
Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 22-Jun-2023

Subject: Planning Application 2022/93499 Outline application for erection of 15 dwellings with new highway access and parking Healey Lane, Batley, WF17 8BN

APPLICANT

Lauren Simpson, Owens
Developments Ltd

DATE VALID

26-Oct-2022

TARGET DATE

25-Jan-2023

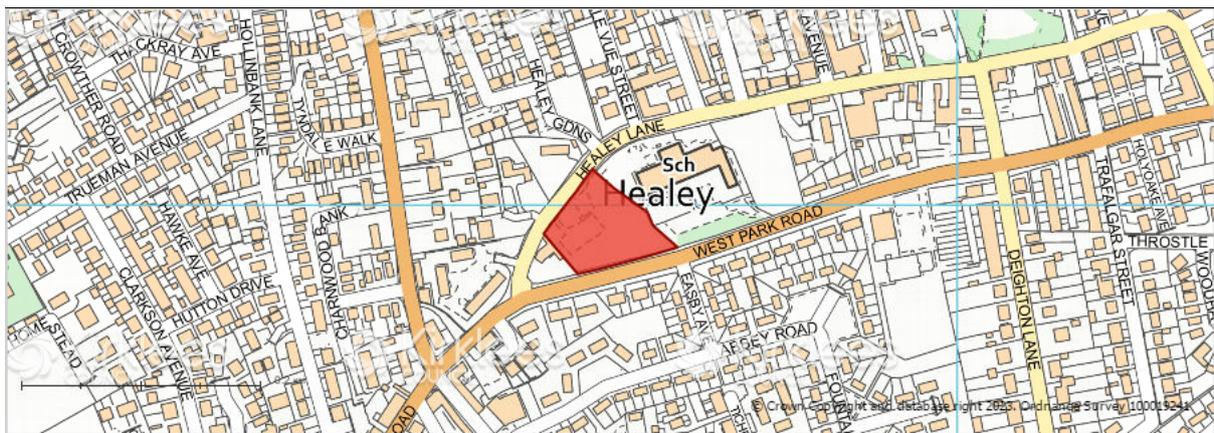
EXTENSION EXPIRY DATE

30-Jun-2023

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Batley West

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION: Approve

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report and to secure a S106 agreement to cover the following matters:

1. Public open space provisions including off site commuted sum (£33,604.42)
2. Off-site highway works for a Traffic Regulation Order (£7,500)
3. Contribution to traffic calming measures (£35,000)
4. 20% of total number of dwellings to be affordable with a tenure split of 55% being Social Rented and 45% being Submarket and one being a Starter Home.
5. Incorporation of a Management Company (drainage, highways, public open space)

In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Planning and Development shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Planning and Development is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

1.0 INTRODUCTION

- 1.1 The application is brought to the Heavy Woollen Area Sub-Committee at the request of Ward Councillors Pandor and Lowe (Batley West) on the grounds of overdevelopment and highway safety.
- 1.2 The Chair of the Heavy Woollen Sub-Committee has confirmed that a referral to the committee on the grounds of highways safety is valid having regard to the Councillor's Protocol for Planning Committees.

2.0 SITE AND SURROUNDINGS

- 2.1 The application site sits between West Park Road (to the south) and Healey Lane to the north. To the east of the site is Healey Junior, Infants & Nursery School. To the west are 3 dwellings, including No. 228 Healey Lane, which has a principal elevation facing on to the site (and immediately bordering it).

- 2.2 The site levels drop slightly from north to south and mature trees line the southern boundary of the site – these are not subject to Tree Preservation Orders. Vehicle access into the site was originally from Healey Lane. Remnants of areas of hardstanding are present to northern parts of the site, with the remainder of the site being largely grassed.
- 2.3 The application site red line boundary measures approximately 0.49 hectares.
- 2.4 The site's red line boundary was revised on 16/12/2022; reducing it from c. 0.51ha to c. 0.49ha following a re-design of the southern boundary. This is considered to represent a material reduction in the scale of the site and, as such, re-advertisement and consultation was not considered necessary in this instance as any likely impacts resulting from the proposal would likely be reduced.

3.0 THE PROPOSAL

- 3.1 The applicant is seeking outline planning permission for the erection of '*15 dwellings with new highway access and parking*'. All matters are reserved except for access. The description of the proposal was revised on 16/12/2022 to reflect what had been applied for on the submitted application form and removing references to all other reserved matters.
- 3.2 Access to the site is proposed to be taken from Healey Lane with an indicative 'Y'-shaped internal highway network to serve the 15 dwellings. No through route is proposed on West Park Rd.
- 3.3 The site has previously received outline planning permission for 15 dwellings (2014/92328) which was determined on 29/10/2015 after being determined at committee. This application proposed a highway through route directly between Healey Lane and West Park Road to which there were no in principle KC Highways objections. It is noted that the Reserved Matters application (2017/94229) was subsequently refused, principally due to a lack of information.

