
Report of the Head of Strategic Investment**HEAVY WOOLLEN PLANNING SUB-COMMITTEE****Date: 01-Jun-2018****Subject: Planning Application 2017/93798 Erection of 6 detached dwellings
Land At, Leak Hall Crescent, Denby Dale, Huddersfield, HD8 8RZ****APPLICANT**

Eastwood Homes Ltd

DATE VALID

02-Nov-2017

TARGET DATE

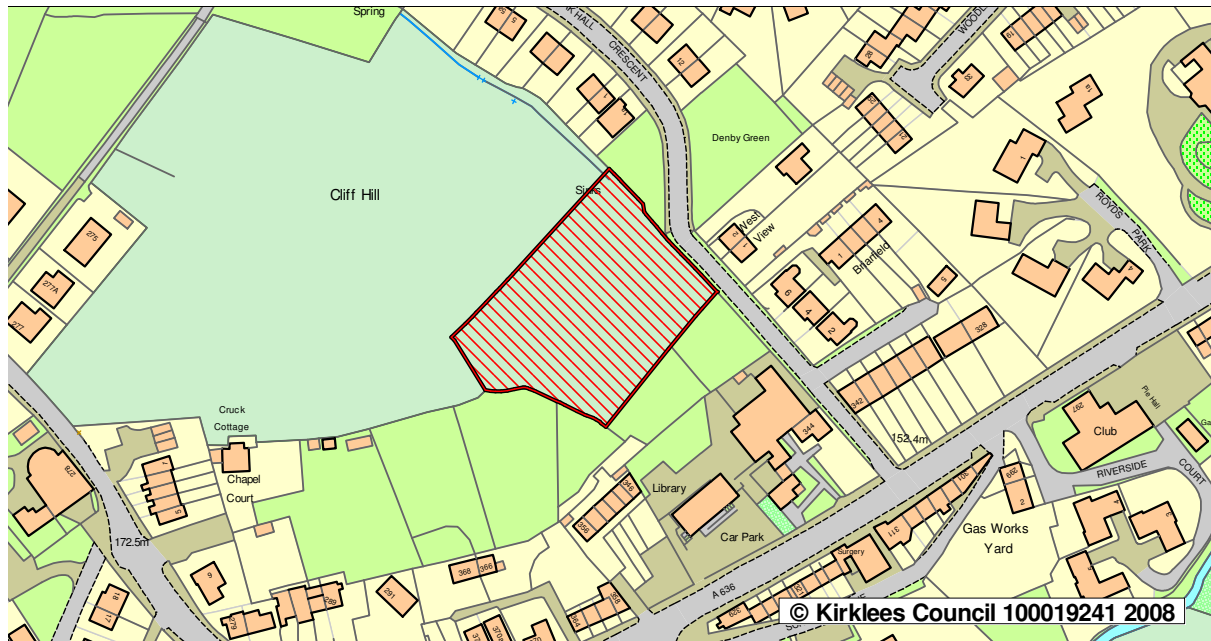
28-Dec-2017

EXTENSION EXPIRY DATE

07-Jun-2018

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

Electoral Wards Affected: Denby Dale Ward

N

Ward Members consulted
(referred to in report)

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Strategic Investment subject to the resolution of issues related to the assessment of a recorded mine entry close to the site to the satisfaction of The Coal Authority and in order to complete the list of conditions including those contained within this report (and any added by the committee).

1.0 INTRODUCTION:

- 1.1 The application seeks permission for the erection of six large detached dwellings. The principle of residential development on this site allocated as Provisional Open Land, and as a proposed housing allocation in the Kirklees Publication Draft Local Plan, is considered to be acceptable. There would be no detrimental impact on highway safety or residential amenity.
- 1.2 The application is brought to Heavy Woollen Sub-Committee for determination as it represents a Departure from the Kirklees Unitary Development Plan. Councillor Graham Turner has also requested the following:

“Can I request that if this is part of H689 that it comes to committee, as it’s pre-determination. A site visit to view the sight lines might also be of benefit”.

2.0 SITE AND SURROUNDINGS:

- 2.1 This 0.38 hectare site comprises a steeply sloping field off Leak Hall Lane within the village of Denby Dale. The site is part of a wider allocation of land allocated as Provisional Open Land on the Kirklees Unitary Development Plan which extends to the north and west of the site. This wider extent of land is identified as a proposed housing allocation on the Kirklees Publication Draft Local Plan. Residential properties flank the site to the east, and a mix of community buildings and residential development to the south.

