

KIRKLEES METROPOLITAN COUNCIL

PLANNING SERVICE

UPDATE OF LIST OF PLANNING APPLICATIONS TO BE DECIDED BY STRATEGIC PLANNING COMMITTEE

05 October 2017

PLANNING APPLICATION - 2017/91623

ITEM 12 – PAGE 7

ERECTION OF 58 DWELLINGS AND ASSOCIATED MEANS OF ACCESS

LAND AT, DUNFORD ROAD, HADE EDGE, HOLMFIRTH.

Correction

Paragraph 11.2 of the committee report states “The proposal will secure community benefits in terms of affordable housing, education and an off-site contribution towards Hade Edge Recreation ground and junction improvement works”.

This should read “The proposal will secure community benefits in terms of affordable housing, education, and highway improvement works”.

Additional Representations

The HEFF group wrote to Councillor Greaves on 2nd October. They have raised a number of issues which they do not consider have been properly taken into account. These are included below with responses:

It is acknowledged that the site is in an unsustainable location. Despite this, the scale and type of housing proposed has not been adequately considered as the view of Officers seems to be that the supply of new housing is paramount.

Response: It is acknowledged that the village of Hade Edge is poorly served by public transport and future residents would be likely to rely on private car for accessing shops, services and employment. However accessibility is one aspect of sustainability.

The National Planning Policy Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 7 of the framework defines the three dimensions of sustainable development as economic, social and environmental. The proposal will provide social sustainability benefits through the provision of dwellings, including affordable housing to meet a range of housing needs. The proposal will also generate a range of direct employment opportunities. Officers consider that overall, being mindful of the three elements of sustainability and the material planning considerations that the proposal does amount to sustainable development.

The Peak District National Park Authority has recommended refusal of the applications on the basis that the proposals would be incongruous and have

an adverse effect on the setting of the National Park and that significant amendments should be required. These comments have not been properly addressed by officers. The only amendments to take place to the scheme following the last Committee have been immaterial by way of inappropriate new landscaping and minor changes to what are standard housing types.

Response: The Peak Park advised that the density and layout of the development be revised to provide a more urban character rather than a sub-urban character, that the dwellings be constructed of natural materials, that a landscape buffer be introduced to the southern edge and stone walling to the streetscape. In response the applicant has submitted a landscape plan with a buffer to the boundaries of the site and walling to the street scape. It is considered the proposed mitigative planting will now integrate the proposed development into the rural village landscape. The proposed dwellings would now be constructed of natural stone. The comments regarding a more urban layout is not considered to be appropriate in this village setting; suburban layouts are generally more spacious and contain greater areas of landscaping. The layout is considered to be well designed and not out of keeping with local character. It is considered that the applicant has addressed the majority of the concerns raised by the Peak Park Authority.

The Council's own landscape architect is critical of the developer's proposals and concludes that the landscaping proposed does not pay respect to the locality. Again, these comments have been overridden by planning officers on the basis that the benefits of housing provision outweigh the landscaping concerns.

Response: The Council's landscape officer is satisfied that there would be no detrimental impact on views from the Peak Park. The landscape plan has been updated since the landscape officer assessed the Visual Impact Assessment and made comments on the proposed landscape plan. The proposed landscape plan now includes buffers to the boundaries of the site which is considered to be a significant improvement.

We have also considered the Council's Habitat Regulations Assessments and in-combination assessments of the impact on protected sites. We have figures to show that the impacts have been grossly understated and we have responded to your Officers in detail on this matter.

Response: The Council have undertaken an In-combination Effects assessment which has been agreed by Natural England. Officers have received a further representation dated 4th October which is addressed below.

The general view of Officers seems to be that in the absence of a 5 year supply of housing, the supply of new housing overrides all other issues. We strongly disagree with this assessment, we believe that there are significant issues here which outweigh the benefits of the proposals. Indeed, the recent appeal decision by the Inspectorate upholding refusal of the Washpit Mills development (closer to Holmfirth than Hade Edge), on grounds of sustainability and accessibility, and recent decisions of the Supreme Court (Suffolk Coastal Council and Richborough Estates cases) explicitly demonstrate that the 5 year supply of housing land is not the overriding factor.

