
Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 22-Jul-2021

Subject: Planning Application 2021/91354 Demolition of existing buildings, erection of 5 dwellings, formation of access and associated works land at, Old White Lee Colliery, Leeds Road, Heckmondwike, WF16 9BH

APPLICANT

Beaufort Land and
Developments Ltd

DATE VALID

31-Mar-2021

TARGET DATE

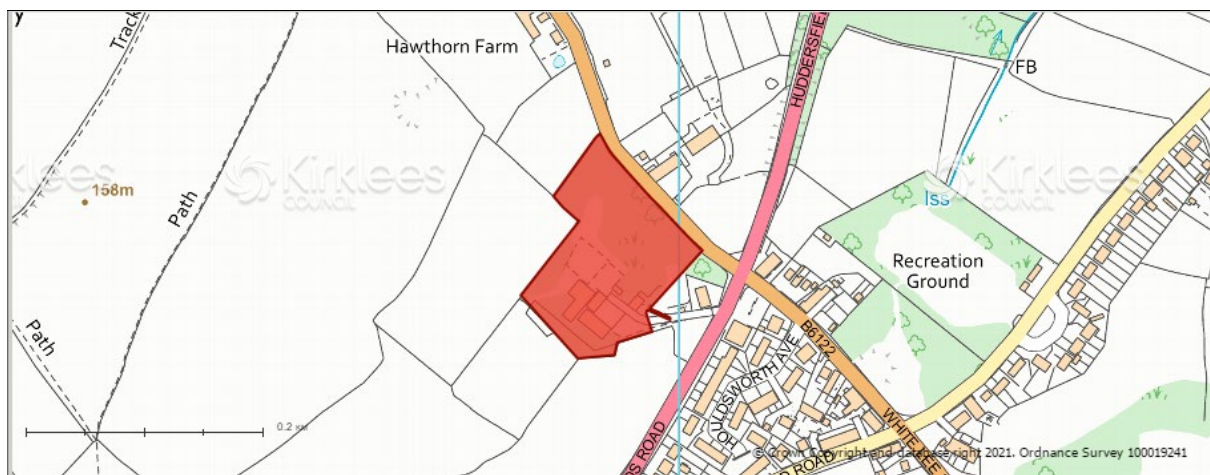
30-Jun-2021

EXTENSION EXPIRY DATE

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Birstall and Birkenshaw

Ward Councillors consulted: Yes

Public or private: Public

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.

1.0 INTRODUCTION:

- 1.1 This is a full planning application for the demolition of existing buildings and erection of 5 dwellings, formation of 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 only provided pedestrian access to the proposal from/to Leeds Road. 93 Leeds Road would still have vehicular access with Leeds Road.

3.2 The proposal would result in the erection of 5 detached 2-storey dwelling houses with single storey elements including car ports and gardens in the western portion of the site. The dwelling houses are set around a cul-de-sac courtyard arrangement that connects with Muffit Lane to the north east. The proposal includes three 4-bed dwelling houses and two 3-bed dwelling houses. All the dwelling houses have been designed in accordance with the Technical housing standards – nationally described space standard.

3.3 Open space in the form of soft landscaping is proposed around the dwelling houses and between the proposed dwelling houses and Muffit Lane in the eastern portion of the site.

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 chimney stacks, parapet coping stones, large barn style glazed archway entrances. The materials are proposed to be a combination of stone, reconstituted stone and grey roof tiles

3.5 Parking provision for each dwelling house is either in the form of private driveways, courtyard parking space allocation or within car ports.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 2020/91643 - Demolition of existing buildings and erection of 15 dwellings, formation of new access and associated works – Refused (11/11/2020), 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.

4.2 The site planning history also includes:

90/62/00311/A1 - Erection of replacement dwelling – Refused (22/1/1990)

92/62/02058/A1 - Erection of Industrial Unit - Conditional Full Permission (29/6/1992)

96/90818 - Erection of Extension To Workshop And Alterations To Existing Workshop – Conditional Full Permission (9/5/21996)

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 As outlined above, an application (Reference: 2020/91643) was submitted and refused for the demolition of the existing structures and develop 15 dwelling houses. During the application concerns were raised regarding:

- 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 Also, during consideration of this application, 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 The applicant has subsequently submitted an application in response to the reasons for refusal (Reference: 2020/91643).

5.6 During the course of the planning application, officers made the applicant aware that they would be unable to support the planning application, primarily due to the adverse impact the proposal would have on the Green Belt, with access from Muffit Lane. The applicant submitted a draft drawing showing a potential alternative new access taken from Leeds Road. However, officers still considered this design option would still not resolve the concerns regarding Green Belt.

5.7 The applicant has submitted additional information in response to concerns from KC Lead Local Flood Authority, KC Highways Development Management and KC Ecology.

6.0 PLANNING POLICY:

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be 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 Supplementary Planning Document (2019)
- Waste Management Design Guide for New Developments (2020, updated 2021) Green Street Principles (2017)
- Kirklees Interim Affordable Housing Policy (2020)
- Viability Guidance Note (2020)
- Housebuilders Design Guide Supplementary Planning Document (2021)

- Open Space Supplementary Planning Document Supplementary Planning Document (2021)
- Planning Applications Climate Change Guidance (2021)
- Biodiversity Net Gain Technical Advice (2021)

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 pre-dates 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 26th May 2021.

7.2 At the time of writing this report, one neighbour representation was received, which stated:

“When the land near Muffit Lane was cleared they chopped down lots of trees. We would like them to plant more trees back in line with the climate change. We try and plant lots of trees on our farm and was really upset when they chopped the trees down.”

7.3 Councillors were also invited to comment on the application. Cllr S Hall provided the following comments:

“As the applicant has not taken anything on board from the last refusal, I would not want it to come back to committee. I noticed reason 6 which is a section about minerals, would this be enough on its own to refuse the application. I have also noticed the land has been cleared of quite a lot of trees. Finally, this last winter I noticed a lot more surface water running off this land, out onto the road (Muffit lane) drainage is a big problem on this land. The farm next to this have a small lake which seems to work.”

7.4 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 in Section 10 of this report, where appropriate.

8.2 Statutory:

KC Highways: No objection subject to the imposition of conditions regarding the proposed site access and highway safety.

KC Lead Local Flood Authority: No objection subject to the relevant planning conditions regarding drainage details, overland flow routing, construction phase surface water risk and pollution prevention plan

The Coal Authority: No objection subject to the imposition of planning conditions to secure the necessary intrusive site investigations and appropriate remedial and mitigatory measures.

8.2 Non-statutory:

Northern Gas: No objection.

KC Building Control: No objection. A building regulations application is required, due to the proximity of the past coal mine a ground investigation report is required, and the site should be drilled to test for voids.

KC Conservation and Design: Objection due to the necessary design refinements required to fully address the requirements of Local Plan LP24.

KC Ecology: No objection, subject to the imposition of planning conditions to secure the future management of these habitats will be required, in addition to a sensitive lighting scheme and timing restrictions on the removal of vegetation and buildings to avoid impacts to nesting birds.

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

KC Landscape: No objection, subject to the relevant planning conditions being imposed to secure a landscape scheme which corresponds with the other site layout plans and provides further details regarding the management and maintenance of the proposed soft and hard landscaped areas.

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 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: No objection. Concerns expressed with regards to the proposed drag distance of over the recommended 25 metres. The proposed private road would not be acceptable for access by a standard large Refuse Collection Vehicle and therefore collections would be made from Muffit Lane, or by reversing into the first part of the access road from Muffit Lane. The proposed bin store/presentation point with its enclosed design and set back from the access road at the widened passing place section, makes collections possible. These design features, (which have now been included in the revised design) would be vital to our ability to service the site efficiently using a large Refuse Collection Vehicles.

WY Archaeology: No objection and consider the Heritage Appraisal satisfactory.

WY Police Designing Out Crime: No objection to the principle of development. Further information requested regarding artificial lighting for the site and access road. Concerns raised regarding the proposed use of car ports as they are considered to leave vehicles more vulnerable to attack.

