14 dwellings, and identifies the following constraints:

- Part of the site contains Habitats of Principal Importance.
- Public right of way runs along the western boundary of the site.
- The site is within a Conservation Area.

- 6.3 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
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:

6.4 Relevant guidance and documents are:

- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Kirklees Housing Strategy (2018)
- Kirklees Strategic Housing Market Assessment (2016)
- Kirklees Interim Affordable Housing Policy (2020)
- Affordable Housing SPD (2008)
- 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 SPD (2019)
- Waste Management Design Guide for New Developments (2020)
- Green Street Principles (2017)
- Viability Guidance Note (2020)
- Golcar Conservation Area (character appraisal) (undated)
- Planning Applications Climate Change Guidance (2021)
- Housebuilders Design Guide SPD (2021)
- Open Space SPD (2021)
- Biodiversity Net Gain Technical Advice Note (2021)

Climate change

6.5 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.

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

policies and guidance documents to embed the climate change agenda. In June 2021 the council approved a Planning Applications Climate Change Guidance document.

National Planning Policy and Guidance:

6.7 The National Planning Policy Framework (2021) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal. Relevant paragraphs/chapters are:

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment
- Chapter 17 – Facilitating the sustainable use of materials.

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

6.9 Relevant national guidance and documents:

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

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been advertised as a major development, as a development within a conservation area, and as a development that would affect the setting of a listed building and a public right of way.

7.2 The application has been advertised via three site notices posted on 12/05/2021, an advertisement in the local press dated 30/04/2021, and letters delivered to addresses adjacent to the application site. This is in line with the council's adopted Statement of Community Involvement. The end date for publicity was 03/06/2021.

7.3 28 representations were received from occupants of neighbouring properties. The following is a summary of the points raised:

- Greenfield land should not be developed. Green spaces needed for exercise and mental health reasons. Brownfield sites should be developed instead. A proper plan is needed for Kirklees, instead of the current free-for-all. New houses have already been built recently in nearby locations.

- Previous refusal should be upheld.
- If council is minded to approve, fewer units should be proposed.
- Allotments should be reintroduced.
- Proposed development would be unsustainable.
- Harm to setting of adjacent listed buildings. Most nearby buildings are Grade II listed.
- Proposed dwellings not in keeping with local area. New yellow stone inappropriate. Windows do not match those of existing buildings. Development would be an eyesore.
- Harm to character, appearance and nature of historic village. Nature of village has been changed by recent developments.
- Site is within a conservation area.
- Objection to demolition of washhouse, which is part of area's local history.
- Bisecting ginnel with a path or road to Fullwood Drive would harm the village and its historic ginnel trail.
- Loss of trees, woodland cover and shrubs. Contrary to Golcar Conservation Area appraisal. Applicant already cleared site.
- Loss of wildlife habitat, contrary to Kirklees Biodiversity Strategy. Impact on bird, bats and insects. Bats roost in wash house. Newts are present. Protected and notable species present in the area. Site's habitats already destroyed, contrary to requirements for prior surveys. Badgers may have been driven away. Site should be restored to its original state.
- Japanese Knotweed present on site.
- Existing drainage system unable to cope. Yorkshire Water have had to carry out works. Natural springs exist at the site. Loss of vegetation and covering land with hard surfaces would adversely affect drainage.
- Run-off and mud from existing site blocked drains on Brook Lane. Streams regularly appear from hillside into Brook Lane after rain. Proposed development would cause similar problems.
- Houses would lack garden space.
- Increased noise and disturbance, during construction and following occupation.
- Dust during construction.
- Builders of adjacent site have made a mess. Untidy piles of cleared vegetation have been left on the site. Temporary fencing and portable toilet left on site.
- Increased odours.
- Loss of privacy at 5 to 25 Clay Well.
- Loss of natural light if fencing erected behind units 6, 7 and 8.
- Overlooking of properties on Carr Top Lane and of Heritage Mill.
- Loss of outlook.
- Loss of views from neighbouring properties.
- Four- and five-bedroom houses not needed. Recent developments have not alleviated perceived housing problem.
- Proposed dwellings would not be affordable. Affordable first-time buyer homes needed.
- Highways concerns. Increased traffic and congestion. Additional pressure at bottle neck in Milnsbridge. Lanes lack footways, are heavily parked, and have deteriorated in condition. Danger to pedestrians, including people with disabilities and schoolchildren. Serious accident will occur. Carr Top Lane is busy, single-track, and is a rat run. Existing problems are worse in winter.

- Objection to through-route to Fullwood Drive.
- Inadequate parking provision.
- Inadequate local public transport provision.
- Residents of the development are unlikely to cycle.
- Village is becoming overcrowded.
- Schools are full and health services are stretched. Inadequate medical and dental provision.
- Impact on property values.
- Viability claims not accepted.
- Council appears more interested in council tax revenue.
- Adjacent development has already resulted in damage to neighbouring dwelling.
- No objection to proposal, other than in relation to traffic.

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

7.5 Amendments made, and additional information submitted, during the life of the application did not necessitate public re-consultation. Local re-consultation is not normally considered necessary when technical supporting information is submitted by applicants.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

8.2 KC Highways Development Management – Proposed development is acceptable in highways terms, subject to conditions. Proposed layout is of a similar design to the adjacent scheme. Proposed development, including forward visibility and gradients, must be in accordance with the Highway Design Guide SPD – this will be addressed at conditions stage. Adequate tracking for an 11.85m refuse collection vehicle has been demonstrated. Adequate off-street parking would be provided for a development of this scale. Conditions recommended regarding surfacing and drainage of parking areas, details of internal adoptable roads, details of waste storage and collection, and highways structures. All new storm water attenuation tanks/pipes/culverts with internal diameter/spans exceeding 0.9m must be located off the adoptable highway where possible.

8.3 KC Lead Local Flood Authority – No objection, but clarification regarding on-site storage required. Conditions recommended regarding detailed drainage, flood routing and temporary drainage. Maintenance and management arrangements need to be secured.

8.4 Non-statutory:

8.5 KC Ecology – Ecological Impact Assessment not necessary (as other documents have been submitted), subject to outstanding bat issue being resolved. Proposal to carry out further bat surveys at a later date prior to demolition is not acceptable – surveys are required at application stage, prior to determination. Given that the bat surveys are yet to be completed, and given that multiple bat roosting crevices and spaces are present in the derelict building and no detailed mitigation proposals have been provided, there is not sufficient information available to enable the council to ensure it has fulfilled its obligations regarding protected species on the site. Applicant's biodiversity

net gain report identifies a loss of 2.3 habitat units (-41.98%). With no mitigation proposed, proposals are not compliant with Local Plan policy LP30ii or the Biodiversity Net Gain Technical Advice Note. Corrections needed to applicant's biodiversity net gain calculation.

- 8.6 KC Education – No comment, as the development is for less than 25 units, and the education Section 106 policy is not triggered.
- 8.7 KC Environmental Health – Phase I report satisfactory. Phase II report inadequate, therefore four conditions required to address land contamination. Condition recommended, requiring construction management proposals (including restrictions on hours) to be adhered to. Condition recommended to secure provision of electric vehicle charging points. Condition recommended regarding dust suppression. Advice provided regarding site contamination, dust and construction noise.
- 8.8 KC Highway Structures – Condition recommended requiring details of retaining walls and structures. Condition recommended requiring details of surface water attenuation within the highway (to be applied if LLFA have conditioned details of a storm water attenuation facility). Attenuation features with internal diameters or spans exceeding 0.9m must be located off the adoptable highway.
- 8.9 KC Landscape – £29,123 contribution required towards off-site open space provision. Golcar ward is deficient in all open space typologies. 13 dwellings triggers need for green space (except in relation to allotments) and Local Area for Play. Existing facilities in the area are within 720m walking distance. Concern regarding loss of TPO-protected trees, and shading of proposed gardens. Street trees required. Query as to whether sustainable urban drainage scheme is proposed. Landscaping details required. Links to public right of way required.
- 8.10 KC Public Health – Application falls outside Health Impact Assessment requirements.
- 8.11 KC Strategic Housing – 20% affordable housing provision required. On-site provision is preferred. In the Kirklees Rural West area there is a significant need for affordable 1- and 2-bedroom homes, as well as 1- and 2-bedroom affordable homes specifically for older people. Three affordable units (two affordable rented, one intermediate) would be sought from the proposed development. Affordable units should be distributed evenly throughout the development, and indistinguishable from market housing.
- 8.12 KC Trees – Proposals not supported, as they do not meet the requirements of Local Plan policies LP24i or LP33. A protected woodland exists within the site, and there is a protected tree on the site's southeast boundary. Golcar Conservation Area provides protection to all trees over 75mm diameter. Concern as to how levels would be achieved to enable construction of dwellings. Proposed development would result in considerable loss of trees – this should be minimised. Mitigation for tree loss, and details of landscaping, should be provided. Concern regarding shading of proposed dwellings, particular at units 1, 2, 3, which may result in future pressure to prune and fell trees, including those in the protected woodland. Parts of the protected woodland should not be incorporated into private curtilages. Categorisation of

trees T7 and T8 is not understood, these trees should not be felled, and the estate road close to them should be redesigned as a private driveway requiring more tree-friendly construction. Root pruning of tree T24 acceptable.

- 8.13 KC Waste Strategy – Proposed bin stores are of a suitable size and would be accessible, however further details are required. Manoeuvring space for refuse vehicle appears tight, and information required regarding manoeuvring from Carr Top Lane and through Hillcrest View. Condition recommended regarding temporary refuse collection.
- 8.14 West Yorkshire Police Designing Out Crime Officer – Support development in principle, subject to crime prevention advice being incorporated. Details of boundary treatments, lighting, door and window security, and cycle/motorcycle security required. Further advice provided regarding access, boundary treatments, landscaping, lighting and other matters relevant to crime prevention.
- 8.15 Yorkshire Water – No objection to submitted flood risk assessment, which states that foul water will discharge to the public combined sewer, sub-soil conditions do not support the use of soakaways, the site is remote from a watercourse, and that surface water would discharge to public sewer via storage at a restricted discharge rate of 5 litres/second.
- 8.16 Yorkshire Wildlife Trust – Details of habitat creation and Ecological Design Strategy required. Clarity required regarding bat mitigation. Preliminary Ecological Appraisal would benefit from being updated to an Ecological Impact Assessment.

9.0 MAIN ISSUES

- Land use and principle of development
- Sustainability and climate change
- Design and conservation
- Residential amenity and quality
- Affordable housing
- Highway and transportation issues
- Flood risk and drainage issues
- Trees and landscaping
- Ecological considerations
- Environmental and public health
- Ground conditions
- Representations
- Planning obligations and financial viability
- Other matters

10.0 APPRAISAL

Land use and principle of development

- 10.1 Planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.

- 10.2 The Local Plan sets out a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum.
- 10.3 The site comprises site allocation HS158 (allocated for housing), to which full weight can be given. It is also noted that outline planning permission for residential development has already been granted at this site (ref: 2017/93719, granted 14/03/2018, now expired), and that the previous application for this site (ref: 2019/90925) was the subject of a committee resolution to approve.
- 10.4 The site is not designated as Urban Green Space or Local Green Space in the Local Plan, but is greenfield land, and was previously in agricultural use and designated as Provisional Open Land in the superseded Unitary Development Plan. Allocation of this and other greenfield sites by the council was based on a rigorous borough-wide assessment of housing and other need, as well as analysis of available land and its suitability for housing, employment and other uses. The Local Plan, which was found to be an appropriate basis for the planning of the borough by the relevant Inspector, strongly encourages the use of the borough's brownfield land, however some development on greenfield land was also demonstrated to be necessary in order to meet development needs.
- 10.5 The 13 dwellings proposed would contribute towards meeting the housing delivery targets of the Local Plan.
- 10.6 An Ordnance Survey map dated 1955 annotated part of the site as "Allotment Gardens", however that use has ceased, and aerial photographs do not show any cultivation in recent years (unlike at the land to the west, where some cultivation was evident in 2012). At the time the 2017 outline application for this site was considered, limited weight was attached to this previous use of part of the site. Officers noted that the site was privately owned, and that refusal of planning permission would not have resulted in local demand for allotments being met, as the council has no authority to allocate private allotments to people on the council's waiting list.
- 10.7 The site is within a wider mineral safeguarding area relating to sandstone. 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.

Sustainability and climate change

- 10.8 The current application was submitted prior to the council's adoption of the Planning Applications Climate Change Guidance document, and the applicant's submission documents do not explain how the proposed development would help to address or combat climate change effects. It is noted, however, that relevant Local Plan policies are nonetheless applicable.
- 10.9 Measures would be necessary to encourage the use of sustainable modes of transport. Adequate provision for cyclists (including cycle storage for residents) and electric vehicle charging would be secured by condition, should

planning permission be granted. A development at this site which was entirely reliant on residents travelling by private car is unlikely to be considered sustainable.

- 10.10 Drainage and flood risk minimisation measures will need to account for climate change.
- 10.11 The application site is a sustainable location for residential development, as it is relatively accessible and is at the edge of an existing, established settlement relatively close to sustainable transport options and other facilities. The site is not isolated and inaccessible.
- 10.12 Golcar has pubs, convenience shops, a post office, a pharmacy, churches, schools, a library, eating establishments, the excellent Colne Valley Museum, and other facilities, such that many of the daily, 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.
- 10.13 Further reference to, and assessment of, the sustainability of the proposed development is provided later in this report in relation to transport and other relevant planning considerations.

Design and conservation

- 10.14 Chapters 11, 12 and 16 of the NPPF, and Local Plan policies LP2, LP5, LP7, LP24 and LP35 are relevant to the proposed development in relation to design and conservation, as is the National Design Guide and the council's Housebuilders Design Guide SPD.
- 10.15 Section 72 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the council to pay special attention to the desirability of preserving or enhancing the character and appearance of the Golcar Conservation Area when determining this application.
- 10.16 The site and its context have a relatively high degree of townscape, landscape and heritage sensitivity, due to the site being located within the Golcar Conservation Area, its hillside location, and its visibility from the other side of the subsidiary valley that runs northwest-southeast between Golcar and Wellhouse.
- 10.17 The relevant conservation area character appraisal defines Golcar as a large, closely-knit hillside village of picturesque quality and special architectural and historic interest. The appraisal notes that the settlement's location on the steep hillside above the valley of the River Colne (and the subsidiary valley) gives it a highly dramatic setting, reminiscent of an Italian hill village. The subsidiary valley is identified as a defining influence on the character of the village, as is the village's organic form and limited formal planning. Important vistas north-eastwards from the bottom of the subsidiary valley and Albion Mill are also noted, and the appraisal suggests that when Golcar is viewed from here the natural landscape appears to frame the village. The hillside's green space is identified as a buffer that prevents the settlements of Golcar and Wellhouse from merging, thus protecting the character and setting of both areas. Tree coverage is identified as quintessential to Golcar's character, and panoramic

views of the settlement reiterate the importance of trees to Golcar, creating extra interest, depth and character in the area. The surrounding landscape makes a vital contribution to the character and setting of Golcar, the topography creating a panorama not apparent in other areas. Steep slopes and footpaths, stone steps and narrow lanes with homogeneous vernacular stone architecture characterise the settlement. Golcar has several dry stone walls defining fields, open spaces and earlier boundaries, all of which impart character. Golcar's early settlement pattern is still visible, the urban grain of the conservation area is characterised by small linear plots, and there are few detached properties.

- 10.18 Another notable aspect of the Golcar Conservation Area is the orientation of many of its buildings. Within the conservation area, many streets including Ridings Lane, West End Road, Small Lane, Handel Street and Church Street follow the contours of the hillside, so that where the slope runs north-south, these streets run east-west, and the buildings on these streets are similarly aligned in accordance with the topography. This pattern of development is particularly noticeable from public vantage points including along Copley Bank Road on the other side of the subsidiary valley between Golcar and Wellhouse. Although some buildings within the conservation area do not follow this pattern of development, and have massing that stands perpendicular to the contours of the hillside, these are exceptions, and the predominant pattern (which influences the character of the conservation area) is of buildings that are aligned with the east-west streets. Paragraph 5.2 of the council's Housebuilders Design Guide SPD notes that the "general character of the towns and villages of Kirklees is typified by stone-built properties closely following the hillside contours", and Golcar provides a notable example of this.
- 10.19 Of note, although three dwellings set perpendicular to the site's slope were granted planning permission at the adjacent site (refs: 2018/92848 and APP/Z4718/W/19/3229696), the majority of dwellings in that 19-unit scheme would be more respectful of the hillside's predominant pattern of development. The orientation of existing buildings on this hillside was referred to in the committee reports for applications refs: 2017/93719, 2017/93638 and 2019/90925.
- 10.20 In response to advice from officers provided under the previous application for this site (ref: 2019/90925), the applicant amended the proposals (under that application) so that they would be more reflective of the adjacent patterns of massing and orientation. The same layout has been resubmitted under the current application.
- 10.21 The proposed three-storey elevations are considered acceptable. Southwest-facing three-storey elevations already exist nearby at 41 and 43 Carr Top Lane and elsewhere on this hillside, and three-storey elevations have been erected at the adjacent site to the east (as per permission refs: 2018/92848 and APP/Z4718/W/19/3229696).
- 10.22 The proposed development is considered to be sufficiently reflective of the predominant patterns of development on this hillside. The proposed massing and grain would be an acceptable response to the site's context. Although the relevant character appraisal notes that there are few detached properties within the conservation area, the proposed five detached dwellings are considered acceptable, given their location, the surrounding trees to be retained, and the terraced and semi-detached dwellings proposed as part of the same development.

- 10.23 Although the application site's challenging topography would necessitate some levelling to enable the creation of development platforms and the provision of acceptable gradients along the proposed estate road, this would be relatively limited, and changes in levels would be largely accommodated through the use of differing front and rear elevation heights (most south-facing elevations would have three storeys, while most north-facing would have two), reducing the need for excavation and retaining walls. This is considered to be an appropriate response to the site's challenges, as developers are normally expected to work with a site's existing topography, rather than radically reshape it.
- 10.24 Local Plan policy LP5 (regarding masterplanning) is relevant to this application, not least because land immediately to the east and west is also allocated for housing. Local Plan policy LP7 is also relevant, and states that, to ensure the best use of land and buildings, proposals must allow for access to adjoining undeveloped land so it may subsequently be developed. Paragraph 6.41 of the Local Plan states that the council will continue to positively support measures to ensure the best use of land and buildings, including through the application of relevant policies to ensure land is not sterilised for development.
- 10.25 Although the adjacent allocated site to the west (ref: HS153) can be accessed from Fullwood Drive (as was approved by the Council under outline permission ref: 2017/93638), access from the east (via Hillcrest View and Carr Top Lane) would be preferable in highways terms, as traffic would not have to negotiate the gradients and other challenges of Victoria Lane. Highways Development Management officers have previously confirmed that the Hillcrest View / Carr Top Lane junction can indeed accommodate the expected traffic of allocated sites HS153, HS158 and HS157.
- 10.26 To address these concerns, and to help avoid creating a ransom strip scenario, the proposed estate road would extend to the site's western edge (where it would meet the adjacent public footpath), and would need to be built to an adoptable standard. In addition, an appropriate obligation (to be secured via a Section 106 agreement) is recommended, requiring to applicant to allow vehicular, cycle, pedestrian and construction access to site ref: HS153 without unreasonable hindrance.
- 10.27 With regard to crime prevention, it is noted that units 6 to 12 would partly complete a perimeter block with 5 to 25 Clay Well. Limiting exposure of rear gardens to public access in this way would reduce opportunities for unauthorised access and burglary. There would, however, be parts of the proposed development where garden fences abut the adjacent public footpath (COL/56/40) – here, careful design of boundary treatments and defensive planting will be necessary. Units 5 and 6 would present several windows (including windows of habitable rooms) to the adjacent footpath, which would provide welcomed natural surveillance of this north-south route. Other than the woodland area that forms the southern part of the site, no outdoor areas would be outside garden curtilages, so that there would be no ambiguous, leftover spaces at risk of anti-social behaviour such as fly-tipping. A condition related to crime and anti-social behaviour prevention measures is recommended. The recommended condition relating to boundary treatments would require security measures to be designed into the proposals, along with measures to limit the visual impact of boundary treatments at this highly-visible hillside site within the Golcar Conservation Area.