Response: The Supreme Court Judgement reinforced the primacy of the development plan in decision making. The planning balance weighs all material considerations together, and officers have concluded that in this case the major contribution the proposal makes to the housing supply outweighs the loss of the green field site. These positives and the economic benefits to

the economy at a time when the council do not have a 5 year housing supply are considered to outweigh any perceived harm. The recent appeal decision at Washpit Mills, although not directly comparable, does highlight the need to balance competing considerations. In this instance the accessibility considerations of the development do not outweigh the positive benefits of the application, and it is considered that the application does deliver sustainable development when considering all the elements of sustainability.

In our response to the 2016 application, our highway consultants drew attention to the unsustainable location of the site in transport terms and to a potential highway safety issue at the junction of Dunford Road and Penistone Road. At the Committee meeting in August, Members decided that highway improvement works were necessary and this is recorded in the Committee report for this meeting. We agree that highway improvements are necessary but the way that Officers are proposing to tackle this issue in the Committee report is quite wrong and does not meet the relevant regulations. Once works are deemed necessary, a scheme of works should be prepared and costed, the full cost should be borne by the applicant and the works carried out to an agreed trigger date – in this case we believe that should be before the development is commenced. The Committee report states in para 10.43 that delivery of off- site improvements is not to be tied to the developer beyond the obligation to pay the contributions at set times in the build process in the absence of an agreed and costed scheme of works this is an incorrect way to deal with the matter and if consent were granted it leaves the Council open to a judicial review.

Response: In the previous meeting Members indicated that highway improvement works were necessary to mitigate against the development, and that the proposed Public Open Space contribution should be re-allocated for Highway Improvement Works. The officer recommendation reflects the views of Members. The applicants have prepared a draft 106 agreement that states the developer covenants not to permit occupation of more than 50% of the market dwellings until the Highway Works Contribution has been paid to the Council, and that the Council covenants to apply the contribution towards highway improvement works at the junction of Penistone Road and Dunford Road and that if the whole or any part of the sum has not been spent on such purpose within five years of the date of the final payment this is repaid. If Members are minded to approve the application and resolve that highway improvement works are necessary to mitigate against the impacts of the development, then the trigger points in the 106 can be revised to reflect the resolution of Members. In respect of a possible junction improvement the land required is unregistered and the process of undertaking such improvement works will be dependent on separate process and on whether any landowner comes forward to claim ownership.

During the last planning meeting you asked about the history of the allocation of the land in the Local Plan. Members should also be aware that the proposed allocation of the site for development in the emerging local Plan was a late change by Officers and that our Group has made objections to it. Those objections include a demonstration by us that the methodology and assessment of sustainability and settlement appraisal in the supporting documents for the emerging Local Plan are flawed and unsound in respect of the village site. We have been allowed places at the relevant inquiry sessions in order to debate the relevant policy issues, these sessions are due to commence shortly, if you are in any doubt the very least you can do is defer

this application to allow that work to take place – it could affect the Council's view of sustainability and the future allocation of the site.

Response: The government requires PA to be determined within a timely manner Officers consider it would not be reasonable to delay the determination of the application until the Local Plan examinations have taken place. The assessment of the application has been made in accordance with the Statutory Development Plan and all other material considerations.

The grant of consent for development of POL sites should not be treated as a blanket strategy of the Council, all material considerations need to be taken into account.

Response: The assessment of the application has been made will full consideration for all material considerations.

Our village group (HEFF) has been in touch with your Officers from an early date and prior to the submission of the first planning application in 2016. It became clear to us some time ago that Officers were determined to grant consent despite a number of material issues and many objections and to do so in undue haste, that is illustrated by the deferral of both applications at the August Committee as some key consultation responses had not been received. Officers also seem set on approving a scheme for as many houses as possible in an unsustainable location and have not to our knowledge been prepared to challenge the form of development or its proportionality to our small village.

Response: Officers have challenged the applicant both at pre-application stage and during the course of the application regarding the density and layout of the proposal, and the previous lack of any landscaping that mitigates the development. The plan has been revised to omit one dwelling from the scheme which has improved the relationship between some of the dwellings, and a landscaping scheme has been submitted. There would be no detrimental impact on views from the Peak Park, and in respect of the immediate surroundings, it is considered the proposed planting will satisfactorily integrate the proposed development into the rural village landscape.

