
Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 04-Nov-2020

Subject: Planning Application 2020/91643 Demolition of existing buildings and erection of 15 dwellings, formation of new access and associated works land at, Old White Lee Colliery, Leeds Road, Heckmondwike, WF16 9BH

APPLICANT

Beaufort Land and
Developments Ltd

DATE VALID

12-Jun-2020

TARGET DATE

11-Sep-2020

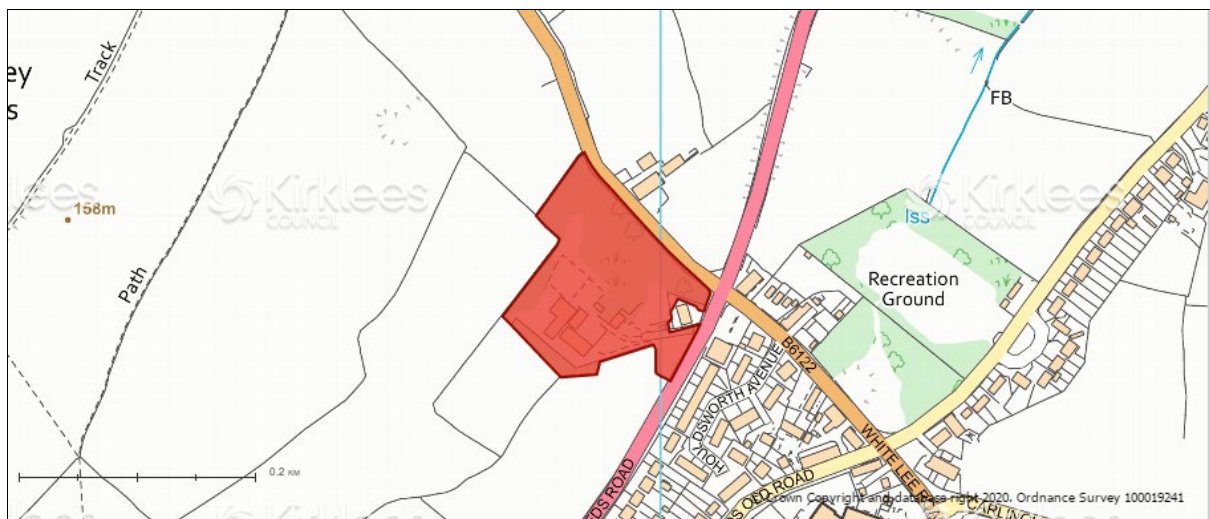
EXTENSION EXPIRY DATE

11-Nov-2020

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Birstall and Birkenshaw

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

Refuse planning permission for the following reasons:

1) By virtue of the proposed design, scale, layout and encroachment of development and the enclosure of land into gardens would result in a greater impact on openness than the existing development. This would materially detract from the Green Belt setting and represent inappropriate development, with no very special circumstances demonstrated. To permit such development would be contrary to Policies LP24, LP32 and LP59 of the Kirklees Local Plan, as well as Chapters 12 and 13 of the National Planning Policy Framework.

2) It has not been demonstrated that an appropriate and safe access road can be achieved in line with the guidance set out in the Highways Design Guide Supplementary Planning Document. Therefore, the development would create unacceptable risks to highway safety. This is contrary to Policies LP21 and LP24 Kirklees Local Plan, as well as Chapter 9 of the National Planning Policy Framework.

3) The submitted information fails to demonstrate that the proposal would not result in a significant loss or harm to biodiversity and that the necessary mitigation can be employed to minimise biodiversity impacts. Furthermore, no information has been provided to demonstrate that the proposal would result in a biodiversity net gain. As such, the proposal would be contrary to Policies LP24 and LP30 of the Kirklees Local Plan and chapter 15 of the National Planning Policy Framework.

4) It has not been demonstrated that the site is safe, stable and suitable for the proposed residential development in an area with a coal mining legacy. To permit such development would be contrary to Policy LP53 of the Kirklees Local Plan and chapter 15 of the National Planning Policy Framework.

5) The submitted information fails to demonstrate that the proposal would not acceptably remove, harm or undermine the archaeological significance of the site's coal mining legacy of the late 19th and early 20th century, without the necessary mitigation. This is contrary to Policy LP35 of the Kirklees Local Plan and chapter 16 of the National Planning Policy Framework.

6) It has not been demonstrated that the development can take place on the site, which is designated as a Minerals Safeguard Area for Surface Coal Resource Surface Coal Resource with Sandstone and/or Clay and Shale. This is contrary to Policy LP38 of the Kirklees Local Plan and chapter 17 of the National Planning Policy Framework.

7) In the absence of a completed Section 106 agreement the development fails to provide for affordable housing, public open space, landscape maintenance and management, sustainable travel, flood risk and drainage management and maintenance, and biodiversity net gain. Without such contribution, the proposal would fail to accord with Policies LP4, LP11, LP20, LP21, LP30, LP32 and LP63 of the Kirklees Local Plan as well as chapters 4, 5, 9, 14 and 15 of the National Planning Policy Framework.

