
Report of the Head of Strategic Investment**HEAVY WOOLLEN PLANNING SUB-COMMITTEE****Date: 19-Apr-2018****Subject: Planning Application 2017/92504 Erection of 5 dwellings with associated site road, parking and landscaping Land to rear of, 49/51, Huddersfield Road, Skelmanthorpe, Huddersfield, HD8 9AR****APPLICANT**

Chris Noble, D Noble Ltd

DATE VALID

12-Dec-2017

TARGET DATE

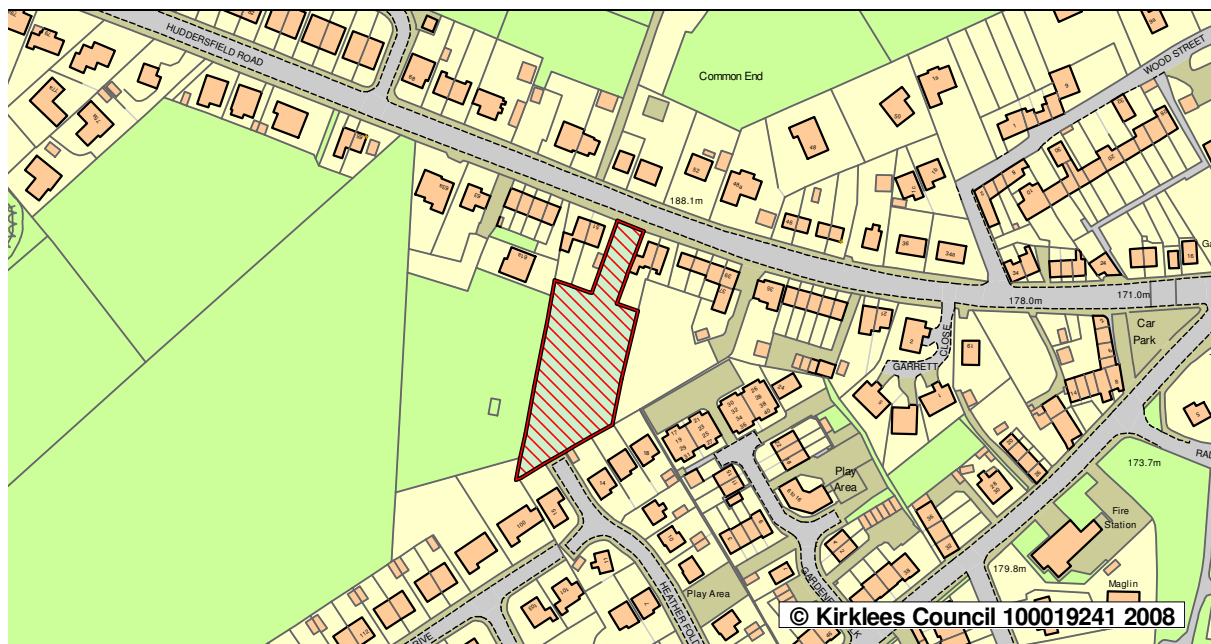
06-Feb-2018

EXTENSION EXPIRY DATE

22-Mar-2018

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: Denby Dale Ward

No

Ward Members consulted
(referred to in report)

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions including those contained within the report.

1.0 INTRODUCTION:

- 1.1 The application seeks full planning permission for the erection of five dwellings on land to the rear of 49/51 Huddersfield Road, Skelmanthorpe. The site is allocated as Provisional Open Land (POL) on the Kirklees Unitary Development Plan.
- 1.2 The application represents a Departure from the Development Plan and under the Council's Scheme of Delegation it is referred to the Heavy Woollen Planning Sub-Committee for a decision.
- 1.3 The principle of housing development is considered to be acceptable, and has previously been established following the granting of a previous planning application, reference 2014/92889. As a result of this proposal, it is considered by officers that there would be no detrimental impact on highway safety, visual amenity, and residential amenity.
- 1.4 The application was deferred from the previous meeting to enable the Stage 4 Hearings of the Kirklees Local Plan (Rural Sub-Area) to close. The reason was that the access and layout of the site is closely linked to a wider proposed housing allocation (site H502) of the Publication Draft Local Plan. There was no definitive conclusion on the matter of access into the proposed housing allocation, but there was an action for Highways Development Management to consider access from Cumberworth Road.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site is an overgrown green field to the rear of No.49 and No.51 Huddersfield Road at Skelmanthorpe. The site is part of a wider allocation of Provisional Open Land (POL) on the Kirklees Unitary Development Plan which extends to the east and west of the site.

- 2.2 There is an existing vehicular access point off Huddersfield Road, and some works have taken place on site to clear the vegetation with crushed stone laid to form an temporary access into the site. The site is bounded by residential properties off Huddersfield Road to the north, open land to the east and west (also allocated as Provisional Open Land), and by properties off Heather Fold to the south.

