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**Report of the Head of Strategic Investment**

**HUDDERSFIELD PLANNING SUB-COMMITTEE**

**Date: 01-Nov-2018**

**Subject: Planning Application 2018/90031 Variation of condition 2 and deletion of condition 20i of previous application ref: 2012/90738 (demolition of redundant former industrial buildings and bridge, erection of 46 age-restricted apartments, 2 guest rooms, external residents' lounge, manager's office, residents' and visitor car parking, new bridge access, related engineering and landscape works with retention of former mill dam and formation of riverside walk) to enable changes to layout, elevations, materials, landscaping, boundary treatments, retaining structures and pond works, rerouting of riverside walk, repositioning of blocks, and other changes, and removal of requirement to provide a pedestrian crossing on Woodhead Road (within a Conservation Area) Prickleden Mills, Woodhead Road, Holmfirth, HD9 2JU**

**APPLICANT**

Stephen Secker,  
McCarthy & Stone  
Retirement Lifestyles  
Limited

**DATE VALID**

04-Jan-2018

**TARGET DATE**

05-Apr-2018

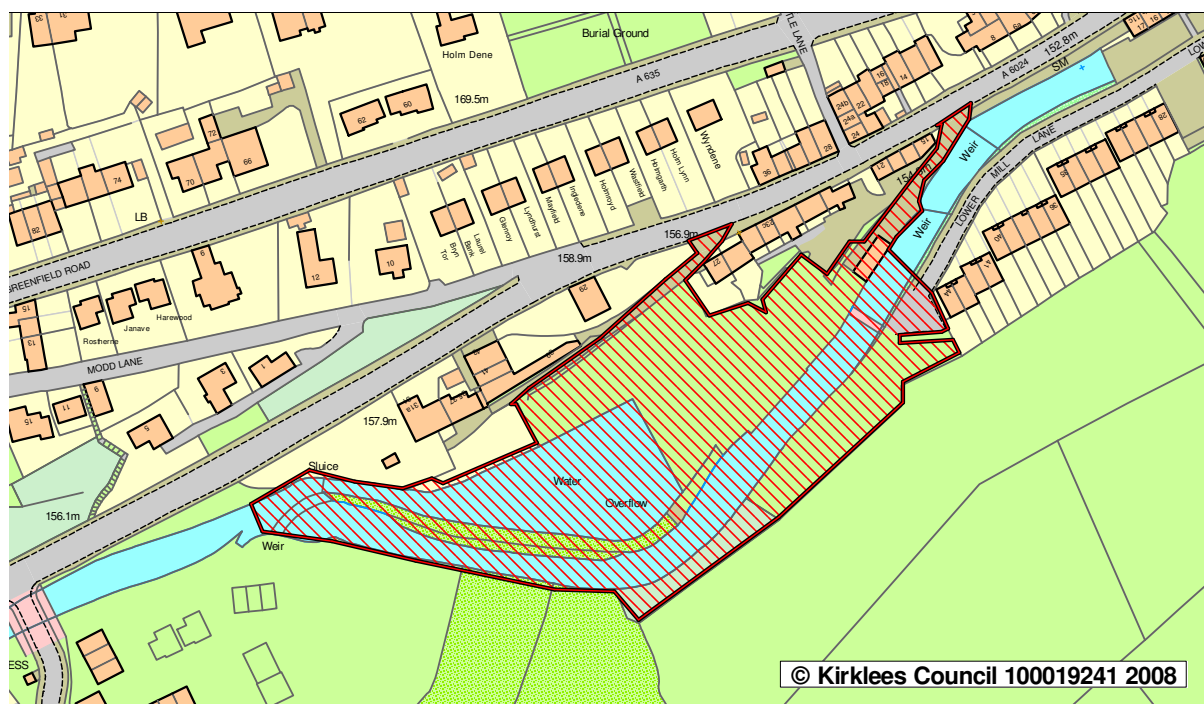
**EXTENSION EXPIRY DATE**

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<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 South**

Yes

Ward Members consulted

DELEGATE approval of the application (in relation to condition 2 only) 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 this report and to secure a S106 agreement to cover the following matters:

1. Linking of this application to the S106 agreement (dated 19/12/2013) for planning permission 2012/90738.
2. Provision of public access along riverside walk and bridge in perpetuity.
3. Construction management provisions as per the draft S106 agreement prepared in connection with application 2014/90183 (secure a post-development survey of Lower Mill Lane, establish and engage with a residents' liaison group, and secure funding for a Traffic Regulation Order).