An additional representation has also been received raising concerns regarding the content and availability of the HRA reports produced for the application.

Summary of objection

HEFF have indicated that they do not accept the findings of the project level HRA on the following grounds:

- Do not agree with the identification of projects to be considered as 'in combination'
- Do not agree with the traffic data used
- Do not believe in combination effects have been considered in relation to neighbouring authority plans
- Do not agree with the assessment of recreational impacts.

The representation also questions the use of a 1 km buffer to assess in combination recreational pressure.

HEFF, in the email, state they do not agree with the decision not to consult the public.

Objections are made in relation to the Local Plan HRA and the project level HRA.

Response

The objections of the HEFF group are noted, in particular the objection to the decision not to consult the general public.

It was considered, given the previous number of representations submitted by HEFF, which includes reference to HRA and information relevant to the ecology of the wider area, that sufficient opportunity has been afforded to local residents to present data that might affect the conclusions of the HRA. All information submitted by local residents has been evaluated to determine if it contained data relevant to the outcomes of the HRA. The LPA therefore considered that it was not necessary to consult the general public further, and this position is maintained.

The project level HRA has been undertaken by the LPA, in consultation with Natural England, and the findings are considered to be an accurate assessment of the potential for adverse effects on the integrity of the European protected sites.

PLANNING APPLICATION - 2017/91796

ITEM 14 – PAGE 57

DEMOLITION OF EXISTING BUILDING AND ERECTION OF CLASS A1 FOODSTORE, FORMATION OF CAR PARKING, LANDSCAPING AND ASSOCIATED WORKS

Additional representations received.

The following was received on behalf of Lidl UK GmbH, maintaining an objection to the proposal.

Lidl's previous objection to the application should be read alongside this. In particular, the earlier letter demonstrated that the scheme:

- ☐ *Results in the loss of a much needed employment site without robust justification;*
- ☐ *Results in significant adverse impacts on the highway network by adding unacceptably to traffic impacts in the surrounding area;*
- ☐ *Fails to address the sequential approach to flood risk;*
- ☐ *Would result in a significant adverse impact upon Holmfirth Town Centre which would undermine its health and ongoing vitality and viability; and*
- ☐ *Fails the sequential test as a sequentially preferable site is available to accommodate the proposed development.*

This letter supplements our earlier letter and provides further commentary in response to the retail impact and sequential test information submitted by Planning Potential, on behalf of the applicant, in their letter dated 24th August.

Sequential Assessment

We have previously identified the Keith Drake / Reins Depot site as being a sequentially more preferable site for retail development. This was established in the Midlothian Garage appeal decision (APP/Z4718/A/13/2191213) which was issued on 12th September 2013.

Whilst the applicant describes how the site is not considered available for development (thus dismissing it as not being sequentially preferable), it is not clear as to what has changed to make the site 'unavailable' since the Midlothian Garage appeal decision was issued in 2013. Whilst reference is made by the applicant to Council officers confirming in June 2015 that the site is not available for disposal, the evidence for this has not been made publically available, nor any further evidence provided by the applicant to confirm that this remains to be the case more than 2 years later. The sequential test cannot, therefore, be considered to be satisfied until these matters have been investigated further.

Retail Impact

As demonstrated in the updated sensitivity test, the application proposals give rise to significant trade diversion impacts on a number of existing businesses within Holmfirth, including Lidl (-23.3% impact) and the Co-operative (-13.2% impact), with the latter being acknowledged as an important 'anchor store' within the Midlothian Garage appeal decision. Without repeating the retail impact concerns raised in Lidl's previous objection letter (as well as those raised by the Pegasus Group on behalf of the Co-operative), it remains the case that if the future viability of these businesses is undermined by the application proposals, and one or both of the stores is forced to close, then, ultimately, this will be to the detriment of local consumer choice and to the vitality and viability of Holmfirth Town Centre as a whole.

Summary and Conclusions

In overall conclusion, the proposals fail the sequential and impact tests set out in both local and national planning policy and represent a clear threat to the future vitality and viability of Holmfirth Town Centre.

On this basis, Lidl UK GmbH maintains its objection to the current application and would urge the Council to refuse planning permission for the proposed development.

