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**Report of the Head of Development Management**

**HUDDERSFIELD PLANNING SUB-COMMITTEE**

**Date: 09-Mar-2017**

**Subject: Planning Application 2016/93985 Outline application for residential development Land at, Bank End Lane, Almondbury, Huddersfield, HD5 8ES**

**APPLICANT**

Roy Brook (Builders) Ltd.

**DATE VALID**

30-Nov-2016

**TARGET DATE**

01-Mar-2017

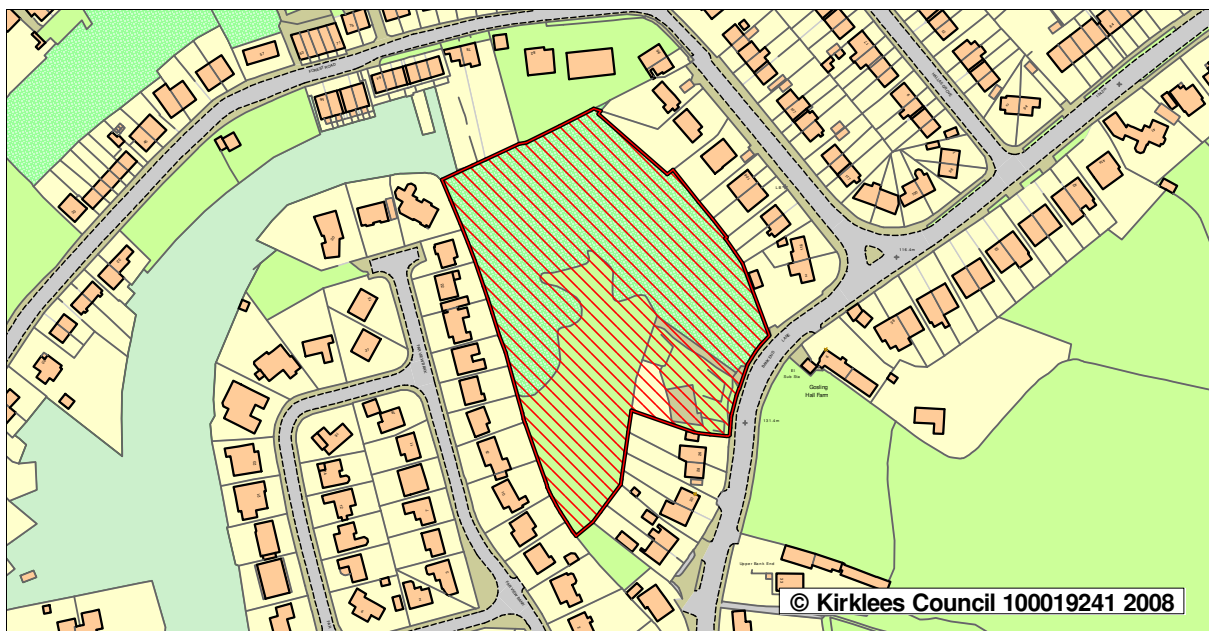
**EXTENSION EXPIRY DATE**

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

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

**LOCATION PLAN**



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

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**Electoral Wards Affected: Almondbury**

Yes

Ward Members consulted

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**RECOMMENDATION:**

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

**1. Maintenance of the drainage proposals through a management company, taking into account of the period before which the Statutory Undertaker can adopt the system and in the event adoption of such system is not undertaken.**

**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 This application is brought to Committee as it is a site in excess of 0.5ha

**2.0 SITE AND SURROUNDINGS:**

2.1 The site comprises approximately an area of 1.24 ha and is located off Bank End Lane, Almondbury. It is flanked by residential properties on Far View Bank to the west, Forest Road to the north and east and to the south by existing dwellings on Bank End Lane.

2.2 The site slopes steeply from west to east and is extensively overgrown with shrubs and a number of trees and is predominantly a scrub habitat

### **3.0 PROPOSAL:**

- 3.1 Outline planning permission is sought for residential development, with details of point of access only to be considered at this stage, which are shown on drawing no. 13/D69/05. It is proposed to access the site directly from Bank End Lane via a new priority junction, with 5.5m wide carriageway and 2m wide footways to either side and visibility splays of 2.4m x 43m. All other matters are reserved for subsequent consideration.
- 3.2 Whilst layout and the number of dwellings are not being applied for, the applicant's supporting statement and indicative details are submitted showing one option of how the site could potentially be developed to accommodate forty five dwellings.