Supporting Information

- 3.4 In addition to the submitted plans, the following documents have been submitted in support of this application:
- Application Form
 - Design and Access Statement
 - Noise Impact Assessment
 - Arboricultural Report
 - Arboricultural Method Statement
 - Phase 1 Geo-environmental Report
 - Phase 2 Geo-environmental Appraisal
 - Flood Risk Assessment
 - Ground Gas Risk Assessment
 - Coal Mining Risk Assessment
 - Preliminary Ecological Appraisal and Biodiversity Net Gain Feasibility Report

4.0 RELEVANT PLANNING HISTORY

Application: 2017/94229

Description: Reserved matters application pursuant to outline permission 2014/92328 for residential development (15 dwellings)

Decision: Refused 24/05/2021

Application: 2014/92328

Description: Outline application for residential development (15 dwellings)

Decision: Approved 29/10/2015

Earlier applications related to educational and other non-residential uses.

5.0 HISTORY OF NEGOTIATIONS

5.1 Officers negotiated with the applicant to:

- Clarify coal mining risk at the site with the Coal Authority.
- Amend site layout to remove rear access to Plots 6-11 from West Park Road following KC Crime Prevention and KC Trees comments.
- Undertake Biodiversity Net Gain modelling to demonstrate if 10% on-site biodiversity net gain is achievable on this site and, if not, enter into an agreement for off-site financial contributions.
- Demonstrate how the proposal would achieve satisfactory highway safety at the site entrance and on Healey Lane and secure necessary contributions.

6.0 PLANNING LEGISLATION AND 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 Kirklees Local Plan. The Kirklees Local Plan was adopted on 27 February 2019 and comprises the strategy and policies document, allocations and designations document and associated proposals map.

6.2 The following legislation, policies, and guidance are considered relevant to the determination of this application:

Kirklees Local Plan (February 2019)

The site is unallocated in the Kirklees Local Plan.

- Policy LP1 – Presumption in favour of sustainable development
- Policy LP2 – Place Shaping
- Policy LP3 – Location of new development
- Policy LP4 – Providing infrastructure
- Policy LP7 – Efficient and effective use of land and buildings
- Policy LP11 – Housing Mix and Affordable Housing

- Policy LP20 – Sustainable travel
- Policy LP21 – Highways and access
- Policy LP22 – Parking
- Policy LP23 – Core walking and cycling network
- Policy LP24 – Design
- Policy LP27 – Flood risk
- Policy LP28 – Drainage
- Policy LP30 – Biodiversity & Geodiversity
- Policy LP32 – Landscape
- Policy LP33 – Trees
- Policy LP52 – Protection and improvements of environmental quality
- Policy LP53 – Contaminated and unstable land
- Policy LP63 – New open space

Supplementary Planning Documents

- Housebuilders Design Guide SPD (June 2021)
- Open Space SPD (June 2021)
- Biodiversity Net Gain Technical Advice Note (June 2021)
- Planning Applications Climate Change Guidance (June 2021)
- Highway Design Guide SPD (November 2019)

National Policies and Guidance

- 6.3 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published in 2012 and updated most latterly in July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for Local Planning Authorities and is a material consideration in determining planning applications.

National Planning Policy Framework (NPPF) (July 2019)

- 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 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

Climate Change

- 6.4 The Council approved Climate Emergency measures at its meeting of full Council on the 16th of January 2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.

6.5 On the 12th of November 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 would use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

7.0 REPRESENTATIONS

7.1 This application has been advertised as a major development.

7.2 Publication of the application has been undertaken in accordance with the Council's Development Management Charter (July 2015) and in line with the Council's adopted Statement of Community Involvement (December 2019).

7.3 The statutory public consultation period took place between 18/11/2022 and 09/12/2022.

7.4 During the public consultation, a total of 4 representations were received. Of these, 2 were received as objections and 2 as general comments.

7.5 The key points raised in OBJECTION are as follows:

- Previous tree removal works on-site have led to flooding issues at adjacent properties.
- The submitted Geo-environmental Report and Flood Risk Assessments are inaccurate.
- Neighbouring dwellings already have issues accessing the highway from their driveways.
- The area already experiences excessive traffic speeds which the proposal would exacerbate (particularly near the school).