In the circumstances where the S106 agreement has not been completed within three 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 This Section 73 (S73) application has been brought to Sub-Committee at the request of Cllr Patrick. Cllr Patrick stated that this is a controversial development and expressed concern that the development's planning gain has been reduced.

1.2 The Chair has agreed to this application being brought to Sub-Committee.

## **2.0 SITE AND SURROUNDINGS:**

2.1 This application relates to an irregular-shaped site, previously occupied by Prickleden Mill. The site is approximately 1.3 hectares in size, and most of it is located on the north bank of the River Holme, however the site also includes a smaller area on the south bank. Much of the site is almost flat, however there are steeply-sloped areas at the north and south edges of the site.

2.2 The site's mill buildings have been demolished, however the mill pond survives, as do stone and brick retaining walls towards the edges of the site. The majority of the site is hard-surfaced.

2.3 A sloped lane provides access to the site from Woodhead Road. The site can also be accessed from Lower Mill Lane, where an existing riverside carriageway and footway currently terminate at the site's boundary.

2.4 The site is surrounded by residential uses, although a two-storey stone building (also accessed via the sloped lane from Woodhead Road) is currently in use by a plumbing and heating engineering company.

2.5 The site is within the Holmfirth Conservation Area. There are no listed buildings within the site, however immediately to the north of the site, 25 and 27 Woodhead Road are Grade II listed.

2.6 Tree Preservation Orders (TPOs) protect trees within the site on the south bank of the River Holme. Other TPOs have been designated at the far west end of the site.

2.7 No public rights of way cross the site.

## **3.0 PROPOSAL:**

3.1 The applicant proposes to vary and partly delete conditions of the previous permission ref: 2012/90738 (approved on 19/12/2013). That permission was for the demolition of the site's former industrial buildings and bridge, and the erection of 46 age-restricted apartments, two guest rooms, an external residents' lounge, a manager's office, resident and visitor car parking, a new bridge, related engineering and landscaping works, the retention of the former mill dam and the formation of a riverside walk. The applicant proposes variation and deletion as follows:

- Condition 2 (approved drawings) – Proposed repositioning of blocks A and B, elevational changes, rerouting of riverside walk, and revisions to boundary treatments, retaining walls and structures, and hard and soft landscaping. Previously-proposed partial infill of the millpond reduced – a small, triangular area of the millpond would now be filled in.
- Condition 20 (highways works) – Deletion of part (i), which requires the provision of a zebra crossing on Woodhead Road.

3.2 Further details of these changes are provided later in this report.

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

- 4.1 19/12/2013 – Planning permission granted (ref: 2012/90738) for the demolition of the site's former industrial buildings and bridge, and the erection of 46 age-restricted apartments, two guest rooms, an external residents' lounge, a manager's office, resident and visitor car parking, a new bridge, related engineering and landscaping works, the retention of the former mill dam and the formation of a riverside walk. This permission has been implemented. A related conservation area consent application (ref: 2012/90739) was also approved on 19/12/2013.
- 4.2 08/05/2015 – Non-material amendments approved (ref: 2014/93971) to permission ref: 2012/90738. This concerned parking and site layout amendments, relocation of bike store and manager's office, elevational changes, deletion of guest suite, internal layout changes, reduction in floor-to-floor and cill-to-head heights, and reduction in number of rooflights.
- 4.3 14/10/2015 – Planning permission granted (ref: 2015/92408) for the erection of an electricity substation enclosure.
- 4.4 12/05/2016 – Details submitted pursuant to condition 24 (construction plan) of permission ref: 2012/90738 considered by the Huddersfield Planning Sub-Committee. Ref: 2014/90183. The Sub-Committee resolved to approve the applicant's details and discharge condition 24 subject to a commitment to carry out a post-development survey of Lower Mill Lane, make arrangements to create and engage with a resident liaison group, and provide a means to cover the cost of a Traffic Regulation Order. A S106 agreement was subsequently drafted but never completed and signed, therefore condition 24 remains undischarged.
- 4.5 Pending determination – Application for non-material amendment (ref: 2017/93646) to permission ref: 2012/90738, for the use of PVCu window frames (instead of powder-coated aluminium window frames) to the stair towers, and for the use of hinged French windows instead of sliding patio doors.
- 4.6 Various other applications for the discharge of conditions of permission ref: 2012/90738 were considered by the council. These applications are referred to in this report where necessary.