The content of the additional response is noted however this does not raise any issues that are not addressed within the main agenda.

A document has been submitted on behalf of the applicants, and has been widely circulated. This is attached below.

OUTLINE APPLICATION FOR ERECTION OF B1 LIGHT INDUSTRY**Highways**

- Highways DM requested the submission of an accompanying Road Safety Audit process. This information has not been submitted by the applicant. However, there is sufficient detail contained in the application in order to make a decision and there are no objections from Highways DM to the proposed access plan submitted, subject to an additional condition requiring the submission of a Road Safety Audit and final details of the design of the access to be agreed.

ERECTION OF 99 DWELLINGS**CALDER VIEW, LOWER HOPTON, MIRFIELD.****Layout**

The applicant has submitted a revised layout which alters the number and position of garages within plots. The changes are not considered to be significant and do not materially affect the nature of the layout as originally submitted.

A revised Public Open Space layout has been submitted which includes additional provision of bins and alterations to the play provision. These amendments are considered acceptable by the Landscape Officer.

Drainage

Comments from the drainage engineer are summarised in the officer report. However, for completeness, the following comprises the detailed comments provided by the Drainage Engineer:

Kirklees Flood Management & Drainage has taken a holistic view on this development given permission was granted for McInerney Homes by Planning Inspectorate to construct 203 properties on this site, accepting that the access roads would flood. Flood risk in reality is greater than perceived by the Inspectorate, compounded by the administration of McInerney Homes leaving a part developed site.

Salient points to note alongside our response are:

- *The existing permission could be completed without further comment.*
- *The majority of drainage infrastructure is already installed.*

- *This application presents an opportunity to improve and/or better manage current flood risk.*
- *Stopping flooding on the access road is not practicable and was accepted as such by the Planning Inspectorate.*
- *Sewer adoption and road adoption requirements and agreements are dealt with via applications to Yorkshire Water and Kirklees Council Highways respectively under separate legislation outside the planning process. Requirements for these bodies to accept risk could be more onerous than for planning approval.*

Main River Flood Risk

The housing development area is almost entirely in flood zone 1 – Low Risk. Plots which are located in flood zone 2 and the single plot located in flood zone 3 are highlighted within the FRA with suggested mitigation measures. The Environment Agency will comment on main river flood risk with regard to the suggested finished floor levels.

The river Calder has recently been remodelled and a revised SFRA has been published by Kirklees Council in 2016. This clearly shows that access areas are defined as being located in zone 3ai – very high risk. Evidence submitted indicated that the river will top its banks at least every two years.

This situation is complicated by the lowest spots on site being below bank/grip levels originally provide space for all vehicles to enter site under the railway bridge. This causes a situation where river flooding occurs as drainage outfalls are surcharged without the banks being overtopped several times a year and reaches significant depths twice a year on average.

Kirklees Flood Management & Drainage will offer an opinion here as the main river flooding is interacting with surface water drainage systems.

We welcome an exploration of potential techniques employed to reduce depth of flooding under certain return periods (within 1 in 2 year river levels) but feel it necessary to advise the LPA that the depth reduction may not be significant even if successful and will still be subject to deep frequent flooding from overtopping of the bank. Our advice is that residents are unlikely to conclude that there has been material improvement to the strategies promoted.

We also conclude that the development of 99 extra properties that will not drain in this direction will NOT increase the likelihood of flooding under the railway bridge.

The properties can be constructed in accordance with NPPF guides on flood risk in terms of finished floor levels. The consequences of flooding on this site will also be largely unchanged, i.e. cars are vulnerable to becoming trapped/partially submerged under the railway bridge.

We recognise that there will be an increase in vehicle movement however. This would be the case if the original approved application was completed also.

Residual risk from after any mitigation measures in this area is significant therefore. We therefore advise that to strike a balance between NPPF requirements and the understanding that the development could be completed under the original approval.

