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**Report of the Head of Strategic Investment****STRATEGIC PLANNING COMMITTEE****Date: 30-Aug-2018****Subject: Planning Application 2017/91851 Erection of 87 dwellings and associated works including new access off Lady Ann Road, regrading works and landscaping Land at, Lady Ann Road, Soothill, Batley, WF17 0PY****APPLICANT**

C Noble, D Noble Limited

**DATE VALID**

02-Jun-2017

**TARGET DATE**

01-Sep-2017

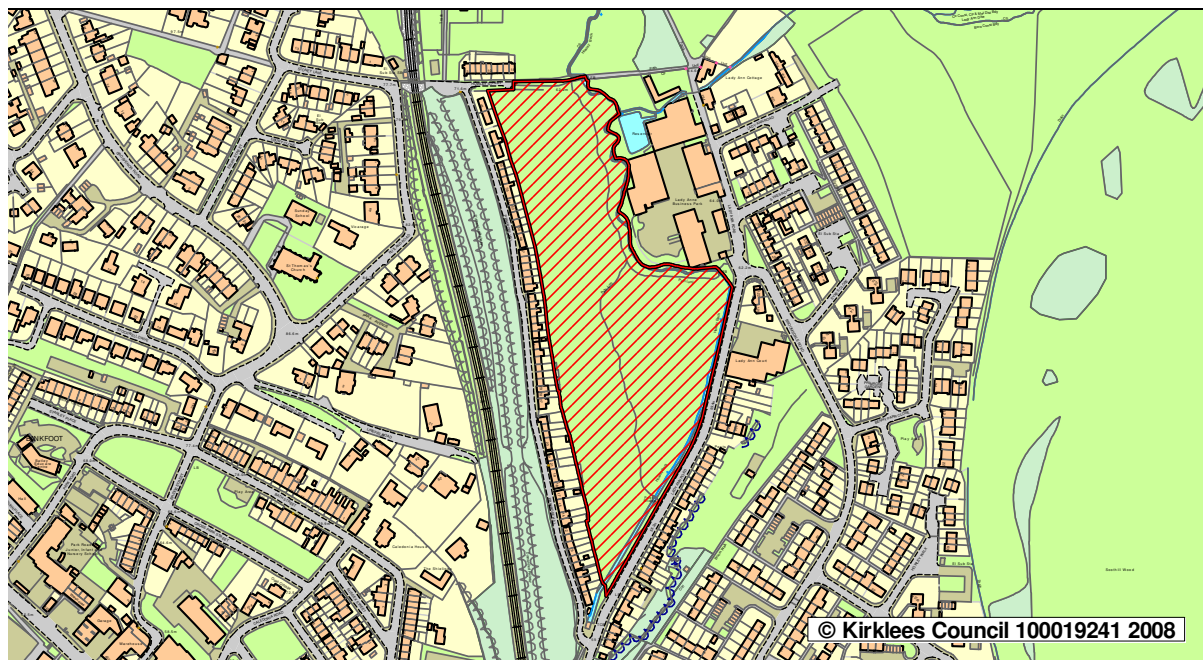
**EXTENSION EXPIRY DATE**

22-Jul-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: Batley East**

Yes

Ward Members consulted  
(referred to in report)

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**RECOMMENDATION: Refuse**

1. The proposal would entail residential development on a greenfield site which would significantly overwhelm the character and appearance of part of Lady Ann Road by virtue of the scale, massing and location of the proposed development. The prominent location in this case is emphasised by poor design, inconsistent roof designs and a lack of cohesion between the development and the existing urban grain. The development would represent a stand-alone design of inappropriate scale and appearance that would cause significant harm to the character and appearance of the area whilst failing to enhance the townscape. Accordingly, the proposal constitutes poor design and is considered unacceptable in terms of visual amenity, contrary to paragraph 13 of the National Planning Policy Framework, policies BE1 and BE2 of the Kirklees Unitary Development Plan and Kirklees Publication Draft Policy PLP 24.

2. The application potentially impacts on water voles which are a species of Principal Importance. There is insufficient information concerning the existing population of water voles, nor has it been demonstrated that the proposed development would contribute to, and enhance the natural environment having regard to the impact on the known water vole population. The proposal is therefore contrary to UDP policies NE5, BE2 (iv) of the Kirklees Unitary Development Plan and policy PLP30(i) (ii) of the Kirklees Publication Draft Local Plan and paragraph 175(a) of the National Planning Policy Framework.

