
Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 09-Aug-2018

Subject: Planning Application 2017/93333 Outline application for the erection of up to 12 dwellings (revised description) Land off, Grove Street, Longwood, Huddersfield

APPLICANT

S Ioannou

DATE VALID

10-Nov-2017

TARGET DATE

09-Feb-2018

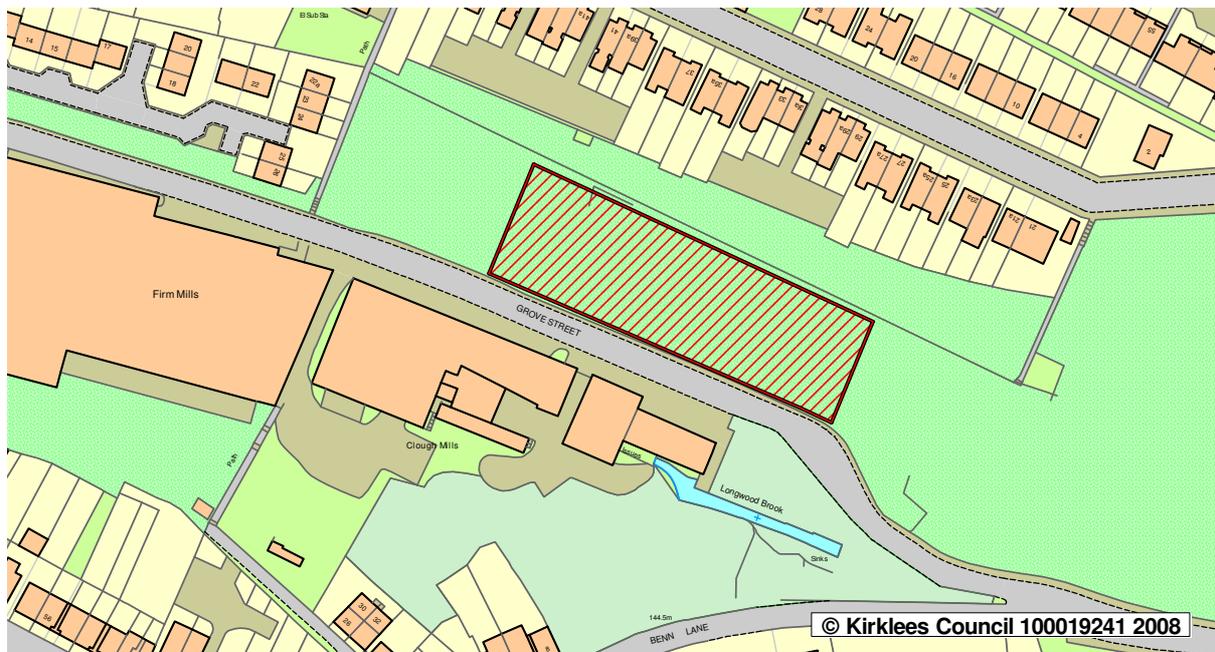
EXTENSION EXPIRY DATE

13-Aug-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: Golcar

Yes

Ward Members consulted

RECOMMENDATION:

REFUSE:

The site lies on an area of land allocated for housing on the Kirklees Unitary Development Plan and also lies within the Kirklees Wildlife Habitat Network and within a mature woodland, protected by a Tree Preservation Order, which is identified as a habitat of principal importance by Natural England. The development would result in the significant removal of trees within a woodland Tree Preservation Order, the loss of which would be significantly harmful to public amenity and the distinctiveness of this part of Grove Street. In addition, the proposals would fail to address the significant harm to a habitat of principal importance and identified, but uncharacterised, impacts to species protected through European and domestic legislation, ecological constraints arising from the habitat potential of the mature woodland and the potential presence of protected species. In the context of paragraph 11 of the National Planning Policy Framework such conflict represents significant and demonstrable harm outweighing the benefits of providing housing in this case resulting in an unsustainable development, contrary to Policies NE5, NE9 and BE2(iv) of the Kirklees Unitary Development Plan and emerging Policies PLP30, PLP33 and PLP24(h) of the Kirklees Publication Draft Local Plan and the National Planning Policy Framework (2018).

