

Application No: 2014/93014

Type of application: 60m - OUTLINE APPLICATION

Proposal: Outline application for residential development comprising of 41no. new dwellings plus associated works (within a conservation area)

Location: Edgerton Road, Edgerton, Huddersfield, HD3 3AA

Grid Ref: 413276.0 417684.0

Ward: Greenhead Ward

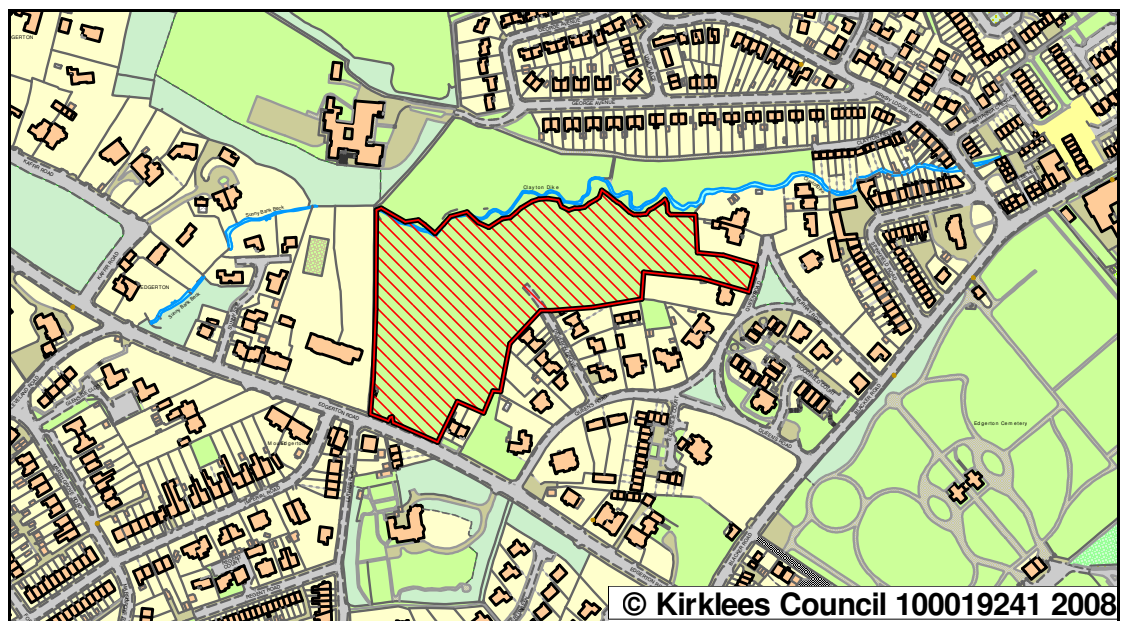
Applicant: Rob Cooke, Prospect Estates Ltd

Agent: John Crompton, LOROC Architects

Target Date: 07-Jan-2015

Recommendation: MR - MINDED TO REFUSE

LOCATION PLAN



Map not to scale- for identification purposes only

1. SUMMARY OF APPLICATION

Application Details		
Type of Development	Outline application for erection of 41 no houses and associated works – access and layout to be determined at this stage.	
Scale of Development	Site Area 3.1ha	41 dwellings
No. Jobs Created or Retained	Unknown	
Policy		
UDP allocation	Housing	
Independent Viability Required	Yes	Not received
Consultation/Representation		
Individual Support (No.)	Two from 2 households	
Individual Objection (No.)	Eleven	
Petition	None	
Ward Member Interest	None	
Statutory Consultee Objections	Yes	Yorkshire Water, Environmental Health, Statutory drainage
Contributions		
• Affordable Housing	Required -	
• Education	Required	
• Public Open Space	Required	
• Other	None	
Other Issues		
Any Council Interest?	Indirectly	Council allotments bordering the site to the north
Pre-application planning advice?	Yes	No objections raised
Pre-App Consultation Undertaken?	Yes	
Comment on Application	The application has been assessed on its own merits and the proposals fail to fully address UDP policy issues of biodiversity, affordable housing and education needs. This has been weighed against the likelihood of an extant planning permission issued in 1967 being progressed but this does not significantly and demonstrably outweigh the harm.	

RECOMMENDATION: THAT THE SECRETARY OF STATE BE INFORMED THAT THIS AUTHORITY WOULD HAVE BEEN MINDED TO REFUSE OUTLINE PLANNING PERMISSION.

2. INFORMATION

This application is brought to the Area Planning Sub-Committee as the application site exceeds 0.5 ha but is less than 60 units.

The application is the subject of an appeal against non-determination by this Authority. This report seeks a resolution from the Area Planning Sub-Committee as to the decision they would have made if its determination had remained in their remit. This will form the Authority's Statement to the Planning Inspectorate which will determine the application in the normal way.

Cllr Sokhal has requested a site visit as "this is a controversial issue going over the last 18/19 years, so members should have a site visit before making any decision"

Positive negotiations are continuing with the applicant up to the date of the meeting to try reach agreement on outstanding issues where appropriate and these will be reported in the Update.

3. SITE DESCRIPTION / PROPOSAL

The application relates to a large open site of approximately 3 hectares. It partly fronts Edgerton Road to the south. The western boundary abuts a public footpath alongside the large grounds of 18-20 Edgerton Road (HUD/345/20). The northern boundary is marked by Clayton Dyke with woodland along its banks and Council owned allotments to the north. This boundary does not follow the current channel of the Dyke but meanders across it. The south eastern and east boundaries of the site abut dwellings off Queens Road and Deveron Grove. The site slopes down from north to south.

The site lies within the Edgerton conservation area and there are listed buildings close to the site.

The site contains sporadic woodland and individual trees, most notably along the Dyke, which are protected by specific preservation orders as well as by virtue of their location in the conservation area. Within the conservation area trees above a minimum size are protected. Historic tree preservation orders (TPO) were required to be reviewed under legislation and a new Order was served in January 2015. This consolidates those historic TPOs some of which were unconfirmed and reflects the current coverage of significant individual trees and woodland on site.

Public footpath HUD/345/20 runs alongside the western boundary but the site boundary does not include its route. Nevertheless it is understood that there has been public access into and across the site for some years and the Council's Public Rights of Way Section are currently considering public claims for these routes.

The application seeks outline planning permission for residential development of 41 dwellings. Access and layout are submitted for approval at this stage with appearance, landscaping and scale reserved for future approval.

The submitted layout is for 41 detached dwellings mostly served in a cul-de-sac emerging between nos. 12 and 15 Queens Road. Four dwellings would be served off an extension to Deveron Grove. The layout shows two areas of

public open space, the largest of which would front Edgerton Road wrapping around the grade II listed former tram shelter and including the existing electricity sub-station. A footpath link would be provided across this from Edgerton Road into the site. The second smaller area would be more central within the site.

The layout shows the rear boundaries of the dwellings short of the Dyke and a woodland path beyond it on the general line of the channel wholly within the application site boundary.

The application is accompanied by the following:

- Design & Access Statement
- Community Consultation Report
- Heritage Assessment
- Transport Assessment
- Arboriculture Survey
- Flood Risk Assessment
- Habitat & protected Fauna Survey
- Geoenvironmental Site report

These documents will be referred to where relevant in the Officer Assessment below.

4. BACKGROUND AND HISTORY

97/90270 – Outline planning permission for 48 dwellings refused by the Huddersfield Area Planning Sub-Committee in March 2003. Refusal was on the grounds of premature development of a ‘greenfield’ site and concerns at the suitability of Deveron Grove and the surrounding highway system to accommodate additional traffic.

96/92085 – Outline application for residential development (47 units) and erection of 12 self contained flats, 11 dwellings and 2 bungalows. Application withdrawn.

96/93813 - Outline application for residential development and erection of 12 self contained flats, 11 dwellings and 2 bungalows. Application withdrawn.

In January 1967 planning permission was given for the erection of 20 houses, 23 bungalows and 12 flats on this site. The only plan in current records is a layout of dwellings and roads which showed access off Deveron Grove and Queens Road in the same positions as now proposed. It has been historically accepted by Officers that the permission remains extant due to the commencement of construction works albeit that such works subsequently ceased.

5. PLANNING POLICY

The site is allocated for Housing on the Unitary Development Plan (UDP). A footnote to the allocation states that a development brief is to be prepared,

including requirements for access, footpaths, open space and the protection of trees.

The following UDP policies are relevant:

H6 – Sites for new housing
H18 – Public open space
H10 – Affordable Housing
BE1 – Good design contributing to built environment
BE2 – design of new development
BE5 – Development in conservation areas
BE11 – Materials
BE12 – Space about buildings
NE6 – Retention of water areas in developments
NE9 – Retention of mature trees
EP11 – Enhancement of ecology
T10 – Highway safety
R13 – Public footpaths

National Planning Policy Framework:

Achieving sustainable development
Section 4 - Promoting sustainable transport
Section 6 - Delivering a wide choice of high quality homes
Section 7 - Requiring good design
Section 8 – Promoting healthy communities
Section 10 – Meeting the challenge of climate change, flooding and coastal change
Section 11 – Conserving and enhancing the natural environment.
Section 12 – Conserving and enhancing the historic environment
Decision taking

The NPPF has superseded national planning advice in Planning Policy Statements and Planning Policy Guidance as well as the Regional Spatial Strategy considered at the time of the previous outline application.

Other Policy/Legislative Considerations:

Supplementary Planning Guidance 2: Affordable Housing.

Providing for Education Needs Generated by New Housing.

Planning Practice Guidance was published on 6th March 2014 and the following sections are relevant to this application.

- Land stability
- Open space, sports and recreation facilities, public rights of way and local green space.
- Natural environment.

- Tree preservation orders
- Use of planning conditions
- Viability.

English Heritage Practice Guide to Planning Policy Statement 5 – Planning for the Historic Environment remains a relevant consideration even though PPS5 itself has been revoked.

6. CONSULTATION RESPONSES

K.C. Highways Development Management – Following the negotiation of amended plans no objections in principle.