1.0 INTRODUCTION:

- 1.1 This is a full planning application for the demolition of existing buildings and erection of 15 dwellings, formation of new access and associated works. The application has been submitted by Addison Planning on behalf of Beaufort Land and Developments Ltd.
- 1.2 The application is presented to the Heavy Woollen Sub-Committee as the site is larger than 0.5 hectares in size and is for residential development. This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site measures 1.78 hectares in size and is known as the 'Old White Lee Colliery.' It can be found to the north of Leeds Road and the west of Muffit Lane. The site slopes in a general west to east direction with some undulations throughout, from approximately 133m AOD in the east to approximately 124m AOD in the west at Leeds Road.
- 2.2 The south- western portion of the site is characterised by a cluster of brick and metal clad industrial units as well as an hardstanding area that formerly used as a specialist metal works company, formerly Metallizers Ltd. Mature trees and overgrown vegetation can be found around the industrial units, particularly along the site's south-western boundary. Access to the industrial units can be found to the east at Leeds Road, which also serves an existing residential bungalow property at 93 Leeds Road, who has an interest in the site.
- 2.3 The north-eastern portion of the site is characterised by scattered mature trees and a large area of semi-improved grassland. A boundary stone wall delineates the site from Muffit Lane. An overgrown, historic access road that connected with Muffit Lane may have been present in this location. However, this access road is not clearly highlighted on historic maps.
- 2.4 Beyond the site boundaries are agricultural fields, particularly to the north and west. A cluster of vernacular stone residential properties can be found at Muffit Lane to the east. To the south there is an Indian restaurant and residential properties, which form part of the settlements of Batley and Heckmondwike.

3.0 PROPOSAL:

- 3.1 The proposal would include the demolition of the existing industrial structures and amendments to the existing access road so that it just served 93 Leeds Road.

- 3.2 The proposal would result in the erection of 15 dwelling houses in the western portion of the site, sited around a cul-de-sac road layout that connects with Muffit Lane to the north east. Public open space in the form of soft landscaping is proposed between the proposed dwelling houses and Muffit Lane in the eastern portion of the site.
- 3.3 The proposal consists of six different house types, which includes three 2-bed terraced dwellings, seven 3-bed dwellings, in either a terrace or a semi-detached combination, three 4-bed dwellings, either detached or semidetached, and two 5-bed detached dwellings. All the dwelling houses have been designed in accordance with the Technical housing standards – nationally described space standard.
- 3.4 All of the dwelling houses are two storeys and are characterised by dual gable-built forms. Features that define the dwelling houses include either/or front gables, door canopies, porches, sill and header detail, eaves detail, chimney stacks and pots, integral garages. The materials are proposed to be a mix of reconstituted stone, white render, and a red multi-brick, with grey tile roofing or red pan tile.
- 3.5 Parking provision for each dwelling house is either in the form of private driveways, parking space allocation, or garage. The 2/3-bed dwellings are allocated two parking space, while 4+ bedroom dwellings are allocated three parking spaces, inclusive of adjoining or integral garage spaces. In addition to the allocated parking spaces there are one visitor parking space per four dwellings, along with one cycle space per residential unit.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 None relevant

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

- 5.1 A formal pre-application enquiry (Reference: 2018/20474) was submitted in November 2018 for 33 dwelling houses. In response to discussions with officers, the scale of the proposal was reduced to 15 dwelling houses.
- 5.2 Officers concluded that the principle for a residential development could be considered acceptable as part of the site is recognised as being a brownfield site in the Green Belt. In terms of the detail, a reduced level of development was welcomed, when compared with the previous enquiry submission. However, an appropriate layout and design should be sought, that was not considered suburban in character as what was proposed. Instead, a unique residential development that considers its rural context, with no greater impact on the openness of the Green Belt should be achieved. Further consultation with the Coal Authority, LLFA, Highways was considered necessary to address the issues raised before a planning application was submitted.
- 5.3 In an email dated 17/07/2020 officers expressed concerns about the proposal, particularly in relation to Green Belt policy, including Local Plan policy LP59, NPPF paragraph 145, Planning Practice Guidance paragraph: 001 reference ID: 64-001-20190722. The main concerns were:

- The proposal would result in encroachment into the Green Belt and a greater impact on openness.
- The proposed footprint of the built form is greater than the existing buildings they are replacing.
- The proposal is suburban in character with standard house types with the use of detached garages.
- Particular concern regarding the height and scale of the proposed houses with steep roof pitches.
- Greater spread of the built form with the introduction of buildings along the northern boundary when there are currently none there.
- Subdivision of the plot resulting in enclosed domestic gardens with standard garden boundary treatments.
- The proposed open space adjacent to Muffit Lane should not be a 'parkland' and should appear as a natural as possible.

5.4 Officers also made the applicant aware of the concerns raised by other consultees, regarding the design of the proposed highway, as well as the proposed refuse storage and collection. Also, consultees had requested additional information regarding drainage, coal mining features, bats and biodiversity net gain.

5.5 There has been an exchange of various email correspondence with draft sketch ideas. Virtual meetings have also been held with the applicant team on 28/08/2020 and on 29/09/2020.

5.6 In an email dated 02/10/2020, officers requested a fundamental change to the proposal in line with the pre application enquiry advice. In an email dated 14/10/2020 the applicant confirmed that the applicant would like the application as currently submitted to progress to determination.