3. There is insufficient information to demonstrate that the proposed development would direct development away from the areas of flooding, contrary to policy PLP27 of the Kirklees Publication Draft Local Plan and paragraph 155 of the National Planning Policy Framework.

4. Insufficient information has been submitted to demonstrate that the proposed development would not result in unacceptable highways impacts as required by policy PLP32 of the Kirklees Publication Draft Local Plan and paragraph 109 of the National Planning Policy Framework.

5. There is insufficient information contained with the application to understand the potential impact of the proposed development on heritage assets, namely archaeology, based on the potential for the site to support historical findings, contrary to paragraph 199 of the National Planning Policy Framework.

6. There is no information supporting the application relating to requirements to support local infrastructure. A S106 agreement is required to ensure contributions towards affordable housing, education, Public Open Space and play equipment. The proposed development, therefore, fails to achieve the requirements of policy PLP4 of the Kirklees Publication Draft Local Plan.

7. The application would result in a significant impact on trees within the site which are subject to a Tree Preservation Order (TPO – 72/91). The proposal includes a retaining wall feature which would be positioned in between the protected trees potentially resulting in their loss. In addition, the proximity of proposed dwellings in close proximity of the protected trees would put undue pressure on the trees to be removed in future due to the impact the trees would have on the amenity of future occupiers of the properties. The application conflicts with policy NE9 of the Kirklees Unitary Development Plan and PLP33 of the Kirklees Publication Draft Local Plan.

## **1.0 INTRODUCTION:**

- 1.1 The application is brought to Strategic Planning Committee due to the scale of development exceeding 61 dwellings.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The site covers an area of approximately 3.3 hectares and is located approximately 3km north of the centre of Dewsbury. The site is a large plot of land situated between Lady Ann Road to the east and Primrose Hill to the west.
- 2.2 The site is an irregular shape, with northern site boundary marked by a 1m high wooden fence and bushes. The western site boundary is marked by the back gardens and rear fences of the terraced houses on Primrose Hill. Further to the west and out of sight lies a railway line. The north-eastern site boundary is marked mainly by dense bushes and trees.
- 2.3 The site slopes down steeply from the west towards the east and south. The site is surfaced by an assortment of vegetation including trees, bushes and other vegetation. A row of mature trees cuts the site in roughly half across the centre from east to west.
- 2.4 Properties facing the site are faced in stone dating back to the late 19<sup>th</sup>/early 20<sup>th</sup> century. Adjacent to site lies a large red brick building which forms part of a larger complex which was historically a woollen mill.

## **3.0 PROPOSAL:**

- 3.1 It is proposed to redevelop the site for the erection of 87 dwellings. The application has been submitted in full.
- 3.2 The access would be taken off Lady Ann Road opposite no's 114 and 116. The access would cross Howley Beck into the site.
- 3.3 The scheme includes a variety of 2 and 3 storey houses which generally front Lady Ann Road, albeit significantly set back from the road and on a slightly higher level. The proposal includes engineering operations to in order to facilitate a series of platforms to erect the dwellings and associated infrastructure.

- 3.4 A large area of open space is proposed to the east which would form part of a drainage basin and an area of biodiversity interest for water voles.
- 3.4 The layout has a linear appearance with dwellings generally positioned off a main spine road running through the site apart from in the southern corner where a small number of dwellings would be served off a shared driveway.

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

- 4.1 There is no planning history relating to the site.

Pre-application 2016/20263 – the applicant submitted a pre-application enquiry for up to 120 units. Officers advised that a number of constraints existed on site and requested and recommended that a revised plan was submitted for consideration. Subsequently, no further information was forthcoming.

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

- 5.1 The application was initially submitted for 94 dwellings. On 17<sup>th</sup> July 2017 officers wrote to the applicant outlining a number significant concerns regarding the layout and design of the scheme in respect of flood risk, ecology and character and appearance. Officers also advised that any subsequent proposal should be accompanied by, and based upon, Building for Life 12 design principles.
- 5.2 The applicant updated officers in October 2017 advising that further flood risk and ecological information was being progressed. The applicant has continued to engage with officers concerning the potential ecological impact.
- 5.3 On 21<sup>st</sup> June 2018 the applicant submitted a revised sketch plan and sketch layout indicating a two storey frontage with Lady Ann Road with simplistic house types. Officers commented on the draft plan raising concerns regarding the layout. However, officers also commented that they would be reserving judgment on house types until full details had been provided.
- 5.4 The current layout and details were received on 1<sup>st</sup> August 2018 and form the basis of this assessment. The location of the access has been altered as a result of the amendments. The number of units has been revised down to 87.
- 5.5 A viability appraisal was submitted to accompany the original proposal. However, since the scheme has been amended, no further additional viability information has been submitted.