Detailed design of the road layout is largely agreed and expected to be concluded prior to the Committee meeting. These can be secured by conditions. Additionally new residents should be provided with residential metro cards and the developer would be required to contribute to the improvement of bus flows along the A629 corridor by the provision of bus priority loops at the Edgerton Road / Blacker Road junction. These should be secured through a S106 Agreement.

K.C. Public Rights of Way (PROW) Team – layout acceptable in principle subject to detail which can be resolved by condition.

K.C. Environmental Services – concerned that the proposed development would be subject to elevated levels of noise from road traffic on Edgerton Road. Officers confirm that this can be resolved by condition requiring an acoustic report identifying attenuation measures if appropriate. Officers also recommend conditions to deal with potential contamination although no indication of what contamination thought to be present has been identified. Finally a condition requiring the provision of facilities for charging plug in and other ultra low emission vehicles is required.

Yorkshire Water – initially objected to the drainage details / site layout on the grounds that there is insufficient ‘stand off’ distance between the proposed dwellings and sewerage infrastructure within the site. Yorkshire Water officers have had subsequent discussions with the applicant and state that there is a way forward to achieve the site layout with “very few minor amendments” and as such they withdraw their objections subject to a condition requiring such amendments.

K.C. Trees –no objections subject to conditions requiring a landscaping scheme to include tree planting and the submission of a detailed arboriculture method statement, in accordance with BS 5837, which includes details of any pruning works and covers the footpath by the stream side, to be submitted and approved prior to commencement.

Environment Agency – no objections subject to a condition requiring development to be carried out in accordance with the submitted Flood Risk Assessment and the proposed surface water run off limitation in particular.

The Agency also advise a sustainable drainage approach. The Agency notes that the development is in close proximity to an existing watercourse and that the NPPF requires LPAs to conserve and enhance the natural and local environment by minimising or providing net gain in biodiversity where possible. Finally the LPA should be satisfied, through Yorkshire Water that there is capacity in both the receiving sewer and sewage treatment works to accommodate the discharge proposed.

K.C. Biodiversity – concerned that the lack of a proper detailed assessment of the wildlife habitat does not allow full consideration of the effect of development. In such circumstances refusal is recommended.

K.C. Drainage – no objections subject to conditions.

KC Conservation & Design – No objections at this stage but the mature trees should be retained in line with the advice of KC Trees Officer so as not to reduce the significance of the conservation area.

Police Architectural Liaison Officer (PALO) – no objections.

K.C. Education – contributions to improve school capacity in the catchment area are required.

YEDL – no response.

K.C. Housing – confirm a demand for affordable housing in the area however, the proposed layout does not offer the mix of units expected to meet these needs.

K.C. Landscape – no response.

7. REPRESENTATIONS

Community Involvement

The Council adopted its Statement of Community Involvement (SCI) in relation to Planning matters in September 2006. This sets out how people and organisations will be enabled and encouraged to be involved in the process relating to planning applications.

For ‘major’ applications such as this a greater level of community consultation is encouraged as well as discussions with the Council at pre-application stage. Whilst the SCI is not prescriptive about the required form of community consultation on individual development proposals, it is stated that the Council wishes to be consulted on a programme for planned community involvement for individual sites.

In this case the applicants were party to pre-submission discussions with Council officers instigated by a third party potential developer. Furthermore

the applicant entered into discussions with the Clayton Fields Action Group (CFAG) prior to submitting the scheme. The applicant states that where possible the scheme has taken into account the comments made at that meeting.

The application was publicised by neighbour letter, site notice and in the newspaper. The publicity period expired on 21st November 2014.

The response to publicity may be summarised as follows:

Nineteen individuals / groups have made representations in response to the development including the Governors of St Patrick's Catholic Primary School close to the site and multiple representations from the Secretary and Chairman of the Clayton Fields Action group (CFAG).

In addition Barry Sheerman MP considers that it is extremely important to establish the accurate boundary between the Council land to the north and the applicant's land relative to the application boundary as part of the Planning process.

Councillor Mohan Sokhal states "I would be grateful if you could please arrange a site to Clayton Fields Edgerton before the hearing of this application on 26th February planning meeting. As you know this is controversial issue going over the last 18/19 years, so members should have a site visit before making any decision."

Councillor Andrew Cooper has requested clarity on the boundary issue.

Visual and residential amenity

- The increase in traffic will result in air pollution detrimental to residents' health. Air quality testing should be part of the planning application process.
- The development will increase noise nuisance to local residents and pollution to Clayton Dyke.
- Trees would be lost either directly or indirectly as a result of the proposal.
- Attractive public access to Clayton Dyke should be provided to maintain wildlife habitat. Boundary fencing close to the woodland walk would be oppressive and be seen as a security risk to residents as well as harming its amenity value.
- Maintenance of the woodland corridor could be taken on by local people.
- The proposed woodland walk close to the stream would be impassable in inclement weather, in times of flood and in winter and to the aged or disabled generally.
- The construction of the woodland walk would destroy the embankment and Dyke edge.

- The woodland walk is unlikely to be constructed due to cost, impracticality and time on the steep gradients. Its construction would destroy the woodland aspect.
- Contrary to the comments of the applicant the site is used and enjoyed by local people for walking, walking dogs and community events. The site is immeasurable local significance.
- Development needs to provide, reflect and expand adequate footpath routes across the site acknowledging historic routes. Existing routes should be improved.
- The development should allow for widening of the public footpath to the west of the site to incorporate the existing trees to enhance environmental value.
- A footpath through the site from Queens Road / Murray Road to the bridge over the Dyke will allow a traffic free route to the nearby school.
- Development would harm the high wildlife value of the site. The Habitat Survey submitted with the application is flawed and factually incorrect in that
 - a) The wildlife survey extends only to the land within the application site boundary and not the full length of the Dyke.
 - b) An accurate bat survey cannot be carried out during the species hibernation season or during the day.
 - c) Japanese knotweed is present on the site and should be removed before planning permission is issued.
 - d) A protected species, autumn crocus, is present on site and should be protected.
- Biodiversity should be enhanced through the provision of bat and bird boxes.
- The increase in artificial lighting resulting from occupation of the site will be detrimental to wildlife.
- Felling of trees would harm the character of the conservation area.
- Recent felling has resulted in an apparent loss of wildlife activity on the site.
- Residential gardens and boundary fences should not extend into the tree canopy and woodland corridor of Clayton Dyke.
- Trees alongside the footpath to the western boundary should be retained within the route not gardens. This route should be improved and widened.
- The footpath should be along the top of the Dyke embankment to preserve trees and the proposed residential curtilages moved back accordingly.
- The proposal will harm the character of the conservation area.
- Development should not impinge on the open space 'triangle' between Queens Road and Murray Road.

General

- The LPA is urged to formally revoke the 1967 planning permission.
- The northern boundary of the site should be the beck. Residents have submitted historic information in support of this and request that the decision is deferred until this is resolved.

- The current northern boundary of the site excludes some parts of the channel making the provision of a wildlife corridor incomplete and less value. This is inconsistent with the requirements of the 1967 permission and does not reflect the existing use or route through the woodland.
- If the boundary issue is not resolved it will enable any future developer to enclose Clayton Dyke by fencing within the curtilages of the new dwellings obstructing the route of the woodland footpath, narrowing the accessible woodland corridor and enable the diversion of the claimed footpath to the north side of the Dyke within the allotments.
- Fences to the rear of dwellings close up to the Dyke is vulnerable to breach from the allotments whilst the banking provides cover for anyone to watch the houses unobserved. A more secure location for the fences would be at the top of the banking allowing a more practical community friendly shared area above the stream.
- Insufficient space between rear boundaries of the dwellings and the woodland to maintain privacy.
- CFAG understands from a pre-application meeting with the landowner that he is willing to gift the open space along the river corridor to public organisations. It is stated that some local residents are willing to take this on subject to details of the extent of the land and detailed responsibilities being agreed.
- The site is badly drained with surface water collecting at the bottom of the slope – concerns at where water will be drained from the hard surfaces in the proposal.
- The site suffers from sewerage odour from the network of sewers, drains, overflows and chambers on the site.
- Schools and medical facilities in the area are oversubscribed and the financial requirements from developer is unlikely to address the former.
- The Authority should pursue a more significant improvement beyond the 1967 permission.

Road Safety

- Roads in the area are narrow, sloping with parking over pavements and restricted visibility from steep private drives which will make it difficult for the extra residents and construction traffic to negotiate and be hazardous to pedestrians including children.
- The Queens Road / Edgerton Road junction is narrow, lacks footpaths on either side with poor visibility and on-street parking and is taken at speed by inconsiderate drivers.
- Queens Road is a 'rat run' by speeding traffic. Measures should be taken to ensure that this junction does not become the key route in and out of this development. Queens Road should be made 'one-way' or provided with a pavement. This will result in vehicles exiting Murray Road mainly turning left onto Blacker Road which will ease congestion.
- Residents on Queens Road already experience difficulties entering and leaving their properties by vehicle.

- The development should incorporate a main exit onto Edgerton Road taking advantage of existing pedestrian traffic lights upgraded to a traffic light junction.
- Traffic flow in the surrounding roads is restricted by a blind corner, ambiguous road marking, poor streetlighting, parking / dropping off of children at a nursery on Queens Road.
- Construction traffic will have difficulty negotiating the Deveron Grove / Queens Road and Murray Road / Blacker road junctions.
- The Blacker Road / Murray Road junction is narrow, with narrow pavements, limited visibility and manoeuvrability space, suffers on-street parking and speeding traffic and has 4 accidents in the last 5 years whilst Blacker Road is used by speeding traffic.
- The development would generate 100+ cars on a road network which is already very busy from traffic from recent development in the area, suffers congestion and could not cope with the increase in traffic.
- If the development is granted planning permission, pavements, 'keep clear' boxes in front of existing drives, mirrors should be provided to address likely problems.

Two representations has been received in support of the proposals

- They reflect the outcome result of earlier discussions with the group.
- It is argued that the current proposals are an improvement on the 1967 permission in terms of:
 - Reduction of dwellings, use of stone and changed house type as well as the loss of affordable housing provision.
 - Access arrangements regarding Deveron Grove and Queens Road. Deveron grove is now a cul de sac and principle access is through Queens Road off Blacker Road not through Murray Road.
 - Improved provision of public open space and retention of Clayton Dyke as a wildlife habitat.
 - Retention of the existing footpath routes across the site.