3.0 PROPOSAL:

- 3.1 The application seeks full planning permission for the erection of five dwellings, with associated site road, parking, and landscaping.
- 3.2 It is proposed plots 1-4 would be accessed via Heather Fold; a residential cul-de-sac to the south of the site. It is proposed to create a new access road into the site to include a turning head to facilitate the turning and access of a refuse vehicle to the proposed bin collection point. Beyond this turning head, the access is proposed to be a private drive. Plot 5 would be accessed directly off Huddersfield Road via a private drive.
- 3.3 The proposed dwellings would be two storey in height and relatively substantial in scale. The proposed construction materials are Marshalls Cromwell pitched stone with artstone heads and cills, and Grey Marley Modern roof tiles.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2014/92889 – Outline application for residential development – Conditional Outline Permission
- 2002/93375 – Outline application for residential development – Refused
- 89/00154 – Outline application for residential development – Refused

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

- 5.1 Officers have negotiated with the applicant to secure:
- An investigation of the culvert which runs through the site and its condition, and revisions to the plan to address drainage issues.
 - A revised House Type for Plot 5 and a street scene drawing along Huddersfield Road.
 - A revised layout to address residential amenity issues.
 - Confirmation of existing and proposed boundary treatment.
 - Revisions to the proposed access off Heather Fold to increase the width and secure 1.8m wide footways.
 - Inclusion of the approved dwellings to the east on the block plan to demonstrate the impact on residential amenity.

6.0 PLANNING POLICY:

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

6.2 The site is allocated as Provisional Open Land (POL) on the UDP proposals map and indicated as part of a wider Housing Allocation on the PDLP (this excludes the area of land between nos.49 and 51 Huddersfield Road, which is unallocated on both the UDP proposals map and on the PDLP).

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

D5 – Provisional open land

BE1 – Design principles

BE2 – Quality of design

BE12 – Space about buildings

T10 – Highway Safety

T16 – Pedestrians Safety

D2 – Unallocated Land

NE9 – Retention of mature trees

G6 – Contaminated Land

H1 – Meeting housing needs in the district

EP11 – Integral landscaping scheme to protect / enhance ecology

6.4 Kirklees Publication Draft Local Plan

PLP1 – Presumption in favour of sustainable development

PLP2 – Place shaping

PLP21 – Highway safety and parking

PLP 24 – Design

PLP25 – Highway safety and access

PLP 28 – Drainage

PLP 30 – Biodiversity and Geodiversity

PLP53 – Contaminated and unstable land

6.5 National Planning Policy Framework:

Chapter 4 - Promoting sustainable transport

Chapter 6 - Delivering a wide choice of high quality homes

Chapter 7 - Requiring good design

Chapter 10 - Meeting the challenge of climate change, flooding

Chapter 11 - Conserving and enhancing the natural environment

7.0 **PUBLIC/LOCAL RESPONSE:**

7.1 The application was advertised by neighbour letters and site notice with the publicity expiring 29th January 2018.

7.2 As a result of this publicity, 29 objections were received. The concerns raised have been précised below as follows:

Highway Safety

- The site falls within the boundaries of H502 a housing designation in the Publication Draft Local Plan. In the "Accepted Site Options" document, (page 103, Technical Appraisal it states "Access via Cumberworth Road unlikely because of required visibility splays. Access should be provided from Bedale Drive. Huddersfield Road offers access for part of the site" There is no reference to access via Heather Fold. There have been no objections that Heather Fold has not been included as a possible access route. Planning Decisions should comply with the LDP. Access to H502 via Heather Fold goes against the Local Plan.
- Cumberworth Road is hazardous when trying to get out of Heather Fold, with "blind spots" created by parked vehicles, and vehicles speeding. The Fire Station is not far from Heather Fold. Concern Heather Fold will be used as a short cut from Cumberworth Road to Commercial Road, for students and parents and a drop off/pickup point. There is also a public play area on Heather Fold, so additional traffic could jeopardise child safety.
- Huddersfield Road is the logical choice for access, it is a major road that takes traffic to Huddersfield, the motorway, Leeds or Wakefield. Traffic wanting to access Huddersfield would have to travel in to the village centre and use the difficult junction to access the road network.
- There also doesn't appear to be a turning area adequate for commercial vehicles.
- 'Round Hill Close' has access from Huddersfield Road, a safer approach.
- Leaving Heather Fold, onto Cumberworth Road is difficult in manoeuvring around parked cars due to local residents having no off road parking.
- Children play in the play area on Heather Fold and in the road. Children are relatively safe with a full view of oncoming traffic. The extended road veers to the right and drivers will not have a full view until they turn the corner. With parking for 14 cars, there is going to be significant increase in traffic.
- The exit from Heather Fold onto Cumberworth Road is hazardous. Since the building of developments off Cumberworth Road there has been a significant increase in parked cars, oncoming traffic is forced to the middle of the road.
- The entrance of Heather Fold onto Cumberworth is hard to joint due to on street parking and speeding motorists. In wintery conditions, on-street parking put an increase risk at the junction with Heather Fold.
- Concern how emergency services can access the site and how bin lorries and delivery vans will turn.

