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**Report of the Head of Development Management**

**STRATEGIC PLANNING COMMITTEE**

**Date: 30-Mar-2017**

**Subject: Planning Application 2016/92254 Erection of 24 dwellings Land off Colders Lane, Meltham, Holmfirth**

**APPLICANT**

Mr Kelly, J P Wild Ltd

**DATE VALID**

06-Jul-2016

**TARGET DATE**

05-Oct-2016

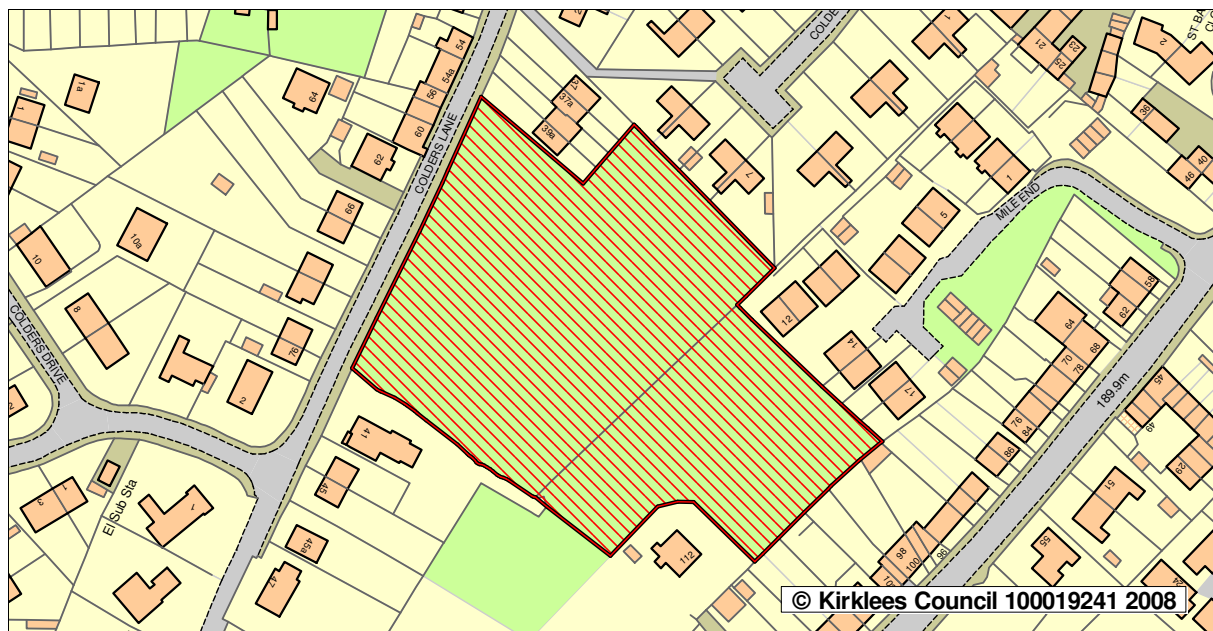
**EXTENSION EXPIRY DATE**

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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:**

**Holme Valley North**

Yes

Ward Members consulted  
(referred to in report)

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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 matters:**

- 1. Public open space provisions including off site commuted sum (£64,400) and future maintenance and management responsibilities of open space within the site**
- 2. Off-site highway works for junction improvements as proposed in the application.**
- 3. Contribution towards the provision of Metro Cards (£10,650)**
- 4. Clause to reappraise the viability of the scheme and its ability to deliver affordable housing in the event that the dwelling foundations and surface water attenuation scheme are not completed within 30 months of a lawful commencement of development**

**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 was deferred at the Strategic Committee meeting on 5<sup>th</sup> January 2017 because viability matters had not been fully concluded in respect of the level of affordable housing that the development could stand. The applicant had also queried some of the assumptions made by the District Valuer in relation to assessment of the abnormal costs associated with developing this site. The District Valuer has since reported on these matters.