We advise that the planning officer concentrates on section 102/103 NPPF where:

- The site should, where possible, reduce overall flood risk. The developer should continue to explore the practicalities of schemes promoted in the application.*
- Use the opportunity of the application to re-examine the possibility of a safe access/egress route. Concentrate on rectifying issues on the designed emergency access.*
- Residual risk is safely managed. Inform and better manage movement on site through signage/warnings etc, managed via a management company until such a time that the highway authority is prepared to adopt the road network.*

The final point would seek to impose a condition in accordance with original condition 10 applied by the Planning Inspectorate which alludes to the management of safe access/egress of the emergency routes including the installation, operation and maintenance of any mechanical or electronic equipment including advanced warning signs, surface treatment and subsequent maintenance of the access and suitable warning and evacuation procedures.

Surface Water Flood Risk

In addition to contribution to the current flood risk associated with the area under the railway bridge which has been discussed, surface water flood risk maps do show isolated areas of concern in existing housing development area, however blockage and exceedance scenarios would appear to be able to be managed given the proposed layout and likely positioning of attenuation. This will need some justification however.

Minor Watercourses

There is a minor watercourse tributary to the river Calder that is shown positioned between Calder Close and the bridge across the railway. Further research is required starting with an exploration at the river Calder for the outfall location, in order to avoid building over or close to this system should it exist. We are happy to meet on site to move this aspect forward.

Surface Water Drainage

None of the proposed properties drain to the problematic area under the railway bridge.

A separate system is largely constructed but as confirmed in the FRA/Drainage strategy, it doesn't appear that any outfall from the flow control manhole/attenuation tank to the river Calder has yet been installed.

We welcome a fresh examination of this system in relation to any new design, again noting that the existing approval could still be built. It should also be noted that the design standard in 2001-2006 could have been the 1 in 30 year storm event. An area does however exist to provide safe above ground storage.

An estimate of the suspected design discharge has been promoted in the absence of any readily available record of agreed discharge which would have rested with the Environment Agency at this time. We would challenge any restriction to greenfield rates, currently promoted by the EA, as being unfair and not reasonably practicable for the development given that this was a former mill site. A quick assessment from aerial photographs in line with current Kirklees guidelines on brownfield development suggests that the estimated figures are in line with a reduction of previous hardstanding on site. It would be impossible for the developer to produce a previous drainage plan of the site to verify this and therefore a pragmatic view should be taken in this instance.

Officer response – in respect of the above, a number of these matters are being dealt with as part of the S38 process. With respect to the minor watercourse on site, the applicant has stated that watercourse in the centre of the site has been investigated by them and previously by McInerney and is believed to be historic. As detailed in the officer report, a planning condition is recommended to deal with drainage details within the application site.

Additional comments from Drainage Engineer

I have stated that flooding of the emergency access route may be due to poor quality of the bund and interface with the bridge, possibly groundwater movement and there is the unknown of the bridge deck itself. I feel to state categorically that connecting the gullies in this position to the proposed pump station will solve the flooding is misleading (as detailed in officer report). That is an assumption.

Officer response – It is accepted that the additional remedial works proposed as part of the S38 adoption process may not significantly improve flooding issues experienced at the site access. However, at the very least, it is intended to ensure that the emergency access remains accessible at times of flooding along with the provision of appropriate warning signage.

Conditions

As per officer report apart from:

Condition no7 as recommended in the officer report should also include a requirement for signage details to be submitted to and approved in writing including a schedule for maintenance.

An additional condition is proposed in order to deal with any existing watercourses within the application site.

Planning Obligation

A draft S106 agreement has been submitted for consideration and this includes the requirement for a commuted sum towards highway maintenance as detailed in the officer report and also includes a mechanism for ongoing maintenance of the Public Open Space.

PLANNING APPLICATION - 2017/91677

ITEM 17 – PAGE 109

ERECTION OF 43 RETIREMENT LIVING APARTMENTS, 83 BED CARE HOME WITH PROVISION OF COMMUNAL FACILITIES, LANDSCAPING AND CAR PARKING AND ERECTION OF 7 AFFORDABLE DWELLINGS

LAND AT, SERPENTINE ROAD, CLECKHEATON.