7.6 The key points raised as COMMENT are as follows:

- The area already experiences issues in relation to highway safety.
- A full road survey should be undertaken.

7.7 Local Members (summarised):

Cllr Gwen Lowe (Batley West) – Concerns raised around highway safety and the number of dwellings proposed.

Cllr Shabir Pandor (Batley West) – Committee call-in request due to concerns about the number of dwellings being too high and additional traffic causing more congestion.

8.0 CONSULTATION RESPONSES

8.1 Below is a summary of the consultee responses received during the course of the application. Where appropriate, these are expanded on further in the main assessment.

Statutory:

KC Highways Development Management – No objections subject to conditions and a Section 106 Agreement for off-site highways safety works.

KC Lead Local Flood Authority – No objections subject to conditions.

The Coal Authority – No objections subject to conditions.

Non-statutory:

KC Crime Prevention – No objections subject to conditions.

KC Ecology – No objections at this stage subject to BNG being demonstrated at the full planning application stage.

KC Environmental Health – No objections subject to conditions.

KC Highways Structures – No objections subject to conditions.

KC Landscape – No objections subject to conditions and a Section 106 Agreement for off-site Public Open Space provision.

KC Minerals – No objections.

KC Strategic Housing – No objections, stated 20% affordable units are required..

KC Strategic Waste – No objections subject to conditions.

KC Trees – No objections to outline principle of development.

KC Waste Strategy – No objections subject to conditions.

Yorkshire Water – No objections subject to conditions.

9.0 MAIN ISSUES

9.1 Taking into consideration the site allocations and constraints, the main issues for consideration as part of the appraisal of the application are:

- Principle of Development
- Access and Highways Safety
- Biodiversity and Ecology
- Flood Risk and Drainage
- Design and Landscape
- Amenity

- Planning Obligations
- Other Material Considerations

10.0 APPRAISAL

Principle of Development

- 10.1 Policy LP1 of the Kirklees Local Plan (KLP) sets out the Local Planning Authority's approach to the presumption in favour of sustainable development, as laid out in National Planning Policy Framework (NPPF) (Chapter 2), particularly Paragraph 11(c). Policy LP1 states that 'when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework'.
- 10.2 Policy LP2 requires that proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan, in order to protect and enhance the qualities which contribute to the character of these places. The policy's supporting text identifies the Batley and Spen sub-area as having a range of settlements with distinctive characters and good access to local services, but that the area is at risk from traffic congestion and faces issues with brownfield site re-development and associated flood risks. Policy LP3 concerns the location of new development. In considering the abovementioned requirements of Policies LP1 and LP2, proposals are also required to reflect a settlement's size and function, place shaping strengths and opportunities/challenges for growth, spatial priorities for urban renaissance and regeneration, and the need to provide new homes.
- 10.3 With regard to the need, the Local Plan identifies a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum. National planning policy requires local planning authorities to demonstrate five years supply of deliverable housing sites against their housing requirement. The latest published five-year housing land supply position for Kirklees, as set out in the Authority Monitoring Report (AMR), is 5.17 years. This includes consideration of sites with full planning permission as well as sites with outline permission or allocated in the Local Plan where there is clear evidence to justify their inclusion in the supply. Furthermore, as identified within Policy LP2 a housing need of c. 725 new residential dwellings has been identified for the Batley area, through a combination of housing and mixed-use site allocations, over the lifetime of the adopted Kirklees Local Plan.
- 10.4 The 2022 Housing Delivery Test results have yet to be published and the government is currently consulting on changes to the approach to calculating housing land supply. Once there is further clarity on the approach to be taken, the council will seek to publish a revised five-year supply position. Chapter 5 of the NPPF clearly identifies that Local Authority's should seek to boost significantly the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development.

