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**Report of the Head of Strategic Investment**

**STRATEGIC PLANNING COMMITTEE**

**Date: 10-Aug-2017**

**Subject: Planning Application 2016/92664 Outline application for residential development Oak Mill, Cliff Hollins Lane, East Bierley, BD12 7ER**

**APPLICANT**

FMB Investments Ltd

**DATE VALID**

04-Aug-2016

**TARGET DATE**

03-Nov-2016

**EXTENSION EXPIRY DATE**

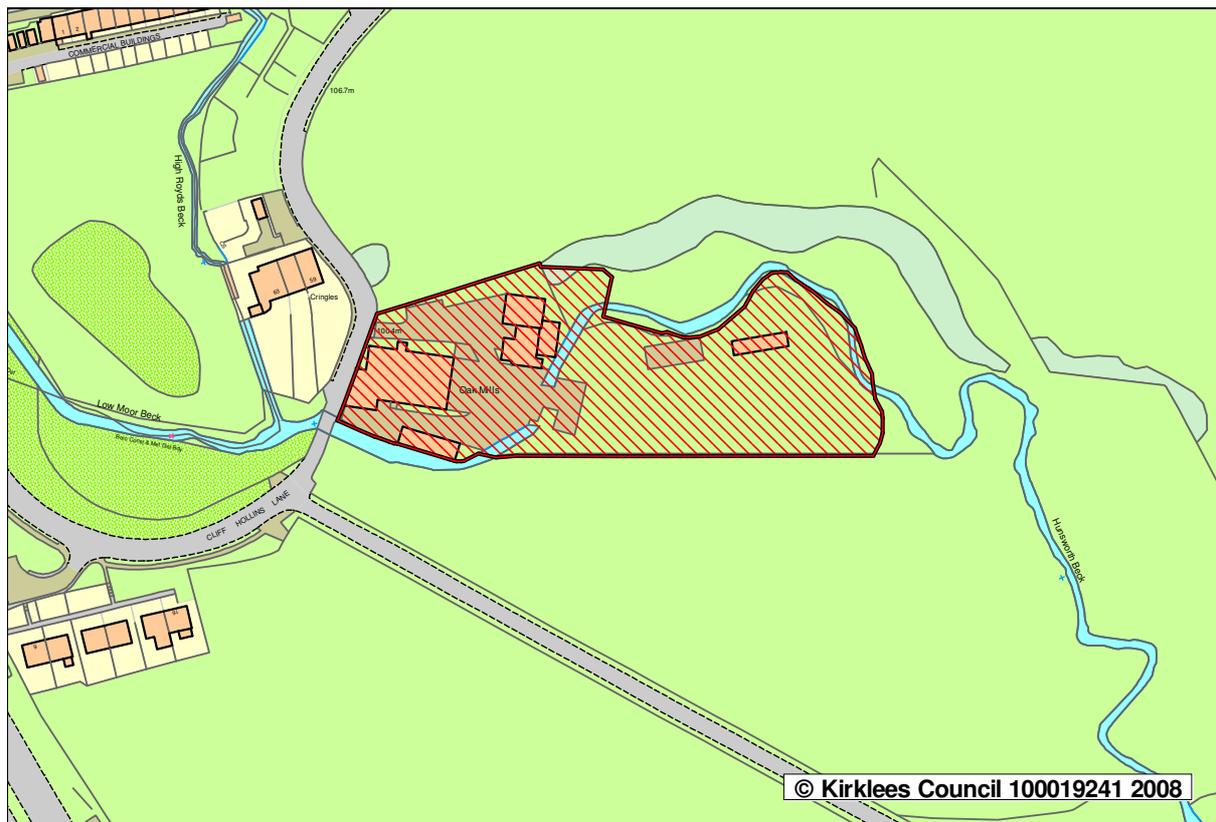
31-Mar-2017

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

## LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Cleckheaton

Yes

Ward Members consulted

### RECOMMENDATION:

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

1. off-site contribution towards affordable housing
2. on site public open space
3. agreed maintenance and management plan for the drainage solution