1.0 INTRODUCTION:

- 1.1 The application is referred to Huddersfield Planning Sub-Committee due to the level of representation received.
- 1.2 The application lies on a Housing Allocation on the Kirklees Unitary Development Plan but the officer recommendation is for refusal.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site is a roughly rectangular area of green land, 0.46 hectares in size, off Grove Street on the outskirts of Longwood. The site slopes steeply upwards to the north of the site and is populated by mature trees covered by a group Tree Preservation Order.
- 2.2 Public Footpath HUD/292/10 runs to the west of the site connecting Grove Street with Prospect Road, and public footpath HUD/290/10 runs to the east of the site, also connecting Grove Street with Prospect Road.

- 2.3 The site is bounded by Grove Street to the south, Prospect Road to the north, residential development to the west, and a densely wooded area to the east.
- 2.4 The surrounding area is a mix of residential and commercial uses with older industrial properties off Grove Street and recent residential development off Benn Lane.

3.0 PROPOSAL:

- 3.1 The application seeks permission for the erection of 12 town houses and has been submitted in outline form with details of access
- 3.2 Vehicular access would be at the south-western corner of the site off Grove Street, and the scheme proposes the provision of an internal estate road which would occupy the full frontage of the developed site culminating in a vehicular turning head to the east. The access road would be supported by 60 degree reinforced banking. To the north of the access road it is proposed to erect eight town houses fronting Grove Street, and to the east four town houses perpendicular to the highway.
- 3.3 The indicative plans show that each dwelling would include an off-street car parking space. In addition to the integral garage each dwelling would have an off-street parking space. Private amenity space would be provided to the rear.
- 3.4 It is proposed to create a part landscaped area to the front of the site on the reinforced banking. The existing woodland area to the west of the site would be retained.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 It appears that land beyond the eastern most boundary of the application site but within the applicant's ownership once included a mill building (Sunnybank Mills) which formed a listed building. This building effectively arched over Grove Street. At some time in 1988 a lorry collided with the building to such an extent that the building was in a substantial state of disrepair. Eventually this building was demolished. However, at the time the land to the west (the application site) was still subject to a woodland Tree Preservation Order 11/84 which suggests the woodland had established long before this time.

89/06930 - Erection of 4 no detached houses with integral garages and formation of private access drive – Refused. Upheld at appeal.

95/92008 – Renewal of unimplemented permission for erection of 4no detached houses with integral garages and formation of private access drive – Conditional Full Permission.

2001/91997 – Outline application for erection of residential development – Conditional Outline Permission.

2005/90541 – Renewal of unimplemented outline permission for erection of residential development – Conditional Outline Permission.

2008/94275 – Reserved matters application for erection of 12 dwellings with integral garages, parking and new estate road – Approval of reserved matters.

2010/93587 – Extension to time limit for implementing existing outline planning permission number 2005/90541 – Extension to time limit granted.

2012/90659 – Removal of conditions 1-4 on previous application 2010/93827 for extension of time limit for outline permission number 2005/90541 for erection of residential development – Granted subject to conditions.

2013/90715 - Erection of 12 dwellings and formation of new estate road – Granted subject to conditions.

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

5.1 The scheme has been amended whilst being processed. Initially the proposal involved the development of a much larger parcel of land which included an area of unallocated land to the east of the site. The proposal was for 54 apartments with the site area in excess of 0.6ha.

5.2 The area to the east of the application site comprises protected woodland covered by a Tree Preservation Order (TPO) and is also unallocated. Officers were concerned that the scale of the development would significantly harm the woodland and ecological significance of the site. Officers also raised concerns about the scale of an apartment scheme in relation to its surroundings from a visual amenity/character and appearance perspective. Following these concerns the applicant amended the scheme to reflect the current proposal.

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 48 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 (2018), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan may carry substantial weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

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

H6 – Housing Allocation
BE1 – Design principles
BE2 – Quality of design
BE11 - Building Materials – Natural Stone in Rural Area
BE12 – Space about buildings
T10 – Highway Safety
T16 - Pedestrian Routes

T19 - Off Street Parking
G6 - Contaminated Land
EP11 – Ecological landscaping
NE9 – Retention of mature trees
NE4 – Development affecting wildlife significance
EP4 – Noise sensitive development
BE23 – Crime prevention
T19 – Parking standards
H18 – Provision of open space
R13 – Public Rights of Way

Kirklees Publication Draft Local Plan (PDLP) 2017:

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

6.3 Supplementary Planning Guidance:

- Providing for Educational needs generated by new housing
- Interim Affordable Housing Policy
- West Yorkshire Air Quality and Emissions Technical Planning Guidance
- Planning Practice Guidance
- Many policies within the National Planning Policy Framework (2018) are relevant to this proposal and, where relevant, are referred to in the main report text.

