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**Report of the Head of Strategic Investment****HUDDERSFIELD PLANNING SUB-COMMITTEE****Date: 17-May-2018**

**Subject: Planning Application 2017/93459 Erection of 19 dwellings, formation of associated access and erection of protective post and mesh cricket fencing (minimum 12m in height) Land south of, Swallow Lane, Golcar, Huddersfield, HD7 4NB**

**APPLICANT**

Jones Homes (Yorkshire)  
Ltd

**DATE VALID**

09-Oct-2017

**TARGET DATE**

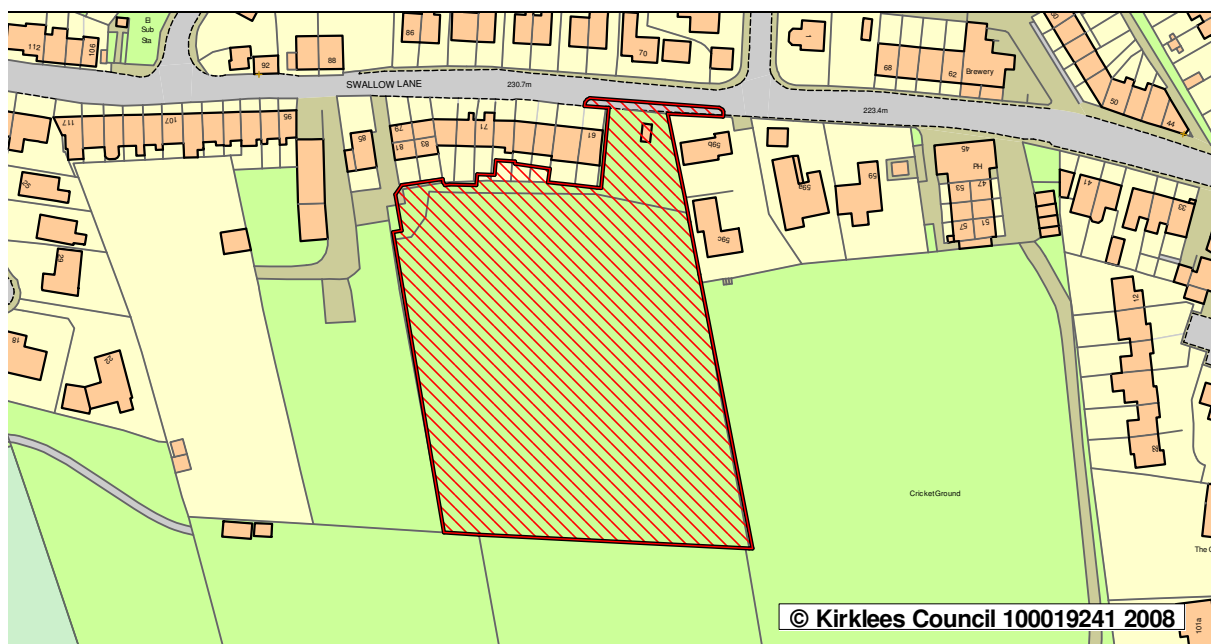
08-Jan-2018

**EXTENSION EXPIRY DATE**

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

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

**LOCATION PLAN**

**Map not to scale – for identification purposes only**

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**Electoral Wards Affected: Golcar**

☐ Yes

Ward Members consulted

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**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 matters:

1. The provision of affordable housing on-site (3 'Starter Homes')
2. The provision and management of Public Open Space (POS) and natural play facility on-site
3. Management/maintenance of the proposed cricket fencing

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 The application is presented to Huddersfield Sub-Committee as it involves a departure from the Kirklees Unitary Development Plan (Policy D5); a development proposal for a scheme of less than 61 residential units on Provisional Open Land.
- 1.2 The application was deferred at the previous committee meeting (29<sup>th</sup> March 2018) for officers to enter into discussions with the applicant regarding the external facing materials and consider the use of natural stone. Members also sought more information regarding the risk to ecology through birds striking the proposed cricket mesh fencing.
- 1.3 Since the previous committee, the agent has provided justification for the use of a high quality artificial stone (Forticrete Anstone Black weathered pitch face) as well as providing the specification of the cricket mesh fencing. These issues are addressed in the report at paras. 10.27 and 10.58.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application relates to a circa 0.8km parcel of greenfield land located to the south of Swallow Lane, Golcar. The proposal is located on a site allocated as Provisional Open Land in the Kirklees Unitary Development Plan.
- 2.2 The site is located within close proximity of the local services of Golcar's local centre, which is around 300m to the west of the application site. Huddersfield town centre is around 5km to the north.
- 2.3 Land levels fall from the west to the east of the site. Beyond the eastern boundary of the site lies a cricket pitch which is set at a lower level. There is residential development to the north and the rear elevations of existing dwellings of Swallow Lane back onto the site. To the east of the site there are dwellings positioned to the north of the cricket pitch. Immediately to the west is an area of undeveloped land which forms part of the wider POL allocation. Beyond the southern boundary of the site lies an area of undeveloped land which is used for grazing and designated as Green Belt.
- 2.4 Within the vicinity of the application site, there are a variety of property styles, with terraced, semi-detached and detached dwellings being in situ. There is also a variety of materials within the locality with a combination of natural and artificial stone, render and red-brick all being visible from the application site.
- 2.5 Boundary treatment along the southern, eastern and western boundaries takes the form of dry stone walling. There is limited trees cover within and surrounding the site; there are no protected trees or any that are considered to possess notable arboricultural merit.

## **3.0 PROPOSAL:**

- 3.1 The application is submitted in full and proposes the erection of 19 dwellings, the formation of the associated access and the erection of 12m high protective post and mesh cricket fencing. One point of access is proposed on vacant land between nos. 61 and 59b, Swallow Lane. It would comprise a simple T-junction action serving the proposed dwellings. On-site and off-site highways improvements are proposed which comprise of the creation of new sections of footway along the southern side of Swallow Lane adjacent the proposed access in both easterly and westerly directions. The section of footway to the east would gradually tether back to the carriageway edge. To the west, the proposed build-out would tie in with the proposed white lines.
- 3.2 The proposed development involves the erection of 19no. two storey dwellings comprising of 3 and 4 bedrooms. The split is detailed below:
  - 3 bedrooms: 4 dwellings (21%)
  - 4 bedrooms: 15 dwellings (79%)

Three starter homes would be provided on the site.

- 3.3 The dwellings would be positioned around an area of centrally placed public open space. A cul-de-sac layout is proposed, providing pedestrian and vehicular access to the proposed dwellings with two shared surfaces being provided within the site. 6no. visitor parking spaces are also shown within the site. Each dwelling would benefit from private parking either on a driveway or within an integral, detached or attached garage.
- 3.4 A detailed soft landscaping scheme has been submitted and comprises a mixture of low level shrub planting, native hedging and trees throughout the site, in both the POS, at the site entrance and in the private amenity spaces of the dwellings as shown on the submitted plan. A small area of natural play is proposed within the POS. Proposals are to retain the dry stone walling to the east and the south of the site.
- 3.5 A 12m high post and mesh protective cricket fence would be erected along the eastern boundary of the site where it adjoins the adjacent cricket ground. The 12m high posts would be green coloured metal. A sheer mesh would be hung between these posts. The exact proposed location of the fencing is shown on the submitted layout plan.
- 3.6 The provision and maintenance of the POS together with the maintenance of the cricket fencing will be secured through associated legal agreements. The provision of the proposed off-site highways improvement works and the cricket fencing will be secured through planning conditions.