#### **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.

#### 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  
PLP4 - Infrastructure  
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

#### 6.2 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.

### 6.3 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

## 7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised on site, in the local press and by neighbour letter. A total of 47 objections have been received. A petition which includes 91 signatures has also been received. The objections are summarised below and addressed in the officer report unless otherwise stated:

- A house is close to our boundary at no15 Primrose Hill.
- Concerns about the impact on wildlife and water voles.
- Traffic is already bad existing onto Soothill Lane.
- Such a large development would have a detrimental impact on the local infrastructure, roads and traffic volumes, as well as the local school. The proposal to build three storey properties would also greatly affect the privacy of houses on Primrose Hill.
- It would appear that the majority of the proposed houses directly in front of Primrose Hill are 3 storey houses, we currently enjoy open uninterrupted views of Howley ruins and surrounding farm land and this will be totally blocked out, Primrose Hill on the current road side is shielded by a large railway banking and therefore the residents do not get any sunlight on this side and therefore any shading from the proposed houses will have a serious detrimental affect on the residents of Primrose Hill.
- We have a large number of bats that feed on the land and again loss of habitat would not be acceptable. I am also concerned that the beck could be inadvertently polluted due to the construction of the houses were undoubtedly a large amount of chemicals are used in building materials. It would appear from the plans that the proposed house on plot 58 opposite 63 Primrose Hill and adjacent to Howley Street would require the removal of a large mature Ash tree that supports nesting birds.

*Officer response – the Council's biodiversity officer has assessed the submitted information and concludes that there is no evidence that bats would be affected by the proposals. In terms of pollution to Howley Beck,*

- There is currently no vehicle access to the site. Primrose Hill is a very narrow street where only 1 car at a time can proceed, the front doors open directly onto the street and therefore any increase in traffic would be dangerous to the residents. Access to the site by any heavy plant should be avoided at all cost due to noise, difficulties in access due to the street width and the dangers posed to residents. It is also unclear if the proposed new road merges with Howley Street, if it does then this would increase traffic on Primrose Hill and for the reasons already mentioned this should be avoided. The development will also add to the serious congestion we have on Soothill lane trying to access Bradford Road in Batley.

*Officer response – there is no reason why the site would need to be accessed from Primrose Hill for construction purposes or for any other reason.*

- Soothill lane is bad enough and with extra houses more traffic etc and only 2 exits out of lady Ann road with the proposed building application if houses were to be built will give an extra 188 vehicles to commute will cause congestion! Putting an access road to join Howley Street/Primrose Hill, can't see how it's possible as road is narrow enough and unsuitable to be used as main road as two cars cannot pass. Railway crossing is to be closed making less access! We have historic access to the field and a gate that goes onto the field which we will lose?
- There is a risk of flooding to the East of the site from Howley Beck. Plots 1 to 17 will be in severe danger and risk of being flooded in the future if planning accepted. Also to the North of the site off Howley Street, there is a natural spring which has not been considered. This may have an effect on plots 54 to 56. There is also a notable risk of subsidence. Houses on Lady Ann Road have already been affected by subsidence.
- The front elevation of my property faces due East, directly on to the plot and the only source of sun light I get here is from sun rise to around noon. The erection of 3 no 2 story town houses 20.5 meters from my house will seriously affect this. I am not prepared to have this sacrificed. Nor am I happy with the closeness of the boundary fences of plots 1 and plots 58 to 94. On Primrose Hill we have historical access to the back of our houses and gardens from the east elevation. This access will be compromised without the insertion of a road or pathway and or gap between the boundary fences.
- I am concerned about access to the site during construction. It is not possible for HGV's or heavy plant to gain access via Primrose Hill and until a bridge has been built, how are they going to do this?
- If these houses are built the amount of traffic that will cause major disruption to Lady Ann Road and Soothill Lane T-junction. It's bad enough as it is I could wait a good 15mins to turn right. With all the cars parked on lady ann road it might as well be one way traffic, there will be no possibility of the 212 bus coming down which will cause congestion up hill it will be grid locked completely. Not only that but there's parked cars at the T-junction so turning left is virtually impossible now. With 94 houses being built your looking at 100+ extra cars in such a small place, you take your life in your own hands

from the s-bend up to the T-junction hoping no one is turning into the junction to come down as there's nowhere to pass.

