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**Report of the Head of Strategic Investment****STRATEGIC PLANNING COMMITTEE****Date: 07-Jun-2018****Subject: Planning Application 2018/91219 Outline application for erection of 8 apartments adj, 5, Hartshead Court, Hightown, Liversedge, WF15 8FG****APPLICANT**Simon Russell, S A R  
Architects.**DATE VALID**

18-Apr-2018

**TARGET DATE**

13-Jun-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: Liversedge and Gomersal

Yes

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 in order to complete the list of conditions including those contained within this report.**

### 1.0 INTRODUCTION:

- 1.1 This application is brought to Committee as the proposal constitutes a departure from the Kirklees Unitary Development Plan.

### 2.0 SITE AND SURROUNDINGS:

- 2.1 The site comprises an area of 0.143ha, and is located on the eastern side of Windy Bank Lane Liversedge. To the north of the site is a residential development known as Hartshead Court, comprising 4 no detached dwellings and 2 no bungalows. To the south east is an old school playing field.
- 2.2 The site is a greenfield site, site levels stepped down slightly from the neighbouring dwellings on Hartshead Court. The site frontage is onto Windy Bank Lane, and currently there is a low boundary wall on that frontage.
- 2.3 The site is allocated Urban Greenspace on the Unitary Development Plan, and as part of a larger potential housing allocation on the Emerging Local Plan. The land on the opposite side of Windy Bank Lane is allocated as green belt in both the UDP, and the Emerging Local Plan.

### 3.0 PROPOSAL:

- 3.1 Outline permission is sought for the erection of 8 no 2 bed apartments. Access, siting, appearance, scale and landscaping are applied for at this stage. The applicant has indicated that it is intended to rent these apartments as retirement apartments. It should be noted that the application has been dealt with in the same manner as any apartments, and no relaxations such as in parking standards have been applied to this scheme.
- 3.2 The scheme comprises 2 no buildings, each 2 no storeys in height with steep pitched roof. The buildings are set back from the road frontage approximately 2m to the rear of the existing building line of Hartshead Court (ie: no 5)
- 3.3 Access is taken off Windy Bank Lane. The access is 5.0 m wide and is enough for 2 vehicles to pass, and 15 no car parking spaces, including visitor parking are shown on the submitted plans.

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

##### **4.1 2017/91221. Outline application for 12 apartments -Refused.**

The reasons for refusal were:

- Site is within Urban Greenspace;
- No affordable housing provided;
- Inappropriate appearance by way of bulk and scale, detracting from the area;
- No information regarding refuse disposal, or speed survey to justify proposed access;
- Adverse effect on residential amenities of neighbouring dwellings

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

5.1 The application previously refused was initially submitted for 18 no units, then reduced to 15, and finally 12.

5.2 Subsequent to the refusal the applicant has discussed reduced options (set against the refusal reasons above) and undertaken additional highways work and survey work prior to the resubmission, which is this current application.

5.3 The applicant has provided clarification that the necessary visibility splays can be provided and are within the control of the applicant.

#### **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.

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

6.2 D3 Urban Greenspace  
BE1 Design principles  
BE2 Quality of design  
BE12 Space about buildings  
BE23 Crime Prevention  
T10 Highway Safety  
T19 Parking standards  
G6 Land Contamination.

### 6.3 Kirklees Local Plan

This site is part of a larger housing allocation (H1980 proposed to be removed from Urban Greenspace).

PLP 1 Presumption in favour of sustainable development  
PLP7 Effective and efficient use of land and buildings  
PLP20 Sustainable travel  
PLP21 Highway safety and access  
PLP22 Parking  
PLP24 Design  
PLP53 Contaminated land unstable land.

### 6.4 National Planning Guidance

National planning Policy Framework:-

Part 4 Promoting sustainable transport  
Part 7 Requiring good design  
Part 8 Promoting healthy communities  
Part 10 Meeting the challenge of climate change, flooding and coastal change  
Part12. Conserving and enhancing the historic environment.

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

7.1 This application was advertised by site notices and neighbour letters,

7.2 There were 4 letters received objecting to the original proposal, the main concerns were:

- The site is safeguarded for greenspace, on the UDP.
- Failure to properly notify (NB The application has been properly publicise by site notice and letters.)
- The scale and bulk of the development proposed are out of keeping with the neighbouring properties, and the area;
- Whilst appearing as houses the developer could insert apartments in the roof, and the use as retirement apartments doesn't alter any objection.
- The level of parking provision is inadequate.
- The site is located on a dangerous blind bend, and the extra vehicles using the access will cause traffic hazard.
- The drainage provision is unsatisfactory.