6.4 Supplementary Guidance:

- Kirklees Landscape Character Assessment (2015)
- Kirklees Housing Topics Paper (2017)
- Kirklees Local Plan Accepted Site Options – Technical Appraisal – July 2017
- Kirklees Local Plan Submission Document – New Site Options Report – April 2017
- Kirklees Local Plan Submission Document – Rejected Site Options Report – July 2017

6.5 Other Documents:

Examination of the Kirklees Local Plan – Post Hearings – Appendix A – Main Modifications (From Katie Child, Planning Inspector to Council dated 15th June 2018).

6.6 National Planning Policy Framework July 2018

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised on site, in the local press and by neighbour letter. Amended plans were advertised. A total of 18 representations have been received which can be summarised as follows. These comments are addressed in the remainder of the officer report unless otherwise stated:

- Grove Street, Dale Street, Church Street are very busy already.
- A beautiful woodland has developed on this previous industrial site which was once the textile mill - a home for wildlife & a much needed green space. It would be catastrophic to lose this area - 'protected' or not - to more development especially in light of the fact that just several hundred yards up the road, another section of the old site has been developed as flats and is boarded up & remains empty.
- The infrastructure of the roads providing access around the site cannot currently cope, and more traffic, which this development would produce, will make the situation worse. The roads around are not gritted and they are impossible to navigate in winter when the weather is bad.
- As a resident of Longwood until recently, I know that the drainage system in the area is overloaded and frequently fails. The site is on a flood plain. Dale Street/Grove Street already gets flooded in heavy rain. Removal of trees and vegetation would aggravate this, causing worse flooding in the area surrounding Milnsbridge, and in Milnsbridge itself.
- There is the threat to wildlife living in the vegetation on the site, particularly bats that roost there. There are also many species of bird inhabiting the site and some rare varieties have been seen. Removal of these trees would have a detrimental effect on the environment.
- The 2017 transport assessment carried out by Sanderson's, states that residents will use public transport and refers to bus stops in the vicinity "located 330m from the site on Longwood Gate as well as 525m and 620m from the site on Sycamore Avenue and Leymoor Road respectively" However, none of these bus stops can be accessed without walking up substantial gradients and taking routes that do not have pavements, which will be an issue for the elderly or families with prams; therefore I feel that their assessment that residents will use public transport and not their own vehicles is skewed. Also you approach the proposed site via Grove Street (from Park Mills) the current bend in the road will make the 2nd entrance to the site very difficult to see, which could lead to potential accidents. Vehicles exiting the site by the exit below Benn lane will struggle with visibility too. There's an empty mill 4/500 yards away awaiting renovation (park wood mills). That building is already there so if there is demand in the area for new

housing, this project should be completed, rather than decimating the wooded areas. Removing the trees and shrubs will have an impact on local wildlife and the noise dampening in this residential area.

- The tree report provided confirms that there are types of tree (namely English Elm) that require protection. There is also a TPO on the site. I am also concerned that the tree report comments on trees to the north of the site, which are outside of the boundary of the site. I must stress that under no circumstances can any work be conducted to these trees, as they are the private property of houses on Prospect Road. No response has been provided by the developer to any of the points raised in the tree report. 2. The planning application requires confirmation as to whether any protected or priority species are present on the site that may be affected adversely by the application. The response on the application states there are none. I can confirm that there are hedgehogs present on the site, which will be adversely affected if this application is approved. 3. The planning application states that no diversions will be required to existing rights of way. This would not appear to be true of the footpath leading from Prospect Road to Grove Street, at the east of the site. 4. The geological survey references that the structure of the stone wall to the north of the site requires attention. This wall forms the boundary between properties on Prospect Road and the site and is therefore private property which cannot be altered without specific consent.
- The roads around the junction of Church Street / Botham Hall Road / Grove Street are already extremely congested, particularly at rush hour. Church Street often becomes gridlocked due to parked cars. The junction is already dangerous due to extremely poor visibility and further potential traffic in this area will worsen this considerably. 2) The trees which will be removed for the building work are host to a variety of wildlife including owls, bats and jays as well as a huge number of more common birds and squirrels. The huge amount of woodland which needs clearing will impact this wildlife territory hugely.
- Serious concerns that substantial building work below my property and the removal of trees and earth will have an impact on the already vulnerable and steep landscape. A retaining wall, mentioned in the planning documents, is already weak/bulging and disturbances by building work could cause collapse resulting in landslips impacting my property. I believe the slope is already volatile and there is evidence that my garden is already subject to minor landslip. I'm assuming studies on this have already taken place? Concerned about the impact on wildlife by the removal of a substantial area of established woodland.