- Huddersfield Road provides the safest access and best servicing. There is insufficient turning space for waste collection lorries.
- D. Noble Ltd has written to residents of Heather Fold stating they “initially made enquiries with the Highways Officer to service the whole of the development from Huddersfield Road, but the Highways Officer insisted they use Heather Fold. As the developers preferred wish is to use Huddersfield Road, that request should be made available.
- The plans include a “spur road” for the purpose of servicing “further development”. Concern about Heather Fold being utilised for a larger development and the effect on volume of through traffic.
- The development will increase traffic by 25%. Exit from Heather Fold onto Cumberworth Road is hazardous. This is due to cars parking on Cumberworth Road narrowing the carriageway and restricting the view. On-street parking results in traffic breaching central line markings. 12 additional cars significantly increasing the likely hood of an accident. Cumberworth Road joins Huddersfield and this junction is hazardous. As well as food vending shops and a veterinary clinic there are 3 bus stops located within 200 metres radius of the junction. They cause traffic congestion and obstruction which impacts the exit / entry to Cumberworth Road. The new development will add to traffic at the junction.
- Concern about risk to children who use the playground on Heather Fold. Noble Ltd states 'it is understood that the site road was designed and constructed with spare capacity and is comfortably capable of being utilised to access this new development', but that was 20 years ago, and traffic in Skelmanthorpe has increased. Heather Fold, where residents and visitors already have to park on the road as off-road parking is insufficient.
- The site layout includes no turning for delivery vehicles who will have to turn in driveways or navigate in reverse back to the turning bay in Heather Fold.
- Heather Fold is an established cul de sac. Additional traffic will compromise the safety of children using the playground.
- Details within the submission by highways contains factual inaccuracies. *“Heather Fold is an existing traditional estate road off Cumberworth Road which is 5.5m wide with standard width 1.8 metre wide footways to both sides. Sight lines from this road along Cumberworth Road are good in both directions. Indicative proposals show the extension of Heather Fold into adjacent Public Open Land (POL). This is considered to be a potentially acceptable access to the POL site and preferable to an access from Huddersfield Road which provides less width and has existing driveways located to either side.”* Heather Fold is 5.5metres wide with 1.8metre footpaths. A total width of 9.1metres. Cumberworth Road is 8 metres wide and the foot path width as it enters Heather Fold is 2.8 metres. This tapers back to standard width. The opening off Huddersfield Road, the distance between the two adjacent boundary fences is 11 metres. The footpath at the entrance, from the existing property boundaries to the kerb edge is 3 metres and runs at that width to the extent of line of sight. Huddersfield road is 8.4 metres wide. The statement that “Huddersfield road provides less width and has exiting driveways” is incorrect and misleading.
- The spur road is a road extension onto allocation H502, with a spur off to access the site. It is not a turning circle for HGV's. The direction, shape and size of the circle is contradictory to best practice turning area design.

- Concern how residents safely negotiate the area when HGV's are operating. Require 1.8m footpath access around the road perimeter to segregate vehicular movement from pedestrians. If the development were independent a turning circle with standard 1.8m footpaths should be provided.
- Dispute Highways comments regarding safety and congestion. In the process of considering application 2014/92889, we identified safety concerns and congestion issues on Cumberworth Road. The outline plan to provide access via Huddersfield Road was a vindication of these concerns. The Highways quote of no complaints in the last 12 months sidesteps previous submissions to committee. In segregating congestion from safety, the statement hides the full picture. Complaints have been made to the police in the last 12 months, with regard to safety and speed of traffic using Cumberworth Road. The Police referred the issue to Highways safety who responded stating no suitable lampposts were available to allow traffic calming installations. There are two suitable lampposts at the junction with Heather Fold. The fatality involved a motorcycle accelerating beyond 60mph.
- With reference to the LDP, building on the potential access to Huddersfield Road, denies vehicular and pedestrian segregation. It blocks a direct access from H502 to the village centre. This leaves a convoluted route for pedestrians and cyclists and encourages vehicular travel to amenities, in contrast to the objectives of planning policy in the LDP.
- Concern about disruption during the building process. Request consent be conditional with the requirement that construction access is via Huddersfield Road. Access from Heather Fold should only occur when the four houses are signed off by building control. The fifth house accessed from Huddersfield Road, should be constructed last and with construction access from Huddersfield Road.
- Concerned about the impact on traffic flow on Cumberworth Road.
- The plan submitted contains an extension to Heather Fold, notionally as a turning circle. This is proposed as a road to be adopted. Given that the bin collection area is within the service area of the existing adopted road, Heather Fold, all the new extension should be treated as a part of the private driveways of the proposed new development. There is no reason to adopt the extension because it will terminate and not be used to facilitate any access to any other potential future developments.

Drainage

- A culvert runs through Heather Fold, has this been investigated?
- The gardens of 14, 16 and 18 Heather Fold already suffer from water-logged gardens. This has worsened since the removal of trees (identified on the proposed plans as remaining) whose canopies provided shelter and whose roots absorbed rainfall. The gardens will be completely unusable.
- The driveway has sunk over the drain area despite being rectified by Noble Homes.
- Major concerns regarding drainage issues and the impact it might have on already waterlogged back gardens at Heather Fold.

Ecology / Trees

- Concern trees and bushes have been cut down with no consideration given for wildlife.
- Over 7 months Nobles have been clearing the site of all habitation including several large trees. The previous Ecology Survey clearly states that the trees should not be removed between the months of March to September, to avoid causing harm or disturbance to nesting birds. Tree surgeons, instructed by Nobles, removing trees on 10th August 2017. The tree surgeons even tried to access the site through heather fold and were informed permission had not been granted and were turned away.
- The site layout is inaccurate as it shows trees in situ both now and after construction which have actually being felled. The majority of the trees shown no longer exist.

Residential Amenity

- Concern about the orientation of the two closes properties to 18 Heather Fold. Both directly look over and into two bedrooms at the rear of our property causing an invasion of privacy.
- Concern about security and privacy to the rear of properties off heather Fold. Retaining a low dry stone wall would leave back gardens exposed to being overlooked and accessed. Concern about car headlights shining into the rear of properties.

