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**Report of the Head of Strategic Investment**

**STRATEGIC PLANNING COMMITTEE**

**Date: 05-Oct-2017**

**Subject: Planning Application 2016/90376 Outline application for erection of 7 dwellings with associated works Land to NE of Wickleden Gate, Scholes, Holmfirth, HD9 1QT**

**APPLICANT**

Claire Parker-Hugill,  
L'Arche Developments  
(Yorkshire) Ltd

**DATE VALID**

10-May-2016

**TARGET DATE**

10-Oct-2016

**EXTENSION EXPIRY DATE**

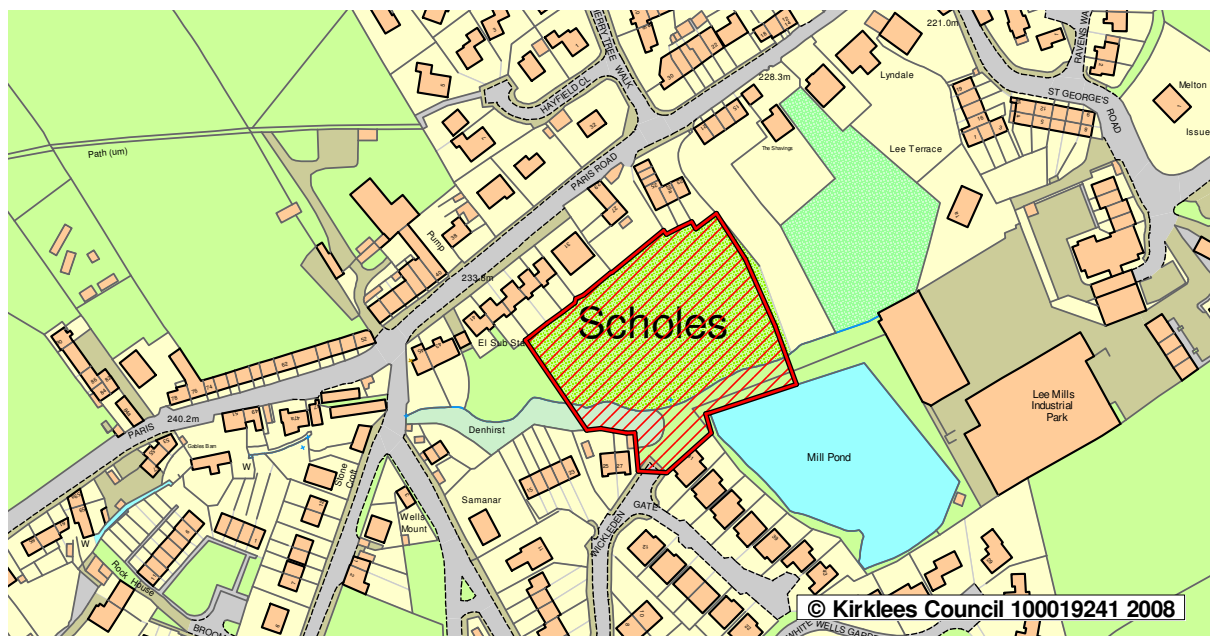
10-Oct-2016

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

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

**LOCATION PLAN**



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

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**Electoral Wards Affected: Holme Valley South**

Yes

Ward Members consulted  
(referred to in report)

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**RECOMMENDATION:**

**Refuse**

1. The site forms part of an Urban Greenspace allocation on the Council's Unitary Development Plan (UDP) Proposals Map as well as on the Draft Publication Local Plan. Policy D3 of the UDP and Policy PLP 61 of the Local Plan relate to development on Urban Greenspace sites. The site (and the wider allocation) is considered to have visual amenity value by providing open green space within the built-up area of Scholes where similar open land is scarce. It is considered that the development does not meet the criteria for development on Urban Greenspace sites as set out in Policy D3 of the UDP, including the provision of a specific community benefit. Furthermore, the development would not be consistent with PLP 61. The loss of the value of the Urban Greenspace is considered to outweigh all other material considerations, including the delivery of new housing.

**1.0 INTRODUCTION:**

1.1 The application is brought to the Strategic Committee because the development would be a departure from the development plan if the application were to be approved.

**2.0 SITE AND SURROUNDINGS:**

2.1 The site comprises a piece of open land that sits between Wickleden Gate and Paris Road, Scholes. The site slopes up from the boggy ground in the south eastern part of the site towards the north west where it abuts the rear gardens of a number of properties along Paris Road that sit at a higher level to the site. The land is predominantly covered in long grass and there is an area of protected trees towards the southern corner of the site.