- 10.28 Off-street car parking is proposed in front or side driveways, and/or in integral garages. With appropriate landscaping, the proposed car parking would not have an overdominant or otherwise harmful visual or streetscape impact.
- 10.29 Regarding materials, section 7 of the applicant's application forms indicates that natural stone with grey mortar would be used for the walls of the dwellings, that natural blue slate roofs are proposed, and that grey UPVC windows and grey GRP doors would be used. Subject to details (and samples, if necessary) being submitted at conditions stage, and having regard to the materials approved at the adjacent site to the east, this palette of materials is considered acceptable for this site within the Golcar Conservation Area.
- 10.30 The route and gradients of the proposed development's estate road would help prevent surface water running into or pooling within residential curtilages, and ground levels and kerbs will need to be designed to direct any surface water flow away from building thresholds. The Lead Local Flood Authority have recommended a condition requiring details relevant to flood routing in exceedance events.
- 10.31 To ensure efficient use of land Local Plan policy LP7 requires developments to achieve a net density of at least 35 dwellings per hectare, where appropriate, and having regard to the character of the area and the design of the scheme. Lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or to secure particular house types to meet local housing needs.
- 10.32 With 13 units proposed in a site of 0.74 hectares, a density of only 18 units per hectare would be achieved. It is noted, however, that the site area (0.74 hectares) includes the estate road through the adjacent development, and the protected woodland in the southern part of the site. Subtracting these areas, under the previous application (ref: 2019/90925) the applicant asserted that the developable area is only 0.49 hectares (which, with 13 units proposed, results in a density of approximately 27 units per hectare), however it is reasonable to also note the site's other constraints and exclude other areas from this calculation – the site's challenging topography limits the site's developable space, and adequate spacing needs to be maintained between the new dwellings and the existing properties to the north on Clay Well. The proposed development must also take its cue (at least partly, in terms of quantum, density and layout) from existing adjacent development and the character and appearance of the Golcar Conservation Area, and it must again be noted that tree coverage is quintessential to Golcar's character. Furthermore, the proposed number of units (13) is close to the indicative site capacity figure (14) for site allocation HS158, and the number of units (14) indicatively shown on drawings submitted under the previous application for outline planning permission (ref: 2017/93719).
- 10.33 With all these matters taken into account, although the proposed density falls short of the 35 units per hectare density specified (and applicable "where appropriate") in Local Plan policy LP7, it is recommended that the proposed quantum of development, and its density, be accepted.

- 10.34 A derelict building exists within the application site red line boundary. This stands opposite the gap between 15 and 17 Clay Well to the north. It is not a listed building, however it is within the Golcar Conservation Area. A resident has stated that it is over 200 years old, and was the wash house which was used by the residents of the adjacent cottages. The applicant has submitted a Derelict Building Proposals document which states that the derelict building would be retained and made safe. This is welcomed – although it is considered that the derelict building does not make a significant positive contribution to the character and appearance of the Golcar Conservation Area or the settings of nearby listed buildings, the retained building would at least play a role in illustrating the history of this part of Golcar, and how land and buildings were used. The retained building would be included in the rear garden / curtilage of plot 9. A condition is recommended, requiring details of the retention, making safe and maintenance of the derelict building.
- 10.35 The applicant's Design and Access Statement asserts that the proposed development would not cause harm to local heritage and character due to its design and materiality. Officers concur. It is considered that the proposed development would not cause harm to the Golcar Conservation Area, and Section 72 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the relevant sections of Local Plan policy LP35 would be complied with.
- 10.36 Similarly, given the acceptable design (including scale, grain, orientation and materials) of the proposed dwellings, it is considered that the proposed development would not harm the significance (including the setting) of the nearby listed buildings at 17-29 Clay Well and 54, 54A, 56 and 58 Brook Lane. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act (which requires the council to have special regard to the desirability of preserving the setting of adjacent listed buildings) and the relevant sections of Local Plan policy LP35 would therefore be complied with.
- 10.37 Additionally, and in light of the above assessments, it is considered that the relevant requirements of chapters 11, 12 and 16 of the NPPF, and Local Plan policies LP2, LP5, LP7, LP35 and LP24, would be sufficiently complied with. There would also be an acceptable level of compliance with guidance set out in the National Design Guide and the council's Housebuilders Design Guide SPD.

Residential amenity and quality

- 10.38 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.
- 10.39 Acceptable separation distances are proposed between the proposed dwellings and existing neighbouring properties. Having regard to the site's topography, the proposed distances would ensure existing neighbours would not experience significant adverse effects in terms of natural light, privacy and outlook. Although distances of less than 21m would be maintained between the rear elevations of units 9 to 12 and 5-15 Clay Well, this is considered acceptable due to the significant difference in levels – the eaves of the proposed units would be lower than the ground floor level of the existing dwellings to the north.

- 10.40 In terms of noise, although residential development would increase activity and movements to and from the site (and passing the already-occupied units at Hillcrest View, as well as existing dwellings on Brook Lane and James Street), given the quantum of development proposed, it is not considered that neighbouring residents would be significantly impacted. It is not accepted that odours from the completed development would adversely affect neighbour amenity. The proposed residential use is not inherently incompatible with existing surrounding uses.
- 10.41 Although the applicant submitted construction management information during the life of the current application (in an attempt to avoid the need for a relevant pre-commencement condition), this is not complete, and it is not considered adequate. A condition requiring the submission and approval of a Construction Management Plan (CMP) is therefore recommended. The necessary discharge of conditions submission would need to sufficiently address the potential amenity impacts of construction work at this site, including cumulative amenity impacts should other nearby sites be developed at the same time. Details of dust suppression measures and temporary drainage arrangements would need to be included in the CMP. An informative regarding hours of noisy construction work is recommended.
- 10.42 The quality of the proposed residential accommodation is also a material planning consideration.
- 10.43 The applicant proposes:
- Unit 1 – detached, 4-bedroom, integral garage – 166sqm
 - Unit 2 – detached, 4-bedroom, integral garage – 166sqm
 - Unit 3 – detached, 4-bedroom, integral garage – 166sqm
 - Unit 4 – semi-detached, 3-bedroom – 123sqm
 - Unit 5 – semi-detached, 3-bedroom – 123sqm
 - Unit 6 – terraced, 3-bedroom – 111sqm
 - Unit 7 – terraced, 3-bedroom, integral garage – 111sqm
 - Unit 8 – terraced, 3-bedroom, integral garage – 111sqm
 - Unit 9 – terraced, 3-bedroom, integral garage – 111sqm
 - Unit 10 – terraced, 3-bedroom – 111sqm
 - Unit 11 – terraced, 3-bedroom, integral garage – 111sqm
 - Unit 12 – detached, 3-bedroom, integral garage – 161sqm
 - Unit 13 – detached, 4-bedroom, integral garage – 143sqm
- 10.44 All units would have three or four bedrooms. This is unfortunate, as a more varied unit size mix would have catered for a wider range of household sizes, would have helped create a mixed and balanced community, and would have helped to avoid visual monotony across the site. Furthermore, it is noted that Local Plan policy LP5e requires masterplanned developments to provide for a mix of housing that addresses the range of local housing needs and encourages community cohesion (although specific proportions of unit sizes are not set out in the policy). While this aspect of the proposed development is a shortcoming that attracts negative weight in the balance of planning considerations, it is not recommended that planning permission be withheld on these grounds.

- 10.45 Although the Government's Nationally Described Space Standards (March 2015) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed, as set out in the council's 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, since April 2021, all permitted development residential conversions have been required to be NDSS-compliant.
- 10.46 All 13 units would comply with this guidance, which is welcomed.
- 10.47 All of the proposed dwellings would benefit from dual aspect, which is welcomed. All would be provided with adequate outlook, privacy and natural light. Adequate distances would be provided within the proposed development between new dwellings.
- 10.48 All dwellings would have WCs at their entrance level, providing convenience for visitors with certain disabilities. All units would have ground floor bedrooms, ground floor habitable rooms that could be converted to bedrooms, or garages that could potentially be converted to bedrooms (involving external alterations), which could help enable members of households with certain disabilities to remain resident.
- 10.49 All of the proposed dwellings would be provided with adequate private outdoor amenity space.
- 10.50 Regarding open space, it is accepted that on-site provision of most types of open space would not be suitable for this sloped site. A financial contribution would instead be required. This would be based on the 13 units currently proposed (having regard to local provision, and any on-site provision that could be offered by the applicant – it is noted that, in some cases, woodland can provide some of the attributes of open space), with an additional contribution required in the event that development comes forward at the adjacent site (site allocation ref: HS153) and the cumulative impacts of both developments require mitigation. Based on the 13 units proposed, and with no details of publicly-accessible open space annotated on the applicant's drawings, a contribution of £29,123 would be required. Of note, under the previous application (ref: 2019/90925), an open space contribution of £78,486 was quoted by KC Landscape, however that figure was arrived at using the earlier £2,300-per-dwelling formula that has since been superseded by the more nuanced calculation method set out in the council's Open Space SPD.
- 10.51 Although some details of landscaping proposals have been shown on the applicant's drawings, a condition is recommended, requiring further details of the development's outdoor spaces and their purpose, design, furnishing, landscaping, boundary treatment and management. Details of improvements (and the proposed pedestrian connection) to the adjacent public footpath would also be required.

Affordable housing

- 10.52 Local Plan policy LP11 requires 20% of units in market housing sites to be affordable. A 55% social or affordable rent / 45% intermediate tenure split would be required, although this can be flexible. Given the need to integrate

affordable housing within developments, and to ensure dwellings of different tenures are not visually distinguishable from each other, affordable housing would need to be appropriately designed and pepper-potted around the proposed development.

- 10.53 To comply with policy LP11, three of the proposed 13 units would need to be affordable, as 20% of 13 units is equivalent to 2.6 units. Three affordable units represents a policy-compliant 23% provision. In accordance with the 55%/45% tenure split detailed above, two of these units would need to be for social or affordable rent, and the other would need to be intermediate. Given on-site provision is preferred, it is recommended that three of the proposed development's units be secured as affordable housing via a Section 106 agreement. Financial viability considerations relevant to this provision are considered later in this report.
- 10.54 Given the size of the proposed development (and given that only three affordable units are required), it is accepted that opportunities for pepper-potting affordable housing around the site are limited. All units would be of an appropriate design, all would have three or four bedrooms, and the same materials and similar detailing is proposed for all dwellings, which would help ensure the affordable units would not be visually distinguishable from the development's market units.

Highway and transportation issues

- 10.55 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.
- 10.56 Paragraph 108 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 109 adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.
- 10.57 Vehicular access would be provided via the adjacent site to the east. The estate road of that development (Hillcrest View, currently nearing completion) would be extended into the current application site, continuing northwestwards across the site and meeting the public footpath that runs along the site's western edge. This is considered appropriate. Given the extent of the application site red line boundary, no vehicular through-route to Fullwood Drive is (or could be) proposed. The applicant has demonstrated adequate tracking and turning space for an 11.85m refuse vehicle along the proposed extended estate road.

- 10.58 The applicant's Transport Statement predicts trip generation of approximately seven two-way vehicle movements in the morning peak hour and approximately eight two-way movements in the evening peak hour. This approximately equates to one vehicle emerging onto Carr Top Lane every 15 minutes. This is not considered significant in the context of local highway capacity. The concerns of residents regarding existing congestion are noted, however the local highway network nonetheless would not be severely impacted by the anticipated number of additional vehicle movement.
- 10.59 The cumulative traffic impacts of development are also a material consideration. Members will be aware of residential developments that have recently been completed (or are nearing completion) in the area, including:
- Weavers Chase (off Leymoor Road) – 96 units.
 - Century View (Swallow Lane) – 19 units.
 - Hillcrest View (Carr Top Lane) – 19 units.
- 10.60 In addition to the above, further permissions have been granted (or are being sought) for developments at Parkwood Road (totalling 27 units) and Swallow Lane. The site directly to the west of the current application site (land off Fullwood Drive) is also allocated for residential development.
- 10.61 In their representations, several residents have referred to traffic and congestion on the local road network (including at Milnsbridge), and have stated that problems have increased in recent years.
- 10.62 The applicant's Transport Statement does not address cumulative traffic impacts, and it would be disproportionate to require the developer of a 13-unit scheme to provide a such an assessment covering all potentially-affected junctions (including those at Milnsbridge). It would also be unreasonable to expect a development of this size to include mitigative measures relating to traffic largely generated by existing and recent developments. While the concerns of residents are noted, it is again noted that the allocation of this site (and those sites listed above) followed a rigorous assessment of their suitability for development, and that the Local Plan (including its site allocations) was found to be an appropriate basis for the planning of the borough by the relevant Inspector. Also of note are the low predicted numbers of additional vehicle movements associated with the proposed development, and the fact that development at this site is unlikely to put significant additional pressure on a single route or junction – residents of this development would have a number of potential routes available to them (when accessing Huddersfield, the A62 or M62), such that the traffic impacts of the development are likely to be reasonably well dispersed. It can, in turn, be concluded that the proposed development's contribution towards cumulative impacts would similarly be limited.
- 10.63 Although not assessed in the applicant's Transport Statement, it is considered that pedestrian, cyclist and public transport trips are also likely to low and can be accommodated by the existing pedestrian and public transport infrastructure. Pedestrian infrastructure surrounding the site is mixed, with several local streets lacking footways, however a footway exists on the south side of Carr Top Lane and the southeast side of James Street, and residents of the proposed development would be able to make use of public footpath COL/56/40, to which a pedestrian connection is proposed. This connection

would help create an appropriately connected, walkable, permeable neighbourhood in compliance with Local Plan policies LP20, LP24dii and LP47e, and is welcomed. Appropriate adjacent boundary treatments, landscaping, and details of the pedestrian connection can be secured to ensure the usability and attraction of the footpath is not significantly reduced.

- 10.64 A development of this size would not normally trigger a need for the submission and implementation of a Travel Plan, however it is recommended that measures to encourage residents of the proposed development to use more sustainable modes of transport (including public transport, walking and cycling) be secured via Section 106 obligations.
- 10.65 Regarding the proposed development's internal arrangements, detailed drawings and specifications would need to be submitted, and compliance with the council's Highway Design Guide SPD would need to be demonstrated, at conditions stage. As per the comments of KC Highway Structures, a condition relating to details of any highway retaining walls and structures is recommended.
- 10.66 Acceptable off-street parking is proposed for the proposed residential units in accordance with council's Highway Design Guide SPD. Details of secure, covered and conveniently-located cycle parking for residents would be secured by a recommended condition.
- 10.67 Storage space for three bins would be required for all dwellings. Further details of waste collection, including details of management and measures to ensure any waste collection points are not used for fly-tipping or permanent bin storage, are required by recommended condition. The same condition would require refuse collection points in locations that would not obstruct access to private driveways. This would also consider the visual impact of waste storage arrangements within the development.
- 10.68 A further condition is also recommended, requiring details of temporary waste storage and collection arrangements for any dwellings that would become occupied prior to completion of the development.

Flood risk and drainage issues

- 10.69 The site is within Flood Zone 1. The site slopes downhill from north to south. The nearest watercourse is located to the south of the application site, on the other side of Brook Lane. A combined public sewer runs north-south beneath the adjacent site to the east.
- 10.70 A site-specific Flood Risk Assessment (FRA) was submitted by the applicant during the life of the current application. This notes that site investigation is yet to be undertaken but suggests that infiltration is unlikely to be appropriate as a means of disposal of surface water, due to the nature of the underlying bedrock strata. The FRA also notes that connection to the nearest watercourse would require construction through third party land, and the FRA concludes that this rules out watercourse connection as a means of disposal of surface water. The FRA goes on to recommend that surface water flows from the site (post-development) be disposed of via the existing combined public sewer at an attenuated rate of 5 litres per second. Attenuation would be provided in the form of pipes, manholes and two hydrobrakes.

- 10.71 It is accepted that infiltration is not appropriate for this site, due its gradient. It is also noted that there is no known existing watercourse close to the site to which surface water could be discharged without having to negotiate Brook Lane and pass through third party land. The principle of disposing surface water to the combined sewers, therefore, is considered acceptable. Yorkshire Water have not raised an objection to this surface water disposal proposal.
- 10.72 The Lead Local Flood Authority (LLFA) have not objected to the proposed development, but have raised queries regarding the volume of and annotations relating to on-site attenuation. These matters can be addressed via details to be submitted at conditions stage, if they are not addressed by the applicant sooner. Of note, and in accordance with the comments of KC Highway Structures and KC Highways Development Management, the detailed drainage scheme to be submitted at conditions stage may need to amend the current proposals (which include 1,200mm diameter pipes) so that the development's estate road can be considered for adoption.
- 10.73 Details of flood routing are provided in the applicant's FRA. These suggest that surface water can be directed away from the proposed dwellings, however the LLFA have requested more details of flood routing during exceedance events. Again, this information can be provided at conditions stage.
- 10.74 The LLFA have also recommended a condition regarding temporary construction-phase drainage, and have provided advice on what provisions should be made. Measures to be secured at conditions stage should address residents' concerns regarding run-off onto Brook Lane.
- 10.75 Foul water from the proposed development would discharge to the existing combined public sewer to the east of the application site at an unrestricted rate. This proposal has not attracted an objection from Yorkshire Water, and is considered acceptable.
- 10.76 It is noted that the adjacent allocated site to the west (ref: HS153) may be similarly unsuitable for infiltration or connection to an existing watercourse, and that a connection across the current application site to the above-mentioned existing combined sewer may be necessary. In the interests of masterplanning and ensuring development of adjacent land is enabled, a condition is recommended, requiring details of how such a connection would be allowed for.
- 10.77 It is recommended that management and maintenance arrangements for the proposed drainage infrastructure (until adopted by Yorkshire Water) be secured via a Section 106 agreement.

Trees and landscaping

- 10.78 Tree Preservation Order 06/15/w1 protects the woodland within the southern part of the site, and the conservation area status of the site bestows protection on other trees. Outside the site to the east, a Tree Preservation Order (06/15/t1) protects a single tree. The requirements of Local Plan policies LP24i and LP33 are noted, as is the importance of trees to the significance of the Golcar Conservation Area, especially when viewed from public vantagepoints to the south. The site's existing trees certainly make a positive contribution towards public amenity, and to the distinctiveness of this specific location.

- 10.79 The applicant's Arboricultural Report includes a detailed tree survey, which identified group G14 (the protected woodland in the southern part of the site), tree T12 (a mature sessile oak to the north of the woodland) and tree T24 (the protected mature sycamore within the adjacent site to the east) as Category B trees of moderate quality whose retention is desirable. Most other trees were identified as Category C trees of low quality which could be retained, and two trees were identified as Category U trees which are unsuitable for retention.
- 10.80 The applicant proposes the retention of group G14 and trees T12 and T24. Almost all other trees would be felled (or, it is understood, have already been felled). This represents a significant loss of trees from the site and is regrettable, however almost all of the trees identified for felling have diameters of less than 75mm, and are therefore not protected by the site's conservation area status. Given the size and quality of these trees, and the fact that efficient use of this allocated site would not be possible with these trees retained, the proposed losses are considered acceptable, subject to adequate replacement being secured by a recommended condition, to ensure compliance with Local Plan policies LP24i and LP33.
- 10.81 The council's Arboricultural Officer expressed concern regarding the spur of the estate road proposed between units 5 and 6, and requested that this be altered to become a private drive (similar to what is proposed at plot 12) so it can be constructed using no-dig construction methods which would have less impact upon trees T7 and T8 which are outside the application site. This suggestion is noted, however for the reasons set out under paragraph 10.26 above it is considered necessary for this spur to be built as an estate road to an adoptable standard.
- 10.82 To address another concern of the council's Arboricultural Officer, the applicant's Arboricultural Method Statement has been amended to no longer suggest that trees T7 and T8 would be felled.
- 10.83 The proposed root pruning of tree T24 would be limited, would be required to allow the construction of the adjacent driveway, and is unlikely to result in any significant decline of the tree.
- 10.84 The council's Arboricultural Officer has expressed concern as to how levels would be achieved for the building of the proposed dwellings, and how this could be achieved without impacting on the site's tree cover. The applicant's Arboricultural Method Statement, however, states at paragraph 4.2.1 that no ground level changes are required within the root protection areas of any tree to be retained, and that no mitigation actions are therefore considered necessary.
- 10.85 Shading of the proposed dwellings and their curtilages are a potential concern, and the council's Arboricultural Officer has highlighted the gardens of units 1, 2 and 3 which would be shaded by the protected woodland to the south, potentially resulting in pressure to prune or fell trees. This concern is noted, however to remove or mitigate the potential impact a redesigned proposal involving fewer dwellings (and, therefore, less efficient use of land) would need to be proposed.