3.0 PROPOSAL:

- 3.1 The application seeks permission for the erection of six large detached dwellings. The design of the layout proposes three dwellings to be sited either side of a private drive with access off Leak Hall Road. Plot 6 would have a separate vehicle access onto Leak Hall Crescent.
- 3.2 The proposed dwellings would be substantial in scale having extensive footprints and accommodation over three floors. To accommodate the levels of the site the design of the dwellings would be spilt level, fronting three storeys

to the south-east and two storeys to the north-west. The dwellings would have integral double garages and would be constructed of natural tumbled stone (black dyed) and Sandtoft Calderdale Slate Concrete Tiles.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 None

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

5.1 Officers negotiated with the applicant to provide:

- Cross sectional drawings to show existing and proposed levels and the relationship of the dwellings to neighbouring properties
- A reduction in the scale of the dwellings
- A revised block plan to include the recently constructed dwelling to the east
- A tree protection plan
- Intrusive site investigations to locate and assess the condition of the mine shaft, to formulate an appropriate scheme of remediation and to identify an appropriate 'no-build' zone around the shaft
- An ecological report.

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 UDP proposals map and indicated as part of a wider Housing Allocation on the PDLP (this excludes the area of land between nos.49 and 51 Huddersfield Road, which is unallocated on both the UDP proposals map and on the PDLP).

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 **D5** – Provisional open land
BE1 – Design principles
BE2 – Quality of design
BE12 – Space about buildings

T10 – Highway Safety
T16 – Pedestrians Safety
D2 – Unallocated Land
NE9 – Retention of mature trees
G6 – Contaminated Land
H1 – Meeting housing needs in the district
EP11 – Integral landscaping scheme to protect / enhance ecology

6.3 Kirklees Publication Draft Local Plan

PLP1 – Presumption in favour of sustainable development
PLP2 – Place shaping
PLP21 – Highway safety and access
PLP22 - Parking
PLP 24 – Design
PLP 28 – Drainage
PLP 30 – Biodiversity and Geodiversity
PLP53 – Contaminated and unstable land

National Planning Policy Framework:

- 6.4 **Chapter 4** - Promoting sustainable transport
Chapter 6 - Delivering a wide choice of high quality homes
Chapter 7 - Requiring good design
Chapter 10 - Meeting the challenge of climate change, flooding and coastal change
Chapter 11- Conserving and enhancing the natural environment

7.0 **PUBLIC/LOCAL RESPONSE:**

- 7.1 The application was initially advertised by neighbour letter and site notice with the publicity period expiring 3rd December 2017.

As a result of this publicity five objections were received. The concerns raised are précised below

Highway Safety Concerns

- Concern about on-street parking. Briarfield, off Leak Hall Road serves 4 houses; off-street parking is not possible for all houses. Road space has been reduced due to 4 new properties at Leak Hall Crescent, 1a Leak Hall Crescent, 3 properties on Leak Hall Road, 1 to the rear of 2 West View and an unbuilt plot to the rear of 1 West View.
- Access onto the A636 is a major concern. Exiting Leak Hall Road is dangerous due to limited visibility toward the village and the proximity of the bus stop. Vehicles cannot enter Leak Hall Road from the A636 if a vehicle is waiting to exit. Leak Hall Road vehicles have to reverse to prevent a build-up of traffic on the A636.
- The junction of Leak Hall Road and the A636 is in close proximity to a doctors surgery, library, community centre, shops and pedestrian crossing. Wakefield Road is a main route to the M1 and has a significant level of traffic, especially at peak times. It is widely used by pedestrians. The junction is within 4 metres of a bus stop, which serves local schools and is the main bus route to Huddersfield and Wakefield.