Officer response – Conditions are recommended concerning stability in the event that planning permission is granted.

- This development removes a locally rich natural environment impacting wildlife, and removes its availability as a public space for enjoyment and learning by the general public. The Council should not approve this scheme. It should not go further without additional and extensive surveys into the species present both on site and on the connecting conservation area. These surveys need to be undertaken during all seasons to document the breeding cycles of those species present, and the seasonal use of the area

by migrating species. Further comments from ecology experts will give recognition of the woodlands wildlife importance in an urban area. The area is called Longwood, it needs the remaining woodland to be preserved, especially the woodland that we know has a preservation order. The Grove St strip of woodland is crucial; aesthetically on a local basis; for visitors passing through the area; as a well-used local public amenity; and has wider significance to the environment as an essential green corridor link, and therefore I strongly object to the proposed scheme.

- Grove Street suffers from heavy flooding and the removal of trees would exacerbate the flooding issues.
- Peak & Northern Footpaths Society - Public footpath 290 runs through the site but there seems to be no mention in the information provided by the applicant of how the footpath is affected by the proposed development - either during construction or afterwards. Public rights of way are a material consideration in the planning process and the lack of any such information is unacceptable. The footpath is in poor condition and this would seem to be an opportunity to bring the path up to date with appropriate surface and lighting improvements to make it more user friendly. The applicant should be asked to put forward such a scheme for consideration prior to the application going any further.

Officer response – the site boundary has been amended and the layout no longer directly affects footpath 290.

A number of additional comments from objectors have also been received relating to specific concerns regarding proposed apartments. However, as this element of the scheme has now been omitted, these objections are considered to have been addressed by the amendments to the scheme.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

Highways Development Management - A Technical Note prepared by Sanderson associates dated 24 April 2018 (ref 10062) has been submitted as part of the proposals.

The submitted Transport Statement assesses the traffic impact of a development of some circa 10 dwellings in trip generation terms. The assessment has undertaken an interrogation of the TRICS database in order to derive trip rates. Highways Development Management considers the trip rates utilised to be too low.

Highways Development Management considers trip rates in the region of 0.7 two way movement per dwelling to be more representative of new residential development within the Kirklees area and as such further clarification and discussion with the applicant is required in this regard.

WYCA (West Yorkshire Combined Authority) have been consulted and they make the following comments:

To encourage the use of sustainable transport as a realistic alternative to the car, the developer needs to fund a package of sustainable travel measures. We recommend that the developer contributes towards sustainable travel incentives to encourage the use of sustainable modes of transport. Kirklees Council have recently introduced a sustainable travel fund. The fund can be used to purchase a range of sustainable travel measures including discounted MetroCards (Residential MetroCard Scheme) for all or part of the site. This model could be used at this site.

Lead Local Flood Authority – Object. *There is no alteration to our comments of 13th November and no obvious response by the applicant to them. The flood risk assessment should address the concerns of the wider blue line area and look at an indicative drainage scheme at the very least so the planning officer can be certain that ‘space has been made for water’. We would recommend a re-consultation after our points have been considered to further assess risk and any appropriate conditions to any support of this application.*

8.2 **Non-statutory:**

Tree Officer - *I believe that the Council has now agreed to the site being removed as a housing allocation within the Local Plan. On that basis I must assess the proposals on that basis, without the benefit of housing allocation going into the future, i.e. a development within a TPO'd woodland, which is something I cannot support. Obviously as part of the Local Plan process, the unchallenged policies are now given weight, with that in mind this proposal does not meet Local Plan policy, PLP 24:*

“design should ensure the retention of valuable or important trees”

More importantly the proposal does not meet Local Plan policy PLP 33:

“The Council will not grant planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity. Proposals should normally retain any valuable or important trees where they make a contribution to public amenity, the distinctiveness of a special location or contribute to the environment, including wildlife habitat network and green infrastructure networks. “

The Woodland is protected by TPO 11/84, and has been since 1984, due to the public amenity value that it provides. The woodland is also part of Kirklees' identified wildlife network. Given these points the proposal clearly does not meet PLP 33. It's also worth noting that the proposal does not meet UDP policies BE2, trees to be incorporated as an integral part of the design” or NE9 “mature trees should be retained”. Now that the evidence before us is that the housing allocation is to be removed then these policies need to be given more consideration.