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

- 4.1 None on the site.

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

- 5.1 The application has undergone extensive pre-application discussion and community consultation has also been undertaken. As set out in the Statement of Community Involvement that the applicant has submitted alongside this application, the proposed development has undergone a series of amendments in response to feedback received from local residents prior to the submission of the application. Alterations include changes to the housing mix, amendments to the design of the site access, re-positioning of plots to improve relationships with existing properties, highway improvements and alterations to the design of the proposed dwellings.
- 5.2 Amendments have also been sought during the course of the application. The scheme has been amended as follows:
- Minor changes to the layout, house types and elevations in response to residential amenity, visual amenity and flood-routing issues;
  - Further supporting information in relation to drainage and flood-routing
  - A Ball-strike Risk Assessment in order to inform necessary mitigation measures for protecting the proposed dwellings against ball-strike from the adjacent cricket ground;
  - Location, details and elevations of protective cricket fencing as required as per the above report;

- The submission of a Soft Landscaping Plan and amendments to this in order to provide further tree planting throughout the site and in the interest of softening the visual impact of the site the rural boundary;
- Alterations to layout plan in order to extend the off-site highways improvement works
- Alterations to the provision of visitor spaces within the site
- Negotiations in relation to affordable housing provision

## **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 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. 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. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.
- 6.2 The site is allocated as Provisional Open Land (POL) on the Unitary Development Plan Proposals Map and is allocated for housing on the Publication Draft Local Plan (PDLP). The allocation reference is H549; the application site form part of the wider allocation for which the indicative capacity for residential development is 49 dwellings.

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

D5 - Provisional Open Land  
 H1 - Housing Need  
 H10/12 - Affordable Housing  
 H18 - Provision of Open Space  
 BE1/2 - Design and the Built Environment  
 BE11 - Building Materials  
 BE12 - New dwellings providing privacy and open space  
 BE23 - Crime Prevention Measures  
 EP10 - Energy Efficiency  
 EP11 - Landscaping  
 T1 - Sustainable Transport Strategy  
 T10 - Highways Safety / Environmental Problems  
 T16 - Pedestrian Routes  
 T19 - Off Street Parking

## Supplementary Planning Guidance / Documents:

PLP1 – Presumption in favour of sustainable development  
PLP3 – Location of New Development  
PLP7 – Efficient and effective use of land and buildings  
PLP11 – Housing Mix and Affordable Housing  
PLP20 – Sustainable Travel  
PLP21 – Highway safety and access  
PLP22 – Parking  
PLP24 – Design  
PLP27 – Flood Risk  
PLP28 – Drainage  
PLP30 – Biodiversity and Geodiversity  
PLP32 – Landscape  
PLP35 – Historic Environment  
PLP48 – Community facilities and services  
PLP51 – Protection and improvement of local air quality  
PLP52 – Protection and improvement of environmental quality  
PLP61 – Urban Green Space  
PLP62 – Local Green Space  
PLP63 – New Open Space

## Supplementary Planning Guidance/Documents

Interim Affordable Housing Strategy

## National Guidance

‘Achieving Sustainable Development’  
‘Core Planning Principles’  
Chapter 4 – Promoting sustainable transport  
Chapter 6 – Delivering a wide choice of high quality homes  
Chapter 7 – Requiring good design  
Chapter 8 – Promoting healthy communities  
Chapter 10 – Meeting the challenge of climate change, flooding and coastal change  
Chapter 11 – Conserving and enhancing the natural environment  
Chapter 12 – Conserving and enhancing the historic environment  
‘Decision taking’

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

- 7.1 The application has been advertised in the press, by site notice and by neighbour notification letter as a Major Development and a Departure from the Development Plan. Amended plans have also been re-advertised which comprise the erection of the cricket fencing. A total of 27 representations from 20 individuals have been received which are summarised below.

- Highway safety
  - People not abiding to the speed limit
  - Concerns about the footway and people crossing the road
  - Large volumes of traffic on Swallow Lane
  - Larger vehicles struggle due to congestion
  - Existing lack of pavements in the area which aren't good for wheelchair or pram users
  - Roads have been impacted by other developments over the years
  - Concerns with reduction in width
  - Concerns regarding the timing of the traffic survey
  - The proposed junction is close to existing accesses on Swallow Lane
  - Cars park on the roadside
  - Concerns with the right-turn movement into the site
  - Concerns with visibility
  - Loss of parking for no. 61, Swallow Lane who parks where the proposed access point is
  - People park in the location of the proposed white lines
- Golcar is losing a medical practice – the application will place additional pressure on local services, schools and infrastructure
- Loss of grassland when brownfield sites could be developed
- In conflict with POL allocation
- Impact on heritage and the nearby Conservation Area
- Design of dwellings is not in keeping
- Biodiversity
- Close to the cricket pitch and no mitigation in the original scheme to protect against ball-strike
- Drainage concerns
- Request for Sport England to be consultation on the application
- Cricket Club has an easement or quasi-easement in respect of the use of the land especially for balls landing on the site and for retrieving the ball
- Loss of public recreational space
- Poor outlook for the dwellings
- Overshadowing the cricket pitch
- Loss of light to existing property
- Loss of privacy
- Devaluing existing property
- Loss of view from existing property
- Proximity of Plot 1 to the dividing wall
- Concerns regarding structural integrity of the eastern boundary wall
- Pleased that no traffic lights are proposed to control the proposed junction
- Concerns about the publicity process
- Noise and disturbance from the proposed development and the impact on tranquillity
- Concerns about the proposed materials – the dwellings should be constructed from natural stone
- Concerns regarding the content on the developer's pre-application notification leaflets
- Application wouldn't meet the needs of the community as no affordable housing in proposed
- Concern that the fencing will collect litter
- Concern that the fencing to impact on biodiversity
- Work has commenced digging holes in the highway
- Health and safety implications of cricket fencing

- The Ball-Strike Risk Assessment recommends 15m mitigation, not 12m
- Concerns regarding the on-going maintenance of this
- Impact on the character of the village and that the proposed development would result in Golcar merging with Bolster Moor

7.2 One objector to the scheme is the Secretary of the Golcar Cricket Club who is objecting on behalf of the club. They raise a number of issues which are contained within the summary above. Notwithstanding the provision of the protective cricket fencing, the Club wish to maintain their objection and would like to put on record that they consider that the proposed fencing will not make the relationship with new residents any easier. Concerns state that there has been no specification details of the fencing submitted in terms of materials as well as access arrangements into the site in order to allow for retrieval of cricket balls. General concerns in terms of cricket and the development would work together.

7.3 Ward Councillor Hillary Richards has put forward an objection to the scheme on the basis that no affordable housing is currently being provided. Discussions are currently on-going on this matter.

