
Report of the Head of Strategic Investment**HUDDERSFIELD PLANNING SUB-COMMITTEE****Date: 31-Aug-2017****Subject: Planning Application 2017/91361 Erection of 39 dwellings and associated landscaping Land at, Cross Lane, Scholes, Holmfirth****APPLICANT**

Mark Bray

DATE VALID

19-Apr-2017

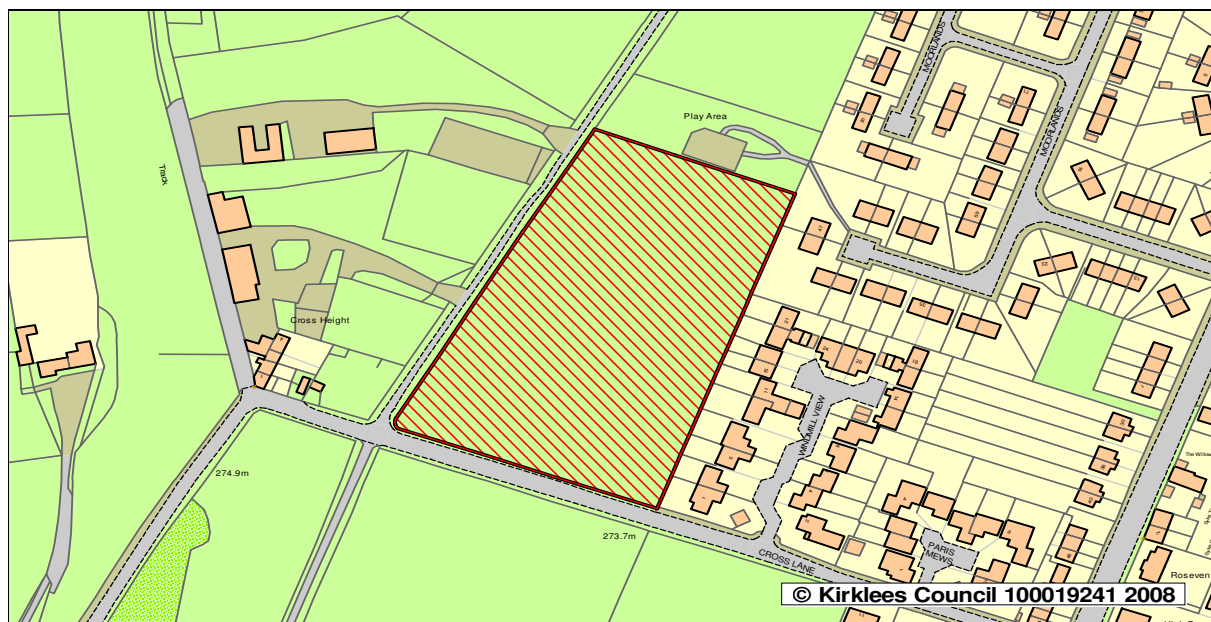
TARGET DATE

19-Jul-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: Holme Valley South

Yes

Ward Members consulted

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Strategic Investment 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:

The provision of affordable housing on-site comprising 4no one bedroom apartments and 4no two bedroom properties (20% of total dwellings), tenure split to be agreed.

A financial contribution towards the provision of primary school places of £51,186 which would be specifically intended for Scholes Junior and Infant School.

A financial contribution towards the provision of secondary school places of £62,055 intended for Holmfirth High School.

An off-site public open space contribution (£141,966 to be confirmed in Update Report)

Maintenance for soakaways and wildflower area.

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

1.0 INTRODUCTION:

- 1.1 The application is presented to Huddersfield Sub-Committee as it involves a departure from the Kirklees Unitary Development Plan (Policy D5), the development on Provisional Open Land for a scheme of less than 61 residential units.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application relates to a *circa* 1.36ha parcel of agricultural land left over to pasture located to the south west of Scholes village and beyond the edge of the existing settlement. The proposal is located on a site allocated as Provisional Open Land in the Kirklees Unitary Development Plan.

- 2.2 The site is located approximately 1km to the south of the main services and facilities located within the village of Scholes. Holmfirth lies at a distance of approximately 1.5km, New Mill 2.1km and Huddersfield Town Centre 9km.
- 2.3 The land falls from Cross Lane in a northerly direction away from the road. There is an informal footpath just beyond the northern boundary, beyond this lies a play area. Ryecroft Lane which lies to the west comprises a byway.
- 2.4 Beyond the roads to the west and south the land comprises Green Belt and open upland countryside. To the east the site adjoins housing estates which are accessed off Cross Lane and Scholes Moor Road. This housing is a mix of post-war and more modern stone units. A number of dwellings located along Moorlands and Windmill View face the application site.
- 2.5 The site generally replicates the character of the surrounding countryside. Fields are divided by dry stone walling and there are open, extensive views across undulating countryside, with limited tree cover.

3.0 PROPOSAL:

- 3.1 The application is submitted in full and proposes the erection of 39 dwellings and associated landscaping. Two points of access are proposed off Cross Lane. The main access is proposed approximately 67m to the west of the access to Windmill view. It would comprise a simple T-junction access and serve 36 dwellings. Further along Cross Lane, approximately 32m from Ryecroft Lane, it is proposed to create a shared surface access off Windmill Lane which would serve 3 dwellings. No access to housing is proposed off Ryecroft Lane.
- 3.2 The proposed development involves 39 dwellings comprising 1 – 5 bedrooms. These are split as follows:
- 10% one bed homes
 - 10% two bed homes
 - 21% three bedroom homes
 - 31% four bedroom homes
 - 28% five bedroom homes

It is proposed that 8 of the units would be affordable

- 3.3 Dwellings proposed range between 2 and 2.5 storeys in height.
- 3.4 The developable area of the site would result in a density of 28 dwellings per hectare.
- 3.5 The existing dry stone wall fronting Cross Lane and Ryecroft Lane would be reinstated where it fronts the application site. Landscaping is included in the proposal and generally comprises a native mix, especially along the site boundaries.
- 3.6 Car parking would be provided within the application site for each proposed property in the form of garages, parking spaces and/or private driveways. The scheme provides 95 car parking spaces. A number of formal and

informal visitor car parking spaces are incorporated into the layout and the scheme includes one cycling parking space per property.

3.7 The application is accompanied by a scheme of off-site highway works comprising a new pedestrian footway from the site access along Cross Lane adjacent to the site. This would tie in with the existing footway on Cross Lane and Ryecroft Lane providing a footway along the whole site frontage.

3.8 In addition, the proposed development includes the following to be secured through the planning application and associated legal agreements:

- The provision of affordable housing on-site comprising 4no one bedroom apartments and 4no two bedroom properties (20% of total dwellings), tenure split to be agreed.
- A financial contribution towards the provision of primary school places of £51,186 which would be specifically intended for Scholes Junior and Infant School.
- A financial contribution towards the provision of secondary school places of £62,055 intended for Holmfirth High School.
- An off-site public open space contribution (to be confirmed in the updated Report)

4.0 RELEVANT PLANNING HISTORY:

4.1 90/03819 – Outline application for residential development – Refused. Subsequent appeal dismissed.

94/91432 – Residential development of 91 dwellings – Refused. – *this planning application was not on the application site but, rather on land further to the north off Ryecroft Lane and Sandycroft Lane.*

2016/90864 – Erection of 4no dwellings – Withdrawn.

5.0 HISTORY OF NEGOTIATIONS

5.1 The application has undergone extensive pre-application and amendments have also been sought during the course of the planning application. The scheme has been amended as follows:

- Minor changes to the layout, house types and elevations for a small number of the properties facing Ryecroft Lane in order to ensure an improved relationship with the street.
- Alterations to the rear elevation of the proposed apartment block unit.
- Additional information concerning SuDS and flood routing.
- Alterations to the landscaping in order to incorporate more native species.
- Proposed materials now comprise stone throughout the development.

