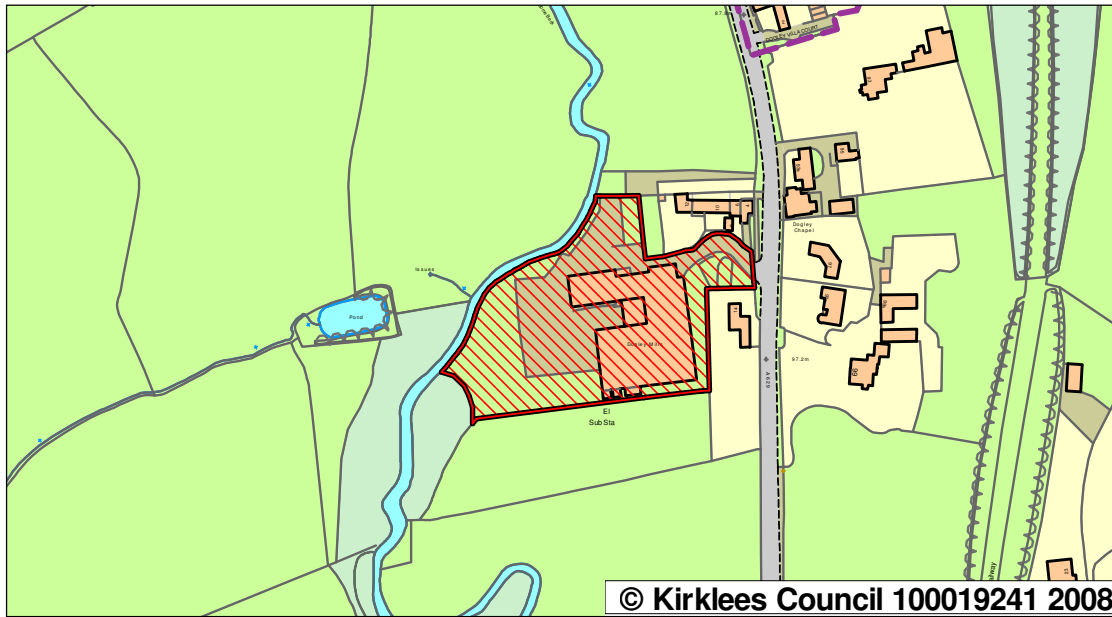


## LOCATION PLAN



Map not to scale – for identification purposes only

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Electoral Wards Affected: Kirkburton

No

Ward Members consulted  
(referred to in report)

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### RECOMMENDATION:

**Members are asked to accept the applicants request to release them from the obligation that they must remain within the District in light of their supporting case set out within this report.**

### 1.0 INTRODUCTION:

- 1.1 The applicant has requested to be released from Unilateral Obligation in connection with planning application 2015/93261 for demolition of existing buildings and erection of 14 dwellings at Dogley Mills, off Penistone Road, Fenay Bridge.

- 1.2 The Heavy Woollen Planning Committee granted outline consent on 15<sup>th</sup> December 2016 for demolition of existing buildings and the erection of 14 dwellings at Dogley Mills, off Penistone Road at Fenay Bridge Ref 2015/93261.
- 1.3 The applicant offered to enter into a Unilateral Undertaking to reinvest the proceeds of the sale of the site in new high quality business premises within Kirklees. The applicant stated during the application they did not want to market the site for sale to employment operators as they wanted to maximise the value of the site to use to reinvest in high quality modern employment facilities. The UU was proposed by the applicant because they had not marketed the existing property for continued business use, and had provided no evidence that there was a continued demand for this existing employment site in accordance with the requirements of UDP policy B4.
- 1.4 The Local Planning Authority have now received a request that the applicant Connection Seating Limited be released from the requirements of a Unilateral Undertaking so that they can relocate outside of the District. They have supplied information showing which sites in Kirklees they have looked at relocating to and why they are not considered suitable.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The site comprises Dogley Mills, located off Penistone Road at Fenay Bridge. Within the site is a mill building located centrally, with areas of hardstanding and off-street parking to the rear and side of the building. The site is currently occupied by Connection Seating Limited and two other smaller businesses. The site is flanked by undeveloped green belt land to the south, west northwest, by existing dwellings to the north-east and by Penistone Road to the east. The site is located within the Green Belt on the Unitary Development Plan.
- 2.2 Dogley Mills is owned and occupied by Connections Seating Limited. Two other companies lease space on part of the site; Scofield and Sims and Labtex. Connection Seating Limited operates from 32,000 square feet of floor space and rents a further 21,000 in Dewsbury.

## **3.0 PROPOSAL:**

- 3.1 Outline planning permission has been granted at the Dogley Mills site for the demolition of the existing buildings and the erection of 14 dwellings application Ref 2015/93261.
- 3.1 Layout and access were approved at outline stage. The layout comprises of a mix of detached, semi-detached and terraced dwellings, some of which include detached garages accessed off a central access road. An area of public open space was proposed in the western portion of the site.
- 3.2 The existing access point off Penistone Road was proposed to be improved and would serve the development.

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

- 4.1 92/02644 – Formation of 10 additional car parking spaces – Permitted Development

2000/90638 – Change of use from storage and distribution to assembly and manufacture of office chairs and sofas with associated offices – Conditional Full Permission

2001/91392 – Erection of despatch department extension – Conditional Full Permission

2004/94664 – Erection of open loading bay – Conditional Full Permission

2006/92301 – Renewal of unimplemented permission for erection of dispatch department extension – Withdrawn

2006/93151 – Renewal of unimplemented permission for erection of dispatch department extension – Conditional Full Permission

**2015/93261 – Demolition of existing buildings and outline application for the erection of residential development for 14 dwellings.**

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

- 5.1 Additional information in respect of any marketing exercise for the site that has taken place since the original planning permission was granted has been requested.
- 5.2 The applicant has discussed with officers which sites they have looked at within Kirklees and why they have been discounted. They have also considered two additional sites recommended by the Council's Business support team.