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

- 5.1 In October 2016 at pre-application stage, officers advised the applicant that a S73 application would be required for changes to the development's previously-approved design, and for the deletion of part (i) of condition 20.
- 5.2 The applicant initially indicated that approval of amendments to conditions 13 (materials), 14 (boundary treatments), 15 (retaining structures), 16 (soft landscaping) and 17 (hard landscaping) were being sought, however the applicant did not propose rewording of these conditions. Given the existing wording of these conditions, it is considered that the proposed changes to the scheme do not in fact necessitate amendments to conditions 13, 14, 15, 16 and 17.
- 5.3 The applicant also proposed the use of artificial stone in the previously-approved residential blocks, however in response to Member comments and officer advice this proposal was withdrawn. Similarly, proposals to use artificial materials in retaining walls and structures around the site (including in the river walls) have been withdrawn.
- 5.4 The deletion of condition 12 (regarding works to the mill pond edge and outfall) is no longer proposed.
- 5.5 The reduction of on-site parking spaces to 53 is no longer proposed.

## **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 48 of the National Planning Policy Framework (2018). 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 (2018), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

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

- 6.2 The site is within the Holmfirth Conservation Area, and a Green Corridor passes through the site along the River Holme.

6.3 Relevant policies are:

G4 – High standard of design  
G5 – Equality of opportunity  
D2 – Land without notation  
D6 – Green Corridors  
NE6 – Water areas  
NE9 – Tree retention  
BE1 – Design principles  
BE2 – Quality of design  
BE5 – Development within conservation areas  
BE11 – Building materials  
BE12 – Space about buildings  
BE21 – Accessibility of open space  
BE22 – Accessible parking  
BE23 – Crime prevention  
EP4 – Noise sensitive development  
EP11 – Landscaping and ecology  
EP30 – Prolonged construction work  
T10 – Highway safety  
T14 – Pedestrian routes  
T15 – Pedestrian facilities  
T16 – Development and pedestrian routes  
T17 – Cycling  
T19 – Parking standards  
H1 – Housing needs  
H10 – Affordable housing  
H12 – Securing affordable housing  
H16 – Residential homes for the elderly  
H18 – Public Open Space  
R18 – Development adjacent to canals and rivers

Kirklees Draft Local Plan Strategies and Policies (2017):

6.4 The site is within a Wildlife Habitat Network in the draft Local Plan. Part of a Core Walking and Cycling Network is shown indicatively in the Local Plan in the Holme Valley close to the site. An SSSI Impact Risk Zone and a buffer zone for twice extend to the site.

6.5 Relevant policies are:

PLP1 – Presumption in favour of sustainable development  
PLP2 – Place shaping  
PLP3 – Location of new development  
PLP4 – Providing infrastructure  
PLP7 – Efficient and effective use of land and buildings  
PLP11 – Housing mix and affordable housing  
PLP20 – Sustainable travel  
PLP21 – Highway safety and access  
PLP22 – Parking  
PLP23 – Core walking and cycling network  
PLP24 – Design  
PLP27 – Flood risk  
PLP28 – Drainage

PLP29 – Management of water bodies  
PLP30 – Biodiversity and geodiversity  
PLP32 – Landscape  
PLP33 – Trees  
PLP34 – Conserving and enhancing the water environment  
PLP35 – Historic environment  
PLP47 – Healthy, active and safe lifestyles  
PLP51 – Protection and improvement of local air quality  
PLP52 – Protection and improvement of environmental quality  
PLP53 – Contaminated and unstable land  
PLP63 – New open space

Supplementary Planning Guidance / Documents:

6.6 Relevant guidance and documents are:

- West Yorkshire Air Quality and Emissions Technical Planning Guidance
- Kirklees Landscape Character Assessment (2015)

National Planning Policy and Guidance:

6.7 The National Planning Policy Framework (2018) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal. Relevant paragraphs/chapters are:

- Chapter 2 – Achieving sustainable development
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment

6.8 Since March 2014 Planning Practice Guidance for England has been published online.

**7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application was advertised via four site notices, a press notice, and letters delivered to addresses abutting the application site. This is in line with the council's adopted Statement of Community Involvement. The end date for initial publicity was 15/02/2018.