6.0 PLANNING POLICY:

6.1 The statutory development plan comprises the Kirklees Unitary Development Plan (saved Policies 2007). The statutory development plan is the starting point in the consideration of planning applications for the development or use of land unless material considerations indicate otherwise (Section 38(6) Planning and Compulsory Purchase Act 2004).

The 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:

D5 - Provisional Open Land
H1 - Housing Need
H10/12 - Affordable Housing
H18 - Provision of Open Space
BE1/2 - Design and the Built Environment
BE11 - Building Materials – Natural Stone in Rural Area
BE12 - New dwellings providing privacy and open space
BE23 - Crime Prevention Measures
EP10 - Energy Efficiency
EP11 - Landscaping
T1 - Sustainable Transport Strategy
T10 - Highways Safety / Environmental Problems
T16 - Pedestrian Routes
T19 - Off Street Parking
G6 - Contaminated Land

Kirklees Draft Local Plan Strategies and Policies (2017):

PLP3 – Location of New Development
PLP7 – Efficient and effective use of land and buildings
PLP11 – Housing Mix and Affordable Housing
PLP20 – Sustainable Travel
PLP21 – Highway safety and access
PLP22 – Parking
PLP24 – Design
PLP27 – Flood Risk
PLP28 – Drainage
PLP30 – Biodiversity and Geodiversity
PLP32 – Landscape
PLP35 – Historic Environment
PLP48 – Community facilities and services
PLP51 – Protection and improvement of local air quality
PLP52 – Protection and improvement of environmental quality
PLP61 – Urban Green Space
PLP62 – Local Green Space
PLP63 – New Open Space

6.2 Supplementary Planning Guidance:

- Providing for Educational needs generated by new housing
- Interim Affordable Housing Policy
- West Yorkshire Air Quality and Emissions Technical Planning Guidance
- Kirklees Landscape Character Assessment (2015)
- Kirklees Housing Topics Paper (2017)
- Kirklees Council Housing Allocations – Accessibility Assessment (March 2015)
- Planning Practice Guidance

Many policies within the National Planning Policy Framework are relevant to this proposal and, where relevant, are referred to in the main report text.

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been advertised in the press, by site notice and by neighbour letter as a Major Development and a Departure from the Development Plan. Amended plans have also been re-advertised. A total of 295 representations have been received which are summarised below. A response to these points is provided in the main body of this report unless otherwise stated:

- Provisional open land should not be built on until the forthcoming local plan has been adopted.
- Loss of grazing land.
- Would detract from the local landscape which attracts tourism and is a vital part of the local economy.
- The proposal adds nothing to the local amenities in circumstances where the village has recently lost the working men's club and parking area.
- It will increase commuting by private car. There are few businesses in Scholes and residents have to travel outside the district to seek employment.
- Dunford Road is single car width in some places. St Georges Road towards Totties is a major bottle neck, which only allows one car to pass at any one time and in most parts doesn't have a pavement and has a blind corner. Paris Road, Sandy Gate, Stake Lane Bank is no different. Scholes Road, towards Jackson Bridge, is another bottle neck, which only allows one car to pass at any one time and has a blind corner.
- Rycroft Lane, which runs along the side of the proposed development, is also a one car track with no pavements.
- The scale of the development has no regard to size, character and setting of the village. 20 years ago the planning inspector concluded that a development on this site would be incompatible with the size, character and setting of Scholes.

Officer response – the application has been considered against current planning policies and the loss of this POL site has to be weighed against other factors, including the lack of 5 year housing land supply.

- Impact on air quality for local residents.
- No plans to increase doctor's surgery and dentist capacity.

Officer response – the UDP and emerging Local Plan sets out the type of infrastructure which development in Kirklees should consider. There is no requirement to make a contribution to GP's or dentists.

- Plans appear to remove the only children's playground in the village.

Officer response – the proposal does not involve the removal of the park adjacent to the site and there is a financial contribution proposed to upgrade it.

- The village school is already full and over-subscribed.

Officer response – the applicant proposes a financial contribution to deal with the impact on local schools in order to fund additional capacity.

- The site is close to Morton Wood Local Wildlife Site.

Officer response – the application has been accompanied by a habitat/ecological survey which have been assessed by the Council's biodiversity officer. No objections are raised.

- Flood risk as the site is a flood plain.
- Prior allocation of this land for development would deny villagers their democratic right to comment on development of the site as part of the public inspection of the new Local Plan.
- Site access is in two places after a difficult bend in the road. There are often cars parked along Cross Lane which blocks pedestrian access. Turning right out of Cross Lane to Hade Edge is often difficult due to blocking views of a safe exit from the junction.
- The site should be allocated as greenspace and these representations have been made as part of the Local Plan process.
- The site absorbs an enormous amount of rain water but if the land was to be built on the water would not be able to soak into the earth and would obviously run off somewhere else. Living on Scholes Moor Road I have seen at first hand how the increasingly frequent bouts of heavy, sustained rain creates a fast flowing stream that runs down the road outside my house, the drains being unable to cope with it. The proposed development would increase the flood risk to some homes in this area and insufficient regard has been paid to this aspect, despite that fact that we have had all too many examples nationally of the effects of flooding and its impact on communities.
- Part of wider proposals to develop the surrounding land.
- The 39 houses proposed, of which only 8 are designated as affordable, have 95 allocated parking spaces, (including garages I think though this is not clear). Most households do not park in their garages, so either way 95 more vehicles every day on inadequate narrow roads, plus all the extra delivery vehicles etc.

- To approve an application on this site would disenfranchise the public who have been given a legitimate expectation that the Local Plan process would be carried through. The legal doctrine of 'legitimate expectation' protects the rights of the public in cases such as this where they have been invited into a consultation process by a public body.
- The proposed development conflicts with policy D5 of the Unitary Development Plan.
- Plans show materials stone and reconstituted stone. It is not clear. Reconstituted stone would not be appropriate in this location.

Officer response – the scheme has been amended and now includes natural stone throughout.

- Foul water – the application states that foul water and sewage will be connected to the main sewer at the lower end of Ryecroft Lane but this is 150mm diameter unlike the more common 230mm diameter. Have Yorkshire Water approved this plan? What if it is not approved by Yorkshire Water?
- The design does not fit in with the existing character of the village such as the stone cottages along Cross Lane. It does not harmonise with Windmill View and Paris Mews. They are not suitable for a rural village.
- Local roads are inadequate.
- Adding traffic to Holmfirth when it is already gridlocked.
- It will take away one of the few green spaces in Scholes.
- Four apartments are inappropriate. The site should include two bedroom homes available on a shared ownership basis.
- The five bedroomed homes will have two parking spaces in front of the garage and the four bedroomed houses will have one parking space in front of the garage. This means that Cross Lane will become a car park. Five bedroomed houses should have three car parking spaces.
- The developer only proposes three soakaways within the development and this is unsuitable.
- There are numerous 4 and 5 bedroom properties in the village so these properties are not needed.

Officer response – there is no requirement for the applicant to demonstrate a 'need' for the development.

- The development is not sustainable as it is reliant on the car.
- There are other brownfield sites available.

- There are so few amenities for children that this addition would put further strain on existing ones, not to mention altering the character of this small village to become something much larger and more bland and generic.
- Several places in the village where there are no footways and this development would add to unacceptable pedestrian safety.
- Application is in the Green Belt and is unacceptable.

Officer response – the site does not lie in the Green Belt.

- On the basis of the number of objections the application should be rejected.

Officer response – the number of representations received to an application is not a reason in itself to refuse planning permission.

- Boundary treatments plan shows a 1.8m high brick wall. This should be replaced with stone wall or existing stone wall should be reinstated. Box hedging on the site is to be allowed to grow up to 5m high, how will it be retained at 0.6m?

