

**KIRKLEES COUNCIL**  
**PLANNING SERVICE**  
**LIST OF PLANNING APPLICATIONS TO BE DECIDED BY**  
**PLANNING SUB-COMMITTEE (HEAVY WOOLLEN AREA)**

**21-Jul-2016**

**LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**  
**BACKGROUND PAPERS**

**There is a file for each planning application containing  
application form, plans and background papers.**

**Simon Taylor – 01484 221000**

**NOTE: For clarification the page numbering referred to  
shall be those set out in the contents page**



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

### **PLANNING POLICY**

The statutory development plan comprises:

The Unitary Development Plan (UDP). These reports will refer only to those policies of the UDP 'saved' under the direction of the Secretary of State beyond September 2007.

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

The Local Plan will provide the evidence base for all new and retained allocations including POL. The Local Plan process will assess whether sites should be allocated for development or protected from development including whether there are exceptional circumstances to return POL sites back to Green Belt. The Local Plan process is underway and the public consultation on the draft local plan took place between 9<sup>th</sup> November 2015 and 1<sup>st</sup> February 2016.

Annex 1 of the National Planning Policy Framework explains how weight may be given to policies in emerging plans. At this point in time, the draft local plan policies and proposals are not considered to be at a sufficiently advanced stage to carry weight in decision making for individual planning applications. The Local Planning Authority must therefore rely on existing policies (saved) in the UDP, national planning policy and guidance.

### **National Policy/ Guidelines**

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 27<sup>th</sup> March 2012, the Planning Practice Guidance Suite (PPGS) launched 6<sup>th</sup> March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

### **REPRESENTATIONS**

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

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

## **EQUALITY ISSUES**

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

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

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

## **HUMAN RIGHTS**

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

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

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

## **PLANNING CONDITIONS AND OBLIGATIONS**

Paragraph 203 of The National Planning Policy Framework (NPPF) requires that Local Planning Authorities consider whether otherwise unacceptable development could be made acceptable through the use of planning condition or obligations.

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

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

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

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

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



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Applicant: B Green	
Agent:	
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Agent:	
Target Date: 08-Jun-2016	
Recommendation: GR2 - GRANT UNDER REG.4 GENERAL REGULATIONS	

**Application No: 2015/90578**

**Type of application: 62 - FULL APPLICATION**

**Proposal: *Erection of detached dwelling***

**Location: *adj 6, Barnsley Road, Flockton, Huddersfield, WF4 4DW***

**Grid Ref: 423437.0 414841.0**

**Ward: *Kirkburton Ward***

**Applicant: *B Green***

**Agent:**

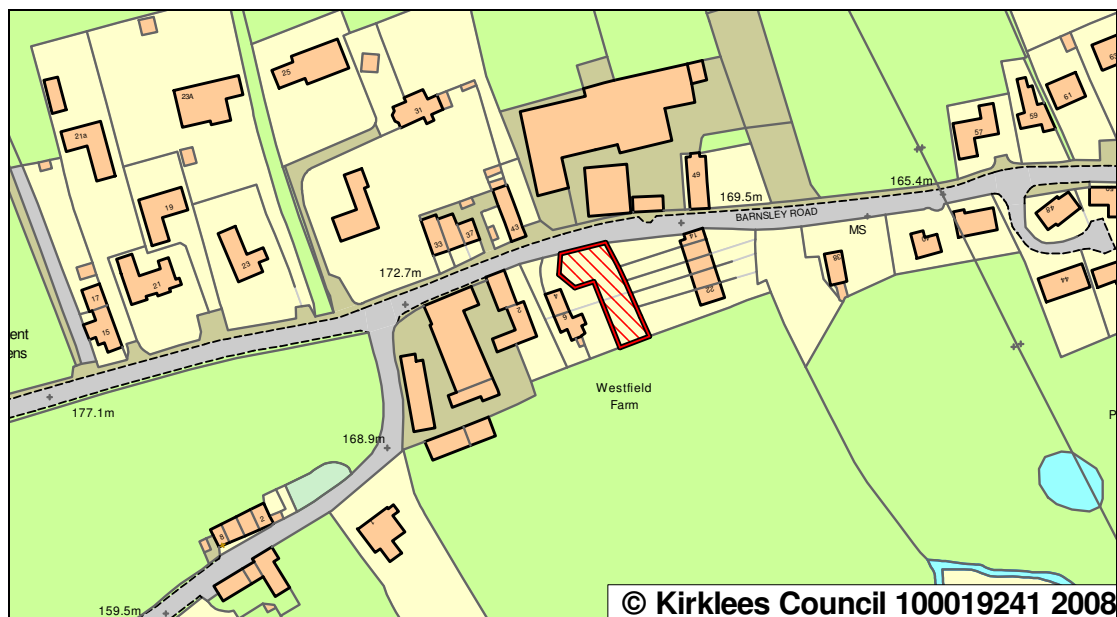
**Target Date: *17-Jun-2016***

**Recommendation: *RF1 - REFUSAL***

**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**



## **1. SUMMARY OF APPLICATION**

The proposed erection of a detached dwelling is considered unacceptable by officers. It is considered that the siting of the dwelling would have an odd visual relationship with the existing buildings around this site and would be detrimental to both visual and residential amenity.

### **OFFICER RECOMMENDATION:**

#### **REFUSE**

## **2. INFORMATION**

The application was originally brought before the Heavy Woollen Planning Sub-Committee at the request of Ward Councillor Bill Armer for the following reason:-

“I have requested that the matter be referred to HWP on the grounds that experts for the applicant contest the professional opinion of KMC officers regarding the interpretation of relevant rules and regulations. There is also a claim by the applicant that the contested egress already serves two houses, and would continue to do so, so in his submission there would be no material change. In the interests of transparency, I believe that this should be referred”.