7.2 Representations from occupants of three properties were received in response to the council's consultation. The following is a summary of the concerns raised:

- Objection to reconstituted stone on visual amenity and sustainability grounds. Natural stone from demolished buildings, or from local quarries, should be used.
- Objection to increased traffic on Hollowgate and Lower Mill Lane. Concerns regarding potential rat run at peak times along Lower Mill Lane, resulting in residents not being able to access their properties, increased pollution, increased risk to residents, children and pets due to increased vehicle movements, and obstruction of emergency access. Previous application had a more detailed Transport Assessment.
- Proposals do not improve on the previous application.

7.3 Responses to these comments are set out later in this report.

7.4 Cllr Patrick has commented as follows:

*Of course [the application] should be taken to committee. This was a very controversial development and still is and despite officers supporting it again I have to say it is still the wrong development in the wrong place with access only via Lower Mill Lane and Hollowgate. Highways officers may have changed their minds about the zebra crossing, but I would like to think we would get some money out of the development for some highways improvements. Given that this is supposed to be for older people and we know the town's pavements are not accessible for wheelchairs, how about some money towards disabled access? Virtually everything else in terms of planning gain has been allowed to be dropped from this development so I'd like to know what planning gain comes with an officer recommendation to support this?*

7.5 Holme Valley Parish Council support all variations of conditions except in relation to condition 13 – strong objection to the use of artificial stone in a conservation area.

## 8.0 CONSULTATION RESPONSES:

### 8.1 Statutory:

Environment Agency – No comment to make. Condition 3 of previous permission was requested by the EA, however none of the proposed variations or deletions would compromise that condition.

KC Conservation and Design – No justification has been provided for using reconstituted stone dressings instead of natural stone sawn ashlar dressings, however on balance no objection is raised.

KC Highways – No objection to reduction of car parking spaces to 53.



KC Strategic Drainage – Objection to removal of condition 12. Millponds should be considered in connection with development of mill sites. The previously-applied condition was designed to take into account the flood risk associated with a historic, elevated volume of water (the millpond). Millponds are often neglected and can pose a risk to current or future residential properties. Revised proposals for millpond should be assessed for flood risk and whether appropriate mitigation is needed. The integrity of the millpond is a crucial consideration in this assessment. The millpond will need to be drained to enable examination of the retaining structures and to understand the associated pipework and ancillaries such as sluices and overflows. Operating mechanisms are already in need of renewal. Any changes to levels would need to be re-examined. Future maintenance in relation to drainage should be established as part of the planning process to ensure that flood risk would not increase through neglect and failure to assign responsibility. Concern over applicant's suggestion that millpond edges and outfalls would remain unchanged, when it was previously shown that mitigation was required to reduce flood risk.

## 8.2 **Non-statutory:**

KC Ecology – Site is in an ecologically sensitive location (the River Holme corridor), which forms an important element of the local ecological network and is identified as part of the Kirklees Wildlife Habitat Network. The previously-applied condition 16 is necessary to ensure some ecological enhancement is provided in accordance with Local Plan policy PLP30. Removal of condition 16 is not supported.

KC Highways Structures – Conditions recommended.

KC Trees – Applicant is proposing to change the retaining feature adjacent to TPO-protected trees. An Arboricultural Method Statement (AMS) was previously approved for these works, however this showed a different retaining structure in this location. Changing this structure would conflict with the previously-approved AMS, therefore a new AMS would be required. Further comment: new AMS (received 17/09/2018) addresses earlier concerns.

West Yorkshire Police Architectural Liaison Officer – Earlier measures proposed by applicant's architect should be implemented. Rerouting of riverside walk would be preferable as it would move passers-by away from the southeast doors and windows of blocks A and B. Rerouting the walk (and its users) through the development's car park may not be ideal, however the route would have better surveillance from blocks A, B, C and D, and concerns could be mitigated through the provision of uniform lighting coverage of the route and the parking areas. Lighting would also augment CCTV in this location. Condition recommended, requiring details of lighting.

## 9.0 MAIN ISSUES

- Scope of this application
- Urban design and conservation issues
- Residential amenity
- Highway issues
- Drainage issues
- Trees, landscaping and ecological considerations
- Representations
- Planning obligations

## 10.0 APPRAISAL

### Scope of this application

- 10.1 Section 73 of the Town and Country Planning Act 1990 concerns the “Determination of applications to develop land without compliance with conditions previously attached”, colloquially known as “varying” or “amending” conditions. S73 applications must also involve consideration of the conditions subject to which planning permission should be granted. Where an application under S73 is granted, the effect is the issue of a fresh grant of permission and the decision notice should list all conditions pertaining to it. The application cannot be used to vary the time limit for implementation.
- 10.2 It is important to note that when assessing S73 applications the previously-granted planning permission is a significant material consideration, which impacts heavily on the assessment of the proposal. If the original application has been implemented, or if the permission has not yet expired, the applicant may go ahead and complete the original approved scheme if they wish.
- 10.3 In this case, the applicant could develop the site in accordance with the 2013 permission, and this fallback is a material consideration to which significant weight must be given. The principle of significant development at this site has already been accepted by the council.
- 10.4 Alterations to planning policy and other material considerations that may have emerged since the original grant of planning permission are relevant and need to be considered. However, these must be considered in light of the matters discussed in the above paragraphs and the applicant’s ability to complete the originally-approved development.