- 1.2 The application was deferred again at the Strategic Committee meeting on 2<sup>nd</sup> March 2017. This was at the request of the applicant to enable further discussions to take place with regards to a proposed overage clause to provide affordable housing in the event that the development value/profit exceeds that stated in the viability appraisal.
- 1.3 The proposals are brought forward to the Strategic Committee for determination in accordance with the Council's Scheme of Delegation, as the application represents a departure from the provisions of the Development Plan.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The site is approximately one hectare in size and principally comprises of a grass paddock with a smaller enclosed field to the southern part of the site. The land slopes gently in a north easterly and south easterly direction. The site lies in a residential area and is surrounded on all sides by housing which is of mixed type and design, including a row of listed cottages on the opposite side of Colders Lane.

## **3.0 PROPOSAL:**

- 3.1 The application seeks full planning permission for the erection of 24 dwellings.
- 3.2 The dwellings predominantly comprise detached houses (18 in total) with two blocks of three no. terraced houses which are located towards the front of the site along Colders Lane.
- 3.3 Access for the development is off Colders Lane. The properties along the site frontage (8 no.) would have separate points of access and a new access road would serve the remainder of the dwellings.
- 3.4 Proposed facing materials are natural stone to the eight properties along the site frontage and a mixture of artificial stone and brick for the dwellings internal to the site. Artificial slate tiles are proposed to the roofs.

## **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 2012/90096 - Outline application for the erection of 27 dwellings – Approved by Sub-Committee 3<sup>rd</sup> April 2014 (Access & layout approved). Decision issued 31<sup>st</sup> December 2014.
- 4.2 1999/92545 - Outline application for the erection of residential development – Refused 5<sup>th</sup> November 1999 and appeal dismissed.

The application was refused for the following reason:

*“The proposed road layout does not include a link road from Colders Lane to Wessenden Head Road contrary to Policy T9 and footnote 14 of Policy H6 (site ref 2.12) of the Unitary Development Plan. The residential development*

*proposed would thus generate extra traffic on Colders Lane and on the highway network leading to Colders Lane. These roads are not of sufficient standard to cater for the extra traffic and the development would not be in the best interests of highway safety”.*

## **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 The scheme has been revised during the course of the application in respect of the design of the dwellings along the site frontage in order to achieve a simpler appearance to these properties. The layout of the site has also been amended to increase spacing between some of the proposed dwellings and to increase the separation distances to some neighbouring properties. There have also been revisions to the highway layout and some of the parking.

There have been negotiations regarding the inclusion of an overage clause and the timing of the delivery of the development.

## **6.0 PLANNING POLICY:**

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The 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:

- 6.2 The site is allocated for housing on the Unitary Development Plan Proposals Map.

BE1 – Design principles  
BE2 – Quality of design  
BE12 – Space about dwellings  
BE23 – Crime prevention  
D2 – General development principles  
G6 – Land contamination  
NE9 – Retention of mature trees  
H1 – Housing needs of the district  
H6 – Allocated housing sites

H10 – Affordable Housing  
H18 – Provision of open space  
T10 – Highway Safety  
T19 – Parking Standards  
EP11 – Ecological landscaping

Supplementary Planning Guidance / Documents:

6.3 K.C. Supplementary Planning Document (SPD2) – ‘Affordable Housing’

National Planning Guidance:

6.4.1 The following parts of the NPPF are relevant:

Core planning principles  
Chapter 4: Promoting Sustainable Transport  
Chapter 6: Delivering a wide choice of high quality homes  
Chapter 7: Requiring good design  
Chapter 8: Promoting healthy communities  
Chapter 11: Conserving and enhancing the natural environment  
Chapter 12: Conserving and enhancing the historic environment

**7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application was initially advertised by neighbour letter, newspaper advertisement and site notice. Representations: 11 received

7.2 Representations summarised as follows:

General principle:

- Unsuitable location for new development
- Previous refusal of planning permission on the site
- Loss of Greenfield site

Highways:

- Impact of additional traffic on Colders Lane and local road network including the Station Street/Westgate junction
- Road network unsuitable to accommodate extra traffic
- Cumulative impact of this and other planned developments on local highway network
- Highway safety concerns
- A link road going to or from the development is not sustainable
- Concerns that there will be an increase in on-street parking along Colders Lane
- Some of the listed properties opposite the site do not have off-street parking
- Highways information submitted is misleading
- No provision of a Colders Lane-Wessenden Head link road

