
Report of the Head of Planning and Development

DISTRICT-WIDE PLANNING COMMITTEE

Date: 09-May-2024

Subject: Planning Application 2022/92210 Outline application for erection of residential development (5 dwellings) Land rear of, 5 & 7, Oakes Lane, Brockholes, Holmfirth, HD9 7AR

APPLICANT

D, N & M Shaw

DATE VALID

04-Jul-2022

TARGET DATE

29-Aug-2022

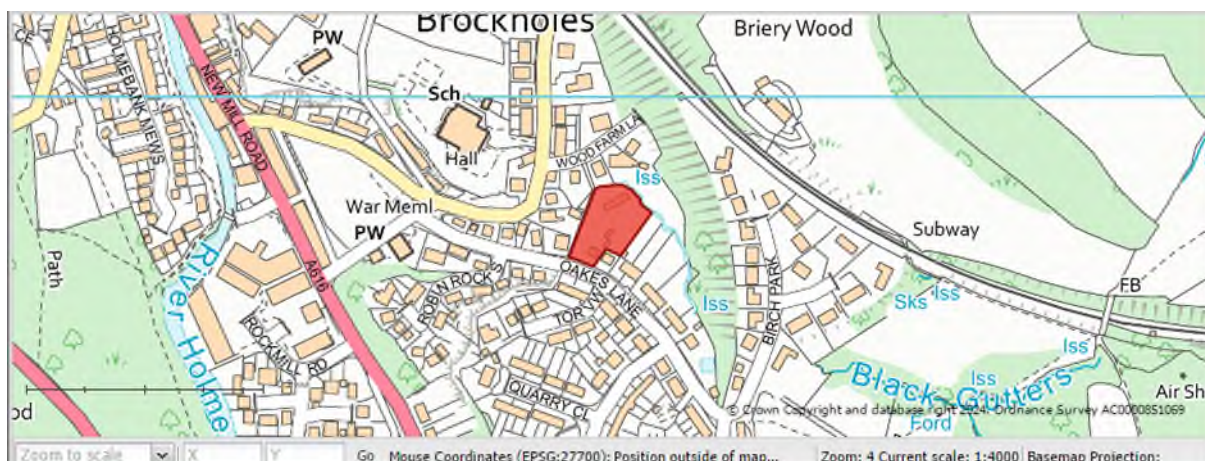
EXTENSION EXPIRY DATE

08-Feb-2024

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[Public speaking at committee link](#)

Location Plan



Map not to scale – for identification purposes only

Electoral wards affected: Holme Valley South

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION: 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:

- (i) The establishment of a management company and management plan to ensure that future maintenance of surface water drainage infrastructure is carried out in a satisfactory manner.
- (ii) Future management and maintenance of semi-natural open space within the site.

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 This application is brought before the District Planning Committee for determination under the terms of the Delegation Agreement owing to significant local objection having been made, and officers being minded to approve the application.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site comprises an irregularly shaped plot of land on the northern side of Oakes Lane, measuring at its greatest extent 72m north to south and 50m east to west. It incorporates 5 Oakes Lane, a two-storey stone-built detached dwelling and its curtilage, located in the south-western corner adjacent to the adopted highway. The remainder of the site consists mainly of featureless rough grass, although parts of the site show signs of having been informally used for domestic purposes, or as a smallholding, in the recent past. There is a large timber shed near the north-western corner and a small spar panel garage near the southern end.
- 2.2 The site slopes steeply from east to west. Running alongside the western boundary is a public footpath ('PROW') connecting Oakes Lane and Wood Farm Lane. The land levels also fall from south to north, where the site is bounded by an open watercourse to the north-east which joins a culverted watercourse further downstream, on the north-western boundary.

2.3 Adjoining the site to the south-east is another plot of land that lies to the rear of no. 8 Wood Farm Lane is similar in character to the application site, in that it consists of unmaintained rough grass with the remains of some small sheds or other buildings. Part of the application site also lies adjacent to 7 Oakes Lane, which faces Oakes Lane.

2.4 To the west is further residential development consisting of detached houses in a range of styles, some single-storey and some two-storey, on land that rises to the north-west.

3.0 PROPOSAL:

3.1 The proposal is for outline planning permission for the erection of five dwellings, and associated works. The application was originally submitted as outline with all matters reserved except access. It is now being assessed as for the principle of development plus access, scale, layout and appearance, with landscaping being the sole reserved matter.

3.2 The application proposes that a new access to the public highway will be formed, to the west of 5 Oakes Lane and to the east of the PROW, and that from this an access road will be constructed extending in a northerly direction into the site with a turning head positioned to the east. The access road would be artificially banked up to compensate for the steep east-west slope; its average height would be around 1.5m above existing ground levels and it would be supported by a retaining wall of approximately 2.5 to 3.0m in height. The proposed dwellings would be situated east of the new access road and average ground level would be reduced in order to build them, by roughly 2.0m in the case of Plots 1-3, but only slightly in the case of Plots 4-5.

3.3 Plots 1-3 would be in the form of a row of three townhouses, all of which would be three-storey when viewed from the front or west, and incorporating a garage at lower ground floor, but two-storey at the rear. Plots 4 and 5, which would be placed north of the turning head, would be in the form of a pair of semi-detached houses, two-storey only, and would lack garages. All of the five would have three bedrooms and would be provided with space to park two cars (either two external spaces, or one space plus garage, as appropriate).

3.4 The proposed materials are grey concrete tiles for the roof, natural coursed stone for the walls.

3.5 The banking to the west and north of the new access road would be maintained as semi-natural open space.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 Application site:

2001/90381 – Erection of three detached houses with accesses and garages. Refused and appeal dismissed. Reasons for refusal:

(1) The granting of planning permission would provide the opportunity for this greenfield site to be developed before currently identified brownfield housing sites and would therefore prejudice the presumption in PPG3 stating that brownfield sites should be developed before greenfield sites.

- (2) It is considered that the formation of and access onto Oakes Lane at this point is unacceptable on road safety grounds particularly having regard to the provision of adequate visibility splays and would therefore be contrary to the provisions of Policy T10 of the Kirklees Unitary Development Plan.
- (3) The proposal would be contrary to the provisions of PPG3 paragraphs 57 and 58 which state that Local Planning Authorities should avoid the inefficient use of land by avoiding developments of less than 30 dwellings per hectare. The application proposal is for a density of 12 dwellings per hectare.

Surrounding area:

None relevant to the consideration of this application.

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

5.1 19-Jul-2022: Case officer wrote to agent to formally direct for further details (layout, scale and appearance) under Article 5(2) of the DMPO.

23-Jan-2023: Plans, elevations, sections, drainage layout and assessment submitted (showing 6 no. dwellings) – readvertised by neighbour notification letter only.

22-Sep-2023: Amended drainage assessment and plan submitted.

03-Nov-2023: New plans, elevations and sections including reduction to 5 no. dwellings. Readvertised by neighbour notification letter.

The above were not re-publicised by press advertisement or site notice since it was considered that they did not raise new implications for the public footpath over and above the original submission.

18-Dec-2023: Further amendments to layout and design (bin collection point moved, details of ground levels rear of Plot 1)

29-Feb-2024: Culvert survey (video and still images) submitted.

09-Apr-2024: Climate change statement submitted along with amended plans annotating natural stone and adding solar panels.

These, and the 18-Dec amendments, were not subject to new publicity since they were not considered to raise substantial new issues that would require the opportunity for public comment.

6.0 PLANNING POLICY:

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019) and the Holme Valley Neighbourhood Development Plan (adopted 8th December 2021).

Kirklees Local Plan (2019):

- 6.2 The site is within land designated Strategic Green Infrastructure Network within the Local Plan proposals map.
- Part of the site is within a Coal Referral Area.
 - It is in the bat alert layer and approximately 25m from the edge of a Wildlife Habitat Network designation.
 - The site is 220m from a former landfill site. No part of the site is believed to be contaminated owing to past uses.
 - A Public Right of Way is immediately adjacent to the site.
 - **LP 1** – Achieving sustainable development
 - **LP 2** – Place shaping
 - **LP 7** – Efficient and effective use of land and buildings
 - **LP 20** – Sustainable travel
 - **LP 21** – Highways and access
 - **LP 22** – Parking
 - **LP 24** – Design
 - **LP 27** – Flood risk
 - **LP 28** – Drainage
 - **LP 30** – Biodiversity and geodiversity
 - **LP 31** – Strategic Green Infrastructure Network
 - **LP 33** – Trees
 - **LP 52** – Protection and improvement of environmental quality
 - **LP 53** – Contaminated and unstable land.