6.0 PLANNING POLICY:

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

Kirklees Local Plan (2019):

6.2 The site is within land designated as Green Belt in the Local Plan.

6.3 Relevant policies are:

LP1 – Presumption in favour of sustainable development

LP2 – Place shaping

LP3 – Location of new development

LP4 – Providing infrastructure

LP7 – Efficient and effective use of land and buildings

LP8 – Safeguarding employment land and premises

LP11 – Housing mix and affordable housing

LP20 – Sustainable travel

LP21 – Highway safety and access

LP22 – Parking

LP24 – Design
LP26 – Renewable and low carbon energy
LP27 – Flood risk
LP28 – Drainage
LP30 – Biodiversity and geodiversity
LP32 – Landscape
LP33 – Trees
LP34 – Conserving and enhancing the water environment
LP38 – Minerals safeguarding
LP47 – Healthy, active and safe lifestyles
LP48 – Community facilities and services
LP49 – Educational and health care needs
LP51 – Protection and improvement of local air quality
LP52 – Protection and improvement of environmental quality
LP53 – Contaminated and unstable land
LP59 – Infilling and redevelopment of brownfield sites (Green Belt)

Supplementary Planning Guidance / Documents:

6.4 Relevant guidance and documents:

- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Kirklees Housing Strategy (2018)
- Kirklees Strategic Housing Market Assessment (2016)
- Kirklees Joint Health and Wellbeing Strategy and Kirklees Health and Wellbeing Plan (2018)
- Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
- Negotiating Financial Contributions for Transport Improvements (2007)
- Providing for Education Needs Generated by New Housing (2012)
- Highway Design Guide (2019)
- Waste Collection, Recycling and Storage Facilities Guidance – Good Practice Guide for Developers (2017)
- Green Street Principles (2017)
- Kirklees Interim Affordable Housing Policy (2020)
- Viability Guidance Note (2020)

Climate change:

6.5 On 12/11/2019 the council adopted a target for achieving “net zero” carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target. However, it includes a series of policies, which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

National Planning Policy and Guidance:

6.6 The National Planning Policy Framework (2019) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal. Relevant paragraphs/chapters are:

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 13 – Protecting Green Belt land
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment
- Chapter 17 – Facilitating the sustainable use of materials.

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

6.8 Relevant national guidance and documents:

- National Design Guide (2019)
- Technical housing standards – nationally described space standard (2015, updated 2016)
- Fields in Trust Guidance for Outdoor Sport and Play (2015)

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application had been advertised via four site notices, a press notice and neighbour notification letters. This is in line with the council's adopted Statement of Community Involvement. The end date for publicity was 18th July 2020

7.2 3 representations were received in response to the council's consultation. Redacted version of these representations have been posted online. All representations raised concerns to the proposed development. The following is a summary of the points raised:

- Adverse impact on rat running, traffic and highway safety on Muffit Lane.
- Quite a lot of trees have been lost on the site which should be replanted along Muffit Lane
- A modern Green Belt play area would not be in-keeping with the natural theme
- Unacceptable impact on properties of the views of open fields
- Development will set a precedence for further development of the fields beyond the development boundaries.

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

8.0 CONSULTATION RESPONSES:

8.1 The following is a brief summary of consultee advice (more details are contained within the assessment section of the report, where appropriate):

8.2 Statutory:

KC Highways: Objection due concerns regarding the proposed site access and highway design in relation to the Highways Design Guide SPD and due to insufficient information to enable an informed highways assessment.

KC Lead Local Flood Authority: No objection subject to the relevant planning conditions regarding management and maintenance, detailed design of surface water drainage and temporary drainage provision; as well as the imposition of a planning obligation for management and maintenance agreement for site drainage from the point at which it is brought into operation up until the time it is adopted by the local sewerage undertaker.

The Coal Authority: Objection due to the lack of a Coal Mining Risk Assessment.

The Environment Agency: No comment.

Yorkshire Water: No objection subject to the necessary planning conditions to protect the local aquatic environment and Yorkshire Water infrastructure.

8.3 Non-statutory:

Northern Gas: No comment received.

KC Conservation and Design: No comments received.

KC Ecology: Objection due to insufficient information. Further bat surveys, in addition to assessment of the presence of two ponds within 100m of the site, should be undertaken and submitted within an EclA. Net gains for biodiversity have also not been demonstrated.

KC Environmental Health: No objections subject to the imposition of planning conditions regarding land contamination, noise and electric vehicle charging points.

KC Landscape: Concerns expressed that to consume the entire hard standing and building footprint of the site with dwellings and domestic gardens of a residential estate, despite the provision of the POS buffer to the east, will potentially adversely impact the openness and natural character afforded by the Green Belt. This is particularly the case from Muffit Lane. The feeling of rurality with the expansive views should not give way to a semi urbanised environment through the introduction of a residential estate road and amenity greenspace typical of the same. Dwellings are not just the buildings in themselves but their boundary fencing, sheds and inevitable associated domestic paraphernalia. Some examples of this can be seen by the photos provided in the Landscape and Visual Appraisal. Muffit Lane, Heckmondwike in the view from viewpoint 6, the domestic setting, when compared to views

from viewpoint 3. Development of the existing building footprint could accommodate residential development if the character and mitigative screening were addressed to minimise the visual impact and minimise erosion of the Green Belt. This development of 15 dwellings triggers the requirement for greenspace, Birstall and Birkenshaw Ward being deficient in Natural and semi natural and lack of accessibility within the distance for parks and recs and amenity greenspace. A total of 1440.30 sqm m of greenspace would be required to be provided. Clarification is sought regarding the size of the POS typologies to be provided on site, to work out the off-site financial contribution.