2.2 There is a mill pond used by a local piscatorial society to the south east of the site and some commercial development further to the east but the prevailing character of the area is residential.

2.3 The land forms part of a larger piece of Urban Greenspace that extends towards the east and includes the mill pond to the south east.

**3.0 PROPOSAL:**

3.1 This is an outline application seeking approval of access and layout. The proposed development has been amended during the course of the

application from 14 dwellings to 7. The amended layout shows a block of 7 detached dwellings towards the upper part of the site with a wetland nature area and forest school garden plus a parking area on the lower ground, separated by an internal estate road.

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

- 4.1 91/01274 Outline application for residential development – Refused & appeal dismissed
- 90/02235 Outline application for residential development – Refused
- 89/07346 Outline application for residential development – Refused
- 88/00658 Outline application for erection of 2 dwellings – Refused

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

- 5.1 The applicant requested an opportunity to modify the scheme after concerns were raised by officers regarding the principle of the development on the Urban Greenspace and concerns with the quantum and layout of development. The applicant also sought to address highway, drainage and tree issues through the submission of additional information.

#### **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.
- 6.2 The site is allocated as Urban Greenspace in the Unitary Development Plan and the Local Plan. The application site and part of the remainder of the Urban Greenspace allocation were put forward as a housing option as part of the Local Plan process. This was rejected in favour of retaining the Urban Green Space allocation. There are no public objections to either the rejected housing option or the Urban Greenspace designation. The designation will be resolved at the Local Plan Examination in Public.

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

- 6.2 BE1 – Design principles
- BE2 – Quality of design
- BE11 – Materials

BE12 – Space about buildings  
BE23 – Crime prevention  
EP4 – Noise sensitive development  
EP11 – Ecological landscaping  
D3- Urban Green Space  
T10 – Highway safety  
T16- Provision of safe pedestrian routes within development  
T19 – Parking standards  
NE9 – Retention of mature trees  
H18 – Provision of open space  
G6 – Land contamination

Supplementary Planning Guidance / Documents:

6.3

PLP1 Presumption in favour of sustainable development  
PLP7 Efficient and effective use of land and buildings  
PLP 20 Sustainable travel  
PLP21 Highway safety and access  
PLP22 Parking  
PLP24 Design  
PLP27 Flood Risk  
PLP28 Drainage  
PLP30 Bio diversity and geodiversity  
PLP32 Landscape  
PLP33 Trees  
PLP 48 Community facilities and services  
PLP51 Protection and improvement of air quality  
PLP52 Protection and improvement of environmental quality  
PLP 53 Contaminated and unstable land  
PLP61 Urban green space

National Planning Guidance:

6.4 National Planning Policy Framework:-

Part 1 Building a strong effective economy  
Part 4 Promoting sustainable transport  
Part 6 Delivering a wide choice of high quality homes  
Part 7 Promoting good design  
Part 8 Promoting healthy communities  
Part 10 Meeting the challenge of climate change, flooding and coastal change  
Part 11 Conserving and enhancing the natural environment.

Paragraph 74 indicates that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- an assessment demonstrates the land is be surplus to requirements; or
- the loss would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.

It should be noted that the Strata Homes appeal (New Lane inquiry) Inspector allowed an appeal on UGS (without a specified community benefit). The

Inspector here did not consider paragraph 74 germane to the appeal. This view was also set out in the Council's defence at the White Lee (Jones Homes) Inquiry in June 2017. As such for the typology of UGS in question (semi-natural) the use of paragraph 74 is not considered directly relevant to the outcome of the planning application. The position however is that Policy D3 of the UDP is in broad conformity with the NPPF and the UDP policy D3 is not out of date in the context of the Supreme Court Ruling.

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

7.1 The application as originally submitted was advertised by site notice, press advert and neighbour notification letters. In response a total of 58 representations were received. 56 of the representations raise concerns and/or object to the proposal, one of the representations is in support and another states no objections to a reasonable development on the land.