- The local schools, doctors, dentist are all already overcrowded and with the loss of Batley fire station and cut backs at the local hospital and police, a further 93 dwellings of 3-4 bedroom houses is going to push these past their breaking points.

*Officer response – contributions to education, affordable housing and Public Open Space are sought in this instance.*

- The area is also prone to flooding and the stream at the bottom has flooded numerous times in the last few years, which has resulted on many occasions of having to shut lady anne road. So I would not have thought it would be wise to build houses so close to the stream.
- A lot of children use the land to exercise and play football.

*Officer response – the site is a housing allocation in the Unitary Development Plan and emerging Local Plan.*

- I have reviewed the title deeds from the Land Registry regarding my property on Primrose Hill. This shows there is a public right of way on the proposed site; at the end of the gardens of the properties on Primrose Hill. It is vital that this public right of way be maintained. Several of the properties on Primrose Hill have narrow doorways on the 'roadway' side of the houses. It is occasionally necessary for deliveries of large pieces of furniture and 'white goods' to be made using the entrances on the garden sides of the houses. The submitted plans for the proposed site do not appear to have allowed for this.

*Officer response – the existing Public Right of Way would remain unaffected by the proposal.*

- The exit from Lady Ann Road, has limited visibility of traffic travelling up Soothill Lane due to the walls of the railway bridge. Combining this with moving cars being in the centre of the road (due to the parked cars described above), any increase in traffic can only increase the risk of road traffic collision and congestion at this junction.
- The beck that runs through the bottom of the land is frequently not able to take heavy sustained rainfall, causing the excess water to flood the land. Standing surface water can currently take around 5 days for the swell to go down and the beck to flow at "normal" levels.
- There has been a considerable amount of building on and around Soothill Lane in the past few years.
- Loss of green space.
- Architecture of the suggested dwellings as they are not in keeping with the surrounding properties of Lady Ann Road, Primrose Hill and Howley Street, which unlike the proposed dwellings are built of stone. Furthermore, the height of the proposed 3 storey houses will be to the detriment of my own east facing home and garden. The close proximity of the proposed 3 storey houses will block out the sun light, an already precious commodity, from my property.



- We have had summer rain in the last few years which have caused severe flooding of land in Ailsa Dell, and along Lady Ann Road. Unless sufficient provision of storm lakes, and the combined sewer running in line with the water course running from our address and the proposed site has been calculated to be large enough to cope with the 1/100 years storms we are currently having every year, there will be further issues all around. There is livestock in the two fields upstream from the site and causing further flooding will not only put risk to our properties, but also put risk to livestock and potentially pollute the water course once again due to overflow from the combined sewer that has history of not being able to cope in recent years.

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

Highways DM – Comments on amended plans pending. To be reported to Strategic Planning Committee as an update.

Yorkshire Water – Comments on amended plans pending. To be reported to Strategic Planning Committee as an update.

Lead Local Flood Authority – *Largely support this application given recent dialogue, however supporting information which we believe to be already available has not been submitted with the application. This further information is required.*

- *Additionally we advise the applicant that an updated model of the watercourse running through site has been produced by the Environment Agency (attached). This model should be used alongside Kirklees evidence of road flooding and that of local residents (listed in previous commentary).*
- *We suggest a revised FRA is produced with new maps, incorporating resident's historical photographs and information to determine likely flood levels on the road in relation to site topography existing and proposed.*
- *The spring flowing north to south through the site must be included on plans.*
- *A demonstration of keeping attenuation out of flood zones is required.*
- *Areas shown on the new river model and the surface water model as flowing between the watercourse and a 'dry island' should be discussed. As levels change on site we believe we agreed to keep properties elevated but also take out the dry island so volume of flooding is unchanged or improved in this area whilst keeping the properties gardens as safe as practicable.*

*Potential emergency access at the north east of the site from existing road and footpath should also be discussed in a revised FRA.*

Environment Agency – Object. *The FRA submitted with this application does not comply with the requirements set out in paragraphs 29 – 32 of the National Planning Practice Guide supporting the National Planning Policy Framework. The submitted FRA does not therefore provide a suitable basis for assessment to be made of the flood risks arising from the proposed development for the following reasons:-*

- 1) *The latest guidance for climate change predictions should be considered (i.e. a minimum of 30% increase in flow for ‘more vulnerable development’) when determining floor levels for new buildings.*
- 2) *The submitted FRA fails to demonstrate the impact the development will have on Howley Beck and its associated floodplain and no finished floor levels have been included.*

## 8.2 **Non-statutory:**

Landscape – No comments received.