Other

- The development is now for fewer dwellings larger in proportion, this is not the best use of available building land.
- Object to the stub road from Heather Fold which has no purposes other than to seek to pre-determine future application on land adjacent.
- D. Noble Ltd have erected a billboard stating 5 dwellings is to be built. This is a presumption which shows scant respect for the planning process.
- Query why a Phase 2 Contamination Land report is required.
- Significant disturbance to residents on Heather Fold from construction traffic, noise and pollution.
- The materials to be used appear to be inconsistent with properties on Heather Fold. It would be better to continue the existing style, rather than make one style of house more desirable and affecting values.
- The current application is not legal. It gives the ordnance survey grid reference that would place the development on the entrance to Shelley High School and not the site of the proposed development. A new application with the correct ordnance survey grid reference be submitted.
- Disagree the application can be re-validated, the application has been incorrectly validated and proceeded through two consultation processes taking over 6 months. It is the applicant's responsibility to ensure all relevant documents pertinent to the application are completed correctly. A new application with fees and costs should have been applied.
- The application is now a full seven months from the original application date, the various reports from council officers are no longer valid and new reports should be submitted. There should be a proper examination of the application.
- The new application carries the same number as the original. This is not correct procedure. It is impossible for anyone to properly catalogue the documentation between the old and the new application, this is neither a fair or reasonable approach and would be open to statutory challenge.

Denby Dale Parish Council - Objections due to highways and access issues. This application is part of Site H502 in the Local Plan which is now subject Government Inspection. We note that the access points in the Local Plan do not include Heather Fold but show a larger south/west onto Cumberworth Road/Ponker Lane and a further access point between 63a/65 Huddersfield Road. This application would open Heather Fold to a larger amount of vehicles than the five dwellings shown.

Councillor Jim Dodds - I would like to make known my objections to using Heather Fold for access to the above planning application. I believe that if this is allowed Heather Fold will become a rat run for parents getting their children to Shelley College. Am I correct in assuming that in the original application access was not via Heather Fold?

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

K.C Highways Development Management – No objections

K.C Flood Management – No objections

8.2 Non-statutory:

K.C Environmental Services – No objections

K.C Ecology Unit – No objections

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Highway issues
- Drainage issues
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The statutory development plan is the starting point in the consideration of planning applications for the development or use of land unless material considerations indicate otherwise (Section 38(6) Planning and Compulsory Purchase Act 2004).
- 10.2 The site is allocated as Provisional Open Land (POL) on the Unitary Development Plan. As such the proposal is considered against Policy D5. Policy D5 states that:

“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”

- 10.3 Policy D5 is considered to be up to date and must be weighed in the balance. Paragraph 14 of the National Planning Policy Framework (NPPF) states however, that there is a presumption in favour of sustainable development. Where Local Planning Authorities cannot demonstrate a five year deliverable supply of housing, this tilted balance applies.
- 10.4 Consideration must therefore be given as to whether the proposal is sustainable development. The NPPF identifies the dimensions of sustainable development as economic, social, and environmental (Para.7). It states that these facets are mutually dependent and should not be undertaken in isolation (Para.8). The proposal has been assessed against each role as follows. A proposal for 5 dwellings provides economic gains by providing business opportunities for contractors and local suppliers. There will be a social gain through the provision of new housing at a time of general shortage. The development of a greenfield site represents an environmental loss. However, whilst national policy encourages the use of brownfield land for development it also makes clear that no significant weight can be given to the loss of greenfield sites to housing when there is a national priority to increase housing supply.
- 10.5 In terms of more detailed issues within the site, NPPF paragraph 58 sets out the requirement for developments to *“optimise the potential of the site to accommodate development”*. As this proposal only covers part of the POL allocation, the proposal would need to demonstrate that it does not prevent the remainder of the POL site being developed. The POL allocation includes undeveloped land to both the west and east of the site. Planning permission has previously been granted for two dwellings on land to the east to be accessed off Huddersfield Road, and therefore this application needs to consider future access to the remainder of the POL allocation to the west. In this case the proposed turning head within the site adjacent to Heather Fold would not prevent access to the rest of the POL allocation.

Kirklees Publication Draft Local Plan

- 10.6 The Publication Draft Local Plan (PDLP) was submitted to the Secretary of State on 25th April 2017 for examination in public, which began in October 2017. The site forms a housing allocation (H502) within the PDLP. Given that the PDLP has now been submitted consideration needs to be given to the weight afforded to the site's allocation in the PDLP.
- 10.7 The NPPF provides guidance in relation to the weight afforded to emerging local plans, paragraph 216 which states:

216. From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:

- *the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- *the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

10.8 The above is further supplemented by guidance in the Planning Practice Guidance (PPG). The PPG states that *“arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. Such circumstances are likely, but not exclusively, to be limited to situations where both:*

- a. the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or neighbourhood planning; and*
- b. the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.*

10.9 Given the scale of the development when assessed against the wider context of the Local Plan the application could not be deemed to be premature as it is not considered to be central to the delivery of the Local Plan. Whilst Officers do not consider that the application is premature in terms of the PDLP, it has been confirmed that given the advanced stage at which the Local Plan has progressed considerable weight should be afforded to the policies within the PDLP. An assessment of the relevant local plan policies is therefore undertaken throughout this report.