KC Policy: Objection due to the development being considered as inappropriate development within the Green Belt contrary to NPPF paragraph 145 and Local Plan policy LP59.

KC Strategic Housing: 3 units are sought from this development. If 1056m² existing buildings is confirmed as vacant, this will be reduced to a contribution of 1.3 units. In terms of affordable tenure split, across the district Kirklees works on a split of 55% social or affordable rent to 45% intermediate housing, but this can be flexible. If VBC is applicable, a financial contribution would be accepted. Estimated financial contribution (based on 1.3 units) is £170,496.

KC Trees: No objection subject to the provision of a landscape management plan with regards to long term management and maintenance of the landscaping and open space, which could be secured via condition.

KC Waste Strategy: Concerns expressed. Further clarification requested and queries made with regards to the proposed bin storage, collection and presentation points. The access road is proposed to be private and generally a Refuse Collection Vehicles do not use roads that are not built to adoptable standards. It is not clear from the submitted documents if the access road will meet the adoptable highway standards required.

WY Archaeology: Concerns raised due to insufficient information. A desk top survey and fabric appraisal to determine if any remains related to mining survive. Demolition may result in the total loss of important evidence relating to mining in the late 19th and early 20th century.

WY Police Designing Out Crime: No objection to the principle of development. Concerns and comments made with regards to defensible space, boundary treatments, the road not being to adoptable standards, vulnerability of visitor parking spaces, and the use of shared pedestrian access into rear gardens

9.0 MAIN ISSUES

- Principle of development
- Urban design
- Housing mix and density
- Residential amenity
- Highways and transportation
- Flood risk and drainage
- Landscape, trees and biodiversity
- Ground conditions
- Planning obligations
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 Planning law requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
- 10.2 The NPPF states that the purpose of the planning system “*is to contribute to the achievement of sustainable development.*” The NPPF explains how achieving sustainable development means that the planning system has three overarching objectives, which are economic, social and environmental. These objectives are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives). The NPPF stresses the presumption in favour of sustainable development.
- 10.3 The site is not allocated or designated as a Primary Employment Area within the Local Plan but the proposal would mean the loss of a former general industrial and employment site (Class B2). Officers accept that the red line boundary contains land that is considered as previously developed land (brownfield land) as defined in the Glossary of the Local Plan and Annex 2 of the NPPF.
- 10.4 The proposal would mean the redevelopment of previously developed land on the edge of a settlement with access to shops and services. In addition, the proposal could be considered as a windfall site and the provision of 15 dwelling houses would provide a modest contribution to the Council’s housing land supply. As such, the proposal would accord with Local Plan polices LP1 and LP3 in terms of a housing development being located within a sustainable location.
- 10.5 The site is within the Green Belt. NPPF paragraph 133 states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 134 explains how the Green Belt serves five purposes, which is to check unrestricted sprawl, to prevent neighbouring towns merging, to assist in safeguarding the countryside from encroachment, to preserve the setting and special character of historic towns and to assist in urban regeneration.
- 10.6 NPPF paragraph 145 states that the construction of new buildings is inappropriate in the Green Belt. NPPF paragraph 143 explains that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. NPPF paragraph 145 does, however, list the types of development (involving the construction of new buildings) as exceptions that can be regarded as appropriate, including:
- g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:*

- *not have a greater impact on the openness of the Green Belt than the existing development; or*
 - *not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.*
- 10.7 Local Plan policy LP59 and supporting text endorses NPPF paragraph 145 criteria g. It states that normally the existing footprint should not be exceeded, but that it may be possible to redistribute the footprint around the site if there would be no greater impact on openness.
- 10.8 A cluster of former industrial buildings on the site means that the current built form is confined in the main to the centre/back (west) of the site with access to/from Leeds Road. There is no built form on the area of hardstanding to the east of the buildings and to the north, west and south is undeveloped land. The proposal shows access to the site would be gained via a new access road from Muffit Lane. The character of Muffit Lane in this location is unmanaged countryside and the creation of a new access road to serve 15 dwelling houses would very significantly impact on the openness of the Green Belt and the character of this part of Muffit Lane. The proposal would result in a new residential development being spread out over a greater area than that occupied by the existing buildings, closer to both Leeds Road and Muffit Lane, as well as further north, south and west. The increase and redistribution of the building footprints would result in a greater impact on the openness of the Green Belt by spreading development to areas where none currently exists and by making the development more visible as well as increasing activity over a wider area.
- 10.9 It is considered that the proposal ignores the site's current unique building arrangement. Instead, it would potentially introduce a typical suburban residential development, predominately defined by an estate road fronted by houses with driveways, garages and gardens behind. The proposal would introduce a very significant degree of fragmentation and enclosure of land into private gardens. The enclosure of land inside private gardens with all the resultant change in character, increase in activity and domestic paraphernalia that would result, would significantly intensify the use of a large proportion of the site over and above its current character and function.
- 10.10 This application is therefore considered to constitute inappropriate development in the Green Belt. Substantial weight should be given to any harm caused to the Green Belt by reason of inappropriateness and any other harm, and very special circumstances will not exist unless the harm so caused is outweighed by other considerations. For these reasons, the principle cannot be supported.