8. APPLICANT'S STATEMENT

The Design & Access Statement (D&AS) argues that the site is un-used and if left un-developed could become a nuisance attracting anti-social behaviour in an otherwise pleasant residential area.

Development is in line with NPPF objectives and the UDP, would address the District's shortfall in its 5-year housing supply and would bring economic benefits.

The layout would be in accordance with UDP policy BE12 and new footpaths would improve the amenity value of the site.

The Transport Assessment concludes that development traffic is an exchange between the proposal and the extant permission. The characteristics and times of impact of both sets of traffic will be the same. It states that the proposal would generate "a very light increase in use in vehicle numbers".

With regard to para 32 of the NPPF person and traffic generation will be relatively modest and less than the extant permission.

The site will be incorporated into the existing refuse collection round so that trips will not be increased and home deliveries will not be excessive.

Sustainability

The site is close to services within Huddersfield town centre with other facilities along the route. It is close to bus and rail links as well as schools and recreational facilities. The applicant does not intend to develop the site but assumes that the scheme will be designed to sustainable principles.

With regard to the remaining 'reserved matters' the applicant states:

Landscaping

The D&AS notes that public open space is provided in excess of the requirements of UDP policy H18. These are in areas whose characteristics prohibit development allowing maximum development potential. Details of future maintenance would be the subject of future discussion with the LPA.

The submitted arboriculture report identifies trees to be removed or pruned.

The layout includes key tree and shrub planting to enhance attractiveness which will be in accordance with 'Secured by Design'.

Scale

The density equates to 17.98 dwellings per hectare in keeping with the character of the area and appropriate for the size and topography of the site. All elements are domestic in scale and nature.

Access

The road design is to adoptable standards and contributes to reducing traffic speed throughout the scheme whilst allowing access for refuse/emergency vehicles. Houses would be disabled accessible. All dwellings have two off-street parking spaces with garages large enough to accommodate a car, cycles and normal domestic storage.

There is no evidence that the existing accident record in the area would be aggravated.

Appearance

The slope of the site has led to the use of split level design and varied rooflines. Dwellings are detached with spacious gardens to be in keeping with the surrounding properties and the conservation area. Trees and hedges will be retained where possible with poorer trees removed to enhance those of good quality.

Biodiversity

The applicant is willing to undertake bat transect surveys but as these can only be carried out in summer when the bats are active it is requested that this

is a condition of permission. The applicant is willing to accept conditions requiring them to undertake biodiversity enhancement.

Public Footpaths

The amended layout takes into account the footpaths officer's comments.

Affordable Housing, Education, Public Open space

The applicant states that the existing consent issued in 1967 for 55 dwellings "requires no provision by way of contributions to affordable housing, education or public open space provision and we would request that this factor is taken into consideration when applying a section 106 agreement to the new application consisting of 41 dwellings." It is stated that the current application incorporates "a substantial proportion of developable land allocated to public use and that an education contribution has also been requested". The applicant argues that the current proposal is 14 units less than the 1967 permission and the loss of revenue should justify no contribution to affordable housing. The applicant acknowledges that this is contrary to policy however the progression of the 1967 permission would not deliver any affordable housing. Furthermore there is local support for not providing affordable housing.

The applicant has not confirmed that they will or will not provide the financial contribution to meet the education needs generated by the development.

Traffic Noise

The applicant has stated that the dwellings would be separated from Edgerton Road by an area of public open space and there are level differences. It is argued that any noise disturbance would be small if not non-existent.

9. ASSESSMENT

Principle of development:

S70 of the Town & Country Planning Act 1990 states that applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF states that in assessing and determining development proposals local planning authorities should apply the presumption in favour of sustainable development (para 197). The presumption in favour of sustainable development means that development

proposals that accord with the development plan should be approved without delay unless material considerations indicate otherwise.

NPPF paragraph 47 sets out the requirement for local authorities to demonstrate a 5 year supply of deliverable housing capacity including a buffer of 5% or 20% depending upon previous housing delivery. Measured against the RSS housing requirement the deliverable land supply is sufficient for 2.45 years. Further information is provided in the LDF Annual Monitoring Report¹. In circumstances where a 5 year land supply cannot be demonstrated, NPPF paragraph 49 states: “relevant policies for the supply of housing should not be considered up to date”. NPPF paragraph 14 sets out a presumption in favour of sustainable development and states that where relevant policies are out-of-date, planning permission should be granted “unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in this framework taken as a whole, or that specific NPPF policies indicate development should be restricted”.

The NPPF states that the purpose of the planning system “is to contribute to the achievement of sustainable development.” NPPF identifies the dimensions of sustainable development as economic, social and environmental roles. It states that these roles are mutually dependent and should not be taken in isolation. “Economic, social and environmental gains should be sought jointly and simultaneously through the planning system.” NPPF stresses the presumption in favour of sustainable development.

The starting point in the consideration of this application is that the site is allocated for housing on the Unitary Development Plan (site H8.7). A footnote to the allocation states that a development brief is to be prepared, including requirements for access, footpaths, open space and the protection of trees. Such a brief has not been prepared. It is surmised that when the site was initially accepted as a ‘village green’ the prospect of development was seen to be diminished if not removed and no purpose would be served by preparing a development brief. The lack of a development brief is not considered to prejudice Members’ consideration of the application. Officers consider that all issues which would be expected to be covered in a development brief have been adequately assessed as part of the current application. Officers do not regard this as a departure from the development plan.

The proposals should be considered on their own merits as is normal practice.

Notwithstanding the fact that the site is allocated for housing on the Unitary Development Plan, when considered against the three NPPF roles the development is on balance felt to be sustainable.

The proposal fulfils the economic role as will result in employment opportunities for contractors and suppliers.

In terms of the social role the proposal will contribute to “the supply of housing to meet the needs of present and future generations”. The layout including public open space and conformation with privacy standards in UDP policy BE12 will help to create a high quality built environment on which quality design can be negotiated at reserved matters stage.

Notwithstanding the pending decision on the claimed public routes through the site it is not publically accessible. The proposal would be an improvement in this respect by introducing a woodland walk and providing areas of public open space within it and along the Dyke.

In such circumstances the proposal fulfils the social role of sustainable development.

In terms of the environmental role the proposal would not materially harm the built or historic environment or result in an unacceptable loss of trees. In the absence of any professional assessment of the quality of the woodland as a habitat it is not possible to determine whether harm will be caused in this respect.

The proposal would result in housing in an easily accessible location to the town centre and local facilities helping to minimise pollution and mitigating climate change.

On balance it is accepted that the proposal constitutes sustainable development.

Impact on visual amenity:

The application is in outline with external appearance and scale reserved for future approval. The layout of detached houses is in keeping with the character of the surrounding area and a suitable external appearance and scale to harmonise with the surrounding area can be negotiated through the reserved matters process. It is considered that in such circumstances the proposal accords with UDP policies and advice in the NPPF.

Impact on residential amenity:

UDP policy BE12

The policy states that new dwellings should be designed to provide privacy and open space for their occupants and physical separation from adjacent property and land.

UDP policy BE12 requires minimum acceptable distances of:

- 21 metres between facing habitable room windows
- 12 metres between a habitable room window and a blank wall or a wall containing a non-habitable room window.
- 10.5 metres between a habitable room window and the boundary of any adjacent undeveloped land, and
- 1.5 metres between the wall of a new dwelling and the boundary of any adjacent land (other than a highway)

Distances less than these will be acceptable if it can be shown that by reason of permanent screening, changes in level or innovative design no detriment would be caused to existing or future occupiers of the dwellings or to any adjacent premises or potential development land.

The proposed dwellings will be close to existing dwellings on the boundary of Deveron Grove and Queens Road.

In the absence of details of the design of the dwellings when submitted as reserved matters it is assumed at this stage that habitable room windows will be restricted to front and rear elevations

Nos 8b,c & d Queens Road have rear habitable room windows facing into the site. The wall of the nearest proposed dwelling would be 12.3 metres from those windows and it would be reasonable to expect it to contain non-habitable windows such that it will comply with policy BE12.

No 15 Queens Road has habitable room windows on the side 13 metres facing the rear wall of plot 41. The applicant has confirmed that the rear wall of plot 41 would be blank. This is practical and BE12 compliant.

No 12 Queens Road has a blank gable facing across the proposed access road 15 metres to potential habitable room windows on plot 41.

No 6 Deveron Grove appears to contain a habitable room window on the side wall facing plot 7 scaled at 10.2metres. This is less than required under BE12 however, the dwellings would be set at an angle and staggered such that separation distance will increase to 13.7 metres at its furthest point and the window is set away from direct view to the wall. In such cases this relationship is considered acceptable.

No 9 Deveron Grove has habitable room windows on the side wall facing plot 8 which is expected to be blank or contain non-habitable room windows.

These would be 6.4 metres apart, well below the distances allowed under BE12. However, the position of the two dwellings is staggered so that plot 6 is set forward of no 9 and there would not be a direct relationship. The aspect of the windows would be over the garden of plot 8. In such circumstances this is considered acceptable.

Within the site the distances are less than required under policy BE12 in some cases. However, this is acceptable for the following reasons:

- Some dwellings are set staggered to neighbours so do not comply with BE12 at their lowest point but do so as the increased distance of the stagger takes effect.
- Relationships across an intervening public road would enjoy less privacy than a 'back to back' situation.
- The layout has been amended to reduce the harmful effect on trees within the site. It is considered that in this instance the need to retain trees under UDP policy NE9 outweighs the harm caused by reduced privacy distances required under policy BE12 between future plots.

Plot 19 is angled towards an open area of land to the side of Brook House, Edgerton Road. This land may be interpreted as 'undeveloped land' for the purposes of BE12. The separation distance varies between 9.5 and 16 metres which, taken as a whole is considered acceptable.

In terms of separation distances the proposal does not strictly accord with UDP policy BE12 but it would not result in harm to privacy and therefore is still considered acceptable for the reasons set out above.