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

K.C. Highways: no objection subject to conditions

K.C. Lead Local Flood Authority: no objection subject to conditions

Sport England: no objection based on the provision of the proposed mitigation (cricket fencing)

Yorkshire Water: no objection

### **8.2 Non-statutory:**

K.C. Strategic Housing: 3no. affordable units required

Police Architectural Liaison Officer: no objection in principle

K.C. Biodiversity: no objection

K.C. Environmental Health: no objection subject to conditions

K.C. Landscape: no objection to amended plans

## **9.0 MAIN ISSUES**

- Principle of development
- Urban design issues
- Residential amenity
- Landscape issues
- Housing issues
- Highway issues
- Drainage issues



- Planning obligations
- Representations
- Other matters

## 10.0 APPRAISAL

### Principle of development

- 10.1 Planning law requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) is one such material consideration. The starting point in assessing any planning application is therefore, to ascertain whether or not a proposal accords with the relevant provisions of the development plan, in this case, the saved policies in the Kirklees Unitary Development Plan, 1999 (UDP). If a planning application does not accord with the development plan, then regard should be had as to whether there are other material considerations, including the NPPF, which indicate that planning permission should be granted.
- 10.2 The NPPF is a Government statement of policy and is therefore, considered an important material consideration especially in the event that there are policies in the UDP which are out-of-date or inconsistent with the NPPF. Paragraph 215 of the NPPF reinforces that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF.
- 10.3 It is clear that the NPPF seeks to *“boost significantly the supply of housing...” (para 47)*. Para 47 then goes on to describe how local authorities should meet the full objectively assessed need for market and affordable housing. This requires a range of measures including ensuring a deliverable five year supply of housing. Para 49 states that *“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 sites”*.
- 10.4 As evidenced in recent appeal decisions (eg. APP/Z4718/W/16/3147937 - Land off New Lane, Cleckheaton), the Council are failing their requirement to ensure a five year housing land supply by a substantial margin. This is important in the context of paragraph 14 of the NPPF.
- 10.5 Para 14 of the NPPF states that for decision-taking, the presumption in favour of sustainable development means:
- Approving development proposals that accord with the development plan without delay, and
  - Where the development plan is silent, or relevant policies are out-of-date, granting planning permission unless:  
*Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework when taken as a whole; or*  
*Specific policies in the Framework indicate development should be restricted.*

- 10.6 As the Council are unable to demonstrate a 5 year housing land supply as required by para 49 of the NPPF, relevant policies relating to housing are considered to be out-of-date. Indeed, the housing land supply shortfall is substantial. Whilst the Council have submitted the Publication Draft Local Plan (PDLP) for examination which, for housing purposes, is predicated on the basis of a five year housing land supply; the Local Plan has not been adopted. Therefore, it is currently the case that the Council are unable to identify a five year supply of specific deliverable housing sites against the requirement.
- 10.7 Based on the above, there is a presumption in favour of sustainable development and planning permission should only be refused where there are adverse impacts which would significantly and demonstrably outweigh the benefits.
- 10.8 The site is allocated as Provisional Open Land (POL) on the UDP. Therefore, policy D5 is applicable in this case:
- On sites designated as provisional open land planning permission will not be granted other than for development required in connection with established uses, changes of use to alternative open land uses or temporary uses which would not prejudice the contribution of the site to the character of its surroundings and the possibility of development in the long term.*
- 10.9 It is considered that policy D5 is not a policy for the supply of housing in respect of the way in which it relates to paragraph 49 of the NPPF. Therefore, policy D5 is considered to be up to date and given full weight.
- 10.10 The proposed development clearly conflicts with policy D5 of the UDP partly due to the fact the scheme of housing development fails to maintain the character of the land as it stands and fails to retain the open character. The proposed development constitutes a departure from the development plan.

#### *Emerging Local Plan*

- 10.11 With respect to the emerging Local Plan, the Publication Draft Local Plan (PDLP) was submitted to the Secretary of State on 25th April 2017 for examination in public. The site forms part of a wider housing allocation (H549) within the PDLP. Given that the PDLP has now been submitted consideration needs to be given to the weight afforded to the site's allocation in the PDLP.
- 10.12 The NPPF provides guidance in relation to the weight afforded to emerging local plans. Paragraph 216 states the following:

*From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:*

- *the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- *the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

10.13 Further to this, guidance in the Planning Practice Guidance (PPG) states that *“arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. Such circumstances are likely, but not exclusively, to be limited to situations where both:*

*a. the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or neighbourhood planning; and*

*b. the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.*

10.14 Given the scale of the development proposed when assessed against the wider context of the PDLP, the application could not be deemed to be premature as the proposed development, by virtue of its relatively small scale and strategic importance, is not considered central to the delivery of the Local Plan. Whilst officers do consider that the application is not premature in terms of the emerging Local Plan, it has been confirmed that given the advanced stage at which the Local Plan has progressed considerable weight should be afforded to the policies within the emerging Local Plan. However, it is also noted that the proposed housing allocation (H549) has unresolved objection and this is considered to reduce the weight afforded to the housing allocation in the emerging Local Plan.

10.15 The PDLP sets a housing requirement of 31,140 homes from 2013 – 31 to meet identified needs. This equates to 1730 homes per annum. The Council's current supply position is detailed in the Housing Topics Paper (2017) and this also includes the number of dwellings built since the emerging Local Plan base date – 1<sup>st</sup> April 2013. There has been persistent under-delivery as demonstrated in the table below:

Year	Net annual housing completions	Local Plan requirement	Completions compared to Local Plan requirement
2013/14	1,036	1,730	-694
2014/15	666	1,730	-1064
2015/16	1,142	1,730	-588
Total	2,844	5,190	-2,346

10.16 The PDLP includes the application site as a housing allocation and is therefore, a site which the Council consider appropriate for housing. It is a site which would contribute towards ongoing housing delivery in light of the five year supply requirement.

10.17 If the emerging Local Plan was to be adopted in its current form, the Council would be able to demonstrate a five year housing land supply. However, the PDLP has not been through examination and as it stands the Council is a substantial way off being able to demonstrate a five year housing land supply

and housing delivery has persistently fallen short of the emerging Local Plan requirement. This triggers the presumption in favour of sustainable development as set out in para 14 of the NPPF.

- 10.18 It is also noted that, as the site forms part of a wider POL/housing allocation in the existing and emerging plans, provision would need to be made through the layout of the proposed development for a potential future link through to the remainder of the allocated land so as not to stifle the future development of this land. In this instance, it is clear that a potential link through to the adjoining land could be facilitated through the layout proposed. As such, the remainder of the site is not landlocked for the purposes of future development.