Urban design

- 10.11 Local Plan policy LP59 states that regard should be had to relevant design policies to ensure that the resultant development does not materially detract from its Green Belt setting. The relevant policies in this case are Local Plan policies LP24 and LP32. Local Plan policy LP24 states that the form, scale, layout and details of all development should respect and enhance the character of the townscape, heritage assets and the landscape. Local Plan

policy LP32 states that proposals should be designed to take into account and seek to enhance the landscape character of the area, in particular the setting of settlements and buildings within the landscape.

- 10.12 Understanding different landscape characters helps to ensure that development is sensitive to its location and contributes to environmental, social and economic objectives set out in the Local Plan. The existing character of this site is of an isolated cluster of functional industrial brick and metal clad buildings. Some of the industrial buildings have large footprints and of varying orientations and roof heights, partly screened by tree cover to the west and with some of the roofs visible when viewed from Muffit Lane.
- 10.13 The proposal is designed with a standard suburban layout of roads fronted by suburban looking detached, semi-detached and terraced dwelling houses and with prominent areas of car parking, most with substantial private gardens to the rear. An access road and managed Public Open Space would change Muffit Lane's predominate countryside character. The proposal has an entirely suburban character that is wholly incongruous in this Green Belt setting. One of the purposes of the Green Belt is to safeguard the countryside from encroachment and the scheme would result in the encroachment of a residential estate into the countryside. Therefore, when assessing the proposal against Local Plan policies LP24, LP32 and LP59, it is considered that there is insufficient merit in the design of the scheme to outweigh the substantial harm to the Green Belt caused by inappropriateness and to the reasons for including land in the Green Belt.
- 10.14 Officers remain of the opinion that there could be other more acceptable design solutions, with development concentrated in the footprint of the former industrial buildings. Officers are of the view that the existing access with Leeds Road should be utilised to facilitate an appropriate size of development and in order to eliminate the very substantial harm to openness caused by a new estate road access from Muffit Lane. Officers believe that the residential dwellings should be smaller in scale and height to ensure there is no greater impact on openness than the existing buildings. The character, form and appearance of the dwelling houses should be distinctive and take design cues from the site's former industrial heritage and/or from the dwellings with an historic rural vernacular found on Muffit Lane. Officers are also of the opinion that undeveloped land should be preferably returned to its original state or a more appropriate use for the countryside.

Housing mix and density

- 10.15 The proposed housing mix is outlined in paragraph 3.3 of this report and is considered acceptable in addressing the housing need in the Batley and Spen sub area and creating a sustainable community. The application is supported by an Affordable Housing Statement which provides the necessary justification in relation to vacant building credit. The Planning Practice Guidelines state that where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. Therefore, either 1.3 dwelling units on-site or an equivalent financial contribution of £170,496 would be required for the proposal to accord with Local Plan policy LP11, which could be secured by a planning obligation.

- 10.16 Local Plan policy LP7 developments should achieve a net density of at least 35 dwellings per hectare, where appropriate. Officers acknowledge that a lower net density would be acceptable on this site to ensure the development is compatible with its Green Belt setting and takes into consideration site constraints.

Residential amenity and quality

- 10.17 Local Plan policy LP24 and NPPF Chapter 12 both seek developments that have a high standard of amenity for existing and future users.
- 10.18 The proposal would not have an adverse impact on existing neighbouring residential amenity in terms of outlook, privacy and natural light as there is sufficient separation distance between the proposed dwelling houses and the nearest existing dwelling houses at Leeds Road and Muffit Lane.
- 10.19 Officers consider that all houses shown on the proposed site plan would benefit from dual aspect, and are capable of being provided with adequate outlook, privacy and natural light. All the houses would also have adequate outdoor private amenity space. The proposed houses would also be built in accordance with the Technical housing standards – nationally described space standard.
- 10.20 The development is within proximity to the A62 Leeds Road, a busy A route road. Environmental Health have raised concerns that road traffic noise may negatively affect future occupiers. No documents have been received that detail noise mitigation measures for the proposed development. The applicant must demonstrate that acceptable sound levels can be achieved indoors and in outdoor amenity areas, therefore, noise conditions would be considered necessary with any approval.
- 10.21 In terms of the potential amenity impacts of construction work at this site, including dust management could be controlled by planning condition requiring the submission and approval of a Construction Management Plan.
- 10.22 Subject to the necessary planning conditions, there are no reasons why new dwellings at the application site could not be provided without having an adverse impact on residential amenity.

Highways and transportation

- 10.23 The proposed residential development would result in the creation of a new access arrangement off Muffin Lane. The access road would consist of a 4.8m wide carriageway with a 2m footway and two separate footpaths tying into the existing footway along Muffin Lane. The supporting Transport Statement demonstrates how visibility splays would be in excess of 2.4m x 70m at the access location, in accordance with Manual for Street standards. Automatic speed surveys in the vicinity of the proposed access shows 85th percentile speeds of 24.2mph and 25.0mph in the northbound and southbound directions respectively. Officers consider that the speeds justify the visibility splays provided. A planning condition could be imposed to ensure the existing foliage is removed and a suitable surface applied at this access point. The existing access would be redesigned so that it only served the existing dwelling house.