Yorkshire Water: The submitted percolation test is acceptable however, further information is required to prove the existing rate of surface water discharge from the site.

Yorkshire Wildlife Trust: No objection with the proposals provided in this documentation. The recommendations made within the report and commitments to Biodiversity Net Gain should be secured by a suitably worded condition, including for long term management and monitoring.

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 Planning law requires 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 5 dwelling houses would provide a modest contribution to the Council’s housing land supply. As such, the proposal would accord with Local Plan policies 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 a local planning authority should regard the construction of new buildings as 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. Since the refusal of planning application reference: 2020/91643 an area of land appears to have been cleared of vegetation and large concrete blocks have been replaced with a new gate at Muffit Lane. The Planning Statement explains how the site will now be served from the location of this access point and that this access point was once the historic access point from Muffit Lane. The character of Muffit Lane in this location is unmanaged countryside, with minimal activity. It is considered that the creation of a suitable access road and bin store as well as managed landscaped area to serve a residential development would significantly impact on the openness of the Green Belt and the character of this part of Muffit Lane.
- 10.9 The proposed scale of development has significantly been reduced when compared with the submission for planning application reference: 2020/91643. However, it is considered that the proposal would still 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 redistribution of the building footprints, main access and garden curtilages 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.
- 10.10 It is considered that the proposal would also still result in a suburban development with the unnecessary car port features. Additionally, 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.

10.11 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

10.12 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. Further guidance on these matters is provided within the Housebuilders Design Guide SPD and the National Design Guide.

10.13 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.

10.14 Officers acknowledge that the proposal is an improvement when compared with the previous submission for planning application reference: 2020/91643. However, officers believe that the proposal still does not properly address the Local Plan policy considerations LP24, LP32 and LP59. Furthermore, it is considered that the applicant has chosen to dismiss the design advice given by officers in paragraph 10.14 of the planning committee report for planning application reference: 2020/91643.

10.15 Officers are still of the opinion that any residential development should utilise the existing access arrangements from Leeds Road. This is an existing tarmacked access road with Leeds Road, which has a more 'urban character and appearance' when compared to Muffit Lane. This would avoid the need to formalise and use a recently created 'mud track,' with Muffit Lane, i.e. avoiding the need to create a suitable access road for residential development with the necessary widths for refuse vehicles, surface treatments, and bin storage facilities, etc. It would also enable all of the undeveloped land between Muffit Lane and the cluster of former industrial buildings to be returned to its original state or a more appropriate use for the countryside rather than a managed space.

- 10.16 The proposed dwellings would have a poor relationship with the Green Belt. Additionally, garden curtilages would still spread into areas which are currently undeveloped, outside the current hardstanding footprint and would be visible, particularly from Leeds Road. Thus, the visible subdivision of land together with associated domestic paraphernalia, would mean that the development would have a greater impact on the openness of the Green Belt. Officers consider that a better relationship could be achieved and that the spread of development could be avoided if car ports were discounted from the design and if some of the dwelling garden curtilages were repositioned within the courtyard area.
- 10.17 Furthermore, KC Conservation and Design have also raised a number of design concerns.

“The design objective appears to present a collection of faux stone barns. However, the simplicity of the ‘barn-like’ structures and the overall composition of the group are rather compromised by the scale, solidity and uniformity of the dwellings, as well as the inclusion of domestic characteristics on the buildings. (i.e. Include the uniform window design and alignment, roof lights, chimneys, car ports) Consequently, the building group simply has the appearance of large estate dwellings. The ‘agricultural form’ is not at all convincing and appears to present a rather jarring and prominent intrusion into the relative open landscape, with gardens potentially sprawling domestic features into the wider landscape.”

- 10.18 KC Conservation and Design have suggested that for a more appropriate development within the Green Belt, further consideration needs to be given to the detailed design form. Suggestions include the use of a greater variety of agricultural building characteristics and appropriate agricultural building materials; further simplification of the roofscape (avoiding chimney stacks) and redesigning of the courtyard area. It is considered that these design considerations would create a more convincing ‘agricultural group’ which responds to the character of the landscape in accordance with Local Plan Policy LP24.
- 10.19 Therefore, for the above reasons, the proposal does not accord with Local Plan policy considerations LP24, LP32 and LP59, guidance set out in the Housebuilders Design Guide SPD as well as the National Design Guide.

