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**Report of the Head of Strategic Investment****HEAVY WOOLLEN PLANNING SUB-COMMITTEE****Date: 23-Aug-2018****Subject: Planning Application 2014/93145 Modification of Section 106 obligation relating to previous application 2012/93062 Land At, Ashbourne Drive, Cleckheaton****APPLICANT**

J Dunbavin, ID Planning

**DATE VALID**

03-Oct-2014

**TARGET DATE**

28-Nov-2014

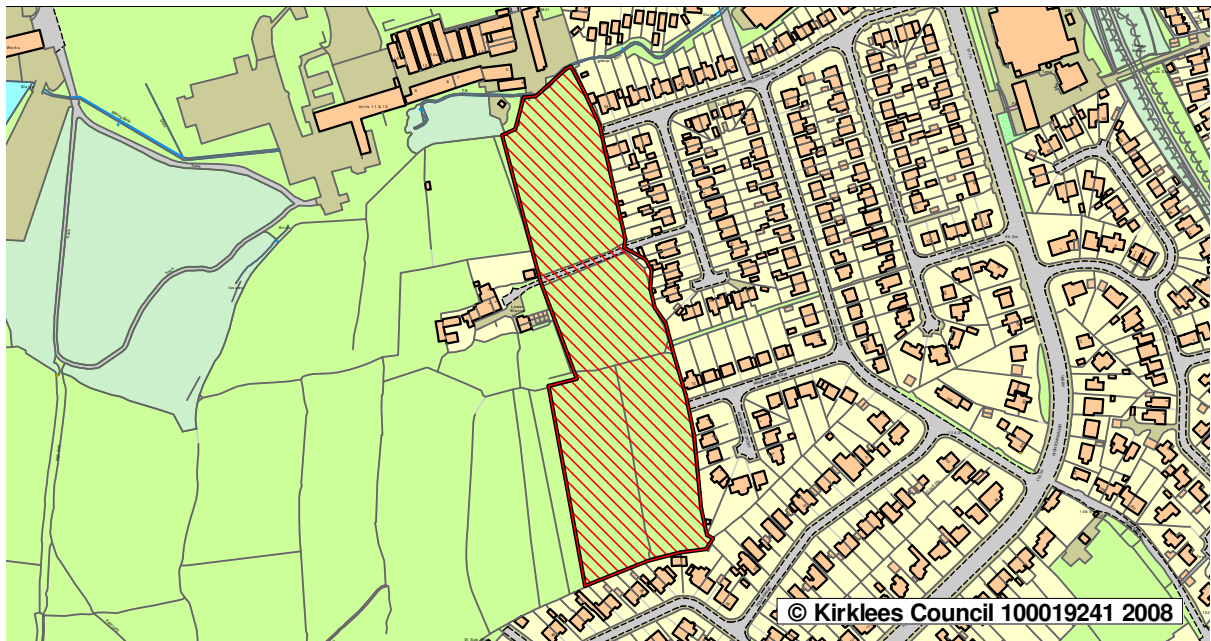
**EXTENSION EXPIRY DATE**

13-Apr-2017

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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: Cleckheaton

Yes

Ward Members consulted  
(referred to in report)

### RECOMMENDATION:

**DELEGATE approval of the modification of the Section 106 obligation relating to previous application 2012/93062 and the issuing of the decision notice to the Head of Strategic Investment in order to secure a revised S106 agreement to cover the following:**

#### **1. The provision of 5 affordable units**

**In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Strategic Investment shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Strategic Investment is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.**

### **1.0 INTRODUCTION:**

- 1.1 This application relates to a current application for the approval of reserved matters for 46 dwellings off Ashbourne Drive, Cleckheaton. It has been brought to the Heavy Woollen Planning Sub-Committee at Members' own request following consideration and deferral of the reserved matters application, originally in September 2017.
- 1.2 The application for reserved matters has now been agreed by members at the Heavy Woollen Planning Sub-Committee held on 1 June 2018. However, this application to modify the S106 was deferred at that meeting to receive further details of the appraisal.
- 1.3 At the subsequent meeting on 12<sup>th</sup> July 2018 Members deferred a decision and asked the applicant to look at increasing affordable housing provision through a reduction in the required profit level. At the time of writing this report no response has been received.