#### **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.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 D2 – Unallocated Land
- BE1 – Design principles
- BE2 – Quality of design
- BE12 – Space about buildings
- BE23 – Crime prevention
- NE9 – Retention of mature trees
- T10 – Highway safety
- H10 – Affordable housing
- H12 – Arrangements for securing affordable housing
- G6 – Land contamination
- H18 – Provision of open space
- B4 – Change of use of land and buildings last used for business or industry
- EP11 – Ecological landscaping

Supplementary Planning Guidance / Documents:

- 6.3 Kirklees Interim Affordable Housing Policy

National Planning Guidance:

- 6.4 Chapter 1 – Building a strong, competitive economy
- Chapter 6 – Delivering a wide choice of high quality homes
- Chapter 7 – Requiring Good Design
- Chapter 9 – Protecting Green belt land
- Chapter 10 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 11 – Conserving and enhancing the Natural Environment

Kirklees Publication Draft Local Plan:

- 6.5 PLP1 – Presumption in favour of sustainable development
- PLP2 – Place shaping
- PLP8 – Safeguarding employment land and premises
- PLP21 – Highway safety and access
- PLP22 – Parking
- PLP24 – Design
- PLP27 – Flood Risk
- PLP28 – Drainage
- PLP53 – Contaminated and unstable land

**7.0 PUBLIC/LOCAL RESPONSE:**

- 7.1 None required

**8.0 CONSULTATION RESPONSES:**

**8.1 Statutory:**

None

**8.2 Non-statutory:**

None

**9.0 MAIN ISSUES**

- Background
- Key points
- Sites considered
- Alternative opportunity
- Urgency
- Implications to the Council

**10.0 APPRAISAL**

- 10.1 Dogley Mills, located off Penistone Road at Fenay Bridge is owned and occupied by Connections Seating Limited. Two other companies lease space on part of the site; Scofield and Sims and Labtex. Connection Seating Limited operates from 32,000 square feet of floor space and rents a further 21,000 in Dewsbury.
- 10.2 Outline planning permission has been granted at the Dogley Mills site for the demolition of the existing buildings and the erection of 14 dwellings application Ref 2015/93261.
- 10.3 Where planning proposals would result in the loss of an employment site, applicants are required to present evidence as to why the site is not suitable for continued employment use, usually through evidence acquired from marketing the property for employment use, prior to submitting a planning application. This is in accordance with policy B4 of the Kirklees Unitary Development Plan.
- 10.4 In this case, the applicant put forward an argument that no marketing of the property had taken place because the funds from a re-development of the site are necessary to relocate and expand the business, and the current buildings would not generate sufficient revenue to allow the company to fund a re-location and expand.
- 10.5 In a supporting statement submitted with the planning application. Connection Seating Limited stated that operating from two sites is inefficient, coupled with the main site at Dogley Mills having an outdated layout which is a constraint to the company's development. Looking for a third site would add to operating inefficiencies and would not be a feasible option. It was their opinion that the age and condition of the buildings and the fact that they are spilt level is not conducive to modern day requirements. Furthermore, the inefficiency of the access road to accommodate modern day vehicles hinders the opportunity for

continued expansion. They considered the site would require significant financial investment and physical alteration to overcome the operational shortcomings, and that this is not viable given the Company's aspirations to operate from a single site and to grow.

- 10.6 In this case of this planning application therefore the property was not offered to the market for continued employment use and no evidence was presented to confirm whether or not there is a demand for a continued employment use of the building. Taking into account the aims of the National Planning Policy Framework; the presumption in favour of sustainable development, that planning should operate to encourage and not act as an impediment to sustainable growth, and that significant weight should be placed on the need to support economic growth, support was given to the loss of this business site in order to fund the expansion and re-location of the business elsewhere within the District. However, as this was a speculative proposal for Connection Seating Limited who had yet to find a site for re-location the applicant proposed a unilateral agreement to confirm the company would use the proceeds from the sale of the site to re-locate within the District.
- 10.7 The applicant now requests to be released from this obligation so they can relocate the company outside of the District as they have been unable to find suitable sites within Kirklees.

### **Key Points**

- 10.8 The application has provided the following information:
- 10.9 Although the planning permission was granted in October 2017, Connection Seating were proactive pre-decision in searching for a replacement site within Kirklees to meet their needs. They have worked with a number of professionals over the last two years searching for existing and new build opportunities.

### Requirements

- 10.10 Given the amount of growth the company is experiencing, they are looking to consolidate on one site (they currently operate from the Dogley Mills site and a site in Dewsbury).
- They need to be able to rack their product to 8.5m.
  - A building sized between 40,000 sq ft and 50,000 sq ft with the option to put in a part mezzanine is required.
  - Parking for 50 cars.
  - Office and showroom space is required to occupy 25 people.
  - A building which would allow for an efficient layout and flow allowing for dock level loading and floor level loading for both goods in and goods out.

- A long-term lease of 10 to 15 years at an affordable rent of £3.50 to £4.50 per sq ft.
- A site with no operating restrictions in terms of working hours and transport.

### Sites considered

10.11 Since planning permission was granted, the following sites have been considered but discounted as follows:-

#### **Summit 24, Lindley Moor (50,000 sq ft new build opportunity)**

- This opportunity fell away as the developer agreed to sell it to an owner occupier
- Price at £6 per sq ft for a basic industrial unit was not affordable

#### **Moor Park 25, Mirfield (40,000 to 60,000 sq ft new build opportunity)**

- Priced at £6 per sq ft for a basic industrial unit was not affordable
- Basic build is not expected to be complete until the summer of 2019 – this is too late for Connection Seating.

