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**Report of the Head of Strategic Investment****STRATEGIC PLANNING COMMITTEE****Date: 30-Aug-2018****Subject: Planning Application 2018/90146 Erection of 5 dwellings adj, 196, Wakefield Road, Earlsheaton, Dewsbury, WF12 8AH****APPLICANT**

G Hanson

**DATE VALID**

15-Jan-2018

**TARGET DATE**

12-Mar-2018

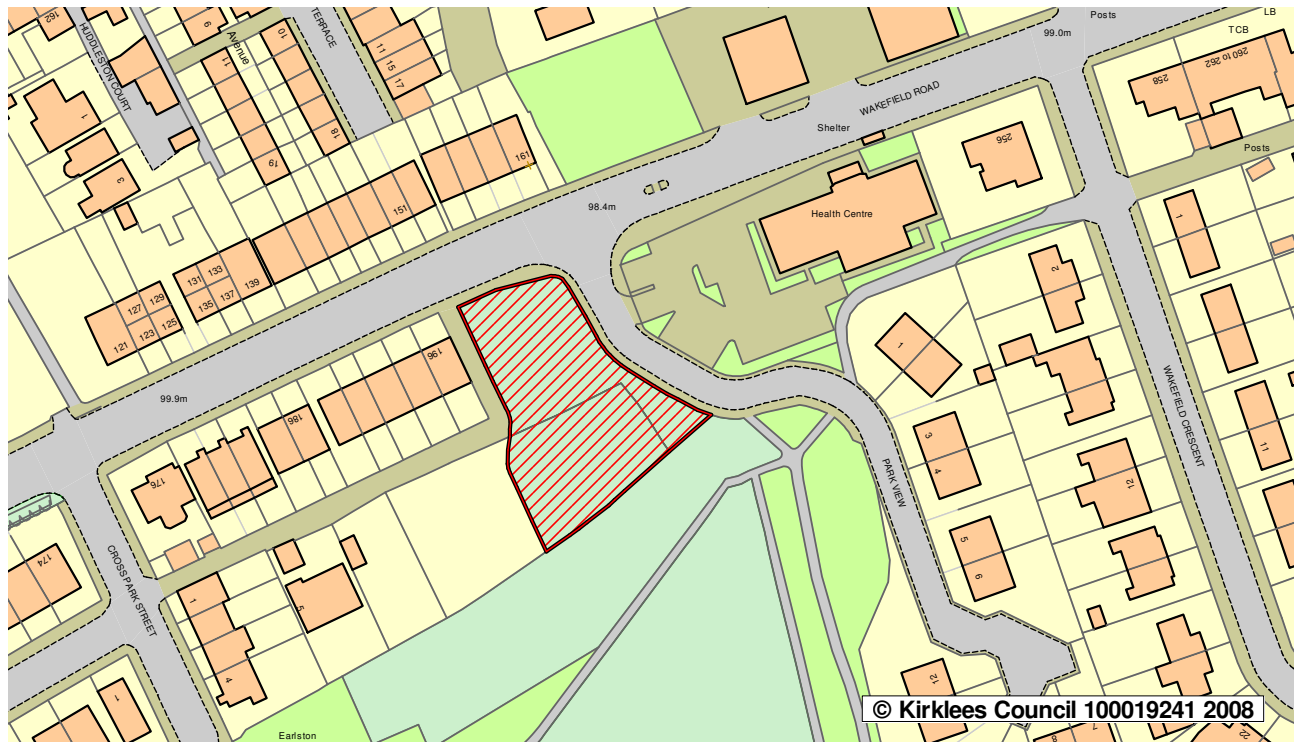
**EXTENSION EXPIRY DATE**

11-Jun-2018

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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: Dewsbury East**

Yes

Ward Members consulted

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**RECOMMENDATION:**

**DELEGATE approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions including those contained within this report.**