Officer response – a planning condition is proposed relating to boundary treatments as no details in terms of wall materials have been provided. Officers would expect walls to be similar materials to dwellings (stone).

- The development is out of scale with existing properties in the area.
- Street scene drawings show the site as if it was flat. Will levels on site be retained or will the land be built up?
- Trees proposed along boundary with Moorlands and Windmill Close. Block light and leaves may block drains.

Officer response – A planning condition is proposed relating to boundary treatments.

- Proposal should provide 1110m² of open space and this could be a strip of land adjacent to the existing park.

Officer response – an off-site contribution is sought in this case to be secured by S106 agreement.

- How can 200 – 300 cars be accommodated on local roads? Roads already at capacity.
- The submitted highways report suggests 30 two way car trips at peak times but this does not address the issue that roads are over capacity.
- Local area is too hilly to allow walking to services in Holmfirth.
- Supreme Court Judgment should mean that application is refused.

Officer response – the Judgment has been considered by officers and the weight afforded to relevant policies in the Development Plan and the advice contained in the NPPF has been considered in this report.

- There are no dormers in the vicinity of the locality.

Officer response – there are a variety of house types on Cross Lane. The property on the corner of Cross Lane and Scholes Moor Road includes dormers to the front and rear.

- There should be a bus stop on Cross Lane.

Officer response – the provision of bus stops has been considered. The site is considered to lie within an acceptable walking distance of bus stops.

- Should be a paved, possibly fenced and lit pathway across the front of plots 27-31 past plot 35 to join road in front of plot 36.

Officer response – such a pedestrian link is not considered necessary to make the scheme acceptable in this case.

- The proposals are claustrophobic and will damage views and the local character.
- Close to Morton Wood SSI and will cause pollution.
- Would negatively impact on quality of life of local residents.
- Construction traffic will cause damage to roads and where will vehicles park?

Officer response – a planning condition is proposed requiring a Construction Management Plan to be submitted.

- Inadequate lighting on supporting roads making them even more dangerous.
- Development would employ national housebuilders and would not be a local firm.
- The local school built has no spare land on which to expand.
- Poor design does not make any contribution to the area.
- The public right of way leading to the Longley Farm windmill is used heavily by dog walkers, cyclists and trekkers, all of which are at danger from extra traffic entering your proposed planning site.
- Would spoil views across the countryside and of Castle Hill.
- Urban sprawl

7.2 In addition, detailed representations have been received from Scholes Future Group who are a group representing some residents in Scholes who oppose the proposed development. They have submitted detailed representations in response to the application which can be summarised as follows:

- Decisions regarding the application now stand to be taken in light of the judgment handed down by the Supreme Court in May this year ([2017] UKSC 37) which considers the legal status of NPPF. The judgment reasserts the primacy of the statute, and indicates that NPPF is but one material consideration for purposes of decision making relating to planning applications, and is not determinative. In our view there are a good many other material considerations to be weighed in the balance. It is notable that footnote 10 to NPPF 14 itself requires such material considerations to be taken into account by those taking decisions on development proposals.
- Approval would be at odds with the current Local Plan. The application is premature, and disregards the fact that the draft Local Plan now with the Planning Inspectorate demonstrates the availability of a five-year supply of deliverable housing sites – such considerations being permitted by NPPF 216 and PPG para 14.
- Approval of the application would defeat the legitimate expectation created by KMC of community involvement in the whole process of developing the new Local Plan. It would disenfranchise the residents of Scholes as regards their continuing involvement in deciding what is to happen to the site presently included in the draft Local Plan as H297.
- Community involvement in Scholes as regards the development of the new Local Plan has been substantial, with the hundreds residents who have attended meetings and/or made comments to KMC during the development of the new Local Plan being completely opposed to what is seen as excessive and unsustainable development in the village. Scholes Future Group and many residents individually, have proposed that changes should be made to the new Local Plan such that H297, H597, and SL3359 be designated as Local Green Space.
- Approval of the application would prevent further representations as regards H297 being made during the public examination of the new Local Plan, which will take place in the near future.
- Development as proposed of H297 and the other sites in Scholes fail to satisfy many of the policy requirements within NPPF.
- As we understand matters we would have no right of appeal against approval by KMC of the application. In our view, in light of the detailed representations below, approval of the application would be sufficiently perverse at this time as to warrant an immediate request to the Local Government Ombudsman to review the matter, and for us to consider judicial review.
- In the Courts addressing the question of the scope of the ‘presumption in favour of sustainable development’ at the very outset the Court states (para 1) :

“We have the advantage of being able to approach it in the light of the recent decision of the Supreme Court, upholding the decision of this court, in *Suffolk Coastal District Council v Hopkins Homes Ltd. and Richborough Estates Partnership LLP v Cheshire East Borough Council* [2017] UKSC 37. “

Important comments are made in the course of the judgment regarding the significance of NPPF 49 & 14.

“34. Three salient passages in Holgate J.’s judgment (in paragraphs 126, 131 and 136) are these:

... [Even] if the presumption in paragraph 14 of the NPPF applies, it is nonetheless necessary to apply section 38(6) and evaluate the weight to be given to policies in the development plan (including policies for the supply of housing land which may have been deemed to be “out of date”), and this may result in a refusal of planning permission (as in [*Crane*]). ...”

On behalf of the Secretary of State in this appeal, Mr Gwion Lewis has commended that analysis to us as correct, and a true reflection of the Government’s intention in the NPPF. And in my view it is right. Three simple points can be taken from it, which I would add to those I have mentioned in paragraphs 8, 9, 13 and 22 above:

“(3)...The “presumption in favour of sustainable development” is not irrebuttable. Thus, in a case where a proposal for the development of housing is in conflict with a local plan whose policies for the supply of housing are out of date, the decision-maker is left to judge, in the particular circumstances of the case in hand, how much weight should be given to that conflict. The absence of a five-year supply of housing land will not necessarily be conclusive in favour of the grant of planning permission. This is not a matter of law. It is a matter of planning judgment (see paragraphs 70 to 74 of the judgment in *Crane*).”

We say that the greatest possible weight has now to be given to the effect of these two important judgments. The situation regarding decision-taking on planning applications where NPPF 14 may be in point may now be summarised as follows :

The Supreme Court, [2017] UKSC 37, directs that :

- Decision-taking is governed by the statutes (para 7)
- The existing development plan should be adhered to, unless “other material considerations” indicate otherwise (again, para 7)
- NPPF as it applies to “decision-taking” on planning applications is “no more than guidance”, not determinative – only one material consideration amongst possibly many (para 21)

The Court of Appeal, [2017] EWCA Civ 893, :

- agrees with Counsel acting for the Secretary of State (end of para 34 and beginning of para 35) that :
 - even if NPPF 14 applies,
 - consideration must be given even to policies which are “out of date” per NPPF 49, and that
 - this may result in a refusal of planning permission
- advises that “presumption in favour of sustainable development” is capable of being rebutted, and
- states that : “The absence of a five year supply of housing land will not necessarily be conclusive in favour of granting permission”

Our comments below are made in light of these two judgments, which give the correct context in which any decision on the application must be taken.

Scholes Future Group Comment on Miller's Additional Planning Policy Justification document

We accept that NPPF 49 can trigger the operation of the second part of NPPF 14.

Looking firstly at NPPF 49, we say that it is a material consideration as regards the circumstance encompassed by NPPF 49 that KMC have delivered a new Local Plan to the Secretary of State for inspection (and in respect of which an inspector has been appointed who has started to engage with interested parties), which states at 8.22 that for the period covered by the Plan, as required by NPPF 47, : “The trajectory and phasing table demonstrate a five year supply of deliverable housing land as required by national planning policy.” We assume in light of failings with the previously submitted Plan that KMC are unlikely to have made this statement if it is flawed. The period covered by the Plan is of course 2013/14 to 2030/31.

