
Report of the Head of Development Management

STRATEGIC PLANNING COMMITTEE

Date: 15-Jun-2017

Subject: Planning Application 2016/93746 Outline application for erection of up to 200 dwellings and formation of public open space (within a Conservation Area) Fieldhead Farm, White Lee Road, White Lee, Batley, WF17 8AF

APPLICANT

Hallam Land
Management Ltd

DATE VALID

08-Nov-2016

TARGET DATE

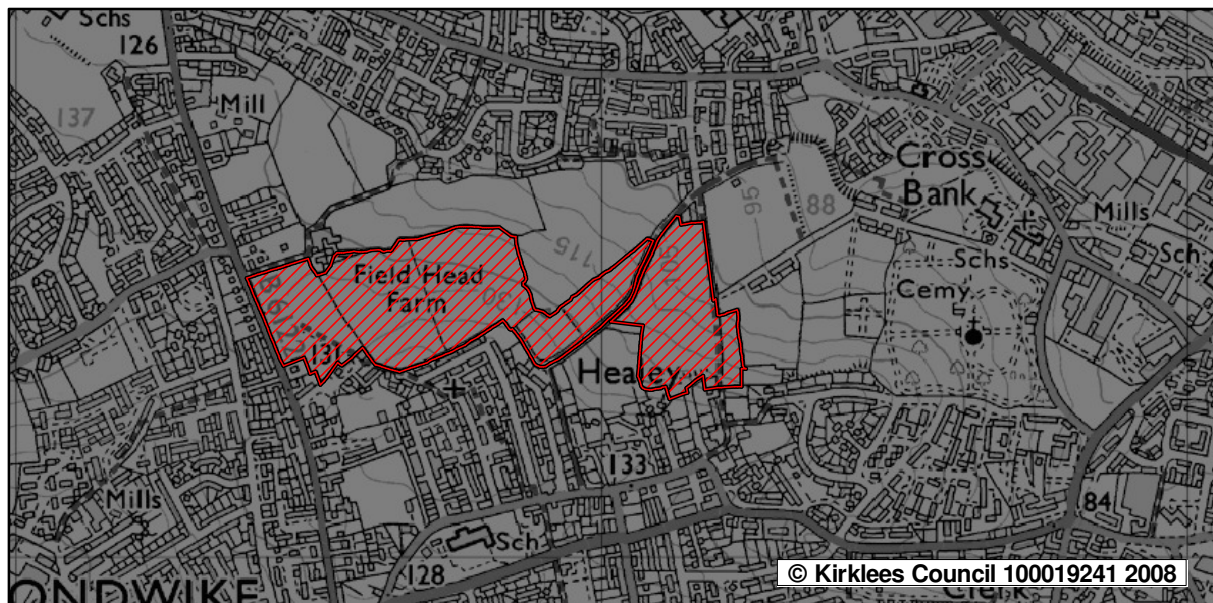
07-Feb-2017

EXTENSION EXPIRY DATE

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Heckmondwike and Batley West

Yes

Ward Members consulted
(Referred to in report)

RECOMMENDATION:

Inform the Planning Inspectorate (appeal APP/Z4718/W/17/3171852) that the Local Planning Authority would have been minded to refuse the application for the reasons set out below:

- 1. The application site is allocated as urban greenspace on the Kirklees Unitary Development Plan (UDP) proposals map. The proposed development is contrary to Policy D3 of the UDP which relates to development on such sites. The site forms part of a larger area of urban greenspace which has been assessed as having high value as open space and as such is not deemed surplus to requirements. The development is therefore contrary to Policy D3 of the UDP and paragraph 74 of the National Planning Policy Framework. The loss of the value of the urban greenspace is considered to outweigh all other material considerations, including the delivery of new housing.**
- 2. The proposed development would lead to the loss of a large tract of open land within an otherwise built up area which plays an important strategic role as a green wedge separating the distinctive communities and settlements of Heckmondwike and Healey and provides valuable open land for local amenity and visual relief to the built up area. To develop this area for up to 200 dwellings would be harmful to the character and appearance of the local area, the wider local landscape and would erode the local sense of place by the coalescence of settlements. To permit such a development would be contrary to Policies BE1 and BE2 of the Kirklees Unitary Development Plan and Core Planning Principles and Policies in Chapter 7 of the National Planning Policy Framework.**

1.0 INTRODUCTION:

- 1.1 The proposal is brought to the Strategic Committee for determination in accordance with the Council's Scheme of Delegation, as the application site boundary is over 0.5 hectare.**

- 1.2 The application is subject to an appeal against the non-determination of the Local Planning Authority (LPA) to make a decision on the application under appeal reference (APP/Z4718/W/17/3171852). The resolution of the Strategic Committee on the application will be forwarded to the Planning Inspector to be considered at a Public Inquiry which is scheduled to take place between 10 - 13 October 2017.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site is approximately 14 hectares in size and comprises of an open grassed field located to the east of White Lee Road, Batley. The site forms two sections of land which is divided by Coal Pit Lane. The wider area is residential in nature with dwellinghouses backing on to the site from the south which are set at a higher level. To the north are other residential properties which are divided from the site by a further grassed field and are set at a lower level. To the east the site abuts playing fields located off North Bank Road.
- 2.2 The main vehicular access to the site is via White Lee Road, though other small roads abut the site to the east. Two public footpaths cross the site, Batley 25 which connects Jail Road to White Lee Road at the west of the site, and Batley 27 Which connects Chaster Street to Towngate Road at the east of the site. To the east of the site bridleway Batley 26 dissects the site along Coal Pit Lane.
- 2.2 Levels on the site gently undulate with the natural topography of the site. A row of electrically pylons run across the site leading from a sub-station adjacent White Lee Road.
- 2.3 The site is previously undeveloped land and allocated as Urban greenspace on the Councils Unitary Development Plan.

3.0 PROPOSAL:

- 3.1 Outline planning permission is sought with all matters reserved other than the agreement of the point of access for the proposal. The proposal seeks permission to erect up to 200 dwellings on the site and the formation of a public park which would be 7.2 hectares in size. Access to the site would be via a newly formed point of access located off White Lee Road. Indicatively submitted details set out that the dwellings would be positioned on the western part of the site with the east part utilised for an area of park. Details submitted with the application indicate that the park would provide allotments, and general open space.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 2017/90998 - Outline application for erection of up to 200 dwellings and formation of public open space (within a Conservation Area) – Pending Consideration (new application for same proposal)

Adjacent Sites to the North Off White Lee Road

- 4.2 2015/92944 - Erection of 66 dwellings – Refused, currently at appeal with the Public Inquiry taking place in June 2017, PINS Ref: APP/Z4718/W/16/3162164.
- 4.3 2012/93966 - Outline application for the creation of a means access and the erection of 14 dwellings and demolition of existing building - Approved
2014/93740 - Reserved matters application for erection of 14 dwellings pursuant to outline permission 2012/93966
- 4.4 2010/92938 - Outline application for erection of 42 dwellings (illustrative layout) – Approved
2014/93425 - Reserved matters application for erection of 24 dwellings pursuant to outline permission 2010/92938 - Approved
- 4.5 2009/93455 - Erection of residential development of 36 dwellings with associated access – Approved

Site to the South – Dryfireld House, Healey lane

- 4.6 2013/93396 - Outline application for erection of 7 dwellings – Approved

Site to the South - Former Sports Ground, Healey Lane.