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 Strategic Investment 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 Strategic Investment is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

## **1.0 INTRODUCTION:**

- 1.1 This application is brought to the Strategic Committee for determination as the development needs to be considered in respect of being a departure from the development plan.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site is located to the east of Oakenshaw and the M606 with existing access off Cliff Hollins Lane. The site measures approximately 0.8 ha and is located within the Green Belt. There is a large two-storey stone built building that abuts Cliff Hollins lane. The remainder of the site accommodates a number of existing buildings in addition to metal cabins and other structures within the site. Much of the remaining site is covered in hard standing and provides for uncovered storage of materials, vehicles and other machinery in conjunction with the commercial operations that currently take place on the site. Some of the outer areas of the site are visibly more green in character than they are developed.
- 2.2 The site is crossed by a small watercourse known as Hunsworth Beck which is a tributary of the River Calder. Hunsworth Beck flows in a natural channel on entry to the site before flowing beneath a steel and concrete deck to emerge in a natural channel around the northern site boundary. The site is at the very north eastern edge of the Kirklees district, the land to the north is within Bradford district and is developed containing both housing and commercial activities. The site is entirely located with the designated Green Belt.

## **3.0 PROPOSAL:**

- 3.1 Outline planning permission is sought for the erection of up to a maximum of 13 dwellings. The application includes access with all other matters reserved. The application is supported by a plan that shows agreed developable areas in addition to an indicative layout plan.
- 3.2 Access is retained from Cliff Hollins Lane and includes improvements.

#### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

4.1 2000/2299 - Use of land for parking of skips for hire and associated vehicles and formation of new access road – Refused (units available in the urban area and the works involved would be intrusive)

99/92144 – Use of land for parking of skips for hire and associated vehicles – Refused (highway safety)

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

5.1 The application scheme has been reduced since first submission. The number of dwellings proposed has decreased following discussions regarding impact on the Green Belt

5.2 Further information with regards to flood risk and mitigation has been received in addition to a sequential test.

#### **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 Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25<sup>th</sup> April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

##### Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

6.2 D2 – Unallocated Land  
BE1 – Design principles  
BE2 – Quality of design  
BE12 – Space about buildings  
BE23 – Crime prevention  
NE9 – Retention of mature trees  
T10 – Highway safety  
H10 – Affordable housing  
H12 – Arrangements for securing affordable housing  
G6 – Land contamination  
H18 – Provision of open space  
B4 – Change of use of land and buildings last used for business or industry  
EP11 – Ecological landscaping

#### 6.4 Supplementary Planning Guidance / Documents:

Interim Affordable Housing Policy

Council's Guidance on Education Contributions as a Result of New Residential Development.

#### 6.5 National Planning Guidance:

Chapter 4 - Promoting Sustainable Transport

Chapter 6 – Delivering a wide choice of high quality homes

Chapter 7 – Requiring Good Design

Chapter 10 – Meeting the challenge of climate change, flooding and coastal change

Chapter 11 – Conserving and enhancing the Natural Environment

#### 6.6 **Kirklees Publication Draft Local Plan: Submitted for examination April 2017**

The site is allocated as Green Belt with the beck designated as wildlife habitat network on the draft local plan.

Policies:

PLP21 – Highway safety and access

PLP22 – Parking

PLP24 – Design

PLP30 – Biodiversity and geodiversity

#### **7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application was advertised by site notice and neighbour notification letters.