The Planning Balance

10.10 In assessing the planning balance of the application consideration has been given in relation to social, economic and environmental factors. The social and economic benefits the proposal would provide through the provision 5 dwellings would make a contribution to the housing land supply. In conclusion the planning judgement on the proposal is that the benefits of housing provision weigh heavily in favour of the proposal and the adverse impacts of the loss of this green field and POL site do not demonstrably outweigh the benefits of developing the site, when considered as a whole along with all other relevant material considerations. The proposal would accord with the Core Planning Principles of the NPPF.

Urban Design issues

- 10.11 The core planning principles in the NPPF provide guidance on design and state that new development should “*always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.*” Paragraph 56 states, “*The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.*” Paragraph 58 states that decisions should aim to ensure that developments establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work, and visit. These policies are further supported by Policies BE1 and BE2 of the UDP which state that new development should create or retain a sense of local identity and is in keeping with surrounding development in respect of design and layout. Policy PLP24 of the PDLP states that good design should be at the core of all proposals such that the form, scale, layout, and details of all development respects and enhances the character of the landscape.
- 10.12 The proposed dwellings would be relatively substantial in their footprint and would be two storey in height. It is considered their design and scale would be satisfactorily in-keeping with the character of the area where dwellings are predominately two storey in height. Revised plans were secured for Plot 5, along with a street scene drawing as Plot 5 was originally considered to be out of character with the street scene and failed to meet the relevant distances to neighbouring properties. Plot 5 has now been reduced in scale and its design revised so that it will sit comfortably between existing dwellings on Huddersfield Road without harming the visual amenity of the street scene.
- 10.13 The proposed construction materials are Marshalls Cromwell pitched stone with artstone heads and cills, and Grey Marley Modern roof tiles. Concerns have been raised in the representations received that the materials are inconsistent with properties on Heather Fold and should continue the existing style. Neighbouring properties which flank the site comprise a mix of stone, brick and render, and it is considered artificial stone and concrete tiles may be satisfactorily in keeping with neighbouring properties subject to samples being inspected. The stone is however light in colour in comparison to older properties along Huddersfield Road and further consideration needs to be given to how Plot 5 can be assimilated satisfactorily into the street scene. A condition requesting samples of facing and roofing materials is therefore appropriate.
- 10.14 The number of dwellings would amount to approximately 20 dwellings per hectare. This is considered to be an acceptable response to the site which is flanked by existing housing which proposes a constraint to where dwellings can be sited without unduly impacting on residential amenity.

Residential Amenity

- 10.15 Policy BE12 of the UDP sets out the normally recommended minimum distances between habitable and non-habitable room windows. The nearest neighbouring properties which would be affected by the proposed development include Nos. 49, 51 and 61a Huddersfield Road, the two approved dwellings to the east of the site, and Nos. 14, 15, 16 and 18 Heather Fold to the south. Concerns have been raised in the representations received that the proposal would result in a loss of privacy to neighbouring properties.

- 10.16 In respect of the impact on No.49, this is a semi-detached two storey dwelling which has habitable room windows in the rear elevation overlooking the site. There would be a distance of 21 metres from Plot 4 to this neighbouring property. It is considered due to this distance there would be no detrimental overbearing impact or loss of privacy.
- 10.17 In respect of the impact on No.51, this is a semi-detached two storey dwelling, also with habitable room windows in the rear elevation overlooking the site. There would be a distance of over 29 metres from Plot 3 to this neighbouring property. It is considered due to this distance there would be no detrimental overbearing impact or loss of privacy.
- 10.18 In respect of the impact on No.61a, this is a single storey property with habitable room windows fronting onto the site. The nearest proposed dwelling, plot 3, would sit to the south-east of this property and would not have a direct relationship. No windows are proposed in the side elevation of Plot 3 and there would be no overlooking of this neighbouring property.
- 10.19 In respect of the impact on the approved dwellings to the east of the site, the block plan now shows the proposed relationship to these properties. There would be a distance of between 8 and 12 metres from the proposed rear elevation of Plot 1 of this adjoining development to the proposed Plot 4. The design of Plot 4 however includes a single storey garage and study adjacent to the shared boundary, and due to the retention of the existing hedge it is considered there would be no detrimental loss of privacy or overbearing impact.
- 10.20 In respect of the impact on neighbouring properties off Heather Fold, the relationship from Plots 1 and 2 has been considered in response to concerns that these properties would directly face into bedrooms on the rear elevation of No.18 Heather Fold causing an invasion of privacy. On the revised plan there would be a distance of 25 metres from the front elevation of Plot 1 to No.18 Heather Fold, and a distance of 21 metres to No.16 and no.14. This meets the recommended distance set out in policy BE12 of the UDP. The dwellings are not directly facing and it is considered there would not be a detrimental overlooking or overbearing impact. Along the shared boundary with properties off Heather Fold it is proposed to erect a 2m high close boarded fence to avoid car headlights shining into ground floor windows. This will also secure the rear garden areas of these properties and avoid a detrimental loss of privacy.