- 10.5 As this site is unallocated, it represents a windfall site which would provide over and above that need which has been identified within the KLP. The scheme represents the delivery of a medium sized housing development in a predominantly residential area. The site is well positioned being set close to a school to the east and a small commercial complex to the west. Paragraph 69 of the NPPF recognises that “small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should... support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes”.
- 10.6 Furthermore, Policy LP7 of the Kirklees Local Plan states that should encourage the efficient use of previously developed land in sustainable locations provided that it is not of high environmental value and a net density of at least 35 dwellings per hectare should be provided. Principle 4 of the Housebuilders Design Guide seeks to ensure a density of 35 dwellings per hectare or more is achieved. Where a density of 35 dwellings per hectare cannot be achieved, policy LP7 sets out that lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or to secure particular house types to meet local housing needs. In this case, the site is 0.49 hectares in size. At this calculation, the site should host 17 dwellings. The development proposed would provide just short of this with 15 dwellings. Whilst slightly below the density set out by policy, this proposed density level is much more in keep with the existing density of the surrounding area. Any further dwellings would either result in an overdeveloped site visually or bring housing types that do not accord with the wider area. As such, 15 dwellings represents an effective and efficient use of the land that accords with the character and grain of development in the surrounding area and is deemed to be in accordance with overarching purposes of the housing policy. It shall be secured via the s106 agreement that 20% affordable housing is secured.
- 10.7 For all the reasons mentioned above, which includes: the residential setting; Kirklees’ housing land supply; the proposed density being in accordance with the character of the area; and, the local connections, it is considered that the proposal would be acceptable in principle subject to being concluded as acceptable in relation to all other applicable policies (discussed within the following report). As such it is considered the proposal meets the requirements of policies of LP1, LP2, LP3, LP7, LP11 and LP24 of the Kirklees Local Plan, Chapters 2 and 11 of the NPPF and the key principles of the Housebuilders Design Guide SPD.
- 10.8 The planning history must also be considered. In 2014, when the site was Council owned, outline permission was granted for up to 15 dwellings. This carries some weight in establishing the principle of development.

Impact on Visual Amenity

- 10.9 Alongside the general principle of development, access is the only matter for which approval is sought as part of this outline application. As such, only the principle of development and access point are being considered from a visual amenity perspective at this stage.
- 10.10 Local Plan Policies LP1, LP2 and most importantly LP24, are all also relevant. All the policies seek to achieve good quality design that retains a sense of local identity, which is in keeping with the scale of development in the local area and is visually attractive. Policy LP11 sets out that all proposals for housing, including those affecting the existing housing stock, will be of high quality and design and contribute to creating mixed and balanced communities. Local Plan Policy LP24(a) states that all proposals should promote good design by ensuring the following: 'the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape'. Chapter 12 reiterates this requirement for high quality design.
- 10.11 The Housebuilders Design Guide SPD helps to deliver schemes that accord with Local Plan Policy LP24 and Chapter 12 of the NPPF by setting out Design Principles. Principle 5 states, amongst other things, that buildings should be aligned and set-back to form a coherent building line and designed to front on to the street. To avoid dominating the street, principle 12 states parking to the front will need creative design solutions to be incorporated.
- 10.12 The proposed access point is functional in terms of design. It cannot be considered harmful in terms of visual amenity. With regard to general principle, the indicative site plan shows that the site could be designed at the reserved matters stage to incorporate up to 15 dwellings that accords with the character of the area. The site is sufficiently large enough for dwellings designed with a coherent building line and provides suitable garden and landscaped areas. Considering that access is the only matter for assessment at this time, alongside the principle, at this outline stage the scheme accords with the Kirklees Local Plan, the NPPF and the Housebuilders Design Guide SPD with regard to visual amenity.

Impact on Highway Safety

Access, Safety and Sustainable Transport

- 10.13 Policy LP20 requires that proposals are located in accordance with the Council's spatial strategy to ensure the need to travel is reduced and that essential travel needs can be met by forms of sustainable transport other than the private car. Furthermore, proposals should be designed to encourage sustainable modes of travel and demonstrate how links have been utilised to encourage connectivity.
- 10.14 Policy LP21 requires proposals to demonstrate sustainable modes of transport and be accessed effectively and safely by all users. New development will normally be permitted where safe and suitable access to the site can be achieved for all people and where the residual cumulative impacts of development are not severe. Furthermore, proposals are required to demonstrate adequate information and mitigation measures to avoid a detrimental impact on highway safety and the local highway network.