7.2 5 letters of objection were received. The concerns raised are summarised below:

Highway safety/access/Traffic

Pedestrian safety

Visibility

Flood risk

Lack of school places & facilities

Land contamination

#### **8.0 CONSULTATION RESPONSES:**

##### **8.1 Statutory:**

**K.C Highways Development Management** – No objections subject to conditions

**Environment Agency** – No objections

8.2 **Non-statutory:**

**K.C Environmental Services** – No objections

**K.C. Ecology** – No objections subject to conditions (EDS)

**K.C. Strategic Drainage** – No objections subject to satisfying the sequential test

**K.C. Strategic Housing** – Contribution required

**K.C. Landscaping** – On site provision required

**Bradford Council** – No objections

**Yorkshire Water** – No objections subject to conditions

9.0 **MAIN ISSUES**

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

10.0 **APPRAISAL**

Principle of development

- 10.1 The site is located within the designated Green Belt and retains that designation in the emerging Local Plan. Chapter 9 of the National Planning Policy Framework is relevant. Paragraph 79 of the National Planning Policy Framework (2012) (the Framework) advises that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence.

- 10.2 Paragraphs 87 and 89 of the Framework include advice that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances, and that the construction of new buildings should be considered inappropriate unless they fall within specific exceptions listed at paragraphs 89 and 90. Furthermore, paragraph 89 provides for the limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
- 10.3 The proposal involves the demolition of the existing buildings and clearance of the remainder of the site. Key factors considered appropriate to judging openness do not relate solely to empirical calculations of volume and areas but also relate directly to the visual impact which is implicitly part of the concept of the Green Belt. The visual dimensions of the Green Belt is an important part of the point of designating land as Green Belt. Taking these points into account the application has been significantly revised since its original submission. The reduction of the developable areas has been undertaken to allow for a scheme that would concentrate new development to areas immediately accessible and nearer to existing residential development and would allow for a gradual reduction in the scale and density as the site extends into the wider rural area.

It is considered that a development can be designed that would have a scale and mass not materially greater than those buildings that currently exist in addition to taking into account the cumulative impact of the metal containers and units located toward the periphery areas. It is recognised there may be an increase in the frequency of buildings within the site but, on balance, it is not considered that these would have any greater impact on the openness of the Green Belt area. This is, in part, due to the compensatory measures which include the removal of units on the wider site in addition to the potential for landscaping which will be agreed under condition.

It is relevant to take into account the character of the existing site in so far as having a negative impact on the green belt due to its unkempt nature and rather dilapidated appearance.

Taking into account the scale and mass of buildings on the site in addition to the location and topography of the immediate surrounding area it is considered that the development proposed would not result in any greater material impact and as such is considered in accordance with Chapter 9 of the NPPF.

The development would contribute to the aims of Policy H1 of the UDP in that it would provide additional housing in a sustainable location.

Whilst located in the designated Green Belt the site is considered accessible to local shops and services. Furthermore, the use for a residential purpose provides for simultaneous economic, social and environmental gains thereby

resulting in a more sustainably developed site. The site will result in positive improvements in terms of the quality of the built and natural environment improving the contribution the site makes in this rural location.

The development of the site offers improvements to the existing access including the provision of a footway, road widening where necessary and improved visibility. Whilst such matters are further considered later in the report it is considered that the site can be served without causing any material concerns to access and highway safety.

#### Urban Design issues

- 10.8 A full assessment of the layout, scale, and appearance of the dwellings and the landscaping of the site would be pursued at reserved matters but it is considered there is sufficient space on site to accommodate 13 dwellings with associated, access and landscaping and amenity areas.
- 10.9 Policies BE1 and BE2 of the UDP are considerations in relation to design, materials and layout. The layout of buildings should respect any traditional character the area may have. New development should also respect the scale, height and design of adjoining buildings and be in keeping with the predominant character of the area. Chapter 7 of the NPPF emphasises the importance of good design. Furthermore, Paragraph 58 of the NPPF states that planning decisions should ensure that developments respond to local character and history, and reflects the identity of local surroundings and materials. As the application is in outline with all matters reserved there are no details of scale, materials or design. The nature of existing residential development that surrounds the site is mixed in scale and character, with no single style or design of property taking precedent.
- 10.9 The site contains a number of vacant buildings on a wide expanse of land resulting in an area of land that is significantly underused with areas that are unkempt and thereby detracting from the wider rural area. As a consequence the site offers very little in terms of visual amenity. The scheme's developable area has been reduced at the request of Officers to allow for the return of some areas to a more rural state. Development would be focused on the area adjacent to the existing highway and decrease in density towards the periphery. Remaining areas would be landscaped as part of a more detailed submission. Subject to considered design and detail it is considered that the redevelopment of the site could contribute more positively to the area.
- 10.10 It is considered that matters of visual amenity can be satisfactorily dealt with by means of conditions at this stage. It is acknowledged that the indicative scales of 2 and 2.5 storeys are also realistic in this location when the scale of existing buildings is taken into account.
- 10.11 As such, it is the view of officers that development could be appropriately designed without detriment to the character of the area, in accordance with Policies D2, BE1, and BE2 of the Kirklees UDP as well as chapters 6 and 7 of the NPPF.