7.3. There have also been 4 letters of support have been received stating;

- The residential development of this site has never posed a threat to the character of the area;
- The amended scheme, is in keeping with the character of the area, and an attractive addition to the neighbouring scheme.
- The provision of retirement apartments, provides alternatives for the over 50's and an opportunity to live in an attractive location.

#### 7.4 Ward Councillor David Hall

"I am happy to support this application. The application has further reduced the scale of the development, and increased the space for parking and amenities. I feel that these changes address the concerns that members had of the previous application, particularly scale and highways issues, and will result in a development in keeping with its surroundings".

### 8.0 CONSULTATION RESPONSES:

#### 8.1 Statutory:

**Yorkshire Water Authority-** No objections in principle recommend conditions in the event of approval.

#### 8.2 Non-statutory:

**KC Highways DM-** No objections recommend conditions.

**KC Environmental Health-** Recommend conditions covering remediation, and provision of vehicle charging points, in the event of an approval.

**KC Conservation and Design-** It is not considered that the development will cause any undue harm to the setting of the nearby Grade 2\* structure, and Scheduled Ancient Monument known as the Walton Cross. (The Cross is approximately 150m distant from the site.)

**Police Architectural Liaison Officer-** No comments adverse to the principle of this site being developed for residential. Recommend condition for the submission of Crime Prevention measures at any Reserved Matters stage.

### 9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Highways Issues
- Residential Amenity
- Environmental Issues
- Drainage/ Flood Risk
- Objections.

### 10.0 APPRAISAL

#### Principle of development

- 10.1 The site is allocated as Urban Greenspace on the Unitary Development Plan, and as such Policy D3 is relevant.

Policy D3 states:

*On sites designated as Urban Greenspace planning permission will not be granted unless the development proposed:*

- i) is necessary for the continuation or enhancement of established uses or involves change of use to alternative open space land uses, or would result in a specific community benefit, and in all cases will protect visual amenity, wildlife value and opportunities for sport and recreation.; or*
- ii) includes alternative provision of urban greenspace equivalent in both quantitative and qualitative terms to that which would be developed and reasonably accessible to existing users*

10.2 In view of the recent Supreme Court judgement and the outcome of the appeal at White Lee Road, Batley, Policy D3 is not a policy for the supply of housing and as such as it relates to paragraph 49 of the NPPF. Therefore Policy D3 is considered to be up to date, and should be given full weight.

10.3. Clearly the proposal is at odds with Policy D3, in that the development is for housing, and there is no replacement open space provided either quantitatively or qualitatively. Nor is there any “specific community benefit” resultant from the development and the proposed development constitutes a departure from the development plan.

10.4. The site is a small part of a larger potential housing allocation on the Emerging Local Plan (H189).

10.5 In respect of 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 a housing allocation (H297) 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.

10.6 The NPPF provides guidance in relation to the weight afforded to emerging local plans. Paragraph 216 states:

*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).*

10.7 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.*

- 10.8 The previous refusal was submitted a time at which, whilst the Emerging Local Plan carried significant weight as the date for its examination in public (EIP) had been set, the EIP had not taken place. The EIP, including the examination of this specific site allocation has now taken place.
- 10.9 Given the more advanced stage of the Local Plan, the lack of conflict or unresolved objections on the overall allocation, and the objection to this sites allocation, and the very limited size of this application in relation to the larger allocation, it is considered that there is no sustainable reason to prevent the release of this very small site for housing at this stage.
- 10.10 The development of this site does not prejudice the comprehensive development of the larger housing allocation, and the reduction in the scale of the scheme and the numbers, the proposal does not trigger the need for affordable housing, Education or POS contributions.

#### Impact on Amenity

##### *Visual Amenity*

- 10.11 This scheme is a resubmission following the previous refusal of a large single block of apartments that was considered unacceptable.
- 10.12. The current scheme is sited slightly to the rear of the prevailing building line of Hartshead Court. With 4 no apartments in 2 blocks, each block is of a very similar style and materials to the existing properties in Hartshead Court
- 10.13 The finished roof heights are set down from the neighbouring dwelling (ie no 5 Hartshead Court) which reflects the slight difference in levels between this site and Hartshead Court.
- 10.14. The amended scheme is considered to satisfactorily address the previous reasons for refusal, and respects the character scale and style of the neighbouring development.

##### *Residential Amenity*

- 10.15 .The buildings are sited adjacent to no 5 Hartshead Court, with the side gable facing another side gable. The main windows of the apartments face towards the road and the rear parking garden area, with only bathroom windows in the gable, and these will be obscure glazed. The nearest houses on the opposite side of Windy Bank Road are a considerable distance away, well in excess of the Councils space about building standards. As such the scheme will not result in the invasion of any neighbour's privacy.
- 10.16. The proposed dwellings are set down slightly from the level of 5 no Hartshead Court, and the rear of the dwelling extends approx. 3m beyond the rear building line of no 5, as well as being set in approximately a metre. As such the proposal

will not be overbearing or result in any overshadowing of or existing properties as a result of the proposed siting.

