
Report of the Head of Development Management

STRATEGIC PLANNING COMMITTEE

Date: 01-Dec-2016

Subject: Planning Application 2014/92893 Erection of 34 dwellings and associated car parking Land Off, Croft Street, Birkenshaw

APPLICANT

Atkin Enterprises

DATE VALID

15-Sep-2014

TARGET DATE

15-Dec-2014

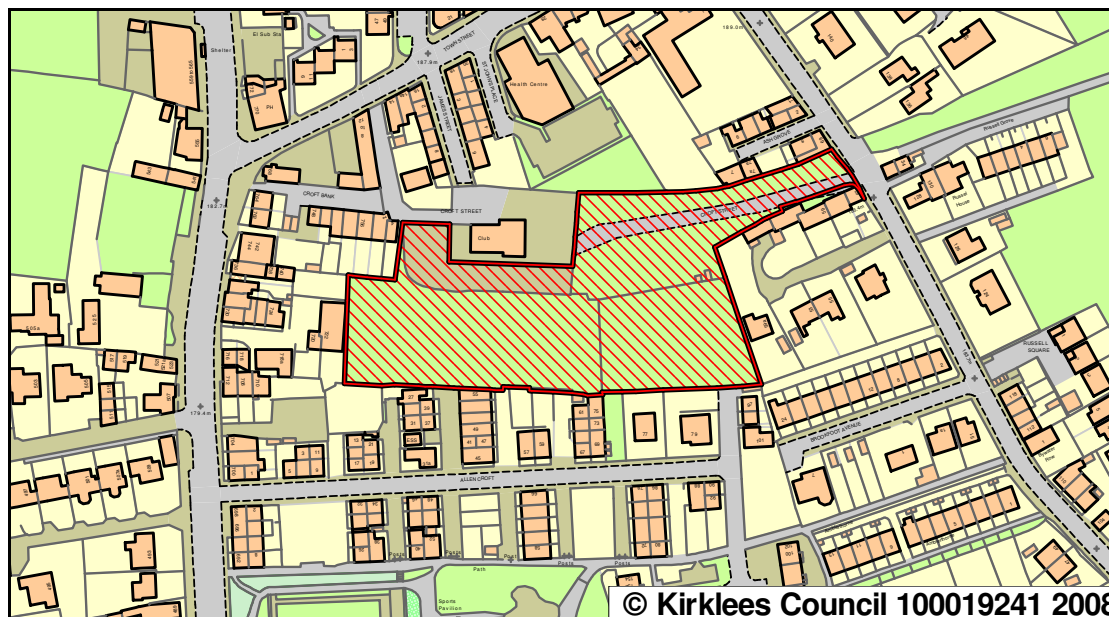
EXTENSION EXPIRY DATE

28-Aug-2015

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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

Electoral Wards Affected: Birstall and Birkenshaw

Yes

Ward Members consulted
(referred to in report)

RECOMMENDATION:

DELEGATE approval to the Head of Development Management in order to complete the list of conditions contained within this report (and any added by the Committee) and to secure a S106 agreement to cover the following matters:

- 1. Affordable Housing – 10 dwellings (with a 55% social rent and 45% submarket split).**
- 2. £60,482 towards educational requirements**
- 3. £90,850 towards public open space off site contribution**
- 4. Residential Metro Card Scheme A – Bus Only. Based on the current scheme costs this would be 34 x £475.75 = £16175.50**

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

1.0 INTRODUCTION:

- 1.1 The application is brought forward to Strategic Planning Committee for determination with the agreement of the Chair as the application site is in Council ownership, is of an area in excess of 0.5 hectares and as a significant level of representation has been received
- 1.2 The application was deferred by Committee on the 27th August 2015 to allow for the submission of additional highway information and for a safety audit to be undertaken. This information has been received and considered. Also sought were amendments to the scale of a number of the plots ie Plots 17-20.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application relates to a site of approximately 0.8 hectares of land and is set within a predominantly residential area. To the immediate north of the site is Birkenshaw Liberal Club.
- 2.2 Croft Street runs along the northern boundary to the site, but is split into two sections by the presence of the Liberal Club and its car park. The western part connects with Town Street and the eastern section joins on to Old Lane. To the eastern boundary of the site is a detached dwelling and bordering it to the south are a number of terraced and detached properties. Terraced dwellings also border the site to the west.