Holme Valley Neighbourhood Development Plan

The site is within Landscape Character Area 7 – River Holme Wooded Valley

The following policies are considered to be relevant:

Policy 1: Protecting and Enhancing the Landscape Character of Holme Valley

Policy 2: Protecting and Enhancing the Built Character of the Holme Valley and Promoting High Quality Design

Policy 6: Building Homes for the Future

Policy 11: Improving Transport, Accessibility and Local Infrastructure

Policy 12: Promoting Sustainability

Policy 13: Protecting Wildlife and Securing Biodiversity Net Gain.

Supplementary Planning Guidance / Documents:

- 6.3 The following Supplementary Planning Documents are deemed relevant:
- Highways Design Guide 2019
 - Housebuilders Design Guide Supplementary Planning Document 2021
 - Biodiversity Net Gain Technical Advice Note
 - Climate Change Guidance for Planning Applications
 - Waste Management Design Guide for New Developments

National Planning Guidance:

6.4 National Planning Policy Framework

- Chapter 2 – Achieving sustainable development
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 12 – Achieving well-designed and beautiful places
- Chapter 14 – Planning for climate change, flood risk and coastal change
- Chapter 15 – Conserving and enhancing the natural environment.

7.0 PUBLIC/LOCAL RESPONSE:

7.1 Publicity period (final neighbour notification regarding the amended plans) expired 30th November 2023. Publicity was undertaken, initially, by site notice and press advertisement in addition to neighbour notification letter since the development would affect the setting of a Public Right of Way, thereby fulfilling the requirements of the Development Management Procedure Order.

7.2 A total of 52 representations were made by 33 third parties – 51 objection, one comment. Of these, 30 were made as a result of the original round of publicity, 14 as a result of the second set of neighbour notification letters and 8 as a result of the third set of neighbour notification letters. Summary of concerns raised:

Highway and access issues:

- Rejection of 2001 application on highway safety grounds and traffic is heavier now than it was then.
- Not enough parking.
- The proposed access road is located right next to a footpath (known locally as the Duck Hole) that is the prime walking route from Oakes Lane for young children getting to the local school. During construction on the site and after completion, a road to cross here would be a serious hazard for children. In addition, Oakes Lane has no parking restrictions and parents dropping off and picking up children increasingly park on this road.
- Turning of fire and refuse vehicles.
- More traffic at the junction of Oakes Lane with Brockholes Lane. This is a difficult junction with poor visibility to the right when approaching down Oakes Lane. When planning was permitted for The Cutting in 2004, a section 106 condition was that the developers should construct a mini roundabout at this junction (but was never delivered).
- The opportunity to park on highway (at school pick-up and drop-off times) lost because of the new access road to Oakes Lane.
- Findings of speed survey are doubted, since many motorists actually do more than 30mph on this road.

- The traffic survey was carried out between 10:00 - 1600 hours thus avoiding the monitoring of busy school and work traffic. Therefore not a true reflection of the traffic conditions.
- Has use of footpath and incidence of on-street parking been monitored at peak times by Kirklees officers?
- Effective visibility to east is effectively less than 43m because it close to brow of hill.
- Traffic survey was not carried out at peak times.
- The plans don't show clearly any barriers or how the pavements will be laid out.

Design and amenity issues:

- The outline proposal is an over intensification of development on an infill site in a prominent position in the village. They would be out of context and not in character with the existing and nearby dwellings which are primarily bungalows.
- The proposed layout would result in a significant loss of visual amenity specifically for nos 5 and 7 Oakes Lane.
- If trees are removed the new houses will have an uninterrupted view into the private gardens of houses on Wood Farm Lane and Brockholes Lane.
- Overlooking caused by units 1-2.

Drainage and flooding:

- Kirklees Highways letter of 2/5/23 states that any retaining tanks culverts or pipes must be less than 900mm on any adoptable highway. Planning on 2 pipes of 800mm looks like an attempt to get around rules.
- The lowest point in the footpath has been subject to flooding for many years. Any development would need to ensure that the run-off water from hard landscaping does not increase this problem. In the surface water report supplied by Groundsure it states the risk of 1m of floodwater to be once every 30 years. This is completely inaccurate. Suggesting that it is a 1 in 100 or even 1 in 30 year event is not realistic given current climate worries. Frequent flooding will undermine the retaining walls of No 6 and No 8 Wood Farm Lane. Leaving this detail for the developers to negotiate at a later date without concrete assurances at this stage would be a mistake.
- The drainage assessment document has a fundamental error in placing the foul water pumping station at the top of the hill.

Other issues:

- Several significant housing developments in recent years are already putting pressure on the local school, infrastructure and facilities including at Lancaster Lane and 137 houses recently approved off Woodhead Road.

- There is no need locally for any additional large family housing in an area where there is an unmet need for single people, older people, accessible homes and affordable housing choices. Further development of “family housing” is more likely to attract people into the Holme Valley than meet existing local housing need.
- The land belonging to 5 Oakes Lane includes a grassed area adjacent to the Duckhole and at the North end adjacent to the gardens of No 6 and 8 Wood Farm Lane. The plan indicates the establishment of a wildflower meadow yet gives no explanation as to how this would be maintained or whose responsibility it would be. Equally, the green area running adjacent to the PROW appears to be outside the proposed property boundaries and there is no indication of who would maintain this area. The PROW is bordered by young birch trees and a Leylandii hedge but they have remain uncut and are currently impeding the footpath. The trees adjacent to the Duckhole have grown through the telephone wires to Nos 4, 6, 8 and 10 Wood Farm Lane and are likely to bring them down with strong winds. Clarification about maintenance is required.
- Impact on wildlife especially during construction
- Risk of mining subsidence?
- Noise disturbance during construction and subsequently.
- The updated ecological appraisal states in 3.4.5 states there is “moderate potential for foraging and commuting bats along the hedgerow and watercourse corridor However, thorough evaluation of bat activity could not be made during a daytime survey of the site” Evidence from residents shows that there are bats in this vicinity so further work needs to be done to ensure their area for foraging is not disturbed.
- Does not mention trees.
- No. 5 currently has a garage, but it appears this would become part of plot 1 and no garage space will remain.
- Covenant contained in a Conveyance dated 12th April 1927, which states: ‘... not to erect or build any dwellinghouse outbuilding or other erection whether of a temporary or permanent nature within twenty-five yards of the North-East boundary of the property’. The outline plan shows this Covenant area, but plots 1, 2 and 3 are located on its very edge. It would be essential for any purchaser of the proposed properties to be aware of this Covenant as no extension, conservatory, shed, etc. should be erected in this area. It would be extremely difficult for me/future occupants to ensure this is observed.

Holme Valley Parish Council comments: Oppose on the basis of:

- i. over-intensification
- ii. highways/access/sightlines
- iii. flooding
- iv. impact on the public right of way.
- v. The Parish Council would also expect more detail in a project of this size on sustainability and renewable energy generation as per the Holme Valley Neighbourhood Development Plan pp152-156 Policy 12: Promoting Sustainability, and should include a climate mitigation statement.

7.3 Ward Councillor Charles Greaves comments: The reduction in units [From 7 To 5] is welcome, but it would still be good to see some improvements to the quality of the footpath that runs to the west of the site.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

Yorkshire Water – conditional approval

The Coal Authority – conditional approval

8.2 Non-statutory:

KC Highways Development Management – Amended layout is acceptable subject to conditions.

KC Highways Structures – Original comments: no objection subject to conditions. Have made further informal comments on latest amendments which are reported in the assessment under “Drainage Issues”.

KC Environmental Health – No objection subject to conditions.

KC Lead Local Flood Authority (LLFA) – Permission can be granted subject to S106 Agreement.

KC Waste Collection – Have some concerns about layout but do not formally object. Would also recommend space for three bins per dwelling.

KC Public Rights of Way – Final comments awaited.

KC Ecology Unit – No objection subject to conditions.