A summary of the representations is provided as follows:

### General principle:

- Previous refusals on the site including an appeal dismissed on grounds of new development being overlooked and loss of visual break as 'back land' for existing properties
- Loss of Urban Greenspace – contrary to Policy D3
- School does not need the wetland area/forest school
- Concerns that more of the UGS allocation will be developed in the future
- Site is not wasteland/dumping ground as suggested by the applicant
- Cumulative effect with other approved/planned development in Scholes

### Visual amenity/character:

- Loss of openness within the village
- Development will add to previous 'infill' development to the detriment of the character of the village
- Detrimental impact on visual amenity
- Excessive density – out of character
- Overdevelopment
- Concerns with scale and design
- Loss of outlook/view

### Highway matters:

- Impact on local road network; local road network unsuitable to accommodate additional housing
- Additional traffic and congestion
- Increased vehicle movements detrimental to safety and free flow of traffic
- Concerns with proposed access arrangements and parking
- Problematic accessing the site during very cold weather (snow and ice). People park on nearby roads at such times and this will be increased as a result of the development

### Residential amenity:

- Proposed houses will be overlooked with little privacy
- Obtrusive, overbearing and 'claustrophobic' effect on adjacent properties

- Loss of light/overshadowing
- Overlooking/loss of privacy to existing properties
- Community garden will attract noisy gatherings and litter

#### Flood risk & drainage:

- Drainage issues in this area are such that this is an unsuitable site to develop
- Site acts as natural drainage area for higher areas
- Increased flood risk
- Concerns with how foul and surface water will be dealt with

#### Ecology and trees:

- The make-up of the site has ecological value and supports wildlife including bats
- Loss of habitat / biodiversity
- Inadequate ecological information provided
- Loss of protected trees / detrimental impact on protected trees
- Impact on mill pond ecology

#### Other matters:

- Impact on local infrastructure: schools, services and roads
- Not a need for this type of housing in this location
- Site includes land owned by the Paris Piscatorial Society that was supposed to be transferred under a S106 obligation for the houses built as Wickleden Gate
- Plans may affect access to fishing pond including by wheelchair users
- Practical concerns with the carrying out of construction including noise and disturbance and impact on stability of mill pond
- Who will maintain the wetland area? Has a risk assessment been carried out for future users?
- Concerns with the practicalities of the community garden
- Impact on ground stability
- Concerns with extent of publicity of the application

#### In support:

- Appropriate use of waste land

Following the submission of amended plans a further round of consultation was carried out via letters sent to neighbours and interested parties. In response a total of 17 objections were received and a letter of support from the Paris Piscatorial Society.

A summary of the objections is provided as follows:

- Fundamental concerns remain with the principle of development on the Urban Greenspace
- Lack of a 5 year housing supply does not outweigh other considerations
- Concerns with the future maintenance and management of the wetland nature area. No evidence that it is wanted or needed. Such a facility could be located elsewhere - it's not unique to this location. Wetland area may attract unsociable behaviour.

- Previous refusals and Inspector's decision still relevant
- Site was rejected for housing in the Local Plan
- Concerns that remainder of the Urban Greenspace allocation will be developed in the future
- Highway concerns remain – traffic, congestion, safety of highway users, unsuitable highway network and point of access, on-street parking issues during inclement weather
- Ecology concerns remain – loss of habitat, detrimental impact on biodiversity
- Concerns remain with drainage and flood risk issues which have not been adequately addressed. Additional concerns with suitability of proposed drainage strategy.
- Concerns remain with impact of additional houses on local facilities and services including the school
- Impact on local infrastructure – roads and drainage systems
- Loss of trees. Box culvert also appears to be below protected trees.
- Loss of visual amenity
- Loss of privacy from footpath to wetland area
- Overlooking and overshadowing of existing property
- Health concerns arising from construction
- Increased noise
- Concerns with potential scale of houses

A summary of the letter of support is provided as follows:

- Paris Piscatorial Society (PSC) supports the proposals. Proposal provides a significant community benefit and will improve the land.
- Development will provide parking for anglers which will help to address local concerns with on-street parking
- The parking area includes disabled parking provision which would allow disabled members to join the club and the parking would also benefit less mobile members.
- Some basic storage is provided within the wetland nature area along with a potential meeting place which would benefit the PSC
- Visual benefit provided by the wetland area
- Development will prevent a fly-tipping issue at the site
- Improve safety by removing a boggy area that could be a hazard to children
- PSC could provide a nominated authorised 'keyholder' to help to manage the parking area and wetland area

**Holme Valley Parish Council** – Initially objected to the application on the following grounds: “Loss of urban green space, highways/access issues, over-intensification of the site, TPO's, reduction in/lack of parking and lack of schools. Bungalows and smaller properties (affordable and semis) would be more appropriate and in keeping”.