- 10.86 The previously-proposed inclusion of parts of the protected woodland within private curtilages was of concern. To help address this, on 22/07/2021 the applicant submitted an amended site layout plan, which reduced the size of the rear gardens of units 3 and 5 so that they would not incorporate parts of the protected woodland. Although the rear gardens of units 1 and 2 would still include parts of the protected woodland, excluding those areas from the curtilages of those units would result in unacceptably small private outdoor amenity spaces for those dwellings.
- 10.87 The same amended site layout plan also includes annotation, confirming that the protected woodland would be the responsibility of the residents' management company. A related provision in the required Section 106 agreement is recommended.
- 10.88 As noted above, although some details of landscaping proposals have been shown on the applicant's drawings, a condition is recommended, requiring further details of the development's outdoor spaces and their purpose, design, furnishing, landscaping and boundary treatments. A further condition regarding the implementation of tree protection measures during the construction phase is recommended. It is also recommended that management and maintenance of landscaped areas outside private curtilages be secured via the required Section 106 agreement.

Ecological considerations

- 10.89 The application site is previously-undeveloped (greenfield) land and was previously in agricultural use. Parts of the site are overgrown with self-seeded trees and shrubs, giving those areas a ruderal character, although some clearance and movement of earth has occurred, some in connection with the development of the adjacent site. A Biodiversity Opportunity Zone (Valley Slopes), an SSSI Impact Risk Zone, and a Twite buffer zone cover the site. Great crested newts may also be present in the surrounding area.
- 10.90 When considering the previous application for outline planning permission in relation to this site (ref: 2017/93719), officers noted that trees and shrubs, and the relative lack of human activity on the site, may mean the site provides, or had the potential to provide, habitats for wildlife. It was also noted that some neighbouring residents had stated that bats, deer and many species of bird had been seen at this site, that two ponds existed within 500m of the site, and that to the south of the site, on the other side of Brook Lane, was land forming part of the then-proposed Wildlife Habitat Network. This network connects designated sites of biodiversity and geological importance and notable habitat links, and any development within or close to the network will need to support and enhance these links.
- 10.91 The application is supported by a number of ecological documents including a Preliminary Ecological Appraisal (PEA), a Bat Mitigation Strategy and a Biodiversity Metric Report. This is welcomed. A PEA is not normally considered adequate at full application stage (an Ecological Impact Assessment (EclA) is normally required), and it is noted that the submitted PEA makes further recommendations for bat activity surveys, however as this is the only outstanding issue it is considered that, if these surveys were addressed via an appropriate bat mitigation strategy, there would be sufficient information to enable officers to assess the impacts of the proposals. Therefore, in this case the submission of an EclA is not considered necessary.

- 10.92 Multiple bat roosting crevices and spaces are present in the derelict building that stands at the north end of the site, close to Clay Well. KC Ecology have therefore expressed concern regarding the demolition of this building, and have advised that further bat surveys are required at application stage. The comments of KC Ecology were, however, made prior to the applicant reverting back to their previous proposal to retain the derelict building. Retention of this building, and implementation of the measures set out in the applicant's latest Bat Mitigation Strategy, obviate the need for further application-stage surveys, however conditions relating to bat mitigation measures will be necessary.
- 10.93 Given the applicant's proposals (as set out in the submitted Bat Mitigation Strategy) to create a "dark corridor" between the derelict building and the protected woodland to the south, for use by commuting bats, a condition requiring details of external lighting is recommended.
- 10.94 In accordance with Local Plan policy and the council's Biodiversity Net Gain Technical Advice Note, the applicant has submitted a biodiversity net gain metric calculation and associated report. This found that the proposed development would result in a loss of 2.3 habitat units (a -41.98% loss). The applicant has not yet demonstrated how this loss can be compensated for on-site, and concerns have been raised by KC Ecology regarding aspects of the applicant's calculation. A revised metric calculation was submitted on 15/07/2021, and the further comments of KC Ecology (including advice on what measures or contribution would be needed for the development to achieve the required biodiversity net gain) are awaited. Related to this, it is recommended that provision for the payment of a financial contribution (payable in the event that a biodiversity net gain cannot be achieved on site or nearby) be included in the required Section 106 agreement. Also related to this, a condition requiring the submission and implementation of an Ecological Design Strategy is recommended.

Environmental and public health

- 10.95 With regard to the West Yorkshire Low Emission Strategy, a condition is recommended, requiring the provision of electric vehicle charging points. In addition, measures to encourage residents of the proposed development to use more sustainable modes of transport (including public transport, walking and cycling) and the uptake of low emission fuels and technologies, should be secured via Section 106 obligations.
- 10.96 The health impacts of the proposed development are a material consideration relevant to planning, and compliance with Local Plan policy LP47 is required. Having regard to the proposed dwelling sizes, affordable housing, pedestrian connections (which can help facilitate active travel), measures to be proposed at conditions stage to minimise crime and anti-social behaviour, and other matters, it is considered that the proposed development would not have negative impacts on human health.
- 10.97 Regarding the social infrastructure currently provided and available in Golcar (which is relevant to the public health impacts and the sustainability of the proposed development), and specifically local GP provision, there is no policy or supplementary planning guidance requiring the proposed development to contribute specifically to local health services. Furthermore, it is noted that

funding for GP provision is based on the number of patients registered at a particular practice, and is also weighted based on levels of deprivation and aging population. Direct funding is provided by the NHS for GP practices and health centres based on an increase in registrations.

Ground conditions

- 10.98 Conditions regarding site contamination remediation are recommended in accordance with advice from the council's Environmental Health officers.
- 10.99 The applicant's submission documents state that Japanese Knotweed and Himalayan Balsam are present on the site. A condition, requiring the submission of a method statement for the removal and eradication of these invasive species (and the implementation of approved measures) is recommended.

Representations

- 10.100 A total of 28 representations were received from occupants of neighbouring properties. The comments raised have been addressed in this report.

Planning obligations and financial viability

- 10.101 To mitigate the impacts of the proposed development, the following planning obligations would need to be secured via a Section 106 agreement:
- 1) Affordable housing – Three affordable housing units (two affordable/social rent, one intermediate) to be provided in perpetuity.
 - 2) Open space – £29,123 off-site contribution and an additional contribution payable in the event that development comes forward at the adjacent site (site allocation ref: HS153) and the cumulative impacts of both developments require mitigation.
 - 3) Education – Contribution payable in the event that development comes forward at the adjacent site (site allocation ref: HS153), the education contribution threshold (by both developments considered together) is met, and the cumulative impacts of both developments require mitigation.
 - 4) Sustainable transport – Measures to encourage the use of sustainable modes of transport.
 - 5) Management – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties (including the application site's protected woodland), and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker). Section 106 agreement to include a plan clearly defining all land which would be the responsibility of the management company.
 - 6) Biodiversity – Contribution (amount to be confirmed) towards off-site measures to achieve biodiversity net gain.
 - 7) Adjacent land – Agreement to allow vehicular, cycle, pedestrian and construction access to adjacent site (site allocation ref: HS153) without unreasonable hindrance.

- 10.102 No financial viability information was submitted by the applicant under the previous application (ref: 2019/90925) prior to that application being considered by the Huddersfield Sub-Committee, however an unacceptably late attempt to submit such information was made prior to the refusal of that application earlier this year. Also of note, no financial viability information was submitted under the earlier application for outline planning permission (ref: 2017/93719) relating to this site.
- 10.103 Affordable housing is to be provided at the adjacent site, where the same applicant is implementing a permission for 19 dwellings. That development is to provide three affordable housing units.
- 10.104 Under the current application, the applicant submitted a Residential Viability Report (Grasscroft Development Solutions, March 2021). This states that “without any S106 contributions the scheme is at the limits of viability. The imposition of on-site affordable housing or S106 commuted sums exacerbates the viability constraints”.
- 10.105 The applicant’s viability information has been assessed by the council’s independent viability consultant, Align Property Partners. Officers have also had regard to the council’s Viability Guidance Note, approved by Cabinet on 02/06/2020. Align’s assessment concluded that – with the required affordable housing and open space contribution included – the proposed development could in fact deliver an acceptable level of profit (£545,144) – this equates to a profit margin of 14.6% on sales (taking the profit on affordable units at 7%) or 16.3% on costs.
- 10.106 One key input that differs between the applicant’s appraisal and Align’s assessment is the Benchmark Land Value (BLV). The applicant initially put this at £405,000, based on an assumed possibility that the land could have value as a pony paddock or for hobby farming, and based on a 15x multiplier. Officers do not consider the land to be suitable (or readily available) for those uses, given its gradients, limited accessibility and current condition. Officers are also unconvinced that a 15x multiplier is appropriate to arrive at a BLV using the EUV+ (existing use value, plus a premium) approach – it has not been demonstrated that a landowner (acting reasonably) would require a sum that is fifteen times the land’s current value (or EUV) to be sufficiently incentivised to release it for sale.
- 10.107 Align also queried the applicant’s assumptions regarding abnormal costs. These had not been broken down or explained in detail by the applicant, yet they were referred to by the applicant as a key factor that is adversely affecting the proposed development’s viability.
- 10.108 On 14/07/2021 the applicant responded to Align’s assessment. The applicant provided further detail regarding abnormal costs, queried various assumptions and inputs used by Align (including the BLV, which the applicant referred to as “implausibly low”), argued that a 20% profit level was reasonable, and submitted an updated appraisal, including adjustments to BLV (revised to £225,000) and sales and marketing fees. Based on no affordable housing or Section 106 contributions being provided, the updated appraisal arrived at a 19.08% profit level (based on gross development value), and the applicant has therefore argued that the site remains constrained by viability and cannot support Section 106 contributions or affordable housing.

- 10.109 These findings are not accepted. The applicant's £225,000 BLV is still considered too high, and it is considered reasonable to expect the applicant to adjust their profit expectations to a level below 20%. The information provided by the applicant regarding abnormal costs is currently being reviewed by Align's quantity surveyor (QS).
- 10.110 Subject to Align's QS providing commentary on the recently-submitted information regarding abnormal costs, and given the above assessment, it is not accepted that the proposed development is unviable, and it is recommended that all the required Section 106 obligations (including a policy-compliant 20% affordable housing provision) be secured.
- 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.

Other planning matters

- 10.112 A condition removing permitted development rights for extensions and outbuildings from the proposed dwellings is recommended. This is considered necessary due to the site's location within Golcar Conservation Area, and its visibility in views from public vantagepoints to the south. Extensions and alterations under permitted development allowances here could be harmful to the significance of this heritage asset and could cause visual harm in longer views across the subsidiary valley.
- 10.113 The impact of the proposed development upon the values of adjacent dwellings is not a material planning consideration.
- 10.114 Loss of views across private land (not under the control of the viewer) is not a material planning consideration.

11.0 CONCLUSION

- 11.1 The application site is allocated for residential development under site allocation HS158, and the principle of residential development at this site is considered acceptable.
- 11.2 The site has constraints in the form of the Golcar Conservation Area, the site's topography, adjacent residential development (and the amenities of these properties), biodiversity, drainage and other matters relevant to planning. These constraints have been sufficiently addressed by the applicant, or can be addressed at conditions stage. Some aspects of the proposed development attract negative weight in the balance of planning considerations, however approval of full planning permission is recommended, subject to conditions and planning obligations to be secured via a Section 106 agreement.

11.3 The NPPF introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. The proposed development has been assessed against relevant policies in the development plan and other material considerations. Subject to conditions, it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) and is therefore recommended for approval.

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

1. Three years to commence development.
2. Development to be carried out in accordance with the approved plans and documents.
3. Submission of a Construction Management Plan.
4. Submission of details of temporary (construction-phase) surface water drainage arrangements.
5. Drainage and surfacing of parking spaces.
6. Submission of details relating to internal adoptable roads.
7. Submission of details of any highways retaining walls and structures.
8. Submission of details of the internal road's pedestrian connection to the adjacent public right of way COL/56/40.
9. Submission of details of cycle parking, and provision prior to occupation.
10. Provision of electric vehicle charging points (one charging point per dwelling with dedicated parking).
11. Submission of details of waste storage and collection, and provision prior to occupation.
12. Temporary refuse storage and collection arrangements during construction
13. Submission of detailed drainage scheme (including clarification regarding on-site attenuation volume of and annotations).
14. Submission of flood routing details.
15. Submission of details to allow for a surface water connection across the site from site ref: HS153.
16. Submission of an intrusive site investigation report (phase II report).
17. Submission of a remediation strategy.
18. Implementation of remediation strategy.
19. Submission of a validation report.
20. Submission of details of crime prevention measures.
21. Submission of details of the retention, making safe and maintenance of the site's derelict building.
22. External materials (details and samples to be submitted).
23. Submission of details of boundary treatments.
24. Submission of details of external lighting.
25. Implementation of tree protection measures.
26. Submission of full details of a hard and soft landscaping scheme, to include replacement trees.
27. Submission of details and implementation of bat mitigation measures.

28. Submission of an Ecological Design Strategy.
29. Submission of an invasive species removal and eradication strategy, and implementation of measures.
30. Removal of permitted development rights for extensions and outbuildings.

Background Papers:

Application and history files

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f91384>

Certificate of Ownership – Certificate A signed

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Report of the Head of Planning and Development

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 05-Aug-2021

Subject: Planning Application 2021/91367 Change of use from agricultural to storage and processing of timber, improvement of field access, formation of access track and hardstanding and erection of wood store Land east of, Hillock Farm, Dean Road, Holmfirth, HD9 3XB

APPLICANT

Charlie Batten, Down To Earth

DATE VALID

04-May-2021

TARGET DATE

29-Jun-2021

EXTENSION EXPIRY DATE

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Holme Valley South

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

A. To inform the Planning Inspectorate that the local planning authority would have refused the application had its determination remained within its remit for the reason set out below.

1. The application site is within designated Green Belt, whereby as set out in the National Planning Policy Framework (NPPF) new development, subject to certain exceptions, is regarded as inappropriate. Paragraph 150 of the NPPF sets out that the material change of use of land need not be inappropriate, but only where this preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. In this case the development would harm the openness of the Green Belt through the siting of a building, storage of timber, the formation of the access track and the activity associated with the processing of timber on open land. This would also lead to the encroachment of development into the countryside. As such the proposal would constitute inappropriate development in the Green Belt which is by definition harmful to the Green Belt. There are no very special circumstances which clearly outweigh the harm to the Green Belt by reason of inappropriateness and other harm and therefore the proposal would be contrary to the aims of Chapter 13 of the National Planning Policy Framework.

B. To proceed with enforcement action in accordance with the requirements of the enforcement notice requiring cessation of the use and removal of the associated operational development.

1.0 INTRODUCTION:

- 1.1 The application was originally brought to the Huddersfield Planning Sub Committee for determination due to the significant number of representations received, contrary to the officer's recommendation.
- 1.2 However, the Council has recently received notification that an appeal against the "non- determination" of the planning application has been lodged with the Planning Inspectorate.
- 1.3 Subject to the appeal being accepted, the Planning Inspectorate will now determine the application.
- 1.4 As part of the appeal process this Authority will inform the Planning Inspectorate as to what decision would have made if the determination of the application had remained within its remit. A resolution from the Huddersfield Planning Sub-Committee is therefore sought on this basis.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site relates to a parcel of land located to the East/North East of Hillock Farm, which can be accessed from Dean Road. It should be noted that as the application has been submitted part-retrospectively, the following description details the area as it currently appears. Before works commenced, the site formed an open grassed agricultural field.
- 2.2 Currently the site contains an access track and a sizeable, rectangular area of loose gravel/road planings that appears as a yard. Situated within the area are a number of containers, alongside stacked mounds of timber, described in the application documents as 'cordwood'. The site is bounded by woodland to the North and East.
- 2.3 Surrounding the site is predominantly open fields, however to the South West is Hillock Farm and to the North East is Intake Farm. A belt of trees form the field boundary to the east and north.

3.0 PROPOSAL:

- 3.1 The applicant is seeking retrospective permission for the change of use of land from agricultural to storage and the processing of timber, improvement of field access, formation of access track and hardstanding. This application also seeks planning permission for the proposed erection of a wood store (portal framed building).
- 3.2 The proposed wood store building would be 20m in width by 20m in depth and would have an overall height of 5.3m. The wall panels of the barn would be 1m high concrete panels from ground level with Yorkshire boarding above. The roof would be constructed from green profiled roofing sheets with occasional clear panels to allow light to penetrate through to the work area. 40no. Viridian solar panels are proposed to be installed on the roof of the barn (20 on the east-facing roof slope and 20 on the west-facing roof slope). This would provide around 12.8KW at the peak of power and would allow the site to operate off-grid for the majority of the year, with only minimal use of a backup generator in winter months – for lighting, power tools and equipment etc.
- 3.3 According to the planning statement, access to the barn would be to the north of the building, to allow vehicles to safely manoeuvre into the barn with no need for reversing; however, this has not been clearly identified on the submitted plans.
- 3.4 Alongside the above, the application is also seeking permission to retain the retrospective works for the formation of an access track and hardstanding but to remove the existing containers.
- 3.5 As part of this application a location plan, planning statement, noise report and elevations and roof plans for the proposed wood store building have been submitted.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 Application site:

2019/93124 Change of use from agricultural to storage and processing of timber, formation of access track and hardstanding and siting of containers – Refused

COMP/19/0236 Enforcement investigation into a complaint regarding the alleged unauthorised change of use of land for the storage and processing of logs and the formation of an access track and hardstanding.

Following the refusal of the aforementioned planning permission, an enforcement notice was issued on the 26th January 2021, which required the applicant to:

- a) Cease the use of the land for storage and processing of timber (period of compliance 30 days)
- b) Remove from the land all the items associated with the use of the site for storage and processing of timber, such as, but not exclusive of; all machinery, tools, timber, shipping containers, wagon backs and associated paraphernalia (period of compliance 30 days)
- c) Remove from the land the access track and hard surfaced yard area. (period of compliance 60 days)

The enforcement notice was then appealed on ground g) (period of compliance) to allow the applicant more time to find a suitable alternative location for the storage of materials due to the COVID restrictions and to allow a suitable timeframe for a new planning application to be determined. However, on the 14th July 2021, the appeal was dismissed and the enforcement notice upheld, as the Inspector considered COVID restrictions to have been significantly lifted since the enforcement appeal was submitted and that the elapse of time between the submission of the appeal and the decision letter had afforded opportunity to comply with the terms of the notice. The Inspector concluded that:

“I do not consider there is good reason to extend the compliance period further and believe that the stated harm caused by the unauthorised development to the Green Belt should be brought to an end as soon as possible”.

Therefore, the compliance period remains as set out in the enforcement notice. This means that to comply with the first two required steps (a & b) the requirements would need to be completed by 13th August 2021 and for the third (c) by 12th September 2021.

4.2 Wider vicinity:

2012/92479 Erection of 6W wind turbine on a 15m mast – Refused (Upper Wickens Farm)

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

- 5.1 No negotiations or amendments have been sought as part of this application, as the principle of development remains unacceptable. The revised proposal, and additional information submitted in support of the scheme, do not overcome the unacceptability of the 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 27th February 2019).

The site is located within the Green Belt on the Kirklees Local Plan.

Kirklees Local Plan (2019):

- 6.2 LP1 – Presumption in favour of sustainable development
LP2 – Place shaping
LP10 – Supporting the rural economy
LP21 – Highway safety and access
LP22 - Parking
LP24 – Design
LP26 – Renewable and Low Carbon Energy
LP30 – Ecology and geodiversity
LP35 – Historic environment
LP51 – Protection and improvement of local air quality
LP52 – Protection and improvement of environmental quality

Neighbourhood Development Plans:

- 6.3 The Holme Valley Neighbourhood Development Plan (HVNP) has reached an advanced stage of preparation and the independent Examiner's Report has been received. Although the plan has yet to be subject to a referendum in the affected area, it is a material planning consideration in decision making and weight has been attributed in accordance with NPPF (July 2021) paragraph 48.

The emerging Policies relevant to this application, following receipt of the independent Examiner's Report which are to be put forward to referendum, including key considerations from these Policies, are:

Policy 1: Protecting and Enhancing the Landscape Character of Holme Valley

"Overall, proposals should aim to make a positive contribution to the quality of the natural environment"

Policy 2: Protecting and Enhancing the Built Character of the Holme Valley and Promoting High Quality Design

"Proposals should be designed to minimise harmful impacts on general amenity for present and future occupiers of land and buildings" and [proposals] "should protect and enhance local built character and distinctiveness and avoid any harm to heritage assets..."