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

10.1 Paragraph 47 of the National Planning Policy Framework (NPPF) which is a material consideration in planning decisions, confirms that planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. This approach is confirmed within Policy LP1 of the Kirklees Local Plan, which

states that when considering development proposals, the Council would take a positive approach that reflects the presumption in favour of sustainable development contained within the Framework. Policy LP1 also clarifies that proposals that accord with the policies in the Kirklees Local Plan would be approved without delay unless material considerations indicate otherwise. This also applies to Holme Valley Neighbourhood Development Plan (NDP) which is part of the adopted development plan.

- 10.2 The 2023 update of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land. The 2022 Housing Delivery Test (HDT) measurement, published December 2023, demonstrated that Kirklees had achieved a 67% figure of delivery of new homes built compared to housing needs over the previous three years, and as such failed the HDT as the delivery of housing had fallen below 75%. In such circumstances the presumption in favour of sustainable development applies. As the Council is currently unable to demonstrate a five-year supply of deliverable housing sites, it is necessary to consider planning applications for housing development in the context of NPPF paragraph 11 which triggers a presumption in favour of sustainable development. This means that for decision making “Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (NPPF Footnote 8), granting permission unless: (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (NPPF Footnote 7); or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”
- 10.3 The Council’s inability to demonstrate a five-year supply of housing land weighs in favour of housing development but has to be balanced against any adverse impacts of granting the proposal. The judgement for application, where applicable, will be set out in the officers’ assessment.
- 10.4 The site falls within land designated as Strategic Green Infrastructure Network within the Local Plan Proposals Map. This does not imply that there is a presumption against housing development, but Policy LP31 requires that planning decisions ensure that the function and connectivity of the network is protected, in addition to other considerations to be examined in detail in paragraphs 10.8 – below.
- 10.5 Policy LP7 states that developments should achieve a net density of at least 35 dwellings per hectare, where appropriate. It also identifies that proposals should encourage the use of previously developed land in sustainable locations and give priority to despoiled, degraded, derelict and contaminated land that is not of high environmental value. The site is not classed as “previously developed” within the meaning of the NPPF. It should be noted that under current Government guidance, there is no presumption that greenfield sites should not be developed if brownfield sites are available. This is a material change since the last planning application determined on the site.

- 10.6 The site being greenfield land therefore does not mean there is a presumption against development, and the first reason for refusal of application 2001/90381 therefore no longer carries any weight. This does not however imply that a development making “efficient use” of land will necessarily be acceptable – this will be assessed having regard to its compatibility with local character (see paragraphs 10.12-10.21 below).
- 10.7 Whilst the achievement of a mix of size and tenure in a multi-unit scheme is desirable, Policy LP11 specifies that schemes of more than 10 units or those covering an area of greater than 0.4ha should provide a mix reflecting the proportions of households that require housing and achieve a mix of house size and tenure. For a minor scheme, consisting of only five units, it would be unreasonable to treat this requirement as being mandatory.

Implications for Strategic Green Infrastructure Network (SGIN)

- 10.8 Under Policy LP31, development proposals should ensure:
- i. The function and connectivity of the green infrastructure network is retained or replaced;
 - ii. New or enhanced green infrastructure is designed and integrated into the development scheme where appropriate;
 - iii. The scheme integrates into existing and proposed cycling, bridleway and walking routes, particularly the Core Walking and Cycling Network, by providing new connecting links where opportunities exist;
 - iv. The protection and enhancement of biodiversity and ecological links, particularly within and connecting to the Kirklees Wildlife Habitat Network.
- 10.9 The site forms part of a SGIN designation which is over 1km wide (east to west) at this point. It is largely surrounded by built development, albeit at a low density, and by a long residential garden to the east. The site does not fall within extensive or unspoilt open countryside and it is considered that development would not harm the function or connectivity of the SGIN.
- 10.10 Under the layout shown, aside from the land used for the construction of the dwellings and access road, there would be remaining land which could be retained as soft landscaping, the details of which would be determined under a reserved matters application. This would also necessitate arrangements for the future maintenance of this land.
- 10.11 There is a PROW adjacent the site. It is important that its safety and usability are not negatively affected; this, along with any implications for biodiversity, will be considered in subsequent sections of the report.

Urban Design issues

- 10.12 Policy LP24(a) requires the form, scale, layout and details of all development to respect and enhances the character of the townscape, heritage assets and landscape. Principle 2 of the Housebuilders’ Design Guide SPD states that new residential development proposals should take cues from the character of the built and natural environment within the locality, complementing the surrounding built form, illustrating how landscape opportunities have been used in the approach to the local context. Holme Valley NPD Policy 1 states that new

developments should respond to the Landscape Character Area (LCA) in which they are situated. Policy 2 requires development to strengthen local character and sense of place and that it should neither dominate nor have a detrimental impact on its surroundings and neighbouring properties.

10.13 The site lies within LCA 7 – River Holme Wooded Valley. Key characteristics of the area are:

Landscape characteristics:

- Glimpsed views towards the wider landscape through gaps between built form.
- Views across the wooded valley floor from elevated vantage points such as from Christ Church New Mill and Holy Trinity Church Hepworth.
- Stone boundary walls are common features.
- A network of Public Rights of Way (PRoW) crosses the landscape including a section of the Barnsley Boundary Walk, the Kirklees Way and the Holme Valley Circular Walk.

Built characteristics:

- Settlements characterised by a close association between built form and landscape.
- Industrial heritage features such as weirs and mill buildings.
- Mounds and hollows, which are the remains of shallow tunnels created for coal mining, as well as piles of shale material and the remains of plateways (flat stones laid across fields to assist with vehicle movement), are also found across the moorland and fields.

10.14 The site occupies a position close to the edge of the built-up part of Brockholes. Development within a 100m radius of the site consists mainly of small- to medium-sized detached houses on compact plots, with townhouses on the Oakes Lane frontage. To the north-east, on Wood Farm Lane, there are some larger houses on more generous plots, some of which are bungalows. In the wider settlement, densities are generally high, with terraced housing in the older part of the village and especially on the New Mill Road frontage, although housing density generally remains high even at or close to the settlement edge (for example, at The Cutting and the lower part of Oakes Lane south of the site, and River Holme Mews and Holme Bank Mews to the west of the site).

10.15 The proposed dwellings and associated works would be built on land that is presently undeveloped, as is the adjoining land to the east, and is also steeply sloping. From viewpoints west and north of the site, the new dwellings would be seen to occupy a position near the top of a steep slope – land continues to rise beyond them to the east, but the gradient is gentler. They would be seen in the context of land that is in use as residential gardens (to the north and further east) but also in the context of land that has semi-natural characteristics owing to the presence of the wooded watercourse at the northern end of the site and the more distant belt of mature woodland to the east and north-east. Any proposal for development on this site could therefore be perceived, at least from some viewpoints, as an extension of built development into the countryside.

- 10.16 It is considered that the scheme as originally proposed, owing to the quantum of development (seven units) and the prominent position of the turning head which would be raised significantly above ground level, would have amounted to overdevelopment of the site and would have been out of keeping with the low- to medium-density character of its immediate surroundings. On the plans now under consideration, the quantum of development has been reduced to five units. The developable area of the site (not including access road, turning head and landscaping) is approximately 1,245sqm. This would give rise to a net density of 40 per hectare. This is somewhat higher than that of the existing development located between Oakes Lane and Brockholes Lane, but is comparable to the newer development on Robin Rocks on the opposite side of Oakes Lane. It is considered that it would represent an efficient use of land and an appropriate density in this location. This overcomes the third reason for refusal of application 2001/90381.
- 10.17 It is noted that three of the new houses would be up to three storeys in height. There are no precedents for three-storey development adjacent to the application site, but it should be noted that Plots 1-3 would only appear as three-storey dwellings when viewed from the front. They would present a two-storey aspect to the rear. Furthermore, there is at least one recent precedent for three-storey residential development in Brockholes – many of the dwellings on The Cutting, just over 200m from the application site, present a three-storey aspect to the highway. By being three-storey at the rear and two-storey at the front, the new dwellings would accommodate themselves to the local topography.
- 10.18 First-floor level in Plot 1, the highest dwelling on the site, as shown on the sectional drawing, would be a similar height as ridge level in 3a Oakes Lane, 700mm higher than the ridge height of 4 Wood Farm Lane, a bungalow, and 1.4m lower than that of no. 6 Wood Farm Lane, a two-storey house. Nos. 56-58 Brockholes Lane are not shown on the existing topographical survey so it is not possible to tell how high the development would be in relation to these properties. It is however clear from the sections and contextual elevations that even Plot 1 would have a floor and ridge level below that of no. 5 or no. 7 Oakes Lane. It is therefore considered that the proposed new dwellings would not be seen to tower over or dominate their surroundings. The proposal would unavoidably require considerable land-raising to create a useable access road. The outer face of the retaining wall would be approximately 2.5m in height, and higher than this in places. High retaining walls are not a common feature in Brockholes. The reconfiguration of the access road to have the turning head to the east instead of to the west does however result in a less engineered solution than on the earliest version of the plans, and allows the retention of more land as soft landscaping. Provided that the retaining wall is faced in natural stone, which can be conditioned, it is considered that it would not detract from the appearance of the area.
- 10.19 It is considered that roof style and design detail, including fenestration, would be appropriate for the area and would fit in with the appearance of local development. The latest version of the plans confirms that natural stone is to be used as a walling material, in accordance with the aims of Holme Valley NDP Policy 2.8. Design and height of boundary treatments for the side boundaries of plots have not been indicated on the plans, so details of this would also need to be the subject of a condition.