3.0 PROPOSAL:

- 3.1 The application is for full planning permission for the erection of 34 dwellings and associated car parking. The dwellings proposed are a mix of semi-detached and terraced properties.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 2002/93795 – Outline application for residential development. Approved
- 2006/91855 – Renewal of unimplemented outline permission for residential development. Approved
- 2014/91302 – Erection of 46 dwellings and associated car parking. Withdrawn

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Amendments to the access arrangements serving the Liberal Club have been secured. Amendments to the layout and to the siting and design of plots 17-20 have been secured.

6.0 PLANNING POLICY:

- 6.1 The Council's Local Plan has been published for consultation on 7th November 2016 under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Council considers that, as at the date of publication, its Local Plan has limited weight in planning decisions. However, as the Local Plan progresses, it may be given increased weight in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (adopted 1999) remains the statutory Development Plan for Kirklees.

6.2 Kirklees Unitary Development Plan:

- BE1 – Design principles
- BE2 – Quality of design
- BE11 – Use of natural stone
- BE12 – Space about buildings
- T10 – Highway safety
- T16 – Pedestrian routes
- T19 – Car parking standards
- G6 – Contaminated land
- EP10 – Energy Efficiency
- EP11 – Integral landscaping scheme to protect / enhance ecology
- BE23 – Crime Prevention
- NE9 – Mature trees
- H1 – Meeting the housing needs of the district
- H6 – Housing sites
- H10 – Affordable housing
- H18 – Public open space

6.3 National Planning Policy Framework:

- NPPF Promoting sustainable transport (chapter 4)
- NPPF Delivering a wide choice of high quality homes (chapter 6)
- NPPF Requiring good design (chapter 7)
- NPPF Promoting healthy communities (chapter 8)
- NPPF Meeting the challenge of climate change, flooding (chapter 10)
- NPPF Conserving and enhancing the natural environment (chapter 11)

6.4 Other policy considerations:

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

SPD2 Affordable Housing

National Planning Practice Guidance on affordable housing.

7.0 PUBLIC/LOCAL RESPONSE:

7.1. As detailed above additional plans and highways information have been received. These have been re-advertised by means of site notices and neighbour letters, and to date a total of 47 letters of objection have been received.

7.2 The letters of objection differ little from those submitted originally, as to the range of issues, and the level of feeling.

- 7.3 Also the Ward Members were advised of the amended plans and highways information. It was confirmed that the application would be heard again by the Strategic Committee, and it was felt the site should be re visited to properly consider the context and the surrounding road network.
- 7.4 As such the list of issues raised below is still germane.
- 7.5 The application has been advertised by way of neighbour letters, site notices and press advert. A total of 215 letters of objection, a petition against the development of 50 names and 3 letters of support have been received. The concerns raised relate to:

Drainage & surface water run-off

- Impact of surface water run off to the southern boundary and existing properties on Allen Croft
- Capacity of existing combined sewer to accommodate foul water drainage from the development
- Development is proposed with 3m of the water main which crosses the site.

Highways

- Concern about access from site onto Old Lane with limited sight lines, substandard junction layout and constraints from on street parking for existing properties.
- Old Lane is a main route to school for pedestrians and vehicles. The development will add to congestion and conflict at peak times
- Traffic calming to Old Lane should be considered if development goes ahead
- Impact of additional traffic on Croft Street/ Old Lane, Old Lane/ Town Street, Town Street/ Bradford Road, Old Lane/ Whitehall Road junctions

Noise

- Residential properties close to the existing Liberal Club are likely to be subject to noise and disturbance from the club. An acoustic report should be required before determining the application to consider whether residential development can exist alongside the club

Loss of trees and habitat

- Loss of mature trees and habitat from the site that provides foraging for bats, birds and hedgehogs
- Plans make little provision for replacement green space, replacement tree planting and replacement habitat
- A tree survey should be undertaken given the extent of mature trees within the site