### Urban design and conservation issues

- 10.5 As noted earlier in this report, the site is within a conservation area, and two houses immediately to the north are Grade II listed. It is also visible from public vantage points, and will become more visible as public access is extended along the banks of the River Holme via the proposed riverside walk. It is therefore important to ensure high quality, appropriate development is brought forward at this relatively sensitive site.

- 10.6 The applicant proposes to relocate blocks A and B 1m further to the northeast, i.e., closer to the bridge that would be provided as part of the development. This is considered to be a minor change in the context of the wider development, it would not result in an inappropriate distribution of massing across the site, and would not cause harm to the Holmfirth Conservation Area or the setting of listed buildings or other heritage assets. This minor amendment is considered acceptable.
- 10.7 Elevational changes have already been approved by the council as non-material amendments under application ref: 2014/93971. The further elevational changes now proposed are:
- Provision of open, projecting balconies (where enclosed balconies were previously approved).
  - Deletion of projecting window columns.
  - Simplified materials – ashlar facing panels have been deleted, so all external stone would be coursed.
- 10.8 These elevational changes are minor in scale, they improve the elevational composition of the five blocks, and they raise no concerns in relation to conservation, and are considered acceptable.
- 10.9 Revised boundary treatments are proposed. Dry stone walls were previously proposed around the edge of millpond and at other locations around the site, however mild steel railings set into a low stone upstand are now proposed around the millpond and along the river outside block E. This is considered acceptable, as a similar boundary treatment has already been used on the south bank of the river along Lower Mill Lane. Indeed, cast iron railings set into a low stone upstand (to match those that exist on Lower Mill Lane) are proposed on the south bank, either side of where the new bridge would land. Details to be submitted pursuant to condition 14 will need to confirm that natural stone would be used for the upstands, and that the railings would have a black finish.
- 10.10 Other boundary treatments around the site would be new or retained and repaired natural stone walls, or concrete faced with natural stone. A low rendered wall with artificial stone coping is proposed behind blocks C and D – these materials would not normally be considered acceptable in this location, however they are proposed in a location heavily screened from public view by retaining walls and the new blocks. Notwithstanding the reference to cast concrete parapet upstands for the river bridge (as annotated on drawing 14036D-07-P20), details of more appropriate external materials for this part of the development will need to be submitted pursuant to condition 14.
- 10.11 Retaining walls and structures would similarly be new or retained and repaired natural stone walls, in some cases with concrete, piles, or soil nailing behind their natural stone facings. On the south bank, close to the southeast edge of the site and behind the parking area, stone-filled baskets are proposed to shore up the bank and to screen soil nailing plates. These proposals are considered acceptable, subject to details (to be submitted pursuant to conditions 15 and 16) confirming that natural stone to match that used in surrounding buildings would be used in the baskets, and that soft landscaping (including climbing plants) would be used to reduce the visual impact of this retaining structure.

- 10.12 Infill of part of the site's millpond was previously approved, however the applicant now proposes significantly less infill – a relatively small area (approximately 60sqm) at the millpond's north corner (outside block C) would be filled in under the current proposals. The millpond is a surviving heritage asset of some interest, and given that UDP policy NE6 and emerging Local Plan policy PLP29 seek to retain water areas, this amendment is welcomed.
- 10.13 The proposed rerouting of the riverside walk around the rear of blocks A and B, instead of providing it between these blocks and the river (including along a previously-approved cantilevered walkway) raises no design or conservation concerns.
- 10.14 The applicant no longer intends to erect the previously-approved detached residents' lounge on the north bank of the millpond. This raises no design or conservation concerns.
- 10.15 A resident has stated that natural stone from demolished buildings, or from local quarries, should be used in the development. Using stone from these sources would have benefits, however it is noted that acceptable stone can be sourced from quarries further afield, and it would not be necessary for the council to insist on the use of local or reclaimed stone at this site. No such requirement was applied by the council when planning permission was initially granted in 2013.