- 4.7 2012/91363 - Erection of 49 affordable homes and associated works – Approved

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 The case officer secured further information in respect to highways, drainage, ecology, landscape impact where submitted through the course of the application to address points raised by consultees. A meeting was also held with the applicant's agent on 16 March 2017 to discuss the application which resulted in the submission of the further information set out 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 is currently in the process of reviewing its development plan through the production of a Local Plan. The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined 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 Policies 2007) remains the statutory Development Plan for Kirklees.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 D3 – Urban greenspace
- BE1 – Design principles
- BE2 – Quality of design
- BE5 – Development within a Conservation Area
- BE10 – Archaeological sites
- BE11 – Materials
- BE12 – Space about buildings
- BE23 – Crime prevention
- EP4 – Noise sensitive development
- EP11 – Ecological landscaping
- T10 – Highway safety
- T16 – Provision of safe pedestrian routes within a development
- T17 – Provision/regards for needs of cyclists
- T19 – Parking standards
- R13 – Public Rights of Way
- NE9 – Retention of mature trees
- G6 – Land contamination
- H10 – Affordable housing
- H11 – Exceptional circumstances/ affordable housing provision
- H18 – Provision of open space

Supplementary Planning Guidance / Documents:

- 6.3 Interim Affordable Housing Policy
- Council's policy on Education contributions generated by new development
- The Council's Open Space Study 2015
- Manual for Streets
- Emerging Local Plan (site allocated as Urban greenspace)

National Planning Guidance:

- 6.4 Achieving Sustainable Development'
- Core Planning Principles
- Part 4 Promoting sustainable transport
- Part 6 Delivering a wide choice of high quality homes
- Part 7 Requiring good design
- Part 8 Promoting healthy communities
- Part 10 Meeting the challenge of climate change, flooding and coastal change
- Part 11 Conserving and enhancing the natural environment
- Part 12 Conserving and enhancing the historic environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised by site and press notices and neighbouring properties were notified by letter. Ward Councillors for Heckmondwike and Batley West were notified of the application.

7.2 In total 85 individual representations and a petition with 3053 signatures have been received against the proposal which includes an objection from the Spenn Valley Civic Society. A summary of the comments raised are set out below:

7.3 Principle Matters

- The site is designated as Urban Green Space and covered by Policy D3 of the UDP, the land is protected from development, and no exceptions set out in Policy D3 apply for the proposal. The UDP is the lawful development plan for the district and the application should therefore be refused.
- The application site is to be designated as Urban Green Space (site ref UGS973) under the new Local Plan which is to be examined in public shortly and this designation should be retained. The site was subject to 7 housing options in the Local Plan H354; H523; H524; H525; H534; H613, and H674, all were rejected, and the proposal should therefore be rejected too.
- The Local Plan allocates land for over 31,000 homes over a 15 year period and the housing need for the district will therefore be met by this plan. The Local Plan sets out other more appropriate sites for development than the application site.
- The new Local Plan Policy on urban greenspace which will supersede Policy D3 re-affirms the priority given to Urban Green Space and states that:
“development proposals that would result in the loss of valuable open space in Kirklees will not be permitted unless an assessment shows the green space to be clearly surplus to requirement”.
- There is no evidence to suggest that this greenspace is surplus to requirements. It acts as a vital green lung along White Lee Road in the middle of a densely built-up area, which is criss-crossed by a network of public footpaths, providing exercise and recreation for surrounding residents. Its loss would be to the detriment of the character of the local area.
- The site functions in the same way as Green Belt, i.e. to prevent the merger of Heckmondwike and Carlinghow settlements. Due to the topography of this site at the crest of the ridge, its greenspace appearance is visually prominent. The whole of North Kirklees is very built-up and densely-populated with few open green spaces and it is considered that the site has extremely high value as Urban greenspace.
- The site forms Green Belt land that state should be protected and retained.
- The site has always formed protected land between housing developments as set out on previous planning documents and this should be retained.
- The submitted layout plans are misleading as they do not show the location of surrounding developments which have been recently constructed.

- The proposal would not meet the definition of sustainable development and would have a negative impact on the local community. The site is considered to have a recreational and amenity purpose contrary to the statements of the applicant.
- More suitable brownfield sites should be used first before using greenfield sites.

7.4 Highways

- The local area has been subject to a significant number of permissions for new houses with up to 600 granted within the wider area over recent years. The local infrastructure and facilities such as sewers, medical facilities, local schools are not capable of accommodating a further 200 dwellings within the local area.
- White Lee Road is already a very busy road which connects the area to the motorway network, and the proposal will make this situation worse with at least 400 more vehicles using the roads at least twice a day. It will also make it even more difficult to cross the road or turn on to the road. The proposed single point of access will make entering and leaving on to White Lee Road extremely difficult. The proposal would therefore be detrimental to highway and pedestrian safety.
- The submitted transport assessment details that the White Lee/Carlinghow Lane junction will only lead to a queue increase of 2 vehicles which is not considered to be representative of what will happen given that possibly 400 additional cars will be using the roads.
- The proposal would lead to the diversion of a public right of way (PROW) which crosses the site. However there are no specific details of the diversion in the application and it could mean that adjacent properties are more vulnerable to due to a repositioned PROW.

7.5 Amenity

- The proposal will lead to years of noise and disturbance to local residents caused by construction work which will have a further adverse impact on the local highway network.
- The proposal will reduce the amount of farming land available within the district.
- Part of the site is within and would impact on the setting of the Batley Cross Bank Conservation Area, and the development would be seen from the Conservation Area. It is considered the proposal due to its scale and position will be detrimental to the Conservation Area.
- There are a number of non-designated heritage assets such as Fieldhead Farm and Healey Village. It is considered that Field Head Farm dates from at least the early 19th Century if not late 18th Century, and the proposal would lead to the loss of this building which is considered to be locally significant. Healey Village is adjacent the site and has a number elements of historic significance in its layout such as Dryfield House, the Debtors Jail, previous main workings across the site and the settlement boundary layout. The application site remains the last physical distinction between Healey and other settlements. The erosion of application site would detrimentally affect the setting of this historic settlement.

- The local area has a natural beauty that forms a quiet piece of land surrounded by development where the local footpaths and adjacent fields are used by the public for exercise and walking dogs. The proposal would lead to the loss of this area to its detriment.
- An independent landscape character assessment of the area should be carried out for the application site to assess the impact of the development.
- It is considered that the loss of this last key piece of open space between settlements along White Lee Road would be detrimental to the character and appearance of the local landscape and the local sense of place. The proposed park would not allow for the retention of this open space and it is considered that the design and layout of the scheme is poor in design terms.
- The provision of tree planting is not considered to mitigate the harm caused by development and it is considered that the proposal will have an adverse impact to the local area over the long term.
- The tree planting suggested in the submitted plans is considered to be unrealistic given the limited size of the gardens for the properties and no account has been made to the extensive parking of vehicles across the whole site.
- The dwellings shown on the plan would be directly to the rear of existing properties along Mortimer Terrace and there is concern that the proposal would have a detrimental impact to these dwellings.
- Any dwellings on the site which are 3 storey in height would be out of keeping with the local character.

7.6 Other Matters

- There are old mining workings underneath the field that would be subject of the application and local properties have been prone to subsidence, the application site would be subject to these same issues.
- The application site contains much wildlife including birds, bats, foxes and many more, which has increased over recent years and the proposal would lead to the loss of this wildlife to the detriment of the local area.
- The proposal would increase the potential for flooding in the local area and further down the valley as the fields act as a sponge soaking up water. The development of the site for housing would remove this ability to retain water.
- The area is at risk from radon gas.
- The site was previously widely accessible beyond the extents of the footpath and members of the public could walk across parts of the fields. The footpaths were only enclosed 2 years ago when the application was first put forward.
- Healey was subject to bombing in World War 2 and there may be unexploded bombs across the application site.
- The proposal would increase traffic pollution in the local area to the detriment of residents health.
- There are no details to the level of affordable housing provided by the development or where these are.

- 7.7 Heckmondwike Ward Councillor, Cllr Viv Kendrick has submitted comments on the application where she has raised concerns about the proposal and has stated:

"I feel that that traffic volumes and issues would have a detrimental impact on the area which is already experiencing difficulties but most importantly I feel that this is a prime example of urban sprawl. If this went ahead the two distinct areas of Heckmondwike and Batley would be merged.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

- **KC Highways Development Management** – No objections subject to conditions.
- **Environment Agency** – No objections consultation should take place with the Lead Local Flood Authority (LLFA)
- **Yorkshire Water** - No objections subject to conditions.
- **The Coal Authority** - No objections subject to conditions.