The proposal would provide public open space in excess of that required under UDP policy H18. Excluding the woodland area to Clayton Dyke the plans show two areas of public open space on the frontage to Edgerton Road and within the site off Deveron Grove providing 2,220 sq m & 889sqm respectively. This total of 3109 sqm compares with 1230 sqm (41units x 30sqm) which would be required under UDP policy H18. In such circumstances the proposal is not considered to be harmful to residential amenity.

Impact on Heritage assets:

Under requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 the LPA must have special regard to the desirability of preserving the setting of any listed building. In this case there are grade II listed buildings at the former tram shelter on Edgerton Road, no 18-20 Edgerton Road and nos 1-2, 9 & 16 Queens Road.

Similarly the LPA must pay special attention to the desirability of preserving or enhancing the character and appearance of the conservation area.

NPPF states that in determining planning applications local planning authorities should take into account:

- the desirability of sustaining and enhancing the significance of heritage assets,
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality and
- the desirability of new development making a positive contribution to local character and distinctiveness.

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

It is considered that the submitted layout preserves the setting of these buildings and that control over the external appearance of the dwellings as a reserved matter is sufficient to preserve the setting in the future.

The Edgerton Conservation Area was designated in 1976. The character of the conservation area is predominantly that of a leafy residential area with large, well detailed detached dwellings set in generous grounds. The mature trees, hedges and shrubs set in these private gardens add interest and help soften the buildings. Areas of the conservation area have been eroded in terms of a loss of significance due to the change of use of buildings, inappropriate extensions and infill developments. The last appraisal was adopted in 2007 which was part of a review of the conservation area; this resulted in the area being extended. Of note for this application the boundary was extended to include the allotments to act as a buffer between the dyke and the dwellings to the north of this site.

The density of this part of the conservation area is low due to the amount of open space and limited number of dwellings. The historic buildings in this area are vernacular in style and whilst two storey in height their scale is much smaller than that of Victorian properties elsewhere. There are examples of fairly dense development in this part of the conservation area so it is considered that a layout of this type would not be of detriment to the conservation area.

At this stage there are no objections to the means of access from a heritage point of view but it will be critical that the design, landscaping and boundary treatments are carefully considered at reserved matters stage so as not to reduce the significance of the conservation area. To enable the layout to succeed mature trees should be retained in line with the advice of the Arboricultural Officer.

It is considered that the proposal is in line with NPPF advice and Policy BE5 of the UDP.

Trees & Biodiversity:

The proposal would result in the loss of seven young to semi-mature trees to facilitate the development on site. The submitted tree survey identifies a greater number but Officers consider that these additional trees can be retained as part of the development.

The location of the crown spread on the layout plan submitted with the application is not considered by Officers to be accurate. However, the Trees Officer has inspected the trees on site and superimposed the canopy line shown on the applicant's tree survey onto the layout plan in order to inform his recommendation.

The Trees Officer initially had concerns that the tree loss/negative impact on the woodland strip to implement the new proposal would be similar if not worse overall than the available plan with the 1967 decision notice. In response the applicant has moved the dwellings away from the tree canopy and removed dwellings that were shown within the tree canopy. The layout removes the possibility of dwellings being erected within the tree canopy which was a possibility under the 1967 permission.

On balance the Trees Officer raises no objections to the current proposal as, whilst a greater distance between the rear walls of the dwellings and the tree canopy would be desirable there would be no immediate tree loss arising from the proposal and weight is given to the possible layout of the 1967 permission over which this current application represents an improvement.

The submitted arboriculture method statement is not considered to be sufficient however, Officers consider that this could be dealt with by condition should the Inspector grant consent.

A woodland management scheme for the whole of the woodland to the south of the Dyke is desirable.

With regard to the woodland habitat as opposed to amenity of individual trees the following assessment is made.

The NPPF identifies conserving and enhancing the natural environment as one of its main aims by minimising impacts on biodiversity and providing net gains where possible. Protecting and enhancing natural environment and improving biodiversity are part of the environmental role of sustainable development. Paragraph 118 of the NPPF states that:

“if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated or, as a last resort, compensated for, then planning permission should be refused.”

Article 10 of the Habitats Directive stresses the importance of natural networks of linked habitat corridors to allow the movement of species between

suitable habitats and promote the expansion of diversity. River corridors are effective in this respect as well as possibly helping wildlife adapt to climate change.

Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England to have regard in the exercise of their functions to the purpose of conserving biodiversity.

The National Planning Guidance on Natural Environment states that in considering how development can affect biodiversity it is useful to consider (among others) whether an ecological survey is appropriate. The Guidance states that local planning authorities should only require an ecological survey "if they consider there is a reasonable likelihood of a protected species being present and affected by the development.

Officers consider that there is a reasonable likelihood of bats roosting in the woodland. Officers are concerned that the lack of suitable information on the value of the habitat with the application makes it difficult to make an accurate judgement of the effect of the development. The applicant has been asked to provide a detailed habitat assessment but has declined.

Much of the site has been cleared and previously consisted of scrub and groups of young trees. Some woodland and trees remain and, in particular, the woodland around the stream corridor is likely to form an important part of local habitat networks for species such as foraging bats and nesting and foraging birds. Autumn crocus, a native species although naturalised in most areas of the UK, is also known to occur at the site and its presence should be retained in suitable locations.

The Phase 1 Habitat and Protected Fauna Survey originally submitted with the application has established the habitat types, as opposed to quality, present at the site, much of which is low value habitat. A number of invasive plant species occur across the site. The report also identifies the habitat around the beck as scattered trees but Officers would class this as woodland.

Whilst Officers agree with some of the report findings, including the need for further information in some areas, the report does not adequately address all of the ecological issues below.

1. There is no assessment of the woodland habitat alongside the beck as part of the ecological survey or an assessment of the potential impacts of the development, including excavating a footpath alongside the beck. Lowland deciduous woodland is a UK Habitat of Principal Importance. An assessment of this woodland is required predetermination as the proposal will impact directly on this habitat as the gardens will extend under the tree canopy. Impacts on semi-natural woodland should be avoided which Officers regard as an important issue and argue strongly that gardens should not impinge on woodland habitat or any UK Habitat of Principal Importance. To do so in the absence of a detailed habitat assessment of harm and any mitigation

measures is contrary to NPPF guidance. The woodland would ideally have been assessed during the survey.

2. The report states that the only two Priority Habitats present (another term for UK Habitat of Principal Importance) are the stream and neutral grassland (but as the latter is improved grassland – supplemented with a host of garden escapees - it is not really a UK Habitat of Principal Importance). There is no mention of the woodland as a UK Habitat of Principal Importance (or Priority Habitat). This additional survey woodland work should not be conditioned. In the absence of an detailed habitat survey and justification for any loss of habitat Officers object to the scheme and further loss and potential future erosion of this woodland habitat.
3. The report refers to the need for a bat survey to assess the bat roost potential of the trees present at the site. It also recommends a series of bat activity surveys to understand how the site is used by foraging bats. Furthermore the report recommends bat surveys of the 2 buildings present within the site.

It is not clear if the trees proposed for removal have any bat roost potential. This should be established before determination of the application and, contrary to the applicant's statement, can be investigated at this time of year although an endoscope search may be required.

The existing buildings on site identified with bat roost potential in the report are off or on the periphery of the site. However, if trees are to be removed which could impact indirectly on any roosts present, then the buildings should be surveyed predetermination. Otherwise this is not an issue. If the roosts are to be affected by tree removal, this additional survey work should not be conditioned.

In terms of bat activity surveys to determine main foraging areas i.e. other than related to roost potential as addressed above Officers consider that these could be conditioned as it is very unlikely that foraging habitat cannot be protected as part of the development. However, it is stressed that this is subject to the findings of the above surveys for bat roost potential and the woodland.

In addition, insufficient information has been provided to demonstrate how potential biodiversity impacts of the development will be mitigated or compensated for and, also, any appropriate enhancement measures which might be included. The measures below should be conditioned with details to be approved by the LPA:

- An appropriate number of bat boxes at suitable locations integral to new buildings.
- An appropriate number of woodcrete bat boxes such as Schweglar 1FF type or similar at suitable locations on mature trees.

- An appropriate number of bird boxes for sparrows (sparrow terraces) and swifts at suitable locations integral to new buildings.
- An appropriate number of woodcrete bird boxes for starlings and woodland species at suitable locations on mature trees.
- A landscaping scheme based upon the use of native shrub and tree species and retaining areas of the autumn crocus and the use of fencing, between and surrounding gardens that does not impede or obstruct the free movement of hedgehogs.
- A lighting scheme and method of working designed to minimise light spillage into tree corridors during the construction phase and post development.
- A method statement for the eradication and control of invasive plant species.
- A landscape and woodland management plan which aims to enhance biodiversity interest across the site, including the woodland.

A cautionary note should be added to any permission that any vegetation clearance should adopt best practice and be undertaken outside the bird breeding season, March to August. Any clearance within the period should be preceded by a nest search by an ecologist and should any active nests are present which will be affected by the works then work should cease until the young have fledged.

With regard to specific issues raised by local residents.

- The development will not impact on the Dyke therefore, subject to best practice to be adopted during the construction phase, crayfish will not be impacted.
- Japanese knotweed is present on site but a condition requiring a method statement for its removal is sufficient.

Riverside Corridor:

The preservation of the riverside corridor as woodland with public access through it was one of the main benefits sought by local residents in pre-application discussion.

The proposed woodland path lies to the rear of plots 25-34 connecting public footpath HUD/345/20 along the western boundary of the site to an informal desire line between the site of plots 34 and 35 crossing the Dyke onto Council land to the north. It runs to the south of the channel within the site boundary. Along this length however, the joint boundary between the application site and land within the Council's ownership meanders across either side of the channel. Clearly this makes any requirement to provide a public open space through the Dyke channel, other than the woodland walk difficult as it is beyond the application site boundary.