The chair of Sub-Committee has confirmed that Councillor Armer’s reason for making this request are valid having regard to the Councillor’s Protocol for Planning Sub-Committees.

**The application was deferred at the 14<sup>th</sup> June 2016 Heavy Woollen Planning Sub- Committee to enable further discussions to take place between Officers and the applicant in an attempt to address the recommended reasons for refusal set out in the 14<sup>th</sup> June agenda.**

**Discussions have taken place, and amendments submitted, which are assessed as part of this application.**

## **3. SITE DESCRIPTION / PROPOSAL**

### **Site Description**

The application relates to a site adjacent to no.6 Barnsley Road, in the centre of Flockton village. The site currently forms part of the garden/parking area serving nos. 4 and 6 Barnsley road, which are occupied as a single dwelling (henceforth referred to as no.6 Barnsley Road).

The site has an area of 460 square metres and is unallocated on the UDP proposals map.

## **Proposal**

The proposal is for the erection of a detached dwelling on the site. The dwelling would be built over three levels with the main living area at ground floor and bedrooms at lower ground and 1<sup>st</sup> floor levels. There would be an integral garage with three parking places to the front of the building serving the existing and proposed dwellings.

The dwelling would be orientated at 90 degrees in relation to other adjacent dwellings with the main elevations facing south and north.

Amended plans have been received on 29/06/16 which shows the height of the dwelling reduced by 0.4m by reducing the floor to ceiling height and altering the roof pitch and the siting pulled further away from the boundary with nos. 20 and 22 and would now be 2.5m from the boundary. Further plans received 7/07/16 giving full details of the amended proposals.

## **4. RELEVANT HISTORY**

**2003/93291** Erection of two storey extension. Approved (no. 4 Barnsley Road)

**2003/92028** Erection of two storey extension and dormer window. Refused

## **5. POLICY**

The application site is unallocated on the Kirklees UDP proposals map.

### **Kirklees Unitary Development Plan:**

D2 – Development without notation

BE1 – Design principles

BE2 – Quality of design

BE11- Materials

BE12 – Space about buildings

T10 – Highway safety

G6 – Contaminated land

### **National Policies and Guidance:**

Chapter 7 - Requiring good design

Chapter 6 - Delivering a wide choice of high quality homes

Chapter 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change

Chapter 11 – Conserving and Enhancing the Natural Environment

### **Other Policy Considerations:**

National Planning Practice Guidance, published online March 2014.

## **6. CONSULTATION RESPONSES**

The following is a brief summary of consultee advice. Further information is included within the assessment, where necessary.

**KC Ecology and Biodiversity Officer** - No objections. Mitigation measures should be included in the development.

**KC Highways Development Management** – Initially objected as the proposals would result in intensification of the access and satisfactory sightlines cannot be achieved.

However, further amended details have been submitted during the course of the application, including a speed survey and a follow up site visit by the Highways Officer. This initial objection has now been withdrawn. Subject to conditions, the proposal is considered satisfactory from a highway safety perspective.

**Coal Authority** - Initial objection as the Coal Mining Risk Assessment (CMRA) submitted did not adequately assess the risk posed from the mining legacy. A revised CMRA was subsequently submitted which has identified the presence of workings but concludes that these would not pose a risk to the development.

## **7. Public/Members Response**

No representations received as a result of site publicity.

Denby Dale Parish Council – Consulted but no response received.

## **8. ASSESSMENT**

### **Principle of Development:**

The site is unallocated on the Unitary Development Plan and on such sites there is a presumption in favour of development providing that the proposals would not cause harm to highway safety, residential and visual amenity or any other relevant considerations.

In terms of housing delivery, following recent analysis of housing land supply the Council is unable to demonstrate a five year supply of available housing land sufficient to satisfy the requirements of the National Planning Policy Framework (NPPF). Paragraph 49 of NPPF states that if a Local Planning Authority cannot demonstrate a 5 year supply of deliverable housing sites “relevant policies for the supply of housing should not be considered up-to-date”. Paragraph 14 states that where “relevant policies are out of date” planning permission should be granted unless:

*“• any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.”*

The site is the garden area of a dwelling and as such is considered as a greenfield site. Although there is currently no presumption in favour of the development of brownfield land there are some additional considerations when a garden is proposed for new residential development.

It is clear from the site visit that this site affords little in the way of ecological value.

The site is located within a sustainable location in close proximity to local amenities and it is considered that the value of the site as a green space does not outweigh the benefits of housing provision within a sustainable location.

The principle of housing development on this site is considered to be acceptable, in accordance with the sustainability principles of the NPPF subject to assessment of the impact of the proposals on other relevant considerations.

These impacts are considered in the below assessment.

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

The site of the proposed dwelling would be part of the existing garden and parking area serving no. 6 Barnsley Road. This is located between a row of cottages, nos. 14 to 22 Barnsley Road, and the host dwelling, nos. 4 and 6 which are arranged perpendicular to the adjacent highway.

This arrangement means that the main amenity space serving all of these dwellings lies in this space between them, and results in a pleasant open area. The proposed dwelling would be located more or less central to this space. It would be in the form of a narrow dwelling which would be orientated at 90 degrees to these other dwellings.

Whilst the design of the dwelling, would in isolation be acceptable, it does not relate well in terms of some of the detail to these traditional cottages which face onto the development site.

The amended plans show the height of the dwelling reduced by 400mm and in combination with the previously submitted amendments which lowered the dwelling in the site by 600mm, would now result in an overall reduction in height by 1m. However the proposed dwelling would still have a height to the ridge of around 9m, and would still be a large incongruous building in the streetscene.