- 10.15 NPPF (Chapter 9) Paragraph 111 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 112 further details priority use of new roads, addressing the needs of people with disabilities, creating safe and secure places, allowing for efficient delivery of good and emergency service access, and enabling the use of electric vehicles.
- 10.16 Healey Lane is a 30mph two-way single carriageway link road with footways on both sides and street lighting present. There are School Keep Clear TRO markings to the northeast of the proposed site access and No Waiting at any Time TRO markings around the junction with Healey Gardens. There is a medium frequency bus route along West Park Road with bus stops within a 400m walk of the centre of the site. It is approximately 165m to the closest school and convenience stores and other services within approximately 500m.
- 10.17 KC Highways Development Management and KC Highway Safety have been consulted on the scheme. Consultation with KC Highway Safety has raised some concerns on both parking and speed issues on Healey Lane. Officers have been informed that a safety engineering scheme has been proposed for the eastern end of Healey Lane, however this does not extend to the location of the site access. As such, in order to calm traffic sufficiently to ensure safe access to and from the site, and to resolve the on street parking displacement issues the new access would create, Officers and the applicant have agreed to financial contributions. A contribution of £35,000 has been agreed to extend the independent safety engineering scheme to the development, between the community centre and the junction with West Park Road. This would consist of four features likely to be flat top road humps and/or a junction plateau too with associated drainage. Furthermore, a £7,500 contribution has been agreed to manage parking at the junction with a Traffic Regulation Order (TRO), likely in the form of 'No Waiting at Any Time TRO markings' to mirror the ones across the road at Healey Gardens access. It is considered that these contributions would help the authority conduct works which remove the majority of the highway safety concerns associated with the access if fully completed.
- 10.18 In terms of visibility, the proposed access to the site is shown in drawing No 2340-D-20-003 Rev A, and this includes a 2.4m x 43m visibility splay (although the north eastern tip of the splay is cut off on the drawing it does appear achievable), this would be acceptable for a road speed of 30mph as posted, and a junction radius of 10m which would be suitable for access with a refuse collection vehicle. The access road drawing shows a swept path analysis for a refuse vehicle that indicates it is safe for turning to allow the vehicle to enter and exit the site in forward gear and this is acceptable also. There are also 2m wide pedestrian footways on both sides of the access.
- 10.19 Conditions are required for details of retaining walls / structures adjacent to the highway and details of surface water attenuation measure also to ensure these meet the relevant policy.

- 10.20 For the reasons set out above, it is considered the outline application with access only as submitted is acceptable in principle with the contribution to road safety measures and legal agreement in place and a condition for details of the access gradients to be suitably provided. These matters are considered acceptable in terms of highway safety and are in accordance with the forementioned policy.

Car Parking

- 10.21 Policy LP22 requires that proposals provide full details of the design and levels of proposed parking provision following the principles set out in the policy wording. In doing so, they should demonstrate how the design and amount of parking proposed is the most efficient use of land within the development as part of encouraging sustainable travel. However, layout is a reserved matter and cannot be assessed at this outline stage. Notwithstanding these, the submitted indicative plan shows that suitable off street parking for all new dwellings could likely be provided.

Biodiversity and Ecology

- 10.22 Policy LP30 requires that proposals do not result in unmitigated or uncompensated significant loss of or harm to biodiversity and should provide biodiversity net gains through good design.
- 10.23 The Council's adopted Biodiversity Net Gain Technical Advice Note Paragraph 3.1.1 states that *'at this time, in the absence of legislation, a minimum of 10% net gain in biodiversity is required'*.
- 10.24 NPPF (Chapter 15) Paragraph 174(d) further requires that proposals should minimise impacts on and provide net gains for biodiversity. In addition, Paragraph 180(a) also states that if a proposal would result in unmitigated or uncompensated significant harm to biodiversity, planning permission should be refused.
- 10.25 The applicant has submitted an Ecological Impact Assessment (EclA) and Biodiversity Net Gain (BNG) report in support of this application. This details that at present, the site is predominantly covered in hardstanding, with only a small area of non-native shrub at the north of the site. The site is therefore considered to be of minimal ecological value. However, as the layout and landscaping is to be agreed at the reserved matters stage, officers cannot assess whether the BNG is yet suitable as BNG enhancement features would come forward as part of those reserved matters. However, as per the information in the EclA, considering the site has a minimal ecological value, officers are content that at the reserved matters stage, a biodiversity net gain could be achieved under the means set out by Local Plan Policy LP30, the Biodiversity Net Gain Technical Advice Note and Chapter 15 of the NPPF.

Trees

- 10.26 Policy LP33 states that planning permission will not be granted for developments which directly or indirectly threaten trees or woodland of significant amenity. Furthermore, proposals should normally retain any valuable or important trees where they make a contribution to public amenity, the distinctiveness of a specific location or contribute to the environment.

- 10.27 NPPF (Chapter 12) Paragraph 131 states that trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. It requires that proposals should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible.
- 10.28 KC Trees have been consulted on the application. With regard to the access and principle of development, matters which are considered in this application, officers consider that the access and use of the site for residential use can be supported with regard to trees. The proposed access would not result in the loss of any trees, whilst it is feasible that the layout at the reserved matters stage can be designed to incorporate the trees of value. As such, KC Trees have no objection to this application and deem it to accord with Local Plan Policy LP33 and Chapters 12 and 15 of the NPPF.