It would be preferable to secure future maintenance or improvement of all the land on either side of the Dyke channel. However, there is no reason to doubt the applicant's interpretation of the boundary. Local residents have

questioned the northern boundary of the application site as it relates to the channel of the Dyke and Council owned allotments beyond it to the north. The evidence put forward by residents has been considered by the Council's Legal and Asset Officers who remain satisfied that, under current legal interpretation of the moving channel the application boundary matches that of the Council ownership. In such circumstances Officers are satisfied that the land to the south of the channel is within the control of the applicant and a condition of any planning permission would secure satisfactory maintenance of the woodland.

The PROW officer notes that whilst the woodland and the pedestrian route should remain open for public access it would not be suitable for adoption by the Highway Authority. The future maintenance of the path could be resolved by condition.

The exact rear boundaries of the dwellings can be conditioned.

Traffic Noise and Contamination:

Officers accept that these issues can be resolved by condition.

Drainage:

Paragraph 103 of the NPPF notes that when determining planning applications LPAs should ensure flood risk is not increased elsewhere. Development should be appropriately flood resilient and resistant and priority is given to sustainable drainage systems (SUDS).

Following the submission of amended plans regarding flood routing through the site and surface water storage Officers raise no objections subject to conditions.

The Drainage officer notes that the flood risk assessment (FRA) fails to take account of current evidence surface water flows in the vicinity of the site coming down Luther Place onto Edgerton Road and down Queen's Road, as return events increase it clearly identifies a route into site via Deveron Grove.

The statement in the FRA that peripheral roads should be above current site levels does not appear to be appropriate for this site.

The FRA was produced without consultation with Kirklees Flood Management & Yorkshire Water.

Flows from the wider catchment into site and those associated with the new drainage on site, blockages at gullies/pipework, or general exceedance events means that overland flows must be considered that avoid property and garden where at all possible. Key areas appear to be the extending Deveron Grove through the public open space, and the other roads/public open space

to the low point of the site and across to the Clayton Dike (or safely off site as the indicative plan now suggests). Raised tables in highway design and any sharp bends need to be considered in terms of how exceedance flow routes are managed. This aspect can now be conditioned.

For surface water flows, Kirklees guidelines impose a 5l/s/ha restriction on surface water discharge rates, which can be reduced to 3.5l/s where significant land drainage is introduced, i.e. terraced areas with retaining walls increasing the efficiency of land drainage that requires a compensatory reduction. This discharge rates on the indicative layout are not yet approved. Areas of soft landscaping between the northernmost properties and the watercourse should not be part of this assessment to avoid double counting. Soft landscaped areas picked up by interceptor drainage should also be discounted.

Conditions are recommended on any planning permission to address the following issues.

- The submission of full drainage details for approval
- Flow Restriction & Surface Water Attenuation
- An assessment of the means of dealing with 1 in 100 year storm events.
- Details of temporary drainage provision during the construction phase to be submitted and agreed

It is recognised that the layout does not resolve issues raised by Yorkshire Water relative to their infrastructure. The extent of the required relocation has not been defined by YW or the applicant and there may be potential conflict with the layout if approved by the Inspectorate on appeal. However, this is covered by separate legislation which the developer must adhere to irrespective of any planning permission. Should a relocation be required in the future this is for the developer to make application to this Authority in the future either as a further application for planning permission or a minor amendment. The lack of clarity on this matter at this stage does not significantly or demonstrably outweigh the benefits of securing housing on this site.

Yorkshire Water have offered no advice on the systems not shown on the statutory record that appear to conflict with plots 6 and 7 as highlighted by the Strategic Drainage Officer. This is being pursued at the time of writing.

Highway safety:

Road Safety

Following negotiations with the agent an amended road layout and design has now been negotiated and whilst the majority of the Highway officer's concerns

have been addressed others have yet to be concluded. These are minor design issues and will not significantly affect the layout and Officers are confident that these will be resolved prior to the Sub-Committee meeting. The recommendation has been made on this basis however, should matters remain unresolved Members will be updated at the meeting.

The percentage increase in the existing levels of vehicle traffic as a result of the development would be within the range of daily fluctuations of traffic.

If planning permission is resolved to be granted a S106 agreement would be recommended to require the developer to provide residential metrocards via Metro's Residential Metrocard scheme. This is so as to encourage non-car modes of travel.

The site is well served by public transport. However, through internal consultation with Urban Traffic Control (UTC) regarding the operation of the Edgerton Road/Blacker Road junction, the applicant would be required to contribute to improvement of the flow of buses along the A629 corridor via provision of bus priority loops at the Edgerton Road/Blacker Road junction.

In principle therefore and subject to relevant conditions it is not considered that the proposal will harm road safety and it therefore accords with UDP and NPPF policy

Public Rights of way

NPPF para 75 notes that local authorities should seek opportunities to provide better facilities for footpath users. UDP policy R13 states that the potential for new links in the public right of way network should be taken into account when considering development proposals.

The PROW officer has considered the latest layout and raises no objections subject to conditions protecting the footway links within the estate in perpetuity.

The applicant has demonstrated in principle that a woodland walk could be routed as shown on the submitted plans. Public access through the route can be secured by formal agreement as it would not be maintained at public expense other than as part of the public open space and woodland management requirements.

Definitive map modification order applications (DMMO)

The land at Clayton Fields is the subject of seven undecided applications requesting modification of the definitive map and statement of public rights of way. Generally and in summary, the applications seek to claim four public footpaths which run entirely or mainly within the application site. The alleged footpaths variously connect five points on the planning site's boundaries:

- Edgerton Road
- Queens Road

- Deveron Grove
- A point near Clayton Dyke south of 55 George Avenue (claimed path then crosses KC land to Hudds footpath 345)
- Huddersfield footpath 345 near the footbridge (north-west corner of site)

It is noted that the submitted layout proposes formal pedestrian access through the site, albeit much of it on estate road footways, from/to public vehicular highway at Edgerton Road, Deveron Grove and Queens Road, and from to/path 345 at both the POS and near the footbridge. The recorded width of part of path Huddersfield 345 is the subject of the seventh DMMO application. The site allows for protection of this currently available width of path 345 and offers a buffer in addition at the rear of plots 22-25.

As mentioned above, in the planning application there is an additional proposed path (running north between plots 34 and 35) towards Clayton Dyke. This route follows the alignment of one of the claimed paths which continues across the Dyke through the allotments to the north. Although it is welcomed, it is noted that, as proposed, it does not link north with the formal highway network through the adjacent land and as such the weight that can be attached to its value may be limited. This is because the proposed path within the development site joins an informal path over third party (Council allotment) land before meeting the definitive Huddersfield public footpath 345 to the rear of George Avenue. Nevertheless it would be advisable to retain this link in the layout to allow for any successful outcome of the public claim.

The applicants also propose the above-mentioned woodland path for public use. This would offer additional off-footway connectivity to the footbridge to the north-west of the site.

The proposal offers public access over four routes on land within the applicant's control between all five points identified above, albeit on different alignments from those claimed and predominantly over proposed estate road footways. Taking the specific circumstances of this site into account, if planning consent is granted on the basis of current submissions, the PROW officers' view without prejudice is that they would have no objection at this time to an application to divert/extinguish/provide pedestrian routes across the Clayton Fields site in accordance with the submitted proposals. It is noted that the applicants have not conceded the existence of any public rights of way across the site.

Any permission should make appropriate provision/conditions regarding design (including sections), construction, future public status and maintenance regimes (public or private) for pedestrian routes at the site.

The applicant has been asked to consider improvement to or replacement of the Clayton Dyke footbridge, (highways structure reference k2223 carrying footpath 345) but has not responded. However, given that this structure is outside the application site boundary and the proportion of additional pedestrian traffic over it directly attributable to the proposed development would be minimal it is considered that such a requirement would be

disproportionate and any condition requiring such work would fail the tests of necessity and proportionality.

Affordable Housing / Education Needs:

The scale of the application is such that in normal circumstances contributions to secure affordable housing, public open space and education provision would be required in accordance with SPD2 and NPPF.

Unitary Development Plan policy H10 states that the provision of affordable housing will be a material consideration when planning applications are considered. The Council will negotiate with developers for the inclusion of an element of affordable housing where the lack of affordable housing has been demonstrated. Supplementary Planning Guidance Note 2 identifies the agreed mechanisms for this delivery.

Officers confirm that there is demand for affordable housing in the area. The Kirklees Strategic Housing Market Assessment identifies a need for 524 new affordable homes per year in the Huddersfield market area. There is a total annual requirement of 1457 affordable homes for Kirklees as a whole. The needs across the district are for 2 and 3 bedroom homes. There is also a need for some 4 bedroom units.

The proposed layout for this site which consists of 41 detached dwellings, 40 of which are to be 4+ bedroom and 1 to be 3 bedroom (as indicated on the application form), doesn't offer the mix of units expected to meet housing needs.

Housing Officers would be looking for on-site affordable housing provision in accordance with Supplementary Planning Document 2 (Affordable Housing). As this is a greenfield site there would be a requirement for 30% of the gross internal floorspace of the proposed units to be affordable. There would also be a requirement for 65% of the affordable units to be social rented and 35% to be intermediate housing.

SPD2 states that the Council's preference is for on-site provision however, off-site provision or a financial contribution in lieu of on-site provision may be accepted as long as the agreed approach contributes to the creation of mixed communities in the local authority area. Consideration will normally only be given to off-site provision where appropriate alternative sites have been identified and where the project will be delivered prior to the on-site market development being occupied.

Notwithstanding the above Planning Officers consider that a reason for refusal on the grounds that the proposed house types are unsuitable for the affordable housing demand could not be justified. Planning officers consider that so long as a full affordable housing contribution can be secured then it would be acceptable to provide this either as a financial contribution or off-site. The need to meet the 5 year housing supply requirement and the requirement for house types and density in character with the conservation

area outweighs the harm due to the failure to provide the whole contribution on site.

The fundamental objection to the proposal is that the applicants have confirmed that they do not wish to provide any affordable housing and this forms the basis of a refusal of planning permission.