#### Residential amenity

- 10.16 The proposed relocation of blocks A and B 1m further to the northeast raises no amenity concerns. Existing neighbouring residential buildings are located far enough away from these blocks to not be affected. In relation to impacts within the development, although block A would be moved closer to block E, these elevations have few windows, therefore significant amenity impacts are not anticipated.
- 10.17 New outdoor amenity space was to be provided where part of the millpond was previously proposed to be filled in. With less infill now proposed, outdoor amenity space would be reduced, and although some outdoor space would be regained where the detached residents' lounge is no longer proposed, overall there would be a net reduction in outdoor amenity space provided by this development for its residents (when a comparison with the 2013-approved development is made), although not to an unacceptable level. The landscaped area on the north bank of the millpond, together with the private patios and balconies, would provide residents with adequate outdoor amenity space.
- 10.18 The proposed rerouting of the riverside walk around the rear of blocks A and B is considered beneficial in amenity terms, as this publicly-accessible path would be moved away from the ground floor windows and recessed balconies of blocks A and B.

## Highway issues

- 10.19 59 parking spaces were shown on the application drawings approved by the council in 2013 under application ref: 2012/90738. In 2015 the number of spaces was subsequently reduced to 55 for tree and ecological reasons under application ref: 2014/93971. A further reduction to 53 was proposed under the current application, however on 17/10/2018 the applicant withdrew this proposal, and no changes to the previously-approved 55 parking spaces (of which, as previously, four would be provided for public use) are currently proposed. For a development of 46 age-restricted apartments with no guest accommodation, it is considered that this provision is adequate for this location.
- 10.20 Residents have raised concerns regarding traffic along Hollowgate and Lower Mill Lane. These concerns are noted, however the proposed development would not result in a material intensification of use when compared with the 2013-approved development, and anticipated vehicle movements are not expected to differ to those previously considered.
- 10.21 The application has not attracted an objection from the council's Highways Development Management team.
- 10.22 The proposed rerouting of the riverside walk around the rear of blocks A and B is of some concern, as riverside walks should hug the river bank and be provided with direct views of the watercourse wherever possible. Furthermore, directing users through a car park raises concerns in that it would give members of the public a reason to be in an area that would normally be private. In this case, however, a relatively short stretch of the riverside walk would be affected, the proposed rerouting would enable level access to be provided (the previously-approved cantilevered walkway included steps), and would bring amenity benefits to the residents of blocks A and B. The West Yorkshire Police Architectural Liaison Officer has additionally noted that this stretch of the walk would benefit from better surveillance, if rerouted as proposed. It is considered that these improvements in relation to accessibility, privacy and natural surveillance outweigh the concerns regarding moving part of the riverside walk away from the river.
- 10.23 Part (i) of condition 20 of permission ref: 2012/90738 requires the provision of a zebra crossing on Woodhead Road between the Hollowgate and Victoria Street junctions. The applicant proposes the deletion of this part of condition 20, has referred to an exchange of emails in 2015 (in which Highways officers confirmed they could not support the provision of a zebra crossing in the proposed location), and has argued that part (i) does not comply with the relevant tests for conditions. It is, however, noted that relevant circumstances have not materially changed since the council previously (in 2013) determined that a zebra crossing on Woodhead Road was required. The deletion of part (i) of condition 20, therefore, is not recommended for approval.

### Drainage issues

- 10.24 Objections received from the Lead Local Flood Authority were made before the applicant withdrew a proposal to delete condition 12 of permission ref: 2012/90738. The applicant had argued that – because less extensive works to the millpond edge and outfall were now proposed – condition 12 was obsolete. However, despite the reference to the millpond edge and outfall in the wording of condition 12, the requirement for the revised flood risk assessment required by that condition remains applicable, as the potential risks posed by the millpond in relation to drainage must be fully assessed and understood in any scenario where residential use is introduced at this site.
- 10.25 Given that reduced infill of the site's millpond is now proposed (meaning the retained capacity of the millpond would be greater than previously anticipated, and this may affect flood risk calculations), and given that drainage works were previously proposed in the part of the millpond previously proposed to be filled in, all previous drainage conditions would need to be re-applied and further discharges will need to be sought by the applicant.