Layout

- The no of dwellings proposed is inappropriate for the size of the site. There is little public space within the development and some of the plot sizes are small and irregular shaped
- Public open space should be provided on site as part of development rather than the payment of a financial contribution
- Parking spaces/ parking courts will be difficult to manoeuvre in and out of
- Proximity of proposed houses to existing properties on Allen Croft, overlooking of existing habitable rooms
- Overbearing impact of development close to boundary with properties on Allen Croft given that the site is much higher than the neighbouring properties

Impact on local amenities

- The local community is served by Birkenshaw C of E school, which is oversubscribed and has significant accommodation issues. The school has been denied funding to replace the temporary classrooms which are currently serving a significant proportion of the school. Therefore no increase in school intake will be feasible for the foreseeable future.
- The doctors surgery is also overburdened. Since the planned dwellings are most suitable for young families, this number of new properties will increase the burden on an already stretched school and doctors surgery.

Boundary wall

- The ground level of the site is approximately 1.5 metres higher than the level of properties on Allen Croft. Concern expressed about potential encroachment on and potential collapse of boundary retaining wall which is believed to be Council owned and has partially collapsed and had to be repaired in the past
- Requested that applicant be reminded of the provisions included within the Party Wall Act ensuring that the correct mechanism will be applied to all with adjoining boundaries.

7.6 Representations in support refer to:

- The need to improve the site which has remained redundant for some time
- The opportunity new housing will provide for young first time buyers in the area to get onto the housing ladder

7.7 Representation has also been received on behalf of Birkenshaw Liberal Club:

- The club has secured planning permission for an extension to the premises (2013/92707) which they intend to implement. The housing development proposed would result in the loss of two car parking spaces shown on the approved plan as serving the club in order to facilitate access from the proposed access road. The club is concerned about the loss of the two parking spaces and that it would lead to a breach of planning regulations.

- The representation also highlights an ongoing dispute between the club and the applicant about derivation of club funds. (Note - this is a dispute between the parties and not material to the consideration of the application)

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

The following is a brief summary of the consultation responses received. Where necessary, these consultations are reported in more detail in the assessment below:

K.C. Highways Development Management – No objections subject to the imposition of conditions.

Environment Agency – Application does not “trigger any of our statutory criteria”

Coal Authority – No objection subject to the imposition of a standard condition.

Non Statutory:

Public Rights of Way – Concerned about inter visibility for the footpath link to Allen Croft. Amendments required to the alignment of the footpath

K.C. Environmental Services – No objection subject to conditions in respect of noise and contaminated land.

K.C. Trees – There are no protected trees present and therefore no objections.

K.C. Ecology – No objection following consideration of the submitted ecological report. A number of bat and bird boxes (additional to that applicant’s proposal) are required.

K.C. Strategic Drainage – No objection subject to a condition in relation to surface water.

K.C. Parks & Landscape – An off-site contribution of £90,850 should be provided to improve existing play areas and parks.

K.C. Education (School Places) – An education contribution of £60,482 is required for Birkenshaw CE (VC) School.

Yorkshire Water – No objections.

West Yorkshire Police Architectural Liaison Officer (PALO) – The amended layout and design of the footpath is an improvement in terms of crime prevention design. Request conditions re lighting of footpath, landscaping treatments, boundary fencing

9.0 MAIN ISSUES

- **General Principle**
- **Layout;**
- **Scale and appearance;**
- **Landscaping**
- **Highways;**
- **Drainage/ Flood Risk;**
- **Ecology**
- **Trees;**
- **Affordable Housing;**
- **Education.**

10.0 APPRAISAL

10.1 General principle:

10.2 The vast majority of the application site is allocated for Housing (H14.14) on the Unitary Development Plan Proposals Map. A small section to the north western corner is unallocated.

10.3 The principle of development for that part of the site allocated for housing in the UDP is established. This is consistent with NPPF paragraph 14, which states that there is a presumption in favour of sustainable development and for decision taking this means, *“Approving development proposals that accord with the development plan without delay.”*

10.4 With regard to the unallocated part of the site D2 of the Unitary Development Plan is relevant and states *“planning permission for the development (including change of use) of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]”*.