### Residential Amenity

- 10.12 The site is currently in mixed employment use, and within an open rural area with residential areas to the north west. There are no immediate neighbours and as such a residential use could be accommodated without impacting on existing nearby occupants.
- 10.13 At present the application is for access only and therefore the proposed layout is not being considered or approved at this stage. However, it is considered from the illustrative layout submitted that a satisfactory layout can be achieved on this site which would protect privacy and residential amenity. The indicative scales of 2 and 2.5 storeys are also realistic in this location when the scale of existing buildings is taken into account.
- 10.14 The site is vulnerable to noise and as such the comments of Environmental Services have been sought. The recommendations require specific noise attenuation measures to be incorporated into the development, to be validated prior to any occupation. These are considered satisfactorily to deal with this issue and would accord with the aims of policy EP4 of the UDP and chapter 11 of the NPPF.

### Landscape & Biodiversity issues

- 10.15 Landscaping is not included for consideration and is retained as a reserved matter. As previously set out, any future landscaping scheme would be beneficial in terms of providing enhancement both within the site developed site but also in the wider area that is to be retained as rural landscape.
- 10.16 UDP Policy EP11 requires that applications for planning permission should incorporate landscaping which protects/enhances the ecology of the site. The scheme currently does not provide any ecological enhancement, and therefore does not fulfil the objectives of paragraph 109 and 118 of the National Planning Policy Framework. The arboricultural and landscape officer raises no objections, subject to the provision of high quality green infrastructure given the location and opportunities to link with existing rural areas. In order for the development to be acceptable conditions are imposed and can be addressed at Reserved Matters stage.
- 10.17 As such the development is considered in accordance with Policy NE9 of the Kirklees Unitary Development Plan and with the inclusion of conditions would ensure that the proposal would improve biodiversity within the local area, complying with current guidance contained within the NPPF.

### Housing issues

- 10.16 Paragraph 47 of the NPPF clearly identifies that Local Authority's should seek to boost significantly the supply of housing. In terms of how planning applications should be dealt with, paragraph 49 advises: 7 "Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up to date if the Local Planning Authority cannot demonstrate a five year supply of deliverable housing." Kirklees cannot demonstrate a five year housing land supply therefore its policies that relate to the supply of housing cannot be considered up to date and the presumption in favour of sustainable development applies.
- 10.17 The development would contribute to the aims of Policy H1 of the UDP in that it would provide additional housing in a sustainable location.

### Highway issues

- 10.18 This application seeks outline approval with access the only matter for consideration at Oak Mill, Cliff Hollins Lane, East Bierley.
- 10.19 The applicants have provided a revised indicative layout plan showing 13 dwellings served by a shared surface carriageway with a single point of access onto Cliff Hollins Lane.
- 10.20 The applicants have provided revised plan number DPL SK009 showing the proposed access.
- 10.21 A footway 2.0 metres in width is shown to be provided to the full frontage of the development onto Cliff Hollins Lane and the carriageway widened where necessary to provide a minimum width of 5.5m.
- 10.22 Sight lines of 2.4 x 43m are shown from the proposed site access onto Cliff Hollins Lane.
- 10.23 A water course crosses the site and runs beneath the proposed adoptable highway and potentially under the south western side of the proposed footway. There is no parapet wall to part of the north eastern section of the existing bridge. An assessment as to the adequacy of any structure beneath the proposed adoptable road and footway will need to be submitted to, and approved in writing by, the Council's Highways Structures Section. This is recommended as a condition
- 10.24 Highways DM have assessed the proposed development an in light of the improvements proposed. It is considered that the proposals are acceptable and in accordance with Policies T10 of the Kirklees Unitary Development Plan.

