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**Report of the Head of Strategic Investment**

**STRATEGIC PLANNING COMMITTEE**

**Date: 07-Sep-2017**

**Subject: Planning Application 2017/91221 Outline application for erection of 12 apartments adj, 5, Hartshead Court, Hightown, Liversedge, WF15 8FG**

**APPLICANT**

S A Russell

**DATE VALID**

04-May-2017

**TARGET DATE**

03-Aug-2017

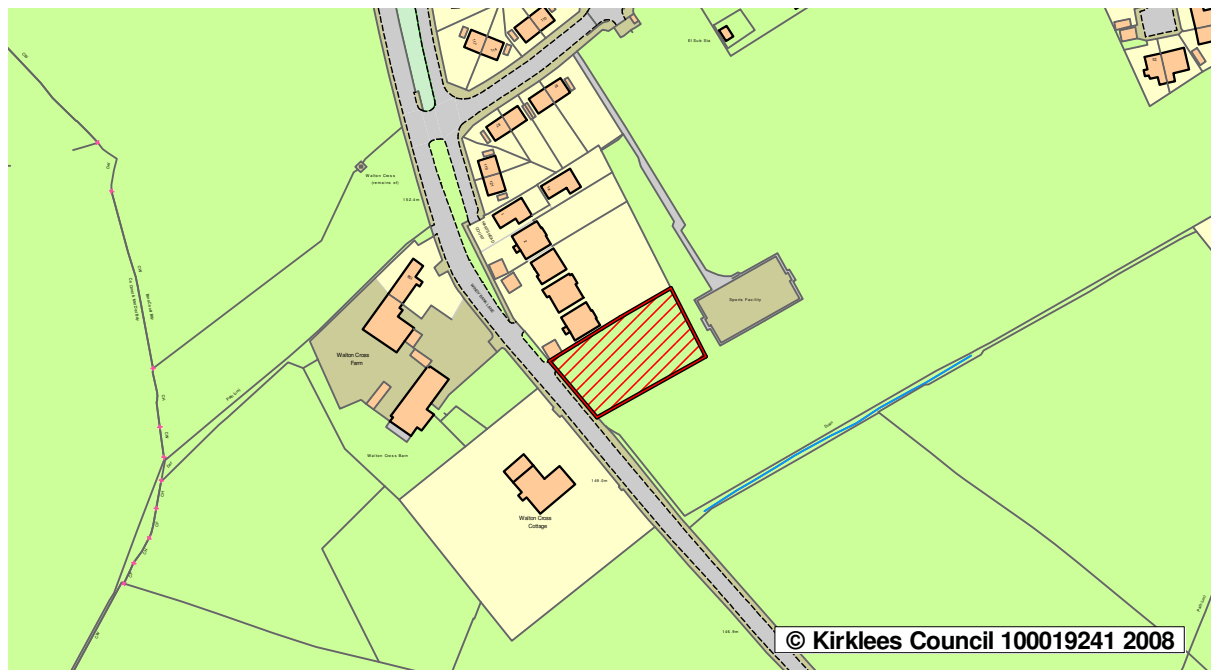
**EXTENSION EXPIRY DATE**

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

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

**LOCATION PLAN**



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

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**Electoral Wards Affected: Liversedge and Gomersal**

yes

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**RECOMMENDATION: REFUSE**

1. The site is allocated as urban greenspace on the Unitary Development Plan, and as such the proposal is contrary to Policy D3 of the UDP and there are no material considerations including the provision of new housing that outweighs the sites value as urban greenspace.
2. The scheme fails to provide any affordable housing, and is therefore contrary to the Councils Interim Affordable Housing Policy, and the guidance contained in part 6 of the National Planning Policy Framework “ Delivering a wide choice of high quality homes”.
3. By virtue of its scale and bulk, the proposal represents overdevelopment of this site, resulting in a development that is out of character with and detracts from the visual amenities of the area, contrary to Policies BE1 and BE2 of the Unitary Development Plan, and part 7 of the National Planning Policy Framework “Requiring good design”.
4. Insufficient information has been provided with this application regarding bin storage and collection, speed survey, and access and access point, to enable an informed highways assessment to be undertaken to ascertain if the scheme is satisfactory with regard to highway safety, accordingly the scheme is considered to be contrary to Policy T10 of the Kirklees Unitary Development Plan.
5. The proposed layout with the use of front and rear garden areas for parking, and turning is considered likely to result in undue disturbance for neighbouring dwellings, and the lower floors of the propose apartment block, detracting from residential amenity contrary to Policy BE1 (iv) of the Kirklees Unitary Development Plan.

