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**Report of the Head of Strategic Investment**

**STRATEGIC PLANNING COMMITTEE**

**Date: 08-Feb-2018**

**Subject: Planning Application 2017/93488 Outline permission for erection of 96 dwellings and planning permission for infill of land Land at Walkey Terrace and Brunswick Street, Heckmondwike**

**APPLICANT**

Andrew Redmile, Ernest  
Gordon Ltd

**DATE VALID**

13-Oct-2017

**TARGET DATE**

12-Jan-2018

**EXTENSION EXPIRY DATE**

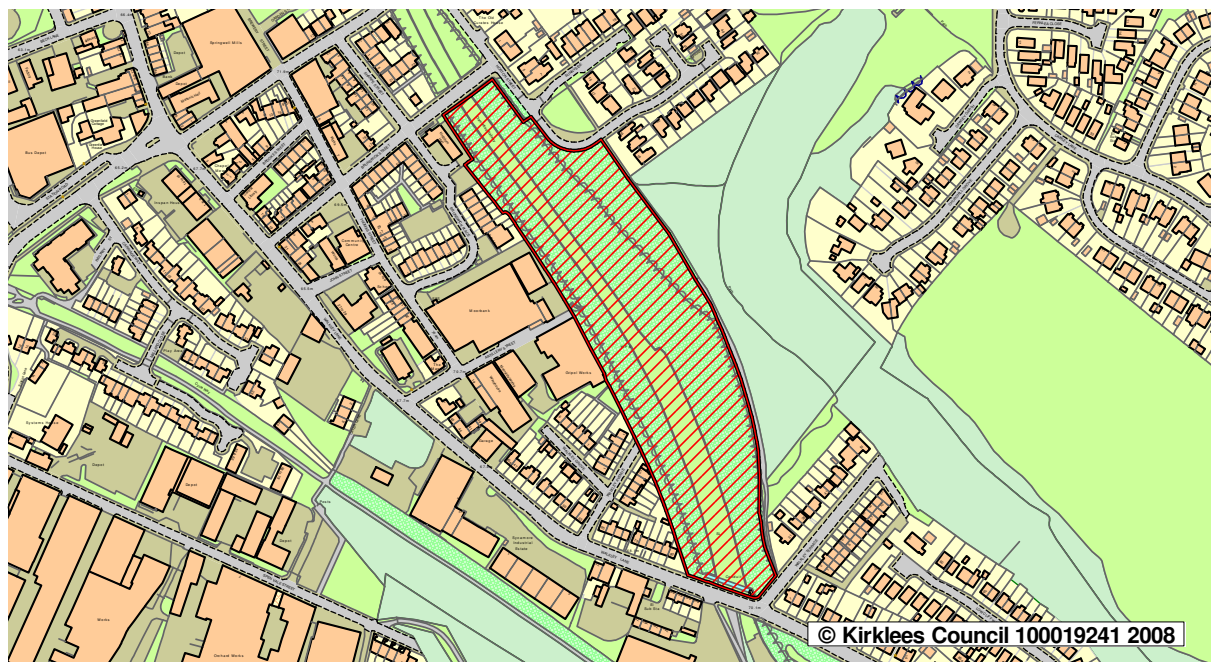
28-Feb-2018

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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: Heckmondwike

Yes

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**RECOMMENDATION: Refuse**

- 1. The proposed temporary access arrangements associated with the landfilling element of this proposal would have significant detrimental impact on highway safety in the vicinity of the site in that the local highway network is not capable of safely accommodating the regular daily movement of the heavy goods vehicles needed to transport infill material to the site. This would be contrary to Unitary Development Plan policy T10 and Kirklees Publication Draft Local Plan policies PLP21, PLP44 and Section 7 of the National Planning Policy Framework.**
- 2. The applicant has failed to demonstrate that the landfill of the site over a period of at least two years will not have a detrimental impact on the amenity of neighbouring uses as a result of noise and dust. This would be contrary to Unitary Development Plan policies EP4, EP6 and WD5 and Kirklees Publication Draft Local Plan policies PLP51 and PLP52 and Section 11 of the National Planning Policy Framework.**
- 3. The applicant has failed to demonstrate that this proposal will not have a detrimental impact on the ecology of the area and that local biodiversity will not be detrimentally affected. This would be contrary to Unitary Development Plan policies D6, WD5 and Kirklees Publication Draft Local Plan policy PLP30 and Section 11 of the National Planning Policy Framework.**
- 4. The applicant has failed to demonstrate that this proposal will not have a detrimental impact on air quality in the area. This would be contrary to Kirklees Publication Draft Local Plan policy PLP51 and Section 11 of the National Planning Policy Framework.**
- 5. The applicant has failed to demonstrate that the drainage measures proposed would not increase the risk of flooding in the local area. This would be contrary to Kirklees Publication Draft Local Plan policy PLP27 and Section 10 of the National Planning Policy Framework.**