**1.0 INTRODUCTION:**

- 1.1 The development represents a departure from the Unitary Development Plan, as the site is on land allocated as Urban Greenspace. The application was originally considered at the Strategic Planning Committee on 7 June 2018 where members agreed with the Officer recommendation subject to the securing of details of a construction access from Wakefield Road prior to determination of the application.
- 1.2 The applicant proposed at that time that the development could be built in two phases and this is set out on a phasing plan ref GHWR-MWA-ZZ-ZZ-DR-A-0008 B. This indicates that development would be carried out in two phases with Plots 1, 2 and 3 constructed first (Phase 1), followed by Plots 4 and 5. Contractors' own vehicles would enter the site via a new access at the same point as the new permanent driveway off Park View, although no construction vehicles would use Park View during the construction of Plots 1-3. Park View would only be used by construction vehicles during Phase 2 (construction of Plots 4 and 5). Hours of construction are stated to be 08.00 until 17.30 Monday to Friday and 08.00 until 13.00 on Saturdays with no working on Sundays and Bank Holidays.
- 1.3 KC Highways DM assessed the submitted information and considered that given the constraints of the site in terms of gradient, and the fact that the permanent access will be off Park View, this is acceptable in principle from a highway safety perspective, however more specific details were requested with regard to the programming of the works as follows:
- Construction details of the new footway
  - Frequency of deliveries throughout the construction period
  - Likely frequency of road closures, and maximum lengths of time this would take place
  - Contingency for pedestrian and vehicle access onto Park View during the works
  - Contingency for resident parking when access is compromised

- Assurance deliveries will not take place in peak traffic hours or during local school opening/closing times.
- Details of construction staff parking
- Details of proposals to liaise with residents

1.4 The agent confirmed that as the applicant is not going to be developing the site themselves, they cannot provide these details.

1.5 The application was subsequently brought back to the last Strategic Planning Committee on 2 August 2018 where Members re-iterated the need for the above information and resolved to defer the application in order to give the applicant additional time in which to provide it. A Construction Management Plan was received on 15 August 2018 although much of the information contained within it replicates that which has already been received.

## **2.0 SITE AND SURROUNDINGS:**

2.1 The application site comprises a grassed area in addition to an area of trees, some of which are protected, forming part of Earlsheaton Park located off Wakefield Road and Park View in Earlsheaton.

2.2 The site is bounded to the north and west by residential development. A Health Centre is located to the east, whilst to the south lies the remainder of the Park. The site slopes downwards from north to south.

## **3.0 PROPOSAL:**

3.1 Permission is sought for the erection of 5 dwellings. Three of the proposed units would be arranged in a split level terraced block fronting Wakefield Road, whilst the remaining two units would have a semi-detached nature, facing Park View. The proposed development would be externally faced in reconstituted stone with artificial blue or grey slate roofs.

3.2 Vehicular access to the site would be taken from Park View with off street parking provision to serve each dwelling, visitor parking and internal turning.

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

4.1 2011/93394 - Erection of 3 dwellings – approved (not implemented)

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

5.1 Through the course of the application, additional information and amended plans have been requested from the application in the form of an amended parking layout and noise survey. This information has been provided, and the relevant consultees have been re-consulted.

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

**BE1** – Design principles

- **NE9** – Retention of mature trees
- **BE2** – Quality of design
- **T10** – Highway Safety
- **BE12** – Space about buildings
- **EP4** – Noise Sensitive Premises

### **6.3 Kirklees Publication Draft Local Plan**

- **PLP1** – Presumption in favour of sustainable development
- **PLP2** – Place shaping
- **PLP21** – Highway safety and parking
- **PLP 24** – Design
- **PLP25** – Highway safety and access
- **PLP 28** – Drainage
- **PLP 30** – Biodiversity and Geodiversity
- **PLP53** – Contaminated and unstable land
- **PLP61** – Urban Green Space

### **6.4 National Planning Guidance:**

- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 8 – Promoting healthy and safe communities
- Chapter 12 – Achieving well-designed places
- Chapter 15 – Conserving and enhancing the natural environment

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

7.1 The application was publicised by site notice and neighbour notification letter. As a result of site publicity, seven representations have been received. The concerns raised are summarised as follows:

- Park View is narrow cul-de-sac and provides access to 12 bungalows for over 55's. Access to the doctor's surgery and chemist is also gained from Park View. The vehicle access would be situated on a sharp bend.
- There is not enough room for large vehicles to turn around within the cul-de-sac; damage to boundary fencing has occurred when large vehicles have used Park View; construction vehicles would result in chaos. Question where contractors and heavy machinery would park and how the area would be kept clean.
- If the plans go ahead, hope the Council will send Road Sweeper to clean the drains instead of residents cleaning the View
- The Health Centre Car Park is not shown on the plans
- There is Japanese knotweed at the bottom of the park which will require specialist removal
- There is a well-used thoroughfare just below the proposed site access which is used to reach local shops and schools and Earlsheaton Park. All of these would be restricted or closed access during and after construction.
- Question the number of parking spaces proposed for the four bed homes in particular
- Existing footway where site access is planned is raised and quite steep and the path opposite is virtually unusable being too narrow and leads towards the road. This is dangerous, more so with increased traffic during and following construction
- 14 or more trees would be removed if permission is granted. Trees are natural air purifiers. Is it not common sense that they remain there?
- Habitats for wildlife are few and far between.
- There are existing problems with youths setting fires near the bungalows on Park View

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

**KC Highways Development:** No objections subject to the imposition of conditions

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

**KC Arboricultural Officer:** No objections

**KC Environmental Services:** Recommend imposition of conditions

**Yorkshire Water:** No comments to make

## 9.0 MAIN ISSUES

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

## 10.0 APPRAISAL

### Principle of development

- 10.1 The site is located within Urban Green Space (UGS). The starting point for consideration is Policy D3 of the Unitary Development Plan, which is afforded significant weight given the degree of consistency between this policy and the NPPF in respect of paragraph 213. Policy D3 sets out the Council's approach to land designated as UGS. It states that the development will not be granted unless the development is necessary for the continuation and enhancement of the established uses, or is a change of use to alternative open land uses, or would result in a specific community benefit (whilst protecting visual amenity, wildlife value and opportunities for sports and recreation). Or as part (ii), it includes an alternative provision of Urban Greenspace equivalent in both quantitative and qualitative terms to that which is being developed.

### *Publication Draft Local Plan*

- 10.2 NPPF paragraph 96 recognises that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of local communities. The site is part of a larger area of Urban Greenspace in the Publication Draft Local Plan which incorporates Earlsheaton Park and as such, proposed residential development would normally be contrary to UDP policy D3.
- 10.3 Policy PLP 61 of the Draft Publication Local Plan states development will not be permitted within urban green space unless the proposal meets the exception criteria. Exceptions include where it can be demonstrated that the open space is clearly no longer required to meet local needs, that the proposal will provide replacement provision of equivalent or better in size, quality and accessibility, or that it is for alternative open space, relates to the continuation or enhancement of the use of the site and maintains the quality and function of the green space, or that it would result in a substantial community benefit that clearly outweighs the harm resulting from the loss of the green space. In this case, planning permission has previously been granted for residential development on the site and this has been taken into account in preparing the Local Plan through an amendment to exclude this area and adjoining land in use as private gardens from urban green space designation. The whole of the application site is therefore shown without notation in the Kirklees Publication Draft Local Plan. No comments were received regarding this amendment as a result of the Council's Public Consultation Exercise.

In addition, the application site is considered to be of low quality with respect to its functionality as open space, having no character worthy of retention for future outdoor sport and recreation. Furthermore, the provision of housing in this sustainable location would make a small contribution to the existing shortfall. These are therefore considerations that should be taken into account in determining this application.

#### Urban Design issues

- 10.4 Policies BE1 and BE2 of the UDP are considerations in relation to design, materials and layout. The layout of the buildings should respect any traditional character the area may have. New development should also respect the scale, height and design of adjoining buildings and be in keeping with the predominant character of the area. Chapter 12 of the NPPF emphasises the importance of good design.
- 10.5 The application site includes a frontage to Wakefield Road and contains a number of trees, some of which are protected. The immediate locality is predominantly characterised by split level terraced houses of stone, artificial stone and brick construction, in addition to a more recent development of bungalows to the south east and the Health Centre on the opposite side of Park View.
- 10.6 There is a change in levels across the site with the land falling away from Wakefield Road to the south. As such, a retaining wall would be required close to the eastern boundary of the site.
- 10.7 The proposed development would comprise of one terraced block of 3 dwellings and a pair of semi-detached dwellings. The proposed units fronting Wakefield Road would be of a comparable scale to the existing terraced properties adjacent, and would take into account the change in levels from Wakefield Road across the site to the south (therefore providing three stories of accommodation to the rear). The semi-detached dwellings would be of a two storey scale and would not be readily visible from Wakefield Road due to the topography of the site.
- 10.8 The scale of the development is considered to be acceptable in relation to surrounding development. Whilst it is acknowledged that the dwellings on Park View are of a single storey nature, the application site is located closer to existing two storey terraced properties, which are representative of the predominant character, and therefore the design of the proposed development would not appear out of keeping with the surrounding area.
- 10.9 Materials of construction are considered to be acceptable in this location where stone and artificial stone are predominantly found.

#### Residential Amenity

- 10.10 Policy BE12 of the UDP sets out the normally recommended minimum distances between habitable and non-habitable room windows. The nearest neighbouring properties which would be affected by the proposals are 188-196 Wakefield Road. Plots 1-3 would be located alongside No.196, separated by an existing tarmac access. Non habitable room windows would be located within the western gable of Plot 1, which has a blank gable, and as a result, there would be no loss of privacy to that property, in accordance with Policy BE12.

- 10.11 The bungalows on Park View would be located over 50m away to the south east and as such there is considered to be no adverse impact on the amenity of the occupiers of those properties.
- 10.12 The site is located adjacent to the A638 Wakefield Road, and therefore may be subject to elevated levels of traffic noise. The applicant has been requested to submit a noise (acoustic) report prior to determination specifying the measures to be taken to protect the development from noise from Wakefield Road. The requested report has been received and this does identify that the main noise issue in this location arises from road traffic. KC Environmental Services agree with the recommendations set out in the report, which proposes noise attenuation measures; a whole house ventilation system and acoustic barriers. The inclusion of these measures would ensure the amenity of future occupiers of the development, in accordance with Policy EP4 of the UDP and PLP 52 of the Publication Draft Local Plan.

#### Landscape issues

- 10.13 The development would include areas of both hard and soft landscaping in the form of a small area of amenity space to the front, sides and rear of the dwellings, and retention of existing trees along the southern boundary of the site. This would be commensurate to the scale of the proposals. Notwithstanding this, due to a change in levels across the site from Wakefield Road to the south, a retaining wall is proposed to the side of Plot 3. This could have an impact upon visual amenity and therefore the inclusion of a landscaping scheme to address this would be beneficial and in accordance with Policies BE1 and BE2 of the Unitary Development Plan. The applicant has confirmed their agreement to this. Some enhancement is considered to be possible from an ecological perspective in any case, however the agent has confirmed their agreement for this to be dealt with by condition.

#### Highway issues

- 10.14 Access to the site is to be taken off Park View which is a short cul-de-sac serving a mews court development of 6 pairs of semi-detached bungalows and a small Health Centre. The Health Centre is located on the opposite side of Park View from the application site. A 'no waiting at any time' restriction is in place on both sides of this road, with a permit holders' only scheme controlling parking within the mews court.
- 10.15 There are raised tref kerbs to the frontage of the proposed development to provide vehicle restraint at the top of the existing access. These kerbs will become redundant if the levels are raised to accommodate the proposed development. Sight lines at the junction with Wakefield Road are good in both directions.
- 10.16 At the time of the Strategic Planning Committee on 7 June 2018, Members raised concerns regarding the potential disturbance to residents of Park View as a result of construction vehicles entering the site via this cul-de-sac. Members requested that details of a construction access from Wakefield Road were secured and that the development was phased with Plots 4 and 5 being constructed first. The applicant's agent does not consider it possible to provide a sole construction access from Wakefield Road and has put forward an alternative construction management plan which has been assessed by KC



Highways DM but it is noted that the applicant is not likely to be the developer who constructs the site so other options for construction may well exist than those.

10.17 The applicant proposes that the construction can be built in two phases and this is set out on a phasing plan ref GHWR-MWA-ZZ-ZZ-DR-A-0008 B. This indicates that development would be carried out in two phases with Plots 1, 2 and 3 constructed first (Phase 1), followed by Plots 4 and 5. Contractors' own vehicles would enter the site via a new access at the same point as the new permanent driveway off Park View, although no construction vehicles would use Park View during the construction of Plots 1-3. Park View would only be used by construction vehicles during Phase 2 (construction of Plots 4 and 5). Hours of construction are stated to be 08.00 until 17.30 Monday to Friday and 08.00 until 13.00 on Saturdays with no working on Sundays and Bank Holidays.