Housing mix and density

- 10.20 The proposal includes three 4-bed dwelling houses and two 3-bed dwelling houses. No affordable housing is required given the proposal is less than the threshold for 10 dwelling houses. It is considered that the proposed housing mix is acceptable in relation to Local Plan policy LP11.
- 10.21 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

- 10.22 Local Plan policy LP24 and NPPF Chapter 12 both seek developments that have a high standard of amenity for existing and future users.
- 10.23 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.
- 10.24 The sizes of the proposed residential units is a material planning consideration. Local Plan policy LP24 states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, and the provision of residential units of an adequate size can help to meet this objective. The provision of adequate living space is also relevant to some of the council's other key objectives, including improved health and wellbeing, addressing inequality, and the creation of sustainable communities. Recent epidemic-related lockdowns and increased working from home have further demonstrated the need for adequate space at home. Although the Government's Nationally Described Space Standards (March 2015, updated 2016) (NDSS) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed, as set out in the council's draft Housebuilder Design Guide SPD. NDSS is the Government's clearest statement on what constitutes adequately-sized units, and its use as a standard is becoming more widespread – for example, as of April 2021, all permitted development residential conversions will be required to be NDSS-compliant.
- 10.25 The proposal includes three 4-bed dwelling houses and two 3-bed dwelling houses. Floor plans also shows how all of the dwelling houses would have 1st floor office space. The following table shows that all of the dwelling houses would far exceed the Technical housing standards – nationally described space standard.

Plot	Description	Sqm	NDSS Sqm (2-storey, 4-bed, 8 persons)
1	2-storey, 4-bed dwelling house	240.76	102 (6 persons)
2	2-storey, 3-bed dwelling house	222.70	102 (6 persons)
3	2-storey, 3-bed dwelling house	176.46	102 (6 persons)
4	2-storey, 4-bed dwelling house	211.13	124 (8 persons)
5	2-storey, 4-bed dwelling house	220	124 (8 persons)

- 10.26 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.
- 10.27 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.
- 10.28 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.

Highway issues

- 10.29 The Planning Statement explains that when compared to the previous planning application reference: 2020/91643, the proposed access is now in a position of an existing access that serves the site from Muffit Lane. Development Management are not persuaded that this access point was used by the former industrial development and no evidence has been provided to demonstrate if and/or when it was last time in use by this use. As outlined above, since the determination of the previous planning application, gates have now been installed where there were once concrete blocks and there has been vegetation clearance to develop a mud/field track.
- 10.30 Nevertheless, plans show that there would be improvements to the access on Muffit Lane. During consideration of the planning application Highways Development Management requested amendments to the proposed access road to accord with the Highways Design Guide SPD. As such, amended proposals have been received.
- 10.31 The proposal shows the removal of the dropped kerb crossing and the creation of a 6m radius kerb with the access track widened to 5.5m for a distance of 20m and surfaced with a Stone Mastic Asphalt finish. This would allow two cars to pass and would remove the need for a vehicle to wait on the adopted highway to allow an existing vehicle to clear the access. Plans also show visibility splays of 2.4m x 70m are achievable which would be suitable for the speeds recorded on Muffit Lane. Highways Development Management have explained that the visibility splay to the right cuts across a vegetated area behind the boundary wall and this would need to be kept maintained to below 1m in height to maintain the visibility splay. Thus, a condition is recommended for grounds maintenance management plan to resolve this matter.
- 10.32 The existing vehicular access with Leeds Road would be redesigned so that it only provided pedestrian access to the residential development. This access would still serve the existing dwelling house (93 Leeds Road) and neighbouring farm field. Highways Development Management have explained that they would like to see this access enhanced to accommodate cyclists as well as pedestrians. The access is currently gated, and they would like to see details of how pedestrian and cyclist access will be maintained at all times. Ideally this will be with a 2m wide paved footway, without a gate, and accessing the

adopted footway on the north side of Leeds Road. Given the extents of the red line boundary, this would not be achievable. Although, this adds negative weight to the proposal, it is not considered to warrant a reason for refusal.