- Access onto and out of Leak Hall Road at the junction with Wakefield Road is difficult. The road is narrow and it is not possible to enter Leak Hall Road if a vehicle is waiting to turn onto Wakefield Road. Disruption is regularly caused to traffic on Wakefield Road. Drivers view leaving Leak Hall Road is restricted by walls, trees and a bus stop. Four new properties have been built at the southerly end of Leak Hall Crescent, with approved plans for four more at the northerly end. There are approved plans for six dwellings at West View and the old Denby Dale Nursery School site. This has led to additional vehicles (20+) entering and leaving via this junction, with no improvements.
- The development will add 12 more vehicles requiring daily access via this dangerous junction.
- Leak Hall Road and Leak Hall Crescent have a significant flow of traffic. Parts of the roads have no footpath and other areas a narrow footpath to one side. At the northerly end of Leak Hall Crescent is a pedestrian footpath leading to Leak Hall Lane.
- Leak Hall Road and Leak Hall Crescent are regularly used by pedestrians and dog walkers and on the walking route for Denby Dale First School. Children walk on a daily basis in term time.
- The roads are narrow and cars park partially on pavements. Leak Hall Road would be impassable for refuse wagons and emergency vehicles if cars were parked in the road. There is a hazard to pedestrians, prams and wheelchair users.
- Recent developments have increased traffic volumes and 6 properties would present further dangers to children and pedestrians.
- Difficulties with parking in the area of the proposed development. In 2016/17 four new houses have been built reducing on-street parking.
- The proposal is for two driveways onto Leak Hall Road opposite existing drives. This area has been adapted to allow cars to park without causing an obstruction. If these areas are lost West View residents will have to park to the front of their properties and restrict the view of drivers and make access difficult, especially for larger vehicles, refuse wagons and emergency vehicles. The driveways of the new development will be difficult to access.
- Concern about commercial vehicles accessing the site and parking on the road.
- Access to Leak Hall Road/Crescent with the junction with Wakefield Road is narrow and the line of sight difficult. Additional traffic will exacerbate this.
- Parking along Leak hall Road/Crescent is a significant issue. The road is narrow and there are problems with cars/vans turning. The refuse lorry can only collect by reversing up the road. The proposed road entrance is directly opposite a property who park on the road. Planning permission in place at the top of Leak Hall Crescent and for old school buildings, where the provision of another entrance off the lower end of Leak Hall Road will inhibit street parking and access. Further development will make use of the road for existing residents difficult.
- On Leak Hall Crescent and Leak Hall Road there are 35 houses and 70 cars. Both get icy in winter, fallen leaves make the road dangerous. On the left-hand side there is no footpath. The entrance of Leak Hall Road onto Wakefield Road is narrow and blind, the bus stop is a few feet away. Entering and leaving Leak Hall Road becomes difficult if another vehicle is coming in the opposite direction. Traffic on Wakefield Road impedes this junction.

- Access and egress from Leak Hall Crescent/Leak Hall Road onto the main highway A636 Wakefield Road is difficult and dangerous. It is a narrow junction, only 5m with restricted view of the main road and with parking for houses, businesses and the doctor's surgery, a busy area with cars pulling out. There is a bus stop adjacent to Leak Hall Road which increases pedestrian traffic, people waiting for buses block the view of oncoming traffic to drivers waiting to join the A636. If a vehicle is waiting to exit Leak Hall Road and a vehicle is wishing to enter this cannot be done and causes disruption.
- Further development on Leak Hall Road/Leak Hall Crescent should not be considered. There are plans approved at the northerly end of Leak Hall Crescent for four properties, plans at the rear of 1 West View for one property and plans at the Old Denby Dale School for five properties. This is more than a further 20 plus vehicles trying to negotiate this junction without additional vehicles.
- The development would reduce car park capacity and increase cars on the road. No consideration for delivery drivers, visitors or workmen. The road is only 5.5m wide, when a car is parked there is only room for a single car to pass. Concern about difficulties for larger vehicles. The refuse lorry has to reverse up the road and would most likely not be able to pass. No consideration for delivery drivers, visitors or workmen to park on a narrow section of road. All work related vehicles of site contractors and trades should be required to park on site and not on Leak Hall road.
- Plot 6 shows a driveway directly onto Leak Hall Road which impacts existing parking availability. All drive ways should be contained within the new development, the entrance already reduces parking.
- The highways report does not take into account residents parking. The ability for a vehicle to reverse into the site would be impossible. It does mention making a 2m footpath which would have to be integrated into the development land.

Other Concerns

- There is an error on the layout plan. Leak Hall Crescent starts to the north of the proposed shared drive, the road below is Leak Hall Road.
- What will happen to the spring which usually overflows onto Leak Hall Road.
- The houses are not affordable for starter couples who wish to remain in the village.
- For the recent building on Leak Hall Crescent the council made the builder match hipped roofs, these new houses are to be gabled.
- The area around Leak Hall was well used for dog walkers and natural conservation. With recent development the areas children use have disappeared. There is not enough land for recreation areas and natural habitat in easy reach.
- There is no detail on boundaries. Concern the land above will be subject to further applications.
- The land is a natural soakaway for surface water and hosts trees and large bushes that retain water. There is a small brook that runs through the field. To cover this land in concrete and remove trees would increase risk of flooding. The plans make light of the spring however this continues down the north-east side of the development and makes no mention of how this will be managed or retained.

- The land was previously mined, and sink holes have happened. It poses long-term danger and would take costly measures to rectify. In 2015 a sinkhole opened up with an opening of over 3m. The survey undertaken by RGS makes no mention of land instability and there is a history of sinkholes.
- Wildlife, including bats would lose natural habitat.
- Yorkshire Water has commented that the public sewer network does not have the capacity to accept further discharge. There is no information provided.
- Kirklees Council are ruining the character of local landscapes. Small villages are losing their charm and the reason why this area is beautiful and desirable.
- Reduced local services are failing to serve the existing population.