The second bullet point of NPPF 47 carries no stipulation as to how or where local planning authorities should satisfy its requirements.

Even if NPPF 49 is engaged, its effect is to activate NPPF 14 as a material consideration in taking a decision on the Application. We note in this regard that Counsel for the Secretary of State in [2017] EWCA Civ 893 approved as a correct analysis “and a true reflection of the Government’s intention in the NPPF” the proposition that :

“[Even] if the presumption in paragraph 14 of the NPPF applies, it is nonetheless necessary to apply section 38(6) and evaluate the weight to be given to policies in the development plan (including policies for the supply of housing land which may have been deemed to be “out of date”), and this may result in a refusal of planning permission.”

Footnote 10 in NPPF renders the entire content of NPPF 14 as it applies to decision-taking subject to such material considerations as might militate against its application, and as regards the second bullet point on decision-taking the text of NPPF 14 itself imposes two further obstacles to its operation, namely where :

- a) specific NPPF policies impose restrictions on granting permission, or
- b) the benefits of granting permission are significantly and demonstrably outweighed by the adverse impacts of doing so when assessed against the policies of NPPF taken as a whole.

We have demonstrated that there are sufficient other material considerations which militate against any application at all of NPPF 14, and that in any case the Application site fails to satisfy many critical requirements in policies elsewhere in NPPF.

We are clearly at odds with Miller as to where the Planning Balance lies, but take the view that the scales come down on the side of refusal.

There are some specific comments in Miller's Additional Planning Policy Justification document where additional comment is required.

The document states more than once that : "It is relevant that the Courts have found a site which falls within the ambit of paragraph 14 of the Framework is axiomatically sustainable in policy terms" (pages 3 & 7) . We doubt this is correct – at least in light of the recent judicial comment in [2017]UKSC 37 and [2017] EWCA Civ 893.

It is clear from the Court of Appeal's comment at para 35(3) of [2017] EWCA Civ 893 that :

The "presumption in favour of sustainable development" is not irrebuttable. Thus, in a case where a proposal for the development of housing is in conflict with a local plan whose policies for the supply of housing are out of date, the decision-maker is left to judge, in the particular circumstances of the case in hand, how much weight should be given to that conflict. The absence of a five-year supply of housing land will not necessarily be conclusive in favour of the grant of planning permission."

The document claims that : "...there are no policies in the Framework which would indicate that the application should be restricted" (page 3). We believe there are in fact many, and set out our reasons in sections 6 and 7 of our original comments.

By way of example : under the heading "A Sustainable Settlement" the document refers on page 8 to the Transport Statement supporting the Application which concludes "that there are a number of services and amenities including schools that fall within the nationally acceptable and preferred walking and cycling distances from the application site. Holmfirth Town Centre is within the preferred walking and cycling distances from the application site". We have commented on this in section 7.5 of our original comments. We refer in that section to comments received from KMC Highways Development Agency which indicates clearly that neither Cinder

Hills nor Dunford Road “would be readily used by pedestrians to access local facilities apart from those in the village of Scholes itself given the topography of the area”. We include the relevant two pages from the HDA document as Appendix 1. The first two paragraphs on the second page are relevant. Route D is Dunford Road, and Route E is Cinder Hills. NPPF 38 is not therefore satisfied.

As regards the first Paragraph on page 2 of the highways document, we would say that highways have ignored what is abundantly clear to local residents – namely that road widths on Dunford Road, in Scholes, and many other places in the Holme Valley are in practice greatly reduced by the prevalence of on-street parking. We would say that Miller likewise, in its original Planning Statement, and 5 July 2017 document, in many respects have not been able to, or have chosen not to, have regard to the reality of the locations to which they refer. We have also included in Appendix 1 a copy of the second page of the highways document with yellow highlighting on those roads where either the road is actually too narrow to allow vehicles to pass, or where this is practically the case due to on-street parking. For confirmation of our views, we suggest KMC talk to some of its bus drivers travelling the 310 route.

Scholes is an outlier, on the fringe of Kirklees. Looking at, say, NPPF 17 and healthcare, we commented at 7.5 in our original comments on local difficulties in accessing healthcare, and the remoteness of hospital facilities, particularly with the transfer of A&E facilities to Halifax. Exacerbating this further is the proposal now to do away with Huddersfield Royal Infirmary and its 500 beds and replace it with a smaller 64 bed facility – so that again the major hospital facility will be in Halifax, 14 miles away.

On page 3 of the document it is said that the proposition that there are no technical issues or adverse impacts that cannot be mitigated by conditions “... is supported with no objections received from any statutory consultees..”

The Highways Development Management response of 22 June 2017 raises several issues and concludes by say that : “...there are currently details which raise a standing objection in highway terms”. We cannot see that all of these issues have yet been cleared. The issue of the electricity sub-station appears to be unresolved. Highways asked for the visitor parking near the playground access path to be removed. Whilst the designation has been removed, the spare tarmac still exists. We would suggest this area needs a different surface or fencing that discourages or prevents parking in this location.

Two postings of 27 July 2017 from Holme Valley Parish Council make clear their support for our objections. The comments also refer to an earlier objection submitted following their meeting of 8 May 2017, and which have been posted on the Application website under “Correspondence”.

Perhaps most importantly KC Strategic Drainage have a posting of 27 July 2017 on the Application website (to which we have referred in section 1 above, and to which we make further reference in section 4.5 below) which contains substantial new concerns about flood risk on the Application site.

We have shown in these and our previous comments that there are a good many material considerations which weight the Planning Balance against granting permission on this site prior to the finalisation of the new Local Plan.

Scholes Future Group comment on Flood Risk and impact on residential amenity

Further detailed objections have been submitted by Scholes Future Group. In summary:

The proposed increase in site levels means that the proposed structures will have an increased negative effect on both privacy, and reduction in direct sunlight for existing homes and gardens by approximately 2.5 hours.

The proposals due to existing site levels, building height and brutal massing were already overbearing and have the effect of 'walling in' neighbouring homes.

The increase in site levels up to 1.4m makes the proposed development totally insensitive to existing homes.

The flood plan doesn't appear to be viable. In an extreme event, it's design, doesn't control flood water and creates risk to; proposed dwellings, existing nearby homes and homes further afield in Scholes. In normal winter weather, the proposals 'point load' the proposed rear gardens with extra water from roof drainage SUDs and then increases the gradient of the site so that excess surface water flows directly toward existing properties, gardens and the playground.

We do not see this new drawing addressing the deep concerns from drainage officer Paul Farndale in his report dated 27/7/2017. We believe the proposals are seriously flawed and wish to register another set of objections based on all of the comments above, in addition to the objections already made by SFG.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

Environment Agency – No comments received.

K.C Strategic Drainage - No objection subject to conditions.

K.C Highways – No Objections subject to conditions.

8.2 Non-statutory:

K.C Education – Contribution of £113, 241 is required in order to mitigate for potential additional school places required at Scholes Junior and Infant School and Holmfirth High School.

K.C Strategic Housing – No objection. 4 social rent units and 4 intermediate units (1 and 2 bed) as proposed by the applicant suits the local need in Kirklees Rural West and is an acceptable offer of affordable housing.

Police Architectural Liaison Officer – No objection subject to condition relating to designing out crime.

K.C Biodiversity Officer – No objection following the submission of amended plans.

Yorkshire Water Services – No objection subject to a condition.

West Yorkshire Archaeological Advisory Services – No comments received.

K.C Conservation and Design – This is very much in line with the pre-application submission, the second amended layout. I was happy with that submission but still raised a concern over the need to have active elevations onto Ryecroft Lane. The majority of these dwellings do show active frontages apart from Plot 8 (Buttermere) so I am not suggesting that this is an issue overall.

K.C Environmental Health – No objection subject to conditions relating to land contamination and air quality.