The amended proposals show that the dwelling would be moved slightly away from nos. 20 and 22, however this does not address the concerns regarding the siting, furthermore this would result in a reduction of the distance to nos. 4 and 6 which would exacerbate the incongruous relationship.

A discussion has taken place with the applicant regarding the proposed materials and was agreed that natural stone would be used throughout; natural slate would be used on the roof.

Given that the adjacent properties are of stone construction, the proposed facing stone is acceptable. The majority of dwellings facing the site have natural stone slate to the roof, although there is some use of artstone.

Other properties further away from the site have natural grey slate roofing; given the wider context, the use of natural grey slate would, on balance be acceptable and in accordance with policy BE11 of the UDP subject to condition should approval be given.

However it is the assessment of the officer that the amendments to the proposals do not adequately address the concerns regarding the scale, siting and relationship with other dwellings.

Therefore on balance, the combination of the orientation, the design of the dwelling and the siting would result in an incongruous form of development which would have detrimental impact on the streetscene. The proposals are considered contrary to policies BE1 and BE2 of the UDP and chapter 7 of the NPPF.

### **Impact on residential amenity:**

The design of the proposed dwelling means that any habitable room windows would face to the south or north and as such would not overlook any of the adjacent dwellings or their associated garden areas.

There are some windows proposed in the side elevation facing nos. 14 to 22 however these would serve a stairwell and if approval is given can be conditioned to be obscure glazing.

The main issue however, is not the potential for overlooking, but the siting of a dwelling which, for the occupiers of no. 6 Barnsley Road and nos.18, 20 and 22 Barnsley Road would appear as a rather dominant feature adjacent to the amenity space and for the occupiers of no. 6 alone would have a direct relationship with habitable room windows. Whilst in simple terms the distances recommended by policy BE12 of the UDP can be achieved, the proposed two storey dwelling would have an overbearing impact on the residential amenity of the occupiers of these adjacent dwellings. The submission of the amended plan P02-5A received 29/06/16 does not address this issue.

It is acknowledged that no.6 is within the ownership of the applicant; however the future, long term residential amenity of the area would outweigh this consideration.

As such the proposed dwelling would have an adverse impact on residential amenity contrary to policies D2 and BE1 of the UDP and Chapter 7 of the NPPF.

### **Highway safety:**

The access to the site will be via a relocated access serving no. 6 and the proposed dwelling. There would be 3 parking places and 1 garage space, all of an acceptable size; there would also be an internal shared turning area.

There are two main issues with this proposal; the substandard access and the intensification of the site.

The applicant had originally proposed that the access be slightly relocated to the west to allow for better visibility along the nearside lane where traffic approaches from the east. However this still did not achieve the visibility splays required by the Council's Highways officer and it would be over 3<sup>rd</sup> party land.

This issue was raised with the applicant who has subsequently served notice on the owner of this land and certificate "B" has now been signed and submitted.

It is important to note that Barnsley Road through Flockton village is a busy "A" classified highway and recent surveys on this section indicate that car speeds are above the 30mph speed limit, however the applicant has subsequently had a speed survey carried out and amended the proposed site lines after a more detailed site survey.

A modified Design and Access Statement has also been submitted which now asserts that the building is occupied as two separate dwellings and, should permission be given the building would be occupied as a single dwelling.

This further information was submitted to the Local Planning Authority on 27 May 2016 and following a site visit, it was the assessment of the Highways Officer that the amended proposals would provide acceptable visibility splays and internal turning area to serve the existing and proposed dwelling.

The modified proposals show that visibility splays of 2.4m x 38.3m can be achieved to east of the site across third party land, and 2.4m x 40m to the west of the site. This would need to be conditioned if planning permission was granted.

In addition, the proposed parking layout is also considered acceptable for serving two dwellings.

It is important to note that this application has been assessed in the assumption that nos. 4 and 6 Barnsley Road are occupied as a single dwelling as council records indicate.

Subject to conditions, the proposals would not result in any significant highway safety issues and the proposals are therefore in accordance with policies T10 and T19 of the UDP.

#### **Other Issues:**

#### **Coal Mining Legacy**

The site lies within a High Risk coal mining area; as such it is the requirement of the local planning authority to consult the Coal Authority on this type of development.

The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment; that coal mining legacy does not pose a risk to the development providing that a reinforced raft is incorporated in the development as a precautionary measure. It should be conditioned should approval be recommended, that the development is carried out in accordance with the submitted Coal Mining Risk Assessment, and the standard high risk footnote also included.

### **Ecological Issues**

The LPA's Ecologist was consulted and has requested that any ground clearance should be undertaken outside of the bird breeding season. In addition compensatory features in the form of one bat and one bird box should be incorporated in the development. These can be conditioned should approval be given.

### **Representations/Objections:**

None received

### **Summary:**

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.

This application has been assessed against relevant policies in the development plan and other material considerations. Whilst the applicant has demonstrated to the satisfaction of the Highways Officer that the proposals would not adversely affect highway, it is considered that the development proposals do not accord with the development plan in terms of residential and visual amenity and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration.

## **9. RECOMMENDATION**

### **REFUSE:**

1. The proposed dwelling, by virtue of the combination of the design, siting and orientation would result in an incongruous form of development which would have a poor visual relationship with the existing, nearby dwellings, as such the proposals would be detrimental to visual amenity. To permit the proposal would be contrary to policies D2, BE1, and BE2 of the Kirklees Unitary Development Plan and the aims of Chapter 7 of the National Planning Policy Framework.