Amenity/character:

- Overlooking/loss of privacy
- Loss of open land/green space within Meltham; many other areas of open land have been built on. Detrimental impact on the character of the village.
- Housing would be intrusive/visual impact of housing/loss of view
- Noise pollution
- Loss of light

Drainage:

- Concerns with proposed drainage strategy
- Impact on drainage by loss of field
- Impact on existing drainage infrastructure

Other matters:

- Loss of grazing land
- Impact on coal mining features below the site.
- Concerns around ground instability; work may affect adjacent properties
- Impact on local infrastructure (schools, medical facilities etc)
- Site requires environmental protection
- Impacts arising from the construction of the development
- Questionable demand for housing in this area
- Negative impact on property values

7.3 Following an amendment to the site layout a neighbour letter was sent to an adjacent property that would potentially be affected by the change. No comments were received in response to this letter.

7.4 The application was subsequently re-advertised by site notice and press advert because the original publicity did not refer to the fact that the development represents a departure from the Unitary Development Plan. No further representations were received.

7.5 Meltham Town Council: - "The Council supports the application"

7.6 Ward councillor Greaves has confirmed an objection to the application on the grounds that "the link road to Wessenden Head that would relieve traffic from Mill Moor Road will not be provided and that the proposed development plan would significantly increase traffic flow in this narrow and congested area". In response to Councillor Greaves' comments, the issue of the link road and the overall impact of the development on the local highway network are addressed within the main report.

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

8.1.1 K.C. Highways Development Management: - No objections subject to conditions

8.1.2 The Coal Authority:- No objection subject to conditions

8.1.3 The Environment Agency:- No comments received

8.1.4 K.C. Strategic Drainage: – No objections in principle. Awaiting further information on flood routing within the site.

## 8.2 **Non-statutory:**

8.3 K.C. Environmental Services: - No objection subject to conditions

8.4 KC Trees Section: - No objections

8.5 K.C. Landscape: – Off-site contribution of £64,400 is required towards existing provision and facilities in Meltham area. Potential for some on-site POS to be provided where the attenuation tank is located.

8.6 K.C. Environment Unit:- No objection subject to condition requiring a biodiversity management plan

8.7 K.C. Strategic Housing: – There is a need for affordable housing in this housing market area.

8.8 Yorkshire Water: - No objections subject to conditions.

## 9.0 **MAIN ISSUES**

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

## 10.0 **APPRAISAL**

### Principle of development

10.1 The application seeks planning permission for 24 dwellings on land allocated for housing on the adopted development plan.

10.2 Outline planning permission for 27 dwellings on the site was approved by the Sub-Committee in 2014. Access (off Colders Lane) and layout were approved.

- 10.3 The principle of the development is accepted in accordance with the site's allocation and where the principle of residential development for a similar number of dwellings has already been established under the extant outline consent.
- 10.4 Paragraph 14 of the National Planning Policy Framework (NPPF) outlines a presumption in favour of sustainable development. For decision-taking this means 'approving development proposals that accord with the development plan without delay'.
- 10.5 In respect of planning policies related specifically to housing in the UDP, consideration must be made as to whether these can be classed as 'up to date' following the publication of the NPPF. Paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. At present, the Council is unable to demonstrate a five-year supply of housing land and therefore the provision of new housing to meet the shortfall is a material consideration that weighs in favour of the development proposed.
- 10.6 This site is considered to be greenfield (i.e. not previously developed). The NPPF encourages the effective use of land by reusing land that has been previously developed (Brownfield land) but it does not set out a 'brownfield first' approach to development (unlike previous planning policy).
- 10.7 Policy H6 (Site allocated for Housing) of the UDP is relevant to any proposals on the site and with this policy in mind the proposed development in principle would appear to be acceptable subject to there being no undue harm caused to visual or residential amenity, highway safety, the environment, or other material considerations. Under Policy H6 of the UDP, this site is identified for housing under site no. H2.12 and has an estimated capacity of 27 dwellings.
- 10.8 A footnote attached to this specific housing allocation states: "the internal road layout to provide a through link road between Colders Lane and Wessenden Head Road to be completed prior to the occupation of dwellings". The main policy basis for the requirement for the link road was Policy T9 of the UDP which identified a number of specific highway improvement lines across the district. The preamble to Policy T9 explicitly states that the link road between Colders Lane and Wessenden Head Road is required specifically to facilitate development on this housing allocation. However, Policy T9 was not saved in September 2007 because it was deemed to provide unnecessary detail of minor improvement lines.
- 10.9 The proposed site layout does not make provision for the safeguarding of a link road and, whilst there is no longer a direct development plan policy relating to the safeguarding of the improvement line, the UDP still includes reference to its provision within a saved policy – albeit as a footnote – and it therefore remains a material consideration. The need for a link road to facilitate the proposed development is covered in the 'highways' section of