#### Visual Amenity and Urban Design issues

- 10.19 Policy BE1 of the UDP requires that all development should be of good quality design such that it contributes to a built environment. Policy BE2 states, amongst other matters, that new development should be designed so that it is in keeping with any surrounding development. Policy BE11 of the UDP requires that new development should be constructed in natural stone of a similar colour and texture to that prevailing in the area, where that is the predominant material of construction, or within local centres or conservation areas; outside such areas materials should reflect the predominant materials adjacent to and surrounding the site provided that they are not detrimental to visual amenity. Policy PLP24 of the PDLP requires that good design to be at the core of all planning decisions.
- 10.20 The application site comprises greenfield land previously used for grazing. It is bounded to the north by the rear elevations of the existing dwellings on Swallow Lane and the access point to the front, to the east is the cricket ground which is set at a lower level and to the south lie undeveloped greenfield land. The land to the west is also undeveloped and forms the rest of the wider allocation as POL in the Unitary Development Plan and housing in the PDLP.
- 10.21 The proposed development would be positioned adjacent to the existing housing on Swallow Lane and would extend back into this greenfield land. It would extend part way along with the boundary with the cricket pitch; the cricket pitch extends further to the south than the application site boundary. Beyond the western boundary of the wider POL/housing allocation lies the residential properties of Heathwood Drive. The development land is bounded by drystone walling to the east, west and south, with adjacent fields to the south having this same feature. The site affords long distance views to the countryside to the far south.
- 10.22 The site would also be visible locally from vantage points such as Ridings Lane to the east of the site, with properties beyond this being located within designated Conservation Area. K.C. Conservation and Design has been consulted on the application and raise no objections, commenting that the proposed development would not impact on the setting of the Conservation Area. Whilst there are listed buildings within Golcar, there is no concern raised in relation to any impact on their setting.
- 10.23 When viewing the site from long range vantage points to the south and south west, the site is not considered to occupy an overly prominent location. The visual impact from the development would be mitigated to some degree by the existing housing stock against which the development would sit. After

negotiations with the agent, the dry stone walling to the south and east would be retained which is considered to assist in retaining some of the character of the site boundaries. Alterations to the landscaping scheme have introduced tree planning in the rear gardens of plots that abut the southern boundary of the site which assists in softening the proposed built form.

- 10.24 Internally, the development comprises a mixture of two storey detached and semi-detached properties positioned around a central area of Public Open Space (POS). Each property would benefit from its own private garden space and parking area. Design features comprises a combination of hipped and dual-pitched roof forms, a combination of integral and detached garages and bay windows on some plots. All dwellings would have 2 storeys which is reminiscent of building heights locally. In terms of development density, at 29.2 dwellings per hectare, this falls marginally short of the 35 dwellings per hectare set out in PLP7 of the PDLP. This shortfall is considered acceptable in this instance, given the relatively rural location and a desire to soften the development.
- 10.25 A cul-de-sac approach has been applied to the internal layout in an attempt to replicate the existing form of development that exists off Swallow Lane. A single access point would be provided which would incorporate two block paved shared surfaces. The proposed arrangement is considered to respect the existing pattern of development within the locality.
- 10.26 There are 6 no. property types proposed which Officers considered harmonise well with one another. It is noted that there are a variety of property types that exist within the immediate area and the proposed development is not considered to harm visual amenity or the character of Swallow Lane, when viewed through the proposed access point. Alterations to Plot 2 were sought in order to introduce fenestration to the side elevation in order to add visual interest within the proposed access road, avoiding the creation of a blank gable within the streetscene of the development site.
- 10.27 Members deferred the application in order to allow Officers to enter into discussions regarding the materials for the external walls and consider the use of natural stone. Since the previous committee, the agent has provided justification for the use of a high quality artificial stone. In their supporting statement, they set out that Policy BE11 of the UDP states that 'proposed materials of construction should reflect the predominant materials.' The agent has undertaken analysis of the local context and states:

*'Of the 345 properties looked at, the most common building material is brick (with 45.2%), followed by natural stone (31.3%) and then artificial stone (23.5%).'*

These figures demonstrate the variety of materials in the area. Officers note that whilst the properties that immediately adjoin the site are constructed from natural stone, there is a mixture of artificial stone, brick, render and cladding within close proximity. The proposed materials are:

- Forticrete Anstone Black weathered pitch face for the walls
- Cemex Grampian Slate Grey for the roof materials
- Cream 041 Renderpral Monocouche render

Given the mixture of materials of existing house stock within the vicinity of the site, Officers consider that a high quality artificial stone can be considered acceptable on the site. The use of render is considered acceptable and will assist in providing visual interest throughout the development site. In the supporting statement, the agent also highlights the additional build costs associated with the use of natural stone and state that using natural stone would mean that the scheme would only be viable with no affordable units. Officers maintain the view that the use of the proposed high quality artificial stone would have an acceptable impact on visual amenity.

- 10.28 Concern was raised about the use of 1800mm high closely boarded timber fencing along boundaries of the site. Officers considered that this would appear too stark along the boundaries of the site and would cause harm to visual amenity. Following this feedback the amended plans demonstrate the retention of the dry-stone walling along the southern and eastern boundaries of the site however, the high level boundary treatment is still shown behind this which Officers considered unacceptable in terms of visual amenity. As such, a condition will be added requiring a scheme of boundary treatment to be submitted prior to occupation of the dwellings.
- 10.29 In this instance, it is considered prudent to remove permitted development rights extensions and outbuildings within the plots of each dwelling. This will prevent this type of development from occurring that are outside of the control of planning. As such, any potential impact on the character of the adjacent green belt land can be assessed, together with any close overlooking of neighbouring properties.
- 10.30 The protective cricket fencing to the eastern boundary of the site would consist of green coloured metal poles to a height of 12m with screen mesh hung between them. Whilst it is acknowledged that 12m screening is a significant height, this has been recommended in the Ball-Strike Risk Assessment provided during the course of the application as an appropriate mitigation measure to protect the development from ball-strike. This type of equipment is considered typical of what one would expect to find adjacent to a cricket pitch. The metal fencing would be a green colour which is considered the most appropriate for the context and the mesh would have a sheer appearance meaning that it would not be visually intrusive. On balance, the proposed cricket fencing is considered to have an acceptable impact on visual amenity. No objections have been raised by K.C. Conservation and Design.
- 10.31 In summary, the site would be changed from open countryside to an area of housing, inevitably resulting in detriment to openness. As such, the proposed development would conflict with the aims of Policy D5 of the UDP. As detailed above, the application site lies adjacent to part of the existing village and would be visible from close vantage points around the site. The visual impact of the site from a longer range would be reduced as the development would be set against the backdrop of the existing built form. The scheme offers on-site provision of POS, a natural play facility and a comprehensive soft landscaping scheme. Ensuring appropriate high quality artificial stone and acceptable boundary treatment through condition will allow there to be no significant harm that arises from the proposed development and the intrinsic character of the wider area to be retained.

#### Residential Amenity

10.32 Para 123 of the NPPF indicates that planning policies and decisions should aim to:

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through use of conditions.

Policy BE12 of the UDP provides guidance on appropriate separate distances for dwellings. PLP24 of the PDLP requires developments to provide a high standard of amenity for future and neighbouring occupiers.