#### **Confidential opportunity Grange Moor area (50,000 sq ft new build opportunity)**

- Eliminated due to no planning permission in place
- Green Belt site-no support from Kirklees planning
- Possible operating hours restrictions
- Priced at £5.75 per sq ft was not affordable

#### **Chiquita UK Ltd, Low Mills Lane, Ravensthorpe (66730 sq ft)**

- Building was inspected
- Building was rejected as it was too big, and the offices were poor. The building was still full of heavy equipment, so it was difficult to assess any flows for production.
- The building was offered for sale (with short notice sealed bids) and is now under offer

#### **SKA Textiles, Graham Street, Huddersfield (80,000 sq ft across multiple units)**

- The main building was on the smaller side with a maze of multiple units – some attached and some detached
- The production floor was very poor for fork lifts to operate in
- The offices were a large proportion of the site and in a poor state of repair
- No onsite parking for staff

#### **Little Royd Mills, Huddersfield (45,418 sq ft)**

- A series of units consolidated as one with some detached

- A single storey building - so very low eaves and not suitable for warehousing/racking
- No onsite parking for staff

**Unit E8 Meltham Mills Industrial Estate, Meltham (47,222 sq ft)**

- The building condition is not reflective of the Connection brand and there are no offices
- The building has low eaves so not suitable for warehousing/racking
- There is no onsite parking for staff

**Mineral Water Works, Willow Lane, Huddersfield (48,404 sq ft)**

- The main building is on the smaller side with a maze of multiple units – some attached and some detached
- The building has low eaves not suitable for warehousing/racking
- No onsite parking for staff

At our meeting you drew reference to two new industrial buildings at Honley. These have been reviewed. They were too small and now have end users.

**Summary**

- 10.12 Although multiple formal searches have been carried out on sites within Kirklees, there is a clear lack of existing viable opportunities that would meet Connection Seating's requirements. Added to this is the lack of industrial land in Kirklees that has resulted in demand outstripping supply and pushing prices up to such an extent that any new build is unaffordable.

Alternative opportunity

- 10.13 Dove Haigh Phillips have introduced a site a mile outside the Kirklees boundary at Lowfields, Elland.
- 10.14 The site is 125,444 sq ft but the landlord is willing to split and share the building, providing Connection Seating with 55,000 sq ft. Connection have inspected the building and it is the only one by far that would meet the needs of Connection Seating and support their growth plans and help retain the existing workforce.
- 10.15 The building, in terms of its shape, condition meets the requirements of Connection Seating to consolidate on one site with minimal investment required to bring it in line with their company brand.
- 10.16 In looking at the residential postcodes of their employees, the majority live the north side of Huddersfield such that the Lowfields opportunity offers a more local commute for them.

Urgency



- 10.17 Time is of the essence for the company. Their turnover is growing at over 12% per year and they simply cannot continue to operate from their existing buildings.
- 10.18 The other challenge for them is they have a break clause on the lease on their Dewsbury premises which needs to be activated by the 1st February 2018 for them to be out by 1st August 2018 otherwise they would be committed for another 2.5 years.
- 10.19 Given all the above, they would like Council to agree that they be released from the requirements of the Unilateral Undertaking so that the company can secure the premises at Elland and secure their future operations.

### **Implications for the Council**

- 10.20 To release Connection Seating Limited from the requirements of the Unilateral Undertaking would result in the loss of an employment site at Dogley Mills without its re-development facilitating the retention and growth of the business elsewhere within the district.

## **11.0 CONCLUSION**

- 11.1 The main issues here is whether the applicant has acted reasonably in seeking alternative business premises within Kirklees and whether the search undertaken is sufficient to demonstrate that not suitable alternative exist, within the timeframes necessary for relocation and taken account of the need to retain the existing workforce. In the assessment of the planning application the unilateral agreement was considered necessary to make the development acceptable in planning terms to seek to accord with Policy B4 of the UDP which seeks to have regard to the suitability of the land and premises for continued business or industrial use amongst 8 other criteria which the application broadly satisfied. It is noted that this policy is not been taken forward in the emerging Local Plan which seeks to protect Priority Employment Areas rather than marketing every existing employment for continued use in employment Uses. The emerging Local Plan therefore would offer greater flexibility to the reuse of existing brownfield employment sites outside of Priority Employment Areas, as in this case. In light of this emerging policy it is possible to consider a scenario whereby the applicant has demonstrated they have made best endeavours to remain in the District as being equally acceptable in planning terms.
- 11.2 As noted above, to release Connection Seating Limited from the requirements of the Unilateral Undertaking would result in the loss of an employment site without its redevelopment facilitating the retention and growth of the business elsewhere within the district, which although not a UDP policy requirement would be desirable.
- 11.3 The applicant has submitted information in a letter on their search for alternative sites within the District. The applicant was asked to expand further on the justification as to why they should be released from the legal agreement, however no additional information has been received. In light of the fact the

applicant has reviewed multiple sites within Kirklees it is considered that the applicant has acted within the spirit of the Unilateral Undertaking albeit without success. In this instance therefore it is accepted by Officers that releasing the applicant from the obligation to reinvest the District would be reasonable and the continuation of the business and the retention of the existing workforce ameliorates the loss of the business within the district boundary of Kirklees.

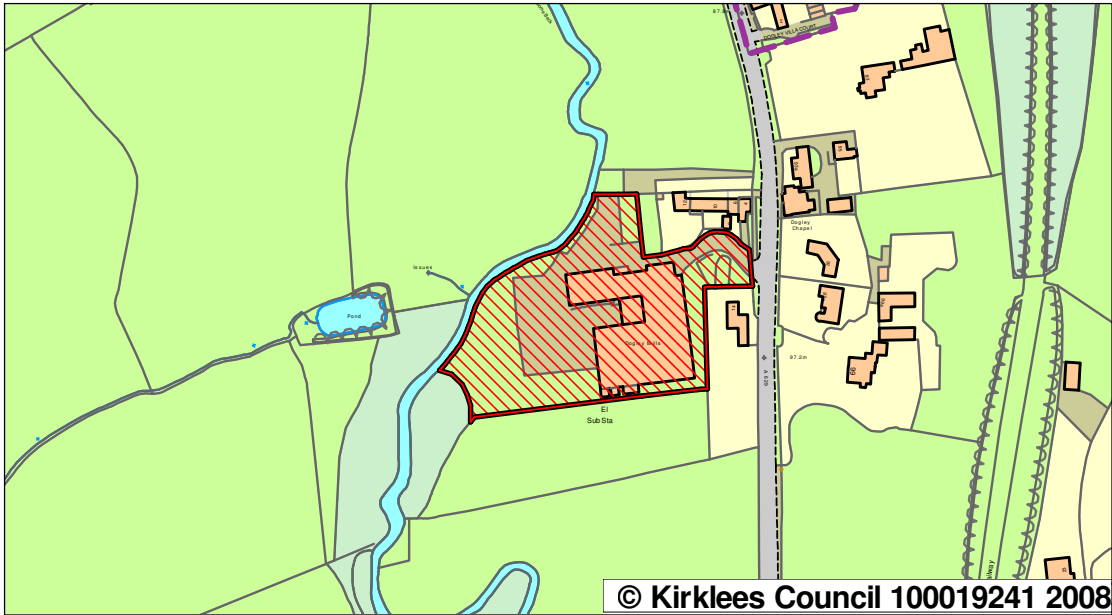
### **Background Papers:**

**2015/60/93261/E** - Demolition of existing buildings and outline application for erection of residential development (14 dwellings) at Connection Seating Limited, Dogley Mills, Penistone Road, Fenay Bridge, Huddersfield, HD8 0NQ  
<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2015%2f93261>

**The officer report (appendix A) and extract from the update (appendix B) in relation to the original planning application (2015/93261) included within the Heavy Woollen Planning Sub-Committee agenda of 15 December 2016 is appended to this report for information.**

**APPENDIX A:- OFFICER REPORT IN RELATION TO THE ORIGINAL PLANNING APPLICATION, 2015/93261, WHICH WAS INCLUDED IN THE HEAVY WOOLLEN PLANNING SUB-COMMITTEE AGENDA OF 15 DECEMBER 2016.**

**LOCATION PLAN**



Map not to scale – for identification purposes only

**Electoral Wards Affected:**

**Kirkburton**

**NO**

Ward Members consulted  
(referred to in report)

**RECOMMENDATION:** Grant conditional Outline Permission subject to the delegation of approval to the Head of Development Management in order to complete the list of conditions contained within this report (and any added by the Committee) and to secure a S106 agreement to cover the following matter:

**1. The Relocation of Connection Seating within the District.**

In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Development Management shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would be secured; if so, the Head of Development Management is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

**1.0 INTRODUCTION:**

- 1.1 The application is brought before the Heavy Woollen Planning Committee because of the size of the site, which exceeds 0.5 hectares in area (but proposes less than 60 dwellings). This is in accordance with the council's scheme of delegation.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The site comprises Dogley Mills, located off Penistone Road at Fenay Bridge. Within the site is a mill building located centrally, with areas of hardstanding and off-street parking to the rear and side of the building. The site is currently occupied by Connection Seating Limited and two other smaller businesses. The site is flanked by undeveloped green belt land to the south, west north-west, by existing dwellings to the north-east and by Penistone Road to the east. The site is located within the Green Belt on the Unitary Development Plan.

## **3.0 PROPOSAL:**

- 3.1 The application seeks permission for the demolition of the existing buildings and outline application for the erection of a residential development for 15 dwellings. The matters to be considered as part of this application are details of access and layout.
- 3.2 The existing access off Penistone Road would be used to serve the development.
- 3.3 The layout proposed comprises a mix of detached, semi-detached and terraced dwellings, some of which have detached garages accessed off a central access road. An area of public open space is proposed in the western portion of the site.

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

- 4.1 92/02644 – Formation of 10 additional car parking spaces – Permitted Development

2000/90638 – Change of use from storage and distribution to assembly and manufacture of office chairs and sofas with associated offices – Conditional Full Permission

2001/91392 – Erection of despatch department extension – Conditional Full Permission

2004/94664 – Erection of open loading bay – Conditional Full Permission

2006/92301 – Renewal of unimplemented permission for erection of dispatch department extension – Withdrawn

2006/93151 – Renewal of unimplemented permission for erection of dispatch department extension – Conditional Full Permission

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

- 5.1 Discussions have taken place during the course of the application between officers and the applicant. This resulted in the submission of:
- A layout plan to be considered as part of the application (the application was originally submitted with all matters reserved, apart from access).
- A revised Design & Access Statement and Planning Policy Statement (to address the above).
  - Revised access details to address highway concerns.
  - Further information in relation to drainage to address comments raised by Yorkshire Water.

## **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).

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

D2 – Unallocated Land  
BE1 – Design principles  
BE2 – Quality of design  
BE12 – Space about buildings  
BE23 – Crime prevention  
NE9 – Retention of mature trees  
T10 – Highway safety  
H10 – Affordable housing  
H12 – Arrangements for securing affordable housing  
G6 – Land contamination  
H18 – Provision of open space  
B4 – Change of use of land and buildings last used for business or industry  
EP11 – Ecological landscaping

### **6.3 Supplementary Planning Guidance / Documents:**

SPD2 – Affordable Housing

### **6.4 National Planning Guidance:**

Chapter 1 – Building a strong, competitive economy  
Chapter 6 – Delivering a wide choice of high quality homes  
Chapter 7 – Requiring Good Design  
Chapter 9 – Protecting Green belt land

Chapter 10 – Meeting the challenge of climate change, flooding and coastal change

Chapter 11 – Conserving and enhancing the Natural Environment

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

7.1 As a result of publicity, one representation has been received.

7.2 A summary of the comments received is set out below:

- The map in appendix A of the FRA and map 1 of the Geo-environmental report include part of the garden of Dogley Cottage, 12 Penistone Road.
- Who will maintain the access?
- Snow and ice make the slope treacherous, the garden wall of 12 Penistone Road has been damaged by vehicles. Query about perpetuity insurance against future damage given the increased risk to third party property. In winter residents park on Penistone Road. Additional residents would mean more on-road parking and congestion.
- The issue of traffic queuing to exit the site has not been addressed. Shift patterns and deliveries mean vehicular activity is staggered. Residential development would lead to congestion and queuing at peak times. The gradient at the top is steeper than the 1 in 8 quoted in the Geo-environmental Report and is unsuitable.
- Concern about lack of provision for pedestrians.
- Visibility for drivers exiting Penistone Road from Kirkburton is limited.
- Heavier rainfall and snow melt result in Woodsome Beck becoming a torrent. Concern about children safety.
- Dogley is a wildlife haven, reflected in the 'site of wildlife significance' status awarded by West Yorkshire Ecology Service. The area is largely undisturbed in the evening and weekend which would be put at risk. Site pollution reaching Woodsome would be detrimental to wildlife.
- Unclear what the improvements would be to the quality of the local environment as stated in Point 5.14 of the Supporting Statement.
- Point 3.3 says that it is 'envisaged' properties would be built of stone. However, the Design and Access Statement says the dwellings 'will' reflect the vernacular of surrounding dwellings.

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

**The Environment Agency** – No objections

**Yorkshire Water** – No objection following receipt of further information. Conditions are recommended.

**K.C Highways Development Management** – No objection following receipt of amended plans.

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

**K.C Environmental Services** – No objections

**K.C Arboricultural Officer** – No objections

**K.C Ecologist** – No objections

**K.C Flood Management** – No objections

**Kirkburton Parish Council** – No comments received.

## **9.0 MAIN ISSUES**

- General Principle
- Loss of the site for business use
- Principle of Development within the Green Belt
- Proposed Housing Development
- Access considerations
- Layout considerations
- Ecology matters
- Flood risk and Drainage
- Contributions
- Representations
- Conclusion

## **10.0 APPRAISAL**

### General Principle:

- 10.1 The site is located in the Green Belt where in accordance with paragraph 87 of the National Planning Policy Framework (NPPF) inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 89 of the NPPF stipulates a local planning authority should regard the construction of new buildings as inappropriate in Green Belt, with exceptions to this including limited infilling or the partial or complete redevelopment of a previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
- 10.2 The application site is an existing industrial / employment site and satisfies the definition of previously developed land in the NPPF. In this case new development should not be regarded as inappropriate development in the Green Belt in line with paragraph 89 of the NPPF provided that it would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
- 10.3 There are two key issues to be considered;

- The acceptability of the loss of the employment site
- The extent to which the proposal for re-development of the employment site for residential purposes would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

Loss of the site for Business Use:

- 10.4 With respect to the loss of the site for business purposes, the proposal is assessed against policy B4 of the UDP. Policy B4 states that proposals involving the change of use of premises and sites with established use, or last used for business and industry will be considered having regard to the suitability of the land and premises for continued business and industrial use, the availability of business and industrial premises of equivalent quality, the number of jobs likely to be created or maintained, the compatibility of use proposed use with surrounding uses, the effect on local amenity and on the local highway network.
- 10.5 The site is owned and occupied by Connections Seating Limited. Two other companies lease space on part of the site; Scofield and Sims and Labtex. Connections Seating Limited operates from 32,000 square feet of floor space and rents a further 21,000 in Dewsbury. Within the supporting statement it is noted that operating from two sites is inefficient, coupled with the main site at Dogley Mills having an outdated layout which is a constraint to the company's development. Looking for a third site would add to operating inefficiencies and is not a feasible option. The applicant advises that the age and condition of the buildings and the fact that they are spilt level is not conducive to modern day requirements. The inefficiency of the access road to accommodate modern day vehicles hinders the opportunity for continued expansion. The applicant considers that the site would require significant financial investment and physical alteration to overcome the operational shortcomings, and that this is not viable given the Company's aspirations to operate from a single site and to grow.
- 10.6 The property has not been offered to the market for continued employment use and no evidence is presented to confirm whether or not there is a demand for a continued employment use of the building. The applicant has put forward an argument that no marketing of the property has taken place because the funds from a re-development of the site are necessary to relocate and expand the business, and the current buildings would not generate sufficient revenue to allow the company to fund a re-location and expand.
- 10.7 At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development where local planning authorities should positively seek opportunities to meet the development needs of the area. Chapter 1 stipulates planning should operate to encourage and not act as an impediment to sustainable growth and significant weight should be placed on the need to support economic growth through the planning system.



- 10.8 The justification to support the loss of the business site is to fund the expansion and re-location of the business elsewhere within the District. However, this is a speculative proposal for Connection Seating who has yet to find a site for re-location. The applicant is therefore required to submit a unilateral agreement that confirms the company will use the proceeds from the sale of the site to re-locate within the District.
- 10.9 It is considered that facilitating the retention and expansion of this established business within the District should be afforded weight in determining the application.

Principle of Development within the Green Belt:

- 10.10 The proposal development is not regarded as inappropriate development in the Green Belt in line with paragraph 89 of the NPPF. This is provided the development would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

The purposes of including land within the Green Belt:

- 10.11 Paragraph 79 of the NPPF stipulates that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts being their openness and permanence.
- 10.12 Paragraph 80 sets out the five purposes of Green Belt:
- To check the unrestricted sprawl of large built up areas
  - To prevent neighbouring towns merging into one another
  - To assist in safeguarding the countryside from encroachment
  - To preserve the setting and special character of historic towns; and
  - To assist in urban regeneration by encouraging the recycling of derelict and other urban land
- 10.13 The main purpose of the Green Belt is to prevent urban sprawl. The containment of the residential development to the central part of the site, within the development footprint of the existing industrial building would not result in urban sprawl.
- 10.14 The proposed development similarly does not have any adverse impact on the remaining four purposes or functions of the Green Belt in this area. There is no incremental development beyond that existing which would lead to the merging of towns or smaller settlements. The countryside is safeguarded from encroachment as the development does not go beyond the existing built envelope, indeed the development would make a positive contribution by recycling land.

The impact on openness:

- 10.15 The impact of the existing site within the Green Belt is dominated by the bulk of the building at the front of the site, while the character of the rear of the site is open. The proposal is for 15 dwellings which would be clustered around the footprint of the existing buildings and areas of hardstanding in the front and middle portion of the site. The proposal would reduce the footprint of development by approximately 45%:
- Existing footprint is 42,000 sq ft
  - Proposed footprint is 23,18 sq ft
- 10.16 The proposal would not expand the footprint of development beyond the existing hard standing areas and it is considered the proposal would not have a detrimental impact on openness.
- 10.17 The proposal is not considered to be of harm to the purposes of including land within Green Belt, nor would it have a detrimental impact on openness. The proposal is considered to be appropriate development within the Green Belt.

Proposed Housing Development:

- 10.18 Turning to the proposal for housing development, the NPPF states that the purpose of the planning system “is to contribute to the achievement of sustainable development” (para 6). NPPF notes that pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in peoples’ quality of life (para 9). NPPF identifies the dimensions of sustainable development as economic, social and environmental roles (para 7). It states that these roles are mutually dependent and should not be undertaken in isolation. “Economic, social and environmental gains should be sought jointly and simultaneously through the planning system” (para 8). NPPF stresses the presumption in favour of sustainable development.
- 10.19 The proposal would provide some economic gains by providing business opportunities for contractors and local suppliers. In accordance with the NPPF, new houses will support growth and satisfy housing needs thereby contribute to the building of a strong economy. There would be a social gain through the provision of new housing at a time of general shortage and the proposal will be subject to a requirement to provide an element of affordable housing which will be a positive component of the social role of the development. The proposal would not extend beyond the footprint of the areas of hardstanding and a subject to a biodiversity mitigation plan, there would not be an environmental loss.
- 10.20 A further matter for consideration is that the Council is currently unable to demonstrate a five year supply of deliverable homes. It is a material consideration in the assessment of the principle of housing development and the delivery of new housing at a time of general shortage is considered to weigh in favour of the development. The principle of development is therefore considered to be acceptable.

### Access Considerations:

- 10.21 Policy T10 of the UDP sets out the matters against which new development will be assessed in terms of highway safety. Concerns have been raised in the representations received that visibility for drivers exiting Penistone Road from Kirkburton is limited, that there is a lack of provision of pedestrians, and that the issue of traffic queuing to exit the site has not been addressed. There is also concern that the gradient at the top is steeper than 1 in 8.
- 10.22 The applicant's highways consultants PAH have provided a Transport Statement. Penistone Road forms part of the A629 which is a primary route linking Huddersfield Town Centre to the north, with the town of Penistone to the south. Given the status of the road it is subject to relatively heavy traffic volumes throughout the day.
- 10.23 The site is currently occupied by a mix of B1, B2 and B8 uses. It contains a combined gross floor area of 3800 sqm and is mostly occupied by the Company Connection UK Ltd that manufacture commercial furniture. However, there are also two other tenants that occupy the site.
- 10.24 Connections UK Ltd occupy approximately 2970 sqm within the site, of which 1680 sq m is used for general industrial use (B2 use class), 840 sq m is used as offices (B1 use class) and the remaining area is used for storage / distribution (B8 use class). The remaining sections of the site are used for general industrial use. This provides a total of around 2575 sqm of general industrial use at the site.
- 10.25 The site contains an access road along its north side that leads to the north and west elevations of the existing buildings, and to the car parking, turning, and HGV loading areas. The main car parking, turning and loading areas are located along the west side of the site. The large Dogley Mills buildings are located along the east side of the site.
- 10.26 The site contains an unmarked priority junction with kerbed radii to both sides and dropped kerbs for the adjacent footways. The access then leads into the site to the car parking and turning areas. The access road is subject to a steep gradient, and ranges in width between 5.5 m and 10m, with a width approximately 7.3m at the access with Penistone Road. Visibility at the site access is acknowledged to be sub-standard.
- 10.27 Highways Development Management (HDM) have raised concerns about the sight lines, the gradient of the access road, access arrangements to adjacent properties and detailed matters in respect of the internal layout.
- 10.28 Amended details have been submitted and are under consideration. The details comprise of two options in relation to the access into the site.
- Option 1: The proposed access would closely align with the existing levels. This would necessitate a stepped arrangement within the footway.

- Option 2: This proposal would be considered more acceptable in terms of gradients and would achieve better visibility onto Wakefield Road. However, due to the change in gradients, this would necessitate the raising of ground levels of between 2m – 2.5m.

10.29 Option 2, as referred to above, is considered by officers to be acceptable and would address previous concerns raised by HDM in relation to the access.

### **Layout Considerations:**

#### Visual Amenity

10.30 The proposed density of development is considered to represent an efficient use of the site, and the proposal would achieve the recommended distances to neighbouring dwellings as set out in policy BE12 of the UDP. The character of the immediate surrounding area is characterised by a mix of property types, including detached and terraced properties, with the predominate scale being two storey, and constructed of natural stone and stone slates.

10.31 The proposed layout of detached, semi-detached and detached dwellings would be in-keeping with the prevailing character of the site and a full assessment of the scale and appearance of the dwellings would be made upon the receipt of reserved matters should outline permission be granted. In all, it is considered that there is scope to secure details which would not harm the character of the surroundings and which would accord with policies BE1 and BE2 of the UDP as well as the aims of the NPPF. This would be addressed through a subsequent reserved matters application.

#### Residential Amenity

10.32 UDP Policy D2 requires the effect on residential amenity to be considered and policy BE12 sets out the normally recommended minimum distances between habitable and non-habitable room windows of existing and proposed dwellings. The nearest neighbouring properties to the site are located to the north-east and east of the site.

10.33 A full assessment of the scale and appearance of the dwellings, to include the positioning of windows would be assessed at the reserved matters stage. However, it is considered an acceptable scheme could be brought forward at reserved matters stage which would meet the requirements of distances between dwellings as set out in policy BE12 of the UDP, and would ensure there would not be a detrimental loss of privacy or amenity to neighbouring properties, their habitable room windows, or private amenity spaces. As such, it is considered that residential amenity would be safeguarded in accordance with Policies D2 and BE12 of the UDP.

### **Ecology Matters:**

- 10.34 UDP Policy EP11 requests that applications for planning permission should incorporate landscaping which protects/enhances the ecology of the site. The application is supported by two ecological reports.
- 10.35 The Council's ecologist notes that both reports are succinct yet detailed and fulfilled their intended purpose. The second of the two reports also describes proposed detailed mitigation in respect of European Protected Species. It is however noted that the Ecological Appraisal recommended the production of a Biodiversity Management Plan to ensure the mitigation and enhancement measures described in the report are incorporated into the development proposals, which has not been provided.
- 10.36 Roosting bats were recorded (low conservation status) therefore a European Protected Species Mitigation (EPSM) licence is required to undertake the development proposals. Therefore the Council has a duty to ensure that the three 'derogation tests' can be met in determining the planning application, and therefore that a licence is likely to be granted by Natural England.
- 10.37 The derogation tests are set out in Regulation 53 of The Conservation of Habitats and Species Regulations 2010, and are:
1. A licence can be granted for the purposes of "preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment".
  2. The appropriate authority shall not grant a licence unless they are satisfied "that there is no satisfactory alternative".
  3. The appropriate authority shall not grant a licence unless they are satisfied "that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range."
- 10.38 In respect of the third test officers are satisfied that the favourable conservation status of common pipistrelle bats can be maintained, provided the measures described in the Bat Method Statement (Section 3 of the report titled Additional Ecological Information) are implemented. A document providing the details required of a Landscape and Ecological Management Plan (LEMP) as set out in BS42020 (BSI, 2013) is required which will be addressed through condition. Subject to the inclusion of suitable conditions, ecological matters are addressed.

### **Flood Risk and Drainage:**

- 10.39 The NPPF sets out the responsibilities for Local Planning Authorities in determining planning applications, including flood risk assessments taking climate change into account and the application of the sequential approach. The application is supported by a Flood Risk Assessment (FRA) by Haigh Huddleston & Associates.

### Flood Risk

- 10.40 The majority of the site is within flood zone 1, with a portion of the western part of the site falling within flood zone 2. The Environment Agency raise no objections, subject to the development being carried out in accordance with the accompanying Flood Risk Assessment and appropriate mitigation measures. These include that finished floor levels in Flood Zone 2 shall be set at least 300mm above ground level.

#### Drainage

- 10.41 Part 4 of the FRA states that in the first instance the use of soakaways and infiltration will be investigated, and if these appear to be unsuitable based on the infiltration tests then alternative systems can be investigated.
- 10.42 Flood management raises no objections to the principle of development. This is subject to the inclusion of a condition for a scheme restricting the rate of surface water discharge from the site to a maximum of 70% of exiting pre-development flow rate.
- 10.43 Yorkshire Water notes that the site layout proposes new buildings and trees over the public sewer within the site. Following discussions with Yorkshire Water, they have confirmed that, subject to the inclusion of suggested conditions, they have no objection.

#### Foul Sewage

- 10.44 Pollution and Noise Control requested information regarding the means of foul sewage disposal, and note that it is expected that a development of this size to be connected to the mains sewage system. The agent was asked to clarify this, but no further information has been submitted. This matter will be addressed through condition.

#### **Contributions:**

#### Affordable Housing

- 10.45 UDP Policies H10 and H12 set out the requirements for the provision of affordable housing. For sites of 5 dwellings or more an affordable housing contribution should be sought. As this is a brownfield site, the contribution would be 15% of the total floor space of the development. As the current buildings are occupied, the scheme will not benefit from Vacant Building Credit.

#### Metro Cards

- 10.46 To encourage use of public transport services and establish sustainable travel patterns, the developer will be required to enter into Metro's Residential MetroCard (RMC) to provide discounted annual Bus MetroCards and public transport information. The cost is anticipated as  $15 \times \text{£}475.75 = \text{£}7,136,25$ .

10.47 The developer has put forward an argument that the funds from re-developing the site are necessary to locate and expand the business. The ability of the scheme to provide the above contributions will therefore have to be assessed when further information is known about costs. It is therefore appropriate in this particular case to address the contributions through conditions.

#### Public Open Space

10.48 In accordance with policy H18 of the UDP the applicant would be required to include measures within the site for the provision of public open space at a minimum rate of 30 sqm per dwelling. The layout proposes an area of public open space in the western portion of the site which amounts to 3399 sqm and is policy compliant. This includes land within the red line application site and land within a blue line also in control of the applicant.