Councillor Graham Turner

- The extra traffic generated, whilst small in number will increase the traffic leaving Leak hall and joining the main road network, the junction of leak hall and A636 has very poor sight lines, and any increase in traffic joining the A636 has the potential to be a danger to drivers, on the A636 and those wishing to access the A636 from Leak hall.
- Is this part of H689, as identified in the proposed local plan, as it's difficult to see on the local plan map I have, if so then is it not pre-determination? Also the proposed layout would appear to limit H689 should it be accepted in to the local plan.
- Can I request that if this is part of H689 that it comes to committee, as its pre-determination. A site visit to view the sight lines might also be of benefit.

Denby Dale Parish Council – Object: This application is for part of site H690 in the Draft Local Plan which is advanced stage of consultation and would successful also constitute a piecemeal development. There are Highways concerns within the proposed site and onto Leak Hall Road/Wakefield Road. The land at Cliff Hill is steep, with sinks and old coal mining shafts and seams making the area susceptible to slip.

Amended Plans Publicity

The amended plans were advertised by neighbour letter expiring on the 27th February 2018. As a result of this publicity one further representation has been received. The concerns raised are as follows:

- Concern that the effect to local highways and safety concerns have not been highlighted by the Highways Authority. The junction at the bottom of Leak Hall Road is already dangerous and sight lines are severely restricted.
- Concern about the position of the driveway for Plot 6.
- Further site intrusive investigations should be insisted on.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

The Coal Authority – Holding Objection (*Comments are currently awaited from the Coal Authority on the additional submitted information – this will be reported to members in the update*)

K.C Highways Development Management– No objections

8.2 Non-statutory:

K.C Arboricultural officer – No objections

K.C Environmental Services – No objections

K.C Ecologist – No objections

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 The statutory development plan is the starting point in the consideration of planning applications for the development or use of land unless material considerations indicate otherwise (Section 38(6) Planning and Compulsory Purchase Act 2004).
- 10.2 The site is allocated as Provisional Open Land (POL) on the Unitary Development Plan. As such the proposal is considered against Policy D5. Policy D5 states that:

“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 longer term”

- 10.3 The weight that can be given to Policy D5 in determining applications for housing must be assessed in the context of NPPF paragraphs 49 and 215. These indicate that policies regarding housing should not be considered up to date unless the authority can demonstrate a five year supply of housing. The Council is currently unable to demonstrate a five year supply of deliverable housing sites. The weight that can be given to policy D5 in these circumstances is that this policy is up to date and must be weighed in the balance.
- 10.4 Paragraph 14 states that there is a presumption in favour of sustainable development. For 'decision taking' this paragraph goes on to state that this means where relevant policies are out-of-date, planning permission should be granted *"unless any adverse impacts ... would significantly and demonstrably outweigh the benefits when assessed against the policies in this framework taken as a whole, or that specific NPPF policies indicate development should be restricted"*.
- 10.5 Consideration must be given as to whether the proposal is sustainable development. The NPPF identifies the dimensions of sustainable development as economic, social and environmental (Para.7). It states that these facets are mutually dependent and should not be undertaken in isolation (Para.8). The proposal has been assessed against each role as follows:
- 10.6 A proposal for 6 dwellings provides economic gains by providing business opportunities for contractors and local suppliers. There will be a social gain through the provision of new housing at a time of general shortage. The development of a greenfield site represents an environmental loss. However, whilst national policy encourages the use of brownfield land for development it also makes clear that no significant weight can be given to the loss of greenfield sites to housing when there is a national priority to increase housing supply.
- 10.7 In terms of more detailed issues within the site, NPPF paragraph 58 sets out the requirement for developments to *"optimise the potential of the site to accommodate development"*. As this proposal only covers part of the POL allocation, the proposal would need to demonstrate that it does not prevent the remainder of the POL site being developed. The POL allocation includes undeveloped land to the north, however it is acknowledged that the constraints of the steep topography would prejudice the principle access for the overall site being from Leak Hall Crescent, and the allocation extends to Leak Hall Lane and Cumberworth Lane.

Kirklees Publication Draft Local Plan

- 10.8 The Publication Draft Local Plan (PDLP) was submitted to the Secretary of State on 25th April 2017 for examination in public, which is currently underway. The site forms a housing allocation (H690) 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.
- 10.9 The NPPF provides guidance in relation to the weight afforded to emerging local plans, paragraph 216 which states:

216. 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).*

10.10 The above is further supplemented by guidance in the Planning Practice Guidance (PPG). The 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.*

10.11 Given the scale of the development when assessed against the wider context of the Local Plan the application could not be deemed to be premature as it is not considered to be central to the delivery of the Local Plan. Whilst Planning Officers do not consider that the application is premature in terms of the PDLP, 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 PDLP. An assessment of the relevant local plan policies is therefore undertaken throughout this report.