Impact on residential amenity

- As detailed as a requirement in section 10.23 of the officer report, the applicant has submitted additional detail including a shadow path analysis. This reveals that the nearest properties (no's 21 and 23 George Street) and their respective garden/yard areas would not be significantly affected by potential overshadowing during spring, summer or autumn. There would be a slight impact on the garden/yard areas at certain times of the day during spring and summer. In terms of the impact during winter, there would be potential overshadowing of the garden/yard area of no's 21 and 23 with some potential impact on the dwellings. However, it is noted that the garden/yard area would largely be unaffected during the spring and summer months when it might reasonably be expected that occupiers of dwellings would wish to use their outdoor amenity space. The proposal also includes landscaping along the boundary with no's 21 and 23 and additional fencing.

- The Council's Drainage Engineer has assessed the submitted information and raises no objection, subject to the imposition of two drainage conditions requiring full drainage details and discharge rates to be submitted and agreed.
- Following the submission of a noise report submitted by the applicant, the Environmental Health officer recommends that the sound attenuation scheme specified in the submitted noise report is implemented and a further assessment and report produced in order to demonstrate that noise has been effectively attenuated.

Affordable Housing Contribution

- The affordable housing tenure split as detailed in the recommendation section of the report states that 4 of the proposed townhouses would comprise affordable rent with 3 being intermediate housing. Whilst the applicant still intends to provide the tenure split on this basis, they are seeking some flexibility and therefore, request that should the tenure split be altered then this be agreed first with the Council.

Conclusion

- Whilst the application is considered to result in acceptable levels of amenity for the occupiers of the nearest properties for most of the year and during the summer months, there would be some impact on the nearest gardens/yards during the winter months. Overall this is considered to constitute a relatively minor adverse impact which, when weighed against the wider benefits of the scheme concerning the redevelopment of a brownfield site, the improvement the scheme would make to the character and appearance of the area, and the boost to housing supply for the over 55's in the local area; overall the proposal constitutes a sustainable form of development.

Planning permission is recommended for approval subject to:

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 contained within the officer report and secure a section 106 agreement to cover the following matters:

1. 7 dwellings to be affordable with a tenure split to be agreed with the Council. Affordable units provided prior to 50% of the Retirement Living units being occupied.

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.

PLANNING APPLICATION - 2017/91208

ITEM 18 – PAGE 125

OUTLINE APPLICATION FOR ERECTION OF INDUSTRIAL DEVELOPMENT OF UP TO 3684 SQM B1C/B2/B8, WITH MEANS OF ACCESS (TO, BUT NOT WITHIN, THE SITE) FROM COLNEBRIDGE ROAD

LAND ADJACENT TO COLNEBRIDGE WASTE WATER TREATMENT WORKS AT COLNEBRIDGE ROAD, BRADLEY, HUDDERSFIELD.

Correction – in 10.2 of the officer report improvements to the greenway are mentioned. However, this proposal is not in close proximity to the greenway nor are any improvements or links proposed.

PLANNING APPLICATION - 2017/90955

ITEM 19 – PAGE 137

OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT

FOREST ROAD, DALTON, HUDDERSFIELD.

For clarity, the tenure split to be sought on the affordable housing units put forward as a community benefit on this site, and based on the identified need in the area would be 3 Affordable Rent units, 2 Intermediate units. This is compliant with the Council's Interim affordable housing policy and the applicant/agent has been made aware of this.

DEMOLITION OF EXISTING THREE STOREY MILL AND ASSOCIATED BUILDINGS AND ERECTION OF FACTORY EXTENSION ADJOINING THE EXISTING MILL BUILDING**RAVENSTHORPE MILLS, HUDDERSFIELD ROAD, RAVENSTHORPE, DEWSBURY****Drainage Matters:****Lead Local Flood Authority.**

Consultation response received from LLFA, concerns raised regarding the disposal of surface water from the site. There are concerns that the disposal of surface water and measures to protect the site made lead to flooding elsewhere. Insufficient details have been provided in order for the LLFA to fully assess the proposals. The LLFA requested these details to be submitted pre-determination however it should be noted that this is a replacement building with a significantly smaller footprint on a brownfield site; therefore it is reasonable to require the details as a condition and therefore the following condition is suggested.

Prior to commencement of development a scheme to dispose of surface water from the development shall be submitted to and approved by the Local Planning Authority.

Ecology.