K.C Footpaths – No objection. The wide straight link to the play area is supported, and we would look for this to be surface and secured as part of the section 38. However Prow would object to the visitor parking space in front of this link. Prow welcomes the addition of the footway to Ryecroft Lane

K.C Landscape – No objection following the submission of amended plans.

Holme Valley Parish Council – Object. Local Plan has not been finalised so this application on Provisional Open Land should be rejected. Concern that infrastructure not in place to support such a large scale development.

9.0 MAIN ISSUES

Principle of Development
Impact on Character of Surrounding Area and Landscape
Highways and Traffic Implications
Residential Amenity
Flood Risk and Drainage
Ecological Issues
Heritage Issues
Planning Obligations and Developer Contributions
Other Matters
Planning Balance

10.0 APPRAISAL

Principle of development

- 10.1 Planning law requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) is one such material consideration. The starting point in assessing any planning application is therefore, to ascertain whether or not a proposal accords with the relevant

provisions of the development plan, in this case, the saved policies in the Kirklees Unitary Development Plan, 1999 (UDP). If a planning application does not accord with the development plan, then regard should be had as to whether there are other material considerations, including the NPPF, which indicate that planning permission should be granted.

- 10.2 The NPPF is a Government statement of policy and is therefore, considered an important material consideration especially in the event that there are policies in the UDP which are out-of-date or inconsistent with the NPPF. Paragraph 215 of the NPPF reinforces that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF.
- 10.3 It is clear that the NPPF seeks to *“boost significantly the supply of housing...” (para 47)*. Para 47 then goes on to describe how local authorities should meet the full objectively assessed need for market and affordable housing. This requires a range of measures including ensuring a deliverable five year supply of housing. Para 49 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”*.
- 10.4 As evidenced in recent appeal decisions (eg. APP/Z4718/W/16/3147937 - Land off New Lane, Cleckheaton), the Council are falling foul of their requirement to ensure a five year housing land supply by a substantial margin. This is important in the context of paragraph 14 of the NPPF.
- 10.5 Para 14 of the NPPF states that for decision-taking, the presumption in favour of sustainable development means:
- Approving development proposals that accord with the development plan without delay, and
 - Where the development plan is silent, or relevant policies are out-of-date, granting planning permission unless:
Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework when taken as a whole; or
Specific policies in the Framework indicate development should be restricted.
- 10.6 As the Council are unable to demonstrate a 5 year housing land supply as required by para 49 of the NPPF, relevant policies relating to housing are considered to be out-of-date. Indeed, the housing land supply shortfall is substantial. Whilst the Council have submitted the Publication Draft Local Plan (PDLP) for examination which, for housing purposes, is predicated on the basis of a five year housing land supply; the Local Plan has not been through examination, nor has it been adopted. Therefore, it is currently the case that the Council are unable to identify a five year supply of specific deliverable housing sites against the requirement.

10.7 Based on the above, there is a presumption in favour of sustainable development and planning permission should only be refused where there are adverse impacts which would significantly and demonstrably outweigh the benefits.

10.8 The site is allocated as Provisional Open Land (POL) on the UDP. Therefore, policy D5 is applicable in this case:

On sites designated as provisional open land planning permission will not be granted other than for development required in connection with established uses, changes of use to alternative open land uses or temporary uses which would not prejudice the contribution of the site to the character of its surroundings and the possibility of development in the long term.

10.9 It is considered that policy D5 is not a policy for the supply of housing in respect of the way in which it relates to paragraph 49 of the NPPF. Therefore, policy D5 is considered to be up to date and given full weight.

10.10 The proposed development is clearly at odds with policy D5 of the UDP partly because the scheme of housing development fails to maintain the character of the land as it stands and fails to retain the open character. The proposed development constitutes a departure from the development plan.

Emerging Local Plan

10.11 In respect of the emerging Local Plan, the Publication Draft Local Plan (PDLP) was submitted to the Secretary of State on 25th April 2017 for examination in public. The site forms a housing allocation (H297) within the PDLP. 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.

10.12 The NPPF provides guidance in relation to the weight afforded to emerging local plans. Paragraph 216 states:

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).*

10.13 The above is further supplemented by guidance in the Planning Practice Guidance (PPG). The PPG states that “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.

10.14 Given the scale of the development proposed when assessed against the wider context of the PDLP the application could not be deemed to be premature as the proposed development, by virtue of its relatively small scale and strategic importance, is not considered to be central to the delivery of the Local Plan. Whilst officers do consider that the application is not premature in terms of the emerging Local Plan, it has been confirmed that given the advanced stage at which the Local Plan has progressed considerable weight should be afforded to the policies within the emerging Local Plan. However, it is also noted that the proposed housing allocation (H297) has received a substantial number of unresolved objections and this is considered to reduce the weight afforded to the housing allocation in the emerging Local Plan. In short, limited weight is afforded to the emerging housing allocation in this case.

10.15 In the PDLP the housing requirement is set out at 31,140 homes from 2013 – 31 to meet identified needs. This equates to 1730 homes per annum. The Council's current supply position is detailed in the Housing Topics Paper (2017) and this also includes the number of dwellings built since the emerging Local Plan base date of 1st April 2013. There has been persistent under-delivery:

Year	Net annual housing completions	Local Plan requirement	Completions compared to Local Plan requirement
2013/14	1,036	1,730	-694
2014/15	666	1,730	-1064
2015/16	1,142	1,730	-588
Total	2,844	5,190	-2,346

10.16 The PDLP includes the application site as a housing allocation and is therefore, a site which the Council consider appropriate for housing. It is a site which would contribute towards ongoing housing delivery in light of the five year supply requirement.

10.17 If the emerging Local Plan was to be adopted in its current form, the Council would be able to demonstrate a five year housing land supply. However, the PDLP has not been through examination and as it stands the Council is a substantial way off being able to demonstrate a five year housing land supply and housing delivery has persistently fallen short of the emerging Local Plan requirement. This triggers the presumption in favour of sustainable development as advocated by para 14 of the NPPF.

Other Matters of Principle

- 10.18 Whilst the site comprises an agricultural field, it appears to fall within Grade 4 Agricultural Land. For the purposes of the NPPF it does not constitute Best and Most Versatile Agricultural Land and therefore, the loss of this agricultural land does not conflict with the requirements of the NPPF.
- 10.19 There is no evidence, nor does it appear logical to assume that, the development of this site would lead to a negative effect on tourism in the local area. The proposed development involves the extension of an existing village and overall landscape and visual effects are covered in the relevant section of this report.

Accessibility

- 10.20 Much has been made by objectors about the unsustainable location of the application site. It is acknowledged that the site lies at much higher level than the nearest town centre of Holmfirth and consequently, whilst Holmfirth is within 2km of the application site, it is a steep walk/cycle into the town centre and pedestrian access is further limited by a lack of appropriate pedestrian facilities on local roads including South Lane and Cross Gate Road both of which are routes into the village from the site. There are local services within the village of Scholes such as a public house, takeaway, post office and other small businesses. Pedestrian accessibility is restricted to some extent however, by a lack of footway along small sections of Paris (the main road into the village). Nevertheless, these basic facilities would allow local residents to meet their day to day needs and whilst local roads servicing the village are by no means ideal for pedestrians, the village is by no means inaccessible to pedestrians.
- 10.21 Within 350m of the site lie bus stops which run along Scholes Moor Road. There are no significant differences in gradients between the application site and the nearest bus stops which would dissuade residents from accessing bus services. During the day time the 310 service runs every 30 minutes allowing access to Scholes, Holmfirth and Huddersfield. Services during evening and on Saturdays and Sundays are every 60 minutes.
- 10.22 It is considered that public transport access to GP's, local schools, local shops and higher education facilities could be made in less than 60 minutes and this, coupled with the regular bus services, would provide acceptable sustainable transport options for future residents. Similar conclusions have been drawn by the Council as part of the evidence to support the emerging Local Plan where the village was considered to be accessible to most services but lacking in access to employment opportunities (Kirklees Council Housing Allocations – Accessibility Assessment March 2015)
- 10.23 In order to improve accessibility from the site to local bus stops and the surrounding highway/footway network, the proposal includes a footpath which would run along the site frontage in order to link in with the existing footway on Cross Lane.