Policy 7: Supporting Economic Activity

‘Proposals will be supported which result in the creation or sustainable expansion of existing and new businesses’....Such proposals will be supported where the following all apply [inter alia] ... “the site is located outside the Green Belt or the development is acceptable in terms of national Green Belt policy”

Policy 12: Promoting Sustainability

“All new buildings should incorporate technologies which generate or source energy from renewable, low carbon sources”

Policy 13: Protecting Wildlife and Securing Biodiversity Net Gain

“All development proposals should demonstrate how biodiversity will be protected and enhanced”.

National Planning Guidance:

- 6.4 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

Chapter 2 – Achieving sustainable development

Chapter 6 – Building a strong, competitive economy

Chapter 12 – Achieving well design places

Chapter 13 – Protecting Green Belt land

Chapter 14 – Meeting the challenge of climate change, flooding and coastal change

Chapter 15 – Protecting and enhancing the natural environment

Chapter 16 – Protecting and enhancing the historic environment

National Government’s Written Ministerial Statement (WMS) 2015

- 6.5 Green Belt protection and intentional unauthorised development –

“The Government is concerned about the harm that is caused where the development of land has been undertaken in advance of obtaining planning permission. In such cases, there is no opportunity to appropriately limit or mitigate the harm that has already taken place. Such cases can involve local planning authorities having to take expensive and time consuming enforcement action.

For these reasons, we introduced a planning policy to make intentional unauthorised development a material consideration that would be weighed in the determination of planning applications and appeals. This policy applies to all new planning applications and appeals received since 31 August 2015.

The Government is particularly concerned about harm that is caused by intentional unauthorised development in the Green Belt”.

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application has been advertised by site notice, neighbour notification letters and the press. Final publicity expired on the 11th June 2021. As a result of the above, 158 representations have been received. These include 141 comments in support, of which 84 comprise the same letter from individual addressees, 15 objections and 2 general comments.

A summary of the points raised are as follows:

Objections:

Principle of development:

- The site does not fall within the criteria of a permitted development within the Green Belt.
- Whilst enterprise is encouraged this should perhaps be on a brownfield site, nearer Holmfirth/Meltham.
- The planning statement accepts that this development is inappropriate within the Green Belt.
- The special circumstances put forward are either wrong or irrelevant.
- If approved, the development would set a precedent and would erode the countryside.
- I fail to understand why this location is so crucial and find it hard to believe that there are no better replacements.
- The current and previous planning statements contradict themselves.
- I think that the planning statement is understating the scale of development that is actually required for this type of business.
- The application is wholly unacceptable.
- The new proposal is still contrary to Green Belt Policy.
- The Very Special Circumstances do not overcome the harm to the Green Belt.
- The new building would have a greater impact upon the Green Belt.

Highway safety:

- The heavy plant used to transport the timber is unsuitable for the area.
- If the application is approved, we would like to see a condition being attached to the decision notice to ensure that this transport is barred from passing through the village.
- I suggest Highways Officers visit the site, as a commercial business here is completely inappropriate.
- The Dean Road is inadequate for large vehicles and is frequently used by walkers.

Noise and disturbance to wildlife and the natural environment

- The works introduce noise to a tranquil environment
- The development is a clear threat to the area and natural environment
- The works will impact on wildlife.

General concerns in objection:

- Concerns over the publicity for the application and the site address.
- The letters in support is largely from people who do not live in the area and therefore are commenting on the efficiency of the workmen, rather than the location of the development.
- There are discrepancies' within the planning statement and application form.
- No welfare facilities for its staff with are a legal requirement.
- Concerns regarding the future use of the site if planning was to be granted.
- Concerns with the information raised within the planning statement.

Support:

Residential amenity:

- The process causes no bother to me as a close neighbour.
- It does not hinder anyone as it is away from the road.
- There is no noise disturbance, apart from the occasional chainshaw.
- The council have found no adverse impact from noise.
- The development does not impact upon the living conditions/amenity of the neighbouring properties.
- The site is remote of neighbouring properties.

Visual amenity:

- The planting of many trees is a good example of how to take care of the land, which also helps mask some of the impact.
- Effort has also been made to re-build the stone boundary wall.
- The site is discreet and the access is no different to those used by farms in Holmfirth.
- The development cannot be seen from public vantage points.
- The building now proposed would add to the acoustic insulation and has an agricultural appearance.
- There is little sign of activity from various different view points.
- The barn would not be visible within the landscape.
- There are plenty of ugly modern agricultural buildings in the area, however, the materials proposed here are thoughtful and sympathetic.

Principle of development:

- Many other tree surgeons have to process fire wood in the Green Belt so it would be unfair to reject this application.
- There are a lack of alternative sites outside of the Green Belt.
- The additional land would be retained for agricultural purposes.
- The development is an appropriate use for the land.
- The proposal should be regarded as a forestry operation.

Highway safety:

- There would be a limited impact on highway safety.

General comments in support:

- There are many benefits of having a local supply of firewood.
- The development enables a local company to work in the area.
- The scheme contributes to wider objections including recycling.
- There are plenty of biodiversity gains.

- The local planning authority of aware of a number of other companies in fact Kirklees Forestry themselves have set up similar yards with no planning consent.
- The development creates jobs for 5 members of staff.
- The building would be fitted with solar panels and the business is committed to switching to electric power tools.
- The business is eco-friendly, by recycling sustainable materials.
- The business employs local people, provides an important service, is unobtrusive and environmentally sound and deserves support.
- It recycles local materials.
- The owner is fully trustworthy.
- The development would make a positive contribution to the local community, in terms of jobs, services and carbon reduction.
- The government's guidance encourages job creation.
- This is a successful business which requires a permanent base.
- Following difficult times of COVID, the council should support small businesses.
- The business has a positive contribution to the councils Climate Emergency Action Plan, which states to plant more trees.

General comments

- The application has been previously refused, so now to approve it would make a mockery of the system. The council should provide the entrepreneur with a brownfield site at an affordable rate.
- I would support this application if it was only ever used for a wood yard and no other purpose. The petrol chainsaw use is not allowed on the site and that he is conditioned to make this a genuine green adventure.

Holme Valley Parish Council: In support.

Local Ward Councillors:

Councillor Nigel Patrick: "The application is retrospective and would have noise implications for nearby residents. The development is also inappropriate development in the Green Belt and is contrary to the Local Plan. If we allow people to develop in the Green Belt like this it makes a mockery of local and national planning policies. There are other locations the applicant can use locally had he undertaken a full survey of available sites".

8.0 CONSULTATION RESPONSES:

None undertaken for this application given the scope of the application applied for, but the comments previously received for application no. 2019/93124 are referred to in the assessment below, where relevant.

9.0 MAIN ISSUES

- Principle of development: Green Belt
- Impact on heritage
- Residential amenity
- Highway safety
- Other matters
- Representations
- Conclusion

10.0 APPRAISAL

- 10.1 The application seeks permission for the change of use of land from agricultural to storage and the processing of timber, improvement of field access, formation of access track and hardstanding and the erection of a wood store.

Background

- 10.2 The previous application 2019/93124 is a material consideration and will be addressed as part of this application. The application was refused for the following reason by members of Huddersfield Planning Sub-Committee on the 9th December 2020.

- 1. The application site is within designated Green Belt, whereby as set out in the National Planning Policy Framework (NPPF) new development, subject to certain exceptions, is regarded as inappropriate. Paragraph 146 of the NPPF sets out that the material change of use of land need not be inappropriate, but only where this preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. In this case the development would harm the openness of the Green Belt through the siting of containers, storage of timber, the formation of the access track and the activity associated with the processing of timber on open land. This would also lead to the encroachment of development into the countryside. As such the proposal would constitute inappropriate development in the Green Belt which is by definition harmful to the Green Belt. There are no very special circumstances which clearly outweigh the harm to the Green Belt by reason of inappropriateness and other harm and therefore the proposal would be contrary to the aims of Chapter 13 of the National Planning Policy Framework.*

- 10.3 The resolution of the Sub-Committee also delegated authority to the Head of Planning and Development to proceed with enforcement action requiring the cessation of the use and the removal of the associated operational development. An enforcement notice was served on the 26th January 2021. Following this, an appeal was made against the enforcement notice on ground g) (period of compliance) to allow the applicant to find a suitable alternative location for the storage of materials due to the COVID19 restrictions and for the new application to be determined. No appeal was made against the previous planning application or on ground a) of the enforcement notice (planning permission should be granted). The current planning application was received on 1st April 2021.

- 10.4 On the 14th July 2021, the enforcement appeal was dismissed and the enforcement notice upheld and therefore the current application before Members seeks to retain the existing unauthorised use on site using the same access track with the retention of hard-surfaces. The revised submission differs from the previous planning application as this intends to remove all existing shipping containers, following the completion of a new portal framed building, referred to as a 'wood store'. As such, the following assessment is based on this revised proposal.

Principle of development: Green Belt

- 10.5 The site is situated within the Green Belt on the Kirklees Local Plan (KLP). As such, the proposal will be assessed having regard to NPPF Chapter 13.
- 10.6 Paragraph 147 of the NPPF states inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, paragraph 148 advises that planning authorities should ensure that “substantial weight” is given to any harm to the Green Belt. It also states that “very special circumstances will not exist unless the substantial harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations”.
- 10.7 The application is seeking permission for the change of use of land from agricultural to storage and the processing of timber, improvement of field access, formation of access track and hardstanding and the erection of a new building to be used as a wood store. The development can be described as a material change of use of the land and engineering operations to form the access and hardstanding, together with operational development through the erection of the proposed wood store.
- 10.8 Paragraph 150 of the NPPF provides for forms of development that can be considered not to amount to inappropriate development in the Green Belt including, inter alia, engineering operations and a material change in the use of land. Such forms of development are not inappropriate providing they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The principle of this aspect of the proposed development therefore turns on the point of whether the material change of use and engineering operations preserve openness and do not conflict with the purposes of including land in the Green Belt. Furthermore, this application also seeks permission for the erection of a building. This will be assessed against paragraph 149 of the NPPF, which states that new buildings are inappropriate in the Green Belt, unless they meet one of the stated exceptions.
- 10.9 Paragraph 138 of the NPPF sets out the 5 purposes for including land in the Green Belt which, in particular to this application, means safeguarding the countryside from encroachment. Protecting Green Belt from inappropriate development, preserving its openness and safeguarding land from encroachment are the measures this development is to be assessed. If the development is deemed inappropriate and/or does not preserve openness it follows it will encroach into the Green Belt and therefore will not be supported by national planning policy.

Engineering works

- 10.10 The access track extends 190m from the highway, adjoining the yard in which is approximately 1500 square meters in area. It is considered the development has led to a significant amount of works to an otherwise open field, through the laying of road planings to the compound area, alongside loose gravel which has now been compacted to form a long access track. This level of work has ultimately led to an engineering operation which in turn has a substantial impact upon the openness and permanence of the Green Belt within this location. The

hard surface in particular introduces an uncharacteristic and strident feature in the once open field. Despite the hard surface not being readily viewed from the public realm its spatial impact is significant and results in demonstrable harm to the open rural character of the area.

- 10.11 While the access track is not untypical of a farm track it does result in an unnecessary feature in the field thus eroding the open visual appearance of the field.
- 10.12 The engineering operations including hard surface and access therefore unacceptably impacts upon the openness of the Green Belt and purposes for including the land in the Green Belt and are therefore inappropriate development in the Green Belt contrary to chapter 13 of the NPPF.

Material change of use of the land

- 10.13 The engineering operations have facilitated the use of the land, whereby the applicant is now seeking planning permission in order to erect a new barn style building in connection with the processing of trees (assessed below), and the storage of cordwood which has led to the change of use of an open field to the North of Dean Road. The processing of trees is not considered to amount to a forestry use but rather an industrial process to change one product to another saleable product. While forestry uses are considered to typically involve the harvesting of trees which may involve the storage of logs, forestry uses are not considered to reasonably include the subsequent processing of trees. It is the processing use that has led to the need for a new wood store and other works and activities subject to this application. It is clear the business use being carried out on the land to store logs cannot exist without the need to process the logs to a usable product and it is that use which results in a harmful impact upon the openness of the Green Belt. This activity leads to an impact upon the openness of the Green Belt by reason of the stated requirement for a new building and other processing activities including sawing, splitting and storage of timber produces arising from the industrial activity.
- 10.14 Whilst the applicant has indicated the planting of trees and the proposal for the new building will mask the activities being undertaken, these measures are required as a result of the proposal for a material change of use of land which itself does not preserve the openness of the Green Belt.
- 10.15 As such, it is considered that the material change of use to storage and processing of timber and the ensuing requirement for a new building would have a significant impact on the openness of the Green Belt in this location and would be contrary to the purpose of including land within it.

Erection of a new building

- 10.16 Along with the works identified above, the applicant seeks permission for the erection of a portal framed building to use as a wood store, in order to facilitate the timber processing use. This would be the main modification when comparing the current application against the previously refused scheme. The 'timber barn' would enable the processing, storage and drying of wood and would replace the existing shipping containers. The dimensions of the barn are 20m in width by 20m in depth with an overall height of 5.3m.

- 10.17 Paragraph 149 of the NPPF states that a local planning authority should regard the construction of new buildings as inappropriate development in the Green Belt, apart from a few specified exceptions. In this case, the building would be used for the processing, storage and drying of wood and therefore, would not fall within any of the specified exceptions. Whilst exemption under paragraph 149 (a) is for buildings for agriculture and forestry, as this application relates to the processing of trees it does not amount to a forestry use but rather an industrial process to change one product to another saleable product.
- 10.18 As such, the erection of a new building would be inappropriate development in principle which is, by definition, harmful to the openness of the Green Belt. Whilst recognising the building would be within a natural dip in the land, this would not overcome the significant harm the building would have on the spatial openness of the Green Belt resulting in built development on land that is presently open. There would also be visual harm to openness, again through the built form proposed but this is considered to be low. Furthermore, the building would result in encroachment of development into the countryside and would be contrary to the purpose of including land within the Green Belt as set out in paragraph 138 of the NPPF. The proposal would also be contrary to Policy 1 of the emerging HVNP as it would not “make a positive contribution to the quality of the natural environment”.
- 10.19 In conclusion, the proposed development is considered to be inappropriate development as defined within the NPPF at paragraphs 147 and 148, would result in harm to the openness of the Green Belt and would be contrary to one of the stated purposes for including land within the Green Belt as set out in paragraph 138 of the NPPF.

Very Special Circumstances

- 10.20 When considering any planning application paragraph 148 of the NPPF advises that planning authorities should ensure that “substantial weight” is given to any harm to the Green Belt. It also states that “very special circumstances will not exist unless the substantial harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations”. In this case, a planning statement has been submitted by the agent in support of the application. This statement concludes that whilst the development is inappropriate, and opining that such harm is “very limited,” there are very special circumstances to clearly outweigh the harm to the Green Belt, by reason of inappropriateness and other ‘residual’ harm. The full planning statement is available to view on the council’s website. For the reasons set out earlier, officers do not share the conclusion that the harm to the Green Belt by reason of either inappropriateness or other harm is very limited. Furthermore, the building now proposed would further solidify the use and exacerbate the harm already caused through the change of use and engineering operations undertaken. Notwithstanding this, a summary of the ‘very special circumstances’ set out in the planning statement are as follows:
1. The development has a role in supporting the rural economy, as the company currently employs six people and makes an important contribution to the local economy.

2. The development contributes to sustainability and beneficial use of the Green Belt objectives, as the new building would include solar panels so that the site can operate largely off-grid. The storage of wood would also strengthen emerging legislation regarding the burning of wet-wood, alongside the extensive tree and hedge planting in which the applicant has already undertaken.
3. There is a lack of alternative sites (outside the Green Belt in Kirklees). There are no realistic sites that safeguard the future of a business of this nature. The other site options referred to in the planning statement (two) are not available or too expensive and a 'significant distance from the Applicant's main sources of raw material and markets'

10.21 The applicant therefore believes that the above comments collectively constitute to very special circumstances which clearly outweigh the harm by reason of inappropriateness and on the openness of the Green Belt and that the proposal does not conflict with the 5 purposes for including land within it. However, as previously set out, officers do not concur with this conclusion. Comments on the other considerations set out by the agent are assessed as follows.

10.22 With regards to the first point, the LPA accepts that the proposal provides jobs for local people and will follow the guidance set out within the NPPF, Policy LP10 of the KLP and Policy 7 of the emerging HVNP regarding economic growth within rural areas. However, from reviewing the planning statement and application form, it appears that there would be no additional employees taken on as part of this business moving location to the current application site from its previous location. It is considered that the continuation of the development on this site is unlikely to increase the prosperity of the local area that would clearly outweigh the harm to the Green Belt. Furthermore, Policy LP10 of the KLP and Policy 7 of the emerging HVNP make clear that where development is proposed in the Green Belt regard must be had to the relevant policies in the Local Plan and the NPPF respectively. The application of such Green Belt policies leads to the conclusion that the development is unacceptable.

10.23 Consideration has also been given to point two, as it is noted that the applicant is trying to contribute to sustainability and beneficial use of the Green Belt. However, officers remain unconvinced that the installation of solar panels on a building that is itself inappropriate in the Green Belt, the planting of new trees and hedges and that the storage of wood would overcome the concerns raised, as the site was previously a large open field in which contributes to the character of Upperthong and the wider openness of the Green Belt. Wood could be stored elsewhere and does not require a Green Belt location.

10.24 It is appreciated that the applicant has planted various trees and hedgerows, around the site and along the front boundary adjacent to Dean Road, and this would comply with Policy 13 of the emerging HVNP. However, this work does not overcome the concern raised, regarding the impact of the change of use and engineering operations which have substantially changed the previous open character of the site and the proposal for a new building which would also constitute inappropriate development. The application in principle is contrary to the aims of Green Belt policy by means of encroachment into the countryside. The new building proposed would be situated on land in which was previously

absent of any built form. The installation of solar panels to the roof of the building, whilst providing some general environmental benefits, provides little weight in favour of the wider scheme. The development causes clear harm to the spatial openness of the Green Belt.

- 10.25 Lastly, the agent has outlined that there are lack of alternative sites in which safeguard the future of this type of use. More specifically the planning statement outlines that 'the applicant is clear that, in order to continue operations, a site must be found within the Holme Valley'. This is stated as being particularly important because the applicant's tree management services and delivery of firewood locally requires proximity to customers. Furthermore, the statement identifies that the applicant has considered two industrial units at Towndoor Ltd (Meltham and Bank Bottom Mill (Marsden), however, both have been discounted due to the distance from the applicant's main sources of raw materials and the size and prices of these units being unviable for the business.
- 10.26 The justification provided in this instance is not considered to provide very special circumstances to clearly outweigh the harm caused by the development. The use was previously sited elsewhere and a very limited search of other sites has been undertaken. From representations received in support of the application it is clear that there are customers within the wider Kirklees area beyond the Holme Valley. Therefore, it is considered there are no extenuating circumstances to conclude that the development has to be located within this rural location within the Green Belt, that the applicant needs to be within this location, nor that a thorough review all of the alternative sites outside of the Green Belt has been undertaken before submitting this modified proposal.
- 10.27 More specifically, no further justification has been provided to state why the applicant cannot continue to operate from its previous location, in which it has done for the past 14 years. It might be concluded that the desired need for the business to be located on this land, results from the fact that the applicant owns it.
- 10.28 Having taken into account the above 'other considerations' of support in the planning statement, these do not individually or collectively constitute very special circumstances which clearly outweigh the identified harm the Green Belt by reason of inappropriate development and other harm. The proposal therefore fails to accord with the requirements of Chapter 13 of the NPPF and Policy 7 of the emerging HVNP.
- 10.29 A written ministerial statement in 2015 introduced a planning policy to make intentional unauthorised development a material consideration that would be weighed in the determination of planning applications and appeals. The Government stated that it was particularly concerned about harm that is caused by "intentional unauthorised development in the Green Belt". In this case it is not apparent that the unauthorised development undertaken was 'intentional,' as the applicant considered the development to be 'forestry' where certain permitted development rights might apply. In this specific case it is considered that the fact the unauthorised development has taken place does not form a material consideration weighing in the assessment of the application.