## Flood risk & Drainage issues

- 10.25 The NPPF sets out the responsibilities for Local Planning Authorities in determining planning applications, including flood risk assessments taking climate change into account and the application of the sequential approach. Concerns have been raised in the representations received as to whether there is a suitable surface water drainage solution for this site. Strategic Drainage has been consulted and raise no objections subject to the inclusion of conditions regarding drainage specifically.
- 10.26 The site lies within Flood Zones 2 and 3, which have a medium and high flood risk. Paragraph 101 of the National Planning Policy Framework (NPPF) requires decision-makers to steer new development to areas at the lowest risk of flooding by applying a Sequential Test.
- 10.27 Avoidance is the most effective flood risk management measure. Even when development can be made 'safe' in flood risk areas, there are always residual risks. In accordance with paragraph 103, consideration should only be given to development in flood risk areas following the Sequential Test.

### *Sequential Test:*

- 10.28 It is considered that the agent has submitted sufficient evidence to allow the Sequential Test to be carried out. Development should not be permitted if there are reasonably available sites, appropriate for the proposed development, in areas with a lower probability of flooding. The approach set out in the Environment Agency's guidance note has been applied in order to sequentially test the site. The geographical area has been limited to North Kirklees in agreement with Officers due to it being sufficiently representative of the catchment of development. The site area is just under 0.8 hectares with a deliverable area for housing of approximately 0.55 and the assessment has considered sites between 0.5 and 1 hectares. The sites found have been divided into short to long term "availability". The developer requires commencement in the short term and as such the sites found have been narrowed down to those more immediately available. Sites that are within the green belt that are not previously developed have been discounted. The remaining sites have been assessed for their deliverability.
- 10.29 On the basis of the assessment only 5 sites are considered to be a viable alternative to the application site on deliverability and achievability grounds and of the 5 sites there is only one at lower risk of flooding. None of the remaining sites are available as they are, with the exception of those owned by Kirklees, in private ownership and not on the market.

### *Exception Test:*

- 10.30 As part of the site is designated Flood Zone 3 The exception test needs to be passed in accordance with the two parts identified in the paragraph 102 of the NPPF. The site provides much needed residential accommodation on a brownfield site in an accessible and sustainable location and accords with the wider sustainability objective of the NPPF and adopted development plan. The site is within reasonable distance of amenities. The redevelopment of the site

will be of environmental benefit in terms of improving the visual amenity of the area in addition to providing opportunities for ecological enhancement. The scheme would contribute to the housing delivery of Kirklees. As such it is considered that the first part of the exception test is passed. Secondly a comprehensive Flood Risk Assessment has been undertaken for the site and has been reviewed by the Environment Agency. The FRA confirms that the proposed flood mitigation works will take place in delivering the development to ensure the development not only prevents flooding but resulting in it being pre-designated as Flood Zone 1. The development proposals will result in a reduction to the local flood risk in the area through enhanced fluvial flow capacity and improved management of surface water run-off. The FRA enables the second part of the exceptions test to be passed.

- 10.31 For the reasons outline it is considered that the Sequential and Exceptions Tests have been assessed and Officers conclude that it is satisfactorily passed.

### Representations

- 10.32 Five representations have been received. In so far as they have not been addressed above:

#### Highway safety/access/Traffic

Reason: The application has been fully assessed taking into account the improvements that the development would introduce. As such it is considered that the development would not result in any detrimental impact to highway safety.