this assessment but under application 2012/90096 it was concluded that the link is no longer required to facilitate development of the site and it is considered that this remains the case.

#### Urban Design and heritage issues

- 10.10 Policies BE1 and BE2 of the UDP highlight the importance of achieving good design which is also a main objective set out in chapter 7 of the NPPF (requiring good design), with paragraph 56 stating that “the Government attaches great importance to the design of the built environment”.
- 10.11 The site is immediately surrounded by existing residential development of mixed type, age and design. This includes a terrace of Grade II listed cottages towards part of the site frontage.
- 10.12 The scheme mainly comprises reasonably well spaced detached properties with two small blocks of terraced houses towards the site frontage with Colders Lane. All of the dwellings are two storeys in height.
- 10.13 The design and layout of the scheme has been amended during the course of the application. This is so as to simplify the appearance of the properties along the site frontage so that the development sits more comfortably within the streetscene and better respects the character of surrounding development. For example, a dormer style window has been removed from plot 24 and the dwelling given a consistent ridgeline; canopies have been removed from plots 4 and 5 and replaced with a stone head and jamb, as well as on plot 11 which is relatively prominent because of its position in relation to the access road. Additional chimneys have also been added to the frontage properties to give a more consist design approach in this respect. The applicant has sought to retain bay windows to plots 23 and 24 and on balance these features are considered to be acceptable, particularly because there are bay windows on some of the dwellings on the opposite side of Colders Lane.
- 10.14 Parking for plots 1-3 is within a shared courtyard arrangement to the front of these houses. It is important that the visual impact of this parking is softened, particularly given the proximity to the listed cottages opposite. It is proposed that the parking spaces would be enclosed by a 0.9m high rail fence with shrub planting behind and this would continue along the front of plots 4 and 5. Officers consider that a stone wall would be more in keeping in this location. The applicant has indicated that the provision of a wall would be dependent on this being practical given the proximity of an existing culverted watercourse that broadly follows the front boundary of the site. The applicant has agreed to provide a wall provided it would not be located over the culvert. If it is not feasible then the boundary treatment will have to revert to the original proposal. This matter needs further investigation and can be addressed by condition.