Landscape - Part of the site was proposed for release to housing in the Local Plan, however this has now been removed. These comments are without prejudice on the information submitted, but we cannot recommend approval due to the loss of trees and the impact on the Wildlife and Habitat network. If the site is approved, a visual impact assessment should be carried out and mitigative planting shall be identified on the landscape plans to identify and address the large number of trees to be lost within a protected woodland for the development of these apartments and vehicular access/parking. Only

indicative (and extremely limited) information has been submitted on the plan dwg. SK03, on which to comment, however it should be ensured that the development enhances the character of the area and will not adversely affect the surrounding area, particularly on such a sloping site. We will require full detailed landscape plans for hard and soft landscaping.

West Yorkshire Archaeology Advisory Service – Do not consider any archaeological work to be necessary.

Biodiversity Officer - *No ecological information has been submitted in support of the application and it is evident that the proposals will require the loss of an area of deciduous woodland that is identified by Natural England and included in its inventory of habitats of principle importance (as listed under section 41 of the NERC Act 2006), and included in the Kirklees Wildlife Habitat Network. These habitats would be classed as 'important' following guidance from the Chartered Institute of Ecology and Environmental Management (CIEEM, 2016). Under emerging local planning policy PLP 30, which carries 'considerable weight', proposals are required to protect both habitats of principal importance and the Kirklees Wildlife Habitat Network. In addition to the loss of 'important' habitats, no information on the potential for the site to support protected species, including European protected species, has been submitted. Therefore it is not possible to discharge the LPA's duty under regulation 9(5) of the Conservation of Habitats and Species Regulations 2010. The site is within the Kirklees Bat Alert Layer and it is therefore reasonably likely that mature trees on site are used by roosting bats, and the immediate area is expected to provide suitable foraging habitat.*

Further to the submission of additional detail, the following comments were received:

*The applicant has submitted an ecological report entitled **Extended Phase 1 Habitat Survey Report**. This is not a report type recognised in industry standard guidance published by the Chartered Institute of Ecology and Environmental Management **Invalid source specified.**, and the purpose of the report stated in section 1.1 is very limited in scope in relation to the report type required to provide the information needed by the LPA to assess the application against biodiversity policy and to discharge legal duties.*

*Given the known ecological constraints at this site (see previous biodiversity consultation response dated 28/11/2017) an application, including an outline application, can only be supported by an Ecological Impact Assessment **Invalid source specified.** Preliminary report/survey alone is not sufficient to support an application as it required assumptions and subsequent assessment by LPA officers that is outside the scope of their remit as defined by BS 42020 **Invalid source specified.***

*The report has identified extensive further survey requirements and has presented no mitigation measures for the evident impact of loss of woodland habitat, which occupies the majority of the site. Furthermore, the report includes the following statement in paragraph 5.5: **'If the woodland habitat is to be removed nesting bird surveys will be required [...]**'. As the woodland habitat occupies the area to be developed then woodland habitat will necessarily be removed if development is to be undertaken.*

The report has presented some evaluation of the habitats present, although the further survey recommended is essential to completing this evaluation. The report has not identified that the woodland habitat present is a Habitat of Principle Importance (or Priority Habitat) under Section 41 of the NERC Act 2006.

As the habitat map provided does not include any contextual information such as roads or adjacent housing, includes no scale, and the surveyed area differs from the application area boundary, it is not clear whether the whole site has been included in the survey.

*Assessment of ecological impacts should be a key element of the ecological information submitted to support any application, which is essential to identifying the requirements for ecological mitigation. The submitted information presents no impact assessment or mitigation measures and therefore provided officers with no certainty or clarity over ecological outcomes. **The submitted report is unsuitable for supporting the application.***

Strategic Housing - There is demand for affordable 1-2 bedroom homes in the area. For the affordable units in this proposed development, 1-2 beds or bed types nearest that amount, would suit the affordable housing needs of the local area.