- 10.20 The development would not result in the loss of views of or across the wider landscape. It would result in the loss of a short stretch of boundary wall to form the new access, but aside from this it is considered that it would not result in the loss or degradation of any of the features of importance as highlighted in the LCA or cause local character to be weakened.
- 10.21 The development would include some land retained as public open space, most of which would lie between the access road and the PROW. This would not be useable as recreational open space owing to its steep gradient, but if maintained appropriately it would have the potential to enhance both the visual amenity and biodiversity value of the site (see paragraph 10.63-68 below). To ensure that this area is suitably landscaped and maintained thereafter, the developer should be required to enter into a Section 106 agreement to ensure that the land is managed in perpetuity.
- 10.22 In conclusion, it is noted that the development would be placed within an area in which there is a mix of house types and styles, that high-density development is common within the wider settlement, and that the proposal represents an appropriate response to the local context in making efficient use of the land whilst conserving the amenity of the area. It is considered that, subject to the walling stone being of a type to closely match that used in the vicinity, and suitable roofing materials being chosen, which can be conditioned, the development would comply with the aims of LP24(a) and (c), Policies 1 & 2 of the Holme Valley NDP, the principles within the Housebuilders' Design Guide SPD, and the relevant parts of NPPF Chapter 12.

Residential Amenity

- 10.23 The following principles within the Housebuilders' Design Guide SPD are of relevance.

Principle 6 – Residential layouts must ensure privacy and avoid negative impacts on light, having regard to the following standards:

- 21 metres between facing windows of habitable rooms at the backs of dwellings;
- 12 metres between windows of habitable rooms that face onto windows of a non-habitable room;
- 10.5 metres between a habitable room window and the boundary of adjacent undeveloped land; and
- for a new dwelling located in a regular street pattern that is two storeys or above, there should normally be a minimum of a 2 metres distance from the side wall of the new dwelling to a shared boundary.

Paragraph 7.20 states: "There are several design solutions that allow for reduced distances between buildings such as: The angles of facing elevations and the orientation of the buildings; The size, angle and design of upper storey windows to minimise overlooking, including off-set windows and giving consideration to the advice set out in Principle 14; The internal layout of dwellings, to maximise distances between habitable rooms; Appropriate screening and boundary treatments, such as planting, fences, walls and ancillary outbuildings; Parts of the building that project from the rear elevation to obscure views."

Principle 16 – all new dwellings to have sufficient floor space to meet basic lifestyle needs, having regard to the Nationally Described Space Standards. The Council recognises the nationally described space standards as best practice to ensure that new homes are able to meet basic lifestyle needs and provide high standards of amenity for future occupiers. These are not currently adopted in the Kirklees Local Plan. The council will seek to adopt such a policy in the future in accordance with evidence and in the meantime will seek to ensure high quality living environments through the application of Local Plan policy LP24 (Design).

Principle 17 – All new houses should have adequate access to private outdoor amenity space that is functional and proportionate to the size of the dwelling and the character and context of the site.

10.24 Holme Valley NDP contains no specific guidance on standards of residential amenity in new housing developments, but Policy 2.10 states that proposals “should be designed to minimise harmful impacts on general amenity for present and future occupiers of land and buildings”.

10.25 Total floorspace within each dwelling would be 123sqm for plots 1-3 (excluding integral garages) and 96sqm for Plots 4-5. In both cases, this would be above the recommended minimum for a dwelling with three bedrooms (two double in one single), this being 99sqm and 93sqm for a three-storey and two-storey dwelling respectively in the Nationally Described Space Standards (NDSS). Individual bedroom sizes would also be equal to or above the minimum set out in the NDSS. It is considered that the proposed dwellings would enjoy an acceptable outlook and would be able to receive sufficient levels of natural light, including direct sunlight.

10.26 The amount of residential garden space per dwelling, whilst varying between units, is considered in each case adequate for a three-bedroom house. The garden areas would be able to receive direct sunlight.

10.27 The proposed dwellings would all have their habitable room windows facing north-west (front) or south-east (rear). To the front, the distance between the new windows and those in opposing dwellings would be comfortably in excess of the recommended 21m. For Plots 1-2, however, the distance between rear-facing habitable room windows to the nearest existing windows (those in the northern elevation of 7 Oakes Lane) would fall short of the 21m normally required. No.7 has four windows in its own rear elevation, all of which are clear-glazed. It has not been possible to obtain plans showing the internal layout of this property, but within the ground floor, the more easterly of the two windows appears, from an external viewing, to be a kitchen, while the more westerly (and larger) window is assumed to be a lounge or dining room. The function of the two upper floor rooms is unknown, but as they are both clear-glazed, it is probable that they are bedrooms, or at least have the potential to be used as bedrooms.

10.28 In the case of the more westerly windows in no. 7, there would be no possibility of window-to-window overlooking because the angle would be too oblique. Even in the case of the easterly windows, a direct line between the nearest bedroom in the new dwelling, and the existing windows in no. 7, would be 11.5m distance but at an angle of 50 degrees from the direct, perpendicular line of sight from Plot 1's bedroom. The new and existing windows would in

effect be looking across rather than towards each other. It is, furthermore, noted that the new dwellings would be set lower than no. 5 and no. 7, so that even the uppermost storey would be at roughly the same level as the ground floor accommodation in no. 7. This is confirmed by the levels and eaves heights provided as annotations on the drawings which shown no. 7 Oakes Lane with an eaves level of 142.61m above Ordnance Datum, the new dwelling with an eaves level 139.9m above Ordnance Datum.

- 10.29 No. 7's rear garden is bounded by a high hedge. The development would not exclude any possibility of a view from the new bedroom windows into no. 7's rear garden, but again this would be oblique – the direct line of sight would not be towards the garden but towards the garage at the rear of no. 9. Mutual overlooking between the windows in no. 7 and the new Plot 1's rear garden must also be given due consideration. The rear windows in no. 7 are only 3.5m from the common boundary, on average. Along the section line 2A-2A, the drawings show that ground levels would be reduced by an average of about 350mm. The section line is however taken near the northern end of the plot where ground levels are already lower, so the closer to no. 7, the greater the reduction in ground levels would be. Full details of all relevant levels within the garden can be determined within the context of an application for reserved matters (landscaping), but for the avoidance of doubt a condition can be imposed at the outline stage. It is considered that the reduction in ground levels would prevent any intrusive overlooking occurring between Plot 1's garden and the windows in no. 7. Whilst the users of the new garden might feel themselves to be overlooked, any prospective purchaser would of course be aware of this before moving in.
- 10.30 In conclusion, whilst the relationship between the two properties would not comply with the recommended 10.5m distance between a habitable room window (in the existing 7 Oakes Lane) and adjacent land (the new garden to Plot 1) it is considered that this arrangement would not be intrusive.
- 10.31 No. 5 Oakes Lane has its main outlook to the east and west. As such, future occupants' outlook and ability to enjoy privacy would not be affected in any way by the new development. It is considered that the property would also be left with a satisfactory amount of useable amenity space.
- 10.32 It is considered that there are no sources of noise within the vicinity of the site that could adversely affect future residents' quality of life.
- 10.33 As a conclusion to this section, it is considered that the design of the proposed development would allow future residents to enjoy a good standard of amenity. It is considered that the scale, siting and orientation of the new dwellings, subject to the net reduction in ground levels in the rear garden of Plot 1, would avoid giving rise to any material loss of privacy or overbearing impact on any existing residential properties. The proposed development is therefore considered to be compliant with the aims of LP24(b) and Policy 2(10) of the Holme Valley NDP and Principles 6, 16 and 17 of the SPD.

Highway issues

- 10.34 The development would take access to Oakes Lane, an adopted but unclassified road, by means of a new access. An access statement by Paragon Highways has been submitted in support of the application. The statement envisages that the new development would generate up to six vehicle movements per peak hour. It includes speed survey which finds that the wet weather 85th percentile speed of traffic is no more than 26 mph along Oakes Lane in the vicinity of the access which would require splays of 2.4m x 36m in accordance with SSD (standard stopping distance) values contained within Manual for Streets. The purported visibility splays achievable are 2.4m by 43m. In practice the visibility to the left (east) would possibly be less than this owing to the gradient. Land rises in this direction, and intervisibility would eventually be interrupted by the brow of the hill. The Highway Officer and planning case officer, however, recently undertook a joint site visit and found, by taking measurements from a driver's eye position between the proposed access point and a point 36m up the road, that the required sight line of 2.4 x 36m would in fact be achievable in this direction.
- 10.35 The internal access road would be 5.5m in width. It would contain a turning head that would allow private cars to turn. The road would not be laid out to an adoptable standard, but it is considered to provide a safe and satisfactory means of access for the number of dwellings it serves. Swept paths also demonstrate that a fire appliance can access the site.
- 10.36 Earlier versions of the proposal demonstrated by way of swept-path analysis that there would also be room for a refuse collection vehicle to turn. Kirklees' Highway Design Guide recommends a clearance of 0.5m from the carriageway edge, which would not be adhered to in this case. The layout now under consideration indicates that kerbside collection will be undertaken – there would be a shared bin collection point approximately 9m in from the highway boundary (at its closest point) so that refuse can be conveniently collected without refuse collection vehicles needing to enter the site. The only disadvantage of this arrangement is that the shared presentation point would in some cases require householders to drag their bins more than the recommended 25m on collection day. The Waste Operations Manager has expressed concerns about this, but it is noted that similar arrangements have, in the recent past, often been deemed acceptable for new developments served by unadopted roads. In this instance it is considered that the arrangements shown are the best that are achievable in the circumstances.
- 10.37 Each dwelling would be provided with space to park two cars. In the case of Plots 1-3, this would consist of one external parking space and a single integral garage which would comply with the minimum standards for internal space (3m x 6m). Since all the new units would be three-bedroom, the provision of parking spaces would comply with the recommendations of the Highway Design Guide SPD. The SPD also recommends that visitor parking should be provided at the rate of one space per four units. The provision of a single visitor space is judged acceptable in this instance as being commensurate with the SPD standard.

- 10.38 A Public Right of Way (PROW) runs alongside the western boundary of the site – footpath HOL/32/50, connecting Brockholes Lane with Oakes Lane. The access would be separate from the PROW and the junction has been designed so that the path of vehicles using it would not cut across the path taken by pedestrians emerging from the PROW on to the public footway to Oakes Lane. It is therefore considered that the development would not affect the safety of future users, or significantly change the setting of the PROW.
- 10.39 The plans do not make any provision for secure cycle storage. There is however space to fit lockable cycle sheds into the proposed layout, which can be the subject of a condition thereby supporting the aims of LP20 and LP47(e).
- 10.40 There are no reasons to believe that the formation of the retaining walls and raised access road within the site would endanger the stability of the adopted highway, but since they would be in close proximity to the PROW already referred to, it is recommended, in line with the advice of the Highway Structures Team and in support of the aims of Policy LP53, that conditions be imposed on the design and construction details of any new retaining structures and of all new surface water attenuation tanks/pipes/manholes located within the proposed highway footprint or influence zone of highway loading.
- 10.41 The Inspector's appeal decision letter for the 2001 application concluded that intervisibility for the development then proposed would be inadequate. This was however on the basis that sight lines of 2m x 70m would be required (in accordance with the guidance document in force at the time, Design Bulletin 32). Furthermore, no. 5 Oakes Lane was not within the application site boundary, so the applicant's ability to provide sight lines and ensure their retention in perpetuity would have been more limited. It is considered therefore that the circumstances and policy context that led to application 2001/90381 being refused on highway safety grounds were materially different to those that exist today and would not provide a precedent for refusing the current application.
- 10.42 To conclude, Highways Development Management raised several concerns about the plans as originally submitted (June 2022) owing to lack of detail concerning the adequacy of parking arrangements, lack of clarity about how the new junction would interact with the PROW leading to possible pedestrian safety risks, and the general layout (originally envisaged as serving seven dwellings) falling short of adoptable standards. All of these concerns have been satisfactorily addressed by the submission of amended and additional plans. The proposal is now considered to comply with the aims of Local Plan policies LP21 and LP22 and Holme Valley NDP policies 6(2) and 11. It is therefore recommended that outline permission can be granted subject to conditions. The following conditions are recommended: that a detailed scheme for the proposed estate road is submitted and approved; the access, turning head, and waste storage and collection points are laid out before the development is occupied and thereafter retained; a schedule of the means of access for construction traffic submitted and approved (since there is no existing vehicular access to the site); details of facilities for cycle storage submitted and approved.

Drainage and flood risk

- 10.43 No part of the site lies within Flood Zones 2 or 3. Part of the site – approximately 20% of the site area, lying close to the north-western corner – is, according to Kirklees maps, deemed likely to flood once in every 200 years. The main source of flooding is likely to be from the watercourse, occurring when the culvert is unable to discharge the required volumes of water quickly enough in extreme rainfall events.
- 10.44 Since the proposal is classed as Minor development and is within Flood Zone 1, a Flood Risk Assessment is not required for validation. A Drainage Assessment (September 2023, Rev D) has however been submitted. It notes that the site is drained by a watercourse which flows into a culvert and which is protected by a trash screen. It is proposed that this continues to be used as the means of surface water disposal from the development. The applicant undertook an internal CCTV survey of the culvert in accordance with LLFA advice.
- 10.45 The Drainage Assessment refers to an Environment Agency (EA) surface water flood map that shows an area within the northern part of the site which floods. Floodwater originates from the small watercourse which runs parallel with the northern boundary of the site and flooding is generated at the entrance to the culvert. The Drainage Assessment identifies the area vulnerable to flooding as being that part of the site lying north-west of the large timber shed, which corresponds to the area thus designated on the Council's mapping system and the EA map. The EA model assumes that the channel and culvert capacity is only capable of storing the 1 in 2 year event, which may overestimate the frequency of flooding. However, if the existing culvert entrance becomes blocked or the trash screen is not cleared, regular flooding could occur by overtopping the culvert headwall and flowing towards the dwellings to the west of the site. This means that, in practice, this part of the site is likely to flood more than once every 200 years under present conditions.
- 10.46 The flood map estimates that the flood depths (on the existing site) will vary between 900mm and 1200mm. The plan at Appendix A of the Drainage Assessment shows the existing flood route which initial weirs over the culvert headwall at a level of 128.46mOD and then flows downstream to the public footpath where the lowest level is 127.64mOD. Based on a flood depth of 1.2m at this point it is estimated that the worst-case scenario flood level would be 128.84mOD (127.64m + 1.2m = 128.84mOD). The Drainage Assessment recommends that the flow path remains unobstructed, as damming across this area to reduce downstream risk could impact on upstream developments.
- 10.47 It is normal practice to ensure that below-ground storage is provided to contain run-off arising from the 1 in 30-year event. Alternatively, if the site is sensitive, the developer may choose to provide attenuation storage for the 1 in 100-year event. The developer has adopted this approach here and proposes to provide 55.9m³ of storage which is the calculated requirement for the 1 in 100 year plus climate change (40%) event that will be required during a 480 minute storm duration. Storage was originally proposed to be in the form of a tank located towards the northern end of the site but is now to be in the form of two parallel pipes of 900mm diameter extending 50m from south to north. It is proposed that the piped drainage systems and attenuation structure would be designed to an adoptable standard and would either be adopted by the Yorkshire Water or maintained by private management company.