The applicant states that the existing consent issued in 1967 for 55 dwellings “requires no provision by way of contributions to affordable housing, education or public open space provision and we would request that this factor is taken into consideration when applying a section 106 agreement to the new application consisting of 41 dwellings.” It is stated that the current application incorporates ‘a substantial proportion of developable land allocated to public use and that an education contribution has also been requested.’ The applicant argues that the current proposal is 14 units less than the 1967 permission and the loss of revenue should justify no contribution to affordable housing. The applicant acknowledges that this is contrary to policy however the scheme delivers a far better scheme than that from the implementation of the 1967 permission and is supported locally.

The applicant has not clarified any intent to provide contributions to meet the expected education needs.

Para 72 of the NPPF notes that:

“The Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning Authorities should take a proactive, positive and collaborative approach to meeting this requirement.”

With regard to both affordable housing provision and contributions to meet education needs generated by the proposal the applicant would normally be expected to provide a viability appraisal with financial information to show the effect of these requirements on the viability of the scheme. It is not considered that the applicant’s argument is a justifiable reason to forgo affordable housing provision or meet education requirements in this case. Such provision is required under UDP policy and advice in the NPPF and failure to provide it would represent a fundamental reason for refusal.

Officers consider that this could be addressed by conditions of any outline planning permission issued. However, such conditions would be imposed in the light of the applicant’s stated intention not to provide affordable housing and failure to accept a requirement to provide a financial contribution to meet education needs. In such circumstances it would be more appropriate to recommend that the Inspector refuses planning permission for these reasons. The Inspector would be informed that this Authority considers that conditions to secure affordable housing and an education contribution are fundamental to any issue of planning permission on appeal.

Objections:

Most of the objections raised by members of the public have been addressed above. Officers comments on the residual matters are as follows:

- Environmental Health Officers have raised no objections on air quality grounds or the effect of noise from the development on neighbours.
- It would be a condition of any planning permission that a scheme for the future maintenance of open space areas is agreed. It is open to the developer to choose who he wishes to take on maintenance responsibility subject to this Authority being satisfied at the long term viability of the nominated body. It is open to local residents to bid for this to the applicant at that stage if they wish. It is important to ensure that control extends to the whole of the land up to the Dyke channel. Furthermore any future developer would be encouraged to liaise with the Council as landowner of the opposite side of the Dyke to agree a comprehensive scheme for the woodland corridor as a whole.
- The development does not extend to the open space 'triangle' between Queens Road and Murray Road.
- The issue of revocation of the extant 1967 is a separate issue and is not a material reason to refuse planning permission for this application. The current application must be considered on its own merits and circumstances however, the extant permission is a material consideration.

The 1967 planning permission:

The extant permission issued in 1967 is a material consideration. The Sub-Committee need to come to their own view on the impact of that development and the prospect of the applicant progressing the development in accordance with the planning permission if the current submission is refused on appeal.

Of the details accompanying the application of which Officers are currently aware, the only layout plan appears to be a layout of dwellings and roads with access off Deveron Grove and Queens Road in the same positions as the access points now proposed.

There were three conditions to the planning permission as follows:

"1. That the gables as well as the fronts of the proposed flats on the frontage to Edgerton Road shall be constructed of stone. Reason In order to ensure a satisfactory appearance in sympathy with the adjacent properties fronting onto Edgerton Road, which are constructed principally in stone.

2. That the land adjacent to the stream and excluded from the curtilage of the dwellings shall be made available for open space and planted with trees and shrubs during the first planting season immediately following the occupation of any of the dwellinghouses abutting this land. Reason In order to ensure that this area does not become an unsightly piece of wasteland, in a residential area.

3. That the provisions of Article 3(1) of the Town & Country Planning General Development order, 1963 and the First Schedule thereto shall not apply to the erection of garages on this estate, such garages shall be of permanent materials in harmony with the dwelling and shall be subject of an application for planning permission. Reason In order to prevent the erection of garages which would be out of character with the remainder of the development in the interests of achieving a satisfactory standard of visual amenity.”

It has been accepted by Officers that the permission remains extant due to the commencement of construction works albeit that such works subsequently ceased.

In the intervening years the site has been the subject of private action by local residents to protect the site as a ‘village green’. This protection was withdrawn following a successful appeal by the landowner through the Courts.

In May 2014 Officers sought Counsel’s opinion on the status of the 1967 permission. Counsel advised that, if the only approved plan was a layout plan and no “reserved matters” conditions were imposed in the permission then “the development could be built to whatever design or external appearance the developer chose.” However the situation is complicated by the absence of the relevant approved plan to accompany the 1967 permission. Consequently neither the Council nor the developer can be certain that any development undertaken pursuant to this permission, actually accorded with the approved plan. Counsel has confirmed that the Authority is acting reasonably in relying on a historic record, compiled for the purposes of the Land Commission Act 1967, to accept the development was started before 6th April 1967, and therefore lawfully implemented.

Whilst the available layout plan is not stamped as approved its date and applicant details are consistent with the decision notice. This has led Officers to the conclusion that the plan may be regarded as the best approximation so that if a developer followed that layout the LPA would not be able to say that it appeared to them that there had been a breach of planning control and/ or it was expedient to take enforcement action.

The layout plan shows a relatively unimaginative layout with minimal public open space and no public access alongside the Dyke. The submission did not include a noise survey, tree survey, habitat assessment, drainage details, details of highway construction, flood risk assessment, heritage assessment or details of the external appearance of the dwellings. There is no requirement for affordable housing or a contribution towards education needs.

The Trees Officer confirms that the tree loss in the available plan with the 1967 decision notice would be similar if not worse overall than the current proposal.

In Officers view the current submission represents a significant improvement on the 1967 decision. Conditions of any permission can reinstate control over

the external appearance and materials of the dwellings and highway design. They can require the design to take into account the impact of traffic noise on future residents and implement any remedial action, the treatment of possible land contamination and require wildlife habitat features on the dwellings. Conditions can secure affordable housing, a contribution towards the education needs generated by the development, a management plan for the woodland and future maintenance of public open space.

The proposed layout would be more in keeping with the character of the surrounding area including the conservation area and the setting of listed buildings. It would make the riverside woodland an important feature of the development with public access. The 1967 permission merely sought to prevent the area being incorporated into the curtilage of the dwellings and retain it as open space with planting. The reason was to prevent the area becoming unsightly. There was no requirement for public access.

The layout would incorporate significant areas of public open space. Excluding the woodland area to Clayton Dyke the plans show two areas of public open space on the frontage to Edgerton Road and within the site off Deveron Grove providing 2,220 sq m & 889sqm respectively. This total of 3109 sqm compares with 1230 sqm which would be required under UDP policy H18 and none provided in the 1967 permission. Furthermore the main area of open space will be on the frontage to Edgerton Road where it will make a positive contribution to the streetscene and enhance the setting of the public footpath along the western boundary of the site.

The proposed layout would recognise and make allowance for the routes of claimed footpaths through the site increasing permeability in the area and encouraging non-car transport.

Conclusion:

The proposal is sustainable development of a site allocated for housing on the Unitary Development Plan. It will contribute to the Council's current shortfall of a five year housing supply. It is considered that this carries great weight in the decision.

The applicant has not provided the habitat assessment requested by Officers to assess the value of the site or its potential as a bat habitat or feeding ground. It is considered that the lack of this assessment as well as appropriate mitigation measures significantly and demonstrably outweighs the benefits of securing housing on this site.

The proposal does not raise any issues of harm to drainage, residential and visual amenity, trees, heritage and road safety raised by consultees or members of the public that are not significantly and demonstrably outweighed by the benefits of housing delivery.

Members are advised that the 'fallback' position of the 1967 planning permission does not carry significant weight.

The current proposal is contrary to UDP policy and the NPPF for the following reasons:

- The applicant has failed to provide an adequate assessment of the woodland habitat
- The proposal does not provide affordable housing or provision to meet education needs.

This justifies a recommendation of refusal to the Inspector.

10. RECOMMENDATION:

That the Secretary of State be informed that this Authority would have been minded to refuse planning permission on the grounds that:

1. The applicant has failed to demonstrate sufficient information to enable the implications of the proposed development to be properly judged having regard to the impact on wildlife habitat and biodiversity. In the absence of this information the likely harm to biodiversity and the natural environment significantly and demonstrably outweighs the benefits when assessed against the policies in part 11 of the National Planning Policy Framework.
2. The proposal fails to provide affordable housing provision contrary to Unitary Development Plan policy H10, Supplementary Planning Guidance 2 and part 6 of the National Planning Policy Framework.
3. The proposal fails to provide for education needs generated by the development contrary to part 8 of the National Planning Policy Framework and the Council's 'Providing for Education needs Generated by New Housing'.

This recommendation is based on the following plans:

Plan	Ref	Received
Location plan	1414-100	8 October 2014
Site / (Layout) plan	1414-101 rev N	10 February 2015
Topographical Survey	3998 –rev O	8 October 2014
Planning & Heritage Statement	September 2014	21 October 2014
Design & Access statement	September 2014	8 October 2014
Phase 1 Habitat & Protected Fauna Statement	140380: 22-August 2014	21 October 2014
Flood Risk Assessment	PR/LEM/37278-002 – Aug 2014	21 October 2014
Geotechnical & Geoenvironmental Site Investigation report	Issue 1- 37278-001 June 2014	21 October 2014
Affordable Housing Statement	October 2014	21 October 2014
Statement of Community Consultation	September 2014	30 September 2014
Transport assessment	8226-001-02	21 October 2014
Arboricultural Report & Impact Assessment	11854/AJB	2 October 2014
Surface Water Drainage Statement	37278	26 November 2014
Indicative flood routing		26 November 2014
Surface Water flow routing	1414.101 rev E	05 February 2015
Road alignments	8226-001	12 January 2015
Woodland Path details	JCA Ltd	12 February 2015
Vehicle tracking plan		12 February 2015
Highway longitudinal sections	8226-001	12 January 2015

KIRKLEES METROPOLITAN COUNCIL

PLANNING SERVICE

UPDATE OF LIST OF PLANNING APPLICATIONS TO BE DECIDED BY

PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)

26 FEBRUARY 2015

APPLICATION NO: 2014/93014

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OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT COMPRISING OF 41NO. NEW DWELLINGS PLUS ASSOCIATED WORKS (WITHIN A CONSERVATION AREA)

EDGERTON ROAD, EDGERTON, HUDDERSFIELD, HD3 3AA

Affordable Housing

The applicant argues in a recently submitted letter that the principle of development has been established on the site by the 1967 extant planning permission, is supported by its allocation on the UDP and has been accepted by Officers and in public documents e.g the Inspector's report on the UDP and a Supreme Court judgement.