- 10.24 Highways Development Management have not raised concerns regarding the proposed access arrangement onto Muffit Lane. However, to not impact on the openness of the Green Belt, officers would prefer the continued use of the existing access arrangement at Leeds Road rather than a new access arrangement at Muffit Lane.
- 10.25 The Design and Access Statement explains how the new access road would lead to a shared private access road which crosses the site in a courtyard format, which provides access to parking and private driveways. As outlined in the Highways Design Guide SPD paragraph 3.15, the Council expects new developments serving more than five dwellings should be laid out to adoptable standards and be able to be offered for adoption. Paragraph 3.16 explains how developments (in excess of five dwellings) with appropriate layouts may be considered acceptable to be served by private driveways under certain conditions. However, officers are of the opinion that insufficient information has been provided with respect to paragraph 3.16.
- 10.26 Highways Development Management have raised concerns about the proposed width of the access road shown at 4.8m. This is considered too narrow to facilitate this level of development, assuming the internal arrangement is to be adopted by the Council. No information is provided on the proposed gradients both at the site access and the internal estate road. The swept path analysis within the Transport Statement is unacceptable. The analysis shows that there would be no allowance for the passage of a car on the access road. It also shows that it may encroach on the visitor parking spaces shown on the proposed site plan drawing number 3060-0-001 F close to the entrance. This drawing also indicates a gated entrance to the site which is inconsistent with the other drawings. There are also other discrepancies between the swept analysis drawing when compared to proposed site plan drawing number 3060-0-001 F.
- 10.27 Further detailed comments have also been provided by Highways Section 38 with respect to pedestrian site access; horizontal and vertical alignments of the carriageway design; visitor parking arrangements; the need for hard margins; detailed drainage design within the adoptable highway; the need for a Stage 1 Road Safety Audit; consideration for mine shaft easements; and hatching clarification.
- 10.28 Highways Development Management and Waste Strategy have requested further information and clarification with regards waste storage, presentation, and collection for all dwelling houses. Officers have requested revised plans clearly showing sufficient space to the rear of properties to accommodate two bins and an access free of obstructions made available to a suitable collection point to the front of each property. Furthermore, the Council will not generally take a refuse collection vehicle into roads that are not built to adoptable standards. Based on the submitted documents, it is considered that the proposed access road would not meet the standards required.
- 10.29 Although, the above comments have been provided to the applicant further information or clarification has not been forthcoming. Therefore, insufficient information has been provided to demonstrate an appropriate highway design that accords with the guidance set out in the Highways Design Guide SPD. As such, officers consider that the proposed development would have a detrimental impact on highway safety, contrary to Local Plan policy LP21 and NPPF paragraph 109.

- 10.30 With regards to trip generations, the Transport Statement explains how the site already generates a level of traffic from the existing industrial use. The industry standard TRICS database has been interrogated to derive industrial and residential trip rates to ascertain the net increase in traffic as a result of the proposed development. It is estimated that there would be 12 vehicular movements for the morning peak hour (07:00-08:00) and 8 vehicular movements for the evening peak hour (16:00-17:00). When compared with the existing industrial use movements there is a total difference of 4 vehicular movements for the morning peak hour and 5 vehicular movements for the evening peak hour. There would be a slight increase in activity from the site contrary to the National Planning Practice Guidance paragraph: 001 reference ID: 64-001-20190722 with respect to the potential impact of development on the openness of the Green Belt. However, Highways Development Management consider the proposed trip rates acceptable in terms of the residual impact on the existing network.
- 10.31 In terms of road traffic accidents in the local vicinity, there has been one slight accident at the Muffit Lane / Leeds Road junction within the last five years. There are some slight accidents along Leeds Road as well as along White Leeds Road. There has been one serious accident at Muffit Lane and one serious accident at Huddersfield Road. However, Highways Development Management have not raised any objections to the proposal in relation to there being any existing highway accident patterns or problems in the vicinity of the site.

Flood risk and drainage

- 10.32 NPPF paragraph 155 states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. On the basis that the site lies in Flood Zone 1 (lowest risk of flooding from rivers or the sea), a sequential test is not required in this case.
- 10.33 The submitted Flood Risk Assessment (FRA) considers the risk of flooding from various sources including rivers, groundwater, artificial sources and surface water. No objection has been raised by the Environment Agency, Yorkshire Water and the Lead Local Flood Authority (LLFA) to the assessment of flood risk and conclusions presented.
- 10.34 During the course of the application the LLFA requested an analysis of flow routing for the site to be provided, including any inflows from offsite and any flows originating on site, such as drainage exceedance or gulley bypass. This information has now been provided to the satisfaction of the LLFA.
- 10.35 The National Planning Practice Guidance (NPPG) paragraph: 080 reference ID: 7-080-20150323 states that the aim of a drainage scheme should be to discharge run-off as high up the hierarchy as practicable:
- 1 – into the ground (infiltration)
 - 2 – to a surface water body
 - 3 – to a surface water sewer, highway drain, or another drainage system
 - 4 – to a combined sewer