- 10.24 Employment opportunities within the local area are limited, although there are regular bus services into Huddersfield. It is accepted therefore, that based on the constraints identified above, that the site location would place some reliance on the private car and there are limitations on sustainable transport options due to location, more so than more urban sites. However, it is also considered that the site is within sufficient proximity of local services and there are public transport options which would allow future residents to meet their day to day needs without having to rely solely on the private car.

Impact on Character of Surrounding Area and Landscape

- 10.25 Section 11 of the NPPF sets a wide context to conserving and enhancing the natural environment and requires that valued landscapes are protected and enhanced and requires that the level of protection is commensurate with the status and importance of the landscapes.
- 10.26 Policy BE1 of the UDP requires that all development should be of good quality design such that it contributes to a built environment. Policy BE2 states, amongst other matters, that new development should be designed so that it is in keeping with any surrounding development. Policy BE11 of the UDP requires that new development should be constructed in natural stone of a similar colour and texture to that prevailing in the area. Policy PLP24 of the PDLP requires that good design to be at the core of all planning decisions.
- 10.27 The application site comprises an agricultural field given over to pasture. It is bounded on the southern side by Cross Lane and on the western side by Ryecroft Lane. On the eastern side the site is framed by existing residential development associated with properties on Windmill View which lies slightly downslope but border the site. Towards the north is a small play area, beyond which lies agricultural land.
- 10.28 The proposed development is positioned adjacent to the established edge of the existing settlement and to that extent the development would protrude into open countryside, but it would also be visible against the edge of the existing village. The immediate surroundings are notably upland and rural set within a larger area of rolling countryside. The landform rises to the west before falling away steeply towards Holmfirth. Fields within the area are enclosed by dry stone walls and tree cover is relatively sparse. There are long distance views over undulating, exposed countryside including open moorland on the distant horizon. The site lies within an area of Peak Fringe Upland Pastures in the Kirklees District Landscape Character Assessment. The site lies almost 3km from the Peak District National Park boundary.
- 10.29 Due to the topography of the surrounding land, the proposed development would sit on a slightly higher level than the existing properties on the edge of Scholes. However, the site is lower than land to the west and particularly to the south where it continues to rise towards Hade Edge. The effect of this is that the proposal would appear more prominent than the existing settlement in local views particularly to the west and north, but from mid distance and longer distance it would be visible against the backdrop of the existing built form. Whilst the site lies on land allocated as POL, land on the opposite side of Ryecroft Lane comprises Green Belt, as does most of the visible land to the south and west of the site.

- 10.30 It is clear that for users of Ryecroft Lane which is a Byway (right of way), the development would be unavoidable and would diminish the experience of users of the lane to some extent due to close the proximity of the proposed development relative to the road. However, the extent of the adverse visual impact would be limited to the first 300m of Ryecroft Lane. Beyond this the site is well screened by vegetation and a dwelling which lies in direct line of sight of the development from the northern half of Ryecroft Lane which obscures views of the site from Sandy Gate. There would be other localised views of the development where the proposals would be visible but the impact of the proposed development would largely be felt along part of Cross Lane to the south and west and a portion of Ryecroft Lane. Other footpaths, such as High Lane which lies to the west at the top of Cross Lane, would have intermittent views but those views would diminish as users walked from south to north towards Sandy Gate.
- 10.31 Much of the housing in Scholes follows Scholes Moor Road to the east of the site with small pockets of housing located off Scholes Moor Road, Paris and Chapel Gate. In almost all instances the proposed development would be largely screened by intervening topography and buildings making the impact of the development from these areas imperceptible. Most views from the existing urban area would be confined to the immediate environs of the site – the rear of properties on Moorlands and Windmill View. From the village of Scholes the land continues to fall away in an easterly direction towards the A616 and the valley bottom.
- 10.32 From the upper slopes of the opposing valley side to the east, beyond the A616, views are often obscured by intervening vegetation and topography. There would be some distant views of the site from rural lanes such as Scar Hole Lane and Tenter Hill but these views serve to evidence that the development would appear as a small extension to the existing village set against the slopes of the surrounding countryside and not visible against the skyline.
- 10.33 The applicant has amended the scheme in order to address the relationship with Ryecroft Lane. A number of properties have been turned to face Ryecroft Lane and one of the house types has been altered so as to reduce the impact of the built form on Ryecroft Lane and the wider Green Belt. The existing dry stone wall along Ryecroft Lane would be retained and made good where necessary, although there would be some elements of fencing behind the wall associated with rear gardens.
- 10.34 Officers were keen to ensure that there was no vehicular access to properties along Ryecroft Lane whilst ensure that the frontage was active. In an attempt to further soften the impact on Ryecroft Lane, there are small elements of planting along the boundary including Silver Birch, Mountain Ash and native hedgerow. Therefore, the design as proposed is considered to represent an acceptable comprise in this respect.
- 10.35 The applicant states that the scheme has been designed around the following:
- High standard of design of the proposed houses, providing architectural quality from principle views.
 - Providing focal points in the form of housing or well landscaped areas throughout the site in order to visually enhance the street scape.

- Provision of well landscaped areas including a buffer area to the northern boundary to connect with the existing play area and allow it breathing space.
- Provision of a highways design which creates low vehicle speeds as well as quieter residential areas through the use of shared driveways.
- Parking spaces are integrated into the street scene through the use of appropriate landscaping and surface treatment.
- A clear definition between the public and private realm has been provided with all properties having defensible spaces to their frontage (and side on corner positions).
- Non-apartment properties are to have individual access footpaths to rear gardens giving control and security. This also allows waste and recycling provision to be out of sight at the rear of properties.

10.36 Officers are in broad agreement that the scheme achieves the stated design objectives. The proposed layout has been designed as an outward looking development. There is a frontage onto Cross Lane and properties at the site entrance (on Cross Lane) are dual aspect. Whilst the properties facing Cross Lane are varied and include shared driveways behind Cross Lane, the existing housing stock on Cross Lane does not have a consistent appearance. A large number of properties in the local area are designed around a rigid road pattern and are relatively densely spaced. The proposed development would respect the local pattern of development and utilise an angular principal street which would act as a shared surface with a series of shared driveways running off the main internal road. Whilst dwellings proposed on the eastern edge of the site closest to Windmill View are more densely positioned and also include a block of apartments, properties towards Ryecroft Lane include more space between them giving a more permeable appearance from Ryecroft Lane in order to reduce the impact beyond the site boundary and towards the Green Belt. Each of the dwellings would be constructed of stone with stone headers and cills. Dwellings would range between 2 and 2.5 storeys reminiscent of the building heights locally. In this case a density of 28 dwellings per hectare is justifiable given the relatively rural location and the need to soften the western edge of the proposal, thus the application is considered to satisfy policy PLP7 of the PDLP in this respect. The Design and Conservation officer has assessed the proposal and raises no objection.

10.37 To summarise, the site would be changed from open countryside to an expanse of housing which would inevitably be detrimental to openness thus conflict with policy D5 of the UDP. Overall the site lies in an area adjacent to and part of the existing village. Whilst the site would be visible from close quarters, particularly Ryecroft Lane, Cross Lane and intermittently from other vantage points, the surrounding topography means that impacts from middle distance and long distance would be significantly reduced. In addition, the impact of the proposed development is mitigated to an extent by the way in which the scheme is set against the backdrop of existing housing stock. The design of the scheme means that its appearance is softer when viewed from Ryecroft Lane. Overall, despite the visual impacts identified, there would be no overriding landscape harm arising as a result of the proposal and the intrinsic character of the wider countryside in this location would not be significantly harmed.