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Tree issues
- Biodiversity issues
- Highway issues
- Drainage issues
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The site is allocated as a Housing Allocation on the Kirklees Unitary Development Plan. 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). The proposed development is for housing and it would be consistent with the housing allocation.
- 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 48 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 Para 73 then goes on to describe how local authorities should meet the full objectively assessed need for market and affordable housing.
- 10.4 Para 11 of the NPPF states that for decision-taking, the presumption in favour of sustainable development means:
- approving development proposals that accord with an up-to-date development plan without delay; or
 - where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 10.5 The subtext to para 11 explains that out-of-date policies include those where the Local Planning Authority cannot demonstrate a five year supply of deliverable housing sites. As the Council are unable to demonstrate a 5 year housing land supply, relevant policies relating to housing are considered to be out-of-date. The housing land supply shortfall in Kirklees is substantial and falls below 3 years. Whilst the Council have submitted the emerging Local Plan (PDLP) for examination which, for housing purposes, is predicated on the basis of a five year housing land supply; the Local Plan is still undergoing Examination and 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,
- 10.6 Para 11 of the NPPF provides that planning permission should be granted unless the adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole.
- 10.7 It is also noted that planning permission has been granted on this site for residential development the same as proposed as recently as 2013. Planning permission 2013/90715 expired on 31st May 2016.

Emerging Local Plan Allocation

- 10.8 The Kirklees Publication Draft Local Plan (PDLP) identified the development site as a housing allocation (ref – H814). However, the Post Hearings letter from the Planning Inspector (15 June 2018) concerning the PDLP has recommended that the housing allocation be deleted from the Local Plan for reasons relating to biodiversity and amenity issues. This land would therefore become unallocated. Following the Post Hearings letter the Council are preparing a number of modifications to the Local Plan which will include the rejection of H814 as a housing allocation in order to ensure the Local Plan is legally compliant and sound. This will go through a further consultation exercise in Summer 2018. The final Inspector's report, expected towards the end of 2018, will provide further details of the Inspector's decisions. The points of

concern raised by the Inspector will be elaborated upon in the remainder of this report; suffice it to say that the PDLP allocation has evolved through the Examination process and is no longer considered a suitable housing site. The concerns raised by the Planning Inspector are predicated by the location of the site which forms part of the Kirklees Wildlife Habitat Network, situated within a woodland which is covered by a Tree Preservation Order (TPO).

10.9 PDLP policy PLP33 states:

“The Council will not grant planning permission for development which directly or indirectly threaten trees or woodland of significant amenity...”

10.10 PDLP policy PLP30 states:

“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...”

10.11 Para 175 of the NPPF states that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- *if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*

10.12 As the relevant sections of this report will attest, the proposed development fails to demonstrate that the proposed development would satisfactorily protect biodiversity and would mitigate the loss of significant woodland.

Conclusion on Principle of Development

10.13 The site lies on a Housing allocation in the UDP. Planning law requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise. One such material consideration is the fact that the proposed development lies in an area of protected woodland with high amenity value which also serves as an important wildlife corridor. The proposal's conflict with the NPPF and emerging policies PLP30 and PLP33 is reflected by the Inspector's recommended modifications to the Local Plan which advises that this site should be deleted from the Local Plan as a housing allocation. The proposal also conflicts with UDP policies NE9 and EP11.

Urban Design issues

10.14 UDP Policies BE1 and BE2 are considerations in relation to design, materials and layout. Paragraph 60 of the NPPF stipulates that planning decisions should not stifle innovation through unsubstantiated requirements to conform to certain development forms or styles, although it is proper to seek to promote or reinforce local distinctness.

- 10.15 The indicative scheme comprises of a mixture of two and three storey properties which is primarily due to the topography of the land. Within the immediate vicinity there is a mixture of two and three storey properties and as such, the scale of development is considered to be acceptable and would comply with policies BE1 and BE2(i – iii) of the Unitary Development Plan but this is subject to the detail at reserved matters stage.
- 10.16 In respect of crime prevention, UDP policy BE23 states that new developments should incorporate crime prevention measures to achieve pedestrian safety on footpaths; natural surveillance of public spaces; and secure locations for parking areas. Previous full applications on this site have been found acceptable but as this is an outline application, full details would need to be considered as part of any reserved matters submission.
- 10.17 The application site is located over 170 metres away from the Longwood Edge Conservation Area to the west. However, due to the tree coverage that is to remain at the western edge of the site and the housing development known as Grove Nook, as well as the dwellings along Stoney Lane and the existing industrial buildings (Firm Mills and Clough Mills), the new development would not have any impact on the conservation area setting in accordance with the NPPF Conserving and Enhancing the Historic Environment.