2. The proximity of the two storey dwelling, immediately adjacent to the outdoor amenity space of nearby properties, would have an overbearing impact which would be harmful to the residential amenity of the occupiers of these dwellings contrary to policies D2, BE1 and BE2 of the Kirklees Unitary Development Plan and Chapter 7 of the National Planning Policy Framework.

This recommendation is based on the following plans and specifications schedule:-

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location plan, block plan and proposed layout (amended).	BG/P02/2D	2	7/07/16
Proposed elevations and floor plans (amended).	BG/P02-1A	2	7/07/16
Design and access statement.	(amended)	2	14/04/16
Coal Mining Risk Assessment			23/03/15
Supporting information	Letter to planning	1	10/08/15
Supporting information	Photographic survey	1	10/08/15
Site plan	P02-3(3)	1	10/08/15
Highways statement	Letter to Highways	1	14/02/16
Sightlines plan and amended layout.	1/500	1	27/05/16
Highways technical statement.	HY Consulting LTD	1	27/05/16
Sections and survey plan (Amended)	BG/P02/5A	2	7/07/16
Supporting information	e-mail from Agent	1	29/06/16



**Application No: 2016/91013**

**Type of application: 49 - GENERAL REGULATIONS REG.4**

**Proposal: Formation of wheel park**

**Location: Recreation Ground adj, Burton Acres Lane, Highburton, Huddersfield**

**Grid Ref: 419875.0 413280.0**

**Ward: Kirkburton Ward**

**Applicant: Maryke Woods, Kirklees Council, Streetscene**

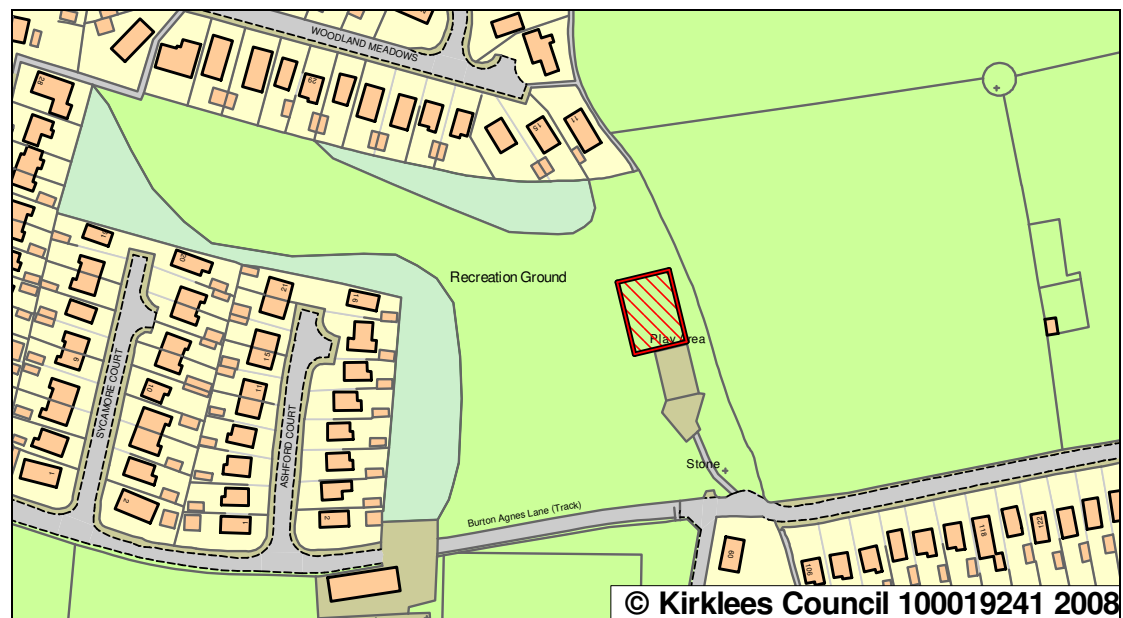
**Target Date: 08-Jun-2016**

**Recommendation: GR2 - GRANT UNDER REG.4 GENERAL REGULATIONS**

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

## LOCATION PLAN



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

## **1. SUMMARY OF APPLICATION**

The application seeks permission for the formation of a skate park on land to the north of the existing children's playground in Highburton Recreation Ground.

On the basis of the submitted information, Officers recommend grant under regulation 4.

## **2. INFORMATION**

The application is brought to the Heavy-Woolen Planning Sub-Committee due to requests from Ward Councillors John Taylor and Bill Armer, as well as the high level of public interest in the proposed development.

Councillor John Taylor states: if you 'are minded to recommend approval of this revised application that the matter be referred to Committee and a site visit undertaken so that Councillors can get a sense not only of the distances from local properties but also the topography and feel of the location which is impossible to do purely from photos or plans.'

Councillor Bill Armer states: 'This amended application is extremely contentious, and raises passions on all sides. I am also concerned that there is a need for the greatest transparency in the decision making process, the more so since the application comes from KMC. For these reasons, I request that the matter is referred to Committee for decision.'

The chair of Sub-Committee has confirmed that Councillor Taylor and Armer's reasons for making this request are valid having regard to the Councillor's Protocol for Planning Sub-Committees.

**The application was deferred from the Heavy Woollen Planning Sub-Committee of 14<sup>th</sup> June 2016 to allow members to undertake a site visit.**

## **3. SITE DESCRIPTION / PROPOSAL**

### **Site Description**

The application site forms part of Highburton Recreation Ground, located off Burton Acres Lane in Highburton. An existing children's play area is to the south of the application site and playing fields located to the west. The land level falls slightly to the north of the children's play area and the site area has an uneven topography. The land contains vegetation and several trees.