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

- 4.1 Detailed permission for 14 pairs of semi detached houses granted in 1965. One pair of semis has been built, as such the development has commenced and this permission is still extant.

2001/91362 - Erection of 11 dwellings with integral garages and access road. Refused. –Conflict of the access with neighbouring school building; Presumption in favour of developing brown field land before green field.

2006/94488 - Demolition of school building and outline application for residential development (5 dwellings). Approved. The school building has now been demolished and the site cleared.

2014/90160 – Outline application for residential development – approved April 2014

2016/90079 – Discharge of condition no. 6 (affordable housing) on previous permission 2014/90160 for outline for residential development – granted April 2016

### **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 The agent agreed to remove all reference to 'Scale' from the application form due to scale being one of the reserved matters.

11/01/17 – revised planning statement to reflect and confirm the above.

### **6.0 PLANNING POLICY:**

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was 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 (saved 2007) remains the statutory Development Plan for Kirklees.

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

The application site includes the whole of housing allocation H7.27 and a smaller area (that formerly occupied by the school) which is unallocated but has previously had planning permission for residential use. The site is also designated as a Green Corridor Gap on the UDP Proposals maps

- 6.2 H1- Housing needs of the district.  
H6 - Allocated housing sites.  
H7.27 - Housing allocation Bank End Lane, Dalton.  
H10 - Affordable housing  
H18 - Provision of open space  
D6 - Land adjoining green corridor  
D7 - Green corridor gap.  
G6 - Land contamination  
T10 - Highway safety  
T19 - Parking standards  
BE1 - Design principles  
BE2 - Quality of design  
BE12 - Space about buildings  
BE23 - Crime prevention  
EP11 – Ecological landscaping

#### Supplementary Planning Guidance / Documents:

- 6.3 Council's policy regarding education contributions.  
K.C. Supplementary Planning Document (SPD2) – 'Affordable Housing'

#### National Planning Guidance:

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

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

7.1 The Council has advertised the application in the press, by site notices and through neighbour letters on receipt. Five representations have been received. The concerns raised are summarised below:

- three storey town houses not in keeping with area and could potentially restrict light to already shady gardens
- unable to understand design of house types and floor area from the information submitted
- loss of nature reserve/ wildlife
- loss of privacy to existing dwellings that back onto the site
- drainage issues due to removal of established trees
- proposals would “increase traffic on existing dangerous road”
- traffic calming measures on Bank End Lane should be provided and slip road
- would impact on local resources and services

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

K.C. Highways DM – support subject to conditions

Environment Agency – no comments to date- previously raised no objections on 2014/90160

Yorkshire Water – no objections subject to conditions

### **8.2 Non-statutory:**

K.C. Arboricultural Officer – no objections

K.C. Environmental Services -

K.C. Ecology & Biodiversity Officer – no objections to the principle of developing this site subject to further surveys to accompany subsequent applications

K.C Flood Management and Drainage – no objections subject to conditions to include a detailed drainage strategy with long term maintenance details for the drainage proposals

K.C. Landscape Architects – verbally advised no objections

K.C. School Organisation & Planning (Education contributions)- none

K.C. Strategic Housing (affordable housing) – general

## **9.0 MAIN ISSUES**

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

## **10.0 APPRAISAL**

### Principle of development

- 10.1 The application site includes the whole of housing allocation H7.27 within the UDP, and a smaller area (that formerly occupied by the school) which is unallocated but has previously had planning permission for residential use including an extant permission.
- 10.2 The NPPF states that there is a presumption in favour of sustainable development which for decision-taking means 'approving development proposals that accord with the development plan without delay'. The application seeks permission for new housing on a site allocated for such purpose on the adopted development plan.
- 10.3 Furthermore, Policy H1 seeks to meet the housing needs of the District and at this time the council cannot currently demonstrate a 5 year supply of deliverable housing sites. In these circumstances the NPPF states that "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; or specific policies in this Framework indicate development should be restricted".
- 10.4 It is therefore considered that, unless it is judged that there are any adverse impacts of granting permission that would significantly and demonstrably outweigh the benefits, the development proposal should be approved. In light of this and the extant approval in principle, there is no objection to residential development at this time as it accords with both the UDP and National Planning Policy Framework guidance.