- 10.17. As such it is considered that the amended resubmission is satisfactory in terms of both its impact on the streetscape, and the residential amenities of the occupants of the nearest residential properties.

#### Highway issues

- 10.18 This application seeks outline approval for the erection of eight apartments at land adjacent to 5 Hartshead Court, Hightown. The proposed development consists of eight apartments, each of two bedrooms. Drawing supplied by the applicant show a 5.0m-wide access point onto Windy Bank Lane and fifteen parking spaces. Sight lines of 2.4m x 57m have been demonstrated, and bin collection points are shown within the sight at the edge of the carriageway.
- 10.19. Given the wish to encourage alternative modes of transport, Highways DM would wish to see the verge hardened for the full frontage of the site and to the front of 5 Harthead Court (by way of 278 agreement) to provide a footway link to the existing facilities.
- 10.20. These proposals are considered acceptable from a highways point of view, and Highways DM has no wish to resist the granting of planning permission and recommends conditions.

#### Drainage issues

- 10.21. The site is in Flood Zone 1 which is the area least likely to flood, and given the limited area of the site no flood risk assessment is required. There have been no objections raised to the scheme from Yorkshire Water Authority, and the site has been potentially earmarked for housing in the Emerging Local Plan.
- 10.22. As such it is considered that the site can be satisfactorily drained for both foul and surface water, and this issue can be dealt with via the imposition of conditions.

#### Environmental Issues (Contamination/ Noise and Air Quality).

- 10.23 The site is capable of being remediated and made fit to receive a new development. Whilst the site has a frontage onto Windy Bank Lane, there are not considered to be any significant noise issues, given the nature and usage of the road.
- 10 24. Given the small numbers of units involved, the proposal would be regarded a minor application under the West Yorkshire Low Emissions Strategy, and a condition requires the provision of electric charging points for low emission cars is recommended.

#### Representations

- 10.25. The representations on this application are split roughly equally in terms of support or opposition. The representations against the scheme fall in to the following areas:



- The development, whilst a reduction on the previous scheme is out of keeping with the area, and will have an adverse effects on amenities. Also there is nothing to stop the applicant from increasing the numbers by adding flats in the roof

*Response: The reductions involved from the previous refusal, are very significant and result in an acceptable development in terms of scale and appearance. There are not considered to be any adverse effects on residential amenity for existing residents, especially on the opposite side of Windy Bank Lane. The permission is for apartments which do not benefit from permitted development rights, as such any alterations to the roof would need a fresh planning application.*

- The development would result in traffic hazards and there is insufficient parking  
*Response; the parking provided is in accordance with the Councils standards for apartments( no relaxation for retirement occupation has been given, ) and the application has been accompanied by a speed survey, and adequate visibility splays can be provided within land in the control of the applicant*
- The Urban greenspace and should be retained as such.  
*Response; The application site is part of a larger allocation for housing within the Emerging Local Plan, and no objection is raised at this stage to the release of this site at this stage, given the more advanced stage of the local plan, and the small nature of the site*

## **11.0 CONCLUSION**

11.1 This application is a resubmission following a previous refusal on a number of reasons.

11.2 Although this application is currently a Departure from the UDP there are other material considerations that indicate way in this instance it is acceptable to depart from the Development Plan. The more advanced state of the Emerging Local Plan, the very limited size of the site, the lack of unresolved objections on this site are considered to be sufficient to raise no objection to the release of this small piece of land for residential at this stage. In addition it has no bearing upon nor does it prejudice the potential delivery of the much larger balance of the housing allocation.

11.3 The other reasons for refusal related to visual amenity, scale, parking provision and overdevelopment, all of which are considered to have been satisfactorily address by the significant reductions in scale and numbers that are now proposed. In addition this is still an outline application and therefore there is additional control on the end appearance of this site by means of reserved mattes submissions and discharge of conditions applications.

11.4 As such Outline approval subject to the imposition of appropriate conditions is recommended.

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

- 1. Outline approval 3 years to commence**
- 2. Res Matters to include Landscaping**
- 3. Submission of materials and details of boundary treatments;**
- 4. Provision and maintenance of parking area.**

5. **Provision of footpath along the frontage**
6. **Drainage conditions**
7. **Decontamination and remediation**
8. **Details of finished site, floor and roof levels**

**Background Papers:**

Application and history files.

Website link to be inserted here

Certificate of Ownership – Notice served on/ or Certificate A signed: