
Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 29-Mar-2018

Subject: Planning Application 2017/93015 Erection of 19 dwellings (C3) with associated parking with vehicular access Rough Nook Farm, 112, Mill Moor Road, Meltham, Holmfirth, HD9 5LW

APPLICANT

Pennine Developments
Ltd

DATE VALID

30-Aug-2017

TARGET DATE

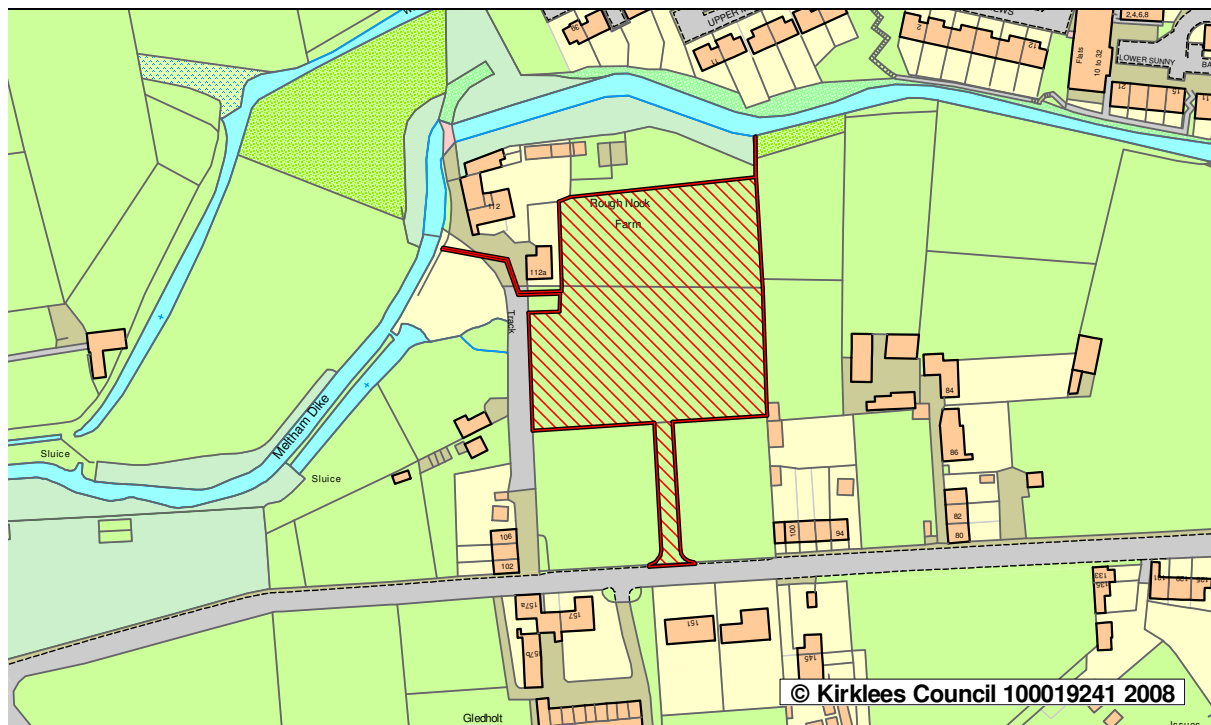
29-Nov-2017

EXTENSION EXPIRY DATE

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Holme Valley North

Yes

Ward Members consulted

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order for the applicant to provide information to demonstrate the presence or absence of breeding birds that are qualifying features of the South Pennine Moors Special Protection Area and; for the LPA to subsequently undertake a Habitat Regulations Assessment and consult with Natural England and; to complete the list of conditions including those contained within this report and; to secure a S106 agreement to cover the following matters:

1. £82,500 contribution towards off-site affordable housing
2. Future maintenance responsibilities for drainage infrastructure

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

1.0 INTRODUCTION:

- 1.1 The application is brought to the Sub Committee in accordance with the Scheme of Delegation because the development represents a departure from Policy D5 of the UDP and comprises less than 60 dwellings.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site comprises an area of open land that slopes quite steeply from south to north. Rough Nook Farm, which is within the ownership of the applicant, lies to the north/north east of the site, with Meltham Dike beyond. To the east are open fields and to the west is 112a Mill Moor Road (also within the applicant's ownership) and an access track serving this property and Rough Nook Farm. To the south is an open field which has permission for 16 dwellings. The application site includes part of this neighbouring land for access.

3.0 PROPOSAL:

- 3.1 This is a full application for the erection of 19 dwellings. The dwellings comprise a mixture of detached and semi-detached properties and are two and three storeys in height. The proposed facing materials are natural coursed stone and concrete interlocking tiles.

3.2 Access to the site is via the land to the south which has permission for 16 dwellings. The two developments would share this approved access off Mill Moor Road.

4.0 RELEVANT PLANNING HISTORY:

4.1 Adjoining land to the south:

2015/91640 Outline application for residential development – Approved by Sub Committee 18th February 2016

2017/92220 Reserved matters application pursuant to outline permission 2015/91640 for residential development – Approved by Sub Committee 12th October 2017 (decision issued 8th December 2017)

Rough Nook Farm:

2017/93990 Change of use and alterations to barn to form dwelling and improved access arrangements, change of use of land to domestic curtilage and erection of detached garage for 112a Mill Moor Road – Undetermined

2015/90734 Change of use of barn to form living accommodation – Approved

112a Mill Moor Road:

2015/90732 Erection of first floor extension to form two storey dwelling – Approved

2017/93105 Variation of condition 2 (Plans) on previous application 2015/90732 for erection of first floor extension to form two storey dwelling – Undetermined

Buildings adjacent Rough Nook Farm:

2017/93073 Prior approval for proposed change of use of agricultural building to one dwelling and associated operational development – Withdrawn

5.0 HISTORY OF NEGOTIATIONS:

5.1 There have been negotiations in relation to the drainage strategy; this has resulted in a scheme that is accepted by the Lead Local Flood Authority (subject to conditions). The adoptable turning head has also been increased in size to the satisfaction of Highways Development Management.

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 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 substantial weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.
- 6.2 The site is allocated as Provisional Open Land (POL) on the Unitary Development Plan Proposals Map and is allocated for housing on the Publication Draft Local Plan.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.3 D5 – Provisional Open Land (POL)
BE1 – Design principles
BE2 – Design of new development
BE11 – Materials
BE12 – Space about buildings
H10 – Affordable housing provision
H12 – Arrangements for securing affordable housing
EP11 – Integral landscaping scheme to protect/enhance ecology
T10 – Highway safety considerations
T16 – provision of safe, convenient and pleasant pedestrian routes
T19 – Off-street parking standards
NE8a – Impact on Peak District National Park
- 6.4 Publication Draft Local Plan policies
- PLP1 Presumption in favour of sustainable development
PLP3 Location of new development
PLP 20 Sustainable travel
PLP21 Highway safety and access
PLP22 Parking
PLP24 Design
PLP27 Flood Risk
PLP28 Drainage
PLP30 Bio diversity and geodiversity
PLP32 Landscape
PLP51 Protection and improvement of air quality
PLP52 Protection and improvement of environmental quality

6.5 Supplementary Planning Guidance / Documents:

Interim Affordable Housing Strategy

6.6 National Planning Guidance:

‘Achieving Sustainable Development’

‘Core Planning Principles’

Section 6 – Delivering a wide choice of high quality homes

Section 7 – Requiring good design

Section 8 – Promoting healthy communities

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

Section 11 – Conserving and enhancing the natural environment

Section 12 – Conserving and enhancing the historic environment

‘Decision taking’

7.0 **PUBLIC/LOCAL RESPONSE:**

7.1 The application was advertised by site notice, press advert and neighbour notification letters. In response 3 representations were received which are summarised as follows:

- Site is close to Meltham Dike and the land drains into the dike. Development may impact on run-off.
- This is Green Belt land used by a variety of wildlife. Development will impact on wildlife.
- Impact on nearby green corridor
- Increase in traffic
- Impact on local road network
- Detrimental impact on highway safety
- Highways/transport assessment fails to consider the unmarked crossroads at the junction between Mill Moor Road and Leygards Lane which is the alternative access route. This junction is already dangerous due to the unmarked cross roads and poor visibility and this needs improving. No footpath between the development and this junction which is dangerous for pedestrians.
- Concerns with the access as it will be serving two developments
- Impact on local infrastructure including school places. Local primary schools are oversubscribed.
- Questionable demand for new houses – large number of new houses still stand empty months after completion
- Development is not necessary and unlikely to enhance the village
- Noise, inconvenience, dirt on the highway, construction traffic as a result of building works
- Negative visual impact for local residents

7.2 **Meltham Town Council:** The Council objects to the application for the following reasons:

- The capacity of the physical infrastructure in relation to the public drainage and water systems is inadequate and the current drainage proposals for the site are inappropriate.
- There is no information about the provision of affordable housing.

- The proposed development gives rise to a number of highway issues particularly traffic generation and vehicular access issues. The development will give rise to an increase in the number of cars on Mill Moor Road which is already exceptionally busy and create further problems regarding vehicular access to Station Street. A traffic assessment should be completed on the totality of the Mill Moor Sites allocated for housing in the UDP/ local plan.
- Deficiencies in social facilities, in that this year all the schools in Meltham are over full and that the school place capacity does not exist to accommodate further development.

8.0 **CONSULTATION RESPONSES:**

8.1 **Statutory:**

KC Highways Development Management – No objections

Kirklees Lead Local Flood Authority – No objection subject to conditions

Yorkshire Water – No objections subject to condition and confirmation of an acceptable proposed pumped foul rate.

Environment Agency – No comments received

8.2 **Non-statutory:**

KC Conservation & Design – No objections in principle

KC Landscaping – Site is over 0.4 hectares and therefore POS is required. The layout does not provide for any on-site provision. An off-site contribution of approximately £94,700 would be required.

KC Environmental Services – No objections subject to conditions (contaminated land & electric vehicle charging points)

KC Ecology Unit – The site lies within 2.5km of the South Pennine Moors Special Protection Area (SPA). Development of these sites is considered to have the potential to result in loss of land used by foraging SPA birds, which would be considered functionally connected to the SPA. Information to demonstrate the presence or absence of breeding birds that are qualifying features of the South Pennine Moors Special Protection Area is required; such an assessment can only be carried out between mid-March and mid-May. The information will then be used by the LPA to inform a Habitat Regulations Assessment which requires assessment by Natural England.

KC Strategic Housing – Based on the interim affordable housing policy three of the units should be affordable.

West Yorkshire Police Architectural Liaison Officer - No objections. Standard advice applies with regard to Secured by Design standards.

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 10.2 The NPPF is a material consideration in planning decisions. The current situation regarding housing land supply in Kirklees (discussed below) is a material consideration relevant to applications for residential development. Weight can also be attached to the draft policies of the emerging Local Plan.
- 10.3 The starting point in assessing this planning application is to ascertain whether or not the proposal accords with the relevant provision of the development plan, which in this case comprises the saved policies of the Kirklees UDP (1999). If a proposal does not accord with the development plan, regard should be had as to whether there are other material considerations, including the NPPF, which indicate that planning permission should be granted.
- 10.4 The NPPF is a Government-issued statement of national planning policy, and is therefore considered an important material consideration, particularly in cases where there are UDP policies that are out-of-date or inconsistent with the NPPF. Paragraph 215 emphasises that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
- 10.5 The NPPF seeks to boost significantly the supply of housing. Paragraph 47 of the NPPF sets out how local planning authorities should meet the full objectively-assessed needs for market and affordable housing. This requires a range of measures including identifying a deliverable five-year supply of land for housing. Paragraph 49 adds that housing applications should be considered in the context of the presumption in favour of sustainable development, and that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

- 10.6 As noted in recent appeal decisions, Kirklees is not currently meeting (by a substantial margin) the requirement to identify a five-year supply of housing land. This is important in the context of paragraph 14 of the NPPF which states that, in relation to decision-taking, the presumption in favour of sustainable development means approving development proposals that accord with the development plan without delay, and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits (when assessed against NPPF policies taken as a whole), or ii) specific policies in the NPPF indicate development should be restricted.
- 10.7 As the council is unable to demonstrate a five-year housing land supply as required by paragraph 49 of the NPPF, relevant UDP policies relating to housing are considered to be out-of-date. The housing land supply shortfall is not marginal – it falls below three years and is therefore considered substantial. Whilst the council has prepared a Local Plan that, for housing purposes, is predicated on the basis of a five-year housing land supply, it is currently undergoing examination, and has not been adopted. Therefore, it remains the case that the council is unable to identify a five-year supply of specific deliverable housing sites against the relevant NPPF requirement.
- 10.8 The borough's housing supply record of recent years is also a relevant consideration. This is set out in the council's Housing Supply Topic Paper (2017), where Kirklees's persistent under-delivery is detailed.
- 10.9 Given this situation regarding housing land supply, with regard to this application and the presumption in favour of sustainable development, the NPPF states that planning permission should only be refused where there are adverse impacts which would significantly and demonstrably outweigh the benefits.
- 10.10 The site was designated as part of a larger area of Provisional Open Land (POL) in the UDP in 1999, and this designation was retained (saved) by the Secretary of State for Communities and Local Government in 2007. Policy D5 of the UDP states:
- On sites designated as Provisional Open Land planning permission will not be granted other than for development required in connection with established uses, changes of use to alternative open land uses or temporary uses which would not prejudice the contribution of the site to the character of its surroundings and the possibility of development in the longer term.
- 10.11 With regard to the designation of the site as POL, UDP policy D5 is not considered to be a policy for the supply of housing (with reference to NPPF paragraph 49), and is considered to be up-to-date. The proposed development does not comply with UDP policy D5 as it does not comprise development required in connection with established uses, or the alternative open land uses or temporary uses referred to in the policy. The proposed development constitutes a departure from the development plan.

- 10.12 As noted above, the emerging Local Plan is a material consideration. It sets out a housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum. If the emerging Local Plan was to be adopted in its current form, the council would be able to demonstrate a five-year housing land supply. The majority of the wider POL allocation is allocated for housing in the emerging local plan (housing site H342). The housing allocation includes the entirety of the application site along with the adjoining field to the south which has planning permission for 16 dwellings plus a 25m wide (approx.) strip of land to the eastern boundary of the application site. Given that the examination in public of the Local Plan is underway, consideration needs to be given to the weight to be afforded to draft policies, and in particular draft site allocation H342.
- 10.13 Paragraph 216 of the NPPF sets out what weight can be given to policies in emerging plans, according to:
- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
 - the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
 - the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).
- 10.14 The above is further supplemented by paragraph 014 (reference ID: 21b-014-20140306) of the Government's Planning Practice Guidance, which states that arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the NPPF and any other material considerations into account. Paragraph 014 adds that such circumstances are likely, but not exclusively, to be limited to situations where both:
- (a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or neighbourhood planning; and
 - (b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.
- 10.15 Given the scale of the development proposed (when assessed against the wider context of the emerging Local Plan), it is considered that the application could not be deemed to be premature as the proposed development, by virtue of its relatively small scale and limited strategic importance (in terms of housing delivery), is not considered to be central to the delivery of the Local Plan. With regard to the current stage of preparation of Local Plan, it is noted that an advanced stage has been reached, which would suggest considerable weight can be afforded to its policies. However, it is also noted that there are two unresolved objections to site allocation H342. One of the objections is from Natural England and relates to the Habitat Regulations Assessment. The other objection is from a member of the public and relates to highway safety matters. These unresolved objections reduce the weight that can be afforded to the draft allocation. It is therefore considered that limited weight can be afforded to the draft site allocation in this case.

- 10.16 In conclusion regarding the principle of development, given the pressing need for housing, the current situation regarding housing land supply in Kirklees, the relevant paragraphs of the NPPF detailed above, the draft site allocation, and the approval of planning permission on the adjoining POL to the south, there clearly are material considerations that – together – carry significant weight, and that justify approval of planning permission. With reference to NPPF paragraph 14, the adverse impacts and benefits of the proposed development are assessed throughout this report, and further conclusions on the balance of planning considerations are drawn in its closing paragraphs.
- 10.17 The above conclusion is supported by the fact that the application site is a suitable location for residential development in relation to sustainability, being located at the edge of an existing settlement, relatively close to sustainable transport options and other facilities. The site is not isolated and inaccessible.
- 10.18 Officers' recommendation to accept the principle of development at this greenfield site, however, is not given lightly. If this site is to be released for development, public benefit must be clearly demonstrated, and high quality development will be expected. These matters are addressed later in this report.

Urban Design issues

- 10.19 The development site is set back from Mill Moor Road with an approved development of 16 houses lying in between. Both developments would be served off the same access from Mill Moor Road.
- 10.20 The site slopes down gradually towards the north and then falls away more steeply closer to the northern boundary.
- 10.21 The dwellings comprise a mixture of detached and semi-detached properties. The properties to the rear of the site (plots 15-19) are two storeys to the front and three storeys at the rear, reflecting the site's topography. The other properties are either traditional two storey houses or three storey properties that have their upper floor within the roof space.
- 10.22 The proposed scale, design and layout are similar to other developments that have been approved within the vicinity of the site and it is considered that the proposal would harmonise with the character of the area.
- 10.23 The proposed facing materials are natural coursed stone and concrete interlocking tiles. The adjoining development to the south is to be faced in natural stone and blue slate. In the interests of achieving consistency across the two developments it is considered that either natural blue slate or a good quality imitation slate should be used on the roofs of the proposed dwellings.

Residential Amenity

- 10.24 The only existing dwelling adjacent to the site is 112a Mill Moor Road which lies to the west and would sit side by side with plot 19. This existing property is within the applicant's ownership. There is a window in the side of 112a and some windows within the side of plot 19 which are non-habitable and predominantly obscure-glazed. Officers have no concerns with this relationship. Rough Nook Farm (also within the applicant's ownership) lies

slightly further away and does not give rise to any residential amenity issues. The access track serving Rough Nook Farm abuts part of the western site boundary with agricultural land beyond.

- 10.25 There is some existing residential development to the north of the site on Upper Sunny Bank Mews and Upper Mills View. This existing development lies on the opposite side of Melham Dike and is separated by a wedge of Urban Greenspace. There are generous separation distances between the site and these adjacent properties and as such there would not be any significant impact on residential amenity.
- 10.26 In terms of the relationship with the approved development on the adjacent land to the south, the proposed dwellings would be set at a lower level. Acceptable separation distances are provided and the boundary treatment approved as part of the adjacent scheme would prevent any close overlooking of the proposed development.
- 10.27 There are open fields to the east of the site which form part of the same POL allocation (and part of the same housing allocation in the emerging Local Plan). Plots 1-4 and plots 11 and 12 back onto this undeveloped land. Plot 15 has a side elevation onto this neighbouring land.
- 10.28 Policy BE12 seeks to provide a minimum of 10.5m between habitable windows and adjacent undeveloped land. The rear wall of plots 1-4 are separated from the fields to the east by approximately 8m and 9m which represents a shortfall of around 2.5m and 1.5m. This shortfall has arisen as a direct consequence of an amendment to the position of plots 1-4 which came about because of a change to the position of the access road to the south of the site in order to meet highways requirements.
- 10.29 Notwithstanding the shortfall between habitable windows in the rear of plots 1-4 and the undeveloped land to the east, officers consider that a development on the adjacent could reasonably be brought forward that respects this relationship and provides an acceptable standard of amenity for the occupiers of plots 1-4 and any future occupiers of the adjacent land. As such the development potential of the adjacent land would not be unduly prejudiced.
- 10.30 The separation distance between the rear elevation of plots 11 and 12 and the eastern site boundary is around 13m which is in excess of Policy BE12 standards. The side elevation of plot 15 is 5m-6m from the eastern boundary. There are no habitable windows in the side of plot 15; the only windows are at ground floor level and serve a hallway and garage. There are no concerns with this relationship.
- 10.31 The site meets Policy BE12 requirements for separation distances between new dwelling and new dwelling within the site.
- 10.32 There are not considered to be any specific noise or air quality issues that would affect residential amenity. No objections have been raised by Environmental Services.
- 10.33 In summary the application does not fully accord with Policy BE12 in terms of the separation between plots 1-4 and the adjoining field to the east but for the reason set out above it is considered that this is acceptable

Landscape issues

- 10.34 There is no open space provided within the site other than a tract of land protected for future access to the adjoining land to the east. The size of the site triggers an off-site contribution towards POS.
- 10.35 The existing dry stone wall to the eastern and western boundaries are to be retained. A 2m high timber fence will run parallel to the drystone wall along part of the eastern boundary where it will form a boundary to plots 11, 12 and 15. There would also be a 2m timber fence to the rear site boundary which would be set down from the remainder of the site because of the topography of the land. It is considered that the boundary treatment is acceptable.
- 10.36 Some soft landscaping is provided to the front of the dwellings to break up areas of parking.
- 10.37 The site lies close to a designated Green Belt and is around 200m from the Peak District National Park. The proposed scale and design of the buildings and the separation distance ensures that the development would not significantly affect the openness of the Green Belt or be intrusive in views from within the National Park or have a harmful impact on views into the National Park. In this regard the application accords with guidance in the NPPF and Policy NE8a of the UDP.

Housing issues

- 10.38 The NPPF supports the delivery of new housing. The development would deliver new housing at a time of national shortage and when the council is unable to demonstrate a five year housing land supply. The site is allocated for housing in the emerging Local Plan.
- 10.39 The layout makes provision for access to the remainder of the POL (UDP) and housing (PDLP) allocation that lies to the east. The development would not therefore sterilise future development on the remainder of the allocation.

Highway issues

- 10.40 The application site is located approximately 850m to the west of Meltham town centre, on the edge of a residential area. Mill Moor Road is an unclassified road connecting between Meltham centre and Leygards Lane which links to Wessenden Head Road and the wider highway network. The closest bus stops to the site are found on Mill Moor Road approximately 120m from the site. Further stops are found on Leygards Lane around 400m from the site.
- 10.41 Vehicular access will be an extension of an approved access road serving a development of 16 dwellings immediately to the south. This development to the south is to deliver a footway along the Mill Moor Road frontage. A separate private track lies to the west of the site and provides access to several dwellings including Rough Nook Farm.

- 10.42 The Transport Assessment submitted with the outline application for the development to the south (reference 2015/91640) included the anticipated traffic generation from the entirety of this POL allocation and included an assessment of the Westgate/Station Road and Green End Road/Station Street junctions. The cumulative effect of development on this POL allocation along with other development sites in Meltham were considered. The other development sites considered included a housing allocation to the east of the site, the former Albion Mills site and a housing allocation off Colders Lane. An approved extension to the Morrison's store and a residential development of 100 dwellings on Helme Lane were also taken into account.
- 10.43 The assessment indicates that the Westgate/Station Street and the Green End Road/Station Street junctions would continue to operate within accepted parameters during the morning and evening peak periods. Officers therefore consider that the proposed development would not result in any significant detriment to the efficiency and safe use of the local highway network.
- 10.44 The site can also be accessed from Leygards Lane and from Red Lane/New Bridge Road to the west of the site. Officers do not consider that the use of these roads by a proportion of the traffic generated by the development would result in any demonstrable harm to highway safety. The intensification in the use of the Mill Moor Road-Leygards Lane junction was considered under a previous application for 28 dwellings on a separate parcel of land to the east of the application site (ref 2015/93861). Under this previous application the developer provided a contribution towards the provision of road markings at this junction in order to improve its functionality. Records indicate that these works were done in 2017. The works were considered to represent the maximum the developer could reasonably achieve to improve highway safety at the junction. Alterations to existing field boundary walls to improve visibility were not achievable because the walls are not owned by the council.
- 10.45 The layout of the site is acceptable and parking provision for the dwellings is in accordance with required standards.
- 10.46 The development is considered to comply with Policies T10 and T19 of the UDP and PLP21 and PLP22 of the emerging Local Plan.

Flood risk and drainage issues

- 10.47 An area of the site along the northern boundary falls within Flood Zone 2 and Flood Zone 3 on the Environment Agency's Flood Map. None of the dwellings are located within this area and it is only a proportion of the gardens for plots 15-19 that fall within it.
- 10.48 The flood zoning relates to Meltham Dike. The dike is around 12m from the site's northern boundary at its closest point and over 30m away at its furthest. The watercourse is set down from the site and separated by a grass paddock and row of trees.
- 10.49 Given that Flood Zones 2 and 3 extend into an elevated area away from the watercourse the Lead Local Flood Authority (LLFA) is of the opinion that the modelling is likely to be inaccurate. The Environment Agency was consulted on the application and have chosen not to provide any comment. In the absence of any objection from the Environment Agency and having regard to the situation as it exists on the ground officers are satisfied that there would not be any significant flood risk to the development.

- 10.50 It is proposed that surface water will discharge to Meltham Dike which lies to the north of the site. Surface water attenuation is provided within the site and the rate of discharge will be restricted to an agreed level. A flood route within the site for exceedance events has been demonstrated. The Lead Local Flood Authority consider the surface water drainage scheme to be acceptable, subject to a condition relating to the detailed design.
- 10.51 Foul drainage is to be pumped to the south where it will connect into the foul sewer system for the adjacent development of 16 dwellings. Here a gravity connection is to be made into existing infrastructure within Mill Moor Road. There is a right of connection for foul waste under the Water Industry Act. It is necessary for the future maintenance and management of the pumping station to be covered by a S106 agreement.
- 10.52 Ordnance Survey maps indicate a small number of watercourses outside of the site boundary. It is unclear at this stage whether they flow through the site. The LLFA has recommended a condition requiring investigation of these watercourses and minimum stand-off distances in the event that the watercourses are in close proximity to new dwellings.

Ecology matters:

- 10.53 A Preliminary Ecological Appraisal has been submitted with the application and indicates that the site consists of semi-improved grassland and is of low ecological value. A separate reptile survey has also been submitted. Both reports are accepted by the Ecology Unit and do not give rise to any specific concerns. Details of bat and bird boxes to be incorporated into the development have also been provided.
- 10.54 The site forms part of housing allocation H342 in the emerging Local Plan and the site is one of 9 proposed housing allocations that lie within 2.5 km of the South Pennine Moors Special Protection Area (SPA). Development of these sites is considered to have the potential to result in loss of land used by foraging SPA birds, which would be considered functionally connected to the SPA. The conclusion of the Local Plan Habitat Regulations Assessment is that there is a low residual risk of these sites being used by SPA birds, in particular golden plover.
- 10.55 Draft Supporting text in the emerging Local Plan requires surveys at planning application stage to assess the impacts on SPA birds and, if found to be necessary, appropriate avoidance and/or mitigation measures included within the development. Suitable avoidance and mitigation measures may include:
- Avoidance of areas used by significant numbers of SPA birds (to be determined by a project level Habitats Regulations Assessment).
 - Provision of equivalent or greater quantity and quality of replacement habitat onsite (or as a last resort off site within 2.5km) with improved management to ensure use by SPA birds.
 - Timing of works (construction, operation and decommissioning) outside the period most frequently used by SPA birds.
 - Monitoring of impacts to assess bird use over time.

- 10.56 The survey work can only take place between mid-March and mid-May. The resultant report will be used by the Ecology Unit to inform a Habitat Regulations Assessment (HRA), which in this case is a legal requirement prior to the application being determined. The HRA will require approval from Natural England. Officers are seeking the delegation of authority to conclude this particular matter.
- 10.57 Meltham Dike lies just to the north of the site and this area is allocated as a Green Corridor on the UDP Proposals Map and a Wildlife Habitat Network in the emerging Local Plan. Policy D6 of the UDP relates to development adjacent to Green Corridors. An area of sloping paddock (Urban Greenspace) separates the development site from the dike and the trees that exist alongside it. Officers consider that there is a sufficient distance between the site and the Green Corridor to avoid any significant impact on the corridor's function. It is also proposed to discharge surface water from the development to the dike but officers are satisfied that surface water drainage discharged at a restricted rate is unlikely to prejudice the dike and its wildlife. Consideration of the dike's ecological value would be taken into account when assessing the detailed drainage scheme, including details of the outfall.

Representations

- 10.58 Three objections have been received. The main planning concerns relate to highway safety and the ecological impacts of the development including the impact on the adjacent dike. These issues have been addressed within this appraisal.
- 10.59 Of the other matters raised an officer response is provided as follows:

- *Impact on local infrastructure including school places. Local primary schools are oversubscribed.*

Officer response: In terms of education, the scale of the development does not meet the threshold for an education contribution. It is recognised that the proposed number of dwellings combined with the approved development of 16 houses on the adjoining land to the south exceeds the trigger for an education contribution however the respective sites are in different ownership and have come forward at different times (the land to the south being subject of a 2015 outline consent). It would not be possible to require an education contribution taking into account a separate development that has already been approved.