Residential Amenity

- 10.18 UDP Policy D2 requires residential amenity matters to be considered and Policy BE12 sets out the normally recommended minimum distances between habitable and non-habitable room windows.
- 10.19 A layout for this scheme was previously approved as part of the 2013 planning permission which demonstrates that sufficient distances are achievable within the site, complying with policy BE12 of the UDP.
- 10.20 The current application comprises an outline application and full details would come forward in future as part of any subsequent layout to be submitted at reserved matters stage.

Tree issues

- 10.21 The site lies within a woodland protected by a Tree Preservation Order (ref - 11/84) due to the public amenity value it provides. The trees within the site are a mix of category B and C trees but go to make up the character of this part of Grove Street which is extensively lined with mature trees on its northern side. Their loss would be contrary to policy NE9 of the UDP as it would remove a large area of mature trees which are a component part of the street scene and the scheme fails to incorporate trees into the layout, contrary to policy BE2 of the UDP. PDLP policy PLP33, which carries substantial weight, states that the Council will not grant planning permission for development that directly or indirectly affects trees or woodland of significant amenity.
- 10.22 The above scheme would clearly conflict with these policies and it is also noted that no replacement planting is proposed. Whilst it is acknowledged that planning permission was granted for an almost identical scheme in 2013 which followed a train of planning permissions for residential development on this site dating back to 2001; there are no extant planning permissions on this site as

the latest planning permission expired in 2016. Furthermore, the evidence based used to inform the local plan process has indicated that the site is significantly constrained by trees.

Biodiversity issues

- 10.23 Policy NE5 establishes the importance of wildlife corridors such as the Kirklees Wildlife Habitat Network. It is important that habitats of ecological value are taken into account when assessing the acceptability of development, with chapter 15 of the NPPF establishing that local authorities should aim to conserve and enhance biodiversity. Under PDLP policy PLP30, which carries substantial weight, proposals are required to protect habitats of principal importance and the Kirklees Wildlife Habitat Network.
- 10.24 It is noted that the previous planning permission on this site (2013/90715) included a planning condition requiring the submission of an ecology survey but the requirements of this condition were never discharged. The current application included a phase I habitat survey which was submitted part way through consideration of the planning application. The submitted report concludes:
- “...The proposed development will have a significant detrimental effect on the connectivity of the Kirklees Habitat Network and will have a negative impact on local wildlife and biodiversity...”*
- 10.25 The submitted report goes on to recommend further bat survey work, that the woodland habitat provided excellent opportunities for bird nesting and the site has the potential to support foraging badgers.
- 10.26 The conclusions set out in the submitted ecological report are reflected in the comments from the Council’s biodiversity officer. There are a number of issues concerning the submitted survey. The survey submitted indicates a significant ecological impact and indicates the need for further survey work to investigate the possibility of further impacts, including to European Protected Species. The information submitted does not present any means of mitigation. The biodiversity officer is also of the view that it is reasonably likely that mature trees on site are used by roosting bats, and the immediate area is expected to provide suitable foraging habitat. Even in the absence of additional survey information the proposed development would result in the significant loss of a habitat of Principal Importance as identified by Natural England. Notwithstanding the expected impacts to European Protected Species, the loss of habitats of principal importance would result in a significant ecological impact which is contrary to PDLP 30 and chapter 15 of the NPPF.
- 10.27 Whilst it is acknowledged that the site is currently allocated for housing and planning permission has been granted numerous times previously, the evidence base concerning the importance of this site as a principal habitat and part of the Kirklees Wildlife Habitat Network is enshrined in emerging PDLP policy PLP30 which carries substantial weight. This, in turn, appears to have informed the Inspector’s latest correspondence on the unsuitable nature of this site as a housing allocation. In addition it is noted that no ecological information has supported any previous planning applications on the site. The policy position has, therefore, changed since the previous decision was made to approve planning permission.

10.28 The Secretary of State for the Environment, under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006, has issued a list of habitats of principal importance in terms of conserving biodiversity. This list is intended to inform the duty to have regard to conservation of biodiversity as outline in Section 40 of the NERC Act. It considered that the granting of planning permission in this case would not demonstrate sufficient regard to this requirement.

Highway issues

10.29 UDP policy T10 sets out the matters against which new development will be assessed in terms of highway safety. The proposal is almost identical to previously consented proposal and there have been no material changes to policy since this time in relation to highway safety.

10.30 Highways DM comment that incorrect trip rates have been used by the applicant in order to calculate traffic flows in relation to highway capacity. Highways DM consider that 0.7 two way trips per dwelling would be more representative of the rates experienced in Kirklees. Nevertheless, planning permission was previously granted on this site and from a highway perspective there have been no change in circumstances since 2013. The applicant has demonstrated achievable visibility of 2.4m x 43m. Subject to conditions the application is considered to represent a safe and suitable access.