- 10.15 Appropriate surfacing of the parking courtyard would also help to soften the visual impact of this element of the scheme. The applicant has offered to provide paving to the shared surface with tarmac to the actual parking spaces. It is considered that a paved surface should be provided across the entirety of the courtyard to give a consistent appearance. This can be conditioned.
- 10.16 Off-street parking is provided to the front of plots 22-24 although this is broken up slightly by sections of stone walling which helps to mitigate the visual impact. Parking for plot 22 also includes a space to the side of the dwelling which is unobtrusive. Plots 4 and 5 are able to park well back from Colders Lane. Overall officers are generally satisfied that off-street parking would not be an overly dominant feature of the streetscene.
- 10.17 The general design of the dwellings is considered to be acceptable and provides variation throughout the development. The scale of the proposed dwellings (two storeys) is appropriate for the surrounding context. The layout allows for a reasonably spacious development that provides a sense of openness; this has been helped by an amendment to the site layout which has increased the spacing between some of the proposed detached dwellings. The area where the surface water storage tank is to be located would be soft landscaped and allows for a very spacious feel to the south eastern part of the site.
- 10.18 In terms of materials it is proposed to face the eight properties along the site frontage to Colders Lane in natural stone and the remainder of the dwellings in either an artificial stone or red brick. The use of natural stone to the site frontage properties has been offered by the applicant as an alternative to the previously proposed artificial stone in response to comments made by the Strategic Committee regarding materials in January 2017. The applicant has confirmed agreement to using an artificial slate tile for the roofs.
- 10.19 There is a mixture of materials in the surrounding area although natural stone predominates in the immediate vicinity of Colders Lane (including the nearby listed cottages) with some artificial stone being present. Red brick is also prevalent within the wider area, including to the northeast boundary on Colders Green.
- 10.20 Natural stone is considered appropriate for the dwellings along the site frontage given the proximity of the listed buildings and the predominance of natural stone to the properties along Colders Lane. The artificial stone proposed for the majority of the dwellings within the site (Marshalls Cromwell rustic weathered) is considered to be of an acceptable quality and would harmonise with the natural stone in the area. A small number of dwellings are shown as being red brick (plots 17 and 18) and the quadruple garage for plots 6 and 7 has a red brick frontage. The use of brick is considered to be acceptable; it is evident in the wider area and provides some visual variety within the development.

10.21 On issues of urban design officers are satisfied that the amendments to the scheme have made it acceptable. The development would also preserve the setting of nearby designated heritage assets. The application complies with Policies BE1 and BE2 of the UDP and guidance in the NPPF.

#### Residential Amenity

10.22 Policy BE12 of the UDP sets out the Council's policy in relation to space about buildings.

10.23 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 in the policy 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 or potential development land.

10.24 The proposed site layout is considered to provide acceptable separation distances between the new dwellings and surrounding residential properties.

10.25 An amendment to the scheme has been sought in order to mitigate the impact of the scale and mass of plot 14 on an adjacent bungalow (15 Mile End). This neighbouring property is set down slightly from the site and has a conservatory to its rear elevation which brings habitable accommodation quite close to the site boundary. Plot 14 has been moved further away from 15 Mile End allowing for 12.5m (approx.) and 15.5m separation distances between the gable end of plot 14 and the conservatory and original rear wall of 15 Mile End respectively. These separation distances, which exceed the minimum acceptable distances set out in Policy BE12, are on balance considered to be acceptable. There are no windows in the side of plot 14 and a condition can be imposed to restrict any windows in the future which will protect the privacy of the neighbour.

10.26 There has also been an amendment to plot 21 to increase the separation distance between habitable windows in the rear wall of this dwelling and 41 Colders Lane. Whilst there is an indirect relationship between these two properties the separation distance has been increased to achieve a minimum separation of circa 20m between habitable windows.

10.27 The separation distance between some ground floor dining room windows within plot 7 and the rear walls of 9 and 10 Colders Green is 20.5m which represents a shortfall of 0.5m in terms of Policy BE12 standards. This shortfall would not demonstrably prejudice amenity and in any event existing and proposed boundary treatment/planting would provide screening. It is to be noted as well that the neighbouring properties on Colders Green are set on a lower level than the application site with their rear gardens abutting the site boundary; plots 7-9 are however all well separated from the boundary with adjoining houses on Colders Green (minimum separation 12.5m).

- 10.28 The layout provides acceptable separation to all other existing properties surrounding the site. A restriction on the formation of windows in the side of plots 1 and 22 is recommended to prevent direct overlooking of adjacent property.
- 10.29 The proposed site layout generally meets the council's space about buildings policy (BE12) with respect to separation distances between the new dwellings within the site. There are a small number of instances where separation distances are not met, for example between habitable windows and blank gables/non-habitable windows but officers are satisfied that an acceptable standard of amenity would nevertheless be provided. There is also a fairly close relationship between main windows within plot 12 and plot 19 although this is mitigated by the orientation of the dwellings which gives an indirect relationship.
- 10.30 The site lies within a residential area and the scale of the development is such that it would not create, or be affected by, any significant air quality or noise issues, for example from traffic generation. Environmental Services has not raised any objections in this regard.