10.18 The details of this scheme have been shared with the 3 Dewsbury East ward members and 2 written responses have been received in relation to this. They are summarised as follows:

- *Park View is a narrow road leading to the bungalows occupied in the main by very elderly residents*
- *The very busy Health Centre car park at the top of Park View will also be impacted upon by the contractors and deliveries which will not come in little vans*
- *Park View Drive is also used by pedestrians to access the footpath into the Park*

10.19 KC Highways DM have assessed the submitted information and consider that given the constraints of the site in terms of gradient, and the fact that the permanent access to the site will be off Park View, this is acceptable in principle from a Highway safety perspective, however more specific details were requested with regard to the programming of the works which are listed as follows:

- Construction details of the new footway
- Frequency of deliveries throughout the construction period.
- Likely frequency of road closures, and maximum lengths of time this would take place.
- Contingency for pedestrian and vehicle access onto Park View during the works.
- Contingency for resident parking when access is compromised.
- Assurance deliveries will not take place in peak traffic hours or during local school opening/closing times.
- Details of construction staff parking.
- Details of proposals to liaise with residents.

10.20 The applicant's agent has responded to advise that the existing footway to Park View and Wakefield Road will remain and the opposite footway would be available for use during formation of the new driveway. However, there is no footway opposite the proposed site access. This is a hard margin which is not designed for use by pedestrians. The applicant's agent could not advise on the frequency or timing of deliveries through the construction period, or likely frequency and timescale of potential road closures at this time as this would be dependent on the construction method/programme of the future developer of the site (the applicant proposes to sell the site). Similarly, the applicant could

not advise on specific details of liaison with residents as they expect that the future developer would undertake this.

- 10.21 At the last Strategic Planning Committee on 2 August, members resolved to defer the application in order to give the applicant a further chance to provide the information set out in paragraph 10.19. A Construction Management Plan was received on 15 August 2018 although much of the information contained within it replicates that which has already been received. The applicant states that this deals with traffic issues only and not other matters that would be dealt with in a full construction management plan. They repeat their view that they do not believe it to be possible to wholly service the site from Wakefield Road: - due to a change in levels it would not be possible to construct a ramp from the top of the site to the bottom, and in the applicant's opinion, if a crane was to be used this would have to unload everything from Wakefield Road, causing disruption, in addition to the financial cost of this to the applicant.
- 10.22 The applicant re-iterates their stance that a full plan cannot be finalised until a developer/contractor is appointed who will then be able to identify suppliers, timescales, responsible people and carry out community consultation. The submitted plan is limited by these factors and the applicant considers that any subsequent approval will require a condition for a full construction management plan.
- 10.23 KC Highways Development Management have assessed the above information and concur that whilst there are still a number of outstanding matters with regard to the construction management plan which the applicant feels cannot be resolved at this time, from a Highways perspective, Officers consider that any unresolved matters can be dealt with by condition. It would also be reasonable for such a condition to include a requirement that the sole construction access is taken from Wakefield Road, with no construction access taken from Park View. This would be in accordance with the request of the Strategic Planning Committee. Officers consider that construction access from Wakefield Road would be theoretically possible, notwithstanding the applicant's view. As such, in this context, a condition including such a requirement would be considered to satisfy the 6 tests as set out within paragraph 55 of the NPPF.

#### Drainage

- 10.24 At the time of the previous application, Kirklees records indicated a culverted watercourse running under Park View and into the site. In addition, a public combined sewer and a public surface water sewer cross the site. In such instances, it is standard practice to recommend a 3m stand-off distance from the centre line of a sewer. In this case, the line of the public sewer is indicated on the submitted layout plan and the layout of the development would accord with the recommended stand-off distance. Yorkshire Water have been consulted on the application, however have no comments to make.
- 10.25 At the time of the previous application, a survey of the depth and condition of the watercourse was deemed to be necessary to assess the risk of vehicle loading on this section and potential flood risk as a result of damage to the system. This matter was dealt with by condition and it would therefore be reasonable to repeat this in the case of the current application.

## Representations

10.26 The concerns raised in representations from members of the public are addressed as follows:

- Park View is narrow cul-de-sac and provides access to 12 bungalows for over 55's. Access to the doctors surgery and chemist is also gained from Park View. The vehicle access would be situated on a sharp bend.