Biodiversity Officer – Object. *The proposals are supported by ecological information that is based on survey information that is incomplete and inadequate for the purpose. The water vole survey undertaken was significantly constrained (see paras. 18 and 42 of the Water Vole Assessment and Mitigation Plan, which identifies the limitations of survey and outlines the further survey requirements respectively). The survey undertaken is not sufficient to establish a baseline ecological value of the site in respect of water voles, rendering any subsequent assessment invalid. It is not possible from the existing survey effort to quantify the magnitude of the impact to water voles at the site.*

*The assessment presented in the report, aside from the above survey limitations, refers to an earlier iteration of the proposals. The current proposals differ significantly from those assessed, including a different location for the watercourse crossing point. Regardless of the layout that has been assessed, the scope of the assessment is insufficient to determine the long-term impacts to water voles; critically, the assessment has not accounted for the established flood risk at the site and the impact that constraining the existing watercourse will have on the existing water vole population. I am concerned that development within flood zone 3 will deny a refuge to the existing water vole population within the site at times of high water. Currently voles are able to escape to grasslands higher up the slope at these sites. Loss of all of these habitats to development is likely to result in the extinction of the water vole population at the site.*

*Water voles were observed by council staff at this site during a site visit to discuss drainage constraints. As one of only 2 known populations in Kirklees, the water vole population at the site is of district importance.*

*Water voles are a species of principle importance (S41, NERC Act 2006). Policy PLP 30 requires proposals to protect such species unless the benefits of the development outweighs the importance of the biodiversity interest. Given the district importance of the water vole population, I cannot see a valid justification for approving the proposals.*

*The proposals would result in a net loss of biodiversity, which is inconsistent with the general principles of policy PLP 30 and NPPF. In addition, insufficient information has been provided to demonstrate that the proposals are in line with the mitigation hierarchy described in the NPPF, para. 175(a); this same paragraph suggests applications for such schemes should be refused.*

Strategic Housing – No objection. *Batley & Spen has the highest level of need for affordable housing in Kirklees. 3+ bedroom houses in particular are needed, as well as 1-2 bedroom homes and 1-2 bedroom homes for older people specifically.*

*Owner occupier rates in the area are around 65% whilst private renting is about 15% of the market and affordable (social) housing is just under 20%. House prices in Batley and Spen range between £86,000 and £162,500, putting it in the lower range for house prices in Kirklees. Affordable rents in the area start from around £394 per month. Batley and Spen is a popular area – 18% of Kirklees households planning to move in the next 5 years, cited it as their first choice destination.*

Leeds City Council – No objection.

West Yorkshire Archaeological Service – Object. Further information contained in officer report.

Environmental Health – Comments on amended plans pending. To be reported to Strategic Planning Committee as an update.

Design and Conservation – No comments received.

Network Rail – No objection subject to informative.

*Yorkshire Wildlife Trust – Yorkshire Wildlife Trust would be extremely concerned if a residential development was to lead to the loss of the water vole population on Howley Beck (Lady Anne Road). Yorkshire Wildlife Trust undertook a water vole project in West Yorkshire in 2009/2010 in which we surveyed and mapped water vole populations across West Yorkshire. The findings of such survey were alarming, and highlighted that the main strongholds for the species in West Yorkshire are catchments in Wakefield and Leeds, with Kirklees, Bradford and Calderdale having very few water vole populations. Only two water vole populations were identified in Kirklees during these surveys, one of which is the Howley Beck population. These two populations are therefore important at a district level, and their isolation makes them very vulnerable.*

*Yorkshire Wildlife Trust is therefore concerned about the impacts that the proposed housing scheme at Lady Anne Road will have on the Howley Beck water vole populations. Disturbance from dogs and people, and predation by cats are likely to have significant negative impacts on the population and could wipe out one of the last water vole populations in Kirklees completely. If the proposed housing development is to go ahead then substantial ecological mitigation will have to be undertaken in order to safeguard this crucial water vole population.*

## **9.0 MAIN ISSUES**

Principle of development  
Impact on Character and Appearance of Area  
Residential Amenity  
Biodiversity Issues  
Highways Issues  
Drainage Issues  
Heritage/Archaeology Issues  
Other Issues  
Infrastructure  
Conclusion

## **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.

#### *Emerging Local Plan Allocation*

- 10.7 The Kirklees Publication Draft Local Plan (PDLP) identifies the development site as a housing allocation (ref – H323). Substantial weight is applied to the emerging allocation.