Flood Risk and Drainage

Flooding Risk

- 10.29 Policy LP27 requires that proposals must be supported by an appropriate site-specific Flood Risk Assessment in line with national planning policy. The national policy requirements are set out in NPPF (Chapter 14). This details the sequential approach to development and flood risk to steer new development to areas with the lowest risk of flooding from any source.
- 10.30 The site lies in Flood Zone 1. As such there are no sea or river flood risk concerns.

Surface and Foul Water Drainage

- 10.31 Policy LP28 contains a presumption for the use of sustainable drainage systems (SuDS). In addition to this presumption, the policy also states that 'development will only be permitted if it can be demonstrated that the water supply and waste water infrastructure required is available or can be co-ordinated to meet the demand generated by the new development'.
- 10.32 NPPF (Chapter 14) Paragraph 169 requires major developments to incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.
- 10.33 With regard to drainage and localised flooding, KC Lead Local Flood Authority have been consulted. The submitted Geo-Environmental Report indicates the site has minimal made ground and has a Thornhill Rock Sandstone bedrock of high to moderate permeability. The site does however fall from the north-east to south-west with an approximate gradient of 1 in 17. As such there are drainage concerns.

10.34 The developer proposes to dispose of surface water run-off via soakaways, however Kirklees Council have received reports that neighbouring properties have experienced cellar flooding which would indicate a high water table. As such, the LLFA does not recommended infiltration as this would increase the flood risk to existing properties. Therefore, surface water run-off from the site will need to be attenuated to the equivalent greenfield run-off rate for the 1 in 2 year rainfall event. The attenuated discharge shall be connected to the Yorkshire Water 225mm diameter Surface Water sewer in Healey Lane (subject to YW approval). Surface water run-off up to the critical 1 in 100 year rainfall event (plus 30% climate change) shall be contained within the site without the risk of flooding of proposed or existing properties. Subject to conditions for: technical drainage detail, overland flow routing, a construction phase surface water flood risk and pollution prevention plan; and, a s106/unilateral undertaking for the applicant to set up a management company for the maintenance and management of surface water drainage systems for the lifetime of the site, the scheme is considered acceptable with regard to flood risk and drainage.

Impact on Residential Amenity

10.35 Local Plan policies LP11 and LP24 require all proposals for housing to be of a high quality and design, providing a high standard of amenity for future and neighbouring occupants. The need for providing a good standard of amenity for all is reiterated by principles set out in the Housebuilders Design Guide SPD and Chapter 12 of the NPPF. Local Plan policy LP52 is also relevant with regard to noise.

10.36 As the application applied for is outline permission with all matters except for access reserved, a true assessment on the impact of amenity for future and neighbouring occupiers cannot be undertaken until the layout, scale and landscaping matters are being assessed. As this application relates to access and principle of development only, the residential amenity impacts of these matters are limited at this stage.

10.37 The site is bound by Healey Lane to the North, West Park Road to the South, Healey Infants School to the east and two dwellings to the west. As such, there are very few neighbours that could feasibly be affected. The dwellings to the west will likely be side by side with the new dwellings thus mitigating potential harm. Therefore, in principle, the scheme can be delivered without an adverse impact on the amenity of neighbours, subject to an appropriate design at the reserved matters stage. The access would not impact on the amenity of any neighbouring occupants also. However, there is potential for the amenity of neighbours to be harmed during construction. As such, it shall be conditioned that a construction environment management plan be submitted to resolve this matter.

10.38 As stated above, the site is surrounded by three noise generating uses – the school and the two roads. As such, a condition is required for the submission of a Noise Assessment specifying the measures to be taken to protect the development from noise from all significant noise sources that are likely to affect the proposed development. Subject to this, at this outline stage, the scheme is considered to ensure a suitable level of amenity of future occupants.

Other Material Considerations

Contaminated Land

- 10.39 Policy LP53 of the KLP requires that development on land that is unstable, currently contaminated or suspected of being contaminated due to its previous history or geology will require the submission of an appropriate contamination assessment and/or land instability risk assessment. Furthermore, any development which cannot incorporate suitable and sustainable mitigation measures (if required) which protect the well-being of residents or protect the environment will not be permitted.
- 10.40 NPPF (Chapter 15) Paragraph 183 requires that proposals ensure that the site is suitable for its intended purpose taking into account the ground conditions and any risks arising from land instability and contamination, and that any contaminated land is remediated with works overseen by a competent person.