The Planning Balance

10.12 In assessing the planning balance of the application consideration has been given in relation to social, economic and environmental factors. The social and economic benefits the proposal would provide through the provision 6 dwellings would make a contribution to the housing land supply. In conclusion the planning judgement on the proposal is that the benefits of housing provision weigh heavily in favour of the proposal and the adverse impacts of the loss of this green field and POL site do not demonstrably outweigh the benefits of developing the site, when considered as a whole along with all other relevant material considerations. The proposal would accord with the Core Planning Principles of the NPPF.

Urban Design issues

- 10.13 The core planning principles in the NPPF provide guidance on design and state that new development should *“always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.”* Paragraph 56 states, *“The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.”* Paragraph 58 states that decision should aim to ensure that developments establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit. These policies are further supported by Policies BE1 and BE2 of the UDP which state that new development should create or retain a sense of local identity and is in keeping with surrounding development in respect of design and layout. Policy PLP24 of the PDLP states good design should be at the core of all proposals such that the form, scale, layout and details of all development respects and enhances the character of the landscape.
- 10.14 The proposed dwellings would be substantial in scale, and sections were requested to demonstrate the impact the proposal would have on visual amenity, as well as the impact on the residential amenity of neighbouring properties. The applicant was also asked to reduce the scale of the dwellings, to be more in keeping with the scale of neighbouring properties.
- 10.15 The applicant has made some minor revisions to the design of the dwellings, to remove the gables and replace them with hipped roofs. It is acknowledged that the site is steeply slopping and dictates a spilt level house type to address the topography. There are also examples of three storey properties within the local area. The dwellings would occupy a prominent location and a reduction in scale and massing would have been preferable, in order to assimilate their scale and massing into the landscape. However, on balance it is considered the proposed scheme would not amount to an overdevelopment of the site; there would be sufficient space between the dwellings and the boundaries of the site, and the proposal would not have an undue impact on visual amenity. An alternative proposal with an increased number of smaller dwellings is likely to result in highway safety implications putting more pressure on the junction of Leak Hall Crescent with the A636. On balance therefore, the proposal is considered to be acceptable. The proposed construction materials are natural tumbled stone (black dyed) and Sandtoft Calderdale Slate Concrete Tile which would be acceptable in this location.
- 10.16 The proposed landscaping includes retaining the existing trees along the southern boundary and erecting boundary walls and 1.8 metre high screen fences. Along the northern boundary it is proposed to screen the development with a mature hedge. Tree protection fencing is proposed adjacent to Plot 1. The Council's Arboricultural officer is satisfied with the specification for fencing as this accords with BS5837 guidance. Whilst there is no Tree Protection Plan, the location of the protective fencing is shown on the proposed block plan, this will need to be extended however to include the protection of existing hedgerows. This will therefore be conditioned, to ensure that the trees and hedgerows around the perimeter of the site are protected during construction.

Residential Amenity

- 10.17 UDP Policy D2 requires residential amenity to be considered and policy BE12 sets out the normally recommended minimum distances between habitable and non-habitable room windows. The nearest neighbouring properties which would be affected by the proposed development include properties to the east off Leak Hall Crescent and properties to the south off the A636.
- 10.18 Plot 1 would be sited to the west of a new build property adjacent to 1a Leak Hall Crescent. This neighbouring property has habitable room windows which front directly onto the application site. There would be a distance of 20 metres between the side elevation of Plot 1 and this neighbouring property. Policy BE12 recommends a distance of 21 metres between directly facing habitable room windows, however in this case the proposed habitable room windows in the side elevation of Plot 1 are off-set to this property and there would not be a direct relationship. There are also existing mature trees along the boundary. It is considered that there would not be an undue detrimental loss of privacy or detrimental overbearing impact.
- 10.19 Plot 6 would front onto Leak Hall Crescent, beyond which are neighbouring properties Nos.1 and 2 West View. The proposed layout would achieve a distance of 21 metres between Plot 6 and these neighbouring properties and it is considered there would be no detrimental loss of privacy. Due to the distance to these properties and the intervening road, it is considered there would be no detrimental overbearing impact.
- 10.20 To the south of the site planning permission has been granted for the change of use of a former nursery to 4 apartments, the conversion of a former headmasters house to a dwelling and the erection of a detached dwelling. There is a distance of 23 metres from the southern boundary of the application site to the northern boundary of this proposed development site and the proposal would not impact on its future redevelopment. Due to the distance of the site and relationship to No's 346-356 Wakefield Road, it is considered there would be no detrimental impact on the amenities of these neighbouring properties.
- 10.21 There would be a distance of approximately 9 metres to the boundary of the remainder of the POL site from plots 1-3 which would provide reasonable separation to allow the remainder of this allocation to be brought forward for development. It is considered there would be no detrimental impact on residential amenity and the proposal would accord with policies D2 and BE12 of the UDP.