Impact on heritage

Setting of Grade II Listed Buildings at Hillock Farm

10.30 To the South West of the application site is Hillock Farm, a historic farmstead with a small group of Grade II listed buildings dating back to the mid-18th and 19th centuries. The farm had historically been in a rural agricultural setting with scattered farmsteads and roads

Significance of the affected heritage assets

10.31 Paragraph 195 of the NPPF requires that the Local Planning Authority identify and assess the particular significance of any heritage assets affected and take this into account when considering the impact of an application for planning permission on the setting of a heritage asset.

10.32 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act requires that the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

10.33 Policy LP35 of the Local Plan requires that proposals should retain those elements of the historic environment which contribute to the distinct identity of the Kirklees area and ensure they are appropriately conserved, to the extent warranted by their significance, also having regard to the wider benefits of development. Consideration should be given to the need to ensure that proposals maintain and reinforce local distinctiveness and conserve the significance of designated and non-designated heritage assets.

10.34 As part of the previous application, KC Conservation and Design were informally consulted, raising no objection to the scheme, as a modern half round corrugated clad agricultural building stands to the north end of Hillock Farm, which will obscure the historic farm buildings from the view when facing south. More specifically, given the dip within the site, it has been noted that when viewed from the west along Dean Road, the proposed building and the existing farm, is unlikely to be read within the context of one another.

10.35 Having taken into account the above and the site's historical undeveloped nature, the proposal has the potential to cause slight harm to the setting of the listed farmstead. However, the planning statement identifies the proposed function of the site to recycle felled timber to provide renewable energy. Notwithstanding the principal objection to the formation of this use and operational development in the Green Belt, it is considered that the potential harm to the setting of the listed building alone could be outweighed by the public benefits provided. This would accord with Policy LP35 of the Kirklees Local Plan, Policy 2 of the emerging HVNP and Chapter 16 of the NPPF.

Residential amenity

10.36 The site is located within an area of sporadic, dispersed development, whereby Hillock Farm, Intake Farm and Upper Wickens are the nearest residential properties.

- 10.37 With regard to amenity, Policy LP24 advises that proposals should ensure that a high standard of amenity is achieved for future and neighbouring occupiers. Previously, KC Environmental Health were formally consulted, given the close proximity of the site to a number of noise sensitive residential properties. This was to accord with Policy LP52 of the KLP.

Noise Impact

- 10.38 As part of this application the previous noise report has been re-submitted. As such, it is likely that KC Environmental Health's comments still stand, as this document outlines the existing background noise levels at the nearby residential properties and the noise generated by the machinery associated with wood processing. The report also states that timber processing will not be carried out on the site on a regular basis. However, this process will include the use of high-powered petrol chainsaws for the larger trees, alongside electric chainsaws to cut up the cordwood into manageable rings. Once the cords have been ringed-up they will be split up into segments with the hydraulic ram log splitter powered from a Valtra tractor. The logs will then either be stacked within the area of hardstanding or the proposed wood store, in order to allow them to naturally air dry before being delivered to customers. The specific hours of use for using such machinery have not been provided as part of this application, however evidence suggests that these activities are likely to take place within the hours of 8am – 5pm as set out within page 24 of the Planning Statement.

- 10.39 With regards to context, it is noted that wood processing operations are very infrequent (circa 5–6 days per year) and that the principal noise source (tractor engine) is in keeping with the existing rural acoustic environment.

- 10.40 Therefore, officers consider that under the normal operation conditions, as set out in the noise report, the processing of timber on this site would not have an adverse impact on the amenity of nearby residential properties, with the timber boarded barn also helping to further eliminate any undue impact. This is to accord with Policies LP24 and LP52 of the KLP and the aims of Policy 2 of the emerging HVNP.

Adjacent properties

- 10.41 There will also be no material impact on the amenities of neighbouring properties through the erection of a wood store. This is due to the fact that a significant separation distance of approximately 100m can be retained between the nearest elevation at Hillock Farm. Intake Farm/Lower Wickens Cottage are the neighbouring properties to the North East and South East of the application site. It has also been noted that there are a row of mature trees to the eastern boundary, in which will help obscure any impact.

- 10.42 Based on the above, officers are satisfied that an acceptable level of amenity would be retained at the neighbouring sites. This would be in accordance with Policies LP24 and LP52 of the Kirklees Local Plan and Policy 2 of the emerging HVNP, subject to conditions being attached in the case of approval, with regards to the hours of use and the times and dates in which the chainsaws can be used on site.

Highway Safety

- 10.43 A new access and access track has already been constructed from Dean Road, to the South. As such KC Highways DM were formally consulted as part of the previous application. In this case, given that the access and highways arrangement remain unchanged, officers consider the previous comments to stand. As such, these have been reiterated below.
- 10.44 Dean Road is a 60 mph, two-way single carriageway, that has a width of approximately 6m. Operations on the site would typically require 3-4 vehicles to arrive in the early morning, and 1-2 vans would leave the site for external site visits. At the end of the working day, the two vans would return to site and company employees would leave in the cars.
- 10.45 The vehicles to be used for the operation of the proposal site, are of the light/medium goods vehicle type and as such, would have no impact on the local highway network greater than that of a large family car/SUV.
- 10.46 The access has been widened to 7m and extends back 12.5m. This would allow service vehicles to be able to leave the highway while waiting for the gate to be opened in order to avoid any obstruction and to reduce highway safety concerns. Whilst this would improve highway safety, it would cause further harm to the openness of the Green Belt.
- 10.47 With regards to sight lines, it has been noted that the access will remain unchanged as part of this modified proposal and therefore, given the low number of movements expected from the access and the fact the site has been operating safely for some time, combined with the number of other agricultural and field accesses in the area, officers on balance, considered the proposed access to be acceptable.
- 10.48 There would also be suitable parking for staff and operational vehicles and adequate space for turning, so that vehicles can enter/exist the site in forward gear.
- 10.49 Therefore, the impact of the development on highway safety has been assessed against Policies LP21 and LP22 of the Local Plan and the Council's Highway Design Guide, which seek to ensure that proposals do not have a detrimental impact to highway safety and provide sufficient parking. Based on the submitted details the proposed would accord with the aforementioned policies.

Other matters

Climate change

- 10.50 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.

- 10.51 In this case, it has been considered that the proposed development would have a negative impact on climate change, as it has resulted in the partial re-development of a greenfield site, in order to create an area of hardstanding for the commercial use. However, the planning statement outlines that the new building would benefit from solar panels to enable it to operate largely off grid in order to reduce carbon emissions. This element would accord with Policy 12 of the emerging HVNP. Therefore, the processing and re-use of timber for other purposes is beneficial for climate change, however, this use and proposed wood store could take place on an alternative site that would not require green field land. As such, the development overall is considered to have an unacceptable impact on climate change.

Biodiversity and trees

- 10.52 The site was previously an open agricultural land which is considered to be of low ecological value. The development proposed would not include the cutting down of any existing trees to the North and East of the site, whereby the applicant has also undergone extensive planting of approximately 2000 trees and associated hedging, both immediately to the west of the access track and to the north of the site. Such works are considered to meet the aims of Policy 13 of the emerging HVNP. However, whilst this tree planting has biodiversity benefits, by linking together wildlife corridors, it does not overcome the harm by reason of inappropriate development in the Green Belt.

Representations

- 10.53 As a result of the above, 158 representations have been received. These include 141 comments in support, 15 objections and 2 general comments.

A summary of the points raised, along with officer correspondence can be seen below.

Objections:

Principle of development:

- The site does not fall within the criteria of a permitted development within the Green Belt.
- Whilst enterprise is encouraged this should perhaps be on a brownfield site, nearer Holmfirth/Meltham.
- The planning statement accepts that this development is inappropriate within the Green Belt.
- The special circumstances put forward are either wrong or irrelevant.
- If approved, the development would set a precedent and would erode the countryside.
- I fail to understand why this location is so crucial and find it hard to believe that there are no better replacements.
- The current and previous planning statements contradict themselves.
- I think that the planning statement is understating the scale of development that is actually required for this type of business.
- The application is wholly unacceptable.
- The new proposal is still contrary to Green Belt Policy.

- The Very Special Circumstances do not overcome the harm to the Green Belt.
- The new building would have a greater impact upon the Green Belt.
Comment: These concerns have been noted as assessed within the report above.

Highway safety:

- The heavy plant used to transport the timber is unsuitable for the area.
- If the application is approved, we would like to see a condition being attached to the decision notice to ensure that this transport is barred from passing through the village.
- I suggest Highways Officers visit the site, as a commercial business here is completely inappropriate.
- Dean Road is inadequate for large vehicles and is frequently used by walkers.
Comment: A site visit was undertaken by KC Highways DM as part of the previous planning application.. However, given that the principle of development remains the same, there is no need for a further visit. The concerns raised above have also been assessed in the Highways Safety section of the report above.

Noise and disturbance to wildlife and the natural environment

- The works introduce noise to a tranquil environment
- The development is a clear threat to the area and natural environment
- The works will impact on wildlife.
Comment: These concerns have been noted and assessed in the report above.

General concerns in objection:

- Concerns over the publicity for the application and the site address.
Comment: Officers consider the publicity period and the site address to be correct.
- The letters in support is largely from people who do not live in the area and therefore are commenting on the efficiency of the workmen, rather than the location of the development.
Comment: This has been noted.
- Concerns with the information raised within the planning statement.
- There are discrepancies' within the planning statement and application form.
Comment: This has been noted, however, officers consider the information contained within the application submission to be sufficient to assess the development proposed.
- No welfare facilities for its staff with are a legal requirement.
Comment: This concern is outside of the remit of the planning application.
- Concerns regarding the future use of the site if planning was to be granted.
Comment: The application is considered on its own merits, with any future development requiring planning permission.

Support:

Residential amenity:

- The process causes no bother to me as a close neighbour.
- It does not hinder anyone as it is away from the road.
- There is no noise disturbance, apart from the occasional chainshaw.
- The council have found no adverse impact from noise.
- The development does not impact upon the living conditions/amenity of the neighbouring properties.
- The site is remote of neighbouring properties.

Comment: The above comments have been noted and the impact of the scheme on the amenities of residential occupiers of nearby dwellings assessed above.

Visual amenity:

- The planting of many trees is a good example of how to take care of the land, which also helps mask some of the impact.
- Effort has also been made to re-build the stone boundary wall.
- The site is discreet and the access is no different to those used by farms in Holmfirth.
- The development cannot be seen from public vantage points.
- The building now proposed would add to the acoustic insulation and has an agricultural appearance.
- There is little sign of activity from various different view points.
- The barn would not be visible within the landscape.
- There are plenty of ugly modern agricultural buildings in the area, however, the materials proposed here are thoughtful and sympathetic.

Comment: The above comments have been noted. Although the site, discounting the access, is not readily visible in the landscape, this does not overcome the spatial harm to openness of the Green Belt or the encroachment of development into the countryside, both of which are fundamental considerations in the assessment of development in the Green Belt.

Principle of development:

- Many other tree surgeons have to process fire wood in the Green Belt so it would be unfair to reject this application.
- There are a lack of alternative sites outside of the Green Belt.
- The additional land would be retained for agricultural purposes.
- The development is an appropriate use for the land.
- The proposal should be regarded as an forestry operation.

Comment: The above comments have been noted. The proposed use and development is not appropriate development in the Green Belt and is not a forestry operation. Each planning application is judged on its own merits.

Highway safety:

- There would be a limited impact on highway safety.

Comment: The above comments have been noted.

General comments in support:

- There are many benefits of having a local supply of firewood.
- The development enables a local company to work in the area.
- The scheme contributes to wider objectives including recycling.
- There are plenty of biodiversity gains.
- The local planning authority is aware of a number of other companies in fact Kirklees Forestry themselves have set up similar yards with no planning consent.
- The development creates jobs for 5 members of staff.
- The building would be fitted with solar panels and the business is committed to switching to electric power tools.
- The business is eco-friendly, by recycling sustainable materials.
- The business employs local people, provides an important service, is unobtrusive and environmentally sound and deserves support.
- It recycles local materials.
- The owner is fully trustworthy.
- The development would make a positive contribution to the local community, in terms of jobs, services and carbon reduction.
- The government's guidance encourages job creation.
- This is a successful business which requires a permanent base.
- Following difficult times of COVID, the council should support small businesses.
- The business has a positive contribution to the council's Climate Emergency Action Plan, which states to plant more trees.

Comment: Whilst the employment generation of the use and other comments in support of the proposal are noted, these do not overcome the fundamental harm it would have to the designated Green Belt.

General comments

- The application has been previously refused, so now to approve it would make a mockery of the system. The council should provide the entrepreneur with a brownfield site at an affordable rate.
- I would support this application if it was only ever used for a wood yard and no other purpose. The petrol chainsaw use is not allowed on the site and that he is conditioned to make this a genuine green adventure.

Comment: The above comments have been noted.

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. In this instance, the proposal would not accord with the aims of Chapter 13 of the NPPF. The application of policies in the NPPF that protect areas of particular importance, in this case Green Belt, provides a clear reason for refusing the development proposed.

Background Papers:

Application and history files:

Web link to application:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021/91367>.

Link to previous refusal:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019/93124>.

Certificate A has been signed.

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Report of the Head of Planning and Development

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 05-Aug-2021

Subject: Planning Application 2021/91136 Siting of mobile home for use as holiday accommodation, construction of raised platforms, erection of 'Tiki bar' and pergola and formation of vehicular access from Manchester Road with electronic gates and associated hardsurfaces Mulberry Brook, Manchester Road, Slaithwaite, Huddersfield, HD7 6LP

APPLICANT

S Murphy

DATE VALID

18-Mar-2021

TARGET DATE

13-May-2021

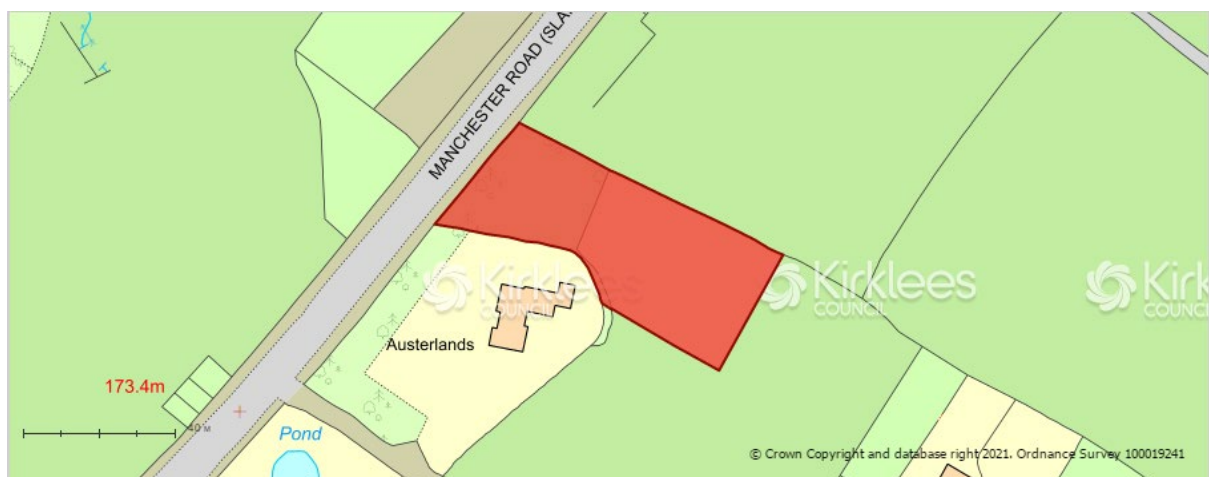
EXTENSION EXPIRY DATE

10-Jun-2021

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Colne Valley

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION: Refuse planning permission and delegate authority to the Head of Planning and Development to proceed with enforcement action requiring cessation of the use and the removal of the associated operational development.

1. The development, consisting of a mobile home, decking, pergola, fencing, access and concrete driveway, has urbanised what was previously an open and green garden, thereby causing significant harm to the openness of the Green Belt as well as the visual amenities of the Green Belt and the character and appearance of the wider area. As such, the development constitutes inappropriate development in the Green Belt and there are no very special circumstances which clearly outweigh the harm caused by inappropriateness and other harm. The development is therefore contrary to Policy LP24 (a) of the Kirklees Local Plan and Chapter 13 of the National Planning Policy Framework.

1.0 INTRODUCTION:

1.1 This application is brought before the Huddersfield Planning Sub-Committee for determination at the request of Ward Councillor Donna Bellamy for the following reason:

For committee to assess whether the application will have an adverse impact on the Green Belt, to establish if there the impact upon Manchester Road (A62), and to look at the potential economic benefits to the Colne Valley

1.2 The Chair of the Sub-Committee has accepted the reason is in line with the Council's Protocol for Planning Committee.

2.0 SITE AND SURROUNDINGS:

2.1 The application site is within Mulberry Brook, which comprises a relatively large detached dwelling constructed from natural stone under a stone slate roof. Mulberry Brook benefits from a driveway, with access at the south west corner from Manchester Road (shared with a public right of way). The property also benefits from a relatively spacious garden to the North, North East and West of the dwelling. Pedestrian and vehicular access can be taken from the shared driveway onto Manchester Road (A62).

2.2 The application site itself comprises the north section of Mulberry Brook, beyond the north wall of the dwelling, which previously comprised of garden area until relatively recently, but development has taken place on the site which is subject of this application.

2.3 The site is within a rural location, and surrounding the site is open countryside to the North East and East. The nearest residential properties are Carters Farm and Carters Barn to the East and Westwyns to the South West. The site and surrounding land rise from the North West to the South East. The site is located within the Green Belt.

3.0 PROPOSAL:

3.1 Retrospective Planning permission is sought for the siting of mobile home for use as holiday accommodation, construction of raised platforms, erection of bar and pergola and formation of vehicular access from Manchester Road with electronic gates and associated hard surfacing.

3.2 The mobile home is located centrally on the site. The mobile home is constructed from horizontal timber boarding under a pitched tile roof. The mobile home has an eaves height of 2.8 metres and ridge height of 3.2 metres and has a footprint of 12.5 metres by 4 metres. The mobile home is displayed as having 3 bedrooms, a lounge/kitchen and a bathroom.

3.3 A timber decked area has been constructed to the rear and South West side of the mobile home, and on the side decked element is a pergola with wooden frames under a tiled roof. The pergola has a footprint of 7.6 metres by 3.4 metres, and a ridge height of 3.4 metres. To the north side of the decking is a timber constructed bar area.

3.4 An opening in the wall to the front of the site has been created so as to provide access from Manchester Road, but the kerb has not been dropped. An electric gate is proposed at the access, set back 5 metres from the highway but limited details have been provided of this. From the access point, a concrete driveway has been constructed leading up to the mobile home. Further development to widen the access drive and provide a vehicular turning head is also proposed.

3.5 Close boarded fencing has been installed to the front of the mobile home and fencing separates the mobile home from the existing dwelling at Mulberry Brook.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

Application site:

4.1 2002/94326: Erection of ground and first floor extensions – Granted.

4.2 2006/94890: Erection of garage extension – Granted.

4.3 2006/93730: Erection of garage extension – Refused.

4.4 2019/93032: Erection of cattery buildings – Granted. In relation to this planning application, planning permission was approved on 21st January 2020 for the erection of cattery buildings in the form of 6 pens, each being 2 metres in width, 2.5 metres in height and 3.6 metres in length.

4.5 COMP/20/0277: Enforcement investigation into a complaint regarding the alleged unauthorised siting of a static holiday house caravan and formation of new access track. This has resulted in the submission of the current application seeking to regularise a breach of planning control.

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

5.1 The retrospective application follows an enforcement investigation, but Officers consider that the development is unacceptable in principle therefore revisions have not been sought. The applicant has been informed that the application is recommended for refusal. A technical note by Paragon Highways displaying a revised (widened) arrangement of the drive, bin presentation point, location of the electric gate and vehicular turning head has been submitted and is assessed in the report.

6.0 PLANNING POLICY:

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

6.2 The site is allocated as Green Belt on the Kirklees Local Plan

Kirklees Local Plan (2019):

- LP 1 – Achieving Sustainable Development
- LP 2 – Place Shaping
- LP 10 – Supporting the Rural Economy
- LP 21 – Highway Safety
- LP 22 – Parking Provision
- LP 24 – Design
- LP 30 – Biodiversity and Geodiversity
- LP 51 – Protection and Improvement of Local Air Quality
- LP 52 – Protection and Improvement of Environmental Quality
- LP 57 – The Extension, Alteration or Replacement of Existing Buildings

6.4 Supplementary Planning Guidance / Documents:

- Biodiversity Net Gain Technical Advice (2021)
- Kirklees Highways Design Guide (2019)
- Housebuilders Design Guide SPD (2021)
- National Government’s Written Ministerial Statement (WMS) 2015
 - Green Belt protection and intentional unauthorised development:

“The Government is concerned about the harm that is caused where the development of land has been undertaken in advance of obtaining planning permission.