Historic Landfill

- 10.41 The site lies in a Historic Landfill 250m Buffer Zone. KC Environmental Health have been consulted on this matter. The Phase 1 Report submitted is accepted and concludes that investigations are required. The site investigation reports submitted are unfortunately four years out of date. As such it is plausible that the site conditions and surrounding area have changed since the reports were authored. This may alter the risk assessments undertaken (e.g. the introduction of potentially contaminative land uses nearby and/or fly tipping, burning of wastes on site etc). A new site walkover and Phase II investigation shall be conditioned as it is required to confirm the validity of the previous Phase II reports. Furthermore, a remediation strategy and validation report shall also be conditioned. Subject to these conditions, it is considered the site can be suitable remediated in to ensure end user safety in accordance with Local Plan Policy LP53 and Chapter 15 of the NPPF.

Coal Mining

- 10.42 The site lies in a Coal Advice Area (Development High Risk Area). The Coal Authority's records also indicate that surface coal resource (SCR) is present on the site. KC Minerals note that clarity should be provided for the removal of coal reserves if found on-site. In light of this, Officers shall secure conditions for further Phase II intrusive ground investigations to establish the presence of SCR on the site and provide for a coal removal method statement to establish the quantum and methodology of removal (if any).
- 10.43 The submitted Coal Mining Risk Assessment also stated that a former mine entry was recorded during the intrusive investigation and that it is possible that this feature, and unrecorded mine entries, may still be present on the site itself. Section 10.0 'Further Works' of the Phase 2 Geoenvironmental Appraisal also identifies the requirement for, amongst other things, additional intrusive works (topsoil and made ground strip) in the south-eastern corner of the site to determine the presence or not of historic mine shaft and its potential zone of influence upon development within this part of the site. For

these reasons, it shall be conditioned that: a scheme of investigation in accordance with the submitted information be carried out; the reserved matters application details the relationship of the mine entry, its zone of influence to the development layout and any proposed remediation works are set out; and, the submission of a signed declaration making sure the site has been made safe. Subject to these conditions, the scheme is acceptable with regard to the historic coal mining legacy.

Carbon Budget / Climate Change

- 10.44 The Council approved Climate Emergency measures at its meeting of full Council on the 16th of January 2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority. 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.
- 10.45 In this case, in order to help lessen the impact of this development on climate change, it shall be conditioned that 10% of parking spaces be served by an electric vehicle charging points. This will mean the development accords with local and national policy with regard to carbon budget.

Required Planning Obligations

- 10.46 Policy LP63 of the KLP states that the Council will seek to secure well-designed new and improved open space [...]. New housing developments will also be required to provide or contribute towards new open space or the improvement of existing provision in the area, unless the developer clearly demonstrates that it is not financially viable for the development proposal. New open space should be provided in accordance with the council's local open space standards or national standards where relevant.
- 10.47 The adopted Open Space SPD sets out the Council's approach to securing off-site public open space financial contributions where a proposal provides a shortfall in the quantum of required on-site public open space. These planning obligations are required to improve the local public open space offer due to the increased impacts of new residential development on existing provision. The obligations cover a number of public open space typologies and are tailored to local need and the type of residential development proposed.
- 10.48 As a residential development comprising of 15 new dwellings, the required off-site public open space contribution for this application is **£33,604.32**. This figure breaks down to:
- Amenity Green Space – £5,995.88
 - Children & Young People – £6,817.81
 - Parks and Recreation – £8,330.57
 - Natural and Semi-Natural Green Space – £7,125.98
 - Outdoor Sports – £5,333.08

10.49 There is existing POS provision within 720m of the site which has been identified by KC Landscape as requiring enhancement as a result of the proposal. It is also unlikely that any meaningful POS would be provided on the site. As such, the financial contributions above should be allocated to enhance these existing facilities to improve the local public open space provision. The contributions would be sought via a Section 106 Agreement. As such, the proposal is considered to be in accordance with Policy LP63 of the adopted Kirklees Local Plan.

10.50 Following the above assessment of the proposal, a Section 106 Agreement will be required to secure the following Heads of Terms:

- A minimum of 20% affordable dwellings in perpetuity
- Off-site Public Open Space contribution of £33,604.32
- Off-site highways safety works contribution of £35,000
- Funds for a Traffic Regulation Order of £7,500
- Incorporation of a Management Company (drainage, highways, public open space)

Representations

10.51 During the public consultation, a total of 4 representations were received. Of these, 2 were received as objections and 2 as general comments.

10.52 The key points raised in OBJECTION are summarised and responded too as follows:

- Previous tree removal works on-site have led to flooding issues at adjacent properties.

Response: Noted and assessed in the report above.