Highways and Traffic Implications

10.38 The scheme would comprise an access taken from Cross Lane which would link to an internal access road, and a separate access to a shared drive further along Cross Lane. Access to the shared drive would serve 3no properties. There are a number of concerns that have raised significant objections to the scheme.

10.39 Policy T10 of the Kirklees UDP states that new development will not normally be permitted if it will create or materially add to highway safety issues. Policy PLP21 of the PDLP aims to ensure that new developments do not materially add to existing highway problems or undermine the safety of all users of the network. Para 32 of the NPPF states:

Plans and decisions should take account of whether:

- *the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;*
- *safe and suitable access to the site can be achieved for all people; and*
- *improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*

10.40 The application has been accompanied by a Transport Statement which has been assessed by Highways DM. The Transport Statement shows that the average weekday traffic flow on Cross Lane is 1072 vehicles with up to 100 vehicles during the AM and PM peaks.

10.41 It is anticipated that the proposed development would result in approximately 27 vehicular movements during the AM peak and 30 vehicular movements during the PM peak. Given that peak hour vehicle flows on Cross Lane are relatively low, the impact on the local highway is not considered to be significant.

10.42 In terms of the impact on the wider highway network, the proposed development would see approximately 10 departures towards Holmfirth and 10 departures towards Scholes during the AM peak. Arrivals would be approximately 10 from Holmfirth and 10 from Scholes during the PM peak. It is considered that such low levels of traffic are unlikely to have a material effect on wider traffic conditions. In addition, the impact on the A616/A635 junction at New Mill would not be significant and certainly could not be described as severe in NPPF terms.

10.43 The proposed development provides 95 car parking spaces with parking to the front of driveways. The scheme also includes a variety of integral and detached garages. There are a number of formal and informal car parking spaces within the development and each property would include one cycling space. The provision is in accordance with the parking standards set out in the UDP. The proposed main site vehicular access is considered acceptable in terms of its geometric design and visibility splay achievement.

10.44 The proposed development would not directly affect any Public Rights of Way or Ryecroft Lane (Byway). The proposed development includes pedestrian links from the site along the frontage and towards Cross Lane and Ryecroft Lane. The application is considered to comply with PDLP policies PLP22 and PLP23.

10.45 It is acknowledged that the local highway network in parts is not up to modern standards and this is typical of villages within the Holme Valley. However, the site lies off Cross Lane which is a straight road with potentially good visibility in either direction. The carriageway width is perfectly adequate. Whilst it is accepted that cars park along Cross Lane and the surrounding road network, on street parking at various times of officer site visit do not appear to be a significant issue. In any event, the proposed development has been designed to ensure that cars are parked in curtilage so that there is no parking on existing highways. There is no reason why occupiers of the proposed housing could not negotiate the local highway network and parked cars on the highway as other residents do. The additional number of vehicles arising from the proposed development does not suggest that there would be any significant changes in traffic flows or queues at junctions therefore, additional conflict on the road network would be minimal. Overall, the proposed development is considered to provide acceptable access points onto Cross Lane, provide sufficient off-street parking, and ensure that traffic generation can be readily accommodated on the surrounding highway network without detriment to the safe movements of existing vehicles and pedestrians. The application is therefore, considered to comply with policy T10 of the UDP and emerging PDLP policies PLP22 and PLP23 and para 32 of the NPPF.

10.46 Residential Amenity

10.47 Para 123 of the NPPF indicates that planning policies and decisions should aim to:

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through use of conditions.

10.48 Policy BE12 of the UDP provides guidance on appropriate separate distances for dwellings. PLP24 of the PDLP requires developments to provide a high standard of amenity for future and neighbouring occupiers.

10.49 The closest residential properties are located along Moorlands and Windmill View. Generally the distance between the rear elevations of proposed dwellings facing the rear elevation of properties along Windmill View ranges between 21.5m and 24.5m. Generally gardens associated with the proposed dwellings are at least 10m in length. No's 45 and 47 Moorlands lies at a distance of approximately 18.9m from the proposed apartment block which is a two storey building. However, the application has been amended so that there are no habitable room windows at first floor level, and the proposed kitchen window at first floor level has been altered so it is high level with obscure glazing. This is sufficient to ensure compliance with policy BE12 of the UDP in order to protect the privacy of the nearest residential properties.

- 10.50 In terms of levels, the nearest properties to Moorlands and Windmill View would sit on a slightly higher level (up to 1.6m higher being the most significant level difference). However, a combination of distance, fencing and planting would ensure rear gardens of existing properties were not significantly overlooked and at these distances it is not considered that there would be a significant overshadowing or loss of light effect from the proposed development in relation to existing residential properties.
- 10.51 Overall, there is considered to be sufficient distance between the proposed dwellings so as to ensure an acceptable level of amenity for future occupiers and the proposed development by and large meets the guidance set out in policy BE12 of the UDP.
- 10.52 A number of existing properties close to the application site would see a change of outlook. However, it is an established principle of planning law that there is no right to a view. The application is considered to ensure that existing occupiers reserve sufficient standards of residential amenity. Consequently the application is considered to comply with policy BE12 of the UDP and PDLP policy PLP24 in this respect.

Flood Risk and Drainage

- 10.53 Para 100 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. On the basis that the site lies in Flood Zone 1 (lowest risk of flooding from rivers or the sea), a sequential test is not required in this case.
- 10.54 The submitted Flood Risk Assessment (FRA) considers the risk of flooding from various sources including rivers, groundwater, artificial sources and surface water.
- 10.55 It is proposed to utilise drainage by soakaways which will be located in rear gardens and within the highway. The Council's drainage officer has assessed the proposal and raises no objection in principle subject to the imposition of appropriate conditions. The National Planning Practice Guidance (NPPG) states that the aim of a drainage scheme should be to discharge run-off as high up the hierarchy as practicable:
- 1 – into the ground (infiltration)
 - 2 – to a surface water body
 - 3 – to a surface water sewer, highway drain, or another drainage system
 - 4 – to a combined sewer
- 10.56 In this regard, the proposal provides a scheme in accordance with the hierarchy and adheres to sustainable drainage good practice.
- 10.57 Concerns have been raised however, regarding the potential for soakaways within the site to fill and potentially flood areas of lower lying land (gardens/houses etc). Private soakaways are to be designed to 1:100 year event plus climate change but, for those on relatively flat ground, a 1:30 year design with a safety factor may be acceptable. There are no objections from the Council's drainage officer dependent on further ground testing and the

submission of a scheme demonstrating that soakaways can store a critical 1 in 30 year storm and can empty by 50% in 24 hours. A planning condition is proposed to ensure that a suitable scheme is submitted for consideration as it is envisaged this can readily be achieved.

- 10.58 In terms of period of heavy rainfall, the scheme has been designed to contain water within the site so it does not flow out onto Cross Lane. Therefore, whilst concerns have been raised by some local residents regarding flooding events in the local area, including Scholes Moor Road, the development has been designed so as not to contribute to flooding from excessive surface water run-off running down existing local roads. Objections have also been raised with regard the submitted overland flood routing plan and the impact of the development in directing water towards properties on Moorlands and Windmill View. However, the submitted details show that if a soakaway was exceeded it would surcharge the gulley first and continue down the road so as it did not come out next to properties.
- 10.59 It is also noted that flood routing has been incorporated into the layout to show what happens when there is an unusual flooding event beyond the design criteria of the drainage system as required by the NPPF or local guidance. It is considered that the scheme has included viable safe overland flood routing. The points of objection are noted however, and therefore, a condition is proposed in order to ensure that final details of flood routing are agreed.
- 10.60 In terms of foul water drainage, it is proposed to drain by gravity to the combined sewer in Ryecroft Lane. There are objections raised by some residents that the existing sewer in Ryecroft Lane is already at capacity. The planning application has been assessed by Yorkshire Water and no objections are raised. In addition they note that the submission – to discharge foul water into the combined sewer and to use soakaways for surface water – in an approach endorsed by Yorkshire Water. Connection to the Yorkshire Water infrastructure would require separate consent from them.
- 10.61 In principle the proposed development offers sustainable drainage solutions in line with those advocated by the NPPF and NPPG and PDLP policy PLP28. Initial site testing suggests that this site is suitable for soakaways. No objections are raised by the Council Drainage Engineer or Yorkshire Water, subject to the imposition of appropriate planning conditions.