10.49 This is a speculative proposal and there is no end developer identified. Accordingly, it is considered that the provision and the long term maintenance arrangements of the area of public open space can appropriately be conditioned.

#### **Representations:**

10.50 Four representations have been received. In so far as they have not been addressed above:

10.51 The map in appendix A of the FRA and map 1 of the Geo-environmental report include part of the garden of Dogley Cottage, 12 Penistone Road.  
**Response:** The supporting maps in these documents do include a part of the garden area of Dogley Cottage, however, the red line boundary submitted is correct.

10.52 Who will maintain the access?  
**Response:** It is proposed that the access would be adopted, and therefore maintained by the Council. Further comments from Highway Services on the revised access proposals are awaited at the time of writing.

10.53 Snow and ice make the slope treacherous, the garden wall of 12 Penistone Road has been damaged by vehicles. Query about perpetuity insurance against future damage given the increased risk to third party property.  
**Response:** The Transport Statement references that the existing site has the potential to generate a combined total of 211 trips per day, of which 24 could be goods vehicles entering the site. The proposal which now proposes four less dwellings than is referenced in the TS estimates a daily trip of around 120 vehicles. It is considered therefore that post development, the risk would be reduced.

10.54 In winter residents park on Penistone Road. Additional residents would mean more on-road parking and congestion.  
**Response:** Sufficient parking is provided within the site to accommodate the proposed development. The possibility of residents parking on Penistone

Road in severe winter conditions is acknowledged as a possible consequence of the gradient of the access. Cars parked along Penistone Road would narrow the width of the road and could cause possible delays to vehicles waiting for an opportunity to pass parked cars when traffic is coming in the other direction. This would however be a temporary impact, and it is unlikely residents would park here on a recurrent basis due to the distance from the proposed dwellings and the gradient.

- 10.55 Heavier rainfall and snow melt result in Woodsome Beck becoming a torrent. Concern about children safety.

**Response:** This is not a material planning consideration.

- 10.56 Dogley is a wildlife haven, reflected in the 'site of wildlife significance' status awarded by West Yorkshire Ecology Service. The area is largely undisturbed in the evening and weekend which would be put at risk. Site pollution reaching Woodsome would be detrimental to wildlife.

**Response:** An ecological report has been submitted which has been assessed by the Officers. No objections are raised subject to a Biodiversity and Mitigation Plan being developed for the site. This will be addressed through condition. The existing occupiers operate between 3am and 7:30pm Monday to Friday, and there will be some additional impact arising from the development an artificial lighting / activity in the evening. However, the built development would not extend beyond the existing hard surfaced footprint of the site, and it is not considered there would be a detrimental impact on wildlife, subject to the submission of a Biodiversity and Mitigation Plan.

- 10.57 Point 3.3 says that it is 'envisaged' properties would be built of stone. However, the Design and Access Statement says the dwellings 'will' reflect the vernacular of surrounding dwellings.

**Response:** The details of the appearance of the dwellings, including the proposed construction materials would form part of any future reserved matters application.

## **11.0 CONCLUSION**

- 11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

## **12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Development Management)**

**It is proposed that the following planning conditions would be included should planning permission be granted:**



- 1-4. Standard Reserved Matters conditions.
5. Development to be in accordance with the Flood Risk Assessment.
6. A scheme to restrict the rate of surface water discharge.
7. A scheme retailing foul, surface water, and land drainage.
8. Phase II Intrusive Site Investigation Report.
9. Site Remediation Strategy.
10. Site Remediation to be carried out.
11. Validation Report.
12. Affordable housing.
13. Public Open Space.
14. Metro card provision.
15. Surfacing of vehicle parking areas.
16. Biodiversity Mitigation and Enhancement Plan.
17. Provision of electric vehicle recharging point(s).

### **Background Papers:**

Application and history files

Website link to the application details:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2015%2f93261>

Certificate of Ownership – Certificate A signed

**APPENDIX B:- UPDATE REPORT IN RELATION TO THE ORIGINAL PLANNING APPLICATION, 2015/93261, WHICH WAS INCLUDED IN THE HEAVY WOOLLEN PLANNING SUB-COMMITTEE AGENDA OF 15 DECEMBER 2016.**

**Demolition of existing buildings and outline application for erection of residential development (15 dwellings)**

**Connection Seating Limited, Dogley Mills, Penistone Road, Fenay Bridge, Huddersfield, HD8 0NQ**

## **10.0 APPRAISAL**

### **Layout Considerations (Page 69)**

As set out in paragraph 10.29 on page 68 of the agenda, option 2 for the improvements to the access into the site was considered to be acceptable by officers.

The change to the access would affect the layout proposed. A final plan showing the position of the proposed access and the layout of the site is awaiting submission.

This is an outline application however officers consider that it is appropriate to agree the layout at this stage because of the Green Belt allocation. Whilst it is acknowledged that the final layout scheme has not yet been submitted, and will need to be re-advertised, it is not anticipated that it would be fundamentally different than that indicated on the previously submitted plan i.e. it will relate to 15 dwellings, comprising a mix of detached and semi-detached dwellings.

### **RECOMMENDATION (Page 60)**

In light of the above, the recommendation is as follows:-

**Grant Conditional Outline Permission subject to the delegation of approval to the Head of Development Management in order to complete the list of conditions contained within this report (and any added by Committee) and to:-**

- 1. Following receipt of the revised layout, re-advertise for 7 days, and provided that no new material considerations are raised that have not already been addressed;**
- 2. Secure a S106 agreement to cover the matter of the relocation of Connection Seating within the District.**

**In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Development Management shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would be secured; if so, the Head of Development Management is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.**