**1.0 INTRODUCTION:**

- 1.1** This application is brought to the Strategic Planning Committee as the proposal includes residential development involving more than 60 dwellings and will involve disposal of more than 50,000 tonnes of solid waste. This is in accordance with the Council's Scheme of Delegation.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site comprises a redundant railway cutting which accommodated the former branch line which served Heckmondwike. The cutting has been closed for more than 50 years and has naturally regenerated with self-seeded trees and rough grassland. The site occupies an area of approximately 2.7 ha and is located approximately 335m south east of the centre of Heckmondwike. The area surrounding the site is mainly residential in character although there is evidence of commercial activity to the west and south west and an area of open land is located immediately to the east which extends a considerable distance towards Cawley Lane to the north east and towards several playing fields to the east off Byron Grove. Public Right of Way (PROW) HEC/22/30 runs in a north/south direction adjacent to the eastern boundary of the site.

### **3.0 PROPOSAL:**

- 3.1 The applicant has submitted a hybrid application which seeks full planning permission to landfill the site and outline planning permission to subsequently develop the site for residential purposes once the landfill element has been completed. Each element of this application is outlined as follows:

- 3.2 landfill – This would involve the creation of a temporary access off Walkley Terrace and the formation of a platform close to this access to allow HGVs to park and manoeuvre within the site. The applicant has indicated that tipping would commence at the northern end of the cutting and would progress towards the south. Material would be compacted during the landfilling operations to form an area which is suitable for future development. All machinery involved in this process would be accommodated within the site for the duration of the works involved. The fill material involved would be clean inert waste which the applicant has indicated would be screened prior to delivery. It is estimated that the landfill operation would require approximately 138,000 tonnes of imported material which would take 114 weeks to complete. This would involve a total of 18 deliveries per day using vehicles with a 20 tonne load capacity. As part of this phase of the development the applicant seeks permission for the formation of a cycle/pedestrian link to the current spur from the Spen Greenway.

- 3.1 Outline residential - Outline planning permission is sought for the erection of 96 dwellings with all matters reserved except for access arrangements. However, the application does include an illustrative layout. Access would be taken via a single point linking to Horton Street which is at the northern end of the site.

### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

93/02757 – Infilling of former railway cutting (withdrawn)

94/90001 - Land infilling of derelict railway cutting and plugging of Brunswick street bridge and church street bridge (withdrawn)

99/92140 - Reclamation of derelict railway cutting by partial infilling to form shared cycle/footpath and open greenspace (deemed withdrawn)

2000/92085 – Partial infilling of railway cutting (withdrawn)

## **5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):**

- 5.1 Following discussions with the applicant additional information regarding flood risk and drainage has been submitted and alternative access arrangements for the landfill element of the proposal have been put forward.

## **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 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. 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. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

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

D2 - Unallocated land  
D6 – Development affecting a wildlife corridor  
BE1 – Design principles  
BE2 – Quality of design  
BE12 – Space about buildings  
BE23 – Crime prevention.  
EP4 – Noise sensitive development  
EP6 – Noise generating development  
R13 – Development affecting public rights of way  
T10 – Highway safety  
T18 – proposed pedestrian/cycle route  
T23 – Development of disused railways  
T19 – Parking standards  
WD5– Disposal of waste to landfill  
H10 – Affordable housing  
H18 – Provision of open space  
NE9 – Retention of mature trees  
G6 – Land contamination

### **6.3 National Planning Guidance:**

NPPF Section 1. Building a strong, competitive economy  
NPPF Section 4 Sustainable transport  
NPPF Section 7 Providing a wide choice of high quality homes

NPPF Section 7 Requiring good design  
NPPF Section 10 Flood Risk/ Drainage  
NPPF Section 11 Conserving and enhancing the natural environment.  
Planning Practice Guidance – Waste  
National Planning Policy for Waste

- 6.4 Other Policies  
SPD2 Affordable Housing  
West Yorkshire Low Emissions Strategy

- 6.5 Kirklees Publication Draft Local Plan (KPDLP): Submitted for examination April 2017

The Local Plan identifies the site as potentially forming part of the core cycling/walking network.

PLP11 - Housing mix and affordable housing  
PLP20 -Sustainable Travel  
PLP21 - Highway safety and access  
PLP22 – Parking  
PLP 23 – Core Walking and Cycling Network  
PLP24 - Design  
PLP28 - Drainage  
PLP30 - Biodiversity and geo diversity  
PLP32- Landscape  
PLP33 – Trees  
PLP43 – Waste management hierarchy  
PLP44 – New waste management facilities  
PLP 51 - Protection and improvement of local air quality  
PLP52 - Protection and improvement of environmental quality  
PLP53 – Contaminated and Unstable Land

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

- 7.1 This application was publicised by the erection of 9 site notices in the vicinity of the site the mailing of 75 neighbourhood notification letters and an advertisement in the local press. 181 representations from members of the public have been received in connection with this proposal and the issues raised can be summarised as follows:

- The proposed development would have an adverse impact on local wildlife
- The development would have a detrimental impact on highway safety in the vicinity of the site as the local highway network cannot accommodate the additional vehicles associated with this proposal.
- Local schools will not be able to meet the additional demand created by this proposal
- The proposal would lead to nuisance associated with noise and dust

- The development would result in a lowering of property prices in the locality of the site
- The privacy of existing residential properties would be adversely affected
- The development will have a detrimental impact on the visual amenity of the area
- Land stability in the area could be affected by the proposed infilling works
- This proposal would reduce the possibility of creating a link to the wider cycle network
- The proposal would lead to flooding problems
- Air quality would be adversely affected as a result of increased traffic
- Local amenities and services in the vicinity of the site are insufficient to cope with these additional residential properties
- The proposal would result in the loss of an important part of Heckmondwike's heritage
- Residents were not made aware of this proposal
- This is a valuable green space in an urban setting and should not be developed
- This proposal would represent over development of the site
- The development would result in the loss of a route that could potentially be used for rail transport in the future
- Unauthorised waste could be tipped at the site which could potentially cause pollution and contamination
- The land is used regularly by many local dog walkers as a recreational facility
- The landfill operation would result in mud and debris being trafficked onto the public highway
- The application lacks detail regarding how the landfilling element of this proposal would be achieved.
- The two year timeframe indicated in the planning application is unrealistic and is likely to take much longer
- The waste tipped will attract vermin and flies
- There is no mechanism to control what is tipped at the site
- The housing needs of Heckmondwike included in the Local Plan did not include this site. The site is not therefore required

- Allowing this development would constitute unlawful discrimination as it would be contrary to Section 149 of the Equality Act 2010.

7.2 Ward members were consulted on the application. No representations from members have been received.

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

K.C. Highways - Object, the proposed temporary access associated with the landfilling element of this proposal from Walkley Terrace would have an unacceptable detrimental impact on highway safety. Furthermore the applicant has failed to supply sufficient information to properly assess the impact of the residential element of this proposal on the surrounding highway network.

K.C. Flood Management – Object, the applicant has not provided sufficient information to address the following points:

- Feasibility and suitability of drainage not established
- Principle of installing a new culvert through the development, confirming flows and producing an asset that requires maintenance
- Discharge rate is based on total area (2.58ha) this should be derived for only the impermeable and positively drained area.

The Coal Authority – No Objection subject to the inclusion of a planning condition which requires that prior to the submission of a reserved matters application intrusive site investigations are carried out and the results and any remedial measures are submitted in support of the reserved matters application.

The Health and Safety Executive – No objection

### **8.2 Non-statutory:**

K.C. Ecology Unit – Object as the applicant has failed to supply sufficient information to fully assess the impact the development would have on local ecological systems.

K.C. Environmental Health - No objection subject to planning conditions which require that:

- Before development commences a dust suppression scheme is approved
- Before development is brought into use the noise suppression measures indicated in the supporting noise assessment are implemented and written evidence that the specified noise levels have been achieved

- Before development commences a phase II intrusive contaminated land survey be carried out
- If required the approval of a site remediation strategy and any remediation to be carried out in accordance with the approved scheme
- The submission of a validation report should site remediation be required
- Measures to deal with contamination not previously identified
  
- Before development commences a scheme be approved detailing facilities for charging electric vehicles and other ultra-low emissions vehicles.
- Hours of operations on site to be restricted to 07.30 and 18.30 hours Mondays to Fridays 08.00 and 13.00hours , Saturdays With no working Sundays or Public Holidays.

K.C. Education – Indicates that an education contribution of £237,233 is required in connection with this proposal

K.C Strategic Housing – No objection subject to the provision of 19 affordable units or a financial contribution to be paid in lieu of on site provision.

K.C. Arboricultural Officer – No objection subject to a tree protection plan being provided with any subsequent reserved matters application.

The Environment Agency – No objection

West Yorkshire Police – No objection subject to a planning condition which requires that prior to development commencing, details of crime prevention measures to be used in the residential element of the development should be submitted to and approved by the Local Planning Authority.

## 9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Highway issues
- Flood Risk/Drainage issues
- Environmental Issues
- Representations
- Conclusion.

## 10.0 APPRAISAL

### 10.1 Principle of development

10.2 The site is unallocated in the Unitary Development Plan although is identified as a wildlife corridor and a potential pedestrian/cycle route. Within the emerging local plan, the site was promoted as a potential housing allocation but was rejected by the Council due to concerns about the likelihood of the resolution of significant identified constraints in order that the site could be brought forward



during the plan period. Consequently the site has not been allocated for any specific purpose within the local plan but has been identified as providing a potential link to the district's Core Walking and Cycling Network.

- 10.3 Paragraph 14 of the National Planning Policy Framework presumes in favour of sustainable development, indicating that for decision making purposes this means "approving development proposals that accord with the development plan without delay". In addition the Council is currently unable to demonstrate a 5 year supply of deliverable housing sites, and in this context paragraph 49 of the National Planning Policy Framework indicates that "housing applications should be considered in the context of the presumption in favour of sustainable development.
- 10.4 The site is considered to be in a sustainable location with access to public transport, and local facilities, services and amenities as such it is considered that the principle of residential development on this site is acceptable.
- 10.5 Given the scale of the development, and the numbers of units envisaged the Council's policies regarding the provision of Affordable Housing; Public Open Space and Education provision, are relevant. However, as the application for the residential development element of this proposal is for outline planning permission with only access arrangements applied for, the final number of dwellings is not being agreed at this time. As such, the level of provision of Affordable Housing, Education contributions and Public Open Space cannot be accurately calculated at this time. However, advice has been provided by relevant service areas with regard to the level of affordable housing and the likely education contribution based on the provision of 96 dwellings.
- 10.6 Appendix A of the National Planning Policy for Waste contains a waste hierarchy and although this indicates that the most effective environmental solution to the generation of waste is waste prevention, it also indicates that the re-use and recycling of materials are the next best options. Waste Planning Authorities are therefore encouraged to take a positive approach towards dealing with waste in a way which moves its treatment up the hierarchy. In this instance the imported waste would be used specifically to re-engineer contours to facilitate the future development of the site rather than simply being disposed of. It is therefore considered that this proposal would see the re-use of a significant proportion of inert waste material which is consistent with current national planning guidance.
- 10.7 The principle of the landfill element of this development should be considered against the criteria stipulated in Unitary Development Plan Policy WD5 and KPDL policy PLP 44 .

UDP policy WD5 states:

proposals for disposal of waste to landfill will be considered having regard to:

- i provision for the prevention of noise nuisance or injury to visual amenity;
- ii the mode of transport utilised to serve the site;
- iii provision for vehicle routing and access arrangements;
- iv conservation interests;
- v arrangements for phased restoration and aftercare schemes appropriate to agricultural, forestry or amenity after-use linked to a permitted period of operation;

- vi measures included in the scheme to eliminate environmental hazards from leachate and gas emissions;
- vii arrangements for the protection of natural resources such as ground water, rivers or other water bodies;
- viii the extent and duration of any past or current landfill activity in the area; and
- ix the need for landfill capacity for the relevant waste types at the location proposed.

KPDLP policy PLP 44 states:

Proposals for waste management facilities should be located in sustainable locations, appropriate to the proposed waste management use and its operational characteristics, where potentially adverse impacts on people, biodiversity and the environment can be avoided or adequately mitigated. Proposals should have regard to the following sequential priorities, unless the use of an appropriate alternative site can be justified:

- a. sites specifically allocated for waste management purposes;
- b. employment sites where co-location with existing waste management processes is possible without detriment to residential amenity;
- c. employment sites suitable for Use Classes B2 and B8;
- d. sustainable locations within vacant previously developed land.

Proposals for waste management facilities should demonstrate that the following potential impacts have been fully considered and satisfactorily addressed so as to make them acceptable to the council:

- a. duration of the development;
- b. the layout and design of the site and any associated buildings;
- c. influence on visual amenity;
- d. the treatment of boundary features and new screening as appropriate;
- e. environment and amenity issues such as noise, dust, litter, odour, vermin and gas emissions;
- f. protection of controlled waters;
- g. drainage and use of sustainable drainage;
- h. effects on the natural and historic environment; i. restoration and aftercare where appropriate;
- j. measures to prevent dirt and debris being carried onto the public highway;
- k. the adequacy of the highway network and the safety of access and egress arrangements;
- l. routing and the frequency of vehicle movements;
- m. hours of operation;
- n. the protection of public rights of way;
- o. fairly and reasonably related community benefits.

- 10.8 Notwithstanding the landfill development would be temporary in nature, the associated disturbance to the amenity of the area would be evident for at least 2 years. Operations would involve a significant number of heavy vehicle movements to and from the site using a congested highway network and the minor roads used close to the site would not safely accommodate the heavy vehicles necessary to deliver the infill material. It is therefore considered that the principle of the landfill development put forward by the applicant is unacceptable.

## 10.9 Urban Design

10.10 With regard to the residential development element, the site is located on the periphery of an existing built up area and would effectively form an extension to housing areas to the west and north of the site. Whilst the applicant seeks outline planning permission with the layout to be dealt with as a reserved matter, an indicative plan has been included in the application which indicates a housing density of approximately 35 per ha. which would principally involve terraced town house style properties with a small number of semi-detached dwellings. This type of development is compatible with existing properties in the surrounding area which includes concentrations of terraced properties as well as a mixture of semi-detached and detached dwellings.

10.11 A significant area of woodland measuring approximately 2.5 ha. is located to the north east of the site which would provide an attractive green backdrop to the site and would provide a degree of separation between this site and other existing concentrations of residential developments.

10.12 The issue of scale and design would be the subject of a subsequent reserved matters application but the surrounding area includes a mixture of buildings ranging from single storey to four stories. It is therefore considered that buildings of a similar design would be acceptable in principle. Consequently officers consider that the residential element of this development would accord with UDP policies BE1 and BE2, KPDLP policy PLP24 and Section 7 of the NPPF.

## 10.13 Residential Amenity

10.14 The impact on residential amenity associated with this development would vary depending on each of the development phases. The landfilling element would involve significantly different activities from those associated with the subsequent construction and occupation of the residential development.

10.15 The nearest residential properties to the site are located to the west of the site off Brunswick Place, Walkley Drive, Walkley Avenue and Walkley Lane and to the east off Walkley Terrace, all of which include properties that immediately abut the application site. Other residential properties are close to the site off Sunnyside, Horton Street and Brunswick Street. Some of these properties would have direct views of the site but it is not considered that the residential use would result in significant detrimental impacts associated with visual amenity or noise nuisance.

10.16 To facilitate the landfill proposals, waste would be transported to the site by heavy vehicles including open skip and tipper lorries. Noise will therefore be generated by the vehicles themselves and during the unloading, working and processing of the waste on site. As previously indicated the nearest residential properties are on the boundary of the site and there is significant concern relating to the impact arising from the landfilling operations at the site in relation to residential amenity of neighbouring residents.

10.17 The applicant has provided a noise assessment in support of the application but this only considers the noise implications associated with the residential element and has not provided an assessment of the likely impacts relating to the landfill part of this development.

10.18 The potential emissions to the atmosphere associated with tipping and backfilling operations such as those proposed at the application site are associated with possible dust arising from three main sources:-

- Vehicle movements to and from the site.
- Operational processes including the tipping, processing, placement and compaction of waste material
- Exhaust's from operational plant/equipment.

The degree to which significant dust emissions are capable of causing nuisance can arise from a particular site depends upon various factors, including:

- Time of year and climatic conditions, with dry conditions and high wind speeds being conducive to dust generation.
- Surface characteristics, with vegetation cover making material in bunds less susceptible to dispersion

Whilst it is considered that problems associated with dust can be mitigated, the applicant has not provided an air quality assessment which details the likely impacts associated with the landfilling phase of this proposal or a mitigation strategy.

It is considered that the full extent of the effects of this proposal resulting from noise and emissions to the atmosphere cannot be fully assessed however based on the level of information known and the judgement of officers the proposal would conflict with UDP Policies EP4, EP6 and WD5(i), KPDLP policies PLP51 and PLP52 or policy guidance contained in Section 11 of the NPPF.

#### 10.19 Highway Issues

10.20 It is considered that the impact on the local highway network will vary with regard to each phase of this development. The landfill element would see regular daily movement of heavy vehicles over a temporary period of approximately 2 years whilst the residential use would permanently add traffic to the local network. Officers have concerns about the proposal's impact on the local highway network for the following reasons:

10.21 Phase 1 Landfill Element - The main impact on the highways network associated with this phase of the development would relate to the regular movement to and from the site by heavy goods vehicles used to transport the infill material. The vehicles traditionally used for this type of operation are ridged 3 or 4 axle lorries with a 20 + tonne load capacity. The applicant has estimated that operating 5 days a week outside peak traffic hours (09:30 -15:30) at a rate of 18 deliveries per day, the site would take approximately 114 weeks to fill. However, this assumes a constant supply of material over that period. Any delay in sourcing material would therefore impact on the time required to complete this phase of the development.

10.22 The applicant proposes the formation of a temporary access onto

Walkley Terrace at the south eastern corner of the site and the provision of a compound within the site close to this access point which would provide storage and parking facilities. The compound area would allow two HGVs to park off the highway and manoeuvre to allow forward egress.

- 10.23 However, the geometry of Walkley Terrace does not readily lend itself to use by HGV delivery vehicles. The vehicle tracks shown indicate that HGV delivery vehicles will find it difficult to access the site. It will not be possible for a four axle rigid HGV lorry to access or egress the site compound without using the entire width of Walkley Terrace to do so. Further, the egress manoeuvre must be started before the driver can see whether it can be completed. This includes having to give way to vehicles on Walkley Lane. Similarly the full width of Walkley Lane is required to egress from Walkley Terrace. The proposed Walkley Terrace access is not therefore considered to be acceptable from a highway safety point of view.
- 10.24 The applicant has been made aware of these concerns and has suggested that an alternative access point could be considered which would utilise Church Street and Horton Street. However, it is considered that, bearing in mind the constraints of that part of the highway network, the regular use of this route by heavy vehicles would lead to an unacceptable impact on highway safety on this part of the local network.
- 10.25 Phase 2 Residential Element – The proposed access for the residential development would be formed off Horton Street. The proposed access is shown to have a carriageway width of 6.9m and radii of 6m. A footway is shown to be provided to the northern side of the carriageway along the spine road only. Not all of the shared surface areas are shown to have 600mm margins. Visibility splays of 2.4m x 43m are shown to be available at the site access.
- 10.26 The main spine road is neither designed as a traditional estate road or a shared surface carriageway and consequently doesn't meet standards.

Whilst, as part of the residential element of this application, consent is sought only for the access point off Horton Street and the spine road, it is considered that the indicative design raises some concern:

- The street elevations indicate 2 and 3 storey dwellings with integral garages. No details of the integral garages are provided. To be considered as a parking space these must be 6 x 3 metres. Each of the proposed plots has one parking space to the frontage.
- 31 of the 92 dwellings have 4 or 5 bedrooms. These plots should be provided with 3 off-street parking spaces.
- Traffic calming features involving vertical deflections are not appropriate on shared surface areas. The ramps to the proposed raised plateaux are in front of proposed driveways at the end of road D which is unacceptable.
- There are 2 proposed cul-de-sacs which are approximately 40 metres in length which do not have turning heads sufficient in size to accommodate a large 11.85m refuse vehicle.
- The turning head at the end of street A should be extended to ensure that a refuse vehicle can turn without over-hanging the kerb line.

10.27 Although it is considered that a reserved matters application detailing the layout of this site could provide a mechanism to resolve the above concerns, it is felt that the temporary access arrangements associated with the landfill phase are wholly unacceptable. It is therefore considered that this proposal does not accord with UDP policies T10 and T19, KPDLP policies PLP21 and PLP22 with regard to its impact on highway safety.

#### 10.28 Flood Risk/Drainage issues

10.29 As the applicant proposes to significantly change the topography of the site via the importation and engineering of approximately 138,000 tonnes of inert waste, followed by its subsequent development, current drainage regimes have the potential to be adversely affected.

10.30 The application site falls within an area allocated as Flood Zone 1 and the risk of a river flooding event is therefore assessed as having a less than a 1 in 1000 annual probability. However, due to the site's topography, flood maps held by the Environment Agency indicate that flooding resulting from overland surface water along the full length of the base of the cutting has a 1 in 30 chance.

10.31 The applicant has provided a flood risk assessment and drainage strategy in support of the application in an attempt to address potential impacts on flood risk and drainage. However, it is considered by officers that the information provided is insufficient to fully assess the drainage implications of this development and how this could influence local flood risk. As a consequence this proposal does not accord with , KPDLP policies PLP28 and PLP44 and guidance contained in Section 10 of the NPPF.

#### 10.32 Environmental Issues

10.33 Biodiversity – Whilst the site is a former railway cutting, it has been redundant for decades and has therefore naturally regenerated. Consequently the site has the potential to provide habitat opportunities for local wildlife and is identified as a wildlife corridor in the Unitary Development Plan and as part of the Strategic Wildlife Network in the Local Plan.

10.34 The applicant has submitted a Preliminary Ecological Appraisal (PEA) in support of this application. However, bearing in mind the scale of this development, it is considered that there is currently insufficient information to fully assess the impact of this proposal on local ecological systems and that the application should be supported by an Ecological Impact Assessment.

10.35 Officers therefore consider that as there is insufficient information to fully consider the implications of this proposal with regards to its effect on biodiversity, it does not therefore accord with UDP policy D6, KPDLP policy PLP30 and Section 11 of the NPPF.

10.36 Landscape – This site is not prominent within the wider landscape due to the presence of existing buildings and mature vegetation. Consequently, at distance, the proposed development would be unlikely to have any significant effect on the area's landscape character. At closer distance the site is overlooked by a number of residential properties and by PROW HEC/22/30 which is immediately adjacent to the eastern boundary of the site. The landfill

operation and subsequent development of the site would therefore be visible at close quarters. The experience of pedestrians using PROW HEC/22/30 would therefore be detrimentally affected during the landfill operation albeit for a temporary period only. However, bearing in mind the surrounding built environment, officers consider that the subsequent residential development of the site would not have a significant detrimental impact on the local landscape.

10.37 Contamination/pollution – Due to the previous uses of this site it is likely that the site will be contaminated. The applicant has supported this application with a Stage 1 desk study ground condition report which indicates contamination sources on site could include:

- Possible made ground from the construction of the railway line on the site: - metals inorganics, total petroleum hydrocarbons (TPH), polyaromatic hydrocarbons (PAH), phenol, asbestos.
- Possible ash and asbestos from use of trains. Including steam trains: - asbestos, metals, PAH, TPH. 6.15.3 Methane
- Carbon dioxide from possible shallow coal seams/workings (including two mine entries on site) and from filled land within 250m of the site.

This supporting report indicates that an intrusive survey should be carried out to identify such contamination sources and design subsequent mitigation measures. Officers consider that such a survey could be secured via planning conditions in accordance with advice provided by the Council's Pollution and Noise Control Team.

10.38 Air Quality – This proposal would generate dust which could have a detrimental impact on the area, the principle sources of which and potential mitigation measures have been previously outlined. Additional vehicle movements associated with both phases of this proposal would also impact on air quality in the vicinity of the site. KPDLP policy PLP51 and Section 11 of the NPPF require that a development's potential impact on Air Quality should be considered when assessing planning applications. The West Yorkshire Emissions Strategy provides a mechanism to include measures which can offset the damage to air quality associated with developments. However, an air quality impact assessment was not provided in support of the application and an assessment of the likely damage has not been submitted.

10.39 Representations:

10.40 As previously indicated 181 representations objecting to this proposal have been received. The concerns raised and associated responses can be summarised as follows:

The proposed development would have an adverse impact on local wildlife

**Response:** This matter has been considered in the Section titled Environmental Issues.

The development would have a detrimental impact on highway safety in the vicinity of the site as the local highway network cannot accommodate the additional vehicles associated with this proposal.

**Response:** This matter has been considered in the Section titled Highways Issues

Local schools will not be able to meet the additional demand created by this proposal:

**Response:** Should planning permission be granted, this would be subject to the provision of a financial contribution which would be used to provide additional capacity at existing schools.

The proposal would lead to nuisance associated with noise and dust

**Response:** This matter has been considered in the Section titled Residential Amenity

The development would result in a lowering of property prices in the locality of the site

**Response:** The effects of granting planning permission on property prices is not a material planning consideration. Consequently this issue cannot form part of an assessment of a planning application

The privacy of existing residential properties would be adversely affected

**Response:** It is acknowledged that this development would have an impact on nearby properties as indicated in the committee report. With regard to the landfill proposals, the associated effects would be for a temporary period only. The detail of the residential element would be considered at reserved matters stage and where the siting and layout of the properties would be considered.

The development will have a detrimental impact on the visual amenity of the area

**Response:** This matter has been considered in the Sections titled residential Amenity and Environmental Issues.

Land stability in the area could be affected by the proposed infilling works

**Response:** Records indicate that historic mine workings are likely to be located within this site. However, it is the developer's responsibility to ensure that adequate measures are taken to mitigate the effects of such workings on any subsequent development and that the workings themselves are not adversely affected. The Coal Authority has indicated it does not wish to object to the proposal subject to an intrusive being carried out prior to development and its results and any proposed mitigation being agreed.

This proposal would reduce the possibility of creating a link to the wider cycle network.

**Response:** The proposal does include the provision of a further extended link to the Spen Green Way and therefore offers an opportunity to extend the cycle and pedestrian network in accordance with the Council's objectives both within the Unitary Development Plan and the emerging Local Plan.

The proposal would lead to flooding problems

**Response:** This matter has been considered in the Section titled Flood Risk/Drainage Issues.

Air quality would be adversely affected as a result of increased traffic

**Response:** This matter has been considered in the Sections titled Residential Amenity and Environmental Issues.

Local amenities and services in the vicinity of the site are insufficient to cope with these additional residential properties.



**Response:** it is considered that this site is situated within a sustainable location and the increase in residential properties associated with this proposal would not place significant strain on existing amenities.

The proposal would result in the loss of an important part of Heckmondwike's heritage

**Response:** This is a brown field site which has remained redundant for many decades. The route of the former railway has already seen significant development along parts of its length including residential development and the formation of cycle/pedestrian routes.