10.33 The closest residential properties are the properties of Swallow Lane which are located to the north and east of the of the application site. In relation to the terraced dwellings of Swallow Lane whose rear elevations face towards the site, amendments have been sought during the course of the application in order to ease the relationship between these existing properties and the side elevation of Plot 19, which is the closest dwelling proposed to this properties. Alterations comprise changes to the house type, changing the roof form from dual-pitched to hip in order to reduce some of the massing of the proposed dwelling. Plot 19 has also been shifted a further metre away from these dwellings thus increasing the separation distance between them. The section drawings have been updated to reflect the proposed alterations. The 12m guidance of BE12 is now exceeded, with 13m being provided between the side elevation of Plot 19, which contains no habitable room openings and the habitable room windows in the rear elevations of the closest existing property to the north on Swallow Lane. A condition will be required removing PD rights for the insertion of new openings in this side elevation in order to ensure that amenity is protected. Whilst there would be habitable room openings in the northern elevations of Plots 16 and 17, there is over 21m distance as set out in BE12. Appropriate boundary treatment along the boundaries of Plots 16 – 19 will ensure no undue loss of amenity to the existing residents within their amenity spaces which will be dealt with via condition. No. 61, contains a window in the side elevation which is judged to serve a non-habitable room/secondary window. There would be no direct relationship between the proposed dwellings and this opening. There are no concerns in relation to position of the proposed access and the impact on this window. The properties on the northern side of Swallow Lane that face towards the access are considered too far away from the site to be unduly impacted in terms of the proposed built form or loss of privacy.

- 10.34 No. 59c, Swallow Lane is located adjacent to Plot 1. This dwelling contains openings in its side elevation, all of which serve non-habitable rooms. No habitable room windows are proposed in the side elevation of Plot 1. As such, there are no minimum distances specified in BE12 relating to non-habitable room openings. In a similar vein to above, amendments were sought to switch plots 1 and 2 in order to have a more compact dwelling with a hipped roof form on the boundary adjacent this property in order to ease the relationship. Plot 1 has been positioned such that it would not project beyond the rear elevation of this existing property thus avoiding impacts on the habitable room openings on the rear elevation and its amenity space at a lower level to the site. Appropriate boundary treatment will be sought along this boundary such that the amenity of the existing property is retained whilst avoiding the introduction of overly high timber structures that could potentially result in an overbearing impact. Again, this detail can be secured through a boundary treatment plan post-determination. A condition can be imposed removing PD rights for openings in this elevation in order to protect the amenity of no. 59c. It is noted that there are rooflights within this existing dwelling, however, the two that would be primarily impacted are the smaller ones serving non-habitable spaces. Whilst there would be a degree of impact on the 2 larger rooflights, the level of harm is not considered to be significant given the relationship that Plot 1 would have with this dwelling. No. 59b is positioned north of no. 59c. There would be no direct relationship between the proposed dwellings and this property. There are no concerns in terms of overbearing, overshadowing or overlooking.
- 10.35 A number of existing properties close to the application site would see a change of outlook. However, it is an established principle of planning law that there is no right to a view. The application is considered to ensure that existing occupiers maintain sufficient standards of residential amenity. Consequently the application is considered to comply with policy BE12 of the UDP and PDL policy PLP24 in this respect.
- 10.36 Internally, the distances set out in policy BE12 of the UDP are largely met. The distances between habitable room windows in the proposed dwellings meet to 12/21m and where dwellings back onto undeveloped land, there is generally a distance of 10.5m between the habitable room windows and the boundary of the application site. Properties whose side elevations abut the site boundaries are set at generally 1.5m away. Overall, there is considered to be sufficient distance between the proposed dwellings so as to ensure an acceptable level of amenity for future occupiers and the proposed development. Due to the nature of the proposed cricket fencing, specifically the sheer nature of the mesh, it is considered that this would not have a severe impact on the residential amenity of existing and future occupiers of the surrounding dwellings.

#### Highways and Traffic Implications

- 10.37 Access to the site is from Swallow Lane which is a single lane carriageway running in an east-west direction between Town End to the east and Scape Goat Hill and Bolster Moor to the west. At this location Swallow Lane is subject to a 30mph speed limit with street lighting provided on either side of the carriageway and a footway along the northern side. The access is proposed to be 5.5m in width with 6m junction radii and 2.0m footways adjacent to the carriageway into the site. Internally the access is designed as a shared surface.



10.38 Policy T10 of the Kirklees UDP states that new development will not normally be permitted if it will create or materially add to highway safety issues. Policy PLP21 of the PDLP aims to ensure that new developments do not materially add to existing highway problems or undermine the safety of all users of the network. Para 32 of the NPPF states:

*Plans and decisions should take account of whether:*

- *the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;*
- *safe and suitable access to the site can be achieved for all people; and*
- *improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*

10.39 The application is accompanied by a Transport Statement which has been assessed by Highways DM. The Transport Statement shows that anticipated vehicle movements that would result from the proposed development; this shows that the dwellings could be seen to generate 13 vehicle movements two-way in the AM peak period and 15 movements two-way in the PM peak period. This would equate to less than a vehicle trip every 4 minutes. The Assessment concludes that this level of additional traffic would not be noticeable within daily traffic fluctuations and that the proposal should not have a material adverse impact on the local highway network.

10.40 Speed surveys have been undertaken over a 7 day period between Saturday 28th January 2017 and Friday 3rd February 2017 with recorded 85th percentile speeds of 29.8mph for eastbound vehicles and 30.6mph for westbound vehicles. The required visibility splay to the west is 41.3m whilst the required visibility to the east is 36.4m.

10.41 As part of the proposed development scheme, improvements are to be made to the existing access which include narrowing Swallow Lane within the vicinity of the site access from between 7.3 to 7.6 m in width to 5.5m with the provision footway build outs to improve visibility from the junction onto Swallow Lane. It should be noted that Swallow Lane is approximately 5.2m in width 100m to the west between house numbers 86 to 88. The access design has been the subject of a Stage 1 Road Safety Audit which contained a number of recommendations to minimise risk arising from the future operation of the access. These recommendations were the subject of a Designers Response resulting in an amended version of the originally proposed layout. The proposed amendments are considered by Highways DM to have an acceptable impact on highway safety.

10.42 Bus stops are located approximately 200m away in walking distance from the site on Swallow Lane. Further services are available within a 400m walking distance from the bus stops located on Leymoor Road and Town End.

- 10.43 Amendments were sought to the layout in order to encourage reduced vehicle speeds and improved forward visibility. Swept paths have been submitted which demonstrate that a refuse vehicle can enter, turn and exit the site win a forward gear. Off-site highways works are proposed under this application; a small footway/build out to the west of the proposed junction along Swallow Lane and alterations to the proposed footway to the east of the junction which would result in the eastern kerb line being tapered in order to tie back into the existing carriageway edge of Swallow Lane over a longer length to the eastern side of the driveway to no. 59. The internal layout and proposed access arrangements are considered acceptable to highways DM subject to condition.
- 10.44 The only concern raised by Highways DM is the dimensions of the internal garages of the Banbury and Bentley house types; Highways DM state that these are not sufficient to be classed as a parking space. However, as noted by the developer, these house types with the same size integral garages have been approved recently in Kirklees. It is therefore considered that these are on balance acceptable.
- 10.45 Overall, subject a series of conditions, the proposed development is considered acceptable in terms of highway safety and compliant with the aims of T10 of the UDP and PLP 21 of the emerging Local Plan.