- 10.33 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.
- 10.34 Swept path analysis show that the proposed private access road can accommodate a large twin rear axle truck. The location and width of the passing place is considered acceptable providing that visibility is maintained from the widened access point and the turning/courtyard area adjacent to the proposed dwellings. Again, a condition is recommended for grounds maintenance management plan to resolve this matter.
- 10.35 Although, the planning application form states that only 10 car parking spaces would be provided, plans appear to show 18 car parking spaces either in the form of courtyard space allocation or car ports or driveways. Highways Development Management have raised no concerns regarding these matters. In accordance with paragraph 5.4 of the Highways Design Guide each dwelling unit should provide at least one cycle space, which can be secured by planning condition.
- 10.36 Highways Development Management and Waste Strategy consider that the size of the refuse/recycling bin storage facility is acceptable. It is noted that the proposed 'drag distances' from the dwellings is above that recommended in guidance (25m). However, if the bin storage area is used as a bin store and not a presentation point, the bins would not need to be carried this distance, just bags of waste, which occurs on many existing housing sites with long driveways and so is not considered to be a concern.
- 10.37 With regards to trip generations, the Transport Statement explains how the site used to generate a level of traffic from its former industrial use. The industry standard TRICS database was interrogated to derive industrial and residential trip rates to ascertain the net increase in traffic due to the proposed development. It is estimated that there would be a total of 4 vehicular movements for the morning peak hour (07:00-08:00) and 4 vehicular movements for the evening peak hour (16:00-17:00). When compared with the existing industrial use movements there would be a total difference of -4 vehicular movements for the morning peak hour and -2 vehicular movements for the evening peak hour. Highways Development Management have raised no concerns with regards to the proposed trip rates.
- 10.38 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.

- 10.39 It is considered that subject to the necessary planning conditions, that the proposal would be in accordance with Local Plan policies LP21, LP22 and the Highway Design Guide SPD.

Flood risk and drainage

- 10.40 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.
- 10.41 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 Lead Local Flood Authority (LLFA) to the assessment of flood risk and conclusions presented.
- 10.42 Currently the surface water from the site discharges into the existing combined sewer in Leeds Road. The applicant has submitted a Percolation Testing Report which shows 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.
- 10.43 During the course of the application the LLFA requested further information and advice with regards to the existing and proposed discharge arrangements of surface water into the public sewer; drainage of the proposed access road; surface water manhole sizes; attenuation storage tank calculations and design considerations; and flood routing. The re-submitted documents now include access road drainage and flood routing. In addition, satisfactory evidence that the existing site drains to the sewer network has been given.
- 10.44 However, the information does not resolve all the LLFA's queries, with regards to manhole sizes, construction phase drainage and storage tank. The LLFA does not object to the planning application but has requested planning conditions to obtain this information. Additionally, Yorkshire Water have explained they require to see existing and proposed drainage layouts with pipe sizes, gradients, gullies, downpipes and connection points, measured impermeable areas of the present and proposed use of the site, along with the calculations that show the existing and proposed discharge rate from the site to the public sewer. The allowable surface water discharge rate of 14.5 l/s (equivalent to a 30% improvement on the existing surface flows from the site) from the proposed site is acceptable provided the developer supplies adequate proof that the existing site currently drains surface water to the Yorkshire Water sewer network. If this proof cannot be provided, the allowable discharge rate will be reduced to the equivalent greenfield run-off rate of 5 l/s per ha.
- 10.45 The proposed Drainage Strategy also shows how foul water drainage would be discharged into an existing combined sewer in Leeds Road.

- 10.46 There are now no objections by the LLFA subject to the imposition of the necessary planning conditions. Although Yorkshire Water have requested additional information, officers are mindful of their comments for planning application reference: 2020/91643 which acknowledged that such information could be sought by planning conditions. Thus, the proposals could be considered acceptable in relation to Local Plan policies LP27, LP28 and LP34 and NPPF chapter 14.