#### Landscape issues

- 10.31 Some open space is provided within the site where the attenuation tank is located but this is unlikely to provide any meaningful POS and essentially allows for an area of soft landscaping to be provided that helps to build-in a sense of openness to the development. It is envisaged that this area would principally be an area of grass or possibly a wildflower meadow with some potential for shrub or tree planting although it is important that the roots of any such planting do not damage the attenuation tank. A detailed scheme for the landscaping of this area can be secured by condition. It will also be necessary for the future maintenance and management responsibilities for this space to be agreed under the S106.
- 10.32 The layout shows some small ornamental trees to the front of some of the properties and small trees to be planted within the rear gardens of a number of the plots. Limited areas of shrub and hedge planting are also proposed. Whilst not extensive, the planting helps to soften the appearance of the development.

#### Housing issues

- 10.33 The proposal would bring forward a housing development on a housing allocated site that would boost the supply of housing in this part of the district. The quantum of development is considered to be appropriate for the size of the site and takes the opportunity for optimising the development potential of the land whilst still respecting the character of the surrounding area and the amenity of existing and future occupiers. In this regard the development is considered to be in accordance with the NPPF.

### Highway issues

- 10.34 The site is situated to the southeast of Colders Lane in a predominantly residential area around 300 metres southwest of Market Place. Colders Lane is a residential access road, with a carriageway width of around 5.3 to 5.5 metres wide and footways to both sides. Colders Lane is lit to side road standards and is subject to a 30mph speed limit.
- 10.35 It is proposed to access the site from Colders Lane via a priority junction. Acceptable visibility splays are provided where the new junction meets Colders Lane (2.4m x 43m).
- 10.36 The properties along the site frontage take direct access from Colders Lane with the remainder accessed via the new estate road.
- 10.37 The internal layout takes the form of a residential estate road for the first 25m and leading to cul-de-sac which incorporates a turning head that is of sufficient size to accommodate a refuse vehicle.
- 10.38 Parking provision for the development is considered to be acceptable following an amendment to plots 9, 11, 14, 15 and 17 to 20. Acceptable gradients are provided across the site.
- 10.39 An assessment of the traffic generated by 27 dwellings on this site and the impact on the local highway network, including the Westgate/Station Road junction, was undertaken as part of the previous outline application. The current proposal is for three fewer dwellings and officers remain satisfied that the traffic generated can be accommodated on the local highway network without causing any significant adverse impacts.
- 10.40 The application proposes some minor improvement works around the junction of Colders Lane and Greens End Road and the junction of Greens End Road and Mill Moor Road. The works involve the provision of a 2m wide footway which help to improve visibility at the Colders Lane junction. These works were required as part of the previous outline application and are also considered to be necessary for the current scheme to make the development acceptable in highway safety terms. The works are to be secured via S106/planning condition.
- 10.41 As mentioned earlier in this report, a footnote attached this housing allocation requires the provision of a link road between Colders Lane and Wessenden Head Road (Improvement Line 496). As with the consented outline scheme, the current proposal does not include the provision of a link road between Colders Lane and Wessenden Head Road. This issue was considered in detail under the previous outline application whereby it was considered that based on current guidance it would be difficult to justify the need to provide the link road to facilitate development of this site. Officers therefore accept that the development is acceptable despite the link road not being provided.

10.42 In summary the application is considered to comply with Policies T10, T19 and BE1 of the UDP. A condition requiring remediation works to Colders Lane following the construction of the development is recommended along with a condition for a construction management plan and details of arrangements for the collection of waste. These conditions will help to mitigate the impact of the construction of the development on the local community and are required in the interests of highway safety and amenity.

#### Flood risk and drainage issues

10.43 The surface water drainage strategy for the development has been revised during the course of the application and it is proposed that all 24 properties will connect to an adjacent public sewer to the rear (south east) of the site via an attenuation tank. Water will discharge at a restricted rate. This is acceptable to Kirklees Flood Management and Drainage and Yorkshire Water have no objections to this.

10.44 The open space within the site where the surface water attenuation tank is located indicates a minimum ground level to provide sufficient cover. For clarity and in the interests of visual amenity it is considered that a condition is necessary requiring details of the maximum finished ground level for this area once the detailed drainage scheme has been designed.