Ecology Issues

- 10.21 UDP Policy EP11 requests that applications for planning permission should incorporate landscaping which protects/enhances the ecology of the site. A Great Crested Newt Survey supports the application.
- 10.22 The Council's Ecologist is satisfied that the risk of killing and injuring Great Crested Newts as a result of the proposed development works is low. However, due to the legal protection of this species, specific measures are required during construction. This can be addressed by condition. In addition information is required on how the development will provide an ecological enhancement. A condition is therefore suggested to secure an Ecological Design Strategy. It is noted that during the course of the application, the applicant has submitted a Mitigation Strategy and Site Enhancement report, however the Ecologist has

raised concerns about the content of this document and therefore the suggested conditions remain appropriate to include. Subject to conditions, ecological matters are addressed and the proposal is considered to comply with the aims of chapter 11 of the NPPF.

Highway issues

- 10.23 Policy T10 of the UDP sets out the matters against which new development will be assessed in terms of highway safety. A significant number of objections have been raised by residents of Heather Fold regarding the highway safety aspects of accessing four of the dwellings via this cul-de-sac. There is also significant concern about the possibility of future access to the wider housing allocation in the Publication Draft Local Plan via Heather Fold.
- 10.24 In respect of the proposed application for five dwellings, each property includes either an internal or detached garage along with off-street parking in line with Kirklees UDP parking standards. Bin storage and collection points are shown. Heather Fold is an existing traditional estate road off Cumberworth Road which is 5.5m wide with standard width 1.8 metre wide footways to both sides. Sight lines from this road along Cumberworth Road are good in both directions. Highways Development Management (HDM) have secured revisions to secure adequate carriageway and footway widths for the proposed adoptable section of the access, the remainder of the access would be a private drive. There are no highway objections to the proposed development.
- 10.25 HDM has also considered the objections raised by local residents. These include concerns that access from Heather Fold to serve the development would be dangerous, and that the inclusion of a turning head at the top of Heather Fold may facilitate future access to a housing allocation identified in the PDLP, where no access from Heather Fold has been identified. HDM have provided the following comments:
- *It is apparent that this application has a long history, and this was looked into before Highways DM submitted comments in this specific application.*
 - *The outline application from 2014 sought and received approval for access from Huddersfield Road, however, this does not mean that Heather Fold is deemed an unsuitable route of access to this pocket of land. This application has been considered on its individual merits.*
 - *In term of access to the POL site, it would be regarded as good practice to “future-proof” developments against prospective or potential development. An adequate estate road of 5.5m with 2.0 footways is required so as not to preclude this access from possible, but not granted, future use.*
 - *The committee notes submitted by Highways DM for application 2014/92889 (for six properties) estimated traffic generation to be in the region of 3 two-way movements in both the morning and evening peaks. If the same estimate is used for the four properties gaining access from Heather Fold in this instance, the highway network should be able to take this additional traffic without issue.*

- *Cumberworth Road has an excellent safety record. The fatal accident in May 2017 was the first reported injury accident on the full length of Cumberworth Road and Ponker Lane since 2007. According to police reports, this particular collision occurred within the rural, 60mph section of Ponker Lane some 600m from the junction of Heather Fold and Cumberworth Road where the nature of the highway is very different to the built-up section between Dene Road and Huddersfield Road.*
- *With regard to this proposal, Highways DM has no wish to resist the granting of planning permission on highway capacity or specific road safety grounds.*

10.26 The width of the access road has been widened in accordance with the comments from Highways DM and is now considered acceptable. A 1.8m wide footway is now shown around the turning head, in response to safety concerns, including concerns raised by residents regarding segregation for vehicles and pedestrians. The issue of future access to a proposed housing allocation in the PDLP is not a matter for this application, however the application has demonstrated through the provision of the turning head that the proposal would not prevent the remainder of the POL site being developed should any future applications be made but it is important to assess this planning application on its own merits.

10.27 With the inclusion of appropriate conditions, the proposals are considered acceptable from a highway safety and efficiency perspective, complying with the aims of Policy T10 of the UDP and Policy PLP21 of the PDLP.

Drainage issues

10.28 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. Concerns have been raised about drainage, as to whether a culvert which runs through the site has been investigated, and that the gardens of nos.14, 16, and 18, Heather Fold already suffer from water-logged gardens.

10.29 The applicant was asked to investigate where a culvert runs through the site and its condition. There are known flood incidents downstream, so this is a sensitive area and the culvert has potential to cause a significant issue.

10.30 The applicant has carried out an investigation and has established the location of a French drain in poor condition which is shown on the submitted layout plan. The applicant has also submitted a drainage plan for consideration. It is proposed the existing French drain would be diverted via a new drainage pipe located further away from the proposed dwellings. Revisions have also been made to the layout to move plot 4 further away from the existing drain. Proposed floor levels for buildings and roads have also been included as well as approximate levels of the existing French drain, in locations as it crosses the site. The Lead Local Flood Authority (LLFA) has assessed this additional information and is satisfied that the proposed measures to renew this system are reasonably practical, with flows to be restricted and attenuation provided. It is noted the French drain, including new drainage pipe diversion, will not pick up any of the new surface water drainage from the site which is considered to be acceptable as the area is served by combined sewers and the ground has

been observed as consisting of cohesive soils and not suitable for soakaways. The relocation of Plot 4 will minimise the risk of waterlogging. The LLFA raises no objections and no particular conditions are required. The proposal is considered to comply with the aims of chapter 10 of the NPPF.