#### Impact on Character and Appearance of Area

- 10.8 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.
- 10.9 This part of Soothill lies on a piece of sloping land which faces Lady Ann Road. The sloping nature of the site means that its prominence is exacerbated, particularly when viewed from Lady Ann Road to the east. The opposite side of Lady Ann Road is fronted by stone built terraced dwellings which have a strong rhythm, relatively shallow pitched roofs with chimney pots, and some sort of architectural detailing typical of the era and locality. The surrounding properties are a defining characteristic of the area and provide an important context in terms of how the site should be developed. At a higher level and to the rear of the site stone properties overlook from Primrose Hill which follow a similar style to those properties fronting Lady Ann Road, albeit that their rear elevations face the application site. Adjacent to the site beyond the north eastern corner is a former woollen mill complex which fronts the site with a large red-brick building. The complex is now occupied by a range of businesses. The site is well contained on three sides by the existing urban environment. To the north and beyond a number of trees the land opens out into open countryside.
- 10.10 The proposed development has been designed around the elongated shape of the site and potential flood risk and ecological constraints associated with Howley Brook. As a consequence the proposed development is linear with the main two streets within the development generally following the direction of Lady Ann Road.

- 10.11 Given the sloping nature of the site and the character of the surrounding residential environment, the relationship with Lady Ann Road is of paramount importance. To address the street scene the closest dwellings to Lady Ann Road are positioned so that the rear elevations face the street at a distance of approximately 23m. The buffer area, designed for flood risk and ecological mitigation/enhancement reasons, would slope down to Lady Ann Road and contain some vegetation with dwellings sitting approximately 2m higher than the existing properties on Lady Ann Road. The four dwellings closest to the proposed access comprise apartments and a dwelling within a single property so as to introduce a house types within limited private amenity space and no significant rear boundary treatments (the intention being to ensure that there is no significant element of boundary fencing facing Lady Ann Road). Further to the south, within the site still facing Lady Ann Road, properties would be three storeys in height to the rear. Dwellings further to the north on the opposite side of the access would be three storey front facing units, set back from Lady Ann Road at a distance of 45m and on a slightly higher level than those properties on the southern side of the access.
- 10.12 In addition to the above the proposed house types facing Lady Ann Road would be varied and un-coordinated. Some of the dwellings would extend into the roofs resulting in an increase in the roof depth. Dwellings set further back on the northern side of the proposed access would include an array of front projecting elements, arched windows and cross-gable roof designs.
- 10.13 As a consequence of the above, the proposed development would represent an unacceptable dominant presence over Lady Ann Road. There would be little commonality between the simple, traditional vernacular of the existing terraced units which are a characteristic of the surrounding area and the un-coordinated approach to the proposed development where it fronts Lady Ann Road. The proposed development fails to complement local vernacular in terms of scale, form and materials.
- 10.14 In terms of streetscape, the proposal fails to enhance the character of the existing built environment. Upon entering the site the street would be dominated by parking and visually incongruous house types which deliver a poor street scene environment. A number of dwellings within the development include overly fussy design features and the development as a whole would lack cohesion. The main street to the rear of the site would be linear and the western side of the street would be dominated by three storey houses which would be imposing and dominate the street.
- 10.15 Policy PLP24 of the PDLP requires that important trees are retained to maximise visual amenity. In this case the proposed development shows development close to protected trees which would put undue pressure on the existing trees in terms of future felling/maintenance. In addition, a retaining wall is proposed in the middle of the group of trees, the erection of which would appear to result in the loss of some of these trees.
- 10.16 There are further concerns that the layout would not allow the safe movement vehicles due to the narrow radius of curves which are part of the proposed main spine road, and the monotonous nature of the rear-most street which fails to provide sufficient richness and variety, to the detriment of good design.

- 10.16 Overall it is not considered that the scheme addresses local distinctiveness in respect of materials and design, nor does it contribute to the townscape. The scale and design of the dwellings fronting the site to the east would result in an overwhelming form of development detrimental to the street scene and the character and appearance of the area. The residential environment within the site would be un-coordinated and would fail to deliver high quality design.