Holme Valley Parish Council were consulted on the amended proposals and commented that they support the application subject to highway and parking issues being resolved.

**Ward members** – Cllr Nigel Patrick enquired as to progress with the application. Ward members notified of the amended plans. No specific comments on the original or amended proposals have been received from ward members.

## 8.0 CONSULTATION RESPONSES:

### 8.1 Statutory:

**KC Highways** – No objections in principle however further information is required to enable a full highways assessment of the amended scheme to be carried out. Some concerns raised with the configuration of the walkway from Wickleden Gate to the wetland nature area/forest school.

**KC Lead Local Flood Authority** – No objections subject to conditions

### 8.2 Non-statutory:

**KC Environmental Health** – No objection subject to conditions

**KC Trees** – No objections in principle but further information required to fully assess the impact on protected trees.

**KC Conservation & Design** – No objection in principle to developing the land. It was felt that the 14 dwelling scheme was slightly overdeveloped.

**KC Ecology Unit** – The main biodiversity value of the site is the boggy ground in the lower part of the site. The expanded wetland nature area is likely to provide adequate biodiversity mitigation subject to details of landscaping and a landscape and ecology management plan.

**The Environment Agency** – No comment of flood risk grounds. Advise to consult with Yorkshire Water regarding sewage capacity.

**Yorkshire Water** – Advise that no comments required from Yorkshire Water for this development (comments in relation to 14 dwelling scheme)

**West Yorkshire Police Architectural Liaison Officer** – General advice provided regarding boundary treatments and window door design. Appropriate boundary treatment is especially important in relation to the community gardens within the site (now omitted from the scheme as amended).

## 9.0 MAIN ISSUES

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

## 10.0 APPRAISAL

Principle of development



- 10.1 The site is allocated as Urban Greenspace in the UDP, and the site is also allocated as Urban Greenspace on the Local Plan. The Local Plan designation now carries considerable weight and in the absence of any public objections to either the rejected housing option or the approved Urban Greenspace designation the weight that can be attached is increased. Nevertheless pending the adoption of the Local Plan, the UDP remains the statutory development plan for Kirklees, and policy D3 is the relevant policy.

Policy D3 states:

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

**i) is necessary for the continued enhancement of established uses or involves change of use to alternative open land uses, ,or would result in a specific community benefit, and, in all cases will protect visual amenity, wildlife value and opportunities for sport and recreation; or**

**ii) Includes alternative provision of urban greenspace equivalent in both quantity and qualitative terms to that which would be developed and reasonably accessible to existing users.**

- 10.2 The site at present forms part of an area of natural green space within a built-up area. There is no public access to the land. This application is for housing and is not therefore necessary for the continued enhancement of the established use.
- 10.3 The proposal does not involve change of use to an alternative open land use. The majority of the site would be developed for housing and, whilst the layout does provide a reasonably substantial area of undeveloped space in the form of a wetland nature area, this in itself would not result in an alternative open land use when considering the proposal in its entirety. Furthermore, this wetland nature area would be secured and managed in order to control access and so it cannot be classed as 'open' land. The applicant is however relying on this wetland nature area, along with some parking spaces, as providing a specific community benefit and contends that the development therefore complies with Policy D3.
- 10.4 The applicant has indicated that the wetland nature area and forest school could be used for educational purposes and local schools, nurseries and scouting movements have been suggested as potential end users.
- 10.5 Officers have considered the proposed community benefit and have concluded that it would not constitute a specific community benefit for the purposes of Policy D3. Evidence to suggest that there is a clear need or demand for this type of facility has not been adequately demonstrated within the submission and there is nothing to indicate from the public representations received that the local community, including any potential end-users, considers the wetland nature area to be a desirable addition that would benefit the local area. It is acknowledged that Holme Valley Parish Council now support the application in its amended form (reversing their original objection) and some weight can be attached to this, albeit the parish council has not made any specific comment on the 'community benefit' element. Nevertheless, officers are of the opinion that there is insufficient

information to confidently say that the wetland nature area and forest school would deliver a specific benefit for the community which would justify the loss of this piece of Urban Greenspace.