**1.0 INTRODUCTION:**

- 1.1 This application is brought to the Strategic Committee as it constitutes a departure from the Unitary Development Plan.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site comprises an area of 0.143 ha, and is located on the eastern side of Windy Bank Lane Liversedge. To the north of the site is a residential development known as Hartshead Court, comprising 4 no detached dwellings and 2 bungalows. To the south and east of the site is an old school playing field.

- 2.2 The site is a green field site and reasonably level, stepped down slightly from the neighbouring dwelling on Hartshead Court.
- 2.3 The site is allocated as Urban Green space on the Unitary Development Plan, and is part of a larger potential housing allocation (including the neighbouring playing field) on the Emerging Local Plan.

### **3.0 PROPOSAL:**

- 3.1 Outline permission is sought for residential development, with access, layout and scale applied for. Initially the proposal was for a block of 18 no 2 bed apartments, 3 no storeys in height, with access taken off Windy Bank Lane, via an existing access point serving the site, with car parking laid out to the front and rear of the block.
- 3.2 The applicants have submitted two sets of amended plans reducing the number of apartments to 15, and then to 12 apartments. This reduces the original roof height, and removes the rear projection from the block. The block is still 3 no storeys in height, and with the exception of a narrow vehicle access to the north the full width of the site.
- 3.3. Access to the site has been relocate to the centre of the frontage, and a total of 18 parking spaces provided, both at the front and rear of the block, with vehicular access to the rear , in between the proposed block and the adjacent dwelling no 5 Hartshead Court

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

- 4.1 None relevant

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

- 5.1 Concern has been raised at the scale and numbers of units applied for together with parking requirements. The applicants has submitted 2 reduced schemes from 18 apartments to 15, and then 15 to 12 and a revised access point. The number of parking spaces are now 18 for the 12 apartments.
- 5.2 Both sets of amendments have been re-advertised, and are discussed in the assessment below.

### **6.0 PLANNING POLICY:**

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25<sup>th</sup> 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:

D3 – Urban Greenspace  
BE1 – Design principles  
BE2 – Quality of design  
BE12 – Space about buildings  
BE23 – Crime prevention.  
T10 – Highway safety  
T19 – Parking standards  
G6 – Land contamination  
H10 – Affordable housing

6.2 Kirklees Local Plan.

The site is part of a larger allocation for housing (H198) proposed to be removed from Urban Greenspace

PLP1 Presumption in favour of sustainable development.  
PLP7 Effective and efficient use of land and buildings  
PLP11 Housing mix and affordable housing  
PLP 20 Sustainable travel  
PLP21 Highway safety and access  
PLP21 Parking  
PLP24 Design  
PLP53 Contaminated and unstable land

6.3 Other Guidance

SPD 2 Affordable Housing  
West Yorkshire Low Emissions Strategy

National Planning Guidance:

- 6.4 Part 4: Promoting sustainable development  
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 12; Conserving and enhancing the historic environment

**7.0 PUBLIC/LOCAL RESPONSE:**

7.1 This application was advertised by site notices and neighbour letters, likewise the amended plans were re-advertised.

7.2 There were 5 letters received objecting to the original proposal, the main concerns were:

- The site is safeguarded for greenspace, on the UDP.
- The new block would not respect the prevailing building line;
- The scale and bulk of the development proposed are out of keeping with the neighbouring properties, and the area;

- The proposals would be harmful to residential amenity, because of excessive bulk, and also invasion of privacy from the apartments to the rear, overlooking garden areas
- The level of parking provision is inadequate.
- The site is located on a dangerous blind bend, and the extra vehicles using the access will cause traffic hazard.
- The drainage provision is unsatisfactory.

