
Report of the Head of Strategic Investment**STRATEGIC PLANNING COMMITTEE****Date: 30-Aug-2018****Subject: Planning Application 2018/91713 Outline application for erection of residential development including means of access to the site north of Old Bank Road, Mirfield (63 dwellings) Land off, Old Bank Road, Mirfield, WF14 0HX****APPLICANT**Paul Robinson, Yorkshire
Property Estates Ltd**DATE VALID**

13-Jun-2018

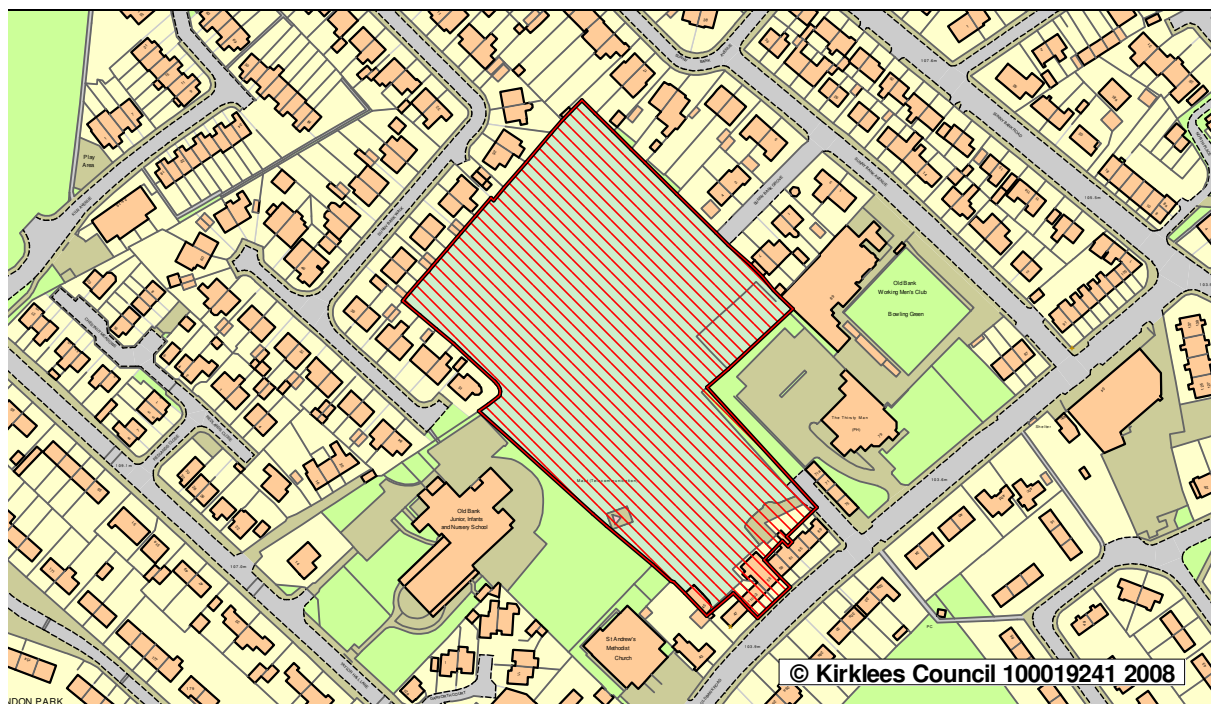
TARGET DATE

12-Sep-2018

EXTENSION EXPIRY DATE

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

LOCATION PLAN

Map not to scale – for identification purposes only

Electoral Wards Affected: Mirfield

Yes

Ward Members consulted
(referred to in report)

RECOMMENDATION:

1. Having regard to the legacy of the historic uses of the site, the application provides insufficient information to demonstrate that the site can be safely developed for housing and that development could proceed without unduly prejudicing the safety and amenity of adjacent properties. The application is contrary to Policies BE1 (iv) and G6 of the Kirklees Unitary Development Plan and guidance in the National Planning Policy Framework.
2. The application provides insufficient information to demonstrate that the development would not have any significant adverse impacts on highway safety. The application is contrary to Policies T10 of the Kirklees Unitary Development Plan and Policy PLP21 of the Publication Draft Local Plan.
3. The proposals would fail to address the potential harm to a habitat of principal importance. There is no information accompanying the planning application to demonstrate that the proposal addresses policy NE4 of the UDP which states that development proposals affecting wildlife significance will not be permitted. Policies NE4 and BE2 (iv) of the Kirklees Unitary Development Plan and emerging Policies PLP30, PLP33 and PLP24(h) of the Kirklees Publication Draft Local Plan and the National Planning Policy Framework (2018).
4. The proposed development involving the creation of a new access in close proximity of existing residential properties and the demolition of existing stone built terraced dwellings in order to facilitate the access represents a poor design solution which would be detrimental to the street scene, the character and appearance of the area and the amenity of existing occupiers. The proposed development is contrary to policies BE2(b) of the Kirklees Unitary Development Plan, Policy PLP24 of the Kirklees Publication Draft Local Plan and the National Planning Policy Framework.
5. In the absence of a completed Section 106 Agreement the development fails to provide appropriate contributions towards Education provision which is contrary to Local Plan policies PLP4 and PLP49 of the Publication Draft Local Plan.

1.0 INTRODUCTION:

- 1.1 This is an outline planning application, with all matters reserved (other than access), for residential development.
- 1.2 The application is presented to Strategic Planning Committee due to the scale of the proposed development exceeding 60 dwellings.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site is relatively flat and comprises an area of overgrown land containing grass, shrubs and trees. There are some fairly mature trees towards the south western boundary.
- 2.2 To the north of the site lies residential development and to the south west is Old Bank Junior, Infants & Nursery School. To the south east is The Thirsty Man public house and Old Bank Working Men's Club beyond. There is further residential development towards the south along Old Bank Road.

3.0 PROPOSAL:

- 3.1 The proposal is outline planning permission for the erection of residential development. The application indicates that permission is sought for 63 dwellings.
- 3.2 The main point of access is the only matter that has been applied for. Access is to be taken off Old Bank Road and four houses would be demolished to facilitate the formation of the access. All other matters are reserved.
- 3.3 An indicative layout plan has been submitted which shows a mixture of terraced, semi-detached and detached houses mainly set around a large area of public open space.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 Application site:

2016/91074 - Outline application for residential development and demolition of two dwellings – withdrawn.

2003/92203 - Outline application for residential development – Refused & appeal dismissed.

Application refused for the following reason:

1. The Council are not satisfied that that if the development were to proceed, incorporating the measures proposed by the applicant, it will not present a risk of safety to individuals and property resulting from a potential landfill gas hazard. The development would therefore be contrary to policy EP1 of the Councils Unitary Development Plan and contrary to Government advice contained in Waste Management Paper 27.

- 4.2 The following applications are in close proximity to the site and are currently being considered by the LPA:

Land at The Thirsty Man, 79 Old Bank Rd.

2016/92500 Erection of 13 dwellings – Undetermined.

2016/92509 Erection of 7 dwellings – Undetermined.

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

5.1 On 19th June officers wrote to the applicant advising that important information in support of the application was missing. This included:

- A detailed contaminated land report addressing the historical legacy of the former landfill site.
- An ecology survey.

Since that time no further information has been submitted in support of the application.

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:

6.2 The vast majority site is allocated for housing on the UDP Proposals Map (H9.10). The site is also allocated as derelict land on the UDP Proposals Map.

6.3 Relevant policies are:

G6 – Land contamination
NE9 – Mature trees
BE1 – Design principles
BE2 – Quality of design
BE11 – Building materials
BE12 – Space about buildings
BE21 – Open space accessibility
BE22 – Accessible parking
BE23 – Crime prevention
EP4 – Noise sensitive development
EP10 – Energy efficiency
EP11 – Landscaping and ecology
EP30 – Prolonged construction work
T1 – Transport priorities
T2 – Highway improvements
T10 – Highway safety

T14 – Pedestrian safety
T16 – Pedestrian routes
T17 – Cycling
T19 – Parking standards
H1 – Housing needs
H6 – Housing allocations
H10 – Affordable housing
H12 – Affordable housing arrangements
H18 – Open space provision
R6 – Public open space
R13 – Rights of way

Kirklees Publication Draft Local Plan Strategies and Policies (2017):

6.4 The site is unallocated in the Publication Draft Local Plan (PDLP).

6.5 Relevant policies are:

PLP1 – Presumption in favour of sustainable development
PLP2 – Place shaping
PLP3 – Location of new development
PLP7 – Efficient and effective use of land and buildings
PLP11 – Housing mix and affordable housing
PLP20 – Sustainable travel
PLP21 – Highway safety and access
PLP22 – Parking
PLP24 – Design
PLP27 – Flood risk
PLP28 – Drainage
PLP30 – Biodiversity and geodiversity
PLP32 – Landscape
PLP33 – Trees
PLP35 – Historic environment
PLP48 – Community facilities and services
PLP51 – Protection and improvement of local air quality
PLP52 – Protection and improvement of environmental quality
PLP63 – New open space

Supplementary Planning Guidance / Documents:

6.6 Relevant guidance and documents are:

- 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

National Planning Policy and Guidance:

6.7 The National Planning Policy Framework (2018) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal. Relevant paragraphs/chapters are:

- Chapter 2 – Achieving sustainable development
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 15 – Conserving and enhancing the natural environment

6.8 Since March 2014 Planning Practice Guidance for England has been published online.

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised via site notice, a press notice, and letters delivered to addresses abutting the application site.

7.2 A total of 9 letters of objection have been received outlining the following concerns which can be summarised as follows. These objections are addressed in the main body of the report unless otherwise stated:

- Old Bank Road is a very busy road at the best of times and to build more houses would make this even busier. And I feel with three schools in the vicinity could make this road even more hazardous at school times.
- Any development could disturb VOC's into the groundwater and methane gas into the atmosphere. The filling of this quarry was found to be unique as waste was deposited vertically instead of horizontally.
- The development would put pressure on local amenities such as doctors and schools which are already at breaking point.
- Our property at 4 Sunny Bank Grove is immediately adjacent to the land on which the houses are proposed. We purchased the property in 2014 in appreciation of its surroundings (or relative lack of) and believe this proposed development will severely change the way in which our property is regarded. The proposed line up of houses will eradicate any privacy in our own back garden, change the view from our windows and increase the noise level dramatically. Ultimately, we expect our property to be devalued significantly as it will lose its primary factor of appeal and our privacy in our home will be severely reduced, particularly if the houses are built 3 storeys high as suggested. Incidentally, may we ask what the plan is for the existing hedgerows and the wildlife that populates it? It is stated in section 15 of the application that there are not any trees or hedges on the proposed development site. This statement is completely inaccurate, the majority of the boundary is lined with a mature Hawthorn hedge which one would assume provides a habitat to many wild animals.

- The road network in Mirfield and throughout most of the surrounding areas is generally in poor condition and requiring significant work in terms of resurfacing. Furthermore, congestion is rife on weekday mornings and evenings on the main entry and exit routes to Mirfield, not least Sunny Bank Road and Old Bank Road where this development is planned. What action will be taken to combat either of these issues? The roads cannot be left to deteriorate for much longer and the addition of over 120 vehicles to these routes will only compound the existing issues. That's without considering the impact that all of the construction traffic will have for the duration of any work. The impact on existing residents will be enormous and I imagine that at least in the short term local businesses will suffer. Mirfield is terrible for cars parked on narrow roads, often reducing traffic to a single lane and restricting visibility from the many junctions on the aforementioned roads.
- As before our major concern is the unknown as to what will be disturbed in the land fill, as we pointed out in 2016 we have been in our property since built in 1971 and saw Mr C the owner of the land allow tipping at all hours day and night. With chemicals being found we know there are things in there that should not be, and of an unknown quantity. The plans show the centre as a public open space, so the planners know there is a danger in disturbing this land, but we know this area is only a portion of the land fill, so where the houses are to be built is as much an issue. Children may play on this open space and the contamination beneath, we cannot know what may happen.
- Mirfield UDC permitted tipping of chemicals on the site in 1940's.
- The site was under water for many years before being landfilled. The site is at risk of subsidence.
- Already congestion on Old Bank Road from parked cars.
- The land at Old Bank Road, Mirfield has never been of recreational use, it was previously occupied by the Crown Point Brickworks and was in use as by the brickworks until sometime in the early 1930's, the clay quarry was an estimated 14m deep with steep sides. After the brickworks closed the quarried area was infilled with uncontrolled domestic and commercial waste material of unknown composition and origin up until 1978. There is documented evidence that during this time period a significant quantity of toxic chemical waste from Mirvale Chemical Works was deposited at the site. From 1978 to 1993 the site was operated as a licensed landfill before being closed and capped with topsoil. The land is contaminated with a variety of industrial waste both as a direct result of the infilling of the old quarry with chemical waste and deposition of building waste of unknown type and origin. The composition and makeup of the toxic levels of chemicals and minerals found at the site have been identified in reports commissioned by a number of consultants including most notably; a Phase 1 Land Quality Assessment by John O'Connor and Associates identified as document 224767 for application 2003/92203, a Phase 2 report by John O'Connor and Associates identified as document 224770 and a detailed risk assessment provided by WSP Parsons Brinckerhoff identified as document 603309 for application 2016/91074. The surface soil to depths of 2 meters is heavily contaminated primarily with arsenic at levels that pose an unacceptable risk to human life, also chromium, copper, nickel, zinc, lead, potassium and sulphate. The ground water on the site is heavily contaminated with total petroleum hydrocarbons, arsenic, lead,