#### Drainage issues

- 10.46 Para 100 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. On the basis that the site lies in Flood Zone 1 (lowest risk of flooding from rivers or the sea), a sequential test is not required in this case.
- 10.47 A Drainage Strategy was submitted during the course of the application. This proposes that foul water from the development will drain by gravity into the existing combined system on Swallow Lane. In terms of surface water, infiltration tests have been carried out on the site which demonstrate that soakaways are not a viable option. The report states that the nearest watercourse to the site is approximately 250m to the south of the site; as such outfall to a watercourse is not a viable means of disposal for surface water drainage. It is therefore proposed that surface water will discharge to the existing sewers in Swallow Lane allowing the developer to achieve a gravity outfall in land under their control and the adopted highway. In accordance with guidance, any new discharge rate from a Greenfield site should be restricted at a rate of 5 litres per second per hectare. Given the size of the site at approximately 0.8ha the new discharge rate should be restricted to 4 litres per second as set out in the Drainage Strategy submitted.
- 10.48 The Drainage Strategy concludes that the implementation of a new restricted discharge rate will require the introduction of surface water attenuation. The attenuation should provide the capacity to accommodate the water generated from a 1 in 100 year storm plus climate change typically 30%. The new impermeable area of the site is 5,060m<sup>2</sup> and when restricted at 4 litres per second will require storage of approximately 315m<sup>3</sup> for a 100 year storm plus 30% allowance for climate change. It is proposed that the majority of the surface water storage would be located under the POS. The final details of this system are to be agreed by Yorkshire Water through a S104 agreement.

- 10.49 The Drainage Strategy has been reviewed in detail by K.C. Lead Local Flood Authority and Yorkshire Water. The Lead Local Flood Authority raise no objections to the submitted scheme in principle, however amendments were sought in relation to the flood routing on the site. In response to this, the agent has submitted a revised plan relating to this which demonstrates the plots along the eastern boundary being pushed slightly further up the site in order to open up the gap between Plots 7 and 8. K.C. Lead Local Flood Authority are satisfied with these amendments.
- 10.50 As set out above, in periods of heavy rainfall, the scheme has been designed to contain water within the site. Therefore, whilst concerns have been raised by local residents with regards to localised flooding of the cricket pitch to the east which they anticipate would occur from developing this land, the development has been designed so as not to contribute to flooding from excessive surface water run-off. Moreover, as the proposed scheme is designed to collect and contain surface water before discharging it at a controlled rate into the sewer, it is considered to in effect decrease the surface run-off from the current situation.
- 10.51 In principle, the proposed development offers acceptable drainage solutions which accord with the hierarchy of drainage set out within local and national policy. No objection is raised in principle by the Lead Local Flood Authority nor Yorkshire Water, subject to appropriate conditions.

#### Risk of Ball-Strike from cricket pitch

- 10.52 Sport England is a statutory consultee where the proposal prejudices the use or leads to the land of land being used as a playing field or that has been used as a playing field within the last 5 years, as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2015. Sport England's playing field policy not only seeks to protect the playing field itself, but also seeks to protect it from development on adjacent land which might prejudice its use. Within their consultation response, Sport England consider residential development adjacent to cricket pitches to fall into this category as potential cricket ball strike to residential properties can lead to damages and insurance claims that become unaffordable for the cricket club and ultimately lead to the closure of the ground. No ball-strike assessment had been originally submitted with the application and as such Sport England objected to the original proposal.
- 10.53 In response to this, a Ball-Strike Risk Assessment has been submitted during the course of the application. The report concludes that a minimum mitigation height of 15m is recommended to the full length of the wester orientation of the development, noting that existing mitigation ranges from 3 – 5m. The report states that at this height, the mitigation may not stop all shots from landing beyond the boundary however it will significantly reduce their frequency.
- 10.54 The applicant has therefore submitted details of their proposed mitigation which would take the form of a post and mesh protective screening (as appraised above in the visual amenity section). This would be a height of 12m taking into account the mitigation (land levels changes) that is currently in place. This would be provided within the boundary of the application site. Sport England has reviewed the Ball-Strike Risk Assessment and also the proposed mitigation measures and now removes its objection to the scheme. As the protective fencing is an element that would require planning permission in itself, the

application has been re-publicised so as to include this element. It is considered necessary and reasonable to condition that the fencing is erected prior to Plots 1 and 3-7 being occupied. These are the plots that abut the eastern boundary of the site. In terms of its on-going management, it will be maintained by a private management company.

### Ecological Issues

- 10.55 UDP policy EP11 requires that application incorporate landscaping which protects/enhances the ecology of the site. Emerging Local Plan policy PLP30 states that the Council will seek to protect and enhance the biodiversity and geodiversity of Kirklees, including the range of international, national and locally designated wildlife and geological sites, habitats and species of principal importance and the Kirklees Wildlife Habitat Network.
- 10.56 The application is accompanied by an Extended Phase 1 Habitat Survey; the purpose of which was to map habitats present within the site, identify any protected species and to identify any habitats that could be suitable for such species. The value of the site is then assessed.
- 10.57 The report concludes that the site supports a limited range of habitat types which are considered to be of low ecological importance, as it is dominated by improved grassland. The site was considered as offering low potential for protected species to be present. The site contains several recommendations relating to bat habitat enhancement, lighting, site clearance and landscaping. The Biodiversity Officer has reviewed with scheme and raised no objections subject to the imposition of a condition relating to the submission of an ecological design strategy (EDS) which could be submitted and agreed by the LPA prior to development commencing on the site. This condition will ensure that the measures identified in the above strategy are incorporated into the scheme.
- 10.58 Since the previous committee, following the request of Members to provide additional information in relation to bird-strike, the specification of the proposed cricket fencing mesh has been provided. This has been reviewed by the Council's Ecologist. Based on this information, he states that the netting to be installed would be made of a thick enough cord to make it visible to birds, and that the mesh size is sufficiently large to allow smaller birds to pass through closer to the ground. He states that larger birds tend to be higher flying and will not need to pass through the mesh. As such, there are no concerns from the Council's Ecologist in relation to bird-strike on the cricket fencing.

### Heritage Issues

- 10.59 Section 66 (1) of the Listed Buildings Act states "in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses". Paras 126-141 of the NPPF are relevant to the determination of applications affecting heritage assets.
- 10.60 The site is not located within the Golcar Conservation Area however, the Conservation Area boundary is located approximately 100m to the east of the eastern boundary of the application site and 100m to the south of the application site boundary. Even the separation distance of the site from the

boundary of the Conservation Area, the development has not been publicised as affecting its setting.

- 10.61 K.C. Conservation and Design has been consulted on the application and the Officer comments that the application is not considered to impact on the setting of the conservation area. It is noted that there are several listed buildings within the Conservation Area, however, their distance and relationship with the proposed development means that there is not concern in terms of any impact on their significance.
- 10.62 As such, the application is considered to have an acceptable impact on heritage in accordance with the aims of the NPPF and the PDLP.

#### Land Contamination

- 10.63 The application is accompanied by Contaminated Land Reports which largely demonstrate findings that the site is uncontaminated. K.C. Environmental Health has reviewed the reports and notes that, whilst the reports suggest that no remediation is necessary, this cannot be the case due to the presence of an intact coal seam that has been located in the middle of the close and close to the surface (Trial Pit 3 at 0.7m). The Environmental Health Officer asserts the need for this to be addressed due to the potential for combustion/underground fire. As such, appropriate conditions are recommended which relate to the submission and implementation of a remediation strategy and validation report. This is in accordance with the requirements of Chapter 11 of the NPPF, G6 of the UDP and PLP 53 of the PDLP.