- 10.36 During the course of the application, the LLFA requested further information that the drainage hierarchy had been considered. Subsequently, the applicant submitted a Percolation Testing Report which showed that infiltration features (soakaways) will not be feasible on site. As such, it is proposed that surface water would be discharged to a combined sewer at Leeds Road and that the necessary attenuation would be provided by cellular storage.
- 10.37 The proposed Drainage Strategy also shows how foul water drainage would be discharged into an existing combined sewer in Leeds Road.
- 10.38 There are now no objections by the LLFA and Yorkshire Water, subject to the imposition of the necessary conditions and planning obligations to ensure that the proposal accords with Local Plan policies LP27, LP28 and LP34 and NPPF chapter 14.

Trees, landscape and biodiversity

- 10.39 An Arboricultural Impact Assessment (AIA) has been provided with the application. It concludes that the site contained one tree that was categorised as moderate quality. Four trees, twelve groups and one hedge were categorised as low quality. Whilst seven trees, and four groups were classed as unsuitable for long term retention due to relatively short projected remaining life expectancies and/or projected conflict with built structures. The AIA goes on to explain how the construction of the proposed development would require the removal of three low quality trees, five low quality groups, parts of two further low quality groups, and one group that is considered unsuitable for long term retention. The Council's Tree officer has reviewed the application and has stated that there is no objection providing there is a landscape long term management and maintenance plan, which could be secured via condition.
- 10.40 A Landscape Visual Assessment (LVA) supports the planning application and officers acknowledge the assessment's findings in relation to assessing the impact of a proposal on the openness of the Green Belt. However, officers are of the opinion that, in itself, does not justify inappropriate development in the Green Belt and that this can only be done with a redesign of the proposal.
- 10.41 A Landscape Masterplan supports the planning application. The proposal includes a large area of public open space on either side of the access road from Muffit Lane. Supporting information explains that there would be a combination of clearing and maintenance of the existing overgrown vegetation, along with the retention of the stone wall running along Muffit Lane, and several mature trees and vegetation at key locations. A native hedge species is proposed to run alongside the retained wall and at key locations along the boundary. Additional woodland mix planting is also proposed to break up the large area of Public Open Space. New tree planting is proposed to run adjacent to the access road leading to the internal access road to the developable area, along with some proposed tree planting and ornamental shrub planting inside of the developable area of the site.

- 10.42 Concerns have been raised that the proposed landscape scheme could significantly change the character, appearance and understanding of the site from Muffit Lane. The proposed landscape scheme could potentially result in a landscape setting appropriate for a residential development rather than for the Green Belt's predominate rural setting. For example, the proposed Public Open Space may result in an increased activity due to its 'public' use with roads and footpaths dissecting the large space that is currently private, unmaintained and not managed. Furthermore, insufficient information has been provided to show that the proposed Landscape Masterplan would retain the site's key habitat features and demonstrate a biodiversity net gain.
- 10.43 A Preliminary Ecological Appraisal report (PEAR) has been provided with the application, which identifies the need for further bat surveys at the site. In addition, the Council's Ecologist has requested surveys of two nearby ponds as the site is considered suitable for amphibians and the proposal may have potential impact upon Great Crested Newts. Biodiversity net gains have also not been demonstrated and a completed Biodiversity Metric is requested to quantify the change in biodiversity pre and post development. Therefore, due to insufficient information the proposal is contrary to Local Plan policy LP30 and NPPF chapter 15.

Ground conditions

- 10.44 The application site is a former colliery site and falls within the defined Development High Risk Area. Therefore, within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.
- 10.45 The Coal Authority records indicate the site is within an area of probable shallow coal mining and thick coal seams outcropping within the site and surrounding area that could also have been subject to shallow workings by illicit means. In addition, there are two on site recorded mine entries of which the exact location is currently unknown and the Coal Authority has, in the past, been called upon to deal with 2no. surface hazards within the site. Mapping also shows associated infrastructure such as tramways and buildings on site.
- 10.46 The planning application is accompanied by a Phase 1 Environmental Desk Study Report, dated 21/11/209 prepared for the proposed development by Rogers Geotechnical Services Ltd. Whilst this Report has identified the coal mining risks associated with the redevelopment of this site, the report author identifies that in order to establish the level of risk / mitigation strategy, a Coal Mining Risk Assessment is required.
- 10.47 A Coal Mining Risk Assessment has not been submitted and as such the application is contrary to Local Plan policy LP53 and NPPF chapter 15.
- 10.48 Environmental Health have reviewed the Phase 1 Report. There are significant source-receptor pathways on-site for various contaminants such as asbestos, metals, hydrocarbons which have been identified and officers generally agree with the report's findings. However, for the risk from 'mine gases', the report recommends that a Coal Mining Risk Assessment is needed. Therefore, due to the missing information regarding the coal mining legacy at the site, Environmental Health have little certainty in the risk rating

assignment for mine gases. Further information is required to improve the confidence of the risk assessment shown in the Phase I report. As such, Environmental Health have requested the necessary contaminated land planning conditions.