The applicant argues that

"The fall back position of the extant permission... has to be given significant weight in the decision making process and the 1967 planning permission represents a strong and overriding consideration.... the 1967 permission has no requirement for affordable housing and the applicant is quite prepared to build this scheme out should it come to it. However, this would be of no benefit to either the Council or local residents as it would not bring the improvements to the local environment that the current scheme proposals would do".

The applicant states that in pre-application discussions with Planning Officers he was advised that in the light of the fall back position of the 1967 permission a pragmatic approach would be taken regarding S106 requirements in an alternative scheme particularly where this would deliver a more sympathetic layout and design with greater opportunities to retain trees and open space. The applicant considers that the Authority is now ignoring that advice which would represent unreasonable behaviour potentially leading to an application for costs being made as part of the current appeal process should it need to be progressed.

The applicant argues that the design and layout of the current scheme is much improved from the 1967 permission. It is argued that they have provided significantly more public open space (POS) than required under UDP policy, partly in response to requests from local residents and partly in response to officers who believed that an increase in POS *"was of greater significance balanced against any affordable housing requirement, taking into account the views of residents."*

The applicant repeats that affordable housing provision on or off-site is not financially viable as demonstrated in the recently submitted appraisal. However, in the applicant's letter received on 24th February 2015 the applicant offers one affordable unit at plot 41, *"which is of a size such that it could potentially be sub-divided into two units in the future, along with presenting the entire one acre of POS adjacent to Edgerton Road to the Council."* The applicant argues that such provision along with payment of the required education contribution *"provides a significant contribution by the applicant to the local authority particularly when balancing against the 1967 development."*

Officer comment:

The site is eligible for consideration for affordable housing provision. The current Strategic Housing Market Assessment ('SHMA', 2012) evidences the need for 1455 new affordable homes per year across Kirklees, which is a figure greater than the recent annual delivery across all tenures.

The Huddersfield housing market area requires 524 new affordable homes per year and the headline house types required comprise 2 and 3 bed homes. There is also a need for smaller, and larger accommodation. The general tenure breakdown is for 2/3 social rented, and 1/3 intermediate housing as defined in the NPPF.

As a greenfield site, the adopted SPD2 would be looking to secure 30% of the gross internal floorspace of the development on site. However, the proposed development does not address the principal district wide need for affordable housing and consequently Officers would need to undertake further discussions with the developer and potential Registered Housing providers about achieving on-site provision and other mechanisms available to secure provision in the locality.

The applicant has confirmed that the proposal does not include affordable housing provision. An 'Affordable Supplementary Statement' (ASS) was only received on 18th February 2015. This has been considered in conjunction with the previously submitted 'Affordable Housing Statement Supporting Application'(AHSSA) received on 10th October 2014 and information in the 'Planning & Heritage Statement' received on 8th October 2014 which are referred to in the Committee report.

Officers have assessed this report and consider that it is not sufficiently detailed to enable them to allow a full analysis of the argument for a nil affordable housing provision.

- The report lacks a sufficient detail on full development costs.
- Reported build costs are high for a greenfield site and further information would be required on this.
- Details are required of the allowances for profit and policy requirements such as affordable housing, education and public open space.
- The appraisal factors in a pre-determined profit however, this needs to be arrived at through the analysis rather than inputted from the start.

- The document does not reflect the requirements of the SPD2 and DCLG guidance on 'Section 106 affordable housing requirements – review and Appeal' (April 2013) which set out specific detailed requirements of costs and significant elements of those costs. There is no information on the costs of the elements of the scheme e.g. landscaping, road surfacing...etc as well as professional fees.
- There is no detail how the proposed property values have been arrived at or how.
- The analysis does not programme contingency costs.

Members are advised that this is a superficial analysis of the applicant's Statement. In normal circumstances officers would commission an independent assessor to review it in more depth. This is not possible in this instance given the date of receipt and the restricted timescales.

The ASS takes into account that the applicant will pay the education contribution as specifically requested in the consultation response from Education Service. The figure also includes a payment for public open space but it is not clear where the figure has come from.

Officers consider that the Appraisal is not comprehensive enough to justify not requiring the affordable housing requirements under SPD2. The document has been examined in the light of Planning Practice Guidance on Viability and Decision Taking.

Officers retain the opinion that in the absence of agreement to provide affordable housing the proposal is considered to be contrary to policy H10 of the Unitary Development Plan and the NPPF.

The applicant's offer of one unit with the potential for sub-division is noted and Members may wish to express their view on this offer to the Inspector. Plot 41 is a detached coach house type. Planning permission would be required to change the proposed house type to two flats or convert in the future.

The applicant has previously made a provisional offer to provide eight affordable houses on the site of the proposed public open space fronting Edgerton Road. He has been informed that this is a significant departure from the current proposals which would require further publicity and consultation. The reduction in the public open space provision within the development would be a material consideration affecting the balance of such consideration. In such circumstances this would not be acceptable as an amendment to the current proposal and would require a fresh planning permission either in its own right or for the scheme as a whole.

Officers fully accept that the current scheme represents a significant improvement on the 1967 permission and that the applicant has made positive efforts to meet policy and public requirements. The applicant's submitted viability appraisal has also been carefully considered. However, the lack of affordable housing provision where local need has been demonstrated is clearly contrary to UDP policy and the NPPF. In such circumstances Officers have no option but to advise Members to recommend the Inspector to refuse planning permission and dismiss the appeal.

Education contribution

The applicant has confirmed that he is willing to accept a requirement to pay the education contribution. In such circumstances this reason for refusal is now removed from the recommendation. However, this would need to be secured through a S106 agreement and the Inspector will be advised of the need for this prior to the issue of an permission should he/she be minded to allow the appeal.

Biodiversity

Officers consider that the lack of an ecological assessment does not allow the effects on biodiversity to be properly judged. This is contrary to the need to conserve and enhance biodiversity stated in NPPF paragraph 118 and in such circumstances NPPF paragraph 14 leads to the requirement to refuse planning permission.

Since the publication of the Sub-Committee agenda report the applicant has submitted a letter in support of his stance on biodiversity issues. The letter states that the site has been subject to numerous surveys and no issues have been revealed as part of this work. The applicant argues that pre-application discussions revealed that a Phase 1 ecology survey needed to be carried out and submitted with the application and that this was submitted.

The applicant states that the most recent surveys were carried out in August 2014 and argues that this forms a reasonable assessment “on which a professional judgement can properly be reached that no bats are present on the site and that there will be no impact on bats.” The applicant believes that a condition could be imposed on a planning permission to require updated surveys in the appropriate season before development commences. The applicant states that NPPF advises LPAs to take a pragmatic approach to ecological issues to fulfil statutory obligations whilst minimising delay and avoiding unnecessary burdens on applicants.

The applicant believes that Officer’s requirement for the ecological assessment at this stage prior to determination of the application rather than imposing a condition is contrary to NPPF advice and British Standard Code of Practice for Planning & Development which enables planning conditions to be imposed to enable a positive recommendation to be made on the application. The applicant argues that

“this would be a perfectly reasonable approach particularly when taking into account that no works would be carried out to the trees that the authority is concerned about, whereas with the 1967 fall-back permission those trees would be affected.....such an approach would not involve deferring consideration of impacts on protected species but would simply involve updating survey information to confirm the professional judgement already reached prior to the grant of permission that there will be no adverse impacts.”

The applicant has now suggested that a condition could be imposed reserving a decision on that part of the layout where habitats could be affected. It is argued that this would enable the submission of additional surveys and details to be submitted as reserved matters in the future. The applicant argues that the 1967 permission would have a significantly greater impact.

In response to the applicant's opinion that this matter can be resolved by condition, essentially officers' reasoning is that an ecological assessment of the woodland habitat is required in order to judge the value of the habitat and offer any appropriate mitigation measures. This document would be given weight in the final consideration of the proposal. Its conclusions may allow concerns to be overcome by the imposition of appropriate conditions or they may lead to a request for further information such as a bat survey which would be necessary prior to determination of the application.

National Planning Practice Guidance 'Natural Environment' (para 016) notes that "An ecological survey will be necessary in advance of a planning application if the type and location of development are such that the impact on biodiversity may be significant *and existing information is lacking or inadequate*" (*Officers italics*). The relevant point here is that without such an assessment Officers are unable to establish the suspected value of the habitat.

With regard to the possible presence on site of bats, a protected species, officers consider that there is a reasonable likelihood of bat roosts being present as the proposal lies with the wider 'bat alert' GIS layer based on the general characteristics favoured by bats. Secondly the site is in an area of semi-natural habitat networks that provide good foraging opportunities for bats.

Natural England advice is that:

- The Local Planning Authority (LPA) should not grant planning permission where it does not have sufficient information to assess the impact on protected species.
- Surveys to determine the impact of proposals on protected species should not be conditioned. This information must be provided prior to determination.

In such circumstances a bat roost potential survey should be undertaken of the trees to be removed or potentially affected as a result of the development to inform the wider ecological assessment. This can be undertaken in winter but needs to be undertaken prior to the determination of the planning application. If that survey and data search establishes that the trees have negligible roost potential and/or it can be confirmed without doubt that no bats use the site and/or works will not affect roost features then no further survey work would be required and the application can progress with the standard precautionary note "if any bats are found work must cease immediately...."

If the bat roost potential survey establishes that the trees have low roost potential then the application may still be determined and bat activity surveys may be conditioned to be undertaken between the months of May-August and survey reports submitted to and approved by the LPA before development starts. The underlying principle is that it will be relatively easy to mitigate the loss of minor roosts within a development and the LPA can be confident that the 3 tests laid down in the Conservation of Species & Habitat Regulations 2010 can be met. Those tests are:

1. If there is a genuine need for the activity or it meets a purpose of preserving public health or public safety.
2. There are no satisfactory alternatives to delivering and meeting the need in the way proposed.
3. That there will be no adverse effect on the conservation status of the species concerned.