- 10.6 In addition to this, officers have concerns over the lack of information to demonstrate the practicalities of the long term management and maintenance of the wetland nature area which have not been adequately alleviated through the information provided. The applicant has provided some basic heads of terms for the management of the wetland nature area although concerns still exist in relation to who will assume responsibility for maintaining the land, especially in relation to paying for its upkeep, as well as which body/group(s) will manage the use of the area on a day-to-day basis, including responsibility for keeping the area secure. It is noted that the Paris Piscatorial Society has stated that they could assist in helping to manage access to the area through a nominated 'keyholder' but it is still considered that clear arrangements for ongoing management and maintenance are lacking. Concerns with the maintenance and security of the wetland nature area have also been expressed by local residents.
- 10.7 Six parking spaces are also to be provided adjacent to the wetland nature area. These would be available for visitors to the nature area and use by the adjacent angling club (Paris Piscatorial Society). The piscatorial society have commented that the proposals would help to alleviate existing on-street parking issues and would enable disabled anglers to access the mill pond as a result of the parking provision and the proposed new entrance. There is a benefit in having some off-street parking for the angling club as well as the improved accessibility to the mill pond but very limited weight is given to this in the context of it providing, or at least contributing towards, a specific community benefit for Policy D3.
- 10.8 Policy D3 (i) requires that in all cases development will protect visual amenity, wildlife value and opportunities for sport and recreation.
- 10.9 The reduction in the number of dwellings has reduced the visual impact of the development and the location and topography of the site in relation to surrounding land would mitigate the visual prominence of the development. Nevertheless, the proposal would introduce a substantial built form on an area of land that is allocated as Urban Greenspace in the emerging Local Plan partly on the basis of its visual amenity value in that it contributes to a sense of openness within the built-up area of Scholes village where similar green buffers are extremely limited. The application site constitutes a relatively substantial proportion of the overall Urban Greenspace allocation and would significantly diminish its visual amenity value. Whilst matters of scale and appearance are reserved for future approval it is still considered that the development would fail to adequately protect visual amenity.
- 10.10 In terms of ecological value, the proposed wetland nature area would go a long way towards protecting the site's ecological value and it is considered that the development is acceptable in this regard.
- 10.11 With respect to opportunities for sport and recreation, the site currently comprises private land with no public access. The site does not therefore currently provide any opportunities for sport or recreation. The proposals would not fundamentally alter this position although it would make access to the adjacent angling club, which is part of the wider Urban Greenspace

designation, easier for less mobile and disabled anglers. There could be some recreational value to the wetland nature area although, as detailed in the application, access would be controlled which limits its general recreational value.

- 10.12 The development does not include alternative provision of Urban Greenspace equivalent in both quantitative and qualitative terms and therefore the development does not meet the second criterion of Policy D3.
- 10.13 The development also does not accord with Policy PLP 61 of the Draft Publication Local Plan which sets out the criteria for development on Urban Greenspace sites and allows for proposals which result in a substantial community benefit that clearly outweighs the harm resulting from the loss of the existing Urban Greenspace. For the reasons described above officers do not consider that the development would meet any of the criteria set out in this policy.
- 10.14 In conclusion officers consider that proposal fails to meet the criteria for development on Urban Greenspace sites as set out in Policy D3, and specifically the wetland nature area and forest school plus parking area is not considered to amount to a specific community benefit. Furthermore, the development would significantly compromise the significant visual amenity value of the Urban Greenspace allocation by reducing the sense of openness within the built-up part of Scholes village, where there is already a scarcity of such open land.

#### Urban Design & Heritage Issues

- 10.15 The layout is much improved from the original 14 dwelling proposal and matters of scale, appearance and landscaping are reserved. In principle it is considered that dwellings of an acceptable scale and design could be provided but nevertheless this would not overcome the fundamental concerns with the visual impact of the loss of the open land as referred to in paragraph 10.9.
- 10.16 There are a small number of listed buildings towards the north and west of the site, the closest being 27/29 Paris Road. Section 16 of the Planning (Listed Buildings & Conservation Areas) Act 1990 introduces a general duty for the protection of listed buildings & structures. Additionally, NPPF Chapter 12 outlines the principle of development and restrictions for designated heritage assets. For development which affects a listed building or its setting the local planning authority should 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.
- 10.17 It is considered that the separation distance (which includes an undeveloped buffer zone) and the difference in levels between 27/29 Paris Road and the main part of the site is such that there would not be any significant impact on the setting of this listed building. The other listed buildings in the vicinity are further away with built development lying in between.