#### Residential Amenity

- 10.17 The application includes a number of dwellings facing the boundary with existing properties on Primrose Hill. There are a number of concerns from residents relating to the potential impact on the amenity of the occupiers of these properties because as it stands, save for any existing boundary treatments, there are open views across the site from the rear of these properties and their respective garden areas.
- 10.18 The submitted cross sections demonstrate that the proposed dwellings would be set into the existing contours of the site; that is to say that the front of the dwellings facing Primrose Hill would be three storeys to the front and two storeys to the rear. In almost all cases dwellings would be positioned at least 21m from the rear elevation of existing properties with the odd exception being 20.5m away. Due to a change in levels the dwellings would not be any higher than the existing dwellings on Primrose Hill.
- 10.19 Within the proposed development there are instances of facing properties being approximately 19m from existing properties but a combination of boundary treatments and distance means that the impact on the amenity of future occupiers would be acceptable on balance.
- 10.20 The gardens associated with the proposed dwellings would be sufficiently sized to ensure no overlooking of adjoining gardens to the rear. Overall it is considered that residential development can be carried out at the site without unacceptably harming the outlook, privacy and natural light currently enjoyed by neighbouring residents. The minimum distances set out under UDP policy BE12 are achieved. The application is considered to accord with Policy PLP24 of the PDL in this respect.

#### Biodiversity Issues

- 10.21 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 PDL policy PLP30, which carries substantial weight, proposals are required to protect habitats of principal importance and the Kirklees Wildlife Habitat Network.
- 10.22 Due to initial concerns raised by the biodiversity officer, the applicant carried out an ecological assessment and water vole assessment. According to Yorkshire Wildlife Trust the site contains one of only two populations in Kirklees and is important at a local and district level. The submitted water vole assessment highlights that water voles are likely to be present on the site. Whilst there is an absence of detail at this stage, the layout has been adjusted to take into account the presence of water voles and an area of wetland/habitat would be created and be non-accessible for the general public in order to protect the existing water vole species and enhance the potential for the species to grow.

- 10.23 In respect of the submitted information, the Council's biodiversity officer has reviewed the scheme and raises no objection to the impact on protected species in general but considers that the submitted water vole survey is incomplete and inadequate for the purpose. According to the submitted assessment the water vole survey was significantly constrained and limited (outlining further survey requirements would be required). The survey undertaken is not considered sufficient to establish a baseline ecological value of the site in respect of water voles, rendering any subsequent assessment invalid. It is not possible from the existing survey effort to quantify the magnitude of the impact to water voles at the site. Given the importance of water voles in this location, a robust survey is crucial component in designing an acceptable scheme from the outset.
- 10.24 The biodiversity officer also comments that they are concerned that any development in flood zone 3 would deny a refuge to the existing water vole population within the site at times of high water. Currently water voles are able to escape to grasslands higher up the slope at these sites. Loss of all of these habitats to development is likely to result in the extinction of the water vole population at the site.
- 10.26 Water voles are a species of principle importance (S41, NERC Act 2006). Policy PLP 30 requires proposals to protect such species unless the benefits of the development outweighs the importance of the biodiversity interest.
- 10.27 It is also considered that the development of the site for residential use would lead to an increase in domestic animals, particularly cats. Predation of water voles by domestic animals can be an issue if a scheme is not properly designed to address potential impacts.
- 10.28 The proposals would result in a net loss of biodiversity, which is inconsistent with the general principles of policy PLP 30 and NPPF. In addition, insufficient information has been provided to demonstrate that the proposals are in line with the mitigation hierarchy described in the NPPF, para. 175(a).

#### Highway issues

- 10.29 UDP policy T10 sets out the matters against which new development will be assessed in terms of highway safety. PDL Policy PLP21 guides on matters relating to highways and access.
- 10.30 Highways initially set out a number of concerns relating to the internal layout and a lack of detail in the Transport Assessment concerning the impact on capacity. It is noted that the site is allocated for housing in both the UDP and the PDL and, therefore, housing development on this site is generally supported. Highways DM assessed the original scheme (94 dwellings) and raised concerns that Broomdale Road had not been modelled. In addition, they raised concerns that no Stage 1 Road Safety Audit had been carried out. No further information has been assessed relating to the revised layout in order to address these points.
- 10.31 Within the submitted Transport Assessment the applicant calculated the impact on the Lady Ann Road and Grace Leather Road junctions. Highways DM raise no objections in terms of the impact on those junctions from a capacity perspective.



- 10.32 With regards other matters, a further update will be provided to Strategic Planning Committee based on the current amended scheme.