8.2 Non-statutory:

- **KC Environmental Services** – No objection subject to contaminated land conditions and the provision of electric charge points.
- **KC Ecology** – No objection subject to conditions.
- **Kirklees District Police Architectural Liaison Officer (PALO)** – No objections to the proposal, guidance provided in relation to design of development
- **KC Conservation and Design** – No objection to the proposal.
- **KC Flood Risk Management Drainage (Lead Local Flood Authority)** – No objections to the proposal subject to conditions, and there is a need to re-consult at reserved matters stage.
- **KC Landscape and Parks** – objects to the harm caused by the development of the site.
- **KC Education Service** – An education contribution would be required for the development which is currently calculated at £494,214.
- **KC Housing** – The development would require the provision of affordable housing provision accordance with the Interim Affordable Housing Policy with the provision of 20% of units.

- **KC Public Rights of Way (PROW)** – No objection, comments in relation to the need to divert the PROW, a note should be attached to the decision notice.
- **West Yorkshire Combined Authority** – No objections, it is recommended that a nearby bus shelter is upgraded to provide real time information and Metrocard's (Mcard's) or a Travel Plan Fund is provided for future occupiers.
- **Natural England** – No objection, comments made on the proposal.
- **Northern Powergrid** – Comments raised regarding the layout and impact on electric substation and overhead lines which cross the site.
- **West Yorkshire Archaeology Advisory Service (WYAAS)** – seek an archaeological assessment of the site before determination or the attaching of a planning condition to secure such a survey.

9.0 MAIN ISSUES

- Principle of development
- Highway issues
- Drainage issues
- Ecology
- Environmental Issues
- Design and Heritage
- Planning obligations
- Representations
- Other matters

10.0 APPRAISAL

Principle of Development

- 10.1 The application site forms a 14 hectare part of an extensive area of open land which is identified as Urban greenspace (UGS) on the Kirklees Unitary Development Plan (UDP) and which totals 23 hectares in overall size.

Background

- 10.2 The designation of the wider 23 hectare Urban Green Space area (which the application site forms a significant part of, 14 hectares) was considered in detail at Kirklees UDP Public Inquiry 1995-1996. The UDP Inspector concluded that the site fully merited designation as urban green space stating that *"The site is mainly agricultural grazing land and forms the western part of a large open area, which extends from near the centre of Batley to Heckmondwike. Being surrounded by extensive built-up areas, the open land forms an important relief from urbanisation. Its position on a hillside above the residential area of Carlinghow enables its openness and the break it provides between different parts of the urban conglomeration to be appreciated over a*

wide distance, in addition to its impact on its immediate surroundings. The site is an important element of the open area as a whole.”

The Inspector continued “The Council does not claim special wildlife value on the site and recreational value is limited to the use of a public footpath and a public bridleway. Nevertheless, UGS designation does not depend on land performing well in terms of all the criteria and is not based solely on land with full public access. This approach is consistent with the recognition in PPG17 that open space, whether or not there is public access to it, is important for its contribution to the quality of urban life and is not undermined by policies intended in the Leeds UDP which are not relevant to this case. The site, in whole and in part, is attractive open land, which contributes significantly to the appearance of the area and enhances the enjoyment of the use of the public rights of way by providing a semi-rural character, and fully merits designation as UGS”.

- 10.3 In light of the above the wider site was consequently designated as urban greenspace in the UDP.

Policy Context

- 10.4 The starting point for the consideration of the application is the sites designation as urban greenspace which is covered by Policy D3 of the UDP. Nationally open space policy is set out in paragraph 73 and 74 of the NPPF. Policy D3 and Paragraph 74 of set out below:

D3 On sites designated as Urban greenspace planning permission will not be granted unless the development proposed:

- i) is necessary for the continued enhancement of established uses or involves change of use to alternative open land uses, ,or would result in a specific community benefit, and, in all cases will protect visual amenity, wildlife value and opportunities for sport and recreation; or*
- ii) Includes alternative provision of urban greenspace equivalent in both quantity and qualitative terms to that which would be developed and reasonably accessible to existing users.*

74. Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements*
- the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location*
- the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss*

- 10.5 First consideration must be given to the weight which can be afforded to Policy D3 due to the age of the UDP and degree of consistency between the policy and the NPPF in respect of paragraph 215. The applicant has put forward that they do not consider that full weight should be afforded to Policy D3, and do not consider that the Policy is up to date, due to the lack of 5 year supply of housing land for the district. They also do not consider that the proposed site meets the definition of open space as set out in paragraph 74 of the NPPF.
- 10.6 It is considered by Officers that Policy D3 remains a relevant Policy for consideration as it is largely consistent with paragraph 74 of the NPPF as the intention is to protect open spaces of public value. It is considered this policy is based on robust and credible evidence (supplemented by more recent Publication Draft Local Plan evidence).
- 10.7 This position was further supported by two recent appeal decisions to applications 2014/93073 and 2016/91231, where the Inspector considered the degree of consistency between policy D3 and the NPPF. In the first appeal the Inspector concluded that Policy D3 carries some weight to the extent that it continues to protect urban greenspace. In the second more recent appeal decision in April 2017 the Inspector concluded in paragraph 7 that *“whilst I appreciate that policy D3 is of some age, this alone is not a sufficient reason to give any less weight to it in decision-making. Furthermore, having considered the above, I find Policy D3 to be in accordance with the Framework. As such, I give it significant weight in my determination of this appeal”*. The second appeal was dismissed on the grounds the proposal would be contrary to Policy D3 of the UDP and the NPPF.
- 10.8 Whilst the above is noted, consideration needs to be taken to the whether Policy D3 remains up to date given that the Council is currently unable to demonstrate a 5 year supply of deliverable housing sites and given the points put forward by the applicant. In these circumstances, in accordance with NPPF paragraph 49, which states that *“...relevant policies for the supply of housing should not be considered up to date if the LPA cannot demonstrate a 5-year supply of deliverable housing sites.”* Consequently planning applications for housing are required to be determined on the basis of the guidance in NPPF paragraph 14. An assessment therefore needs to take place as to whether Policy D3 can be considered up to date given the Councils lack of 5 year housing land supply.
- 10.9 A recent Supreme Court decision has clarified the extent to which paragraph 49 can be applied in the decision making process, concluding that it can only be applied to policies for the supply of housing, and not policies which restrict housing. It is therefore concluded that Policy D3 of the UDP is not out of date by way of paragraph 49 of the NPPF as it is not a policy related to the supply of housing. As set out previously, D3 is considered to be largely consistent with paragraph 74 of the NPPF and should therefore be afforded weight in the decision making process.

- 10.10 The NPPF sets out the presumption in favour of sustainable development in paragraph 14 which all applications need to be considered against. Paragraph 14 sets out that 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 this Framework taken as a whole; or*
 - *specific policies in this Framework indicate development should be restricted.*
- 10.11 Consideration has been given to the final bullet point above and whether paragraph 74 of the NPPF, which is relevant to the application, can be considered a restrictive policy. This matter was considered in the appeal decision to application 2014/93073 (PINS Ref: APP/Z4718/W/16/3147937) which was for a similar type of Urban greenspace, where the Inspector concluded that given that the Urban greenspace designation of the site has been attached due to its visual amenity, and it is not considered possible to see how this could be replaced. It was therefore concluded that the weighted presumption in favour of sustainable development is not displaced by paragraph 74. Given the similarities between the two sites in respect of this issue the weighted planning balance (the presumption in favour of sustainable development) therefore stands and the application will be assessed as such.
- 10.12 The application will therefore be assessed against Policy D3 of the UDP, paragraph 74 of the NPPF, along with all other material planning considerations put forward by the applicant, and the overall planning balance.