10.5 The considerations are addressed in the assessment. Subject to these not being prejudiced the proposal is considered acceptable in principle in relation to policy D2.

10.6 In accordance with the NPPF, new houses will support growth and satisfy housing needs and thereby contribute to the building of a strong economy. There would be a social gain through the provision of new housing at a time of general shortage and the proposal will be subject to a requirement to provide an element of affordable housing which will be a positive component of the social role of the development. The surrounding area is predominately residential and the site is located within close proximity to the identified local

centre around the Bradford Road, Town Street junction. The principle of housing development is considered to accord with the sustainability principles of the NPPF.

10.7 Layout

- 10.8 The layout proposes 34 dwellings, with a mix of 1 detached, 16 semi-detached and 17 terraced properties providing a mix of two and three bed properties, including 4 semi-detached dormer bungalows served via a traditional estate road and shared access roads.
- 10.9 The density of development would be in the order of 42 dwellings to the hectare. This is as a result of the form of development proposed (i.e. semi-detached and terraced properties) and the limited amount of open space proposed within the layout. Such a density and form of development would not however be out of keeping with the established form and character of the area.
- 10.10 Vehicular access to Birkenshaw Liberal Club is provided for from the proposed access road. Parking for the proposed houses is in the form of plot parking and parking courts.
- 10.11 A claimed footpath runs through the site from Old Lane, along Croft Street to Allen Croft. A route from Old Lane to Allen Croft is retained within the layout, there is concern about inter visibility for users of the footpath as proposed, where it leads into Allen Court, this can be addressed by realigning the proposed footpath to provide greater separation to the rear boundaries of plots 19 & 20 and incorporating the footpath into the adjacent area of informal open space. This can reasonably be secured by way of condition.
- 10.12 Public open space (POS) within the layout falls short of that required by policy H18 of the Councils UDP. At 30 sq m per unit approx. 1,000 sq m of POS should be provided, compared with 455 sq m of informal open space accommodated within the layout. Informal open space is provided to the boundary with the Liberal Club and adjacent the footpath link to Allen Croft.
- 10.13 It is proposed that the shortfall in POS be off-set by a financial contribution together with a contribution in lieu of formal equipped play provision within the layout to improve existing POS at Birkenshaw Park. The Council's Parks & Landscape section has been consulted and has calculated that the required contribution is £90,850. This can be secured by Section 106 agreement.
- 10.14 Policy BE12 relates to space about buildings and requires distances of 21m between habitable room windows and 12m between habitable room windows and non-habitable room windows or blank elevations.
- 10.15 The layout proposed satisfies the requirement of policy BE12 in relation to the minimum separation distances except for the relationship between plots 17/18 and no 77 Allen Croft.

- 10.16 No 77 Allen Croft was formerly a bungalow, planning permission was granted in 2007 for a first floor extension, conservatory and garage. There is a bathroom and bedroom window in the rear elevation at first floor level and the distance between rear facing habitable room windows is 14m; 21m should be maintained to accord with policy BE12. To resolve this issue, an amended house type for plots 17/18 has been submitted that proposes bungalows with dormers to the front elevation rather than houses.
- 10.17 In terms of the access to the Liberal Club and representations on their behalf, the planning permission for a single storey extension to the club is conditional upon the development being carried out in complete accordance with the plans and specifications listed in the decision notice. The car parking layout includes two parking spaces at the point where access from the new access road is proposed. These spaces would be displaced by the proposed access arrangement and if implemented, the extension to the club would technically be in breach of the condition. The residential layout has therefore been amended to address this issue providing an alternative vehicular access to the club.