### Trees, landscaping and ecological considerations

- 10.26 Revised landscaping proposals have been submitted. These account for the reduced millpond infill, the deletion of the previously-proposed residents' lounge, the relocation of blocks A and B, and other changes. The revised landscaping proposals raise no specific concerns at this stage, however full landscaping details would need to be submitted pursuant to conditions 16 and 17.
- 10.27 Tree Preservation Order 08/95/w1 protects trees within the site on the south bank of the river. As the applicant proposes changes to the retaining structure adjacent to these trees, a new Arboricultural Method Statement was required. This was submitted on 17/09/2018, and the council's Arboricultural Officer has confirmed it addresses previous concerns.
- 10.28 The proposed amendments do not have significant implications in relation to biodiversity. Conditions relating to landscaping will need to be re-applied, and the required details will need to include appropriately revised biodiversity enhancement measures.

### Representations

- 10.29 To date, representations have been received from the occupants of three properties. The issues raised which have been addressed earlier in this report.

## Conditions

10.30 S73 of the Town and Country Planning Act 1990 allows the Local Planning Authority to review the previously-applied conditions (attached to the previous permission ref: 2012/90738, approved on 19/12/2013), and to update, revise, add to or delete redundant conditions as part of the assessment of the current application. Those conditions would normally be re-applied in any subsequent approval of a S73 application, as the effect of the S73 approval is the issue of a fresh grant of permission. It is, however, appropriate to review those conditions before they are re-applied in light of the council's decisions made since the original permission was granted. Several of the conditions of permission ref: 2012/90728 have been discharged, therefore their wording should be amended to remove the need for resubmissions of previously-approved details.

10.31 Each of the 24 conditions of permission ref: 2012/90738 is considered as follows:

Condition 1 (three years to commence development) – As permission ref: 2012/90738 has been implemented (development commenced with the demolition of the site's existing buildings), this condition does not need to be re-applied.

Condition 2 (approved plans and documents) – Although the applicant proposes a variation under this condition, the wording of the condition would not change. The list of drawings and documents on the new decision letter would be varied to include the drawings and documents illustrating and supporting the proposals detailed in paragraph 3.1 of this report.

Condition 3 (flood risk assessment) – Compliance condition. To be re-applied.

Condition 4 (public sewer easement) – Compliance condition. To be re-applied.

Condition 5 (separate foul and surface water drainage) – Compliance condition. To be re-applied.

Condition 6 (surface water outfall) – Although this condition was discharged (subject to implementation) on 09/03/2017 under application ref: 2015/90323, given that the revisions proposed under the current application will have implications in relation to drainage and flood risk, it is appropriate to re-apply condition 6, and a further discharge will need to be sought by the applicant.

Condition 7 (phase II intrusive site investigation) – On 04/04/2014 under application ref: 2014/90183 the council confirmed this condition was discharged. Condition 7 can therefore be re-applied, but as a compliance condition.

Condition 8 (remediation strategy) – On 09/03/2017 under application ref: 2014/90183 the council confirmed this condition was discharged, subject to remediation being carried out. Condition 8 can therefore be re-applied, but as a compliance condition.

Condition 9 (revised remediation strategy) – Although information was submitted pursuant to this condition under application ref: 2014/90183, it remains undischarged. To be re-applied.

Condition 10 (validation report) – Although information was submitted pursuant to this condition under application ref: 2014/90183, it remains undischarged. To be re-applied.

Condition 11 (foul, surface water and land drainage) – Although this condition was discharged (subject to implementation) on 09/03/2017 under application ref: 2015/90323, given that the revisions proposed under the current application will have implications in relation to drainage and flood risk, it is appropriate to re-apply condition 11, and a further discharge will need to be sought by the applicant.

Condition 12 (revised flood risk assessment) – Although parts ii) and iii) of this condition were partially discharged (subject to further information being submitted) on 09/03/2017 under application ref: 2015/90323, given that the revisions proposed under the current application will have implications in relation to drainage and flood risk, and given that only a partial discharge was confirmed by the council, it is appropriate to re-apply condition 12, and a further discharge will need to be sought by the applicant.

Condition 13 (materials samples) – On 23/04/2015 under application ref: 2014/94009 the council confirmed this condition was discharged, subject to the proposed materials being used. Condition 13 can therefore be re-applied, but as a compliance condition.

Condition 14 (boundary treatments) – On 23/04/2015 under application ref: 2014/94009 the council confirmed this condition was partly discharged (in relation to materials of boundary treatments, but not their positions and heights). As this condition was only partly discharged, and the approved details have been partly superseded by the details submitted under the current application, condition 14 will need to be re-applied and a further discharge will need to be sought by the applicant.