Public right of way (KIR/70/10) is located to the east of the Recreation Ground and runs adjacent to the application site, providing access from Burton Acres Lane and Burton Agnes Lane (track) to Woodland Meadows and continuing in a northerly direction.

Along the northern and western boundaries of the Recreation Ground are the dwellings of Woodland Meadows and Ashford Court respectively. To the south east are the dwellings of Hallas Road and Burton Acres Lane.

Three tennis courts and a football pitch lie to the south of the Recreation Ground. A small parking area lies to the west of Burton Agnes Lane which takes vehicular access from the west. The nearest residential dwelling is no. 11, Woodland Meadows which is just over 45m from the northern boundary of the application site, with a distance of approximately 40m to the rear elevation of the conservatory.

### **Proposal**

Planning permission is sought for the formation of a wheel park. This would have a site area of 450sqm and would measure approximately 25m in length and 18m in width.

Exact details of the proposed wheel park's design, appearance and layout have not been submitted. A photomontage showing examples of similar developments has been submitted to provide an indication of the type of development that is sought.

The wheel park would be surfaced in concrete with ramps and boxes also being made from concrete. Any balustrade or railings would be constructed from steel.

No floodlighting is proposed.

### **4. BACKGROUND AND HISTORY**

2015/93304 – Formation of wheel park (within a different part of Highburton Recreation Ground) – withdrawn.

### **5. PLANNING POLICY**

The site is allocated as Urban Greenspace on the UDP proposals map.

#### **Kirklees Unitary Development Plan**

D3 – Urban Greenspace

BE1 – Design principles

BE2 – Quality of design

R1 – New Recreational Facilities (Strategy)

R13 – Right of Ways and Public Access Areas

EP4 – Noise Sensitive Development

T10 – Highway safety

## **National Planning Policy Framework**

Chapter 7 – Requiring good design

Chapter 8 – Promoting healthy communities

Chapter 11 – Conserving and enhancing the natural environment

## **6. CONSULTATIONS**

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

**Sport England** – support the application

**KC Environmental Health** – no objection

**KC Highways Development Management** – no objection

**KC Public Right Of Way (PROW)** – no objection subject to a condition requiring full details of the design, appearance and layout to be submitted and approved before development commences and a footnote adding stating that the PROW shall remain unaffected.

**KC Arboricultural Officer** – No objection subject to a condition requiring details of a landscaping scheme including re-planting of trees to be submitted and approved before development commences.

**KC Flood Management and Drainage** – no comment due to the scale and nature of the development.

**Police Architectural Liaison Officer** – no objection in principle. The Police wish to put on the record their concerns about additional noise/anti-social behaviour that the development may generate at a time when police resources are reducing.

## **7. REPRESENTATIONS**

The application was advertised by neighbour letters, press notice, and site notices. As a result of the publicity, 185 representations have been received.

- Against – 138;
- In support – 22;
- General comments or questions – 25

Councillor Taylor, Councillor Barraclough and Councillor Armer have all expressed interest in this application. MP Paula Sherriff is in support of the application.

The issues raised in the representations are summarised as follows:

- Visual impact
  - Concrete is unsympathetic to the surroundings
  - Scale
  - Lack of screening
  - Loss of greenspace
  - Impact on character of the Recreation Ground
- Impact on Ecology
  - Loss of Trees
  - Impact on habitats including bats
- No demonstrated need for the skate park – will just target a minority and there are other skate parks in Meltham and Skelmanthorpe for example
- Lack of detailed plans
- Other sites have not been explored properly by the applicant
- Further houses are going to be built and the open green space is necessary
- Residential Amenity
  - Noise and a belief that the noise report is flawed
  - The skate park in Skelmanthorpe had to be moved further away from residential properties
- Litter
- Fears of anti-social behaviour and crime
  - No natural surveillance of the site
  - Youths may congregate within the passageway between the site and Woodland Meadows
  - Drink and substance abuse
  - Graffiti
  - Existing anti-social behaviour issues in the area
  - Unauthorised vehicles driving across the site to the wheel park
  - Police resources are reduced
  - Youths may use the site after dark
- Highway safety
  - Inadequate parking facilities for youths who may be transported to the site
  - Parking cars may cause congestion and block driveways
  - Drives of the elderly may be blocked
  - Parking spaces are often full with users of the football and tennis club
  - Infrequent buses in the evening and at weekends

- No emergency access to the area
- Narrow roads with blind bends close to the site
- Drainage concerns
- Detrimental impact on users of the playground in terms of intimidation and safety
- Concern regarding funding cuts in terms of long term maintenance
- Impact on property values
- Ownership issues
- Covenant on the land
- No public toilets
- Little support for the development in the local community
- Health and Safety including emergency access
- Previous planning application submitted around 10 years ago for the formation of a BMX track on the same piece of land was rejected by the Council
- Construction traffic may damage the recreation ground
- Inaccuracies in the submitted information
- No site visit was scheduled for members prior to the 14<sup>th</sup> June Sub-Committee
- Impact on users of the Public right of way

Kirkburton Parish Council: object to the application on the following grounds:

- Call for an independent noise survey to be carried out;
- Too close to the houses on Woodland Meadows and would have a detrimental impact on residential and visual amenity;
- Detrimental impact on children's playing facilities;
- Flooding;
- Inadequate parking provision;
- Alternative site should be found.

An objection from the Friends of Highburton Recreation Ground, who state that they represent 240 people, object to the proposal on the grounds of residential amenity due to their concerns regarding the noise impact of the proposed development.