Trees, landscape and biodiversity

- 10.47 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.
- 10.48 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 and of itself, this does not justify inappropriate development in the Green Belt and that this can only be done with a redesign of the proposal.
- 10.49 A Landscape Layout Plan supports the planning application, which was revised to address the ecologist's concerns regarding achieving a biodiversity net gain. However, the Landscape Layout Plan does not correspond with the site layout and access plans in terms of the design of the proposed access road. The Plan shows a large area of green space to the north of the residential development. The Design and Access Statement has stated that this area provides the 'potential for enhanced natural landscape.' Areas of green space are also shown around the periphery of the proposed location of dwelling houses.
- 10.50 The Design and Access Statement 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. These elements will soften the landscape between Muffit Lane and the development, providing a large landscape buffer. Private garden amenity is designed to sit within the existing developed areas footprint so as not to disturb the existing landscape of the site.

- 10.51 Concerns have been raised that the proposed landscape scheme could significantly change the character, appearance and understanding of the site, particularly 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. It is unclear as to who would take ownership of these large, landscaped areas. Furthermore, it is unclear as to whether, or not, these large, landscaped areas would be 'Public Open Spaces,' which may result in an increased activity due to its 'public' use with the access road dissecting the larger space that is currently private, not maintained, nor managed.
- 10.52 An Ecological Impact Assessment has been provided with the application. This document subsequently was revised to address the Council's Ecologist comments to clarify the level of potential impacts to great crested newts with respect to the ponds located close to the site; to provide the full Biodiversity Metric Calculations as an excel sheet and to consider measures to increase the biodiversity net gain post-development to 10%. The Council's Ecologist has no objections subject to the imposition of planning conditions to secure the future management of these habitats, a sensitive lighting scheme and timing restrictions on the removal of vegetation and buildings to avoid impacts to nesting birds. Therefore, subject to conditions the planning application would accord with Local Plan policy LP30 and NPPF chapter 15.

Ground conditions

- 10.53 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.
- 10.54 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.
- 10.55 A Coal Mining Risk Assessment has been submitted and reviewed by the Coal Authority. The Coal Authority concurs with the conclusion / recommendations of the Coal Mining Risk Assessment and considers that there is currently a medium to high risk to the proposed development from former coal mining activity. Planning conditions are recommended to mitigate the risk and confirm the exact ground conditions present beneath / within this site, as well as to inform the extent of remedial / mitigatory measures that may be required to ensure that the development is safe and stable (NPPF paragraphs 178 and 179), intrusive site investigations should be undertaken prior to commencement of development. Therefore, given the Coal Authority have raised no objections subject to the necessary planning conditions, it is considered that the application would accord with Local Plan policy LP53 and NPPF chapter 15.

- 10.56 The planning application is accompanied by a Phase 1 Environmental Desk Study Report, which has been reviewed by Environmental Health. 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, Environmental Health consider that the proposals for gas monitoring (associated with the site's coal mining legacy) is inadequate. As such, Environmental Health have raised no objections but have requested the necessary contaminated land planning conditions.

Representations

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

"When the land near Muffit Lane was cleared they chopped down lots of trees. We would like them to plant more trees back in line with the climate change. We try and plant lots of trees on our farm and was really upset when they chopped the trees down."

Officer response: Noted and it is regrettable that several on-site trees have been lost. The planning application is supported by a Landscape Layout Plan and Arboricultural Impact Assessment, which shows the protection of existing vegetation, tree, shrub and hedge planting as well as a landscape buffer. Although, there are no details regarding replacement planting, the tree officer has raised no objections subject to a condition securing the long-term management and maintenance of the landscaping and open space.

- 10.58 Councillors were also invited to comment on the application. Cllr S Hall provided the following comments:

"As the applicant has not taken anything on board from the last refusal, I would not want it to come back to committee. I noticed reason 6 which is a section about minerals, would this be enough on its own to refuse the application. I have also noticed the land has been cleared of quite a lot of trees. Finally, this last winter I noticed a lot more surface water running off this land, out onto the road (Muffit lane) drainage is a big problem on this land. The farm next to this have a small lake which seems to work."