Highway Issues

- 10.22 UDP Policy T10 sets out the matters against which new development will be assessed in terms of highway safety, as does policy PLP 21 of the PDLF. A significant amount of concern has been raised about highway safety implications of developing the site, these are précised in the representations section above.

- 10.23 The application site is located on steeply sloping land to the western side of Leak Hall Crescent. Access to 5 of the 6 dwelling (plots 1 to 5) will be via a proposed shared private driveway. Plot 6 has access directly onto Leak Hall Crescent.
- 10.24 Highways Development Management (HDM) consider each of the plots would have sufficient off-street parking with double garages and driveways. Gradients of between 1 in 8 and 1 in 10 are shown to the proposed shared driveway.
- 10.25 HDM initially raised a number of concerns regarding the proposal. These include that sight lines were not shown from the two proposed accesses onto Leak Hall Crescent and that the footway to the site frontage should be widened to 2.0 metres to the full frontage of the site. It was also noted that the shared driveway is 63 metres in length which requires the provision of refuse and emergency vehicle turning within the site with swept paths to demonstrate that an 11.85 metre refuse vehicle can enter, exit and turn. Residents should not be required to carry waste more than 30 metres and waste collection vehicles should be able to get to within 25 metres of the storage point and the gradient between the two should not exceed a gradient of 1:12. It was also noted there should be a minimum carriageway width of 3.7 metres between kerbs, vehicle access for a pump appliance within 45 m of single family houses and fire service vehicles should not have to reverse more than 20 metres.
- 10.26 The applicant has provided plan number 16/D65/12 which shows vehicle swept paths for an 11.85 metre refuse vehicle and a 2.0 metre footway to the frontage of the site. HDM now consider the proposals to be acceptable, subject to conditions to secure the provision of a 2.0 wide footway and appropriate surfacing and draining.
- 10.27 In terms of traffic generation Highway Services note that 6 dwellings could be expected to generate 5 two way vehicle movements in the morning and evening peak periods. This equates to one additional vehicle movement every 12 minutes in the peak periods. This level of addition traffic generation is not considered significant and is unlikely to have any significant impact upon the capacity of the junction (of Leak Hall Road with Wakefield Road) or result in any additional road safety concerns along Leak Hall Road and Leak Hall Crescent. Subject to the imposition of conditions, there would be no detrimental impact on highway safety and the proposal would accord with policy T10 of the UDP and policy PLP21 of the PDLF.

Ecology Issues

- 10.28 UDP Policy EP11 requires that applications for planning permission should incorporate landscaping which protects/enhances the ecology of the site and the application is supported by an ecological report. The report indicates that the habitats throughout the majority of the site are of site level importance only. However, the report also indicates that the trees at the site boundaries have some value as foraging habitat for bats and that the hedgerows present at the site boundaries are Habitats of Principle Importance. The tree protection measures indicate an intention to retain mature trees, however the Council's Ecologist notes this should also be extended to the hedgerows. Other mitigation and enhancement measures recommended in the ecology report are relevant and necessary but there is no indication that these measures have been

incorporated into the scheme design. Conditions are therefore suggested to secure a tree protection plan that also provides for protection of existing hedgerows, an ecological design strategy and a lighting design strategy. Subject to the inclusion of these conditions, ecological issues are addressed.

Coal Mining Legacy Matters

- 10.29 It is a requirement of emerging local policy PLP 53 and paragraphs 120-121 of the NPPF, that the applicant demonstrates to the satisfaction of the Local Planning Authority that the application site is safe, stable and suitable for development.
- 10.30 The application site falls within the defined Development High Risk Area where within the application site and surrounding area there are coal mining features and hazards which need to be considered, specifically both recorded and the likely presence of unrecorded underground coal mining which may have been worked at shallow depth. The shallow coal seams recorded to have been worked are at depths ranging from only 8m – 17m depth with 1.47m – 1.52m extraction thickness. In addition the Coal Authority's records disclose the presence of 6 recorded mine entries (1 x mine shaft; 5 x mine adits) within or within 20m of the planning application site boundary. The Coal Authority holds no treatment details of these mine entries and there could be some deviation, by several metres from the current plotted positions.
- 10.31 The Coal Authority initially commented that the Phase 1 Desk Study Report submitted with the application does not adequately address the full impact of coal mining legacy; specifically mine shaft: 422408-016 (Eastings 422945, Northings 408705). It concludes that due to the presence of the mine shafts / adits within the site, it is likely that coal will have been worked at shallow depth below the site and the site is rated as a 'high' risk. It goes on to state that it cannot be recommended that development takes place without further investigations to conclusively determine the presence of such workings. It makes recommendations that further investigation is undertaken to prove or disprove the presence of former coal mining activity within the site. Section 5.2.1 'Gas Monitoring' confirms that a final gas monitoring regime is also to be carried out.
- 10.32 Such site investigation works will enable the design of appropriate mitigation measures to remediate the site such as grouting stabilisation works, specific foundation design and / or gas protections measures if necessary. Whilst the report makes recommendations that consideration should be given to enquiring with the Coal Authority as to whether there are any mine entry plans and data sheets for the workings on the site, the Coal Authority expect the Phase 1 Desk Study Report to utilise existing evidence as part of the desk based study to made a professional assessment and not add this as part of the recommendations.
- 10.33 Whilst the Coal Authority are satisfied the mine adits, together with the shallow workings within the site can be fully remediated, with appropriately designed mitigation measures they have concerns regarding the off-site mine shaft. The Coal Authority expect the exact location of the mine shaft to have been accurately plotted in order to design a layout to ensure that adequate separation is provided between the mine shaft and the dwellings. The concerns are in relation to the plots on the western side. If the mine shaft is found to be present