potassium and sulphate, currently this water is contained within the old infilled quarry, if the site were to be disturbed this water could be released into local watercourses causing a significant environmental impact. The site is adversely affected by seepage of both methane gas and carbon dioxide at levels that present an unacceptable risk to human life. At deeper levels there is a significant quantity of carcinogenic material which could potentially be disturbed if piles were required to be installed to support foundations over the unstable portions of the site.

- The site is populated by a number of mature trees including Elder Flower, Hawthorn, Sycamore and Ash some of which exceed 10 meters in height, the site contains a variety of wild grasses, wild flowers, brambles and hedge bindweed - similar in leaf appearance to knotweed and commonly mistaken as such. It provides an excellent environment for wildlife in what is now an urban area, it is visibly teeming with a large variety of mammals, birds and amphibians including field mice, hedgehogs, bats, birds of prey (which have been observed hunting and feeding in the area), grass snakes and possibly newts - there are breeding colonies of greater crested newts within the surrounding area, it is highly likely that they also exist on this site considering its current state.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

KC Highways – The submitted Transport Statement assesses the traffic impact of a development of some circa 63 dwellings in trip generation terms. Highways Development Management considers the tip rates utilised to be acceptable in this respect.

The proposed access is indicated (dwg ref 24265-SK-001) visibility splays of 2.4m x 43m are achievable. However, this may be compromised by the presence of on street parking. The existing parking bay should be removed along Old Bank Road, the kerb line should be tied into the existing junction build out appropriately.

Concerns are raised regarding the junction arrangement as it is currently presented, the alignment of the access road may cause conflict for two way traffic in particular larger vehicles. Swept paths for two way traffic should be demonstrated accordingly.

Swept paths for an 11.85m refuse vehicle should be provided.

KC Strategic Drainage – Kirklees Flood Management & Drainage requests updaed and further information. We recommend that the 2016 FRA is satisfactorily updated to reflect the new layout design and previous comments submitted in response to application 2016/91074.

Yorkshire Water – No objection in principle subject to conditions.

Coal Authority – No objection subject to planning conditions.

8.2 **Non-statutory:**

Tree Officer – No objection.

Biodiversity Officer – Object. No ecological information provided.

KC Ecology – No objection to principle of residential development at this site. Applicant's ecological information is four years old and outdated, however based on the nature of the site's habitats the submitted information is sufficient to make a judgement on the principle of development, and to suggest conditions to secure a development that complies with biodiversity policies. The site is unlikely to support important ecological features or protected species other than birds. Impacts upon birds can be mitigated and enhancements can be included to support priority species. There is a significant opportunity through landscape and layout design to link the site to the wider ecological network. Conditions recommended.

KC Education – Education contribution of £151,936 required.

KC Environmental Health – Object. Due to the complexity of the site we would not be able to support any planning application including outline planning permission.

The site in question was an old quarry of quite a substantial depth and has been infilled before there was any kind of regulation of such tipping. We are concerned with potential gassing issues on the site from both VOCs/SVOCs and landfill gas. The amount of gas produced at any one time is potentially impacted by the ground water conditions and air pressure at the time which can obviously be variable. Therefore, before determining our comments for this planning application we would require a full current site investigation. The investigation must include at least 12 months recent gas monitoring to fully characterise the gassing conditions on site during various meteorological and ground water conditions

KC Landscape – No comments received.

KC Strategic Housing – No comments received.

Mirfield Town Council - MTC demand of the developer extensive core samples from numerous places around the site and that a full detailed investigation be carried out due to the previous use of the land.