In such cases, there is no opportunity to appropriately limit or mitigate the harm that has already taken place. Such cases can involve local planning authorities having to take expensive and time-consuming enforcement action.

For these reasons, we introduced a planning policy to make intentional unauthorised development a material consideration that would be weighed in the determination of planning applications and appeals. This policy applies to all new planning applications and appeals received since 31 August 2015. The Government is particularly concerned about harm that is caused by intentional unauthorised development in the Green Belt.”

6.5 National Planning Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

- **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 14** – Meeting the Challenge of Climate Change, Coastal Change and Flooding
- **Chapter 15** – Conserving and Enhancing the Natural Environment

7.0 **PUBLIC/LOCAL RESPONSE:**

7.0 Neighbour letters expired on 2nd June 2021.

7.1 Two representations have been received objecting to the application. The full comments received are available to view on the Council’s Planning Website, but the concerns raised are summarised below:

- Noise and disturbance as a result of the holiday use of the site in a quiet location;
- Outdoor swimming pool at the main dwelling is being installed;
- Highways safety with the creation of the new access;
- Currently already a commercial offering (Jasmine Lodge);
- Concerns any conditions attached on planning permission would not be adhered to;
- Flooding improved on highway since highway works which took place in Winter 2020-2021.

8.0 CONSULTATION RESPONSES:

8.1 The following is a brief summary of consultee advice received, with full comments being available to view on the Council's Planning website:

Statutory:

8.2 **KC Highways Development Management:** Object to the application due to insufficient information being provided.

Non-Statutory:

8.3 **KC Trees:** No objections.

8.4 **KC Environmental Health:** No objections.

9.0 MAIN ISSUES

- Principle of the development
- Impact on residential amenity
- Highway issues
- Other matters
- Representations

10.0 APPRAISAL

Principle of development

Sustainable Development

10.1 NPPF Paragraph 11 and LP1 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.

10.2 The dimensions of sustainable development will be considered throughout the assessment.

10.3 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. This will be explored.

Land Allocation (Green Belt)

10.4 The site is allocated as Green Belt on the Kirklees Local Plan.

10.5 The NPPF identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The NPPF also identifies five purposes of the Green Belt. Paragraph 147 of the NPPF states that

inappropriate development should not be approved except in 'very special circumstances'.

10.6 Paragraphs 149 and 150 of the NPPF set out that certain forms of development are exceptions to 'inappropriate development'. Paragraph 149 sets out that the following exceptions:

- C) The extension or alteration of a building could be appropriate provided it does not result in disproportionate additions over and above the size of the original building.
- G) Limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use which would not have a greater impact upon the openness of the Green Belt than the existing development.

10.7 Policy LP57 of the Kirklees Local Plan, which relates to the extension, alteration and replacement of existing buildings in the Green Belt, is consistent with advice within exception (c) within Paragraph 149 of the NPPF. In the case of extensions, LP57 (a) notes that these will be acceptable provided that the original building remains the dominant element both in terms of size and overall appearance. Policy LP57 (c) also outlines that such development should 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. Further to this, Policy LP57 (d) states that with such development, 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.

Whether the development is inappropriate development in the Green Belt

10.8 In relation to the first exception listed, this being the one outlined within Paragraph 149(c) of the NPPF, whilst the site may be within the domestic curtilage of Mulberry Brook, Officers consider that the mobile home, pergola, bar and decking cannot be considered as extensions to the original dwelling. Firstly, this is because these structures are detached from the dwelling, being approximately 9 metres away from the dwelling and separated from the dwelling by means of enclosure.

10.9 Secondly, Officers are of the view that these buildings cannot be considered as incidental to the existing dwellinghouse given that the mobile home is able to function independently from the existing dwellinghouse as living accommodation, and the surrounding buildings support such a use. This is because the mobile home has a kitchen, living room, bathroom, 3 bedrooms and its own separate garden area and driveway.

10.10 Thus, the development is not considered to constitute an extension to the original building (dwelling) and therefore Paragraph 149(c) of the NPPF and Paragraph LP57 of the Local Plan are not considered relevant.

- 10.11 If it was considered that the development constituted an extension, the original dwelling has been extended, with the extensions to the dwelling approved under 2002/94326 and 2006/94890 (as outlined in the planning history section above). In combination with the existing extensions, Officers consider that this additional development subject to this application constitutes a disproportionate addition.
- 10.12 Further to this, Officers are of the opinion that the development has a greater impact on openness in terms of outdoor areas contrary to Policy LP57(c), especially given the scale of the concrete driveway which runs from Manchester Road to the front of the mobile home (a distance over 30 metres) and the addition of the stepped decking and fencing. These are considered to be urban features that significantly erode the previous open and rural appearance of the site.
- 10.13 Moving on to the second exception listed (Paragraph 149 (g)), the site is considered to constitute previously developed land being within the residential curtilage of a dwelling which is not within a built-up area. However, the development, this being the mobile home, pergola, bar, stepped decking, fencing, access and concrete driveway, has introduced urban features on what was previously open garden land and Officers hold the view that this unauthorised development has a noticeably greater impact upon the openness of the Green Belt than previously existed.
- 10.14 Given the above, Officers consider that the development constitutes inappropriate development in the Green Belt. The supporting statement submitted alongside the application acknowledges this. As outlined in Paragraph 147 of the NPPF, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 of the NPPF also states that Local Planning Authorities should ensure that 'substantial weight' is given to any harm to the Green Belt.
- 10.15 An assessment is therefore required into whether the development causes any other harm to the Green Belt and whether very special circumstances exist which clearly outweigh the harm to the Green Belt by reason of inappropriateness, as well as any other harm to the Green Belt.

Whether there would be any other harm to the Green Belt, including visual amenity

- 10.16 In respect of the openness of the Green Belt, openness has been established to have both a visual and spatial aspect. Bar the existing dwelling and sporadic development within the area, the application site is an area of land that is generally free from any built development and this contributes to the rural character of the wider surroundings and makes a positive contribution to the character and appearance of the area. The development, which consists of a utilitarian mobile home, decking, bar, pergola, stark fencing and new access and concrete driveway, urbanise what was previously an open and green site, therefore it is considered that there is harm to the openness of the Green Belt as a result of this as well as the visual amenities of the Green Belt. Discussion

has been given to planting in the supporting statement, and whilst this may help screen the development, the introduction of formal landscaping could appear engineered and it would not address the spatial harm to the openness.

10.17 Given that the site is contained within the domestic curtilage it is questionable as to whether there would be conflict with the five purposes of including land within Green Belts.

10.18 Overall, Officers hold the view that the harm to the openness of the Green Belt and the visual amenities of the Green Belt, adds to the substantial harm by reason of inappropriateness in relation to the proposed development.

Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development

10.19 There are number of arguments made in support of the application and Officers will go on to discuss these individually below:

- 'Fallback' position.

10.20 The supporting statement notes that the applicant is within their rights to erect domestic outbuildings / decking of similar scale at this location, and that the permitted development rights for domestic outbuildings should constitute a material consideration.

10.21 When considering the weight of a 'fall-back position', the following tests should be applied:

- a) whether there is a fall-back use, that is to say whether there is a lawful ability to undertake such a use.
- b) whether there is a likelihood or real prospect of such a use occurring; and
- c) if the answer to (a) and (b) is "yes", then a comparison will be made between the impact between the proposed development and the fall-back use at application stage.

10.22 In relation to (a), Officers do not doubt that there are potential permitted development rights on the site for outbuildings of a similar scale to the buildings subject of this application, under Class E, Part 1, Schedule 2 of the General Permitted Development Order (GDPO). However, it would also need to be demonstrated that such development under Class E would be reasonably required for a purpose incidental to the enjoyment of the dwelling house. Without specific details what the 'fallback' development would be used for, it is not clear whether such development could be said to be reasonably required for a purpose incidental to the enjoyment of the dwelling house, and this reduces the weight of such an argument.

- 10.23 Moving on to b), no plans have been provided of alternatives and a lawful development certificate has not been submitted for such development. In addition to this, domestic additions would not be in a similar use to the development subject to this application, given that this relates to a holiday let, and the supporting statement even clearly notes that the applicant is 'not wanting to erect a domestic building'. Given these above factors, Officers consider that there is not a 'real prospect' of such a use occurring, thereby significantly reducing the weight of such an argument.
- 10.24 Regarding (c), even if (a) and (b) were satisfied, Officers consider that this holiday let would likely have a greater impact upon the openness of the Green Belt given that domestic outbuildings would not require their own access and driveway, as well as fencing.
- 10.25 For the reasons above, the fall back argument is given limited weight by Officers.
- The development replaces an extant permission for a cattery approved under application reference 2019/93032.
- 10.26 The mobile home is sited in a relatively similar location to where 6 cattery sheds, at a footprint of 2m by 3.6 each, were approved and this permission is still extant. However, the amount of built development in this current application is considered to be significantly greater, given the decking, pergola, bar and the creation of a new access and concrete driveway, and it is therefore considered that this development would result in greater harm to the openness of the Green Belt than the approved cattery. This argument is therefore given limited weight by Officers.
- The mobile home shielded a vulnerable individual for a temporary period of time and can be utilised by the applicant's family in the future.
- 10.27 Whilst it may be the case that the mobile home provided shielding for a vulnerable family member, the mobile home is no longer required for this function therefore the weight that can be afforded to this argument is extremely limited. Further to this, Officers are aware that part of the existing dwelling has been subdivided to provide another holiday let (called 'Jasmine Cottage') and it is noted on websites that this holiday let sleeps up to 6 people so it is unclear to Officers why this existing space could not have been utilised, and why this space cannot be utilised in the future, thereby further reducing the weight afforded to this argument. In addition, Officers are of the opinion that there appears to be no essential need to house family in the mobile home in the future as no such argument has been provided.
- Would support the rural economy.
- 10.28 The above argument has been made as has reference to Policy LP10 of the Kirklees Local Plan which relates to supporting the rural economy. Of note, the Kirklees Local Plan states that the economic performance of the rural economy will be improved by supporting and increasing tourism related

development, including encouraging new facilities and accommodation for tourists. Reference has also been made to Paragraph 83 of the NPPF (now Paragraph 84 in the revised NPPF) which relates to supporting a prosperous rural economy too.

10.29 Whilst the development could be said to make a contribution towards supporting the rural economy, Officers consider the benefit of one mobile home to be modest especially when considering the inappropriateness of such development in the Green Belt. Of note, Policy LP10 also states that: *“In all cases where development is proposed in the Green Belt, regard must be had to the relevant policies in this plan and relevant national policy.”* This argument within the supporting statement also does not justify the creation of a separate access with a long urbanising driveway, and the addition of domestic features such as decking and a pergola and bar, which add to the harm to the openness of the Green Belt. Officers also hold the view that it is also unclear why the holiday home has to be disconnected and detached from the existing dwelling, rather than connected with it which would help reduce the harm to the openness (although it would unlikely eliminate such harm).

- The development would generate employment, and has provided a small income stream for the applicant following the loss of employment.

10.30 It is claimed within the supporting statement that the development would provide one individual with full time employment, as well as 3 individuals with part time employment (cleaner, maintenance ground person and administrator).

10.31 In relation to the argument this would provide full time employment, it is unclear to Officers why a self-contained holiday of a relatively modest scale would generate a full-time job, but it is acknowledged that this may provide the applicant’s family with some income stream. In addition, the part time roles mentioned are considered to be on an extremely limited basis only given the use. Of note, the site previously constituted domestic curtilage and this was maintained by the applicant before the unauthorised holiday let, so it is not understood why there is now a need for a grounds person for such a garden area. The above argument is therefore given limited weight by Officers.

- New access and driveway was created due to flooding along Manchester Road at the existing access, as well as for accessibility reasons

10.32 Whilst photos from 2020 have been provided of flooding at this access, the site and existing access are within Flood Zone 1 (lowest probability of flooding). A neighbouring resident in their representation has also noted that works took place to the highway during the Winter of 2020-2021 which has improved this issue significantly. In addition to this, if this flooding is of such a concern it is unclear as to why the existing access needs to be retained as well as creating another access, thereby causing greater harm to the openness of the Green Belt. Further to this, having visited the site, Officers are highly unconvinced that this new access is required to cater for those with

disabilities, and that there are no other less harmful alternatives. This argument is therefore given extremely limited weight.

- 10.33 Given the above, Officers consider that, cumulatively, the arguments put forward by the applicant can be given modest weight, but fall significantly short of amounting to very special circumstances which clearly outweigh the identified harm to the Green Belt.
- 10.34 A written ministerial statement in 2015 introduced a planning policy to make intentional unauthorised development a material consideration that would be weighed in the determination of planning applications and appeals. The Government stated that it was particularly concerned about harm that is caused by *"intentional unauthorised development in the Green Belt"*. In this case it would appear that certain development, such as the creation of an access from a classified road, engineering operations and the letting of the mobile home for holiday use since late June 2020, which are clearly not incidental to the enjoyment of the dwellinghouse, were intentional. This has been taken as a material consideration weighing in the assessment of the application by Officers.

Conclusion

- 10.35 Officers hold the view that the development constitutes inappropriate development in the Green Belt. The development is also considered to cause harm to the openness of the Green Belt and the visual amenities of the Green Belt and the character and appearance of the wider area. It is considered that 'very special circumstances' which would clearly outweigh such harm caused to the Green Belt have not been demonstrated. The development is therefore considered to conflict with Policy LP24 of Kirklees Local Plan and Chapter 13 of the NPPF.

Residential Amenity

- 10.36 Section B and C of policy LP24 of the Local Plan states that alterations to existing buildings should:

"...maintain appropriate distances between buildings' and '...minimise impact on residential amenity of future and neighbouring occupiers."

- 10.37 Further to this, Paragraph 130 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.
- 10.38 Officers consider that the development is sufficiently sited so as to prevent undue harm to any neighbouring residential properties, including the host property of Mulberry Brook, in terms of loss of light, loss of privacy or overlooking, or the creation of an overbearing effect.
- 10.39 The mobile home has a footprint of approximately 50m² and is therefore significantly under the minimum recommended floor area of 70m² for a 1 storey 3 bedroom dwelling as outlined within the Nationally Described Space Standards. Thus, it is considered that the standard of amenity would be

inadequate for occupiers of the mobile home if it were to be utilised as a dwelling. In light of this issue, should permission be granted a condition could be recommended outlining that the mobile home is only used as a holiday let, and not occupied as a principal place of residence.

- 10.40 Officers are aware of third party concerns regarding noise as a result of the holiday let, especially at later hours, and third parties have noted that a swimming pool being built at the site will only serve to increase the activity and noise from the site. Whilst these concerns are understood, the holiday let is considered to constitute a C3 (residential) use and is within an existing residential garden area (relating to Mulberry Brook). Given this and the distance of the site from the nearest neighbouring properties (over 50 metres from Carters Barn and Carters Farm and over 60 metres from Westwyns), it is considered by Officers that it would not be reasonable to refuse the application on grounds that the development results in a noise nuisance to neighbouring properties. Further to this, the Council's Environmental Health Officer has raised no objections to the application on the grounds of nuisance. Should permission be granted and there be excessive noise, this will be due to the behaviours of individuals at the site, and this is a matter for the Police or the Council's Anti-Social Behaviour Team.
- 10.41 It is considered by Officers that impact on the amenity of the current and future occupiers would be acceptable, subject to condition, and that the development complies with Local Plan Policy LP24 and Chapter 12 of the National Planning Policy Framework.

Highway issues

- 10.42 Kirklees Highways Development Management (HDM) have noted that whilst the trip generation details within the supporting statement are not highly accurate, they are content the development will not generate sufficient trips so as to have a severe impact on the operation or the efficiency of the highway network.
- 10.43 In relation to the new access which has already been created without planning permission or the required legal agreements with the highways department, this requires a dropped kerb and would need a Section 184 agreement with the Council. HDM have noted that a plan is required that displays suitable visibility splays could be achieved at this location, but they do not expect this to be a concern given the road layout. Following this, a technical note by Paragon Highways has been submitted on behalf of the applicant and this displays suitable visibility splays.
- 10.44 HDM has noted that the electric gate should be set back 5 metres beyond the adopted highway edge to allow vehicles awaiting the gate to be opened to pull clear of the highway for road safety reasons. HDM has also requested details of 3 parking spaces clearly marked on a drawing, with sufficient manoeuvring space to allow cars to turn on site so they can enter and exit the site in a forward gear for road safety reasons. Officers consider that this may not be achievable on the current hard surfacing laid out on the site (as displayed in the originally submitted block plan), especially if the gate were to be moved 5

metres further back into the site. HDM have also requested clarity regarding the bin collection point and it is considered by Officers that this is also a matter which could be conditioned should permission be granted.

- 10.45 Following these concerns by HDM, the technical note by Paragon Highways displays a revised arrangement (which is inconsistent with the current arrangement as well as with the submitted block plan, and does not appear to display the site and surrounding land accurately). The technical note displays a gate five metres back from the highway boundary, with a bin collection point to the front. A widened driveway is also displayed, with a turning area further into the site and three parking pays. Whilst Officers consider there to be sufficient space on the site to enlarge the existing hard surfaced area to address the concerns of parking provision and leaving in a forward gear, Officers hold the view that this additional hardstanding only serves to cause further harm to the openness of the Green Belt.
- 10.46 Whilst HDM have objected to the application on the whole given the lack of information regarding the above matters, Officers consider that the issues could be addressed by suitably worded conditions as discussed. Thus, subject to conditions, the impact upon highway safety is considered to be acceptable. The proposed development is therefore considered to comply with Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework.

Other Matters:

Climate Change

- 10.47 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.
- 10.48 Given the scale and nature of the development, it is Officers consider it reasonable to seek the provision of one electric vehicle charging point on the site. This can be conditioned should permission be granted.

Ecological Impact

- 10.49 The development has taken place on managed lawn and it is therefore considered by Officers that the development unlikely caused harm to protected species. However, in line with Policy LP30 of the Kirklees Local Plan, should permission be granted, net gains will be sought and can be conditioned.

Representations

- 10.50 Two representations have been received and the majority of comments raised have been addressed in the above assessment. Officers will now go on to address any remaining comments below:

Third Party Comment: Concerns any conditions attached on planning permission would not be adhered to.

Officer Response: Whilst such a concern is understood given that the development has taken place without the benefit of planning permission, this is not a material planning consideration. If the application were to be approved, and conditions not adhered to, the Council could serve a breach of condition notice, for which there is no right of appeal.

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. The development does not accord with the development plan and that the application of policies within the NPPF that protect Green Belt provides a clear reason for the refusing of the development proposed.
- 11.3 Members are requested to accept the Officer recommendation and authorise the Compliance Team to proceed with action to rectify the breach of planning control.

Background Papers:

Application and history files:

Website link to be inserted here: <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021/91136>

Certificate of Ownership:

Certificate A signed.