#### Air Quality

- 10.64 Paragraph 35 of the NPPG states that 'plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Therefore, developments should be located and designed where practical to.....incorporate facilities for charging plug-in and other ultra-low emission vehicles.' The application has also been assessed in accordance with the West Yorkshire Low Emission Strategy Planning Guidance.

Given the scale of the development, 1 electric vehicle charging point shall be installed for each dwelling.

- 10.65 As such, a condition will be added to this effect, in accordance with the aims of Chapter 4 of the NPPF and the guidance of the West Yorkshire Low Emissions Strategy.

## Construction noise

- 10.66 As this site will be close to existing residential properties K.C. Environmental Health recommend that, in order to minimise noise disturbance at nearby premises, activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside of specific hours. This will be applied as a footnote.

## Representations

- 10.67 Representations are set out below:

- Highway safety
  - People not abiding to the speed limit
  - Concerns about the footway and people crossing the road
  - Large volumes of traffic on Swallow Lane
  - Larger vehicles struggle due to congestion
  - Existing lack of pavements in the area which aren't good for wheelchair or pram users
  - Roads have been impacted by other developments over the years
  - Concerns with reduction in width
  - Concerns regarding the timing of the traffic survey
  - The proposed junction is close to existing accesses on Swallow Lane
  - Cars park on the roadside
  - Concerns with the right-turn movement into the site
  - Concerns with visibility
  - Loss of parking for no. 61, Swallow Lane who parks where the proposed access point is
  - People park in the location of the proposed white lines

*Response: the application has been comprehensively reviewed by Highways DM and Highway Safety Officers. They have also reviewed the concerns that have been raised through the public consultation period. Following amendments to the internal layout and the junction improvement works, no objection is raised subject to conditions. Highways DM note that the majority of properties that front the proposed white line painting have their own off-street parking. Discussion has been held to provide parking close to no. 61 in order to provide off-street parking within the site. They are satisfied that, subject to the highways improvements works proposed, there would be no significant harm to highways safety arising from the proposed development.*

- Golcar is losing a medical practice – the application will place additional pressure on local services and schools

*Response: the proposed development is not of a scale to trigger the need for education provision. As part of the development of the Local Plan evidence base, an ongoing infrastructure planning process has considered the impact of future growth on health infrastructure, summarised in the Infrastructure Delivery Plan (IDP) 2015 and IDP Addendum 2016. This is an on-going process and will be monitored and updated alongside the Local Plan. It acknowledges that funding for GP provision is based on the number of patients registered at a particular practice and is also weighted based on levels of deprivation and aging population, with direct funding provided by the NHS for GP practices/health centres based on an increase in registrations. Notwithstanding the above, given the small scale of the*

*scheme it is not considered reasonable in this instance to require a contribution towards health infrastructure.*

- Loss of grassland when brownfield sites could be developed  
*Response: The application has to be determined in its submitted form. The principle of developing this land is set out in the report.*
- In conflict with POL allocation  
*Response: discussed within the main body of the report. The principle of developing this POL site for residential use is discussed in detail in the 'Principle of Development' section.*
- Impact on heritage and the nearby Conservation Area  
*Response: addressed within the report – K.C. Conservation and Design raise no objection and state that the application would not impact on the setting of the Conservation Area*
- Design of dwellings is not in keeping  
*Response: an assessment of the design of the dwellings is provided in the visual amenity section. The proposed design is not considered to be harmful to visual amenity*
- Impact on biodiversity  
*Response: the application is supported by the a Phase 1 Extended Habitat survey and K.C. Biodiversity raise no objections subject to conditions*
- Close to the cricket pitch and no mitigation in the original scheme to protect against ball-strike  
*Response: this has now been provided and is discussed in detail in the report*
- Drainage concerns  
*Response: discussed in detail within the report*
- Request for Sport England to be consulted on the application  
*Response: Sport England has been consulted on this application*
- Cricket Club has an easement or quasi-easement in respect of the use of the land especially for balls landing on the site and for retrieving the ball  
*Response: legal agreements on land do not form material considerations. The grant of planning permission does not override any private legal rights.*
- Loss of public recreational space  
*Response: the land is within private ownership and allocated as POL/housing in the UDP/PDLP respectively. An area of POS will be provided within the site*
- Poor outlook for the dwellings  
*Response: as discussed in the report, it is considered that the occupants of the dwellings would have a good standard of amenity.*
- Overshadowing the cricket pitch  
*Response: there is no concern in terms of overshadowing the cricket pitch. Fencing has been sought in order to mitigate the impact of the proposed development on the use of the land as a cricket pitch.*
- Loss of light to existing property  
*Response: discussed in the report and amendments sought where necessary to ease the relationship*
- Loss of privacy  
*Response: discussed in the report and conditions imposed in order to restrict the insertion of new openings where necessary*
- Devaluing existing property  
*Response: not a material consideration*
- Loss of view from existing property  
*Response: not a material consideration*

- Proximity of Plot 1 to the dividing wall  
*Response: there is around 1.5m from the boundary of the site as recommended in BE12 of the UDP. Structural stability concerns are addressed below*
- Concerns regarding structural integrity of the eastern boundary wall  
*Response: structural stability is the responsibility of the landowner/developer, as set out in the NPPF*
- Pleased that no traffic lights are proposed to control the proposed junction  
*Response: noted*
- Concerns about the publicity process  
*Response: publicity has been undertaken in accordance with the Kirklees Development Management Charter*
- Noise and disturbance from the proposed development and the impact on tranquillity  
*Response: disturbance during the construction phase is not a material consideration. A footnote will be added to recommend construction hours. In terms of the impact of the finished development, this residential use is considered to be compatible with the existing uses in terms of noise/disturbance.*
- Concerns about the proposed materials – the dwellings should be constructed from natural stone  
*Response: discussed in the report. In this instance, it is considered that a high quality artificial stone as set out proposed by the developer is acceptable in this setting. A condition is recommended to obtain the full details of materials proposed in order to ensure visual amenity is not harmed.*
- Concerns regarding the content on the developer's pre-application notification leaflets  
*Response: not a material consideration*
- Application wouldn't meet the needs of the community as no affordable housing in proposed  
*Response: The application is currently subject to on-going discussions in terms of viability and the provision of affordable housing.*
- Concern that the fencing will collect litter  
*Response: no concern from a planning perspective. This type of fencing is commonly seen adjacent cricket pitches. It will be maintained by a private management company which can be agreed as part of the S106.*
- Concern that the fencing to impact on biodiversity  
*Response: no concerns in terms of biodiversity*
- Work has commenced digging holes in the highway  
*Response: noted. No planning permission has been granted for the proposal at this point.*
- Health and safety implications of cricket fencing  
*Response: Cricket fencing is commonly seen on the boundaries of cricket grounds and it is not considered that the proposed development would unduly impact on health and safety*
- The Ball-Strike Risk Assessment recommends 15m mitigation, not 12m  
*Response: existing mitigation of 3 - 5m currently existing in respect of land levels*



- Concerns regarding the on-going maintenance of the cricket fencing  
*Response: this will be managed by the private management company which can be secured as part of the S106 agreement*
- Impact on the character of the village and that the proposed development would result in Golcar merging with Bolster Moor  
*Response: an assessment of the visual impact of the proposed development on the character of the area has been undertaken as a part of this report. It is considered that the proposed development would not adversely impact on the character or form of Golcar nor would it result in the built form merging with another settlement.*

One objector to the scheme is the Secretary of the Golcar Cricket Club who is objecting on behalf of the club. They raise a number of issues which are contained within the summary above. Notwithstanding the provision of the protective cricket fencing, the Club wish to maintain their objection and would like to put on record that they consider that the proposed fencing will not make the relationship with new residents any easier. Concerns state that there has been no specification details of the fencing submitted in terms of materials as well as access arrangements into the site in order to allow for retrieval of cricket balls. General concerns in terms of cricket and the development would work together.