within the site, these plots (particularly Plot 1 and 2) are likely to be built within the zone of influence from this mine shaft. This does not accord with the Coal Authority's policy Development and Mine Entries.

- 10.34 Intrusive site investigations, in accordance with a Coal Authority Permit, were requested to be undertaken prior to determination of the planning application in order to locate and assess the condition of the mine shaft, to formulate an appropriate scheme of remediation and to identify an appropriate 'no-build' zone around the shaft. Revisions to the site layout should then be made in order to ensure that built development avoids the 'no-build' zone which should be clearly defined on the revised site layout plan. The applicant has undertaken intrusive site investigation works in April 2018 and submitted a report of the findings. This concludes that the shaft is located at a sufficient distance from the development boundary such that a collapse of the shaft is unlikely to impact on the site. Furthermore a collapse is unlikely as it would appear to be infilled. The Coal Authority have been consulted on these findings and requested that the location of the mine shaft is plotted on the proposed site plan. An updated site plan showing the location of the mine shaft has been submitted and the Coal Authority re-consulted. Progress on this matter will be reported to Members in the update.

Drainage issues

- 10.35 The proposal is categorised as a minor development and the Standing Advice from the Lead Local Flood Authority is applicable to the assessment of this application. The proposal is to drain surface water by soakaway. This follows the hierarchy of sustainable drainage and it considered to be acceptable. No details of the viability of soakaways have been provided however, and furthermore this is a steeply slopping site. It is therefore appropriate to condition details to avoid the risk of re-emergence at lower levels.
- 10.36 There is a spring which runs along the eastern boundary of the site which the applicants have now identified on the site plan. The spring follows a path in the proposed garden of Plot 1 and its treatment will need to be addressed as part of the drainage strategy. This can be addressed by condition.

Air Quality

- 10.37 In an application of this nature it is expected that facilities for charging electric vehicles and other ultra-low emission vehicles is provided in accordance with the Air Quality & Emissions Technical Planning Guidance from the West Yorkshire Low Emissions Strategy Group (WYLES). This can be conditioned.

Contamination Issues

- 10.38 Environmental Services have assessed the phase I Contaminated Land Report and agreed with the conclusions. They raise no objections subject to conditions to secure a Phase II Intrusive Site Investigation Report. In light of the intrusive site investigation report submitted to address coal mining legacy issues they have been consulted to determine the need for any further conditions. Any further comments will be reported to Members in the update.

Representations

- 10.39 In so far as the representations received have not been addressed above;
- 10.40 There is an error on the layout plan. Leak Hall Crescent starts to the north of the proposed shared drive, the road below is Leak Hall Road.
Response: This matter is acknowledged but this is not matter than is material to the assessment of the application.
- 10.41 What will happen to the spring which usually overflows onto Leak Hall Road.
Response: As noted above, the applicant was requested to plot this on the proposed site plan. The spring follows a path in the garden of Plot 1 and this matter will need to be addressed as part of the drainage strategy by condition.
- 10.42 The houses are not affordable for starter couples who wish to remain in the village.
Response: The proposed dwellings are substantial family homes, however the proposal falls below the threshold for a contribution for affordable housing.
- 10.43 For the recent building on Leak Hall Crescent the council made the builder match hipped roofs, these new houses are to be gabled.
Response: The revised plans now proposed hipped roofs.
- 10.44 The area around Leak Hall was well used for dog walkers and natural conservation. With recent development the areas children use have disappeared. There is not enough land for recreation areas and natural habitat in easy reach.
Response: This is noted, however the application site, together with land to the north and west is a proposed housing allocation on the Kirklees Publication Draft Local Plan.
- 10.45 There is no detail on boundaries. Concern the land above will be subject to further applications.
Response: As noted above, this land, together with land to the north and west is a proposed housing allocation on the Kirklees Publication Draft Local Plan. Any future applications for housing development on the proposed wider allocation would be assessed on their own merits.
- 10.46 The land is a natural soakaway for surface water and hosts trees and large bushes that retain water. There is a small brook that runs through the field. To cover this land in concrete and remove trees would increase risk of flooding. The plans make light of the spring however this continues down the north-east side of the development and makes no mention of how this will be managed or retained.
Response: The proposal is to drain the development by soakaway. No details have been provided or any testing, so it is appropriate to include a condition to secure appropriate details, or an alternative scheme. This can include details of the treatment of the existing spring.
- 10.47 The land was previously mined, and sink holes have happened. It poses long-term danger and would take costly measures to rectify. In 2015 a sinkhole opened up with an opening of over 3m. The survey undertaken by RGS makes no mention of land instability and there is a history of sinkholes