### Urban Design issues

- 10.5 UDP Policies BE1 and BE2 are considerations in relation to design, materials and layout. The layout of buildings, shown on this application, should respect any traditional character the area may have. Development should respect the scale, height and design of adjoining buildings/land levels and be in keeping with the predominant character of the area.
- 10.6 Other than access the application is submitted with all other matters reserved. Whilst the submitted documents makes reference to the potential for two, three and four storey dwellings, the indicative layout which is for illustrative purposes only, shows how the site could be developed. The indicative layout appears not to have taken account of the existing constraints on site which would need to be considered in any future layout in accordance with all relevant material considerations. Therefore a full assessment of the layout, scale, landscaping and appearance of the proposed development would be made upon the receipt of any subsequent application for approval of reserved matters if outline permission is granted.

- 10.7 It is however acknowledged given the steep topography of the site, there is potential for the site to be developed with dwellings of varying heights. Whilst Officers are conscious of the variation in levels on site in comparison to the existing surrounding development and as such would take into account existing and proposed levels, including separation distances between properties on any subsequent application. This would be to assess the full impact on visual amenity of the area as well as to avoid any potential overbearing impact on the amenities of existing residential properties. Should outline planning permission be granted this would not approve the indicative layout submitted with this application. In addition, the layout would need to be informed taking into account the need to accord with UDP Policies D6 & D7 for the continuity of the green corridor.

#### Residential Amenity

- 10.8 Policy BE12 of the UDP sets out the normally recommended minimum distances between habitable and non-habitable room windows for new dwellings. New dwellings should be designed to provide privacy and open space for their occupants and physical separation from adjacent property and land. Distances less than those specified will be acceptable if it can be shown that by reason of permanent screening, changes in level or innovative design no detriment would be caused to existing or future occupiers of the dwellings or to any adjacent premises.
- 10.9 In this instance, the layout submitted is for indicative purposes only. As such at this stage no assessment is made on the standards for space about buildings (existing & proposed). Furthermore, achieving the distances as set out in Policy BE12 alone may not be sufficient to retain the amenity of existing and future residents. Details of reserved matters would need take account of (amongst other things) topography, building heights of surrounding development in relation to new dwellings and finished ground levels. This is so as to avoid any potential adverse effect on the amenities of both the existing and future residents. Subject to the above, Officers are satisfied that details of layout, scale and design could be designed so as to safeguard residential amenity of future occupants as well as those that are located within close proximity to the application site in accordance with Policy BE12 of the UDP.

#### Ecology & Landscape issues

- 10.10 Paragraph 118 of the NPPF states “when determining applications Local Planning Authorities should aim to conserve and enhance biodiversity” by applying a number of principles. These include the conservation and enhancement of biodiversity in and around developments. UDP Policy EP11 requests that applications for planning permission should incorporate landscaping which protects/enhances the ecology of the site. The site lies in an area which has been identified within a bat alert area and as stated above forms part of a Green Corridor Gap on the UDP Proposals maps.

- 10.11 The application includes a preliminary ecological site appraisal. This type of report and its content are intended to inform design of the scheme and application of the 'mitigation hierarchy', and does not include an explicit assessment of the ecological effects of the proposals. While the current report is suitable for outline application, where scheme design is not complete, any reserved matters application will require an Ecological Impact Assessment (EclA) report that defines the importance of the site habitats and species value on a geographic scale, and describes how this value will be maintained, i.e. avoiding significant ecological impacts.
- 10.12 The Ecology Officer advises the proposals will result in the loss of a significant area of scrub habitat, which is a priority habitat on the Kirklees Local Biodiversity Action Plan and of specific value for nesting and foraging birds and potentially other species. Loss of these habitats without mitigation would be contrary to national planning policy. However, in this instance given the application is submitted in outline, with an indicative layout. As stated above there is no objection in principle to the development proposed, subject to the recommendations and the requirement for further survey work as set out in the preliminary ecological site appraisal, together with appropriate advisory notes/conditions suggested by the Ecology Officer) to ensure mitigation and enhancement of the site in relation to ecology. The results of all subsequent reports shall then form the final layout and landscape and any Reserved Matters application will need to include within it the retention of an element of existing habitat, particularly where it links to neighbouring woodland and scrub habitats which adjoin the site.

#### Highway issues

- 10.13 UDP Policy T10 states that "New development will not normally be permitted if it will create or materially add to highway safety or environmental problems or, in the case of development which will attract or generate a significant number of journeys, it cannot be served adequately by the existing highway network ...". Policy T19 addresses car parking in relation to the maximum standards set out in Appendix 2 to the UDP. Guidance in the NPPF states under paragraph 32 that plans and decisions should take account of whether, amongst other things, "safe and suitable access to the site can be achieved for all people".
- 10.14 The site is situated in a predominantly residential area to the northwest of Bank End Lane, Almondbury, around 1.7km east of Huddersfield Town Centre. In terms of network hierarchy Bank End Lane is considered to be a residential collector linking between Almondbury Bank to the south and Greenhead Lane to the northeast, Greenhead Lane extending northeast towards Wakefield Road (A629). In the vicinity of the site Bank End Road is a two-way single carriageway, approximately 7.3m wide with footways to both sides. Bank End Road is subject to a 30mph speed limit with street lighting to appropriate standards.