#### Drainage issues

- 10.33 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.
- 10.34 Part of the site lies in Flood Zones 2 and 3. The layout has been refined in order to ensure that properties are located away from flood zones 2 and 3. However, no revised Flood Risk Assessment has been submitted and whilst the Lead Local Flood Authority are generally supportive of the layout, it has not been accompanied by robust evidence.
- 10.35 The applicant has revised the scheme to take into account flood risk but it is not clear how this has been achieved as no revised Flood Risk Assessment has been submitted. The Environment Agency raise an objection based on a lack of information in respect of the impact of the proposed development on Flood Zones 2 and 3 and how this has been addressed in the revised submission. Consequently the proposed development conflicts with paragraphs 29 – 32 of the NPPF and PDLF policy 27.

#### Heritage Assets/Archaeology

- 10.36 According to West Yorkshire Archaeological Advisory Service (WYAAS), the site lies in an area dominated by 19th century industrial remains including mills, workers' housing, railways and collieries. However, the site has not been previously developed and faces south-east with Howley Beck passing along its eastern boundary. The latter are both features which would have made the site an attractive location for early communities to settle. There are known records of archaeological importance to the north east of the site.
- 10.37 The proposed development could affect archaeological remains from the Prehistoric period to the English Civil War. Paragraph 199 of the NPPF states:

*Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.*

- 10.38 PDLF Policy PLP35 states:

*Development proposals affecting archaeological sites of less than national importance should conserve those elements which contribute to their significance in line with the importance of the remains. In those cases where development affecting such sites is acceptable in principle, mitigation of damage will be ensured through preservation of the remains in situ as a preferred solution. When in situ preservation is not justified, the developer will be required to make adequate provision for excavation and recording before or during development. Proposals which would remove, harm or undermine the significance of a non-designated heritage asset, or its contribution to the character of a place are permitted only where the public benefits of the development would outweigh their harm.*

- 10.39 Based on the advice from WYAAS, there is insufficient information contained with the application to understand the potential impact of the proposed development on heritage assets before a determination is made on the application.

#### Other Issues

- 10.40 Environmental Health recommend planning conditions in relation to land contamination potential.
- 10.41 A noise report has been submitted. Environmental Services raise no objections subject to a condition. 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.

#### Infrastructure

- 10.42 The development proposes the erection of 87 dwellings and accordingly the developer would now be required to provide affordable housing in *Interim Affordable Housing Policy*. A total of 17 units would be required which equates to 20% affordable provision.
- 10.43 An education contribution of £127,790.00 would be required.
- 10.44 The site will be required to deliver off-site POS improvements and play provision. Full details to be reported as an update.
- 10.45 No information has been provided by the applicant to satisfy S106 requirements.

### **11.0 CONCLUSION**

- 11.1 The site lies within an area allocated for housing on the UDP. 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 benefits of additional housing, when a 5 year housing land supply cannot be demonstrated, attracts significant weight in favour. However, the scheme in this case would represent an overbearing impact in context of the existing street scene. The form, scale, layout and details of the development fails to respect and enhance the character of the townscape. The application is considered to conflict with policies BE1 and BE2 of the UDP and PDLP Policy PLP24 and NPPF para 130. This on its own is considered sufficient to result in significant and demonstrable harm when considered against paragraph 11 of the NPPF, indicating that the application should be refused.
- 11.3 In terms of other impacts; the site potentially impacts on water voles which are a species of Principal Importance. There is insufficient information concerning the existing population of water voles, nor has it been demonstrated that the proposed development would contribute to and enhance the natural environment. The proposal is contrary to UDP policies NE5 and BE2 (iv) of the Kirklees Unitary Development Plan and emerging Policies PLP30 and PLP24(h) of the PDLP. The proposal would also result in the potential loss of protected trees due to the construction works themselves and the proximity of proposed dwellings to the protected trees.

- 11.4 Given the proximity of the site to Flood Zones 2 and 3 there is insufficient information to demonstrate that the proposed development would direct development away from the highest risk areas of flooding, contrary to para 155 of the NPPF.
- 11.5 Insufficient information has been submitted to demonstrate that the proposed development would not result in unacceptable highways impacts as required by para 109 of the NPPF. The proposed development and submitted details that fail to demonstrate that para 110(c) has been met – the development fails to create an attractive hierarchy of streets.
- 11.6 There is insufficient information contained with the application to understand the potential impact of the proposed development on heritage assets based on the potential for the site to support historical findings, contrary to para 199 of the NPPF.
- 11.7 There is no information supporting the application relating to requirements to support local infrastructure. A S106 agreement is required to ensure contributions towards affordable housing, education, Public Open Space and play equipment.

## **12.0 Refuse**