Other Matters

- 10.31 Environmental Services have reviewed the Phase I Contaminated Land report and agree with its conclusions. They therefore recommend the submission of a Phase II report and associated remediation strategy, in accordance with Policy G6 of the UDP, Policy PLP53 of the PDLP, and chapter 11 of the NPPF.
- 10.32 In respect of air quality, the development has been assessed in accordance with the West Yorkshire Low Emission Strategy Planning Guidance. The development is considered to be a minor development and requires the provision of one charging point per dwelling. This is recommended to be conditioned and would comply with the aims of chapter 11 of the NPPF.

Representations

- 10.33 In so far as the concerns raised have not been addressed above:
- 10.34 Concern trees and bushes have been cut down with no consideration given for wildlife / Nobles have been clearing the site of all habitation including several large trees. The previous Ecology Survey clearly states that the trees should not be removed between the months of March to September, to avoid causing harm or disturbance to nesting birds.
Officer Response: It is noted the developer has already cleared vegetation and felled trees. The Council's Ecologist has suggested conditions to secure an Ecological Design Strategy to include how the development will provide an ecological enhancement.
- 10.35 The site layout is inaccurate as it shows trees in situ both now and after construction which have actually being felled. The majority of the trees shown no longer exist.
Officer Response: The applicant was asked to provide an up to date existing block plan to address this issue, along with details of proposed boundary treatment.
- 10.36 Concern about security and privacy to the rear of properties off heather Fold. Retaining a low dry stone wall would leave back gardens exposed to being overlooked and accessed. Concern about car headlights shining into the rear of properties.
Officer Response: A boundary detail plan has been secured which shows that along the shared boundary with properties off Heather Fold, a 2m high close boarded fence would be erected to avoid car headlights shining into ground floor windows. This will also secure the rear garden areas of these properties and avoid a detrimental loss of privacy.

10.37 The development is now for fewer dwellings larger in proportion, this is not the best use of available building land.

Officer Response: The number of dwellings would amount to approximately 20 dwellings per hectare. This is considered to be an acceptable response to the site which is flanked by existing housing which proposes a constraint to where dwellings could be sited without impacting on residential amenity.

10.38 D. Noble Ltd have erected a billboard stating 5 dwellings is to be built. This is a presumption which shows scant respect for the planning process.

Officer Response: This is not a material planning consideration.

10.39 Query why a Phase 2 Contamination Land report is required

Officer Response: Environmental Services recommend a Phase II report as the submitted Phase I report recommends sampling is carried out to ascertain ground conditions.

10.40 Concern about significant disturbance to residents on Heather Fold from construction traffic, noise and pollution.

Officer Response: Temporary disruption is a normal part of the construction process and is not a reason to refuse an application.

10.41 Denby Dale Parish Council raised objections due to highways and access issues. They note the application is part of site H502 in the current Draft Local Plan and the access sites in the Local Plan do not include Heather Fold but does include a larger area South/West onto Cumberworth Road/Ponker Lane and a further access point between 63a/65 Huddersfield Road.

Officer Response: This matter has been addressed in the highways section above.

10.42 The spur road is a road extension onto allocation H502, with a spur off to access the site. It is not a turning circle for HGV's. The direction, shape and size of the circle is contradictory to best practice turning area design.

Officer Response: The issue of future access to a proposed housing allocation in the PDLP is not a matter for this application, however the applicant has demonstrated through the provision of the turning head that the proposal would not prevent the remainder of the POL site being developed. Highway Services raise no highway safety objections to the design of the turning head.

10.43 Concern how residents safely negotiate the area when HGV's are operating. Require 1.8m footpath access around the road perimeter to segregate vehicular movement from pedestrians. If the development were independent a turning circle with standard 1.8m footpaths should be provided.

Officer Response: This matter has been addressed through the provision of 1.8m footways to each side of the turning head.

10.44 Dispute Highways comments regarding safety and congestion. In the process of considering application 2014/92889, we identified safety concerns and congestion issues on Cumberworth Road. The outline plan to provide access via Huddersfield Road was a vindication of these concerns. The Highways quote of no complaints in the last 12 months sidesteps previous submissions to committee. In segregating congestion from safety, the statement hides the full picture. Complaints have been made to the police in the last 12 months, with regard to safety and speed of traffic using Cumberworth Road. The Police referred the issue to Highways safety who responded stating no suitable

lampposts were available to allow traffic calming installations. There are two suitable lampposts at the junction with Heather Fold. The fatality involved a motorcycle accelerating beyond 60mph.

Officer Response: Highway Services have assessed the proposal and considered the comments received, however they raise no objections.

- 10.45 The revised plans change the footprint of two types of houses, both enlarging the size of properties without increasing occupancy. The outline plan allowed for 6 dwellings, the application reduced that to five, the revision provides a more lucrative opportunity for the developer.

Officer Response: The revised house types have been assessed and it is considered there would be no detrimental impact on visual or residential amenity.

- 10.46 With reference to the LDP, building on the potential access to Huddersfield Road, denies vehicular and pedestrian segregation. It blocks a direct access from H502 to the village centre. This leaves a convoluted route for pedestrians and cyclists and encourages vehicular travel to amenities, in contrast to the objectives of planning policy in the LDP.

Officer Response: The future layout of the housing allocation identified in the Draft Publication Local Plan including pedestrian routes to amenities is not a matter for this application.