10.15 Access details are identical to that granted under application no. 2014/90160, Highway officers advise there have been no discernible Highways/Traffic related changes. As such Highways Development Management raises no objections to this proposal and comments as follows:

**Access:**

It is proposed to access the site directly from Bank End Lane via a new priority junction, with 5.5m wide carriageway and 2m wide footways to either side. Access geometry and visibility accord with current guidance and the access is considered acceptable to serve a development of the scale proposed. The existing access, which served the former Rosemeade preparatory school, now demolished, will be permanently closed with a full kerb face and the footway returned to full footway status.

**Traffic Generation:**

Assessment using industry standard TRICS database indicates that the development is forecast to generate around 26 and 28 two-way vehicle movements respectively in the AM (08.00 - 09.00hrs) and PM (17.00 - 18.00hrs) peak periods.

Forecast arrivals and departures are set out in Table 1:

Peak Hour Vehicle Trips			
Weekday AM Peak		Weekday PM Peak	
Arrivals	Departures	Arrivals	Departures
71	19	18	10
Total 2628			

It is considered that traffic generated by the proposed development is likely to be indiscernible from normal daily fluctuations in flow and will have no material impact on the safe operation of the local highway network or significantly add to any peak time congestion. It should be noted that the previous use of part of the site as a school is likely to have generated more traffic with significant levels of on street parking, particularly at school start and finish times.

**Accessibility:**

Bus stops on Almondbury Bank, Fernside Avenue and Wakefield Road within acceptable walking distance provide a combined service frequency Monday to Saturday daytime of 12 buses per hour to Huddersfield Town Centre.

Planning policy highlights the need for sustainable developments to have good accessibility to education, health facilities and local shops. Assessment in accordance with recommended sustainability tests show that facilities are accessible within prescribed criteria. The site is therefore considered to be in a sustainable location.

#### Accidents:

Review of accident records indicates that in the preceding five year period there have been no reported injury accidents on the section of Bank End Lane and Greenhead Lane between the junctions with Far View Bank and Harwood Close. To Sum; Access arrangements accord with current guidance and are considered acceptable to serve development of the scale proposed. It is considered that traffic generated by the proposal can be accommodated in the local highway network and that the proposals will not have a material detrimental impact on the safe and efficient use of the highway.

- 10.16 To summarise Highway officers are satisfied that an adequate access point to accommodate the principle of developing this site for residential development can be achieved subject to conditions without creating or materially adding to highway safety or environmental problems on the surrounding highway network, in accordance with Policy T10 of the UDP.

#### Drainage issues

- 10.17 The NPPF requires Local Planning Authorities to take account of climate change over the longer term, including factors such as flood risk and water supply. New development should be planned to avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure.
- 10.18 The application is within Flood Zone 1 (i.e. the lowest level of risk). However as the site exceeds 1ha in area the contents of a Flood Risk Assessment is largely contained within the accompanying drainage strategy statement. Although, both the foul and surface water is indicated on the application form to be drained to the existing mains sewers, no formal drainage submission has been submitted at this stage
- 10.19 The Environment Agency previously raised no objection. Yorkshire Water raises no objections subject to conditions. The Council's Flood Management and Drainage supports the principle of developing the site. However, it is advised that further information is required to demonstrate how attenuation can be accommodated and the long term maintenance of the drainage proposals can be secured. These details should take account of the period before which the Statutory Undertaker can adopt the system and should adoption not take place. Therefore, it is considered in addition to conditions a Section 106 to ensure a management company is set up for this purpose satisfy the guidelines contained in the National Planning Policy Framework part 10" Meeting the challenge of climate change, flooding and coastal change".

## 10.20 Representations

- three storey town houses not in keeping with area and could potentially restrict light to already shady gardens
- unable to understand design of house types and floor area from the information submitted
- loss of nature reserve/ wildlife
- loss of privacy to existing dwellings that back onto the site

**Response:** the assessment above discusses the concerns raised. The proposals seek the principle of developing the site for residential development with details of access only at this stage. Scale, layout, landscape and appearance are matters to be considered at reserved matters on subsequent applications.