- 10.48 Retaining walls will, as already acknowledged, be required to support the access road. The position of the retaining structures will, at most, very minimally encroach upon the areas that are deemed potentially vulnerable to flooding. It is therefore considered that the development would not result in a worsening of flooding outside the site by displacing water.
- 10.49 The proposed new dwellings and the access road serving them would all, even at their lowest point, be above 128.9mOD, which is calculated to be the minimum height to ensure these areas remain dry during a blockage scenario.
- 10.50 The proposed development, furthermore, would result in improved access to the headwall and trash screen. It is recommended it is a condition of granting planning permission that the trash screen is removed and replaced with a trash screen that is assessed by the LPA in consultation with the LLFA.
- 10.51 In conclusion, based on available information, future residents of the new development would not be put at risk from flooding, nor would the development give rise to increased risk of flooding for other land or property downstream or in the vicinity of the site. Disposal of surface water would be by means of an existing culverted watercourse which is, in principle, one of the more sustainable options within the drainage hierarchy. It is recognised that the existing culvert does not always have capacity to discharge water from the site during heavy rainfall events. The installation of a drainage system based on attenuation storage would, with a suitable maintenance plan, ensure that peak discharge is no greater than it is now, notwithstanding that the development would result in a net increase in the amount of impermeable surfacing within the site. The development would, subject to the developer entering into a Section 106 Agreement to establish a management company to maintain and oversee the drainage infrastructure in perpetuity, ensure the safe and sustainable disposal of surface water and avoid increasing flood risk.
- 10.52 The Drainage Assessment also considers foul drainage. There is a 225mm diameter combined sewer within Oakes Lane which passes the site entrance. The sewer plan is provided at Appendix E. Due to site levels; a small package pumping station is proposed to lift foul sewerage from the lower part of the site into the combined sewer as illustrated on the drainage drawing at Appendix C. A method involving pumping would not be acceptable for the drainage of surface run-off water but is deemed acceptable for the disposal of foul sewage. Yorkshire Water consider the overall layout to be satisfactory and recommend that approval can be granted subject to conditions that (i) the site shall be developed with separate systems of foul and surface water drainage which should extend to the points of discharge to be agreed, and (ii) that there be no piped discharge of surface water until works to provide a satisfactory outfall have been completed. These would in effect be covered by the proposed LLFA conditions in the paragraph below and it would be the LLFA conditions that would be imposed.
- 10.53 LLFA recommend that four conditions should be imposed on the outline permission. These are: (i) detailed drainage scheme including outfall design, balancing works, plans and longitudinal sections, hydraulic calculations, phasing of drainage provision; (ii) details of new trash screen for the watercourse; (iii) assessment of the effects of 1 in 100-year storm events, with an additional allowance for climate change, blockage scenarios and

exceedance event; (iv) a scheme for temporary surface water drainage on drainage infrastructure and watercourse within the site boundary; all to be submitted to and approved in writing by the Local Planning Authority. The first two would require a maintenance and management plan, including the setting up of a management company, which it is recommended should be achieved by the Council and the developer entering into a Section 106 Agreement.

10.54 The Highway Structures Team have confirmed that the installation of any new pipes of 900mm diameter or more (for water attenuation or any other purpose) would be classed as a structure and would, in the event of the road being adopted, therefore need to demonstrate compliance with the CDM (Construction Design and Management) regulations, including the requirement for a 1.8m manhole. As the estate road would not be adopted, this is not an obstacle to granting planning permission, the liability issues for future inspection of the pipes would be with the developer/future owners.

10.55 To conclude this section, it is considered that subject to the above conditions, and the developer entering into a Section 106 agreement to ensure that satisfactory arrangements for management and maintenance are entered into and retained in perpetuity, the development would ensure the disposal of foul and surface water in a safe and sustainable manner and would not result in either the new development or any third-party land from being exposed to any increased risk of flooding. It would thereby support the aims of Policies LP27 and LP28 of the Local Plan.

Other Matters

Climate Change:

10.56 On 12th 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. At the time when the application was submitted, the submission of a Climate Change Statement (CCS) was not a standard validation requirement. A CCS has been submitted subsequently and contains the following proposals:

- The dwellings will be highly insulated beyond the minimum standards set out in the Building Regulations;
- Materials sourced locally where possible;
- Solar PV panels to be fitted to the south-eastern roof slope;
- The dwellings would benefit from both morning and evening sunlight due to their orientation.

- 10.57 The latest elevational drawings (Revision E) show an array of nine solar panels fitted to the rear elevation of each new dwelling. It is recommended that this should be the subject of a prescriptive planning condition. The provision of electric vehicle charging points for new dwellings would now be enforced through Building Regulations and there is no requirement to impose a planning condition to this effect.
- 10.58 Brockholes Local Centre located approximately 200m from the site. It does not provide a very large range of shops or services but there is a bus stop on New Mill Road, approximately 250m away, providing a more than hourly service to Huddersfield Town Centre. It is also conveniently situated for Brockholes Junior and Infant School (approximately 250m away). It is therefore considered that the location of the site will allow future residents to fulfil at least some of their daily and weekly needs without the use of a private car. The site is therefore considered to be in a moderately sustainable location.
- 10.59 To conclude, it is considered that this proposal would support the aims of carbon reduction and climate change mitigation as set out in Policy LP24(d) of the Local Plan and Policy 12 of the Holme Valley NDP.

Coal mining legacy:

- 10.60 Just over 10% of the site lies within a Coal Referral Area, meaning that mining legacy issues may be significant. A Coal Mining Risk Assessment has been submitted which observes that there is a recorded adit (former mine entrance) in the vicinity of the site. Available records indicate that this is located approximately 7m west of the site boundary, although potential plotting inaccuracies may mean this is out by several metres. Based on the presumed position of the adit, part of the northern stretch of the new access road would be within its zone of influence, but only marginally – the dwellings themselves, and their curtilages, would be outside it. Any new build within the zone of influence of an adit (that is, within a zone in which land stability might be affected if the adit were to collapse) should, as a general principle, be avoided, but may be permissible if it can be demonstrated that a suitable engineering design to be developed and agreed to take account of all the relevant safety and environmental risk factors including gas and mine-water.
- 10.61 The Coal Authority have confirmed that, in their view, the site is in principle capable of being developed, and that based on the layout now being considered, remaining coal mining legacy issues can be dealt with by pre-commencement conditions. These would require a scheme of intrusive investigations to determine the exact position of the former mine entrance and, if appropriate, a programme of remedial works, before development commences. The granting of planning permission subject to such conditions would accord with the aims of LP53 and the aims of Paragraph 180(e) and 189(a) of the NPPF which state that planning policies and decisions should prevent new development from contributing to, or being put at risk from, land instability and that a site is suitable for its proposed use.

Land contamination issues

- 10.62 No part of the site is known or believed to be contaminated owing to former uses. Kirklees records however indicate the site is within 250m of historic landfill. A Phase I Desk Study Report authored by Abbeydale dated February 2022 (ref: 632003DS) has been received in support of the application.
- 10.63 The submitted Phase 1 report identifies several potential pollutant linkages and recommends an intrusive site investigation prior to redeveloping the site. Environmental Health officers have assessed the report and note that the conceptual site model refers to mine gases but does not acknowledge the presence of historic landfills within 250m of the site. For these reasons, the Phase I Desk Study Report is not considered to provide a comprehensive or accurate view of potential environmental hazards – specifically, landfill gas – to future users. It is considered however that this can be remedied by the imposition of the full set of contaminated land conditions, including for a revised Phase 1 report to assess potential risks from landfill gases at the site and make suitable proposals for ground gas monitoring as part of the Phase 2 investigation. In addition, the investigations should also include assessment of potential mine gas. Subject to this it would fulfil the need to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

Ecological issues

- 10.64 The site is in the bat alert layer and within 30m of land designated as part of the Wildlife Habitat Network. A Preliminary Ecological Appraisal (PEA) has been submitted with the application. This finds the site to have moderate ecological value on account of the hedgerows and trees. It finds that there are no features within the survey area that would have the potential to serve as bat roosts, although there is some foraging potential for bats along the hedgerows and the watercourse boundary, and that if these hedgerows are to be removed there could be an impact on bats that use these to forage and commute. Furthermore, vegetation within the survey area provides opportunities for nesting birds during the nesting season, which extends from March to September, inclusive, each year. There are also a number of bird boxes around the site on trees and on Building 4.
- 10.65 The application was submitted before the Environment Act and subsequent guidance which made 10% biodiversity net gain (BNG) mandatory for new built development. Under Local Plan policy LP30 and HVNDP policy 13, however, all new development should enhance the biodiversity of the site in as far as is reasonably practicable.
- 10.66 The PEA recommends that in order to provide biodiversity enhancements in line with the NPPF, bat and bird boxes are put up on the site during works. It also recommends that any landscaping of the site includes native tree and shrub species, including fruit and berry-bearing species to provide food and shelter for a variety of species. These suggestions could form the basis of a Landscape and Ecological Management Plan, which can be conditioned. This would be further safeguarded by the developer entering into a Section 106 Agreement to maintain and manage the proposed semi-natural open space, as previously set out in this report.