10.45 A condition requiring details of temporary drainage during the construction is recommended to protect surrounding properties and local drainage networks.

10.46 There is a small watercourse that crosses the site from west to east and connects to Mile End. The watercourse is to be diverted and will connect to an existing watercourse in Colders Lane. The route has been designed to mitigate flood risk and is acceptable to Kirklees Flood Management and Drainage subject to a condition requiring a detailed scheme for these works. Restrictions on permitted development rights will also need to be imposed on plots 17, 18 and 19 to protect the diverted culvert in the future.

10.47 An amended drainage layout plan was submitted which has improved flood routing within the site. The site entrance has been lifted to fall towards Colders Lane and additional road gullies provided to catch surface water runoff; this is to reduce the risk to the proposed dwellings in the event that flood water flows down Colders Lane. As a consequence of this the finished floor level of plot 5 has been raised by 200mm. Plots 8 and 9 have also been raised by 150mm and 100mm respectively to better direct surface water runoff between the plots from the end of the private drive. The amendments have satisfactorily addressed previous concerns with flood routing that had been raised by Kirklees Flood Management and Drainage. It is considered that the increase in the floor level of plots 5, 8 and 9 is modest and would not have any significant impact on visual or residential amenity.

10.48 Officers are satisfied with drainage and flood risk matters subject to conditions. The application is therefore considered to comply with Policy BE1 (iv) of the UDP and chapter 10 of the NPPF.

### Ecology issues

- 10.49 Ecology information has been submitted with the application which confirms that the site is of limited ecological value. As such the development would not give rise to any significant adverse ecological impacts. Biodiversity enhancement can be secured through conditions and officers consider that this should be aimed at providing appropriate bird nesting opportunities. Landscaping within the site should also comprise native species. Subject to conditions, the application is considered to satisfy Policy EP11 of the UDP and chapter 11 of the NPPF.

### Contamination/coal mining legacy issues

- 10.50 Kirklees Environmental Services are satisfied with the information provided in respect of the ground investigations that have been carried out and have recommended conditions regarding details of a scheme for the remediation of the site.
- 10.51 The Coal Authority has been consulted and concurs with the recommendations of the submitted Coal Mining Risk Assessment information. Coal mining legacy potentially poses a risk to the proposed development and additional intrusive site investigation works and remedial works to treat the areas of shallow mine workings should be undertaken prior to development in order to address coal mining legacy issues on the site. This matter can be dealt with by conditions.

### Representations

- 10.52 The main issues raised in the objections concern the principle of development, highway impacts, residential and visual amenity and drainage matters. All of these issues have been addressed within this report. Concerns have been raised in relation to the impact on local facilities and services such as schools and medical facilities; the development does not trigger an education contribution and the provision of medical facilities is a decision for medical providers, which is influenced by local population statistics. The other issues raised do not materially alter the assessment of the application.

### Planning obligations

#### Affordable housing:

- 10.53 UDP Policies H10 and H12 together with the Council's Supplementary Planning Document set out the requirement for affordable housing.
- 10.54 Current Council guidelines specify that the Council aspires to secure 15% of the development floor-space for affordable housing on brownfield sites, and 30% of the development floor-space for affordable housing on greenfield sites. An interim affordable housing policy has however recently been adopted by the Council reflecting the draft Publication Local Plan Affordable Housing

policies. The interim policy is based on the affordable housing policy in the emerging draft local plan and is therefore underpinned by up-to-date evidence of the viability of schemes within the District can likely afford where at least 20% of total dwellings on sites are allocated for affordable housing. This informal policy forms guidance where greater weight is afforded to the Interim Affordable Housing Policy than SPD2 and is a material consideration when determining planning applications.