Ecological Issues

- 10.62 UDP policy EP11 requires that application incorporate landscaping which protects/enhances the ecology of the site. Emerging Local Plan policy PLP30 states that the Council will seek to protect and enhance the biodiversity and geodiversity of Kirklees, including the range of international, national and locally designated wildlife and geological sites, habitats and species of principal importance and the Kirklees Wildlife Habitat Network.
- 10.63 The application is supported by an ecological survey. The site comprises a grazing land with limited ecological value. Habitats on the site are predominantly boundary features, mostly dry stone walls, but these have relatively limited value.

- 10.64 Three ponds lie within 500m of the site. However, the site is considered to have low value as a terrestrial habitat for amphibians and it is highly unlikely to support Great Crested Newts. The site is considered to have low value for nesting birds.
- 10.65 The application has been amended to incorporate more native species into the landscaping proposals and a wildflower mix which has been agreed by both the Landscape Officer and the Biodiversity Officer. A condition is recommended in order to ensure additional biodiversity benefits are incorporated into the scheme.

Heritage Issues

- 10.66 Section 66 (1) of the Listed Buildings Act states “in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”. Para’s 126-141 of the NPPF are relevant to the determination of applications affecting heritage assets.
- 10.67 The nearest Grade II listed building lies 260m to the north of the site at Ryecroft Farm. Given the distance and the boundary treatment there would be no discernible impact on the setting of this building. Within 300m to the west of the site at the junction of Cross Gate Road, Dunford Road and Hoppards Bank Road lie a number of Grade II listed buildings. Due to a change in levels between the site and these listed building; there would be no discernible impact on the listed buildings. There would be no impact on the setting of Underbank Conservation Area approximately 500m to the north west.

Planning Obligations and Developer Contributions

- 10.68 In accordance with para 204 of the NPPF planning obligations should only be sought where they meet the following three tests:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.

Education Provision

- 10.69 Para72 of the NPPF states that great weight should be given to the need to create, expand or alters schools. In line with the requirements for ‘Providing for Education Needs Generated by New Housing’ (KMC Policy Guidance), the proposed development attracts a contribution towards additional school places. In order to address the additional pressure on local schools, the Council Education section requires the following contribution:

Total of £113,241 comprising £51,186 to Scholes Junior and Infant School and £62,055 to Holmfirth High School.

Public Open Space

- 10.70 Policy H18 of the UDP requires 30sqm of Public Open Space per dwelling on development sites in excess of 0.4 hectares. There is no proposed public open space provided on the site and the requirement in line with policy H18 would be 1170m². Given that four of the units constitute 1 bed flats, the calculation has been adjusted to 1110m². Based on the current rate/dwelling of £2300 and applying administrative costs, the development is required to provide an off-site contribution of £98,900 which is to be spent on the adjacent facility to make it more useable for ages and to broaden its provision in order to cater for the new development. In addition to this figure the development does not include on site LAP play equipment. In order to compensate for this shortfall in accordance with the UDP policy justification to H18 a further contribution of £19,262 equivalent to the laying out of equipment on site and a further £24,838 for 10 years' worth of commuted maintenance. Therefore the total POS contribution should be £141,966. At the time of writing the report the applicant had requested further clarification on the justification for this contribution. This will be supplied and an update on the POS contribution amount will be confirmed in the update report.
- 10.71 It is also noted that the site lies on the edge of an existing settlement and there are footpaths and routes into the open countryside. In accordance with para 73 of the NPPF, the scheme provides access to high quality open spaces which can make an important contribution to the health and well-being of communities.

Affordable Housing

- 10.72 The Council's Interim Affordable Housing Policy requires that 20% of units are secured as affordable housing. The applicant has offered 8 affordable units on-site which is fully policy compliant. A total of 4no units would be social rent and 4 units would be intermediate.

Local Transport Infrastructure Mitigation and Improvements

- 10.73 Highways works would be required in order to create the access points and install a new footway along Cross Lane. This could be done under S38 or S278 of the Highways Act.

Other Matters

- 10.74 The application was accompanied by a phase I/II report which stated that the site was uncontaminated. Environmental Health has assessed the report and raises no objections.
- 10.75 In respect of air quality, the application has been assessed against the West Yorkshire Low Emission Strategy Planning Guidance. In accordance with the guidance the installation of 1no electric charging point is required per unit or 1 charging point per 10 spaces and this would be secured by planning condition.

11.0 Planning Balance

- 11.1 The application site lies adjacent to the Scholes village boundary on an area of land allocated as Provisional Open Land on the UDP. On a point of principle, numerous objections consider that approval of the scheme would pre-determine the outcome of the emerging Local Plan. However, the Council are unable to demonstrate a five year housing land supply and the NPPF seeks to boost significantly the provision of housing. In the emerging Local Plan the site is one which is considered by the Council as suitable for housing. Approval of this application is not considered to pre-determine decisions about the scale, location or phasing of new development that are central to the emerging Local Plan.
- 11.2 It is inevitable that development on any greenfield site would mean a loss of landscape quality because there would be buildings in place of open land. There would be some impact on local views such as from Ryecroft Lane. However, the scheme has been designed so as to ensure that the impact on the surrounding countryside is reduced through the positioning and appearance of all buildings which would be built of natural stone. This coupled with the location and scale of the proposal means there would be no overriding harmful landscape and visual harm.
- 11.3 The rural nature of the village and limitations in terms of pedestrian access are acknowledged. However, the site has adequate access to public transport and forms an extension to an existing village; it is not isolated from services. There would be no unacceptable harm in relation to highway safety, drainage/flood risk, living conditions and ecology, subject to the conditions proposed. Infrastructure provision would be dealt with by a S106 Agreement where the scheme is fully compliant with policy requirements.
- 11.4 In conclusion, the tilted balance in favour of sustainable development as advocated by para14 of the NPPF is engaged in this case. There are no adverse impacts of granting planning permission which would significantly and demonstrably outweigh the benefits. Conflict with UDP policy D5 and other impacts identified are outweighed by other considerations and overall the proposal constitutes a sustainable form of development.

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

- 1. 3 years**
- 2. Approved plans**
- 3. Sample of materials**
- 4. Finished Floor Levels**
- 5. Boundary Treatments and details of materials**
- 6. Drainage soakaway details including percolation tests and demonstration of adequately sized soakaways to be submitted and agreed**
- 7. Foul, surface and land drainage details to be submitted and agreed**
- 8. Overland flood routing details to be submitted and agreed**
- 9. Temporary flood routing details to be submitted and agreed**
- 10. Report of Unexpected Contamination**
- 11. Construction Method Statement**
- 12. Remove PD rights for outbuildings and rear extensions to properties**
- 13. Habitat enhancement**
- 14. Landscaping details to be provided and to be implemented and replaced if any trees die within 5 years.**

- 15. Crime prevention**
- 16. Electric charging points**
- 17. Parking spaces prior to occupation**
- 18. Lighting Strategy**
- 19. Ecological Enhancement Strategy**

Background Papers:

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f91361>

Certificate of Ownership (Certificate B) – Notice served on:

P.L. Court and N.P. Pattinson 12th April 2017.