10.31 Policy R13 of the UDP stipulates that in considering development proposals, those that would affect a public right of way should take into account the convenience of the users of the right of way, including the provision of facilities for people with disabilities. Public Right of way HUD/292/10 runs to the west of the site and connects Grove Street with Prospect Road. This existing footpath would be physically separated from the new development by the retained tree buffer proposed to flank the western edge of the site and would be unaffected by the proposed development. The proposal would accord with policy R13 of the UDP.

Drainage issues

10.32 The NPPF sets out the responsibilities for Local Planning Authorities determining planning applications, including flood risk assessments taking climate change into account and the application of the sequential approach. No formal drainage strategy has been submitted with the application and the applicant has indicated that surface water is to discharge to the public sewer network.

10.33 There is no drainage strategy with the current application and the Lead Local Flood Authority object on the basis of a lack of information. However, the area of the site is identical to that approved in 2013 (ref – 2013/90715) yet the former planning permission was submitted as a full application. In that particular case planning permission was approved subject to drainage conditions. In this case the proposed development is in outline form which gives an opportunity to develop an informed drainage strategy along with the reserved matters. Therefore, in the event planning permission is granted it is recommended in this case that drainage details are submitted as part of the reserved matters.

Other matters

- 10.34 The NPPF stipulates that planning policies and decisions should ensure that a site is suitable for its new use taking account of ground conditions and land instability. The safe responsibility for development rests with the developer and appropriate conditions are recommended requiring details to be submitted of all retaining structures within the site, including all necessary ground investigations as part of the reserved matters submission. This is in recognition of the significant regrading works that would be required to implement the scheme both to support the internal access road and to support land to the rear of the site which rises steeply.
- 10.35 A noise report has been submitted. Environmental Services raise no objections subject to a further report being submitted detailing a suitable noise attenuation scheme. In this regard the amenity of future occupiers would be adequately protected and the proposal would accord with policy EP4 of the UDP and PLP52 of the PDLP.
- 10.36 The development proposes the erection of 12 dwellings and accordingly the developer would now be required to provide affordable housing in *Interim Affordable Housing Policy*. A total of 2 units would be required which equates to 20% affordable provision.

11.0 CONCLUSION

- 11.1 The site lies within an area allocated for housing on the UDP. Decisions to approve housing on this site since 2001 are reflective of the requirement to determine applications in accordance with the development plan. Other material considerations at that time did not indicate that a contrary view should be taken. In addition, the Council are unable to demonstrate a 5 year housing land supply which engages the 'tilted balance' and presumption in favour of sustainable development as advocated by para 11 of the NPPF.
- 11.2 The development would lead to the loss of a significant area of TPO'd woodland which forms a greenfield site. Any previous buildings on this site have long since disappeared. This woodland offers significant visual amenity benefits and comprises a habitat of principal importance falling within the Kirklees Wildlife Habitat Network. There are no proposals to replace the woodland and its associated ecological significance, nor would replacement appear feasible within the confines of the site or its surroundings. Consequently the proposed development conflicts with UDP policies NE9 and EP11 and PDLP policies PLP30 and PLP33 which carry substantial weight.
- 11.3 In the context of para 11 of the NPPF, the economic benefits of granting up to 12 houses when the Council are unable to demonstrate a 5 year housing land supply would be outweighed by significant and demonstrable harm. The proposal is considered to be contrary to the NPPF when taken as a whole and represents an unsustainable form of development. It is recommended that planning permission be refused.

11.4 It is acknowledged that any decision to refuse planning permission would be at odds with the decision to grant planning permission for a similar scheme in 2013. However, since then additional evidence has been gathered which has informed the emerging Local Plan. Emerging policies in the PDLP, which now carry substantial weight, are predicated on additional evidence which indicate development of this mature woodland with associated significant ecological potential deem this an unsuitable housing allocation. As a consequence of this, the Council are developing a modified Local Plan which rejects this site as a housing allocation. In addition, an ecology survey has been submitted with the current application which identifies significant ecological constraints and harm. It is, therefore, not anticipated that the application site will be required to meet the Council's objectively assessed need in delivering the housing numbers set out in the Local Plan.

12.0 Background Papers:

Application details:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f90941>

Certificate of Ownership –Certificate A signed: 2nd September 2017