- 10.67 The PEA notes the presence of Himalayan Balsam on site. A condition will be needed to ensure its thorough and methodical removal.
- 10.68 The Ecology Officer has evaluated the PEA and recommends that outline permission can be granted subject to the conditions recommended above. Several local residents have alerted officers to the site being used as foraging grounds by a protected species. The Ecology Officer has been made aware of this and, whilst not recommending further survey work at this stage, has advised the case officer that as a precautionary measure, two further conditions should be added. These are: that the Reserved Matters application for landscape should be supported by an updated ecological assessment, supported by any protected species surveys that may be required; that a Biodiversity Construction Environmental Management Plan (CEMP – Biodiversity) which shall include a risk assessment of potentially damaging construction activities (specifically related to bats, birds, badgers and hedgehogs) and practical measures to avoid or minimise any impacts.
- 10.69 In conclusion, the available evidence indicates that the development, subject to conditions, will avoid harm to any protected species and will achieve a degree of biodiversity net gain as required by Policy LP30 of the Local Plan, Policy 13 of the Holme Valley NDP and NPPF Chapter 15.

Refuse storage and collection

- 10.70 Each of the new dwellings would have a designated area for the storage of two refuse containers. For Plots 1 and 2, this would be at the front of the new dwelling; for others, it would be at the side. The plans indicate that some, but not all, of these would be screened from public view. To ensure that the bin stores have no undesirable impact on the street scene, as required by paragraph 9.13 of the Housebuilders' Design Guide SPD, it is recommended that a condition is imposed requiring further details to be submitted. The Waste Management team have requested that space be made for a third bin, for the collection of garden waste, and it is recommended that the wording of the condition reflects this.

Trees

- 10.71 There are some small trees within the site, mostly near the northern end. None of these are presently the subject of a preservation order and it is considered that none provide significant levels of public amenity. They are therefore not considered worthy of preservation, having regard to the aims of Policy LP33, and there are therefore no objections to their removal during the development process.

Representations

- 10.72 The comments made are summarised in the paragraphs below with officer responses. Public comments are assessed first.

Highway and access issues:

Rejection of 2001 application on highway safety grounds and traffic is heavier now than it was then.

Response: Reason for refusal (2) made reference to inadequate visibility splays. This concern has been overcome as set out in detail above.

Not enough parking

Response: The amount and layout of parking is acceptable having regard to the standards set out in the Highway Design Guide SPD.

The proposed access road is located right next to a footpath (known locally as the Duck Hole) that is the prime walking route from Oakes Lane for young children getting to the local school. During construction on the site and after completion, a road to cross here would be a serious hazard for children. In addition, Oakes Lane has no parking restrictions and parents dropping off and picking up children increasingly park on this road.

Response: The modifications made during the course of the application have resulted in a satisfactory layout that would prevent safety risks to users of the PROW.

Turning of fire and refuse vehicles.

Response: The turning head provides satisfactory turning provision for a large vehicle, although as previously stated, it is envisaged that refuse collection would be from the existing adopted highway.

More traffic at the junction of Oakes Lane with Brockholes Lane. This is a difficult junction with poor visibility to the right when approaching down Oakes Lane. When planning was permitted for The Cutting in 2004, a section 106 condition was that the developers should construct a mini roundabout at this junction (but was never delivered).

Response: It is considered that the local highway network is of an acceptable standard to take on the traffic arising from the development. The proposal referred to here, reference 2004/94241, was for the erection of 31 dwellings so the impact on overall traffic levels would have been much greater.

The opportunity to park on highway (at school pick-up and drop-off times) lost because of the new access road to Oakes Lane.

Response: The new access would only result in the loss of parking opportunities for one, or at most two vehicles, and it is considered that the lost parking opportunity and subsequent displacement of parking would not amount to a sound or defensible reason to reject the application.

Findings of speed survey are doubted, since many motorists actually do more than 30mph on this road.

Response: This claim is not supported by objective evidence and can therefore carry no substantial weight.

The traffic survey was carried out between 10:00 - 1600 hours thus avoiding the monitoring of busy school and work traffic. Therefore, not a true reflection of the traffic conditions. Has use of footpath and incidence of on-street parking been monitored at peak times by Kirklees officers?

Response: The purpose of the speed survey in the Access Statement was to monitor vehicle speeds, not traffic volumes. There is no reason to assume that average vehicle speeds would be higher at school pick-up and drop-off times.

Effective visibility to east is effectively less than 43m because it close to brow of hill.

Response: It is noted that the brow of the hill affects visibility, but the visibility available would still comply with the 36m indicated by the speed survey.

The plans don't show clearly any barriers or how the pavements will be laid out.

Response: The existing pedestrian barrier at the entrance to the PROW would remain unaltered. The proposed layout does not include new footways, but these are not essential for a road serving only five dwellings which is not intended for adoption.

Design and amenity issues:

The outline proposal is an over intensification of development on an infill site in a prominent position in the village. They would be out of context and not in character with the existing and nearby dwellings which are primarily bungalows.

Response: The principle of development, its density, and how it would relate to the surrounding landscape and built environment have been assessed earlier in this report and it is considered acceptable.

The proposed layout would result in a significant loss of visual amenity specifically for nos. 5 and 7 Oakes Lane.

Response: The impact upon existing residential development has been examined in paragraphs 10.23-10.33 above.

If trees are removed the new houses will have an uninterrupted view into the private gardens of houses on Wood Farm Lane and Brockholes Lane.

Response: The distance between the front-facing windows in the new dwellings and the rear gardens of dwellings fronting Wood Farm Lane and Brockholes Lane would be approximately 19m at its closest. This is considered, notwithstanding the difference in levels, sufficient to avoid intrusive overlooking.

Overlooking caused by units 1-2

Response: The relationship between units 1-2 and no. 7 Oakes Lane has been considered in depth earlier in this report, and is judged, on balance, to be acceptable.

Drainage and flooding:

The lowest point in the footpath has been subject to flooding for many years. Any development would need to ensure that the run-off water from hard landscaping does not increase this problem. In the surface water report supplied by Groundsure it states the risk of 1m of floodwater to be once every 30 years. This is completely inaccurate. Suggesting that it is a 1 in 100 or even 1 in 30 year event is not realistic given current climate worries. Frequent flooding will undermine the retaining walls of No 6 and No 8 Wood Farm Lane. Leaving this detail for the developers to negotiate at a later date without concrete assurances at this stage would be a mistake.

Response: The developer's Drainage Strategy, it is considered, would ensure that water is disposed of in a safe and sustainable manner and that flooding on or within the vicinity of the site is not made worse.

Kirklees Highways letter of 2/5/23 states that any retaining tanks culverts or pipes must be less than 900mm on any adoptable highway. Planning on 2 pipes of 800mm looks like an attempt to get around rules.

Response: See paragraph 10.54 above.

Will there be effective management arrangements in place for the attenuation tank and drainage system?

Response: This, following the advice of the Lead Local Flood Authority, will require the developer to enter into a Section 106 agreement before planning permission is granted.

The drainage assessment document has a fundamental error in placing the foul water pumping station at the top of the hill.

Response: Yorkshire Water have had the opportunity to examine the drawings and the Drainage Assessment and recommend that conditional approval can be granted.

Other issues:

Several significant housing developments in recent years are already putting pressure on the local school, infrastructure and facilities including at Lancaster Lane and 137 houses recently approved off Woodhead Road.