### **2.0 SITE AND SURROUNDINGS:**

- 2.1 The site comprises an area of approximately 2.4 hectares abutting residential properties on Ashbourne Drive, Ashbourne View and Ashbourne Croft to the east and Penn Drive to the south.

### **3.0 PROPOSAL:**

- 3.1 The proposal is to reduce the previously agreed level of affordable housing provision as part of the development.

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

- 4.1 2012/93062 – Following the refusal of outline planning permission for residential development (54 dwellings) the application was allowed on appeal on 18 December 2016 based on a revised layout of 53 dwellings. A S106 Agreement was concluded which made provision for;
- 9 units of affordable housing,
  - an education contribution of £130,996 for the provision or improvement of primary education facilities at Heaton Avenue Primary School and
  - traffic calming on Quaker Lane
- 4.2 2014/91242 – Reserved matters for 47 dwellings agreed by Sub-Committee on 1<sup>st</sup> June 2018

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

- 5.1 The original proposal was to reduce the affordable housing provision from nine units to zero due to the costs of development. The applicant's viability statement to justify this was appraised by a consultant surveyor appointed by the Council. After a protracted discussion process the consultant concluded that the viability of the scheme could support five affordable units, four of which could be socially rented and one intermediate (i.e. shared ownership, discount for sale all below market rent but above social rent). The applicant agreed to this in writing on 21 June 2017.

### **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 (2018). 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 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.

The Kirklees Interim Affordable Housing Policy 2016 and policy PLP11 of the Emerging Local Plan give an appropriate rate of 20% of the number of market units.

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

- **H10** – Affordable Housing
- **H12** – Affordable Housing to meet Local Needs

6.3 Supplementary Planning Guidance / Documents:

- Interim Affordable Housing Policy approved 14 December 2016

6.4 National Planning Guidance:

National Planning Policy Framework (NPPF) Chapter 5 (Delivering a sufficient supply of homes) states that local planning authorities should identify a supply of market and affordable housing widen opportunities for home ownership and create mixed and balanced communities.

6.5 The National Planning Practice Guidance (NPPG) contains the following:

- Viability – a general overview

**7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application has not been the subject of publicity.

7.2 Ward Members – no response

**8.0 CONSULTATION RESPONSES:**

8.1 **Statutory:**

None

8.2 **Non-statutory:**

None

**9.0 APPRAISAL**

9.1 The Consultant's report and conclusion was based on the development costs and an acceptable profit margin. It is accepted that there are high abnormal development costs due to the sloping topography and nature of the ground which requires abnormal foundations, retaining walls and drainage, the costs of which are high for a greenfield site such as this. The Consultant is satisfied that the submitted development costs are reasonable, but did identify the cost of surface water attenuation methods as an area where development costs could be potentially reduced further which may allow further surplus.

- 9.2 The applicant has proposed a pre-cast concrete box culvert for surface water attenuation. It was thought that if plastic crates could be used this would give a substantial saving. However, the applicant has stated that Yorkshire Water would not adopt a plastic crate solution and it is understood from the Council's own Drainage officer that this is likely to be the case. The applicant has responded with regard to a reduction in the extent of retaining walls noting that their extent is proportional to the overall gradient. The applicant argues that as the maximum slope on the site is 1:6, this results in some significant retaining structures. The retaining walls are also influenced by the maximum road gradient allowed by the Local Authority. As this is less than the natural slope of the site, retaining walls are therefore required on the boundaries. In order to minimise the visual impact of the walls, they are positioned within garden areas where possible.
- 9.3 This proposal is to reduce the provision for affordable housing only and the remaining requirements for education provision and highway improvements together with the future requirements to ensure future maintenance of public open space are not affected.

## **10.0 CONCLUSION**

- 10.1 The applicant's viability assessment is considered to be reasonable.

## **11.0 RECOMENDATION**

- 11.1 That proposal for a reduction to five units of affordable housing be accepted subject to the applicant entering into a revised S106 Agreement.

### **Background Papers:**

Web link to application details:-

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2014%2f93145>

Web link to previous application 2012/93062:-

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2012%2f93062>