Assessment against Policy D3 and Paragraph 74

- 10.13 Policy D3 does not allow the development of urban greenspace sites unless it is necessary for the continuation or enhancement of established uses, involves change of use to alternative open land uses or would result in a specific community benefit, and, in all cases, will protect visual amenity, wildlife value and opportunities for sport and recreation. Alternatively, where a proposal includes replacement urban greenspace provision which is genuinely equivalent in both quantitative and qualitative terms to what currently exists, the development may be acceptable.
- 10.14 The proposed development of the site for up to 200 dwellings and a public park is not necessary for the continuation or enhancement of the established uses. The proposal does not involve change of use to alternative open land uses or include alternative provision of urban greenspace equivalent in both quantitative and qualitative terms to that which would be developed.
- 10.15 The scheme does however include the provision of an area of open space which is 7.2 hectares in size, which includes a new public park and allotments. The applicant has put forward that the public park and allotments represent a significant community benefit for the local area, and would provide open space which is 6.6 hectares in excess of the policy requirements. The applicant therefore considers that the proposal would therefore accord with Policy D3 given this community benefit.

- 10.16 A full and detailed assessment of the weight afforded to the provision of the public park, allotments and all other material planning considerations are set out later in this report. However, it should be noted that public open space would need to be provided as part of the housing development for it to accord with Policy H18 of the UDP, with a minimum rate of 30 dwellings per hectare being provided. The nature and extent of this open space would be determined in discussion with the Council's Landscape Section. It is however accepted that the proposed public open space provision is significantly in excess of the minimum requirement set out in UDP policy H18.
- 10.17 However paragraph 2.12 of the UDP is clear that "*Usually, only small parts of areas designated as urban greenspace should be considered for development because one of the main functions of urban greenspace is to safeguard the balance within urban areas between the amount of land which is built-up and the amount of open land. It would also need to be demonstrated that the functions of the urban greenspace concerned (for example, providing for sport and recreation) and its quality (for example, as represented by important landscape features) could be maintained.*"
- 10.18 As such, in all cases where specific community benefit is proposed, the protection of visual amenity, wildlife value and opportunities for sport and recreation tests would also apply as set out in policy D3 (criteria i). The nature, scale and extent of the proposed development must be considered in relation to the protection of visual amenity.
- 10.19 It is considered that given the scale of the development of up to 200 dwellings which would lead to the loss of 6.8 hectares of currently open land with a visual amenity value that the proposal would fail to meet these tests. The proposed development therefore does not therefore accord with policy D3 and as such represents a departure from the development plan.
- 10.20 Whilst the proposal is not considered to accord with Policy D3 or paragraph 74 of the NPPF, consideration needs to be made of other material planning considerations.

Other Material Planning Considerations

- 10.21 The other material planning considerations which the applicant has put forward with their case include:
- The provision of market and affordable housing at a time when the council cannot demonstrate a 5 year supply of housing land.
 - That the proposal would be policy compliant in terms of education, highways and open space obligations.
 - The site is within a sustainable location with good access to local facilities and a regular bus service.
 - That the proposal would provide a 7.2 hectares of public open land, including a new public park and allotments which would improve the public's accessibility to a large portion of the site.

- The proposal would meet other open space deficiencies in both the Heckmondwike and Batley West Wards.
- That the site should not be defined as natural/semi natural greenspace, as the site is used for agricultural and grazing purposes, and does not meet the definition set out in Kirklees Open Space Strategy.
- That the proposal would not lead to any long term harm to the local landscape.
- That a prematurity argument in relation to the Publication Draft Local Plan does not apply, due to the scale of the development meeting only 0.75% of the housing need of the plan period and given the current stage of the plan.

10.22 The applicant considers that the proposal would provide a significant specific community benefit both in terms of quantum of public open space and the nature of use of that open space which would meet identified shortfalls. They consider that this is particularly the case when the benefits are considered in the context of the current site which is not open to public usage in any way other than along a footpath route and is in agricultural use. The applicant therefore considers the proposal would bring about significant community benefits both in relation to Policy D3 but also in terms of the wider planning balance.

10.23 The details of these benefits will need to be carefully considered in weighing these against the loss of Urban greenspace.

Provision of Housing in the District, Site Location and Planning Obligations

10.24 It is noted that the application would provide 200 new dwellings at time when the Council cannot demonstrate a 5 year land supply of housing, and would include the provision of 40 affordable units, which would be policy compliant in terms of planning obligations. It is also noted that the proposal would lead to additional economic benefits to the local area during construction, and other benefits brought about by the new homes bonus. It is also accepted that the site is located within an a wider urban area which could be considered to be sustainable in its nature with a bus service located on White Lee Road, and access to local shops and services in Batley and Heckmondwike.

10.25 Weight is attached to the provision of the new dwellings in what could be considered to be a sustainable location, which would provide planning obligations. However the provision of 200 homes is not on its own considered to weigh against the harm caused to the loss of the urban greenspace, and can only be considered as part of the wider planning balance of the application.

Open Space Provision in the District

10.26 The applicant has put forward that they do not consider that the site forms natural or semi natural greenspace, and therefore does not meet the definition of natural/semi natural greenspace due to its use as agricultural and grazing land with limited public access. They have put forward that the proposal would

provide a public park which would greatly improve the public's access to the site, and meet other public open space provision requirements within the district.

10.27 The provision of open space in the district has been assessed in detail in the Kirklees Open Space Study (revised 2016) which provides up-dated evidence about the provision of different types of open space across the district. The levels of open space provided within the application sites wards of Heckmondwike and Batley West are important considerations, as the proposal would both improve one form of open space but lead to the loss of a different form.

10.28 In terms of the definition of open space, NPPF does not distinguish between land in public or private ownership and it is not necessary for open space to have public access before it can qualify as open space under the NPPF. The NPPF definition of open space is clear that it includes 'all open space of public value'. The application site is identified in the study as part of a larger area of 'natural and semi-natural greenspace' of some 28.78 hectares in size. As part of the Open Space Study an assessment of the whole area of natural and semi-natural greenspace was undertaken to evaluate the physical, social, environmental and visual qualities to determine its public value as open space. This larger natural and semi-natural greenspace was assessed as having high value as open space based on:-

- Level of use – the site is in agricultural grazing use and recreational use is through the use of number of PROWs that are within or adjacent to the site;
- High structural and landscape benefits – the site performs a strategic function as a large green lung within a densely developed area. It helps separate built-up areas and its extensive open quality and dominance in the landscape being a prominent hillside location helps define the identity and character of the area;
- High amenity and sense of place benefits – the site is visually attractive and contributes significantly to the appearance and semi-rural character of the area and in doing so provides local communities with a sense of place and identity.

10.29 Given the above, it is considered that the application site does form natural and semi-natural greenspace and assessment of such is therefore valid.

10.30 Turning to the level of open space provision within wards which would be affected by the development. The majority of the application site falls within the Heckmondwike ward boundary but the eastern part of the site is within Batley West ward. The Kirklees Open Space Study (revised 2016) identifies deficiencies in the quantity of natural and semi-natural greenspace along with the minimum benchmark standards for both wards as shown below:-

- Heckmondwike Ward
 - Current provision, of natural and semi-natural greenspace: 0.67 hectares per 1,000 population

- Minimum benchmark Standard for natural or semi-natural greenspace: 2 hectares per 1,000 population
- Batley West Ward
 - Current provision, of natural and semi-natural greenspace: 1.7 hectares per 1,000 population
 - Minimum benchmark Standard for natural and semi-natural greenspace: 2 hectares per 1,000 population

10.31 As can be seen above the provision of natural and semi-natural greenspace in the Heckmondwike Ward is currently significantly below the benchmark standards set out in the Kirklees Open Space Study (2016), and it is also below the standard for the Batley West Ward. The proposal would lead to a loss of 6.8 hectares of this natural and semi-natural greenspace and this would lead to both wards being further away from the minimum benchmark standards. This adverse impact the application would have on the provision of natural and semi-natural greenspace in the wards needs to be balanced against the other considerations put forward by the applicant.