- 10.47 Concern about disruption during the building process. Request consent be conditional with the requirement that construction access is via Huddersfield Road. Access from Heather Fold should only occur when the four houses are signed off by building control. The fifth house accessed from Huddersfield Road, should be constructed last and with construction access from Huddersfield Road.

Officer Response: Disruption is a normal part of the construction process. A condition to restrict access to Huddersfield Road only or to phase the development would be unduly onerous. It is noted however that a temporary access has been created into the site from Huddersfield Road, indicating that access is likely to be from Huddersfield Road in any case.

- 10.48 Major concerns regarding drainage issues raised by Flood Management and the impact it might have on already waterlogged back gardens at Heather Fold.

Officer Response: This matter is being addressed.

- 10.49 Details within the submission by Highways contains factual inaccuracies. The statement that "Huddersfield road provides less width and has existing driveways" is incorrect and misleading.

Officer Response: Whilst Huddersfield Road itself is wider than Cumberworth Road, the gap between nos.49 and 51 Huddersfield Road would not allow for such a wide access as that which already exists at the Cumberworth Road/Heather Fold junction without the use of third party land to provide tapered kerbs and footways. This was the intended implication of this statement and in this respect it remains correct.

- 10.50 The current application is not legal. It gives the ordnance survey grid reference that would place the development on the entrance to Shelley High School and not the site of the proposed development. A new application with the correct ordnance survey grid reference be submitted.

Response: This is noted, however the red boundary clearly details the application site.

10.51 Disagree the application can be re-validated, the application has been incorrectly validated and proceeded through two consultation processes taking over 6 months. It is the applicant's responsibility to ensure all relevant documents pertinent to the application are completed correctly. A new application with fees and costs should have been applied.

Response: The application was originally submitted with the incorrect ownership certificate. This matter was brought to the attention of the Local Authority and raised with the applicant who confirmed the incorrect ownership certificate had been submitted. A correct certificate was provided and the application re-validated. No new fee is required.

10.52 The application is now a full seven months from the original application date, the various reports from council officers are no longer valid and new reports should be submitted. There should be a proper examination of the application.

Response: A new 25 day period of publicity has been undertaken, and all relevant consultees have been consulted following the re-validation of the application.

10.53 The new application carries the same number as the original. This is not correct procedure. It is impossible for anyone to properly catalogue the documentation between the old and the new application, this is neither a fair or reasonable approach and would be open to statutory challenge.

Response: This is the same application for the same development, it has been re-validated to address a technical issue that the incorrect ownership certificate had been originally submitted. All publicity and consultations have been carried out following the re-validation of the application and no third party has been prejudiced.

10.54 Denby Dale Parish Council has raised objections due to highways and access issues. This application is part of Site H502 in the Local Plan which is now subject Government Inspection. We note that the access points in the Local Plan do not include Heather Fold but show a larger south/west onto Cumberworth Road/Ponker Lane and a further access point between 63a/65 Huddersfield Road. This application would open Heather Fold to a larger amount of vehicles than the five dwellings shown.

Response: In the MIQs (Matters, Issues and Questions) in the Stage 4 hearings of the Kirklees Rural Sub-Area, the Inspector has raised the question of whether housing allocation site H502 can be developed without accessing a southern strip which is within the green belt. The Inspector has noted the site has potential access points at Heather Fold, Bedale Drive and Cumberworth Road. Of these, there is potential to have two access points (off Heather Fold and Bedale Drive), which together would have the potential to serve the bulk of the site although access to Bedale Drive would include using the southern strip of this site. Alternatively, the site access off Cumberworth Road and Heather Fold would facilitate the potential to develop full site. This is an unresolved matter, relevant to this application in so far as it is necessary to ensure this proposal does not stymie future development of H502.

11.0 CONCLUSION

- 11.1 The principle of development is accepted on this site which is allocated as POL on the UDP proposals map following the granting of a previous application for outline permission by members of the Heavy Woollen Planning Sub-Committee (in accordance with officer recommendation) under application reference 2014/92889. The proposal, comprising of five dwellings, is considered to represent an appropriate response to the site and its surroundings. The benefits of housing provision weigh heavily in favour of the proposal given the councils lack of a 5 year housing supply and the adverse impacts of the loss of this green field site do not demonstrably outweigh the benefits of developing the site, when considered as a whole along with all other relevant material considerations. The proposal is considered to accord with the Core Planning Principles of the NPPF and would not adversely impact visual and residential amenity and highway safety.
- 11.2 The recommendation is to delegate approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions, including those contained within the report.

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

1. 3 year time limit
2. Development shall be implemented in accordance with the plans
3. Samples of all construction materials
4. Scheme for the part of the adoptable estate road
5. Surfacing and draining of vehicle parking areas
6. Phase II Report
7. Provision of electric charge points
8. No development to take place until a method statement for the avoidance of direct impacts to great crested newts has been submitted and approved.
9. No development to take place until an ecological design strategy addressing ecological enhancement has been submitted and approved.
10. Boundary treatment to be provided in accordance with the block plan
11. Removal of permitted development rights for new openings
12. Removal of permitted development rights for extensions

Background Papers:

Website link to the application details:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f92504>

Certificate of Ownership –Certificate A signed and dated 13/07/2017.

Website link to the previously approved outline application reference 2014/92889:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2014%2f92889>