- Potential drainage issues due to removal of established trees on site

**Response:** Drainage proposals to be conditioned.

- proposals would “increase traffic on existing dangerous road”
- traffic calming measures on Bank End Lane should be provided and slip road

**Response:** DM Highway Officers have advised the proposals would not create or materially add to highway safety or environmental problems on the surrounding highway. As such this would not require any improvements on the surrounding highway network including traffic calming measures or a slip road.

- would impact on local resources and services

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

### Planning obligations

#### 10.21 The NPPF 2 states that

*“to ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.”*

#### 10.22 The planning practice guidance ‘Viability’ states 3:

*“Where the viability of a development is in question, local planning authorities should look to be flexible in applying policy requirements wherever possible.”*

#### 10.23 Information regarding development viability accompanied an application to discharge Condition 6 (affordable housing provision) earlier this year. This information was independently assessed by a third party company commissioned by the Council, and it was accepted that the profit levels for the development would be significantly below normal market expectations without including Section 106 costs. Although the discharge of condition application related to affordable housing the viability appraisal demonstrated that the development would be unviable with any Section 106 contributions.

- 10.24 In light of this further advice was sought from the independent assessor who has confirmed the developer was not pursuing an excessively high target profit and in any event the assessment of the viability of the scheme suggested it was not particularly viable. Furthermore, it is advised if any developer contributions were to be applied, this would have the effect of increasing the cost of the development which would reduce the viability of the scheme further. On this basis and taking into account the previous viability assessment prepared in March 2016, the Council has been advised by the independent assessor, that in his professional opinion the proposed scheme could not viably sustain any s.106 costs.
- 10.25 Officers having considered the above recent advice, taken a pragmatic approach and do not consider it reasonable to impose any condition or requirements under S106 for planning contributions other than that set out in the recommendation above.

### Other Matters

- 10.26 Air quality:  
NPPF Paragraph 109 states that “the planning system should contribute to and enhance the natural and local environment by..... preventing both new and existing development from contributing to or being put at unacceptable risk from, amongst other things, air pollution. On small new developments this can be achieved by promoting green sustainable transport through the installation of vehicle charging points. This can be secured by planning condition.

## **11.0 CONCLUSION**

- 11.1 To conclude the proposals are acceptable in principle, as they would provide for housing development on an allocated housing site. All other material planning considerations not deliberated at this stage in assessing the principle and point of access, would need to be addressed on any subsequent application. This can be conditioned.
- 11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government’s view of what sustainable development means in practice.
- 11.3 Having regard to the surrounding development in the area and the relevant provisions of the development plan and the National Planning Policy Framework, the principle of developing this site would be in accordance with the development plan as it is sustainable development. The proposal 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 Development Management)**

1. Approval of the details of the layout, scale, appearance, and the landscaping of the site (hereinafter called ‘the reserved matters’) shall be obtained from the Local Planning Authority in writing before any development commenced.

2. Plans and particulars of the reserved matters referred to in Condition 1 above, relating to the layout, scale, appearance and the landscaping of the site, shall be submitted in writing to the Local Planning Authority and shall be carried out in full accordance with the approved plans.

3. Application for approval of any reserved matter shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

4. The development hereby permitted shall be begun either before the expiration of two years from the final approval of reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

5. A scheme detailing the location (including cross sectional information together with the proposed design and construction details) for all new retaining structures adjacent to existing/ proposed adoptable highways and details of all temporary and permanent highway retaining structures within the site

6. Further ecological surveys, as specified in the Preliminary Ecological Site Appraisal dated 7<sup>th</sup> November 2016

7. Details of landscape and layout submitted pursuant to conditions 1 and 2 shall include full a:

- a landscape and ecological management plan (LEMP) in accordance with the advice of the Council's Ecology /Biodiversity Officer, dated 10<sup>th</sup> February 2017,
- a method statement for the protection of ecological features identified in the submitted Preliminary Ecological Site Appraisal and in further ecological surveys under condition no. 6 above, and
- to show how the development shall incorporate facilities for recharging electric vehicles

The development shall thereafter be carried out in complete accordance with the approved schedule and timescales which form part of the approved scheme, prior to occupation of the development and retained thereafter.

8. Details of sections, signing, street lighting, sight lines together with an independent Road Safety Audit covering all aspects of work

9. Full drainage strategy/details to include the proposed means of disposal of surface water drainage, including details of any balancing works and off-site works

**Background Papers:**

Application and history files - As noted above under section 4

Website link to be inserted here:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f93985>

Certificate of Ownership –Certificate A signed