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Report of the Head of Planning and Development

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 05-Aug-2021

Subject: Planning Application 2021/91682 Change of use from dwelling house (Class C3) to residential care home (Class C2) Wall Nooks, Wall Nook Lane, Cumberworth, Huddersfield, HD8 8YB

APPLICANT

Compass Children's
Homes Ltd

DATE VALID

23-Apr-2021

TARGET DATE

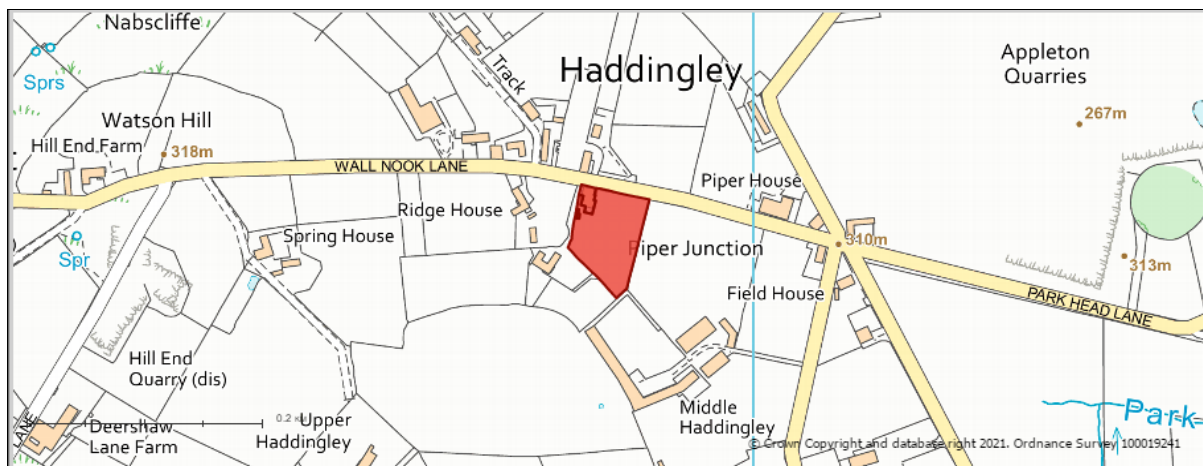
18-Jun-2021

EXTENSION EXPIRY DATE

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Holme Valley South

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

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

1.0 INTRODUCTION:

1.1 This application has been brought to the Huddersfield Planning Sub-Committee for determination due to the significant level of representations received. This is in accordance with the Council's Scheme of Delegation set out in the Constitution.

2.0 SITE AND SURROUNDINGS:

2.1 The property is a large detached 7-bedroom dwelling located within the defined Green Belt. The property sits at right angles with the roadside and is a two-storey dwelling which has previously been extended.

2.2 The rear elevation of the property forms the western boundary of the plot with large garden areas located to the east and south. Parking has been shown located around the existing circular track with additional areas available within the site although these appear currently overgrown.

2.3 The dwelling is located within a rural setting and along with a number of other sporadically sited properties.

3.0 PROPOSAL:

3.1 Permission is sought to change the use of the dwelling house (Class C3) to residential care home (Class C2). There are no proposed alterations to the external appearance of the building.

3.2 It is proposed that the site would provide care for up to a maximum of 5 young people *"requiring care and therapies to enable the children to develop family living, independence and social skills"*.

3.3 The supporting statement sets out that the children will be educated at one of the applicant's schools.

3.4 It is proposed that two members of staff will be on site at all times. Supporting information also states there *"could be further two or three members of staff attending the property at various times to support day-to-day activities"*.

3.5 6 no. off-street parking spaces are shown to be located around the existing circular 'drive' within the site. There is currently adequate space within the site to accommodate vehicular parking to required levels with limited works required to provide these spaces.

3.6 Internal reconfiguration of the dwelling is proposed resulting in retaining 7 bedrooms with provision for 5 children's rooms and 2 'live in' rooms. Information submitted with the application state that the property would be registered with Ofsted.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 1987/04334 Change of use from agricultural land to garden (extension of curtilage) *Granted conditionally*

1989/01453 Erection of extension to form sun lounge *Granted conditionally*

1998/90973 Erection of extension *Conditional Full Permission*

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

5.1 No negotiations have taken place. In response to representations a Supplementary Statement has been submitted. This was received on 29th June 2021 and the application re-publicised on this basis. Further information was received regarding parking, school arrangements and extra activities. All the children will attend a school located in Sowerby Bridge which is owned and operated by Compass and is registered with Ofsted.

6.0 PLANNING POLICY:

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

6.2 The site is within the defined Green Belt within the Kirklees Local Plan.

6.3 Kirklees Local Plan (2019):

- LP1 – Achieving sustainable development
- LP2 – Place shaping
- LP7 – Efficient and effective use of land and buildings
- LP22 – Parking
- LP24 - Design
- LP60 – The re-use and conversion of buildings

6.4 Supplementary Planning Guidance / Documents:

- Highways Design Guide SPD

6.5 Neighbourhood Development Plans:

The Holme Valley Neighbourhood Development Plan has reached an advanced stage of preparation and the independent Examiner's Report has been received. Although the plan has yet to be subject to a referendum in the affected area, it is a material planning consideration in decision making and weight has been attributed in accordance with NPPF (July 2021) paragraph 48.).

The emerging Policy relevant to this application, following receipt of the independent Examiner's Report which are to be put forward to referendum, including key considerations from these Policies, are:

Policy 2: Protecting and Enhancing the Built Character of the Holme Valley and Promoting High Quality Design

"Proposals should be designed to minimise harmful impacts on general amenity for present and future occupiers of land and buildings" and [proposals] "should protect and enhance local built character and distinctiveness and avoid any harm to heritage assets..."

6.6 National Planning Guidance:

- Chapter 2 – Achieving sustainable development
- Chapter 8 – Promoting healthy and safe communities
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 13 – Protecting Green Belt land
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was publicised in accordance with the legal statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. As such, the application was advertised via Neighbour Notification letter only.

7.2 Final publicity date: Tuesday 15th June 2021 – 41 representations received. As a result of a Supplementary Statement being received in response to comments raised via the consultation period, the information was re-advertised with the final revised publicity date being 16th July. Following this period a further 8 representations against the application have been received and 2 representations in support have been received.

- 7.3 Following re-advertisement of the additional information, the following is a summary of comments:

Objections

Highway/Pedestrian safety:

- Poor access
- Insufficient parking
- Dark roads as street lighting turned off at certain times
- No public transport links
- Appleton Quarry close to site and presents a serious danger for vulnerable children

Fear of crime:

- Antisocial behaviour
- Insecure setting
- Lack of police presence
- Not enough police for the area
- Community would not be supported or protected
- Cumberworth already has difficulties with crime due to rural location and distance from nearest police station

Residential Amenity:

- Noise nuisance from comings and goings
- Additional traffic caused by staff, visitors and habitants will cause severe disruption to the tiny community
- Large number of elderly residents within the area

Lack of provision of services/amenities

- No local amenities or recreation facilities
- Local schools already oversubscribed
- Not close to a medical centre, school or hospitals and is difficult for first responders to speedily access the location

Impact on character of the area:

- Location not suitable
- 6 no. parking spaces would result in a loss of vegetation thereby impacting on the character of the property and wider area
- Proposed use would be inconsistent with the character of the area and Local Plan Policy
- Concerned that police comments recommend 1.8m high fencing

Other:

- Site never used as a care home
- Occupants will be isolated
- De-valuation of property
- Concerns about livestock if field gates are left open
- Not 'a similar use' as previously the premises were used for mainly the elderly and not those suffering from mental health issues
- Inadequate staffing numbers
- Location is unsuitable to meet the developmental and welfare needs of the young people
- No site notice and limited neighbour letter distribution

Support

- Fully support the plans

Location/scale of development:

- 5 children are the size of a large family not the size of a detention centre
- Negative comments can't be from people directly affected by the proposed plans as only 2 residential houses have land that backs onto the property and there are 3 homes across the road.
- Believe that being away from towns and cities is the best way to help mental health and with the right support, it could benefit the children immensely
- Support a proposal to assist children who need and are fully deserving of a second chance in a place that can offer much needed stability
- No child should be denied the opportunity to experience the outdoors and calm the proposal offers

Occupants:

- The children are not dangerous criminals
- Need for residential housing for children is a national concern

Councillor comments

- Cllr Richard Smith (Kirkburton Ward) – worry that vulnerable young people are to be in a site which is extremely isolated and far away from many services which they may require. Additionally, there seems to be very little consideration given to what types of issues any local residents may encounter if the residents with behavioural issues are visiting neighbouring villages.
- Cllr Michael Watson (Denby Dale Ward) - isolated location of the property and to this end it would seem to be wholly inappropriate to grant consent for such a use in relation to this property.

7.4 In response to concerns raised by residents, the Agent has submitted a Supplementary Statement to address issues of concern. This was received on 29th June 2021. The points this statement sets out include:

- Some of the comments are not material planning considerations or relate to potential physical works that are not proposed within the application submission
- 2 no. examples of similar application submitted by Compass in Calderdale which were related to 6 no. young persons and not 5 as proposed within this application
- Technical consultees have not raised any in-principal objections to the proposal
- West Yorkshire Place DOCO has confirmed that they have spoken directly with the applicant and are not concerned
- Daily routine for the children will be similar to that of any child living in a family home with the objective of creating a stable and shared family living environment

- The home will be characterised by as those who are 'Overcoming Childhood Trauma' and is a programme dedicated therapeutic intervention that can be delivered to children and young people who have experienced complex trauma in early life, arising from a range of possible situations
- OFSTED also has an important role as the regulatory body for children's homes and inspects services providing education and skills for learners of all ages and regulates services that care for children and young people. Such registration can only be achieved if OFSTED is satisfied that an appropriate environment and management regime will be in place for the children to be cared for
- Fallback opposition is relevant as the site can already be used as a care home within C3 without the need for planning permission
- Proposed use will not give rise to any traffic or effects beyond those which could be generated by the current lawful use of the property and the Council's Highways DM Team has not raised any objection to the proposal.
- It is noted that the car parking spaces will need to be created
- Activity levels arising from the proposed use will be low-key and the existing lawful use as a large dwelling house or care home within Class 3 as the potential to generate the same level of activity (or more) as that from the proposed use
- It will be the children's residence and will be managed no differently than a more traditional family home and not an institutional setting but one that will provide a home environment for a small number of children who require support.
- It is important to note that the proposed use is residential both in character and in planning terms. Care homes are residential uses by definition and, therefore, compatible in planning terms with other forms of residential use.

7.5 Further to the comments above, the agent has submitted clarification as to school arrangements and details of education and activities outside of school. A small children's home is required to ensure that children are engaged in activities and both internal inspectors and OFSTED will require evidence that children are suitably engaged in a range of activities. The agent goes on to reference: "*Typically 'Life Books' are used to record the activities in which children participate. These are used not only as memory books and a positive record of the child's time living in the home, but are also maintained to demonstrate their activities and successes to OFSTED, as required by the Guide to Children's Homes Regulations including the Quality Standards of April 2015. Children are expected, as a minimum to engage in at least two clubs outside the home. That may be a football or other sports club, scouts, guides, Duke of Edinburgh, drama or any other club or society that children of their age would join...*In addition, children will be taken to other activities with their peers from the home, such as the cinema, the beach, horse riding, water sports and the like. During holidays, they will be taken on holiday. All of this is a mirror of a traditional family home, but with perhaps a greater emphasis on participation than some children undertake or are able to undertake."

7.6 Following re-advertisement of the additional information, the following is a summary of comments:

Objections

Highway/Pedestrian safety:

- Lack of sufficient access to the site at speed, which is accessed by small lanes, many of which are potholed, narrow, completely blocked by snow
- KC Highways DM consultation states “the proposal should not make any changes to servicing arrangement or increase in vehicle use”. This is profoundly wrong but is clearly founded on the mistaken basis that a C3 use is akin and no different to a C2 use which is incorrect

Location:

- Children deserve a chance in life but putting them out in the sticks isn't good for them
- Examples of previous applications which have been approved have been in positions closer to urban areas, or at least a skate park

Fear of crime:

- Unsafe for dozens of women and children using the area for walking, jogging, horse riding, cycling etc
- Supplementary information has not changed views on unsuitability of property as a care home for young people with complex emotional and behavioural issues
- Consultation with the residents from West Yorkshire Police was not carried out
- Police Designing Out Crime Officer should be re-consulted and asked to provide details of “this type of crime” in other locations in Kirklees with clear statistics of incidences and measurable information on the level of time, money and resources with the reasons for which are incurred by the Police in servicing this type of facility in the area
- As well as the material consideration of a genuine fear of crime, disorder, and anti-social behaviour, in granting the present application, it would again be in breach of its important legal duties under the Crime and Disorder Act 1998
- It is a key material consideration in the determination of this planning application, that the Council must have sufficient information to be confident that it has considered and is comfortable that it can discharge its legal duty under Section 17 of the Crime and Disorder Act 1998

Proposed Use:

- What is applied for is C2; distinct from C3 and therefore in legal and in planning terms significantly different and with different more pronounced planning effects than the allegedly present or previous C3 use. For the applicant to state and for the Council to assess and determine based on the misnomer that the operation applied for is “no different” to the existing one, is profoundly incorrect.
- Application is clearly deficient in information and the consultees are respectfully misguided and misunderstood on their present notions that a C2 is the same as a C3 use
- a more intensive use and level of care compared with the alleged present use is acknowledged and admitted. To state following the above that the proposal is compatible with LP7 and LP60 is baseless
- The proposed use in the application clearly engages the wide-ranging requirements of the Children Act. As there is an overriding responsibility on the

part of the Council for the safeguarding and welfare of children, it is surprising that the Council's relevant section has not been consulted or commented on the application which clearly impacts on the welfare of children

- A particularly important material consideration is that there cannot be sufficient certainty that the Council's duties under the Children Act 2004 are discharged
- Applicant has not in any way justified with reference to the NPPF why the more intensive C2 use would not impact on the openness of the Green Belt compared with current C3 use in this tranquil and peaceful location and would not preserve the openness of the Green Belt
- Applicant must submit very special circumstances for consideration

Other:

- Those who do not stand to make considerable financial gain should carry more weight
- Worrying trend that Compass are expanding so quickly in the current pandemic situation when site visits, community interaction and Ofsted visits are not as frequent or as thorough as they were pre-pandemic
- Planning policy has the words "strong safeguards to conserve and enhance" should not only apply to historical building but to communities
- Many of the arguments have been dismissed as "not a planning issue" when they are if they have a detrimental effect on the community
- Reputation of the Company is alarming when it comes to Ofsted
- The Council is invited to simply refuse the application in its present form. There is nowhere near the level of detail and clarity within the application or the consultation responses to sustainably approve the application. To do so would leave it open to legal challenge.

Site publicity:

- Question whether the Council have acted ultra vires in this application by not erecting signs on the local posts and only contacting a very few neighbours
- No information posted nearby and no letter. Apparent cover up by Kirklees has enhanced concerns about the nature of the proposed plans and had residents been properly notified there might have been less objection all round
- The Council's overwhelmingly usual method is notification and publicity by site notice (or 'lamp post') method. We are aware of no recent examples of letter-only method utilised by Kirklees Council in publicising planning applications
- The Council is invited to clarify and provide evidence of this position prior to determination of this application. Where publicity is deficient, then this application may not lawfully continue until such publicity formalities have been addressed by the Council

Support

- Large house and garden would be ideal for 5 children, and they would have access to sports and amenities in surrounding villages just as local children are
- Children should be given the chance
- The site has previously been used to support people in need over the years. An aspiration of the current occupant.
- The dwelling has been used for personal development workshops accommodating 6 vehicles periodically.
- The proposed use echoes aspirations of the former intermittent use.

7.7 Holme Valley Parish Council support the proposals.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

None

8.2 Non-statutory:

West Yorkshire Police – raise no objections to the principle of the application in its current form. Advice passed to the applicant.

K.C. Highways Development Management – acceptable from a highway's perspective

K.C. Environmental Services – no objection subject to a condition requiring an electric vehicle charging point

Comments were invited from Housing Services – none received at the time of writing the report.

9.0 MAIN ISSUES

- Principle of development
- Visual amenity and character of the area
- Residential amenity
- Crime and anti-social behaviour
- Highway issues
- Representations
- Other matters

10.0 APPRAISAL

PRINCIPLE OF DEVELOPMENT

- 10.1 The general principle of the re-use and conversion of buildings in the Green Belt are assessed Policy LP60 of the Kirklees Local Plan and advice within the National Planning Policy Framework.
- 10.2 The National Planning Policy Framework specifies under para. 147 that inappropriate development should not be approved except in very special circumstances. Para. 150 emphasises that certain forms of development are not inappropriate development in the Green Belt provided that they preserve openness and do not conflict with the purposes of including and within it. One of the exceptions is the re-use of buildings provided that the buildings are of permanent and substantial construction. This is supported by Policy LP60 which details further the resultant scheme should not introduce incongruous domestic or urban characteristics into the landscape.
- 10.3 The building is permanent and substantial with no external alterations or extensions proposed. The Agent has confirmed within the Supplementary Statement that the car parking spaces would need to be created. A plan has been submitted to show the spaces located around the curved access track. It is considered that the required spaces can be accommodated with minimum

impact on the character of the site maintaining screening to these. A plan demonstrating these on the existing track through the site and adjoining driveway has been submitted. It is considered that any works to provide adequate access and parking need not be incongruous nor would any encroachment beyond existing areas of maintained space be required ensuring there would be no undue impact on the openness or character of the Green Belt.

- 10.4 As such, in terms of Green Belt policy, the principle of the re-use and conversion of the building would have negligible impact on the Green Belt and would maintain its openness and permanence as required by Local Plan Policy and the NPPF.
- 10.5 The proposed use falls into Class C2 (Residential Institute) to care for 5 children with 2 staff and up to 3 people visiting at times. It is considered that this would lead to a more intensive use than the existing with potentially 10 people occupying the dwelling at any one time and 7 overnight. Taking into account the potential traffic movements from visitors, school runs, and rota changes it is considered these would result in a material change in use from its current use as a residential property and as such requires planning permission.
- 10.6 A high level of representations has been received objecting to the principle of development, especially with regard to the remote location, lack of policing and lack of local amenities in the area. It is recognised that the use of the site will be in an area of sporadic development and would be predominantly reliant on private vehicles due to the location of the school that the children will attend and organisation of extra activities associated with the development. This mode of transport would be that required for any occupiers of the site, be this as a 7-bedroomed family home or for the care home now proposed given the level of local amenities in the immediate area. Although recognising the application is a material change of use, taking into account the potential similarities between the site being used as a large family home and that proposed within the application it is considered that the location of the site could not be sustained as a material reason to prevent the development.
- 10.7 A children's care home falls under Use Class C2 (Residential Institution). Other uses within Class C2 are hospitals, nursing homes, residential colleges and boarding schools. It is noted that one of the Council's Strategic Objectives is to "*Tackle inequality and give all residents the opportunity of a healthy lifestyle, free from crime and to achieve their potential in work and education.*" This application will support this aim.
- 10.8 It must also be noted that Class C2 is a different Class to C2a (Secure Residential Institutions) which includes young offenders' institution, detention centre, short term holding centre and prisons. The use proposed here falls clearly into Class C2.
- 10.9 The proposal has been accompanied by a Planning Statement which cites that the home would provide for up to 5 young people, will be registered with OFSTED and that two members of staff will be on site at all times. It continues to cite that the daily operation of the home "*will be no different to that of a large dwellinghouse with young persons coming and going for educational purposes and the adults coming and going for work purposes on a shift pattern*".

- 10.10 Whilst the application proposes a material change of use of the site the building is of substantial construction to accommodate this. The intensification will not introduce incongruous domestic or urban characteristics into the landscape, would not result in inappropriate development in the Green Belt and as such in principle can be supported.
- 10.11 The application is further assessed upon its own merits and other planning considerations such as access/parking, anti-social behaviour, access and residential amenity.

VISUAL AMENITY AND CHARACTER OF THE AREA

- 10.12 The essential characteristics of the Green Belt are their openness and permanence. The reuse of buildings in the Green Belt need not be inappropriate provided that openness and character is maintained.
- 10.13 There are no proposed alterations to the external appearance of the building with works to provide suitable accommodation being internal only. Representations have been made that the proposal would not be in keeping with the character of the area. The character of the area is that of a detached dwelling set within substantial grounds with some existing areas maintained for access and parking. It is not considered that this character is altered to the extent that it would have a greater impact on openness. Whilst a more intensive use may result in a greater number of people at and/or visiting the property thereby representing a material change of use, it is not considered that the use of the building either as a dwelling house or a small care home would be significantly different in physical terms. It is noted that the site would accommodate 6 vehicles, but it is considered this provision can be facilitated by utilising existing maintained areas thereby minimising any impact. Officers have received a plan to show the spaces accommodated around the existing circular access track. It is anticipated that any minor works that may be required to provide the parking shown would not have such a significant impact so as to adversely affect the openness of the Green Belt or the general visual amenity of the area. The development proposals would therefore be in accordance with Policies LP24 and LP60 of the Local Plan.

RESIDENTIAL AMENITY

- 10.14 Comments have been received with regards to noise disturbance from the comings and goings to the property associated with the proposed use. The property is a large detached dwelling set within its own grounds and parking will be provided within the curtilage. The Supplementary Statement cites that the children would be educated off-site and taken to and from school as would occur in a family setting and therefore during the day, activity levels will be minimal. Out of school the young people will not be allowed to explore the area unsupervised. The Statement goes on to say that the residence will be managed no differently than a traditional family home and will provide a home environment for a small number of children who require support, set within its own grounds and setting.
- 10.15 During periods of holiday it is understood that the children remain engaged in structured activities. The agent has stated that *“a small children’s home is required to ensure that children are engaged in activities and both internal inspectors and OFSTED will require evidence that children are suitably*

engaged in a range of activities. Children are expected, as a minimum, to engage in at least two clubs outside the home. That may be a football or other sports club, Scouts, Guides, Duke of Edinburgh, drama or any other club or society that children of their age would join. This is a very successful part of the care model for children in such homes and is a way for children from the home to engage with others and vice versa. In addition, children will be taken to other activities with their peers from the home, such as the cinema, the beach, horse riding, water sports and the like. During holidays, they will be taken on holiday. All of this is a mirror of a traditional family home, but with perhaps a greater emphasis on participation than some children undertake or are able to undertake.” It is recognised that these activities will require organisation and generate traffic movements associated with them. Due to the location of the site and the scale of the development it is not considered that there would be any detriment to residential amenity as a consequence. The nearest residential properties are located opposite Wall Nook Road at around 10 metres.

- 10.16 K.C. Environmental Health (Pollution and Noise) Officers have been consulted on the scheme and raise no concerns regarding noise. As such, it is not considered that there would be a significantly greater impact from noise and disturbance over and above the existing use of the building as a large family dwelling. Based on the above, officers are satisfied that an acceptable level of amenity would be retained at the neighbouring properties. This would be in accordance with Policies LP24 and LP52 of the Kirklees Local Plan and Policy 2 of the emerging HVNP.
- 10.17 There are no proposed alterations to the external appearance of the building and no extensions proposed. There would not be any greater impact on any nearby occupants from overlooking or a loss of privacy as a result of the proposed use particularly when taking into account the existing use of the building. Access to the site exists and parking can be accommodated within the site and as such will not result in any greater impact to residential amenity. The application is considered on its merits as to the acceptability of the site for the development proposed. It is considered that the occupation of the site for the use proposed will not result in any undue loss of residential amenity as a consequence of noise pollution or due to activities at the site.

CRIME AND ANTI-SOCIAL BEHAVIOUR

- 10.18 The fear of crime is a material planning consideration. Paragraphs 92 (Chapter 8) and 130 (Chapter 12) of the NPPF state that decisions should aim to achieve healthy, inclusive and safe places which are safe and accessible so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. In addition and under Section 17 of the Crime and Disorder Act, the Council acting as Local Planning Authority has an obligation to have due regard to the likely impact upon, and to do all it reasonably can to prevent, crime and disorder. A number of comments received refer to crime, the fear of crime and anticipated anti-social behaviour associated with the use and issues with policing.
- 10.19 Whilst the issues raised regarding crime and anti-social behaviour are acknowledged, it is not the remit of the planning system to control who is homed or how care homes are run. Notwithstanding this, the applicant has detailed the home would be staffed by care workers and that the home would

be registered with OFSTED and this can only be achieved if OFSTED is satisfied that an appropriate environment and management regime will be in place for the children to be cared for. It is acknowledged that the additional information submitted by the applicant may not eliminate local anxiety and fear, however, it is considered that the actual and perceived risk to public safety would not carry sufficient weight to warrant the refusal of the application. Members should also note that the proposal is not for a secure residential institution (C2A Use Class) where children are being held for having caused a crime.

- 10.20 West Yorkshire Police have been formally consulted as part of the application process. There are a number of this type of care home in the Kirklees district. The Designing Out Crime Officer has confirmed that the Missing Persons Co-Ordinator has been in touch with the applicants directly to discuss the accommodation and occupants. The comments state that due to the requirements of the young residents, it is not considered to be of concern to the police.
- 10.21 In conclusion, whilst a fear and anxiety of crime and anti-social behaviour has been generated by this application, it is not the planning system which regulates who would be housed in the care home and the management of it. It could also equally be the case that the children in care do not cause these concerns. Furthermore, it could be that individuals that would be accommodated could reside in any typical residential dwelling. It is considered that the scale and nature of the proposal is not likely to result in any additional anti-social/criminal behaviour than what could be generated by the existing residential dwelling. There is an independent body (OFSTED) required to register the home. Formal consultation has taken place with West Yorkshire Police who have, in turn, been in contact with the applicants directly. No objections have been received. Therefore, whilst the concerns raised are acknowledged and would not be welcomed, it is considered, that the arguments do not carry sufficient evidence and weight in planning terms to warrant a refusal of the application.

HIGHWAY ISSUES

- 10.22 The proposal will use an existing access onto the quiet rural road of Wall Nook Lane. The current dwelling contains seven bedrooms, for which Highways DM would require three or four off-street parking spaces and would expect vehicle movements to reflect those numbers. The Planning Statement submitted by the applicant explains that there will be two members of staff on-site at all times with the potential for two or three additional staff being on-site throughout the day. As such, Highways DM would expect there to be off-street parking spaces at a rate of one per three staff plus one per six children. The requirement for off street parking is therefore at a very similar level, potentially three spaces for a dwelling, and three spaces for this proposal (two for six staff and one for five children).
- 10.23 Whilst it is acknowledged that there may be some additional vehicle movements throughout the day given the nature of this proposal compared to a family home, Wall Nook Lane and the nearby junctions are well below capacity, even at peak times, and the local roads can easily accommodate any potential increase created by the proposal. The minimal increase would be so insignificant as to be unnoticeable on the general highway network.

- 10.24 There have been no reported injury accidents on Wall Nook Lane since the historic records began 22 years ago, and only one slight injury accident reported at the “five lane ends” junction some 15 years ago. Again, the minimal increase in vehicle movements would be unlikely to have any significant impact on highway safety in the vicinity.
- 10.25 As with almost all roads of this rural nature, Wall Nook Lane does not benefit from a footway for pedestrians. However, the excellent safety record of Wall Nook Lane and the rural nature of the area would mean a footway would not be in-keeping with the local region, particularly as the majority of pedestrians are likely to be those walking for pleasure and therefore choosing to use this route regardless of pedestrian facilities, rather than people walking with a specific purpose of getting from one destination to another. In general most children are supported most of the time in addition to being chaperoned to activities and therefore unlikely to be unaccompanied thereby reducing concerns regarding pedestrian safety.
- 10.26 Similarly, drivers would not expect a rural, unclassified road to be furnished with a system of street lighting unless there was a specific hazard ahead. This is the reason the “five lane ends” junction benefits from a single street light to aid drivers and alert them to the junction from dusk until dawn.
- 10.27 In conclusion, the proposed amount of off-street parking is commensurate with the guidance set out in the Highway Design Guide SPD and the more prescriptive, superseded Parking Standards document. Any increase in vehicle movements would not give rise to a severe impact on highway safety, and Highways DM officers would therefore not raise objection to the scheme on these or any other grounds. The application proposals are in accordance with Policies LP21 and LP22 of the Kirklees Local Plan.

REPRESENTATIONS

- 10.28 Comments received are addressed below:

Objections:

Highway & pedestrian safety:

- Poor access/lack of sufficient access

Response: Highways Development Management have raised no concerns with regard to highway safety

- Dark roads as street lighting turned off at certain times

Response: Noted

- No public transport links

Response: It is recognised that the use would be reliant upon private vehicles for transport.

- Additional traffic caused by staff, visitors and habitants will cause severe disruption to the tiny community

Response: Highways Development Management and Environmental Services have raised no concerns with the proposal in terms of additional traffic and disruption

- Insufficient parking

Response: Highways Development Management have raised no concerns with the proposal

- KC Highways DM consultation states “the proposal should not make any changes to servicing arrangement or increase in vehicle use”. This is profoundly wrong but is clearly founded on the mistaken basis that a C3 use is akin and no different to a C2 use which is incorrect

Response: The proposed use is not considered to intensify the use to such an extent to require any changes to servicing.

Location:

- No local amenities or recreation facilities

Response: A family home would be similarly reliant on amenities and services and the proposed use does not differ in this respect. The applicants have set out the requirements in terms of activities and its management and organisation that will be responsible for ensuring the occupants seek opportunities.

- Location not suitable

Response: This is a matter of opinion and not based on planning evidence. The application has been assessed on its merits.

- Occupants will be isolated

Response: This is not a material planning consideration and therefore no comments are offered.

- Location is unsuitable to meet the developmental and welfare needs of the young people

Response: This is not a material planning consideration and therefore no comments are offered

- Not close to a medical centre, school or hospitals and is difficult for first responders to speedily access the location

Response: The site is accessible being located on a main road. The occupants will be driven to and from school, the proximity to other services is the same as for residential occupiers of dwellings in the area.

Fear of crime:

- Large number of elderly residents within the area

Response: Fear of crime is a material consideration addressed within the report.

- Insecure setting

Response: The application is for a C2 care home and not a C2A Secure Residential Institution and has been assessed accordingly

- Site never used as a care home

Response: The use has been assessed on its own merits within the report.

- Fear of crime

Response: West Yorkshire Police have raised no concern with regards to the proposal at this time and the application has been assessed taking into account crime and anti-social behaviour.

- Not enough police for the area

Response: This is not a material planning consideration and therefore no comments are offered

- Anticipated anti-social behaviour

Response: West Yorkshire Police have raised no concerns regarding the proposal at this time and the application has been assessed taking into account crime and anti-social behaviour.

- Lack of police presence

Response: This is not a material planning consideration and therefore no comments are offered

- Community would not be supported or protected

Response: The application has been assessed taking into account crime and anti-social behaviour.

- Cumberworth already has difficulties with crime due to rural location and distance from nearest police station

Response: Noted

- Appleton Quarry is close to the site and presents a serious danger for vulnerable children

Response: The application has been assessed on its merits and is not considered to be impacted by the operations of the quarry.

- Unsafe for dozens of women and children using the area for walking, jogging, horse riding, cycling etc

Response: Fear of crime is a material planning consideration that has been addressed in the main body of the report.

- Supplementary information has not changed views on unsuitability of property as a care home for young people with complex emotional and behavioural issues

- Response: Fear of crime is a material planning consideration that has been addressed in the main body of the report.

- Consultation with the residents from West Yorkshire Police was not carried out
Response: Fear of crime is a material planning consideration that has been addressed in the main body of the report including consultation with West Yorkshire Police

- Police Designing Out Crime Officer should be re-consulted and asked to provide details of “this type of crime” in other locations in Kirklees with clear statistics of incidences and measurable information on the level of time, money and resources with the reasons for which are incurred by the Police in servicing this type of facility in the area

- Response: Fear of crime is a material planning consideration that has been addressed in the main body of the report. The Designing Out Crime Officer has been consulted and has liaised with the Missing Persons Co-Ordinator who has in turn discussed the application directly with the applicant and it is considered that their response is sufficient to consider the application.

- As well as the material consideration of a genuine fear of crime, disorder, and anti-social behaviour, in granting the present application, it would again be in breach of its important legal duties under the Crime and Disorder Act 1998

- Response: The application has been assessed on its planning merits. Fear of crime is a material planning consideration that has been addressed in the main body of the report.

- It is a key material consideration in the determination of this planning application, that the Council must have sufficient information to be confident that it has considered and is comfortable that it can discharge its legal duty under Section 17 of the Crime and Disorder Act 1998

Response: The application has been assessed on its planning merits. Fear of crime is a material planning consideration that has been addressed in the main body of the report.

Residential amenity:

- Noise nuisance from comings and goings

Response: This has been addressed within the residential amenity section of this report

- Additional traffic caused by staff, visitors and habitants will cause severe disruption to the tiny community

Response: Traffic movements associated with the property are not considered to raise any undue concerns regarding to residential amenity.

- Large number of elderly residents within the area

Response: The application is not considered to result in any loss of amenity.

Impact on character of the area:

- Location not suitable

Response: The application has been assessed on its merit.

- 6 no. parking spaces would result in a loss of vegetation thereby impacting on the character of the property and wider area

Response: The spaces can be accommodated within the site without any significant impact on openness or character of the site.

- Proposed use would be inconsistent with the character of the area and Local Plan Policy

Response: The application is assessed on its merits and is considered to meet policy in the Local Plan and NPPF.

- Concerned that police comments recommend 1.8m high fencing

Response: The property in its current C3 Use has permitted development rights to erect fences up to 2 metres high on any boundary which isn't adjacent a highway. The comments are advisory to the applicant and it is not considered that any conditions will be imposed in this respect.

Proposed use:

- Local schools already oversubscribed

Response: This is not a material planning consideration and therefore no comments are offered.

- Proposed use would be inconsistent with the character of the area and Local Plan Policy

Response: The application has been assessed upon both local and national Policy

- Not 'a similar use' as previously the premises were used for mainly the elderly and not those suffering from mental health issues

Response: The application has been assessed on its own merits as a material change of use from a dwelling to a care home.

- Inadequate staffing numbers

Response: This is not a material planning consideration and therefore no comments are offered

- To provide 6 no. parking spaces is optimistic and information misleading and to be achieved mature trees, shrubs and bushes would need to be cleared which would change the character of the property and wider area

Response: The property currently has permitted development rights with regards to the creation of hard standings and therefore these could be created without the requirement of planning permission, in addition, there are no Tree Preservation Orders within the site that would protect any soft landscaping from being removed.

- What is applied for is C2; distinct from C3 and therefore in legal and in planning terms significantly different and with different more pronounced planning effects than the allegedly present or previous C3 use. For the applicant to state and for the Council to assess and determine based on the misnomer that the operation applied for is "no different" to the existing one, is profoundly incorrect.

Response: The application has been assessed on its merits as a change of use to C2 from Class C3 dwelling.

- Application is clearly deficient in information and the consultees are respectfully misguided and misunderstood on their present notions that a C2 is the same as a C3 use a more intensive use and level of care compared with the alleged present use is acknowledged and admitted. To state following the above that the proposal is compatible with LP7 and LP60 is baseless

Response: The application has been assessed on its merits as a change of use to C2.

- The proposed use in the application clearly engages the wide-ranging requirements of the Children Act. As there is an overriding responsibility on the part of the Council for the safeguarding and welfare of children, it is surprising that the Council's relevant section has not been consulted or commented on the application which clearly impacts on the welfare of children

Response: Comments have been invited but none forthcoming. The Council's role in safeguarding children is distinct from that as Local Planning Authority in the determination of planning applications.

- A particularly important material consideration is that there cannot be sufficient certainty that the Council's duties under the Children Act 2004 are discharged

Response: This is a planning application that has been assessed as such. It does not fall within the remit of planning legislation to consider the discharge of duties under the Children Act.

- Applicant has not in any way justified with reference to the NPPF why the more intensive C2 use would not impact on the openness of the Green Belt compared with current C3 use in this tranquil and peaceful location and would not preserve the openness of the Green Belt

Response: Officers have assessed the application. The building can be reused without any material impact on openness as outlined in the report. The site can accommodate vehicles associated with the use without significant impact on openness or character. Similar to accommodating vehicles associated with a large family residence.

- Applicant must submit very special circumstances for consideration

Response: The application has been assessed taking into account Policy LP60 and Chapter 13 of the NPPF. It is not considered that the development is inappropriate and as such very special circumstance need not be demonstrated.

Other:

- De-valuation of property

Response: This is not a material planning consideration and therefore no comments are offered

- Concerns about livestock if field gates are left open

Response: This is not a material planning consideration and therefore no comments are offered

- Those who do not stand to make considerable financial gain should carry more weight

Response: The application is assessed on planning merit.

- Worrying trend that Compass are expanding so quickly in the current pandemic situation when site visits, community interaction and Ofsted visits are not as frequent or as thorough as they were pre-pandemic

Response: This is not a planning matter

- Planning policy has the words “strong safeguards to conserve and enhance” should not only apply to historical building but to communities
Response: The application has been assessed on its merit. It would not impact on the significance of historic buildings or, more generally, the visual amenity of the area.
 - Many of the arguments have been dismissed as “not a planning issue” when they are if they have a detrimental effect on the community
Response: Material planning matters have been assessed as part of the consideration of the application proposals as set out
 - Reputation of the Company is alarming when it comes to Ofsted
Response: The application has been assessed on its planning merit. This cannot take into account who the applicant is/the applicant's background
 - The Council is invited to simply refuse the application in its present form. There is nowhere near the level of detail and clarity within the application or the consultation responses to sustainably approve the application. To do so would leave it open to legal challenge.
Response: The application is accompanied with sufficient information to enable it to be assessed and a recommendation to be put forward for consideration.
- Site publicity:*
- Question whether the Council have acted ultra vires in this application by not erecting signs on the local posts and only contacting a very few neighbours
 - No information posted nearby and no letter. Apparent cover up by Kirklees has enhanced concerns about the nature of the proposed plans and had residents been properly notified there might have been less objection all round
 - The Council’s overwhelmingly usual method is notification and publicity by site notice (or ‘lamp post’) method. We are aware of no recent examples of letter-only method utilised by Kirklees Council in publicising planning applications
 - The Council is invited to clarify and provide evidence of this this position prior to determination of this application. Where publicity is deficient, then this application may not lawfully continue until such publicity formalities have been addressed by the Council
 - No site notice and limited neighbour letter distribution
Response to the above: The application was advertised undertaking the legal statutory publicity requirements as set out in Table 1 in the Kirklees Development Management Charter and the notice on the website regarding ‘planning applications during the coronavirus outbreak’. As such the application was advertised by letters to neighbouring properties. A total of 12 no. neighbour letters were sent by this method.

Support:

- Large house and garden would be ideal for 5 children, and they would have access to sports and amenities in surrounding villages just as local children are
Response: The application proposes a material change of use and has been assessed on that basis.
- The children are not dangerous criminals/Children should be given the chance
Response: Kirklees Council’s Core Values includes having the “best start” and aims for better outcomes for vulnerable children. The proposed use would assist in meeting this aim.
- The site has previously been used to support people in need over the years. An aspiration of the current occupant.
Response: The former use is not material to the determination of the application as it has remained as C3 dwelling

- The dwelling has been used for personal development workshops accommodating 6 vehicles periodically.
Response: The former use is not material to the determination of the application as it has remained as C3 dwelling
- The proposed use echoes aspirations of the former intermittent use.
Response: Noted
- Need for residential housing for children is a national concern
Response: The application has been assessed on its merits

Other matters:

10.29 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.

Due to there being to no physical alterations to the property, no specific mitigation measures are required. However, permeable surfacing is required for external spaces to be used by vehicles. This contributes to the aims of climate change.

10.30 Environmental Services have commented on the proposal with specific regard to air quality. The comments received state that an application of this nature, should provide facilities for charging electric vehicles and other ultra-low emission vehicles and provided in accordance with the NPPF and Air Quality & Emissions Technical Planning Guidance from the West Yorkshire Low Emissions Strategy Group. It is therefore requested that should the application be granted permission that a recharging point is required.

11.0 CONCLUSION

11.1 The proposal would beneficially provide a home for children in need of care. The existing building is of substantial and permanent construction and requires only internal alterations and formalisation of parking spaces to facilitate the accommodation of up to 5 young people plus 2 staff for use as a care home. As such the development would not be inappropriate in the Green Belt in accordance with Policy LP60 and the NPPF Chapter 13.

11.2 Whilst a significant number of objections have been received that raise concerns regarding the impact on residential amenity, the character of the area and on parking and highway safety, it is considered due to the small scale nature of the proposed care home there would not be a significant detrimental impact on these issues.

- 11.3 Furthermore, an increase in levels of crime, vandalism and anti-social behaviour have been raised and the impact this would have on the community. These are material considerations which have been addressed in the report. Whilst these issues would not be welcomed, it is not the remit of the planning system to control who is homed or how care homes are run. Notwithstanding this, the applicant has detailed the home would be staffed by care workers and the home would be registered with OFSTED. It is acknowledged that the additional information submitted by the applicant may not eliminate all of the local anxiety and fear, however, it is considered that the actual and perceived risk to public safety would not carry sufficient weight to warrant the refusal of the application.
- 11.4 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF, taken as a whole, constitute the Government's view of what sustainable development means in practice.
- 11.5 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and it is, therefore, recommended for approval.

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

1. Development to commence within 3 years
2. In accordance with plans
3. Use as C2 for up to 5 young persons
4. Parking spaces created prior to being brought into use
5. Permeable surfacing for parking spaces
6. Electric vehicle charging point

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f91682>

Certificate of Ownership – Certificate B signed