Condition 15 (retaining structures) – Although this condition was discharged (subject to approval of technical specifications) on 09/03/2017 under application ref: 2015/90124, the approved details of retaining structures have been superseded by the details submitted under the current application. Condition 15 will therefore need to be re-applied and a further discharge will need to be sought by the applicant.

Condition 16 (soft landscaping) – Although this condition was discharged (subject to implementation and maintenance) on 09/03/2017 under application ref: 2015/90124, the approved soft landscaping details have been superseded by the amended layout submitted under the current application. Condition 16 will therefore need to be re-applied and a further discharge will need to be sought by the applicant.

Condition 17 (hard landscaping) – Although this condition was discharged on 23/04/2015 under application ref: 2014/94009, the approved hard landscaping details have been superseded by the amended layout submitted under the current application. Condition 17 will therefore need to be re-applied and a further discharge will need to be sought by the applicant.

Condition 18 (turning facilities) – Compliance condition. To be re-applied.

Condition 19 (access, parking and turning areas) – Undischarged. To be re-applied.

Condition 20 (zebra crossing, road markings and amendment to Traffic Regulation Orders) – Undischarged. To be re-applied.

Condition 21 (adoptable access roads) – Undischarged. To be re-applied.

Condition 22 (use of residential parking) – Undischarged. To be re-applied.

Condition 23 (waste storage and collection) – On 12/01/2018 under application ref: 2018/90037 the council confirmed this condition was discharged, subject to implementation and retention. Condition 23 can therefore be re-applied, but as a compliance condition.



Condition 24 (construction plan) – As noted above, although the Huddersfield Planning Sub-Committee considered details submitted pursuant to this condition under application ref: 2014/90138 (and resolved to approve the details at the meeting of 12/05/2016), the necessary S106 agreement was never completed and signed. Condition 24 therefore remains undischarged, and needs to be re-applied. Some rewording of the condition may be necessary in light of the construction management obligations to be secured in a new S106 agreement.

10.32 Renumbering of the conditions is not recommended.

#### Planning obligations

10.33 The previous permission ref: 2012/90738 which the applicant seeks to amend was subject to a S106 agreement (dated 19/12/2013) which secured the provision of a riverside walk and bridge over the River Holme, and restricted occupation of the development to persons aged 55 years or over.

10.34 That S106 agreement did not explicitly secure public access along the riverside walk and bridge in perpetuity. The current application and related necessary S106 agreement provides an opportunity to explicitly secure this provision, and the current applicant has agreed to this being included in the new S106 agreement.

10.35 As noted above, on 12/05/2016 the Huddersfield Planning Sub-Committee considered application 2014/90138 and resolved to approve the applicant's details and discharge condition 24 of permission ref: 2012/90738, subject to a commitment to carry out a post-development survey of Lower Mill Lane, make arrangements to create and engage with a resident liaison group, and provide a means to cover the cost of a Traffic Regulation Order. A S106 agreement was subsequently drafted but never completed and signed. The current application and related necessary S106 agreement provides an opportunity to secure these obligations, and the current applicant has agreed to them being included in the new S106 agreement.

## **11.0 CONCLUSION**

11.1 This application does not provide an opportunity to revise or reconsider the original grant of planning permission. This application only relates to the consideration of the variation and deletion of conditions as indicated.

11.2 The application site is subject to several constraints, and is visible from public vantage points. Having regard to these circumstances, it is considered that the proposed design, layout and landscaping amendments would not cause unacceptable impacts in relation to design and conservation considerations and amenity. The revised layout would not cause unacceptable highways impacts. The amendments are also considered acceptable in relation to trees, biodiversity and other relevant considerations.

11.3 The deletion of the requirement to provide a zebra crossing to Woodhead Road is not recommended for approval.

- 11.4 It is considered that the proposed development, as amended in relation to condition 2, would still deliver public benefits in relation to housing delivery, re-use of an accessible site in a sustainable location, and the provision of a riverside walk and bridge. Additional public benefits (relating to construction management and public access along the riverside walk and bridge) would be secured through a S106 agreement.
- 11.5 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.
- 11.6 The proposed development has been assessed against relevant policies in the development plan and other material considerations. It is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) and is therefore recommended for approval.
- 12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Strategic Investment)**

1. to 24. As per paragraph 10.31 above.

#### **Background Papers:**

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f90031>

Certificate of Ownership – Certificate A signed