10.32 The planning application proposes provision of a 7.2ha area of open space including a public park and allotments. The applicant has put forward that this open space would make a significant contribution to meeting deficiencies. The Open Space Study (2016) provides details on the level of provision of parks and recreation grounds and allotments for each ward along within minimum benchmark standards. The details are set out below:

- Heckmondwike Ward
 - Current provision of parks and recreation grounds : 0.54 hectares per 1,000 population
 - Minimum benchmark Standard for parks and recreation grounds: 0.8 hectares per 1,000 population
 - Current allotment provision: 0.39 hectares per 1,000 population
 - Minimum benchmark Standard for allotments: 0.5 hectares per 1,000 population
- Batley West Ward
 - Current provision of parks and recreation grounds: 0.86 hectares per 1,000 population
 - Minimum benchmark Standard for parks and recreation grounds: 0.8 hectares per 1,000 population
 - Current allotment provision: 0.1 hectares per 1,000 population
 - Minimum benchmark Standard for allotments: 0.5 hectares per 1,000 population

10.33 As can be seen above the proposed development would meet deficiencies in both parks and recreation grounds and allotments for both wards. However, this needs to be weighed against the significant impacts of the loss of the natural and semi-natural greenspace brought about by the application, which

is already deficient in the wards. It is considered whilst weight can be attached to the provision of the park and allotments this needs to be carefully considered against the loss of the natural and semi-natural greenspace.

Landscape Impact and Character of the Local Area

- 10.34 The landscape impact of the development and its impact on the character of the local area needs to be considered in detail given the scale of the development. The application has submitted with a Landscape and Visual Appraisal (LVA) which has concluded that the *“long term effects to the landscape character of the site within the immediate context would be Moderate/Minor Adverse but not significant.”* The LVA has been assessed by the Councils Landscape architect, a summary of their assessment is set out below, along with an assessment of the impact of the development on local character.
- 10.35 The NPPF sets out that advice in relation to design in the core planning principle and paragraphs 56 and 58. These policies are considered appropriate when considering the impact the development would have on the character of the local area. Whilst the application seeks outline consent the applicant has put forward that the submitted indicative details represent parameters of how the site would be developed. It is therefore considered important to carry out an assessment of how the proposal would impact on the character of the local area.
- 10.36 The core planning principles in the NPPF provide guidance on design and state that new development should *“always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.”* Paragraph 56 states, *“The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.”* Paragraph 58 states that decision should aim to ensure that development, establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit. These policies are further supported by Policies BE1 and BE2 of the UDP which state that new development should create or retain a sense of local identity and is in keeping with surrounding development in respect of design and layout.
- 10.37 The urban greenspace subject to the application is considered to represent an important local landscape, and contains a remaining piece of rural landscape and character unique to this area whereby it provides wider benefits to ecosystems, green infrastructure networks and human health and well-being.
- 10.38 The applicant has put forward that the existing the application site has no public value, and the impact of the proposal on the landscape within the immediate context of the site would be moderate/minor. Officers considered that overall the urban greenspace has much value and while one public right of way is referred to in relation to the application site, overall 4 public footpaths will be affected, 2 detrimentally by the wider development proposal.

While the land around the existing paths may not be accessible this is irrelevant as currently the paths provide recreation and the wide open aspect and longer wider views can be enjoyed as part of the user's experience. This will be lost forever after development.

- 10.39 It is considered that the application site is not in a location where it would be appropriate for the existing settlement boundary to 'flex' or 'in-fill' and therefore greater weight should be attached to the protection of the intrinsic value of the open space in this location. Policy D3 states: "*one of the main functions of urban green space is to safeguard the balance within urban areas between the amount of land which is built-up and the amount of open land.*" It is therefore considered that the harm caused by virtue of the loss of this area of open land, currently natural and semi-natural urban greenspace, would be significantly detrimental to visual relief, the role as part of the urban greenspace is useful and important to maintain as a separation between the built up areas surrounding it.
- 10.40 Turning to the character of the local area, the proposal would remove the last remaining area of open space between the built up areas of Heckmondwike and Batley known as White Lee and Carlinghow to the west and north and Healey to the south. It is considered that this open land plays an important strategic role as a green wedge separating these settlements and provides valuable open land for local amenity and visual relief. The proposal would lead to the loss of a large tract of open land, and developing this area would lead to the coalescence of these urban areas, which is considered to be harmful to the character of the local area, and would in part erode the sense of place which the local communities currently benefit from.
- 10.41 The proposed development as a whole will result in the loss of a valued section of urban greenspace land and will have an adverse visual impact on the character and appearance of the locality which will be contrary to UDP Policies D3, BE1 and BE2, the core planning principle and Policies set out in Chapter 7 and 8 of the NPPF.

Kirklees Publication Draft Local Plan

- 10.42 The Publication Draft Local Plan (PDLP) was submitted to the Secretary of State on 25th April 2017 for examination in public. The site forms part of a larger urban green space allocation (UGS973) within the PDLP and is supported by the Kirklees Open Space Study (revised 2016) assessment as having high value as open space. Given that the PDLP has now been submitted consideration needs to be given to the weight afforded to the site's allocation in the PDLP.
- 10.43 The NPPF provides guidance in relation to the weight afforded to emerging local plans, paragraph 216 which states:

216. From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:

- *the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- *the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

10.44 The above is further supplemented by guidance in the Planning Practice Guidance (PPG). The PPG advises that applications need to be considered in the relation to presumption in favour of sustainable development and *“arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. Such circumstances are likely, but not exclusively, to be limited to situations where both:*

- a. *the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or neighbourhood planning; and*
- b. *the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.*

10.45 Given the above, and as the PDLP proceeds through the examination process and gains more weight in the determination of planning application, it is considered that there is a greater likelihood that planning application will not be in accordance with PDLP and the development of the site could be judged as being premature. The LPAs position on the prematurity of the proposal will have to be considered further at the Public Inquiry into the application as the PDLP has progressed.

The Planning Balance

10.46 In assessing the planning balance of the application consideration has been taken to the presumption in favour of sustainable development in relation to social, economic and environmental factors. The social and economic benefits the proposal would provide by the provision of 200 dwellings and a public park with allotments would make a contribution to the housing land supply and would make a 7.2 hectare section of the site more accessible to the public. However when weighing up the benefits of the proposal against the loss of this urban greenspace site the proposal fails to accord with Policy D3 which is considered to remain a relevant policy which can be afforded weight in the determination of the application.

- 10.47 The application site forms a valuable part of an area of natural and semi-natural greenspace which has been assessed as having high value as open space based on its level of use, structural and landscape benefits and amenity benefits and sense of place. It is key part of a visually important and extensive tract of open land which contributes to the attractiveness of the area, when viewed from different locations. It provides visual relief and an important break in an otherwise densely developed area which contributes significantly to the appearance and semi-rural character of the area and gives communities a sense of place and identity, and fulfils a strategic function in separating two distinctive areas. The loss of this function of the site is given significant weight in the overall planning balance as it is an irreversible impact, and it is considered that the development of the site would materially harm character of the local area.
- 10.48 Furthermore, within the Heckmondwike ward the provision of natural and semi-natural green space is a significant shortfall below the minimum benchmark standards set out in the Kirklees Open Space Study (2016), and also below the standards for the Batley West Ward. This is afforded significant weight as the loss of the urban greenspace would have a greater impact within an area which has a significant deficiency of natural and semi-natural green space. Whilst access to parks and recreation grounds and allotments would be increased it is not considered that this would outweigh the harm to the loss of the natural and semi natural green space.
- 10.49 In conclusion the planning judgement on the proposal is that the adverse impacts of the loss of this urban greenspace site significantly and demonstrably outweigh the benefits of developing the site, when considered as a whole along with all other relevant material considerations. The proposal would therefore fail to accord with Policies D3, BE1 and BE2 of the UDP and the Core Planning Principles, Policies in Chapter 7 Policies and paragraph 74 of the NPPF.

Highway issues

- 10.50 The impact of the development on Highway Safety is a key consideration for the development and the application has been submitted with a detailed Transport Assessment (Optima 2016) which has been assessed by the Highways Officer. The application seeks to agree the point of access which would be from White Lee Road.

Highways Site Context

- 10.51 White Lee Road in this location is subject to a 30mph speed limit, is street lit and is of some 7.5m in width. Parking restrictions are not in force and site observation suggests free flowing traffic. There is a speedvisor sign in place in the vicinity of the proposed access point and site observation suggests vehicle speeds in line with the posted speed limit.

10.52 The application site is considered to be moderately well served by existing public transport facilities in line with what would be expected for the location and nature of the area.