The statements of support are submitted on the following grounds:

- Application for a recreational use in a recreation ground is appropriate development
- Funds have been raised through the hard work of children and adults involved
- Level of funds raised is indicative of the strength of support for the facility
- Site is large enough to accommodate the wheel park
- Children will benefit from additional facilities
- Good use of the space
- Positive effect on young people
- Facilities would be widely used
- May reduce anti-social behaviour
- Minimal costs to the Council in terms of maintenance
- The facilities are located away from housing
- No highway safety implications
- No floodlighting proposed
- Much needed and desired community facility
- Free to use
- Children in the village have to travel to other areas to access such a facility
- The wheel park would complement the other play facilities in the recreation ground and reach a wider age group of children
- Noise report shows no significant adverse impacts
- Promotes health and exercise
- Support from Sport England
- Children in the village are support using scooters and skate boards on the street which is not safe

One of the representations in support includes a statement from a young persons' focus group which consists of 14 no. young people between the age of 12 and 17 years.

## **8. ASSESSMENT**

### **Principle of Development:**

The site is designated as Urban Greenspace on the UDP proposals map. As such, Policy D3 is of relevance which states that proposals for development on this land will not be acceptable unless it is necessary for the continuation or enhancement of established uses or would result in a specific community benefit whilst protecting visual amenity, wildlife value and opportunities for sport/recreation.

Chapter 8 of the NPPF is also applicable, with particular regard to paragraph 74. Indeed it is considered that Policy D3 of the UDP is predominantly in conformity with the NPPF, except in respect of providing community benefit.

The type of community benefit permissible under Policy D3 is more than NPPF paragraph 74 would allow, except where replacement open space or alternative sport and recreation provision is proposed; which is the case in this instance.

In addition to the above, Sport England has been consulted on this application. They are satisfied that the development proposal meets their Exception Policy E3, concluding that application would be 'only affecting land incapable of forming a pitch'.

As such, Officers are satisfied that the principle of this development, which will provide an alternative recreational use within the wider recreation ground, would comply with the national guidance of paragraph 74 of the NPPF in terms of sporting/recreational opportunities, Policy D3 of the Kirklees UDP in terms of providing community benefit and would not prejudice any land which could form a sports pitch in the context of Sport England's policy. Officers are therefore satisfied that the principle of development is acceptable and would accord with relevant development plan policies and national planning policy.

#### **Impact on Visual Amenity:**

Officers consider that the proposed development would have an acceptable impact on visual amenity. The photomontage demonstrates the type of scheme that the applicant is aiming to achieve and this is typical of the type of facilities that are found within recreation grounds. The applicant has stated that the wheel park, including ramps and boxes, would be constructed from concrete which is, again, a common material for this type of development. Particularly when considered in the context of the existing children's play facilities, Officers consider that the proposed wheel park would not appear out of place within the Recreation Ground.

As no precise details regarding the scale and design have been submitted, Officers recommend that a condition be imposed which restricts any excavation works to a maximum depth of 1.0m from the existing ground levels and restricts any structures to be built above the ground to a maximum height of 1.8m from existing ground levels. Working within these parameters would result in an acceptable impact on visual amenity.

A condition requiring details of a soft landscaping scheme to be submitted and approved has been recommended as per the comments of the Council's Arboricultural Officer as discussed in a proceeding section. Officers consider that some low level soft landscaping around the skate park would help to soften its appearance.

In summary, Officers consider that the proposed development would be acceptable in terms of visual amenity and compliant with Policies BE1 and BE2 of the Kirklees UDP as well as the aims of Chapter 7 of the NPPF.



### **Impact on Residential Amenity:**

The properties of Woodland Meadows, Ashford Court, Hallas Road and Burton Acres Lane are located within close proximity to the Recreation Ground. The closest residential property is no. 11, Woodland Meadows; the rear elevation of this property is positioned around 45m from the northern boundary of the proposed wheel park, with a distance of approximately 40m to the rear elevation of the conservatory.

A noise report has been undertaken by Idibri and submitted alongside this application. The content of this has been reviewed by the Environmental Health department who are satisfied with its methodologies and conclusion. They would not wish to resist the grant of planning permission on the grounds of noise nuisance and conclude that the proposed wheel park would have a satisfactory impact on residential amenity. Officers recommend that a condition is included requiring the development to be undertaken in accordance with the content of this document.

During the course of the application, The Friends of Highburton Recreation Ground commissioned and submitted a separate noise report which concluded that the proposed development would have an unacceptable impact on residential amenity. This document has been reviewed by the Environmental Health department and a response submitted by Idibri. Environmental Health acknowledges the lack of specific guidance for assessing the noise impact of skate parks and the flaws contained within both reports. However, the Environmental Health concludes, based on the submitted information and on practical experience, that the proposed development would have an acceptable impact on residential amenity with respect to noise.

No floodlighting is proposed under this application and Environmental Health has stated that they would not want the site to be lit as such. If the applicant wanted to add flood lighting at a later date, this would be subject to a further planning application which would be determined on its own merits.

In order to minimise noise disturbance during the construction phase of the development, Officers recommend a footnote is added to the decision notice recommending hours of working to the developer.

In summary, Officers are satisfied that the proposed development would have an acceptable impact on the residential amenity of occupants of surrounding properties. The application is considered to comply with Policy EP4 of the Kirklees UDP as well as the aims of Chapter 11 of the NPPF, which states at paragraph 123 that planning decisions should aim to 'avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development'.

### **Impact on Highway Safety:**

The Recreation Ground is situated off Burton Acres Lane. This section of road has been closed to through traffic with bollards at the western end and a wooden gate to the east.

This bollard lifts out and construction traffic will enter the site this way. This is an existing recreation ground which is located within easy walking distance of a number of properties within Highburton. The application has been reviewed by KC Highways Development Management who conclude that the proposal will not generate a significant amount of traffic and do not wish to resist the grant of planning permission.

As such, the application is acceptable in terms of Highway Safety and compliant with T10 of the Kirklees UDP.

### **Impact on the Public Right of Way (PROW):**

Public right of way (KIR/70/10) runs vertically through the east of the Recreation Ground and the proposed development would run adjacent to this footpath. The PROW department was consulted on the application and the PROW Officer has raised concerns due to the lack of detailed plans demonstrating layout, scale and appearance. The PROW Officer put forward an objection to the scheme unless a condition was added requiring such details to be submitted before development commences. Officers consider that the imposition of this condition is reasonable and necessary to allow the PROW Officer to adequately assess the impact on users of the adjacent PROW. The PROW Officer also requested that the standard footnote relating to obstruction of a PROW be added to the decision notice if approval of the scheme was recommended.

Subject to the imposition of the aforementioned condition and footnote, the application is considered to be acceptable in the context of Policy R13 of the Kirklees Unitary Development Plan.

### **Crime and Anti-social Behaviour:**

The application has been reviewed by the Police Architectural Liaison Officer who has undertaken consultation with the Local Neighbourhood Policing Team Inspector. West Yorkshire Police have commented that they consider the proposed location to be suitable for a wheel park and raise no objection to the scheme. They would, however, like to put on record their concerns that any additional noise nuisance or anti-social behaviour that would need policing would generate more calls to the Police at a time when resources are reducing and Officers are less readily equipped to deal with such incidents.

In their consultation response, Sport England has acknowledged that the proposed development could bring activities to engage young people which may in turn reduce crime and anti-social behaviour. This theme is echoed by several people who are in support of the application.

As no objection is raised by the Police, the application is considered to comply with the requirements of Chapter 8 of the NPPF in terms of promoting healthy neighbourhoods and reducing crime.

## **Ecology:**

An area of vegetation and several trees would require removal to make way for the proposed wheel park. The application has therefore been reviewed by the Council's Arboricultural Officer who has no objection to the loss of these trees subject to the inclusion of a condition requiring details of a landscaping scheme to be submitted and approved by the Council to include replacement tree planting within the site or wider Recreation Ground before development commences.

In relation to wildlife value, the impact of the proposed development is considered to be minimal due to the size of the area and quality of the existing vegetation. Low level planting around the skate park can also be secured through the landscaping scheme.

As such, subject to the inclusion of the above described condition, the proposal would have an acceptable impact on Trees and would comply with the aims of Chapter 11 of the NPPF in terms of protecting the natural environment.

## **Drainage:**

As the proposal comprises concreting above an area of land that is currently undeveloped, KC Flood Management and Drainage was consulted on the application. They have reviewed the application and, due to its scale and nature, have confirmed that they have no comment on the scheme.

As such, the proposal complies with the aims of Chapter 11 of the NPPF in terms of flood risk.

## **REPRESENTATIONS**

The application was advertised by neighbour letters, press notice, and site notices. As a result of the publicity, 185 representations have been received.

- Against – 138;
- In support – 22;
- General comments or questions – 25

The issues raised in the representations are summarised as follows:

- Visual impact
  - Concrete is unsympathetic to the surroundings
  - Scale
  - Lack of screening
  - Loss of greenspace
  - Impact on character of the Recreation Ground

Response: this is addressed within the Visual Amenity section of the report. The size of the application site is considered acceptable relative to the size of the recreation ground with green space to the west of the application site being retained for further recreational uses.

- Impact on Ecology
  - Loss of Trees
  - Impact on habitats including bats

Response: this is addressed within the ecology section of the report. The vegetation to be affected is not considered to have bat roost potential.

- No demonstrated need for the skate park – will just target a minority and there are other skate parks in Meltham and Skelmanthorpe for example

Response: not a material planning consideration. The proposed development is considered appropriate within the context of the Recreation Ground adjacent existing children's play facilities.

- Lack of detailed plans

Response: a condition is recommended requiring these details to be submitted for planning approval prior to the commencement of development.

- Other sites have not been explored properly by the applicant

Response: not a material planning consideration. The submitted application will be determined on its own planning merits.

- Further houses are going to be built and the open green space is necessary

Response: Officers consider that the scale of the wheel park is acceptable and open green space will be retained for other uses.

- Residential Amenity
  - Noise and a belief that the noise report is flawed
  - The skate park in Skelmanthorpe had to be moved further away from residential properties

Response: the impact on residential amenity is addressed in the report.

- Litter

Response: the applicant has confirmed that litter bins will be provided as a part of the development.

- Fears of anti-social behaviour and crime
  - No natural surveillance of the site
  - Youths may congregate within the passageway between the site and Woodland Meadows
  - Drink and substance abuse
  - Graffiti
  - Existing anti-social behaviour issues in the area

- Unauthorised vehicles driving across the site to the wheel park
- Police resources are reduced
- Youths may use the site after dark

Response: consultation with the Police Architectural Liaison Officer has been undertaken and no objection is raised. This is addressed in the report.

- Highway safety
  - Inadequate parking facilities for youths who may be transported to the site
  - Parking cars may cause congestion and block driveways
  - Drives of the elderly may be blocked
  - Parking spaces are often full with users of the football and tennis club
  - Infrequent buses in the evening and at weekends
  - No emergency access to the area
  - Narrow roads with blind bends close to the site

Response: the application has been reviewed by Highways Development Management who has visited the site and raise no objection to the scheme.

- Drainage concerns

Response: consultation with KC Flood Management and Drainage was undertaken who have no comments due to the nature and scale of the proposal.

- Detrimental impact on users of the playground in terms of intimidation and safety

Response: the Police Architectural Liaison Officer was consulted on the application and raises no objection. It is considered that the proposed facilities would complement the existing children's play facilities

- Concern regarding funding cuts in terms of long term maintenance

Response: the applicant has confirmed that the Council have agreed to be responsible for maintenance if planning permission is granted. As there is an existing play facility adjacent to the site visits to the area would already have been made. The nature of the development means that the wheel park will be low maintenance.

- Impact on property values

Response: not a material planning consideration

- Ownership issues

Response: The Council's Legal Officer has confirmed that the Council is the registered proprietor. The legal ownership of the recreation ground vests in the Council although it is held on trust for a charitable trust.

- Covenant on the land

Response: this is a legal matter, not a material planning consideration.

- No public toilets

Response: not a material planning consideration.

- Little support for the development in the local community

Response: each application must be assessed on its individual planning merits.

- Health and Safety including emergency access

Response: The applicant has confirmed that the wheel park will be designed and constructed in accordance with EU regulations for such development. Whilst the wheel park would be set away from the roads, this is also true of the existing play facilities and it is considered that the emergency services would find a way of accessing the site in event of an emergency.

- Previous planning application submitted around 10 years ago for the formation of a BMX track on the same piece of land was rejected by the Council

Response: there is no planning history for such a development proposal on the site.

- Construction traffic may damage the recreation ground

Response: if necessary, a condition can be added for remediation of the site.

- Inaccuracies in the submitted information which may be misleading

Response: all information has been reviewed by Officers and relevant consultees and a site visit has been undertaken by Officers who are fully aware of the context of the site.

- No site visit was scheduled for members prior to the 14<sup>th</sup> June Sub-Committee

Response: the application was deferred from the previous meeting to allow the members to undertake a site visit

- Impact on users of the PROW:

Response: the impact on users of the PROW has been assessed in the report. A condition has been recommended requiring details of the layout and appearance of the wheel park to be submitted prior to the application being determined – part of the reason for this recommended condition shall be to safeguard users of the PROW.

Kirkburton Parish Council: object to the application on the following grounds:

- Call for an independent noise survey to be carried out;
- Too close to the houses on Woodland Meadows and would have a detrimental impact on residential and visual amenity;
- Detrimental impact on children's playing facilities;
- Flooding;
- Inadequate parking provision;
- Alternative site should be found.

Response: all of these points have been addressed and responded to above.

An objection from the Friends of Highburton Recreation Ground, who state that they represent 240 people, object to the proposal on the grounds of residential amenity due to their concerns regarding the noise impact of the proposed development. The noise impact of the proposed development is discussed in detail in the report.

The statements of support are submitted on the following grounds, which are noted:

- Application for a recreational use in a recreation ground is appropriate development
- Funds have been raised through the hard work of children and adults involved
- Level of funds raised is indicative of the strength of support for the facility
- Site is large enough to accommodate the wheel park
- Children will benefit from additional facilities
- Good use of the space
- Positive effect on young people
- Facilities would be widely used
- May reduce anti-social behaviour
- Minimal costs to the Council in terms of maintenance
- The facilities are located away from housing
- No highway safety implications
- No floodlighting proposed
- Much needed and desired community facility
- Free to use
- Children in the village have to travel to other areas to access such a facility

- The wheel park would complement the other play facilities in the recreation ground and reach a wider age group of children
- Noise report shows no significant adverse impacts
- Promotes health and exercise
- Support from Sport England
- Children in the village are support using scooters and skate boards on the street which is not safe

One of the representations in support includes a statement from a young persons' focus group which consists of 14 no. young people between the age of 12 and 17 years.

### **Conclusion:**

As detailed in the above sections of the report, Officers consider that the proposed development complies with the aims of both local and national level policy. The proposed development is considered to provide a community facility that would enhance the sustainability of the community. Whilst constituting development of an open space, it will provide alternative recreational provision which outweighs the loss of this area of land which is incapable of providing or forming part of a sports pitch in its own right. It will protect visual amenity, wildlife value and opportunities for sport/recreation. Furthermore, with the inclusion of appropriate conditions, visual and residential amenity will be protected and so will users of the public right of way.

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.

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.

## **9. RECOMMENDATION**

### **GRANT UNDER REGULATION 4**

1. The development shall be begun not later than the expiration of three years beginning with the date on which permission is granted.
2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
3. Development shall not commence until details of the appearance and layout of the wheel park hereby approved have been submitted and approved in writing by the Local Planning Authority. The development shall then be undertaken in accordance with the approved details.



4. Development shall not commence until details of the proposed boundary treatment have been submitted and approved in writing by the Local Planning Authority. The development shall then be completed in accordance with the approved details before the wheel park is first brought into use and thereafter retained.
5. Any structure to be erected to form the wheel park shall not exceed 1800mm in height from the existing ground levels and any required excavation shall have a maximum depth of 1000mm from the existing ground level.
6. Notwithstanding the submitted plans and information, development shall not commence until a landscaping scheme, along with timetable for the planting, has been submitted to and approved in writing by the Local Planning Authority. This shall include low level planting surrounding the wheel park and replacement tree planting within the wider recreation ground. The development shall then be undertaken in accordance with an approved scheme and be thereafter retained as such.

This recommendation is based on the following plans and specifications schedule:-

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan	-	-	30 <sup>th</sup> March 2016
Site Plan	-	-	30 <sup>th</sup> March 2016
Photomontage showing examples of wheel parks	-	-	30 <sup>th</sup> March 2016
Design and Access Statement	-	-	30 <sup>th</sup> March 2016
Noise Report prepared by Idibri dated 13 <sup>th</sup> April 2016	-	-	13 <sup>th</sup> April 2016