The Bat Survey was submitted on 25/09/17. The survey consisted of a dusk and dawn survey and there was no evidence of any bat activity and therefore no potential for bat roosts. The Council's Ecologist has agreed with the finding of the report and recommends the following condition:

The development shall be carried out in complete accordance with the proposed mitigation measures in the submitted Bat Survey.

OUTLINE APPLICATION FOR ERECTION OF 7 DWELLINGS WITH ASSOCIATED WORKS**LAND TO NE OF WICKLEDEN GATE, SCHOLDS, HOLMFIRTH.****Highway matters:**

Further information had been requested from the applicant including details of levels along the access road to demonstrate road gradients and how the access would tie in with Wickleden Gate; swept paths for a larger size of vehicle than that shown; footways along the estate road; details of how the access relates to the culverted watercourse within the site and; a demonstration of sightlines from the access road.

An additional plan has been submitted which includes spot levels along the access Road. It is however considered that a long section should be provided to properly demonstrate gradients and how the access road would tie in with Wickleden Gate.

A swept path for a larger size of refuse vehicle (11.85m) has been provided although the applicant disputes the need for this because they have very recently witnessed a smaller size refuse vehicle serving Wickleden Gate. Environmental Waste nevertheless maintain that an 11.85m vehicle is used.

The revised swept path has resulted in a slight change to the layout and meant that the turning head cuts into the parking area for one of the plots. The layout meets technical requirements for the largest size of refuse vehicle (albeit a hard margin would need to be provided around the entire turning head) but it raises an issue with the provision of off-street parking for the affected plot. The amended turning head also detracts somewhat from the overall appearance of this part of the site. It is accepted however that the site can be adequately serviced for refuse collection. The parking for the eastern most plot would need further consideration.

A 2m wide footway along the estate road is provided in two sections. A short (c20m) section of footway is provided as a continuation of the existing footway adjacent to 27 Wickleden Gate. Where this terminates a footway is then provided on the opposite side of the estate road. Highways Development Management would prefer the footway to be continuous.

Details of how the access relates to the culverted watercourse within the site and a demonstration of forward visibility along the access road (sightlines) have not been provided.

There remain concerns with the configuration of the ramped access to the proposed community benefit area although this could be resolved.

In summary, certain highways information remains outstanding and if members are minded to approve the application then officers will need to resolve the outstanding matters.

Trees:

Officers accept the loss of the two protected trees which are proposed to be felled to facilitate the access. These two trees are a codominant group (being suppressed by each other) so individually they have poor form and the loss of one tree would then also require the loss of the other. The Ash tree in the group is also now showing signs of some tip die back, an indication of possible poor condition.

The layout offers scope for mitigating tree planting/ landscaping, including replacement tree planting as a gateway feature at the point of the new access; this should be possible within the open space shown on the plans to the east of the new access point and could form part of details to be approved under 'landscaping'.

Additional trees information has been received showing shading patterns from the protected trees. Based on this information the trees officer has raised an

objection to the first plot as you enter the site. This dwelling sits well within the projected shade patterns for two adjacent mature protected trees and is likely to lead to conflicts between future occupants and the trees, resulting in pressure to fell or excessively prune them through future tree work applications. The extent of the shading across the dwelling throughout the day would be very significant. There is scope to amend the layout to address this issue although it would involve setting development much further away from the protected trees. However as things stand this issue would amount to an additional reason for refusal because the development would prejudice the long term viability of existing (protected) mature trees within the site, to the detriment of the visual amenity of the area.

Management of the community benefit area:

The applicant has submitted some additional information which sets out how the wetland nature area/forest school would be managed.

“Whilst it is fully intended as a substantial community benefit and a facility for community use, the area will be screened through a combination of appropriate landscape fencing, tree planting and general landscaping. The facility will also be secure, with stewardship and access to the site a key consideration. It is likely in any event that health and safety, as well as insurance requirements, particularly as children are identified as key users, will be a key driver for this stewardship of the Community Benefit Area, as well as the ability to demonstrate to prospective homebuyers and existing surrounding residents that good management will be a key driver of such a facility.