- *Questionable demand for new houses – large number of new houses still stand empty months after completion*

Officer response: The demand for the proposed houses is not a material planning consideration.

- *Development is not necessary and unlikely to enhance the village*

Officer response: The development will deliver new housing at a time of shortage and officers have judged the impacts of the development to be acceptable.

- *Noise, inconvenience, dirt on the highway, construction traffic as a result of building works*

Officer response: Inconvenience caused by the carrying out of development is not a material planning consideration although issues relating to noise, dust and odour from construction can be controlled via Environmental Health legislation if it is deemed that there is a statutory nuisance. Mud on the highway can be mitigated through a construction management plan and this can be conditioned.

- *Negative visual impact for local residents*

Officer response: Officers consider the visual impact of the development to be acceptable as detailed in this appraisal.

Planning obligations

- 10.60 The Council's interim affordable housing policy requires 20% of the units to be affordable. On this development of 19 dwellings 20% equates to 3.8 units. The affordable housing requirement would therefore be 4 units.
- 10.61 The site is over 0.4 hectares and therefore there is a requirement to provide public open space. No POS is provided on site and therefore a contribution in lieu is required. This proposal triggers a contribution of approximately £94,700.
- 10.62 The development proposed does not meet the threshold for an education contribution.
- 10.63 A contribution towards sustainable travel - in the form Metro Cards - would normally be sought on a development of this scale.
- 10.64 The applicant has submitted a financial viability assessment. The assessment indicates that the maximum number of affordable units that could be provided on site is 1 (based on there being no other financial contributions). The applicant considers however that there may not be any realistic possibility of achieving a sale of a single affordable unit in isolation because the majority of housing associations are reluctant to acquire single units unless they have substantial local holdings as management issues can be encountered. As such the applicant requests that the council consider an off-site contribution in lieu of on-site provision.
- 10.65 The viability assessment goes on to calculate the maximum payment that the development can stand and makes a without prejudice offer of £82,500 in full settlement of all planning obligations.
- 10.66 The viability assessment has been independently appraised and the advice from the independent assessor is that the council should accept this offer because it is the best outcome that can be achieved based on all of the evidence.
- 10.67 Officers have no reason to dispute this independent advice and consider that the contribution should be used towards affordable housing within this housing market area.

Other Matters

- 10.68 Part of this site is recorded as potentially contaminated due to past industrial use (Rough Nook Dye Works). The potential for contamination and its risks to future occupiers of the development needs to be properly assessed and to this end relevant conditions are recommended.
- 10.69 NPPF Paragraph 109 states that “the planning system should contribute to and enhance the natural and local environment by..... preventing both new and existing development from contributing to or being put at unacceptable risk from, amongst other things, air pollution. On small new developments this can be achieved by promoting green sustainable transport through the installation of vehicle charging points. This can be secured by planning condition. This is in line with the West Yorkshire Low Emissions Strategy and PLP24 of the emerging Local Plan.

11.0 CONCLUSION

- 11.1 The principle of the development on the POL is accepted. The design and appearance of the development would sit comfortably within the surrounding area. The development would not prejudice highway safety and an acceptable drainage strategy can be provided. The ecological impacts are acceptable subject to information being provided by the applicant in relation to the South Pennine Moor Special Protection Area.
- 11.2 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.
- 11.3 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 subject to the satisfactory outcome of the Habitat Impact Assessment.

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

1. Time limit
2. Development in accordance with approved plans
3. Approval of samples of materials
4. Details of retaining walls including facing materials
5. Detailed drainage scheme
6. Assessment of adjacent watercourses and imposition of appropriate stand-off distances
7. Temporary drainage scheme
8. Design of surface water outfall
9. Details of access road
10. Surfacing of parking areas
11. Contaminated land investigation and site remediation as necessary
12. Electric vehicle charging points
13. Construction management plan

Background Papers:

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f93015>

Certificate of Ownership – Certificate B completed. Notice served on:

- R S Woodhead 5 River Holme View Brockholes
- Mr and Mrs Wood 112 Mill Moor Road Meltham