### Residential Amenity

- 10.18 The amended layout has reduced the impact on adjacent properties, particularly the removal of a dwelling adjacent to 31 Wickleden Gate.
- 10.19 The proposed layout accords with the council's space about buildings policy (BE12). The potential for any significant impacts on the amenity of nearby properties is also reduced by the topography of the area as well as existing and new landscaping within the site. For example, a landscaped buffer zone is shown along the north western boundary to the properties on Paris Road which are set at a higher level to the site and the area of protected trees to the southern part of the site would help to screen part of the development from dwellings on Wickleden Gate. The relationship between new and proposed houses would provide an acceptable standard of amenity for future residents of the proposed development.
- 10.20 The site lies in quite close proximity to some commercial development at Lee Mills Industrial Park. Kirklees Environmental Services have been consulted on the application and have considered the relationship between the site and the nearby industrial uses. Whilst there is some daytime noise arising from the industrial park this is not considered to be at a level that would prejudice future occupiers, particularly considering the separation distances involved. The development is considered to comply with Policy EP4 and guidance in the NPPF.

### Landscape issues

- 10.21 Landscaping is a reserved matter but the layout shows a generous amount of planting to the north west boundary within an undeveloped buffer zone as well as the retention of an area of protected trees to the south western boundary. The wetland nature area also provides a substantial area of soft landscaping around a pond. In general these areas would provide attractive green spaces within the development and afford a sense of openness. Hard landscaping such as boundary walls and fences and vehicle/pedestrian surfaces would be considered at reserved matters stage.

### Housing issues

- 10.22 The development would deliver a modest amount of housing that would boost the housing supply within the district but this does not outweigh the loss of the Urban Greenspace.

### Highway issues

- 10.23 Highways Development Management raise no objections in principle however further technical information has been requested from the applicant. This information includes details of levels along the access road to demonstrate road gradients and how the access would tie in with Wickleden Gate; swept paths for a larger size of vehicle than that shown; footways along the estate road; details of how the access relates to the culverted watercourse within the site and; a demonstration of sightlines from the access road. Additional information is awaited from the applicant and an update will be provided to members on the highways assessment.

### Drainage issues

- 10.24 In response to the amended site layout for 7 dwellings and the submission of additional drainage information there are no objections from Kirklees Lead Local Flood Authority. Properties have been removed in areas considered at risk of flooding and the wetland area has been expanded. Provisional details show culverted sections of the open watercourse which are acceptable to facilitate access. Conditions would be required relating to detailed drainage design, the existing watercourse within the site and the site's interaction with the adjacent mill pond.
- 10.25 Yorkshire Water and the Environment Agency have both been consulted and no objections have been raised.

### Trees and ecology

- 10.26 The site includes a belt of protected trees towards the southern boundary. The proposal indicates that two of these trees would need to be felled in order to facilitate the access. The plan indicates that one of the trees is dead.
- 10.27 The trees officer has no objections in principle to developing the site and some very limited tree removal can be accepted provided that compensatory tree planting is provided elsewhere within the site.
- 10.28 One of the proposed dwellings is very close to the belt of protected trees and further information is awaited from the applicant to accurately demonstrate this relationship in order to assess whether adequate separation is being provided. If adequate separation is not being provided then the layout may have to be amended slightly.
- 10.29 The updated drainage information shows a section of an existing stream, which passes through the area of protected trees, being culverted within a box culvert. Whilst the drainage scheme is indicative only at this stage these works could potentially impact the trees and a method statement to demonstrate how these works would be carried out without harming the trees would be required.
- 10.30 An update will be provided to members on tree issues.
- 10.31 An ecological report has been submitted with the application and is accepted as an accurate representation of the habitats present on site. The site is relatively diverse in terms of the range of habitats present and, although none of the habitats are specifically protected, this is likely to support a reasonably diverse invertebrate assemblage, which in turn has the potential to support a good assemblage of birds and bats.
- 10.32 The habitats of greatest value are likely to be the combined swamp vegetation and ditch at the southern boundary. This area is also likely to provide the greatest contribution to the wider habitat network. The loss of these habitats is likely to result in significant ecological impacts which will need to be mitigated in order to make the development acceptable.
- 10.33 Officers are satisfied that the revised site layout, which has significantly expanded the proposed wetland area, would avoid much of the associated ecological impacts. Subject to further details of this area being provided by conditions and/or under details of 'landscaping' at reserved matters stage

then the ecological implications of the development are considered to be acceptable. The development is deemed to accord with guidance in the NPPF.