*Response: Through consultation with Sport England, cricket fencing has been proposed that they considered to be sufficient in terms of protecting the use of this cricket pitch and the proposed dwellings/occupants from ball-strike. The details of this fencing can be secured by condition and on-going maintenance through the S106 agreement. In terms of ball retrieval from the development site for any ball that are not caught by the fencing, this arrangement is considered to fall within the remit of a private legal agreement with the developer and is outside of the remit of planning. In terms of the compatibility of the proposed use with the cricket pitch, that subject to the provision of the appropriate mitigation as detailed above, no concerns are raised in relation to the use of the land for residential development. There are existing dwellings within close proximity of the cricket pitch and it uncommon to find proposed dwellings close to sporting facilities. Discussions have also been held with K.C. Environmental Health and no concerns are raised in terms of use of the land for residential use in terms of the impact on the amenity of future residents of the proposed dwellings from the adjacent sporting activity.*

#### Planning obligations

10.68 In accordance with para 204 of the NPPF planning obligations should only be sought where they meet the following three tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

### *Affordable Housing*

- 10.69 In circumstances where a developer considers that there are site-specific issues which would mean the effect of policy requirements and planning obligations would compromise development viability, paragraph 173 of the NPPF states that in order to ensure viability, the costs of any requirements for affordable housing, standards, infrastructure and other requirements should provide a competitive return to a willing landowner and development to enable the development to be delivered.
- 10.70 A viability appraisal was submitted by the applicant which has been reviewed by the Council's viability assessor. Our assessor has found the proposed development to be unviable with affordable housing, with the scheme only producing a small surplus above acceptable profit levels. There is disagreement between the applicant's viability consultant and the Council's viability assessor in terms of the level of surplus that is produced by the scheme.

Notwithstanding this, the developer has offered to provide 3 affordable dwellings in the form of 'starter homes', with the third unit being provided at the expense of a part of the developer's profit. These will be Plots 4, 5 and 6, which are to be sold at a 20% discount to market value. The criteria for the 'qualifying person' and the mechanism for the sale of these dwellings will be set out in the S106 agreement. Officers are now satisfied that an acceptable level of affordable housing is being provided on the site and that the proposed development complies with affordable housing policy.

### *Metrocards*

- 10.72 In light of the above and the offer for 3 affordable units, a contribution towards MetroCards is not being provided by the developer. In this instance, this is considered acceptable as Officers would rather see the S106 money being concentrated on the provision of the affordable units as detailed above. It is noted that the layout provides sufficient off street car parking on site and the developer has agreed to a condition to installed electric vehicle charging points for each of the dwellings which demonstrates a commitment to sustainable transportation modes in accordance with the West Yorkshire Low Emissions Strategy.

### *POS*

- 10.71 In respect of open space, there is a requirement to provide sufficient POS on site or make an off-site contribution in accordance with H18 of the UDP. This application proposes full on-site provision of POS in accordance with policy requirements. This includes a small area of natural play for children. KC Landscaping are satisfied the proposal. The POS will be managed and maintained by a private management company which will be secured by S106.

## **11.0 CONCLUSION**

- 11.1 The application site lies adjacent existing built form of Swallow Lane on an area of land allocated as Provisional Open Land on the UDP. The Council are unable to demonstrate a five year housing land supply and the NPPF seeks to boost significantly the provision of housing. In the emerging Local Plan the site is one which is considered by the Council as suitable for housing. Approval of this application is not considered to pre-determine decisions about the scale, location or phasing of new development that are central to the emerging Local Plan.
- 11.2 The development of any greenfield site would inevitably result in a loss of landscape quality due to the fact that there would be buildings in place of open land. It is acknowledged that there would be some impact on local views as described in the above report. However, it is considered that the scheme has been designed in order to reduce its impact on the adjacent countryside through the positioning and appearance of the dwellings which would be constructed from high quality artificial stone. The site would also have a centrally placed area of public open space and a comprehensive landscaping scheme. These factors, together with the location and scale of the proposed development means that there would be no overriding harm to the landscape and visual amenity.
- 11.3 The concern raised in the public representations in relation to highway safety is acknowledged, however, the following detailed reviewed by K.C. Highways DM, it is considered that, subject to the provision of the junction improvement works, adequate visibility splays and new sections of footway, the application will have an acceptable impact on highway safety. As detailed in the report, there also be no unacceptable harm in relation to drainage/flood risk, living conditions and ecology, subject to the conditions proposed. The risk of ball-strike from the adjacent cricket pitch can be appropriately mitigated; the provision of the fencing can be detailed by condition and its on-going management/maintenance can be secured by S106 agreement. Three Starter Homes are proposed on the site which meets policy requirements for a development of this scale.
- 11.4 Following concerns of Members at the previous committee, further justification for the use of a high quality artificial stone has been provided by the applicant and Officers maintain the view that the proposed materials are considered acceptable given the variety of materials in the area. Having reviewed the specification of the cricket mesh, the Council's Ecologist has no concerns in relation to bird-strike.
- 11.5 In conclusion, in this case, the tilted balance in favour of sustainable development as advocated by para 14 of the NPPF is engaged. An acceptable level of affordable housing has been provided by the developer which can be secured by S106 agreement. It is considered that there would be no adverse impacts of granting planning permission that would significantly and demonstrably outweigh the benefits. The conflict with UDP policy D5 and other impacts identified within the main report are outweighed by other considerations and, when considered in the planning balance, the proposal constitutes a sustainable form of development.

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

1. 3 years
2. Approved plans
3. Materials for external walls
4. Render colour
5. Roofing materials
6. Boundary treatment Plan
7. Remove PD rights for extensions and outbuildings
8. Remove PD rights for openings in the eastern side elevation of Plot 1 and northern side elevation of Plot 19
9. Scheme for adoptable internal estate roads
10. Areas to be surfaced and drained
11. Works to the site access
12. Construction access
13. Surface water drainage scheme
14. Overland flow routing to be maintained
15. Scheme for surface water disposal during the construction phase
16. Details of SuDS features
17. As-built drawings of SuDs features
18. Provision of cricket fencing (including specification of the netting)
19. Ecological Design Strategy
20. Submission of Remediation Strategy
21. Implementation of Remediation Strategy
22. Submission of Validation Report
23. Provision of charging points
24. Undertaken in accordance with soft Landscaping Plan

**Background Papers:**

Website link: <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f93459>

Certificate of Ownership – Certificate B signed and notice served on Kirklees Council Highways and four individuals.