- The submitted Geo-environmental Report and Flood Risk Assessments are inaccurate.

Response: These reports have been assessed by specialist consultees and are deemed suitable.

- Neighbouring dwellings already have issues accessing the highway from their driveways.

Response: Noted – the highways impacts are assessed in the report above.

- The area already experiences excessive traffic speeds which the proposal would exacerbate (particularly near the school).

Response: Noted – the highways impacts are assessed in the report above.

10.53 The key points raised as COMMENT are as follows:

- The area already experiences issues in relation to highway safety.
- A full road survey should be undertaken.

Response: Both these points are noted and the highways impacts are assessed in the report above.

10.54 Local Members (summarised):

Cllr Gwen Lowe (Batley West) – Concerns raised around highway safety and the number of dwellings proposed.

Cllr Shabir Pandor (Batley West) – Committee call-in request due to concerns about the number of dwellings being too high and additional traffic causing more congestion.

Officer Response: The overdevelopment matter and the highways matters have been assessed in full in the appraisal above. The density is considered to accord with the requirements of Local Plan Policy LP7. For the reasons given in the assessment above, the scheme is considered to not have a harmful impact on highway safety.

11.0 PLANNING BALANCE AND CONCLUSION

- 11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.2 This application has been assessed against relevant policies in the Development Plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval, subject to the imposition of the conditions as set out below and the satisfactory completion of a Section 106 Agreement.

12.0 CONDITIONS

1. Details of appearance, landscaping, layout, and scale (hereinafter called the "Reserved Matters") shall be submitted to and approved in writing by the Local Planning Authority no later than 3 years.
2. The development hereby permitted shall begin no later than 2 years from the date of approval of the last of the reserved matters.
3. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule.
4. The Reserved Matters referred to in Condition 1 shall include an Arboricultural Impact Assessment has first been submitted to and approved in writing by the Local Planning Authority.
5. There shall be no commencement of the development hereby permitted until a scheme detailing the location and cross-sectional information together with the proposed design and construction details for all new retaining walls and building retaining walls adjacent to the proposed/ existing highway has first been submitted to and approved in writing by the Local Planning Authority.
6. There shall be no commencement of the development hereby permitted until a scheme detailing the location and cross-sectional information together with the proposed design and construction details for all new surface water attenuation tanks/pipes/manholes located within the proposed highway footprint or influence zone of highway loading has first been submitted to and approved in writing by the Local Planning Authority.

7. There shall be no submission of any Reserved Matters application seeking approval of a detailed layout of development until a scheme of further intrusive site investigation to be completed.
8. Notwithstanding the submitted details, any application seeking approval of a detailed layout of development, shall be accompanied by:
 - the findings of the further intrusive site investigation (required by Condition 7 above);
 - the submission of an updated plan which identifies the relationship of the mine entry and its zone of influence to the development layout; and
 - any proposed remediation works and/or mitigation measures, as may be necessary, to address land instability arising from the recorded mine entry.
9. Prior to the first occupation of the development, a signed statement or declaration prepared by a suitably competent person confirming that the site has been made safe and stable for the approved development shall be submitted to and approved in writing by the Local Planning Authority.
10. Details of temporary arrangements for the storage and collection of waste.
11. Measures to protect the public water supply infrastructure that is laid within the site boundary.
12. The site shall be developed with separate systems of drainage for foul and surface water on and off site.
13. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have first been completed.
14. There shall be no commencement of the development hereby permitted until a detailed design scheme submitted.
15. There shall be no commencement of the development hereby permitted until an assessment of the effects of 1 in 100 year storm events has been submitted
16. There shall be no commencement of the development hereby permitted until a scheme, detailing temporary surface water drainage for the construction phase (after soil and vegetation/site strip) has first been submitted.
17. Details of external artificial lighting.
18. Submission of a report specifying the measures to be taken to protect the future occupants of the development from noise.
19. There shall be no submission of any Reserved Matters application seeking approval of a detailed layout of development until the recommended further works measures in Section 10.0 of the approved Phase 1 Geo-Environmental Report (ref: H17075 Revision 0, dated May 2018) have first been carried out.

20. Submission of a Phase II Intrusive where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to Condition 19.
21. Submission of a remediation strategy where deemed required pursuant to Condition 20.
22. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved.
23. Submission of a Verification Report by a suitably competent person.
24. Provision of electric vehicle charging points.
25. There shall be no commencement of the development hereby approved until a Construction Environmental Management Plan (CEMP).

Background Papers:

Application and history files.

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Certificate of Ownership: Certificate A signed and dated.