### Representations

- 10.34 The application has been subject to two rounds of formal publicity, one for the plans as originally submitted (14 dwellings) and one for the amended scheme (7 dwellings).
- 10.35 A total of 76 representations were received in response to the publicity, the overwhelming majority of which raise concerns. The main thrust of the objections relate to development on Urban Greenspace, the planning history of the site, detrimental impact on visual and residential amenity, highway concerns, drainage, ecology, trees and the impact on local infrastructure including school places.
- 10.36 The issue of development on the Urban Greenspace has been set out earlier in this report along with an assessment of the visual and residential amenity impacts, drainage issues and ecological and tree implications. In principle the development is acceptable from a highway safety point of view; the impact of an additional 7 dwellings on the local highway network would be very limited and subject to additional/amended information being provided the access and layout arrangements could be made acceptable. In terms of the impact on local school places, the development does not trigger an education contribution and this concern cannot be given any weight.
- 10.37 Comments have been made in relation to land ownership whereby it has been suggested that the site includes land owned by the Paris Piscatorial Society that was supposed to be transferred under a S106 obligation in connection with the houses built as Wickleden Gate. The applicant has signed Certificate A stating that they own all the land to which the application relates. Whether the Paris Piscatorial Society owns any of the site or not, an applicant only has to serve notice on another land owner in order to satisfy planning application requirements. The Paris Piscatorial Society are fully aware of the application and are in support of it and so even if it is the case that the piscatorial society own some of the land then this landowner has not been prejudiced in any way and in the circumstances the application is deemed to be valid.
- 10.38 The impacts of construction have also been raised by a number of residents but this is not a material consideration. The impact on ground stability has been referenced although it is considered that on this site such issues would be adequately dealt with through the building regulations regime. An appropriate drainage scheme would also help to allay such concerns.

### Planning obligations

- 10.39 The development does not meet the trigger for affordable housing or an education contribution. The site area triggers a public open space (POS) contribution; the wetland nature area is unlikely to meet the requirements of POS given that it would not be an enclosed area with controlled access and so an off-site sum in lieu would have to be negotiated with the applicant and secured by S106.

## Other Matters

- 10.40 Further investigation into potential contaminated land issues is necessary and could be dealt with by conditions.
- 10.41 The revised layout which has removed the community gardens addresses some of the comments made by the Police Architectural Liaison Officer. More details of the management of the wetland nature and car park would be required to ensure that these areas do not attract anti-social behaviour. This area would nevertheless be well overlooked by the proposed houses.

## **11.0 CONCLUSION**

- 11.1 The principle of development on this area of Urban Greenspace is contrary to Policy D3 of the UDP and specifically the applicant has failed to demonstrate that the development would provide a specific community benefit and one that is viable in the opinion of Officers. The development is also inconsistent with Policy PLP 61 of the emerging Local Plan. The site forms part of a larger Urban Greenspace allocation that has high visual amenity value by virtue of it providing green space within a built-up area which gives a sense of openness to this part of the village. Furthermore, similar areas of open land are extremely limited within the village which increases the amenity value of this site. The development would significantly compromise the site's value as open land and the harm is not outweighed by any other material considerations.
- 11.2 The principle of the development is accepted from a highway safety point of view, subject to the submission of further design information. It is considered that the development can provide an acceptable standard of amenity for existing and future residents and officers are satisfied that adequate arrangements for the site's drainage can be put in place. The ecological impacts can also be adequately mitigated. The specific impact on protected trees requires further assessment and members will be updated on this matter but in principle there are no significant constraints to developing the land.

## **12.0 Reason for Refusal**

1. The site forms part of an Urban Greenspace allocation on the Council's Unitary Development Plan (UDP) Proposals Map as well as on the Draft Publication Local Plan. Policy D3 of the UDP and Policy PLP 61 of the Local Plan relate to development on Urban Greenspace sites. The site (and the wider allocation) is considered to have visual amenity value by providing open green space within the built-up area of Scholes where similar open land is scarce. It is considered that the development does not meet the criteria for development on Urban Greenspace sites as set out in Policy D3 of the UDP, including the provision of a specific community benefit. Furthermore, the development would not be consistent with PLP 61. The loss of the value of the Urban Greenspace is considered to outweigh all other material considerations, including the delivery of new housing.

### **Background Papers:**

Application and history files.

Website link:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f90376>

Certificate of Ownership – Certificate A signed