**Response:** The highways aspects of the development are considered to be acceptable and the access, parking and turning arrangements would accord with the relevant policies

- There is not enough room for large vehicles to turn around within the cul-de-sac; damage to boundary fencing has occurred when large vehicles have used Park View; construction vehicles would result in chaos. Question where contractors and heavy machinery would park and how the area would be kept clean.

- **Response:** It would be reasonable in this instance to require the applicant to submit a construction management plan in order to ensure the amenity of neighbouring occupiers is not prejudiced during the construction phase of the development.

- If the plans go ahead, hope the Council will send Road Sweeper to clean the drains instead of residents cleaning the View

**Response:** This is not a material planning consideration

- The Health Centre Car Park is not shown on the plans

**Response:** The Health Centre and car park is identified on the submitted site location plan

- There is Japanese knotweed at the bottom of the park which will require specialist removal

**Response:** This is a material consideration in the assessment of the application, and it would be reasonable to impose a condition requiring the safe removal of this if it is present on the site, prior to the commencement of development.

- There is a well-used thoroughfare just below the proposed site access which is used to reach local shops and schools and Earlsheaton Park. All of these would be restricted or closed access during and after construction.

**Response:** The red line boundary of the application site does not extend to this footpath

- Question the number of parking spaces proposed for the four bed homes in particular

**Response:** Through the course of the application, an amended plan has been submitted which indicates adequate off street parking provision for future occupants and visitors

- Existing footway where site access is planned is raised and quite steep and the path opposite is virtually unusable being too narrow and leads towards the road. This is dangerous, more so with increased traffic during and following construction

**Response:** A condition is recommended in this instance for the submission of details regarding the provision of a 2.0m wide footway to the Park View frontage of the development.

- 14 or more trees would be removed if permission is granted. Trees are natural air purifiers. Is it not common sense that they remain there?

**Response:** The loss of many of the trees has been established in the granting of the previous permission. The remaining trees to the frontage of the site are considered to be defective. In addition, it is considered necessary for a landscaping scheme to be provided, which can be dealt with by condition.

- Habitats for wildlife are few and far between.

**Response:** It would be reasonable to impose a condition requiring biodiversity enhancement measures to be incorporated into the development

- There are existing problems with youths setting fires near the bungalows on Park View

**Response:** It is not considered that the proposed development would exacerbate this anti-social behaviour, rather that it may provide a source of natural surveillance which does not happen at present

## Other Matters

### *Ecology*

- 10.27 Subject to the requirement for biodiversity enhancement and mitigation (which can be dealt with by a condition), the proposed development is considered to be acceptable.

### *Trees*

- 10.28 The proposed development would involve the removal of several trees within the site, some of which are the subject of a tree preservation order (TPO). However, the removal of these was accepted at the time of the previous approval and a precedent has been set.
- 10.29 The trees located closest to Wakefield Road are not considered to be worthy of a TPO due to their species, form and defects present, and whilst they do currently hold some public amenity value, this is considered to be only short term amenity value due to their compromised viability. As such there is no objection to their loss from the Council's Arboricultural Officer, in accordance with Policy NE9 of the UDP.

- 10.30 The development has been assessed in accordance with the West Yorkshire Low Emission Strategy Planning Guidance. The development is considered to be a minor development and requires the provision of one charging point per dwelling. This could be dealt with by condition and would comply with the aims of chapter 15 of the NPPF.

## **11.0 CONCLUSION**

- 11.1 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.
- 11.2 This application has been assessed against relevant policies in the development plan and other material considerations. The erection of five dwellings is considered to be acceptable and whilst the development would represent a departure from the plan, would be beneficial in terms of providing and locating development within a sustainable location. Given the very advanced state of the Local Plan and that there were no objections raised to the removal of the site from the UGS allocation, it is considered acceptable to attach greater weight to the material consideration of the emerging Local Plan than to determine the application in accordance with the Development Plan in this instance. It is not considered that there would be any significant loss in terms of visual and ecological impacts.

## **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
2. Plans
3. Samples of materials (natural stone to front elevations of Plots 1-3)
4. Removal of permitted development rights
5. Surfacing of parking areas
6. Electric vehicle charging points
7. Reporting of unexpected contamination
8. Ecological enhancement measures
9. Drainage
10. Landscaping scheme
11. Provision of footway
12. Construction Management Plan with vehicular access and deliveries only from Wakefield Road
13. Noise attenuation measures

### **Background Papers:**

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f90146>