Baseline Traffic Data

10.53 In order to obtain baseline traffic data for the highway study area, ATC and full classified turning counts were undertaken at the following junctions:

- White Lee Road/Site Frontage – ATC (Volumetric and Speed)
- Muffit Lane/Huddersfield Road – (Turning and Queue)
- White Lee Road/Smithies Moor Lane - (Turning and Queue)
- White Lee Road/Carlinghow Lane - (Turning and Queue)
- White Lee Road/Dale Lane - (Turning and Queue)
- West Park Road/Common Road - (Turning and Queue)
- Common Road/Halifax Road - (Turning and Queue)
- B6123/A638 - (Turning and Queue)

7-day ATC speed data confirmed the 85th percentile wet weather speed on White Lee Road to be circa 35mph in both directions.

Injury Accident Assessment

10.54 A full Personal Injury Accident assessment of the highway study area for the most recent 5 year period (Jan 2011 – Jan 2016) has been undertaken and Highways Development Management is satisfied that there are no existing accident or highway safety trends that this proposal would likely exacerbate.

Access Proposals

10.55 Vehicular access to the site is proposed via a newly created ghost island right turn priority junction taken directly from White Lee Road. The survey data recorded an AADT (Annual Average Daily Traffic) flow of 11,411 (Two-way). In line with the nature of the carriageway and setting, and in line with the proposed development and the guidance prescribed with DMRB TD42/95, a ghost island priority junction is considered an appropriate junction arrangement.

10.56 The ghost island arrangement provides 3m running lanes with a 3m segregated right turn pocket. Dropped kerbs with tactile paving are provided in line with a standardised layout including informal pedestrian crossing points.

10.57 In line with the above, the submitted drawings illustrate the achievability of vehicular visibility splays of 2.4m x 50/51 metres in both directions. This is considered acceptable and in line with the requirements based upon 85th percentile wet weather speeds recorded.

Traffic Generation and Traffic Distribution

10.58 It should be noted that the submitted Transport Assessment has assessed a potential development of up to 240 residential dwellings as opposed to the 200 contained for this outline application and as such is considered to be robust and appropriate. A development of some 240 residential dwellings would see the following traffic generation at the site access:

AM Peak – 35 arrivals/94 departures (128 two-way)
PM peak – 81 arrivals/55 departures (136 two-way)

10.59 A build out rate of 50 dwellings per annum has been assumed and as such a base year of plus 5 years (2021) has been assessed. The traffic growth rates have been determined using TEMPRO for the Batley 00CZ3 area which is considered to be acceptable.

Operational Highway Assessment

10.60 All of the junctions contained within the study area have been assessed with the exception of the A638/B6123 junction on the basis that only 5 trips per peak hour will pass through the junction as a result of the proposed development. This is accepted. All junctions have been assessed for an existing count year of 2016, a base year of 2021 and an assessment design year of 2021 with the exception of the site access junction which has only been assessed as a design year of 2021.

10.61 The results of the operational assessment demonstrate that all junctions within the highway study area will operate within their theoretical capacity limits during the study period. In summary, the operational assessment confirms that the proposed development is unlikely to have a material impact upon the safety and efficiency of the local highway network and as such, the proposal is considered acceptable in that regard.

Strategic Transport Infrastructure

10.62 The application has also been assessed by the West Yorkshire Combined Authority (WYCA) in relation to the impact the development would have on the strategic transport Infrastructure. The WYCA have advised that to encourage future occupiers to use local public transport to access jobs, shops and schools that a nearby bus stop should be upgraded and future occupiers should either be offered Residential Mcard's (Metrocard's) or a Travel Plan Fund be provided. WYCA proposed that the bus stop at the junction of White Lee Road and Leaside Road would benefit from being upgraded to provide real time information at a cost of £20,000, and the cost of an Mcard scheme for 200 dwellings would be £98,230. The provision of these transport enhancements are considered necessary and relevant to the proposal and would aid in improving future occupiers access to public transport. The contributions required to secure the bus stop improvements and the Mcards can be scored by way of a section 106 agreement.

Public Rights of Way (PROW)

10.63 A number of PROWs run across the site and the application has been assessed by the PROW Officer. The indicative layout of the proposal details that one of the PROWs which links Jail Road to White Lee Road would need to be diverted to allow the indicative layout to be achieved. A suggested alternative route of the PROW has been provided which could be acceptable, but this would be subject to a separate application to the Highways Authority to divert the footpath. The PROW Officer has made suggestions regarding enhancements to the layout of the scheme to incorporate improved pedestrian and cycling connections which have been placed on the file. Given that the application seeks outline consent only, these design matters would need to be addressed in a reserved matters application. In summary the development of the site is considered to have an acceptable impact on the local PROWs in terms of the operation and function.

Drainage issues

10.64 Due to the size of the site a Flood Risk Assessment (FRA) has been submitted with the application and additional drainage information has been submitted through the course of the application at the request of the Lead Local Flood Authority (LLFA) Officer. The Environment Agency (EA) have assessed the application but raise no objection to the proposal, and Yorkshire Water have also assessed the application. Yorkshire Water raise no objection subject to conditions which include ensuring that nothing is constructed either side of a water main which runs across the site.

10.65 The LLFA has stated that there is a surface water flooding risk to the proposed properties adjacent to White Lee Road and that the submitted FRA proposes a pumped solution for surface water. The LLFA Officer strongly objects to the use of a pumped solution and had made a number of suggestions which would allow a gravity fed connection. They have also questioned the use of soakways for the whole site, and further more detailed assessments of the site would be required before a final drainage solution can be agreed.

10.66 However given that the application seeks outline consent with only the point of access to be agreed, it is considered that sufficient drainage information has been provided at this stage to allow the determination of the application. The LLFA has advised that further consultation would be required at reserved matters stage and this could be achieved by re-consulting the LLFA at that point.

Ecology

10.67 The application has been submitted with an ecological assessment, and bat survey which has been assessed by the Council's Ecologist and Natural England. The Ecologist has stated that the submitted survey is sufficient and is appropriate to the scale of the development proposed and the potential ecological impacts. The ecological assessment report demonstrates that

significant ecological impacts can be fully mitigated by the development of the site and that ecological enhancement can be provided.

- 10.68 The Ecologist therefore raises no objection to the proposal subject to conditions regarding the submission of a construction environmental management plan, a landscape and ecological management plan, and a lighting strategy for biodiversity. Natural England raise no objection to the proposal but advise that biodiversity and landscape enhancements are provided by the development as suggested by the Council's Ecologist.

Environmental Issues (Noise, Air Quality, Contamination)

- 10.69 Environmental issues for the application have been assessed by the Environmental Services (ES) Officer, and the Coal Authority. The application has been submitted with a Phase 1 desk top contamination report and a Coal Mining Risk Assessment (CMRA).
- 10.70 The ES Officer has assessed the submitted details and considers that the information provided is sufficient to be able to determine the application. The submitted Phase 1 report is however not considered to be of a sufficient standard and an updated phase 1 would have to be secured by condition along with other contaminated land conditions. The ES Officer has also highlighted that radon maps suggest that the whole of the site is likely to need basic radon protection measures which can be secured through the building regulations process.
- 10.71 The ES officer has considered the development in respect to air quality and with reference to Paragraph 35 of the NPPF and guidance set out in the West Yorkshire Low Emissions Strategy (WYLES). These documents seek to encourage the use of sustainable forms of transport including ultra-low emission vehicles, the use of such vehicles in turn help to improve air quality. The application would lead to the formation of 200 dwellings with associated additional vehicles in the area. In accordance with guidance set out in the WYLES it is considered appropriate and necessary to require that details of electric charging points are submitted prior to the occupation of the development.
- 10.72 The site is located within the Coal Mining referral area and a number of objectors have highlighted that the site may be subject to old mining workings and subsidence can occur locally. The application has been submitted with a Coal Mining Risk Assessment (CMRA) which has been assessed by the Coal Authority who raise no objection to the proposal subject to conditions requiring further intrusive site investigations.
- 10.73 Subject to the conditions outlined above the proposal is considered to be able to have an acceptable impact on local environmental issues.