Although issues for the management of the Community Benefit Area are to be resolved at the detailed stage, an initial Heads of Terms for the proposed management of the facility [has previously been submitted and is] repeated here for ease:

- 1. Health and Safety for all operatives, users, patrons and visitors to the facility*
- 2. Details of ecological management plans, including species-specific considerations where relevant*
- 3. Noise restriction and mitigation*
- 4. Light pollution restriction and mitigation*
- 5. Arboriculture and silviculture requirements and management provisions (so far as these shall not be covered by 2, above)*
- 6. Operational Restrictions on Days and Hours for Educational Provision*
- 7. Opening Hours for meetings outside of Core Operational Days and Hours*
- 8. Operational parameters for storage, including drop-off and collection*
- 9. Operational parameters for all users to preserve neighbour amenity*
- 10. Ad hoc and arranged maintenance and tidying provisions and requirements*
- 11. Security, Monitoring and Reporting*
- 12. Authorisations and access contingency management for the Wetland Forest School and Parking Area*
- 13. Booking and Usage*
- 14. Specific Restrictions*

15. Contact details and management requirements for authorised personnel acting as liaisons for community groups
16. A community facility which is inclusive, rather than exclusive
17. Details of handover to any organisation and/or engagement of external providers of expertise

It is difficult, though not impossible, to provide further details in the absence of specific reserved matters information. However, it should be noted that a detailed specific plan for the maintenance, management and stewardship of the Community Benefit Area is inextricably linked to the details of landscaping and, more importantly, an ecological management plan that will be formulated at reserved matters stage. By way of rudimentary example, management and maintenance of aspects of the Community Benefit Area, particularly the wetland, will depend on the ecological management plan (and possibly a construction management plan), which will entail different degrees of control, likely at different times of any year. For example, some of the management and maintenance in this respect may in fact require no disturbance of an area or species at a specified time of the year.

We are cognisant of the requirement to produce such a plan and fully expect that this will be controlled by condition (or possibly planning obligation) as part of the approval of reserved matters. Furthermore, the Council as Local Planning Authority will naturally wish to see this retained and managed in perpetuity, particularly if this Community Benefit Area is passed to another owner and/or user or operator. The Council will of course wish to make contingency for this at the detailed reserved matters stage and, as always, we will work with the Council on this.

We have been in only embryonic discussion with organisations that have proposed will take on, run, maintain and manage this facility, as well as investigating prospective useful external funding opportunities. However, progress on such discussions cannot realistically advance until this outline permission is granted. Nevertheless, our starting point is obviously that we will be financing this project ourselves, in both capital and revenue terms, engaging appropriate external expertise as and when required.

The passing of the ownership, management and stewardship of such a facility is a consideration, though this is not a certainty at this stage, but an option. The intention is that we will not be transferring the ownership of the site until we are satisfied that it achieves the necessary objectives and we are comfortable that it will be maintained and managed in perpetuity to the standards we, the Council, the new home owners and the wider community expect. In any event, we might wish to retain ownership of this area of land, to retain our own control over the facility.

What we can say with certainty now, is that it is more likely that we will retain all ownership of the Community Benefit Area during the construction, simply because the sensitivities and potential engineering complexities of the overall development, not least the road, can be appropriately managed to the high standards upon which we operate.

It is possible that the area of land will be transferred to a suitable organisation, with the relevant expertise and capability of taking such a project forward. However, it should nevertheless be noted that such a transfer, in our view,

should not take place until sufficient engineering works, particularly in relation to the road, have taken place, or these can at least be managed as part of such a transfer.

For completeness, in the very unlikely event that the Council would insist on a transfer of the land, following the above, we would request that this area of land should not be transferred until all concerned can be satisfied as to the engineering requirements and operations that will make this development a success, have taken place. In the alternative, such a transfer of this area of land must retain sufficient flexibility to allow what will be sensitive engineering works to take place.

We hope that this provides the Council with some comfort as to our intentions for the Community Benefit Area, in relation to its financing, maintenance, management and stewardship, which will run with the land”.

Updated recommendation:

Additional reason for refusal as follows:

2. The proposed layout would prejudice the long term viability of adjacent mature protected trees by introducing a new dwelling in very close proximity that would experience significant shading by these trees. This would result in the likelihood of pressure to fell or prune the trees in the future which would consequently be to the detriment of the visual amenity of the area, including the Urban Greenspace allocation. This would be contrary to Policies NE9, BE2 and D3 of the Kirklees Unitary Development Plan.
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