Response: With respect to Coal Mining Legacy the site falls within the defined Development High Risk Area and the Coal Authority were consulted for their comments. The Coal Authority are satisfied the mine adits, together with the shallow workings within the site can be fully remediated, with appropriately designed mitigation measures, however they have concerns regarding an off-site mine shaft. Additional information has been submitted and their further comments are awaited.

10.48 Wildlife, including bats would lose natural habit.

Response: An ecological survey has been submitted and comments from the Council's ecologist are awaited.

10.49 Yorkshire Water has commented that the public sewer network does not have the capacity to accept further discharge. There is no information provided.

Response: The proposal is to drain surface water by soakaway.

10.50 Kirklees Council are ruining the character of local landscapes. Small villages are losing their charm and the reason why this area is beautiful and desirable.

Response: An assessment of the impact of the development on the landscape has been undertaken and on balance is considered to be acceptable.

10.51 Reduced local services are failing to serve the existing population.

Response: This matter is noted.

10.52 Councillor Graham Turner has raised concerns about extra traffic on the road and poor sight lines, that the proposal would represent pre determination, and would limit the wider allocation.

Response: HDM have assessed the proposal and raise no objections on the grounds of Highway Safety. The proposal has been assessed against policy D5 of the UDP and is found to be acceptable. It is noted the site is also part of a proposed housing allocation but due to the scale of development it is not considered it would prejudice the Local plan allocation. The POL allocation includes undeveloped land to the north, however it is acknowledged that the constraints of the steep topography would prejudice the principle access for the overall site being from Leak Hall Crescent, and the allocation extends to Leak Hall Road and Cumberworth Lane.

10.53 Denby Dale Parish Council object on the grounds the application is for part of site H690 in the Draft Local Plan which is advanced stage of consultation and would successful also constitute a piecemeal development. There are Highways concerns within the proposed site and onto Leak Hall Road/Wakefield Road. The land at Cliff Hill is steep, with sinks and old coal mining shafts and seams making the area susceptible to slip.

Response: As noted above Highways Development Management raise no objections. The proposal has been assessed against policy D5 of the UDP and is found to be acceptable, and although the site is also part of a proposed housing allocation due to the scale of development it is not considered it would prejudice the propose allocation. The POL allocation includes undeveloped land to the north, however it is acknowledged that the constraints of the steep topography would prejudice the principle access for the overall site being from Leak Hall Crescent, and the allocation extends to Leak Hall Land and Cumberworth Lane. In addition the coal mining legacy of the site is being addressed.

11.0 CONCLUSION

- 11.1 The principle of residential development on this site allocated as Provisional Open Land, and as a proposed housing allocation in the Kirklees Publication Draft Local Plan, is considered to be acceptable. There would be no detrimental impact on highway safety or residential amenity.
- 11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

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

1. 3 year time limit for commencement of development
2. Development in accordance with plans and specifications
3. Development to be constructed of natural tumbled stone (black dyed) and Sandtoft Calderdale Slate Concrete Tile
4. Details of boundary treatment / retaining walls
5. Provision of 2 metre footway
6. Surfacing and draining of vehicle areas
7. Drainage scheme including a scheme for soakways and treatment of the existing spring
8. Tree Protection Plan that also provides for protection of existing hedgerows
9. Removal of Permitted Development Rights for extensions / outbuildings
10. Electrical Vehicle charge points
11. An ecological design strategy
12. A lighting design strategy for biodiversity
13. No removal of hedgerows, trees, shrubs or brambles to take place between 1st March and 31st August.
14. Phase II Contaminated Land Report
15. Remediation Strategy
16. Development in accordance with the Remediation Strategy
17. Validation Report

Background Papers:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f93798>

Certificate of Ownership – Notice served on Mr W Noble