Residents were not made aware of this proposal

**Response:** Details of how this application was publicised are indicated in the Section titled Public/local response.

This is a valuable green space in an urban setting and should not be developed.

**Response:** This matter has been considered in the Sections titled residential Amenity and Environmental Issues

This proposal would represent over development of the site

**Response:** The design of the residential phase of this proposal has been considered in the Section titled Urban Design

The development would result in the loss of a route that could potentially be used for rail transport in the future

**Response:** Due to development which has already been carried out on or in the immediate vicinity of the route of this former railway line, it is considered that it is unlikely that it would now be feasible to bring it back into use as a railway line

There is no mechanism to control what is tipped at the site and as a consequence unauthorised waste could be tipped which could potentially cause pollution and contamination

**Response:** The day to day regulation of the site would be via an Environmental Permit issued by the Environment Agency (EA). The applicant would be required to record details of the waste brought to the site and the EA would enforce any breaches of the permit involving the import of unauthorised waste.

The land is used regularly by many local dog walkers as a recreational facility.

**Response:** There is currently no public right of access to this site and its use as a recreational facility may therefore constitute trespass.

The landfill operation would result in mud and debris being trafficked onto the public highway

**Response:** it is acknowledged that this could occur. However, measures such as the provision of on site wheel washing facilities and the use of mechanical sweepers can mitigate this problem.

The application lacks detail regarding how the landfilling element of this proposal would be achieved.

**Response:** The information provided in the application provides a general overview of how the landfill phase of this development would be achieved. Officers consider that should planning permission be granted, schemes could be secured via planning condition which could provide sufficient details of site operations prior to development commencing.

The two year timeframe indicated in the planning application is unrealistic and is likely to take much longer

**Response:** It is acknowledged that due to the problem of securing regular supplies of suitable infill material landfill operations can run on beyond the envisaged time frame. In such circumstances the applicant would need to secure an extension of time to complete the landfilling works through a further planning application.

The waste tipped will attract vermin and flies

**Response:** This application seeks to allow the site to be backfilled with inert waste e.g. clean excavation soils and demolition rubble. This would not therefore include materials that would attract vermin or flies.

The housing needs of Heckmondwike included in the Local Plan did not include this site. The site is not therefore required.

**Response:** Whilst this site has not been allocated in the local plan for housing this does not mean it cannot be considered for such a use or that it can't contribute towards the housing needs of the area. The individual planning merits of the proposal must be considered when determining whether the site is appropriate.

Allowing this development would constitute unlawful discrimination as it would be contrary to Section 149 of the Equality Act 2010.

**Response:** it is the Council's contention that this application has been assessed in accordance with the requirements of the equality Act 2010.

## 11.0 Conclusion

Whilst it is considered that the principle of developing this site for housing is acceptable, Officers believe that the proposals associated with the initial landfill element of the development would have a significant detrimental impact on local amenity and highway safety in the area and cannot therefore be supported.

## 12.0 Reasons for refusal

1. The proposed temporary access arrangements associated with the landfilling element of this proposal would have significant detrimental impact on highway safety in the vicinity of the site in that the local highway network is not capable of safely accommodating the regular daily movement of the heavy goods vehicles needed to transport infill material to the site. This would be contrary to Unitary Development Plan policy T10 and Kirklees Publication Draft Local Plan policies PLP21, PLP44 and Section 7 of the National Planning Policy Framework.

2. The applicant has failed to demonstrate that the landfill of the site over a period of at least two years will not have a detrimental impact on the amenity of neighbouring uses as a result of noise and dust. This would be contrary to Unitary Development Plan policies EP4, EP6 and WD5 and Kirklees Publication Draft Local Plan policies PLP51 and PLP52 and Section 11 of the National Planning Policy Framework.

3. The applicant has failed to demonstrate that this proposal will not have a detrimental impact on the ecology of the area and that local biodiversity will not

be detrimentally affected. This would be contrary to Unitary Development Plan policies D6, WD5 and Kirklees Publication Draft Local Plan policy PLP30 and Section 11 of the National Planning Policy Framework.

4. The applicant has failed to demonstrate that this proposal will not have a detrimental impact on air quality in the area. This would be contrary to Kirklees Publication Draft Local Plan policy PLP51 and Section 11 of the National Planning Policy Framework.

5. The applicant has failed to demonstrate that the drainage measures proposed would not increase the risk of flooding in the local area. This would be contrary to Kirklees Publication Draft Local Plan policy PLP27 and Section 10 of the National Planning Policy Framework.

**Background Papers:**

Application and history files.

Website link: <http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f93488>

Certificate of Ownership – Completed and dated 09/10/17