#### Pedestrian safety

Reason: The proposals include improvements to the access and highway including the provision of a footway. The development will therefore improve connectivity and highway safety for pedestrians.

#### Visibility

Reason: The application has been fully assessed taking into account the improvements that the development would introduce that include to visibility. As such it is considered that the development would not result in any detrimental impact to highway safety.

#### Flood risk & drainage:

Reason: The application is accompanied by a Flood Risk Assessment, Sequential and Exceptions test which are considered acceptable for the purposes of determine this application. The assessment demonstrates that the development will not lead to any further increase in flood risk in the area and shows that mitigation measures should lead to a decrease in risk.

#### Lack of school places & facilities

#### Land contamination

## Planning obligations

### 10.33 Public Open Space

The site is over 0.5 hectares and requires the submission of the provision of Public Open Space. This is an outline application, and the detailed layout of any areas of Public Open Space is unknown at this time. Accordingly, it is appropriate to impose a condition requiring the provision of Public Open Space. This can be addressed by a subsequent Section 106 agreement.

### 10.34 Affordable Housing:

Due to the scale of development being reduced to a maximum of 13 dwellings an offsite contribution in lieu of on-site provision of affordable housing has been agreed by Strategic Housing and with the agent. The contribution will be secured by S106 agreement and offset by any vacant buildings credit.

## Other Matters

### 10.35 *Business*

The site has previously been used by business and industry and as such, in terms of loss of the employment use from this site, the matters set out in UDP Policy B4 should be considered as well as the relevant National Planning Policy Framework (NPPF) policies.

Paragraph 51 of the NPPF advises that applications for the change of use from a commercial use to residential should be supported if there are no strong economic reasons for their retention, and where there is an identified need for additional housing in the area. This is applicable in this case. The benefits of redevelopment for a residential purpose far outweigh the retention of the industrial site and the improvements that will be achieved add weight to this argument. Furthermore there is a history of applications relating to the site and development for commercial purposes and these have been refused due to the location in a rural area in addition to concerns regarding the access and local highway network. There will be a reduction in the use of the site by commercial vehicles and their replacement with ones of a domestic scale which will be a positive impact on the immediate network. The use of the site will be one which is more sustainable given its rural location.

## **11.0 CONCLUSION**

- 11.1 The Council cannot currently demonstrate a requirement of deliverable housing land supply sufficient for 5 years. In accordance with the NPPF relevant policies for the supply of housing are out of date. In such circumstances no significant weight can be given to its content. In accordance with NPPF there is a presumption in favour of sustainable development and planning permission should be granted *“unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in this framework taken as a whole, or that specific NPPF policies indicate development should be restricted”*. The proposal is considered to present a sustainable form of

development. There are no other material considerations that outweigh this finding.

- 11.2 The site is an area of unkempt brownfield land located within the Green Belt. The redevelopment for a residential purpose of up to 13 dwellings is not considered to have any greater impact on the openness or the character of the Green Belt. The reuse of the site for residential accommodation will be more sustainable whilst not detrimentally impacting on highway safety, visual or residential amenity. The site will contribute to the aims of the Unitary Development Plan by providing public open space in addition to an offsite contribution for affordable housing.

**12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Strategic Investment)**

- 1-4. Standard conditions to secure Reserved Matters
- 5. Noise
- 6. Contaminated land
- 7. Sustainable transport
- 8. Ecological design strategy
- 9. Drainage details
- 10. Watercourse enclosure/alterations
- 11. Flood mitigation works
- 12. Overland flood routing
- 13 Temporary drainage provision
- 14. Affordable Housing
- 15. Public Open Space
- 16. Footway and road widening in addition to highway works
- 17. Retaining walls & structures near or abutting the highway
- 18. Construction traffic access

**Background Papers:**

Application and history files.

Website link to be inserted here:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f92664>

Certificate of Ownership –Certificate A signed by Andrew Windress