Response: It is considered whilst these concerns may be valid, it would not be possible to substantiate a refusal of a development of only five houses on this basis. The scale of the development falls below the level at which, under Kirklees policy, contributions to school places or highway network improvements would be sought under a Section 106 Agreement.

There is no need locally for any additional large family housing in an area where there is an unmet need for single people, older people, accessible homes and affordable housing choices. Further development of "family housing" is more likely to attract people into the Holme Valley than meet existing local housing need.

Response: As set out earlier in the report, the expectation that a development should provide a mix of house sizes to meet local needs is not normally applied for developments of fewer than 11 houses, unless the development is deemed to form part of a larger site or allocation, which this does not.

The land belonging to 5 Oakes Lane includes a grassed area adjacent to the Duckhole and at the North end adjacent to the gardens of No 6 and 8 Wood Farm Lane. The plan indicates the establishment of a wildflower meadow yet gives no explanation as to how this would be maintained or whose responsibility it would be. Equally, the green area running adjacent to the PROW appears to be outside the proposed property boundaries and there is no indication of who would maintain this area. The PROW is bordered by young birch trees and a Leylandii hedge but they have remain uncut and are currently impeding the footpath. The trees adjacent to the Duckhole have grown through the telephone wires to Nos 4, 6, 8 and 10 Wood Farm Lane and are likely to bring them down with strong winds. Clarification about maintenance is required.

Response: Maintenance of any soft-landscaped areas/semi-natural open space envisaged by the developer not within domestic curtilage should be the subject of a management plan which would be enforced by the developer entering into a Section 106 Agreement.

Impact on wildlife especially during construction.

Response: This concern can be addressed by a condition requiring a Construction Environmental Management Plan dealing specifically with biodiversity issues.

Risk of mining subsidence?

Response: This concern has been examined in paragraphs 10.60-61 above. It is considered that it does not present a barrier to the successful development of the site and that any residual risk can be addressed by pre-commencement conditions.

Noise disturbance during construction and subsequently.

Response: A condition requiring a Construction Environmental Management Plan is usually imposed for major residential development but it is considered disproportionate for a scheme consisting of five units. The standard note about recommended working hours can be placed on the decision notice in the event of an approval.

The updated ecological appraisal states in 3.4.5 states there is “moderate potential for foraging and commuting bats along the hedgerow and watercourse corridor However, thorough evaluation of bat activity could not be made during a daytime survey of the site” Evidence from residents shows that there are bats in this vicinity so further work needs to be done to ensure their area for foraging is not disturbed

Response: The Ecology Officer has been made aware of these concerns and has recommended further conditions be applied.

Does not mention trees.

Response: The presence of trees is acknowledged in the PEA.

No. 5 currently has a garage, but it appears this would become part of plot 1 and no garage space will remain.

Response: No 5 would still have space to park at least two vehicles in tandem on their driveway.

Covenant contained in a Conveyance dated 12th April 1927, which states: ‘... not to erect or build any dwellinghouse outbuilding or other erection whether of a temporary or permanent nature within twenty-five yards of the North-East boundary of the property’. The outline plan shows this Covenant area, but plots 1, 2 and 3 are located on its very edge. It would be essential for any purchaser of the proposed properties to be aware of this Covenant as no extension, conservatory, shed, etc. should be erected in this area. It would be extremely difficult for me/future occupants to ensure this is observed.

Response: A covenant of this nature is not within the remit of the planning system to enforce. It is considered however that the proposed development would not undermine the aims of covenant as long as future residents were made aware of it. This would be the responsibility of the developer or future vendors.

10.73 Holme Valley Parish Council comments:

Over-intensification;

Response: It is considered that the earliest version of the proposal (for seven units) would have been an over-intensification of the site but it has now been reduced to a quantum of development (five units) that is appropriate.

Highways/access/sightlines;

Response: The access arrangements, including sightlines, are now judged to be satisfactory, as set out in paragraphs 10.34-42.

Flooding;

Response: This issue has been analysed in depth in paragraphs 10.43-10.55 of the report.

Impact on the public right of way.

Response: The changes in the design of the junction ensure that the development would pose no risks to users of the PROW.

The Parish Council would also expect more detail in a project of this size on sustainability and renewable energy generation as per the Holme Valley Neighbourhood Development Plan pp152-156 Policy 12: Promoting Sustainability, and should include a climate mitigation statement.

Response: This has been noted (see paragraphs 10.54-57 above) and in response the applicant has provided measures supporting these aims, including the installation of solar panels.

10.74 Ward Councillor comments:

Ward Councillor Charles Greaves: The reduction in units [From 7 To 5] is welcome, but it would still be good to see some improvements to the quality of the footpath that runs to the west of the site.

Response: It is considered that it would not be reasonable to seek to deliver improvements to the footpath in the context of this application whether by condition or through a legal agreement since this would not be directly related to the development and would not be deemed necessary to allow the development to proceed.

11.0 CONCLUSION

11.1 To conclude, whilst there are constraints on the land that pose a challenge to development, it is considered that the site is not inherently unsuitable for residential development, and that the number of units, scale and layout proposed, following revisions, represents a suitable response to the topography and context of the site that would respect the character of its surroundings. The proposed means of access would ensure that safe access to the public highway would be delivered. The development, subject to conditions and the developer entering into a Section 106 Agreement as set out earlier in the report, would ensure that the site would be drained in a safe and sustainable manner, and that a suitable degree of ecological enhancement would be delivered.

11.2 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. 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 it is therefore recommended for approval.

12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)

- 1-4. STANDARD OUTLINE CONDITIONS 1-4 (relating to submission of reserved matter(s) and timeframes)
5. Development to be in full accordance with plans and specifications.
6. External facing and roofing Materials to be submitted and inspected for approval (including retaining wall)
7. Reserved matter "landscape" to include details of existing and proposed ground levels in the rear garden of Plot 1 (residential amenity)
8. Reserved matter "landscape" to include full details of the height, materials, and position of all boundary treatments to be erected.
9. Access to be formed in accordance with details shown on site plan and cleared of all obstructions before being brought into use.
10. Design and construction details for all new retaining walls adjacent to the proposed/ existing highway and the PROW together with any modifications the existing retaining wall supporting Oakes Lane (Pre-Commencement condition)
11. A scheme detailing the proposed internal estate roads to be submitted to and approved in writing by the Local Planning Authority.
12. Schedule of the means of access to the site for construction traffic (including measures to prevent conflict arising between construction traffic and users of the PROW) shall be submitted to and approved in writing by the Local Planning Authority.
13. Details of cycle storage facilities for each dwelling to be submitted and approved.
14. Waste storage and collection points to be provided prior to occupation and retained. Details of bin enclosure or screening to be provided; notwithstanding the details on the approved plans, each shall accommodate three bins.
15. Access and turning head to be provided before occupation and thereafter retained.
16. Scheme detailing foul, surface water and land drainage, (outfall design, balancing works, plans and longitudinal sections, hydraulic calculations, phasing of drainage provision, and maintenance plan). This is a pre-commencement condition.
17. A scheme detailing a replacement trash screen for the ordinary watercourse located on site, prior to its enclosed section, and maintenance plan. This is a pre-commencement condition.

18. Overland Flood Routing assessment of the effects of 1 in 100 year storm events with an additional allowance for climate change, on drainage infrastructure and watercourse within the site boundary. This is a pre-commencement condition.
19. Scheme detailing temporary surface water drainage for the construction phase (after soil and vegetation strip). This is a pre-commencement condition.
20. Coal mining legacy – scheme of intrusive investigation to determine the exact position of the former mine entrance and, if appropriate, a programme of remedial works, before development commences.
21. Coal mining legacy – report signed off by a competent person before occupation – regarding remedial measures undertaken pursuant to condition 20.
- 22-26. Standard contamination conditions, to include investigation of landfill and mine gas.
27. Details of levels within rear garden of Plot 1 to be submitted and approved before development commences other than access works.
28. Ecology: Landscape Reserved Matter to be supported by updated Preliminary Ecology Assessment.
29. Ecology: Submission, approval and implementation of a Biodiversity Construction Environmental Management Plan (CEMP).
30. Submission, approval and implementation of an Ecological Design Strategy.
31. Submission, approval and implementation of an Invasive species eradication scheme
32. No site clearance without checks between March and August.
33. Installation of Solar panels.

Background Papers:

Application and history files.

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<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022%2f92210>

Certificate of Ownership B – Notice served on landowner.