One of these objections was withdrawn, subject to reassurances regarding drainage guarantees ( NB: No objections have been raised from Yorkshire Water Authority on this scheme)

7.3 The amended plans were re-publicised. 3 additional letters of objections were received. Essentially these repeated the above objections arguing that the reductions submitted did not go far enough to address any of the original concerns.

7.4 One letter of support has been received, indicating, that a development on this site would be a fine place to retire to.

7.5 The second set of amendments ie: for 12 dwellings has also been re- publicised, and to date 2 further letters have been received, reiterating their original objections, and that the amendments do not address concerns.

7.6. Strong concerns at the access being taken direct onto Windy Ridge Road, believe traffic along her averages at least 45-50mph.

7.7 If there is to be development then it would be preferable that the site were developed by another 2/3 detached dwellings.

## 8.0 CONSULTATION RESPONSES:

### 8.1 Statutory:

**Yorkshire Water Authority-** No objections in principle recommend conditions in the event of approval.

### 8.2 Non-statutory:

**KC Highways DM-** This application provides insufficient information to enable an informed highways assessment to be completed (see assessment).

**KC Environmental Health-** Recommend conditions covering remediation, and provision of vehicle charging points, in the event of an approval.

**KC Strategic Housing-**No objection to housing in principle. There is a demonstrable need for affordable housing within this area, and in line with the Councils Interim Affordable Housing Policy, 2/3 of the units should be affordable.

**KC Conservation and Design-** It is not considered that the development will cause any undue harm to the setting of the nearby Grade 2\* structure, and Scheduled Ancient Monument known as the Walton Cross. (The Cross is approximately 150m distant from the site.)

**Police Architectural Liaison Officer-** No comments adverse to the principle of this site being developed for residential. Recommend condition for the submission of Crime Prevention measures at any Reserved Matters stage.

## 9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Highways Issues
- Residential Amenity
- Environmental Issues
- Drainage/ Flood Risk
- Objections.

## 10.0 APPRAISAL

### Principle of development

10.1 The site is allocated as Urban Greenspace on the Unitary Development Plan, and as such Policy D3 is relevant.

Policy D3 states:

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

- i) is necessary for the continuation or enhancement of established uses or involves change of use to alternative open space 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 quantitative and qualitative terms to that which would be developed and reasonably accessible to existing users*

10.2 In view of the recent Supreme Court judgement and the outcome of the appeal at White Lee Road, Bath]ley , Policy D3 is not a policy for the supply of housing and as such as it relates to paragraph 49 of the NPPF. Therefore Policy D5 is considered to be up to date, and should be given full weight.

10.3. Clearly the proposal is at odds with Policy D3, in that the development is for housing, and there is no replacement open space provided either quantitatively or qualitatively. Nor is there any "specific community benefit " resultant from the development and the proposed development constitutes a departure from the development plan.

10.4. The site is a small part of a larger potential housing allocation on the Emerging Local Plan (H189).

10.5 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.

- 10.6 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).*

- 10.7 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.*

- 10.8 Although the Local Plan is now at an advanced stage it is considered that only limited weight can be attached to the housing allocation in determining the decision and pending the adoption of the Local Plan the UDP remains the statutory development plan for Kirklees. As such the development represents a departure from the UDP and Policy D3, and no specific community benefit offered or demonstrated to satisfy the criteria within policy D3.

- 10.9 Affordable Housing- Given the number of units proposed initially and currently the Councils Interim Affordable Housing policy is relevant. This indicates that 20% of units should be affordable. For 12 apartments that would equate to 2/3 apartments. No affordable units have been offered with this development, the applicants stated intention being to rent them out as retirement apartments

- 10.10 As such the proposal is contrary to the Councils Interim Affordable Housing Policy.