Design and Heritage

- 10.75 The application site seeks outline consent with all matters other than the point of access reserved from consideration. An assessment of the impact of the development on the character of the local area has been set out previously in the principle section of this report. However an assessment of the specific design of the proposal and its impact on the Cross Bank Batley Conservation Area, local heritage assets and local archaeological needs to be carried out.
- 10.76 The design details provided in the application are indicative, however they are considered to represent a potential layout which could be achieved for the site, and one which the applicant considers to set out the parameters of how the site would be developed. The housing portion of the site would be 6.8 hectares in size and for 200 dwellings this equates to a density of 29 dwellings per hectare with the majority of the dwellings accessed of a single point of access directly from White Lee Road. The submitted design and access statement details a mix of units 2, 3, 4 and 5 bedroom dwellings located across the site which would be between 2 and 2.5 storeys in height.
- 10.77 As set out previously the indicative layout for the site is considered to highlight the detrimental landscape harm the proposal would have on the local area, and aid in removing open views across the site, and is considered to be detrimental to the character of the local area. The park location to the east would relate to the existing playing fields located off Coal Pit Lane and North Bank Road
- 10.78 The provision of a mix of dwellings is considered to be acceptable and subject to a detailed design assessment at reserved matters stage, 2 to 2.5 storey dwellings could be acceptable subject to a detailed assessment at reserved matters stage.
- 10.79 The Kirklees District Police Architectural Liaison Officer (PALO) has assessed the application and does not raise any objections to the proposal, but has provided detailed design comments for consideration by the applicant in any detailed layout for the site.
- 10.80 Turning to the heritage impact of the development which has been raised as a concern by some local residents, the applicant has submitted a heritage assessment which has been considered by the LPAs Conservation and Design Officer. There are no listed buildings which directly border the site, however a small section of the most eastern portion of the site which would form the public park is located within the Cross Bank Batley Conservation Area.
- 10.81 The development would be seen from within the Conservation Area and consideration needs to be given to the impact of the development on the Conservation Area and its setting. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 highlights the importance of considering the impact of the development on Conservation Areas.

- 10.82 The Conservation and Design Officer raises no objection to the proposal and does not consider that the development would be harmful to local heritage assets, however a detailed assessment of the design would need to take place at reserved matters stage. Objectors have put forward a number of non-designated heritage assets which they consider the development would adversely impact on, however it is not considered that the sites put forward are of such strong heritage value that they would be adversely impacted on by the development. It is therefore concluded that the proposal would have an acceptable impact on local heritage assets and would accord with the requirements of Chapter 12 of the NPPF.
- 10.83 With respect to local archaeology at the site the application has been assessed by the West Yorkshire Archaeology Advisory Service (WYAAS). They have advised that the site may have archaeological importance and that a survey of the site should be undertaken pre determination. As the application has gone to appeal against non-determination this request for a survey cannot be sought. However WYAAS have advised that the survey could be conditioned to be a pre commencement condition, and it is considered that such a condition would be appropriate given the circumstances.

Residential Amenity

- 10.84 The residential amenity impact of the development needs to be considered against how the proposed dwellings would relate to adjacent properties. Given that the application seeks outline consent with layout, appearance and scale reserved, there are no specific details where the dwellings would be positioned in relation to adjacent properties. However the indicative layout details parameters in which the dwellings would be positioned, with the dwellings to the west of the site.
- 10.85 The most closely affected existing dwellings to the proposed dwellings would be those along Jail Road and Mortimer Terrace to the south, White Lee Croft to the north, and White Lee Road opposite to the west. It is considered that sufficient space about dwelling distances could be achieved to these adjacent dwellings to meet distances set out in Policy BE12, and to protect local residential amenity. A detailed assessment would need to be undertaken at reserved matters stage when a layout of the site is available.

Planning obligations

- 10.86 Due to the scale of the proposed development for 200 dwellings, planning obligations would be required in respect of affordable housing, education and sustainable transport. The applicant has set out that the development would be fully compliant with planning obligations for the above matters and the following would be delivered by the development:
- 10.87 Affordable Housing: 40 affordable units to be provided in accordance with the 20% rate required in the Interim Affordable Housing Policy, with the type and tenure to be agreed through discussions with the applicant.

- 10.88 Education: Education Services have indicated that a contribution of £494,214 would be required for the development which would be used on local education facilities.
- 10.89 Sustainable Transport: As set out above the West Yorkshire Combined Authority (WYCA) have advised that the bus stop at the junction of White Lee Road and Leaside Road would benefit from being upgraded to provide real time information at a cost of £20,000, and the cost of an METRO card scheme would be £98,230.

Other Matters

- 10.90 *Power Cables/Electrical Substation* – a section of power cables cross the site with an electrical substation located adjacent White Lee Road. Northern Powergrid have been consulted on the application and have raised concerns regarding some of the indicative design details proposed. They have advised that there would be objections to tree planting adjacent to the sub-station, and that no contact has been made regarding the rerouting of the existing power cables. The applicant has however detailed in submissions that the cables would be routed underground as part of the development, and this solution is considered to be acceptable to deal with this matter. An acceptable landscaping scheme could ensure that operation of the sub-station is sufficiently protected.

Representations

- 10.91 In total 85 representations have been received against the proposal along with a petition of 3053 signatures , a summary of the points raised with a response to the points raised is set out below.

10.92 Principle Matters

- The site is designated as Urban Green Space and covered by Policy D3 of the UDP, the land is protected from development, and no exceptions set out in Policy D3 apply for the proposal. The UDP is the lawful development plan for the district and the application should therefore be refused.
- The application site is to be designated as Urban Green Space (site ref UGS973) under the new Local Plan which is to be examined in public shortly and this designation should be retained. The site was subject to 7 housing options in the Local Plan H354; H523; H524; H525; H534; H613, and H674, all were rejected, and the proposal should therefore be rejected too.
- The Local Plan allocates land for over 31,000 homes over a 15 year period and the housing need for the district will therefore be met by this plan. The Local Plan sets out other more appropriate sites for development than the application site.
- The new Local Plan Policy on urban greenspace which will supersede Policy D3 re-affirms the priority given to Urban Green Space and states that:

“development proposals that would result in the loss of valuable open space in Kirklees will not be permitted unless an assessment shows the green space to be clearly surplus to requirement”.

- There is no evidence to suggest that this greenspace is surplus to requirements. It acts as a vital green lung along White Lee Road in the middle of a densely built-up area, which is criss-crossed by a network of public footpaths, providing exercise and recreation for surrounding residents. Its loss would be to the detriment of the character of the local area.

Response: All of the above comments are noted, and a detailed assessment of the matters raised has been carried out in the above assessment.

- The site functions in the same way as Green Belt, i.e. to prevent the merger of Heckmondwike and Carlinghow settlements. Due to the topography of this site at the crest of the ridge, its greenspace appearance is visually prominent. The whole of North Kirklees is very built-up and densely-populated with few open greenspaces and it is considered that the site has extremely high value as urban greenspace.
- The site forms Green Belt land that state should be protected and retained.
- The site has always formed protected land between housing developments as set out on previous planning documents and this should be retained.

Response: The site does not form Green Belt land and represents an area of urban greenspace as set out in the UDP. An assessment of the urban greenspace has been set out above.

- The submitted layout plans are misleading as they do not show the location of surrounding developments which have been recently constructed.

Response: The position of adjacent recently approved development has been noted and considered by Officers as set out in section 4 of this report.

- The proposal would not meet the definition of sustainable development and would have a negative impact on the local community. The site is considered to have a recreational and amenity purpose contrary to the statements of the applicant.
- More suitable brownfield sites should be used first before using greenfield sites.

Response: All of the above comments are noted, and a detailed assessment of the matters raised has been carried out in the above assessment.

10.93 Highways

- The local area has been subject to a significant number of permissions for new houses with up to 600 granted within the wider area over recent years. The local infrastructure and facilities such as sewers, medical facilities, local schools are not capable of accommodating a further 200 dwellings within the local area.
- White Lee Road is already a very busy road which connects the area to the motorway network, and the proposal will make this situation worse with

at least 400 more vehicles using the roads at least twice a day. It will also make it even more difficult to cross the road or turn on to the road. The proposed single point of access will make entering and leaving on to White Lee Road extremely difficult. The proposal would therefore be detrimental to highway and pedestrian safety.