Representations

10.49 The majority of concerns raised in representations are addressed earlier in this report. Other matters raised are addressed as follows:

- Adverse impact on rat running, traffic and highway safety on Muffit Lane.
Officer response: The planning application is supported by a Transport Statement which has assessed the proposal's impacts on these matters. Highways Development Management has not raised any objections regarding these matters.
- Quite a lot of trees have been lost on the site which should be replanted along Muffit Lane
Officer response: Noted. The planning application is supported by a Landscape Masterplan and Arboricultural Impact Assessment. This information has been reviewed by the Council's tree officer who has raised no objections or commented on this matter.
- A modern Green Belt play area would not be in-keeping with the natural theme.
Officer response: The proposal would mean the establishment of a large Public Open Space to Muffit Lane. Based on the submitted information it is not understood that a 'play area' would be sited within this location. As already stated, officers have concerns that the proposed Public Open Space could significantly change the character, appearance and understanding of the site from Muffit Lane and represent encroachment. This is contrary to Local Plan policy LP59, NPPF chapter 13 as well as Planning Practice Guidance paragraph: 001 reference ID: 64-001-20190722.
- Unacceptable impact on properties of the views of open fields
Officer response: This is not a material planning consideration in this instance.
- Development will set a precedence for further development of the fields beyond the development boundaries.
Officer response: This area of land is located within the Green Belt and the Government attaches great importance to Green Belts. When considering any planning application, local planning authorities would ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Planning obligations

10.50 Planning obligations, that would need to be secured by a Section 106 agreement, would be necessary to mitigate against the impacts of the proposed development, should planning permission be granted. In accordance with paragraph 56 of the PPF, planning obligations should only be sought where they are:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development

10.51 No section 106 agreement has been submitted. It is considered that the necessary planning obligations are required to ensure the proposal is policy compliant, in relation to affordable housing (policy LP11), public open space (policy LP63) and landscape management and maintenance (policy LP32), sustainable travel (policies LP20, LP21 and LP4), flood risk and drainage management and maintenance (policies LP27 and LP28), and biodiversity net gain (policy LP30). As such, officers would not be able to support an application without these necessary planning obligations.

Other Matters

10.52 No information has been provided as to how the proposal would address the Council's climate change agenda. However, it is acknowledged that the proposed drainage strategy would take into consideration flood risk events associated with climate change, in accordance with Local Plan policies LP27 and LP28, as well as NPPF chapter 14.

10.53 Coal mining is recorded at White Lee from the 17th century and many small mine entries are shown in the vicinity on the Ordnance Survey First Edition six-inch to the mile map (surveyed 1847 – 51, published 1852). However, White Lee Colliery operated between 1888 and 1941. At present it is not known if the industrial buildings on the site relate to this final phase of mining or to the site's later engineering use. West Yorkshire Archaeology Advisory Service have advised that in the first instance the site should be subject to a desk top survey and fabric appraisal to determine if any remains related to mining survive. Depending on these results further archaeological and architectural recording may be necessary prior to demolition, which could be secured by planning condition. As such, insufficient archaeological information has been provided contrary to Local Plan policy LP35 and chapter 16 of the National Planning Policy Framework.

10.54 The site falls within a Minerals Safeguarding Area for Surface Coal Resource with Sandstone and/or Clay and Shale. No information has been provided by the applicant with respect to Local Plan policy LP38, which seeks to protect known mineral reserves from permanent development which may sterilise such resources.

10.55 The West Yorkshire Police Designing Out Crime officer has made a number of comments and recommendations, particularly with regards to home security, front to rear access paths, security, boundary treatments and location of visitor parking spaces. All comments made are advisory and have been referred to the applicant. In this instance, it is considered that some of

the advisory comments, mainly in relation to boundary treatments may conflict with Green Belt policy. Officers consider that a revised proposal subject to the relevant planning conditions could be satisfactorily developed in this location, whilst minimising the risk of crime through enhanced security and well-designed security features in accordance with Local Plan policy LP24 (e).

11.0 CONCLUSION

- 11.1 The application site is designated as Green Belt and as described in NPPF paragraph 133, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Officers consider that this proposal would represent encroachment due to the proposed design, scale and spread of development as well as the enclosure of land into gardens. The proposal would have a greater impact on openness than the existing former industrial premises, representing inappropriate development with no very special circumstances demonstrated, contrary to Green Belt policy.
- 11.2 The submitted information fails to demonstrate that the proposal would not have an adverse impact on highway safety, biodiversity and coal mining legacy. No information has been provided with regards to the site's archaeological interest as a former colliery or with regards to the site being located within a Minerals Safeguard Area for Surface Coal Resource Surface Coal Resource with Sandstone and/or Clay and Shale. Thus, the proposal has failed to accord with the relevant policies of the Local Plan and the guidance within the National Planning Policy Framework.
- 11.3 In the absence of a signed Section 106 agreement the proposal cannot be considered to be policy compliant with regards to affordable housing, public open space, landscape maintenance and management, sustainable travel, flood risk and drainage management and maintenance, and biodiversity net gain.
- 12.0** The application is recommended for refusal for the reasons set out at beginning of this report.

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020/91643>

Certificate of Ownership – Certificate B signed: Notice served on 93 Huddersfield Road, Heckmondwike.