### Urban Design issues

- 10.11 As originally submitted the application for 18 no 2 bed apartments, and this has now been reduced to 12 no 2 bed apartments. The neighbouring dwellings on Hartshead Court ie no's 2-5 are detached properties with a pair of bungalows on the northern side. These properties are all part of the same development developed in a distinctive style. Whilst the application site is accessed separately from Windy Bank lane, it physically abuts Hartshead Court. The other dwellings in the area are semi-detached on the junction of Windy Bank Lane and Second Avenue, and detached farmhouse dwellings on the opposite side of Windy Bank, which is within the green Belt
- 10.12. Policy BE2 of the Unitary Development Plan, indicates that new development should be in keeping with its surroundings in respect of design, scale, density, layout building height or mass.
- 10.13. The amended scheme is 3 no storey in height, and fills the entire width of the site apart from a single car width access to the rear parking area of the site. When approaching the site from the south the proposal will result in an overly dominant structure out scale and character with its surroundings, detrimental to the visual character and amenities of the area.
- 10.14. When viewed in relations to properties on Hartshead Court, the bulk and scale of the proposed block is disproportionate to the neighbouring properties, and in design terms there is little to reflect the style and proportions of the neighbouring dwellings. As an example, the fenestration and entrance details, possess a horizontal emphasis, as opposed to the neighbouring buildings which have a vertical emphasis.
- 10.15. The number of apartments involved results in a significant number of parking spaces being required to satisfy the parking standards. The layout shown for the 12 apartments identifies 18 spaces. These spaces together with the necessary servicing and access arrangements, result in the majority curtilage of the flats being hard surfaced, with very little amenity space for the residents and little opportunity for landscaping or screening.
- 10.16 As such it is considered that the proposed apartment block will be out of character with the surrounding area, significantly detracting from the character and visual amenities of the area.

### Highways Issues

- 10.18 The applicant indicated that this development was for retirement apartments. The type of apartment and the overall layout of the block do not provide any communal areas, or indication of assistance for elderly/ retired people, and the Local Planning Authority would have no legitimate justification to restricting the occupancy to over 55's. As such there is no justification for any reduction in the parking requirements for 2 bed properties, and it must also be acknowledged that this site is a significant distance from the nearest amenities, not a short walk.
- 10.19 The applicants have provided revised proposals for 12 no 2 bedroom apartments. A single point of access onto Windy Bank Lane is propose with 18 off street parking spaces to the front and rear of the propose apartments.



- 10.20. The proposed access is 4.0m in width and with sightlines of 2.4m x 55m to the north and 2.4m x 62m to the south. No bin collection points are shown on the revised plans.
- 10.21. Whilst the speed limit along Windy Bank Lane is 30mph, the actual speed limits could be higher, and a speed survey should be undertaken to confirm that the proposed sight lines are acceptable.
- 10.22. Bin Storage collection points should be provided in accordance with the guidance for new developments, which would enable bins to be collected from Windy Bank Lane without obstructing the proposed access or the public highway. The width of the proposed access should be increased to 4.5 to enable two vehicles to pass at the access.
- 10.23. This application provides insufficient information to enable an informed highways assessment to be completed.

#### Residential Amenity

- 10.24. As originally submitted the apartment block contained a rear projection, with a significant number of habitable room windows on 3 floors facing towards the rear curtilages of neighbouring dwellings. The amended scheme for 12 apartments has removed that rear projection, and as such there should be no overlooking or invasion of privacy.
- 10.25. To the rear of the site is an old school playing field (now unused) with a basketball court next to the boundary. Given the site to the rear is now unused, and indicated as a housing allocation in the Emerging Local Plan, it is not considered that any noise or disturbance will affect any new apartments.
- 10.26. The layout for the 12 apartments includes vehicle parking both to the front and rear of the block, with a vehicle access in between the block and the neighbouring dwelling no 5, Hartshead Court. As such there will be coming and goings of vehicles, and parking manoeuvres, with potentially headlights shining into the rear garden areas, and habitable rooms of the neighbouring dwellings. It is considered that this would result in a level of disturbance that would detract from the residential amenities of the neighbouring dwellings, and result in an unacceptable level of amenity for a number of the proposed apartments, particularly those on the ground floor.

#### Environmental Issues( Contamination/ Noise/ Air Quality)

- 10.27. The site is capable of being remediated and made fit to receive residential development, and there are not considered to be any insurmountable noise issues associated with the site. Given the relatively small numbers of units involved, and the sites location, issues of air quality could be dealt with via the imposition of a condition requiring charging points for low emission cars, in accordance with the West Yorkshire Low Emissions Strategy.
- 10.28. As such there are no environmental concerns with the development.