10.18 Scale:

- 10.19 The scale of development proposed is predominantly 2 storey, with the two terraces of three properties sited centrally within the layout being 2 ½ storey, incorporating bedrooms within the roof space. The scale of development is considered to be in keeping with that of the local area.
- 10.20 Concern is expressed in representations about the relationship of the proposed development to existing properties on Allen Croft, given the difference in level between the site and Allen Croft and the proximity of the dwellings proposed, in particular the relationship between no 79 Allen Croft and plot 19.
- 10.21 Allen Croft is set at a lower level than the application site, a boundary wall to the rear of properties on Allen Croft acts to retain the site. There is mature landscaping and trees to the boundary which acts to screen the site.
- 10.22 In the rear elevation of no 79 Allen Croft there is a bathroom window at first floor level and kitchen window at ground floor. The main habitable aspect of the property is to the front and side elevations. Plot 19 would be 'gable on' to no 79 at a higher level.
- 10.23 The design of plots 19/20 has been amended to provide bungalows with dormers to the front elevation rather than houses. The amendments address the concerns in relation to scale.

10.24 Appearance:

- 10.25 The design and appearance of the houses are intended to be traditional with coursed stone walling, stone heads and cills and horizontal banding between floors. Roofing materials would be natural slate or slate derivative.

10.26 The appearance of the development proposed is considered to be acceptable

10.27 Landscaping:

10.28 A detailed landscaping scheme will be required by condition. Areas of informal open space within the layout provide opportunities for landscaping and tree planting; landscaping may also be used to break up the proposed courtyard parking areas

10.29 Highways:

10.30 This application seeks approval to the erection of 34 dwellings and associated parking at land off Croft Street, Birkenshaw. Access to the proposed development is from Old Lane via a proposed traditional estate road with traffic calming leading to a shared surface road. The development is for a mix of 15 three bedroom houses and 19 two bedroom houses consisting of semi-detached, terraced and 1 detached house

10.31 Access is provided to the existing Liberal club and the clubs existing parking arrangements are to be retained. Pedestrian links are to be retained from the Liberal Club car park to Town Street via James Street and to Bradford Road via Allen Croft.

10.32 Sight lines from the proposed new access onto Old Lane as existing are poor in both directions. Improvement works are therefore proposed including kerb realignment which will provide sight lines which meet recommended standards whilst maintaining acceptable carriageway and footway widths on Old Lane. An independent safety audit has been prepared by the applicants covering all aspects of these works.

10.33 There is a regular bus service running next to the development serving Bradford, Dewsbury, Batley and Thornhill Edge In order to encourage the use of the public transport services available, the developer should be conditioned to enter into Metro's Residential Metro Card (RMC).

10.34 The aim of the RMC is to encourage public transport use by house occupiers at new residential development sites through the provision of discounted annual Metro Cards and public transport information, thus helping to establish sustainable travel patterns from the very start. The Metro Card allows virtually unlimited travel on buses and trains throughout West Yorkshire, depending on the type of Metro Card purchased. The scheme provides an attractive benefit for new house occupiers, an incentive to purchasers of new homes and is aligned with planning guidance to encourage the use of suitable transport.

10.35 At this site Metro recommend that the RMC is secured through a Section 106 agreement for Residential Metro Card Scheme A – Bus Only. Based on the current scheme costs this would be $34 \times \text{£}475.75 = \text{£}16175.50$. The Section 106 should make it clear that the developer would be liable for any increase in

the cost of the tickets between signing of the S106 and the trigger point for this planning obligation.

- 10.36 Traffic surveys have been undertaken by the applicants. These surveys show that the maximum weekday peak hour flows are 158 north bound and 71 southbound in the AM peak and 166 northbound and 69 southbound in the PM peak.
- 10.37 Highways have undertaken an assessment of the trip generation for a development of 34 privately owned dwellings. The trip generation for proposed development site is estimated to be 20 two way movements in the Am peak hour and 21 in the PM peak hour.
- 10.38 Based on the survey information this would result in a split of 6 vehicle in and 14 out in the Am peak ,and 13 in and 8 out in the PM peak.
- 10.39 Highways consider that the level of traffic estimated to be generated by these proposals can be accommodated and will have no material impact on the safe operation of the local highway and will not significantly add to any congestion at the peak times on the local network.
- 10.40 Highways consider that the level of traffic estimated to be generated by these proposals can be accommodated and will have no material impact on the safe operation of the local highway and will not significantly add to any congestion at the peak times on the local network.
- 10.41 Improvement works are proposed to the Old Lane/Croft Street junction, the internal layout is considered acceptable and it is considered that the traffic generated by these proposals can be accommodated. It is therefore concluded that the development is considered acceptable, and highway have no wish to resist the granting of planning permission.