A brief statement should be produced in the initial survey report how the 3 tests will be met.

If it is established that the building has moderate to high roost potential then bat activity surveys will need to be carried out pre-determination. These should be carried out between mid-May and mid-August and will enable the application to be determined with the benefit of full information about use how the site is used by bats in accordance with Natural England advice.

This approach is supported by Case Law.

The applicant's suggestion to reserve layout where trees are affected is noted. This is considered impractical. The application is for a specific number of dwellings and it is not clear whether the offer is to allow any lost dwellings to be replaced in the remainder of the site where the layout has been approved, requiring a further alteration, or whether they would simply be relocated in the vacant, possibly smaller space. This introduces considerable uncertainty into the scheme and it is considered that this would fail the test of reasonableness of a planning condition.

With regard to the applicant's latest letter, the survey report submitted to the Authority is the Phase 1 Habitat Survey. Officers are not aware of the other 'numerous' surveys referred to. The purpose of the Phase 1 survey is to establish the habitats types present at the site and, any other ecological issues which require further more detailed investigations. In this case the survey report established the need for bat roost potential surveys of the trees to be felled. This is in the 'Recommendations' section of the report.

The Phase 1 survey report does not mention the presence of Lowland Deciduous Woodland at the site which is a Habitat of Principal Importance (or Priority Habitat). Indeed it is the most significant habitat at the site. This should have been picked up as a target note along with a recommendation to carry out more detailed vegetation surveys to establish the value of the woodland habitat. There was no such recommendation in the report.

One possible outcome of further survey work is that this woodland could be of Local Wildlife Site value, in which case Officers would wish to see the woodland protected from development and that includes a buffer to prevent indirect impacts. However, the value of the woodland is unknown because it has not been surveyed. If conditional consent was issued for this proposal on the basis of no information, including the layout, it is difficult to see how the decision could be reversed to avoid impacts on the woodland.

Tree Preservation Order

For clarification the current TPO on site TPO 01/15 has now been confirmed following the expiry of the publicity period on 25th February 2015 and the receipt of no objections.

On 19th February 2015 the applicant submitted a revised Woodland Path Method Statement. This provides a little more details than the letter previously submitted namely:

- Two trees would be required to be felled along the footpath route however, one is leaning at 45 degrees and the other is a heavily suppressed specimen.
- Selective pruning will be required for head clearance.
- The path will follow existing contours to minimise excavation and be surfaced in wooden decking.

Trees and Footpaths Officers have previously raised no objections in principle to the footpath subject to a condition requiring the submission of further detailed plans. The method statement does not change officers' views.

Concerns at the way the application has been processed and the potential use of conditions

The applicant has raised concerns at the length of time the Authority has taken to determine the application. He has also expressed concern at the late requests for information and that such requests and the final recommendation is contrary to advice given in pre-application discussion. Officers offer the following comments in response to this concern.

Firstly it is stressed that the applicant did not directly enter into formal pre-application discussion regarding this site although the applicant, as landowner, was present at meetings. The request for a pre-application view came from a major housebuilder which withdrew from discussions before a formal response was issued.

The need for a viability appraisal addressing affordable housing requirements and the likely need for a contribution to meet education needs generated by the development were raised with the developer at pre-application stage and prior to validation of the application. At the same time the applicant was advised that the indicative layout included a proposed footpath through the woodland area adjacent to Clayton Dyke. It was noted that the layout proposed that the existing woodland be cut back to the top of the existing embankment. It was stated that this had not been agreed with the applicant in pre app discussions and would not be supported by the Council's Tree Officer. The applicant was advised to submit documents, in particular a viability appraisal addressing all these three issues before the application was validated.

The applicant's response regarding affordable housing was to submit the statement reported in the main report that he was unwilling to provide this as it was not a requirement of the 1967 permission. In such circumstances, whilst Officers did not necessarily endorse this justification, there was no reason not to validate and progress the application and it was registered on 8th October 2014.

Officers have repeatedly updated the applicant in a timely manner upon the receipt of consultation responses. In particular the need for a detailed response on the requirements for affordable housing and education provision, details of the woodland walk, agreed amendments to the layout to meet Yorkshire Water requirements, a biodiversity assessment have been raised throughout the consideration period.

Officers have entered into pre-application discussions with the applicant. This is a useful process to improve the efficiency and effectiveness of the Planning application system for all parties and is recommended in the NPPF. Clearly it is important that the decision on the subsequent planning application should, as far as reasonably possible be consistent with the pre-application advice. However, Officers consider that they are, as previously promised, taking a pragmatic attitude to the normal policy requirement for affordable housing in the light of the benefits offered by the current proposal. However, at no point have Officers stated that they would accept no affordable housing contribution.

Officers fully accept that the proposal represents a positive response by the applicant to provide a development which fits in with the character of the surrounding area and which has sought to accommodate the comments of local residents following a pre-submission discussions, particularly the provision of the woodland walk. In particular the proposal is low density to reflect the character of the conservation area, dwellings have been kept away from the woodland canopy and it provides on-site public open space in excess of the UDP policy requirements. Officers accept that this may prejudice the viability of affordable housing however, the viability appraisal is insufficiently detailed to illustrate this particularly given the significant weight which the provision of affordable housing carries in the decision.

Highways

As noted in the Sub-Committee report Highway officers recommend that a S106 agreement is secured to achieve residential metrocards for occupiers. Members are advised that this can be achieved by condition which will be recommended to the Inspector in the event that he/she allows the appeal.

Similarly the Highways officer requires a financial contribution to provide a scheme for the improvement of bus flows along the A629 corridor through the provision of bus loops at the Edgerton Road / Blacker Road junction. The applicant has been made aware of this requirement but has not included these requirements in the submitted viability appraisal. The Inspector will be advised that this Authority would seek this requirement through a S106 Agreement which will also cover the education contributions.

Other issues

The applicant has provided a layout stamped approved in 1967 over which he has overlaid a topographical survey. This layout is the same as that shown on the plan already on the Council's records. However, there is no LPA reference and the date stamped approved is one day later than the date of the decision notice. Officers consider that this additional information is relevant to the consideration of the application but does not add to the limited weight to be given to the 1967 planning permission assessed in the Officer report to Members.

The Planning Policy Group Leader has received correspondence from the Clayton Fields Action Group proposing a Local Green Space (LGS) on the land 'adjacent to the stream and excluded from the dwellings (to be) made available for open space' referred to in the 1967 permission and decision notice. This is in accordance with provisions in the National Planning Policy Framework on or adjacent to the application site.

This would be progressed through the Local Plan process and further information will be required need in order to consider a LGS proposal fully. However, this will not be resolved until significantly after the Sub-Committee meeting, the deadline for submission of the Authority's Appeal Statement to the Inspectorate and the appeal decision itself. It is not considered that the proposed LGS by the residents carries any weight in members' consideration of the application.

Further public comment

Since the Committee report was published two further letters have been received from Clayton Fields Action Group (CFAG) and a former member / local resident respectively. The letter from CFAG has previously been circulated to Members in accordance with the group's wishes. The letter may be summarised as follows:

- Many users of the site, St Patrick's School and Barry Sheerman MP support the current applications for claimed footpath routes across the site. It is recognised that the applicant has tried to accommodate some of these routes in the layout.
- The claim provides evidence for a route from the bridge over Clayton Dyke (at the north western point of the site) to Queens Road / Murray road (the north eastern point of the site) along the full extent of the woodland. The registration of this route will conserve the full extent of the woodland area along Clayton Dyke as a semi-natural open space accessible to all.
- CFAG have offered to take on ownership and maintenance of the woodland area along Clayton Dyke but it must be the full length and above the embankment. (The current proposal is for a path along part of the woodland only and within the woodland along the embankment and valley floor.)

- CFAG argue that the footpath corridor can be accommodated in the layout. It can then continue to Murray Road by steps into Edgerton Cemetery and then to Huddersfield creating an attractive 'green' mostly off- road pedestrian route compensating the community for the loss of Clayton Fields and benefiting the wider community.
- CFAG have applied for the designation of the woodland corridor as a Local Green Space (see above) and this should be an additional reason to refuse planning permission.
- CFAG have additional concerns
 - At the protection of 'buffer zones' along PROW 345 from future development.
 - The protection and routing of the claimed footpath link between plots 24 & 25 to St Patrick's School.
 - Mature trees should be provided on Edgerton Road in the proposed public open space to add to the main road corridor.

The second letter supports the development subject to the LPA's right to condition any permission to reach a compromise with the developer to balance the viability of the scheme with the need to accommodate woodland, infrastructure and footpaths. The writer is concerned that the Inspector will be less sensitive to these local issues.

Conclusion

The applicant argues that

"The submitted scheme is a modern attractive sensitive development which has been worked up in co-operation with Officers over many months and following extensive public consultation. With its significant amounts of open space, footpaths and modern design and materials it is a vast improvement on the fall back position of the 1967 permission."

In making their recommendation Officers have determined, on balance, that the proposal is sustainable development in the light of the three roles identified in paragraph 7 of the National Planning Policy Framework. The proposal has then been assessed against NPPF paragraph 14 which states the presumption in favour of sustainable development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole *or material considerations dictate otherwise.*(Officers italics)

Officers fully acknowledge the positive steps taken by the applicant to present a more acceptable and improved alternative to the 1967 planning permission. It is recognised that in doing so the applicant has taken on board some of requirements of local residents and the advice of Planning officers. However, the lack of affordable housing provision is contrary to UDP policy H10 and the NPPF and the failure to provide adequate information on the value of the woodland habitat preventing an accurate judgement of the impact of the development on it is contrary to the NPPF. These constitute significant material considerations and in Officers view those material considerations carry sufficient weight to significantly and demonstrably outweigh the presumption in favour of sustainable development.

Members are asked to note that the layout which their resolution will refer to is revQ which has superseded rev N as listed in the plans table on the agenda report. They are also asked to note that the details have been supplemented by further submission on highway detail and the Affordable Housing Supplementary Statement.