## Drainage/ Flood Risk

- 10.29. The site is within Flood Zone 1, ie he area least likely to flood, and given the limited area of the site no flood risk assessment is required. There have been no objections raised to the scheme from the Yorkshire Water Authority, and the site has been potentially earmarked for housing within the Emerging Local Plan.
- 10.30 As such there is no reason to believe that the site cannot be satisfactorily drained for both foul and surface water, and that these matters could be covered by the imposition of appropriate conditions

## Objections

- 10.31. The objections to the scheme and each of the amendments consistently relate to 3 main issues:
- i) The scheme constitutes overdevelopment of the site that would be out of keeping and character with the area  
*Response.* Whilst the scheme has been reduced from 18 to 12 no apartments, it is considered he proposal still represents an over intensive development of the site, that would significantly detract from the character and visual amenities of the area.
  - ii) There is insufficient parking provided for so many apartments, and the access onto Windy Bank Lane is potentially hazardous given the actual speeds that cars drive along that road.  
*Response:* Given the sites location there is no justification for any reduction in parking levels. There is a need for a speed survey to determine if the available visibility is adequate, and a number of detailed issues with the layout (width of access, lack of bin collection details) that need to be satisfactorily demonstrated in the interests of highway safety.
  - iii) The drainage for this site is inadequate.  
*Response.* There has been no objection to the scheme from Yorkshire Water Authority, and there is no reason to suppose that drainage issues cannot be satisfactorily covered by condition. One objector has withdrawn their concerns on this

## **11.0 CONCLUSION**

- 11.1 The site is allocated a Urban Greenspace on the Unitary Development Plan, and as such Policy D3 is relevant, and can be considered to be up to date, and carries considerable weight. The scheme proposal represents a departure from Policy D3 and no “specific community benefit” is offered with the scheme to outweigh the loss of the Urban green space at this time. Also the scheme, given its scale and layout, fails to protect the visual amenities of the area, as required in Policy D3. No affordable housing is offered with the development, which makes the proposal contrary to the Interim Affordable Housing Policy.
- 11.2. In addition to the policy objections to this scheme the details of the building, its bulk, the parking and servicing arrangements, and the relationships to neighbours are all considered to be areas of concern resulting from an attempt to overdevelop the site.

- 11.3. It is accepted that there is a shortage of housing within the district, and that this is a material consideration, however in the above circumstances the presumption in favour of sustainable housing schemes as detailed in paragraph 14 of the NPPF, is not triggered, and refusal of the scheme is recommended.

## **12.0 RECOMMENDATION**

### **REFUSAL for the following reasons**

1. The site is allocated as urban greenspace on the Unitary Development Plan, and as such the proposal is contrary to Policy D3 of the UDP and there are no material considerations including the provision of new housing that outweigh the sites value as urban greenspace.
2. The scheme fails to provide any affordable housing, and is therefore contrary to the Councils Interim Affordable Housing Policy, and the guidance contained in part 6 of the National Planning Policy Framework “ Delivering a wide choice of high quality homes”.
3. By virtue of its scale and bulk, the proposal represents overdevelopment of this site, resulting in a development that is out of character with and detracts from the visual amenities of the area, contrary to Policies BE1 and BE2 of the Unitary Development Plan, and part 7 of the National Planning Policy Framework “Requiring good design”.
4. Insufficient information has been provided with this application regarding bin storage and collection, speed survey, and access and access point, to enable an informed highways assessment to be undertaken to ascertain if the scheme is satisfactory with regard to highway safety, accordingly the scheme is considered to be contrary to Policy T10 of the Kirklees Unitary Development Plan.
5. The proposed layout with the use of front and rear garden areas for parking, and turning is considered likely to result in undue disturbance for neighbouring dwellings, and the lower floors of the proposed apartment block detracting from the residential amenity contrary to Policy BE1 (iv) of the Kirklees Unitary Development Plan.

### **Background Papers:**

Application and history files.

Website link to be inserted here

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