- 10.55 The development exceeds the threshold for affordable housing provision and on this scheme the requirement would be five of the twenty-four units to be affordable (which equates to 20.8%).
- 10.56 Information on the viability of the scheme has been submitted with the application and this has been independently assessed by the District Valuer (DVS). The assessment concludes that the development is not viable with affordable housing provision. In arriving at this conclusion the DVS has reappraised the land value in light of the extant outline consent on the site and considered the 'abnormal' works which the developer has identified as being necessary to develop this site, including significant grouting works. These abnormal costs have been reviewed by a DVS quantity surveyor who has accepted these costs.
- 10.57 Officers accept the DVS conclusions on affordable housing.
- 10.58 Viability appraisals reflect current circumstances and as such they can only be considered valid for a certain period of time. Assumptions have been made, and accepted, within the viability appraisal around the value of the development. Consideration has therefore been given to the use of an overage clause which would mean that once the majority of the houses have been sold or let a calculation would be carried out to see if the scheme has performed better than the original expectation. Any excess sum would be shared with the council for it to provide affordable homes in this housing market area.
- 10.59 Discussions have been held with the applicant regarding the inclusion of an overage clause. The applicant has been reluctant to enter into such an agreement, in part because such clauses are not a council policy and have not been widely used across the district in the past. In response, and considering that overage clauses are generally more suited to larger scale developments where the build period is over many years, officers have sought to negotiate an alternative arrangement whereby the whole viability of the scheme would be reappraised in the future if development does not commence in a timely manner.
- 10.60 The result of these negotiations is that the applicant has offered to accept a one year permission and will enter into a S106 agreement to provide, as a minimum, the foundations of all 24 dwellings and the surface water attenuation tank within 30 months of development commencing. If this does not occur then the viability would be reappraised.



10.61 The applicant's offer demonstrates a strong commitment to starting on site quickly and the provision of the foundations for all the dwellings and the surface water attenuation tank involves a significant financial commitment which in all likelihood will mean that the developer will continue building on the site as plots are sold off and thus deliver new housing in a timely manner. The likelihood of the site being land banked is considered very low. The offer to complete the foundations and install the attenuation within 30 months from starting would form part of the S106.

10.62 The DVS has advised that the scheme is viable with the public open space and sustainable travel fund contributions as set out below.

Public Open Space:

10.63 The site is over 0.4 ha and therefore triggers the requirement for the provision of public open space. No public open space is specifically being provided within the site and based on the number of dwellings an off-site contribution of £64,400 is required towards provision and facilities in the Meltham area. This money is to be secured via a planning obligation (S106) and this will also need to specify the site(s) where the money would be spent.

Education:

10.64 The number of dwellings proposed is below the threshold for an education contribution.

Sustainable travel fund:

10.65 Under the previous outline application a financial contribution was secured towards the provision of Metro Cards for the future occupiers of the development. It is considered that a similar contribution should be provided under the current application to enable the development to meet local and national sustainability objectives. The contribution is £10,650 to be secured by S106.

Other Matters

Air quality:

10.66 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 to medium sized 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 The principle of development is accepted on this allocated housing site where there is also an extant outline consent. The proposal represents a reduction in the amount of development in comparison to the outline scheme.
- 11.2 The layout, scale and design of the development would be in keeping with the character of the area and would preserve the setting of nearby designated heritage assets. Amendments to the scheme have made the impact on residential amenity acceptable.
- 11.3 The development would not prejudice highway safety and officers are satisfied that the site can be adequately drained.
- 11.4 The development provides benefits in terms of off-site public open space and some localised junction improvements.
- 11.5 The development complies with relevant local and national planning policies.

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

1. One year Time limit condition
2. Development in accordance with approved plans
3. Approval of samples of materials
4. Scheme for construction and specification of the access road
5. Scheme for off-site highway works at Colders Lane/Greens End Road junction
6. Construction management plan
7. Condition survey and remedial works to Colders Lane
8. Private parking spaces surfaced in permeable material
9. Surfacing of courtyard for plots 1-3
10. Landscaping scheme for area where attenuation tank is located (based on native plant species)
11. Restriction on windows being formed in the side walls of plots 1, 14 & 22
12. Detailed drainage scheme to be submitted and approved
13. Scheme for bird nesting opportunities
14. Provision of electric vehicle charging points
15. Remediation scheme for contaminated land
16. Intrusive site investigation report and remediation strategy to deal with coal mining legacy
17. Details of arrangements for collection of waste

### **Background Papers:**

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f92254+>

Certificate of Ownership – Certificate A signed.