Officer response: Noted. The planning application must be taken to planning committee in accordance with the scheme of delegation. The application is accompanied with a supporting letter, written by a Geo-environmental Engineer who has explained the reasons as to why the extraction of minerals at this site is unviable and thus would address Local Plan Policy LP38 of the Kirklees Local Plan and Chapter 17 of the National Planning Policy Framework. The LLFA have been consulted regarding the matters raised and they have explained that the proposed surface water drainage from the development does not discharge to Muffit Lane and therefore is not likely to increase flooding. In addition, surface water flows are being restricted to at least 70% of the original flows and are being discharged to Leeds Road. Also, Kirklees Council records do not show any reported flooding incidents in the area – either Muffit Lane or Leeds Road.

Planning obligations

- 10.59 The proposed scale of development is under many of the thresholds for affordable housing, public open space and sustainable travel requirement. Thus, no planning obligations would be sought as part of this planning application.

Other Matters

- 10.60 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.
- 10.61 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. A heritage appraisal accompanies the application and has been reviewed by the Conservation and Design officer and West Yorkshire Archaeology Advisory Service (WYAAS). The Conservation and Design officer has acknowledged that the demolition of the buildings would not present any loss of significant historic fabric. The officer has requested a desk top survey and photographic record fabric should be completed, in accordance with Historic England's Level 2 Descriptive record, comprising a compilation of the drawn records, photography evidence and a written record. However, WYAAS have not requested such a condition and consider the information submitted to be satisfactory and do not consider any further archaeological works are necessary. The reason being is that although a small fragment of an engine or boiler house survives the present building are convincingly shown to relate to later industrial uses of the site after the closure of the mine and remodelling of the site to suit this. The significance of this complex is considered local and the report prepared is sufficient record of their form. Therefore, Development Management consider the proposal to accord with Local Plan policy LP35 and NPPF chapter 16, without the need for conditions.
- 10.62 The site falls within a Minerals Safeguarding Area for Surface Coal Resource with Sandstone and/or Clay and Shale. The application is accompanied with a supporting letter, written by a Geo-environmental Engineer which has demonstrated the mineral extraction would not be viable in accordance with Local Plan policy LP38 criterion a. The letter explains that with regards to coal and ironstone, the site is anticipated to be underlain by shallow coal and ironstone reserves. However, most of the coal and ironstone reserves below the site are already recorded to be sterilised. The letter goes onto explain that mineral extraction at this site could not be undertaken for the following reasons:
- a) *The development site is situated next to an occupied residential housing district and the Joan Coal is anticipated to be close surface. Therefore, open cast mining of the Joan Coal could not be reasonably undertaken without causing an environmental nuisance to neighbouring properties, to the south. This is likely to constitute an unacceptable level of environmental harm.*

- b) The extraction of coal would also result in a significant increase in traffic movements, within the local residential area.*
- c) Furthermore, insistence on extracting the coal reserves beneath the site would prejudice the timing and hence viability of the proposed development.*

10.63 During the course of the planning application, the applicant provided a 'Secure by Design' statement in response to comments made by the West Yorkshire Police Designing Out Crime officer with regards to home security, front to rear access paths, security, lighting, car ports/garages, and boundary treatments. To accord with Local Plan policy LP24 criterion e, the officer has requested the necessary planning conditions to ensure that the proposed site and access road as well as footpath is adequately lit and that the car ports are substituted by garages. However, it should be noted that such requests would conflict with Green Belt policy with regards to impacting on the openness of the site. Development Management consider that these matters would be resolved if the dwelling houses were accessed from the existing main vehicle access with Leeds Road and if the car ports were discounted from the design.

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.

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=2021%2f91354>

Certificate of Ownership – Certificate B signed: Notice served on 93 Huddersfield Road, Heckmondwike and 25 Kenmore Road, Cleckheaton.