10.42 Drainage/Flood Risk:

- 10.43 The Council's Flood Risk & Drainage team and Yorkshire Water have been consulted on the application and raise no objections subject to the imposition of conditions. The Environment Agency has confirmed that it does not wish to comment on the application.
- 10.44 The requested condition relates to surface water discharge rates.
- 10.45 Subject to the imposition of conditions, it is considered that the proposed development is acceptable in relation to flood risk and drainage.

10.46 Ecology:

- 10.47 The applicant has submitted an ecological survey and the findings of the surveys have been considered and agreed by the Council's Ecologist. No objections have been raised subject to the imposition of conditions relating to the following:

- Provision of sparrow terraces and woodcrete boxes for starlings
- Installation of Swift boxes and bat tubes

10.48 Subject to these conditions, the development is considered acceptable in respect of ecology and accords with the guidance contained within the National Planning Policy Framework.

10.49 Trees:

10.50 The Council's Arboricultural Officer has been consulted on the application and has confirmed that there are no protected trees on site and that there are no objections to the proposals.

10.51 Affordable housing:

10.52 The requirement of Policy H10 of the UDP and SPD2 apply to developments of 5 or more dwellings. As a greenfield site, 30% of total floor space should be provided as affordable.

10.53 The applicant initially offered a provision 8 no 2 bed units. In order to fully meet the policy requirement a further provision of 1 no 2 bed and 1 no 3 bed unit has been negotiated.

10.54 The affordable provision from the development would therefore be 9 no 2 bed units and 1 no 3 bed unit which equates to 30% of total floor space and as such complies with the provisions of policy H10 and SPD 2.

10.55 Affordable housing policy in the emerging local plan would seek a provision of 20% of the number of units for developments of 10 or more dwellings. The Council's Cabinet considered a report on 15th November 16 proposing that this be adopted as an interim policy position for the purposes of Development Management. Cabinet agree to take this approach and to refer their recommendation to Council to adopt the policy which would allow it to be a material consideration in the decision making process on planning applications which will last until the Local Plan is formally adopted. At this time however the use of the Local Plan affordable housing policy for this application is not proposed and the applicant has committed to providing 30% of the total floorspace as affordable which equates to 10 units. The proposed split in tenure type is different to the UDP policy requirement however. Overall Officers consider the proposal to comply with the affordable housing policy requirements.

10.56 Education:

10.57 As 34 dwellings are proposed, this is above the threshold (25 or more dwellings) set out in 'Providing for Education Needs Generated by New Housing' (KMC Policy Guidance).

10.58 The School Places team have calculated that the development will require a contribution of £60,482 for Birkenshaw CE (VC) School. This can be secured by Section 106 agreement.

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. It is considered that the proposed development is in accordance with the principles of sustainable development.

11.2 This application has been assessed against relevant policies in the development plan and other material considerations. The proposals are considered to be compliant with the policies in the Unitary Development Plan and there are no adverse impacts which would outweigh the benefits of the scheme.

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

1. Standard condition for the commencement of development.
2. Standard condition- development to be completed in accordance with approved plans.
3. Landscape condition
4. Landscape maintenance.
- 5 Submission of materials.
6. Boundary treatments to be approved.
7. Removal of PD rights (plots 17 and 18).
8. Highways conditions.
 - Junction improvements- Old Lane/ Croft Street;
 - Methods of storage and waste;
 - Parking provision secured and surfaced;
 - Internal adoptable roads specifications to be agreed.
 - Construction management plan
9. Drainage Strategy- surface water run off; flow routing and temporary drainage solutions

10. Environmental Health conditions

- Remediation Strategy;
- Unexpected contamination;
- Validation Report.
- Noise attenuation measures (between Club and nearest dwellings).

11. Bio diversity enhancement measures.

12. Provision of electric charging points.

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2014%2f92893+>

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