- The submitted transport assessment details that the White Lee/Carlinghow Lane junction will only lead to a queue increase of 2 vehicles which is not considered to be representative of what will happen given that possibly 400 additional cars will be using the roads.

Response: The above comments are noted, however the application has been submitted with a transport assessment which has been assessed by the Highways Officer. It is considered that that the local highway network is capable of accommodating the additional vehicular movements generated by the development as set out in the highway section of this report. The proposal is therefore considered to have an acceptable impact on highway safety.

- The proposal would lead to the diversion of a public right of way (PROW) which crosses the site. However there are no specific details of the diversion in the application and it could mean that adjacent properties are more vulnerable to due to a repositioned PROW.

Response: The application has provided details of a potential alternative route for the PROW which will have to be diverted via a separate application to PROW.

10.94 Amenity

- The proposal will lead to years of noise and disturbance to local residents caused by construction work which will have a further adverse impact on the local highway network.
- The proposal will reduce the amount of farming land available within the district.
- Part of the site is within and would impact on the setting of the Batley Cross Bank Conservation Area, and the development would be seen from the Conservation Area. It is considered the proposal due to its scale and position will be detrimental to the Conservation Area.
- There are a number of non-designated heritage assets such as Fieldhead Farm and Healey Village. It is considered that Field Head Farm dates from at least the early 19th Century if not late 18th Century, and the proposal would lead to the loss of this building which is considered to be locally significant. Healey Village is adjacent the site and has a number elements of historic significance in its layout such as Dryfield House, the Debtors Jail, previous mine workings across the site and the settlement boundary layout. The application site remains the last physical distinction between Healey and other settlements. The erosion of application site would detrimentally affect the setting of this historic settlement.

Response: As set out above the proposal is not considered to have a detrimental impact on local heritage assets.

- The local area has a natural beauty that forms a quiet piece of land surrounded by development where the local footpaths and adjacent fields

are used by the public for exercise and walking dogs. The proposal would lead to the loss of this area to its detriment.

- An independent landscape character assessment of the area should be carried out for the application site to assess the impact of the development.
- It is considered that the loss of this last key piece of open space between settlements along White Lee Road would be detrimental to the character and appearance of the local landscape and the local sense of place. The proposed park would not allow for the retention of this open space and it is considered that the design and layout of the scheme is poor in design terms.

Response: The above comments are noted, a detailed assessment of the landscape impact of the proposal has been carried out and has been assessed by the LPA as set out above.

- The provision of tree planting is not considered to mitigate the harm caused by development and it is considered that the proposal will have an adverse impact to the local area over the long term.
- The tree planting suggested in the submitted plans is considered to be unrealistic given the limited size of the gardens for the properties and no account has been made to the extensive parking of vehicles across the whole site.

Response: The above comments are noted.

- The dwellings shown on the plan would be directly to the rear of existing properties along Mortimer Terrace and there is concern that the proposal would have a detrimental impact to these dwellings.
- Any dwellings on the site which are 3 storey in height would be out of keeping with the local character.

Response: Given that the application seeks outline consent, specific design details of the dwellings have not been provided. Indicative details suggest 2 and 2.5 storey dwellings would be erected on the site which may be acceptable subject to a detailed assessment at reserved matters stage. Specific relationships to adjacent properties would also be carried out at reserved matters stage.

10.95 Other Matters

- There are old mining workings underneath the field that would be subject of the application and local properties have been prone to subsidence, the application site would be subject to these same issues.

Response: The coal mining legacy of the site has been considered by the Coal Authority who do not raise any objection to the proposal subject to conditions.

- The application site contains much wildlife including birds, bats, foxes and many more, which has increased over recent years and the proposal would lead to the loss of this wildlife to the detriment of the local area.

Response: The ecological impact of the proposal has been considered by the LPAs Ecologist and by Natural England and an ecological impact assessment

has been provided. It is considered that the proposal would not have a detrimental impact to local ecology subject to ecology conditions.

- The proposal would increase the potential for flooding in the local area and further down the valley as the fields act as a sponge soaking up water. The development of the site for housing would remove this ability to retain water.

Response: The site is located within Flood Zone 1 the lowest flood risk and there are no objections to the proposal from the Environment Agency. The risk of surface water flooding has been considered in detail by the Lead Local Flood Authority (LLFA) who has highlighted a concern adjacent to White Lee Road, but raises no objection to the proposal overall subject to conditions regarding specific design details for drainage. Yorkshire Water also raise no objection to the proposal.

- The area is at risk from radon gas.

Response: The potential presence of radon gas has been identified by Environmental Services, and protection measures would be included as part of any necessary land remediation works at the site, and by building regulations.

- The site was previously widely accessible beyond the extents of the footpath and members of the public could walk across parts of the fields. The footpaths were only enclosed 2 years ago when the application was first put forward.

Response: These comments are noted however access to the land is at the discretion of the land owner.

- Healey was subject to bombing in World War 2 and there may be unexploded bombs across the application site.

Response: Comments noted, such issues would be addressed through remediation of the site or via the construction process.

- The proposal would increase traffic pollution in the local area to the detriment of residents health.

Response: Air quality has been considered by Environmental Services who considered that the provision of electric charging points for the properties would provide sufficient mitigation.

- There are no details to the level of affordable housing provided by the development or where these are.

Response: Affordable housing would be provided at the policy compliant rate of 20% of units, therefore 40 units.

11.0 CONCLUSION

- 11.1 In conclusion the proposal would provide up to 200 dwellings at a time of general housing need when the Council cannot demonstrate a 5 year land supply of housing. The proposal would provide a 7.2 hectare public park which would meet local deficiencies in terms of parks and recreation grounds

and allotments. The proposal would be policy compliant in terms of providing 20% of affordable housing units, education contributions and transport enhancements. There would also be economic benefits arising from the development including potential new homes bonus, benefits for local businesses and employment opportunities during construction. The applicant also considers that the site is within a sustainable location, the harm to the local landscape would be moderate or minor in the long term, and that the development would not be premature when considering the position of the Publication Draft Local Plan.

- 11.2 Whilst the above have been considered these benefits need to be balanced against the irreversible long term harm which would be caused by the loss of such a large section of urban greenspace which is in short supply locally, and the impact this would have on the local landscape and the character of the local area, including eroding a physical separation between two distinctive areas.
- 11.3 It is considered that the benefits of the development are not outweighed by the harm resulting from the loss of the urban greenspace and the proposal would fail to accord with the requirements of Policies D3, BE1 and BE2 of the UDP, paragraph 74 of the NPPF, and policies in Chapter 7 of the NPPF.

12.0 REASON FOR REFUSAL

1. The application site is allocated as urban greenspace on the Kirklees Unitary Development Plan (UDP) proposals map. The proposed development is contrary to Policy D3 of the UDP which relates to development on such sites. The site forms part of a larger area of urban greenspace which has been assessed as having high value as open space and as such is not deemed surplus to requirements. The development is therefore contrary to Policy D3 of the UDP and paragraph 74 of the National Planning Policy Framework. The loss of the value of the urban greenspace is considered to outweigh all other material considerations, including the delivery of new housing.
2. The proposed development would lead to the loss of a large tract of open land within an otherwise built up area which plays an important strategic role as a green wedge separating the distinctive communities and settlements of Heckmondwike and Healey and provides valuable open land for local amenity and visual relief to the built up area. To develop this area for up to 200 dwellings would be harmful to the character and appearance of the local area, the wider local landscape and would erode the local sense of place by the coalescence of settlements. To permit such a development would be contrary to Policies BE1 and BE2 of the Kirklees Unitary Development Plan, the Core Planning Principles and Policies in Chapter 7 of the National Planning Policy Framework.

Background Papers:

Application and history files.

Website link <http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f93746>

Certificate of Ownership – Notice served on:
Patricia Garrod, Woodview, Leeds Road, Batley