9.0 **MAIN ISSUES**

Principle of Development
Design and Layout
Highways Issues
Contaminated Land Issues
Drainage Issues
Ecological Considerations
Infrastructure
Conclusion

10.0 APPRAISAL

Principle of development

- 10.1 This greenfield site was allocated for housing in the UDP in 1999 (site reference: H9.10), and the allocation was retained (saved) by the Secretary of State for Communities and Local Government in 2007. However, the housing allocation has not been carried through to the Publication Draft Local Plan (PDLP). The Kirklees Local Plan Submission Document – Rejected Site Options Report – July 2017 identified the following significant constraints:

Third party land required for access as no frontage onto highway. There does seem to be an access to the site from Old Bank Road, ownership needs to be clarified. This site has significant contaminated land issues, toxic industrial waste has been land filled and we know that other developments have stopped due to the issues associated with remediation.

- 10.2 Consequently, it is proposed that the site be unallocated as part of the PDLP and this carries substantial weight.
- 10.3 Notwithstanding the emerging policy position, 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.
- 10.4 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.
- 10.5 Para 73 then goes on to describe how local authorities should meet the full objectively assessed need for market and affordable housing.
- 10.6 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.

- 10.7 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 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.
- 10.8 Para 11 of the NPPF provides that planning permission should be granted unless the adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole.
- 10.9 At this point in time the principle of residential development is considered acceptable. The key consideration is whether or not those issues identified as part of the PDLP – i.e. the reasons why it is not considered suitable to allocate this site for housing – have been adequately addressed. This closely mirrors the reasons why planning application 2016/91074 was not supported by officers.

Design and Layout

- 10.10 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.
- 10.11 The submitted scheme is in indicative form and is, therefore, not for consideration. However, it can be noted at this stage that improvements to the applicant's indicative layout are likely to be necessary to address concerns regarding crime and anti-social behaviour, appropriate location of POS, suitable design of streets and to ensure sufficient visual interest and variation of house types is provided. Officers are satisfied that spacing standards can be met in accordance with BE12 subject to an amended layout, consideration of house types and a reduced density where appropriate.
- 10.12 In terms of the proposed access which forms part of the application, the submitted plan details that four dwellings would be demolished. The dwellings comprise existing terraced units which date back to the Victorian period. The dwellings have a regimented appearance with a strong stone frontage, headers, cills, chimney pots and fenestrations all typical of this era. The dwellings make a positive contribution to the street scene and the demolition of the dwellings to be replaced by a new access to serve a residential street would represent a significant element of harm to the character and appearance of the street scene. It is noted that the UDP housing allocation does not extend to include the existing dwellings and proposed access and the applicant has not justified the location of the access and considered other options. In addition, it is considered that the provision of a new access in close proximity to existing properties would introduce a new source of noise and disturbance due to the coming and going of vehicles, detrimental to the amenity of the occupiers of these properties. The access into the site as proposed is contrived and the impact on the character

and appearance of the street scene and the amenity of existing occupiers would be contrary to policy BE2 of the UDP and PLP24 of the PDLF.

Highway Issues

- 10.13 UDP policy T10 states that new development will not normally be permitted if it will create or materially add to highways safety problems. Policy PLP21 of the emerging Local Plan requires development proposals to be accessed effectively and safely by all users, and states that new development will not be permitted if it adds to highway safety problems. Chapter 9 of the NPPF requires the council to consider the potential impacts of development on transport networks, and encourages walking, cycling and public transport use.
- 10.14 The application seeks permission for the main point of access only. The proposed internal spine road linking the site access is of 5.5m in width with 2.0m footways on both sides. This falls in line with Manual for Streets and is supported. An assessment of the most recent Personal Injury Accident data within the vicinity of the site access has been undertaken. Highways Development Management is satisfied that there are no underlying accident trends or road safety issues that the introduction of this development would likely exacerbate.
- 10.15 The application site is considered to be adequately accessible to local public transport services with bus stops serving a number of local areas within 400m of the site that experience a good frequency of service.
- 10.16 An interrogation of the TRICS database has been undertaken in order to form a suitable dataset so that suitable trip rates can be determined. The data has been extrapolated against 2011 census data for journey to work mode split for the Mirfield ward. The data derived is considered sufficiently robust and estimates circa 73 two-way trips during the AM peak hour and circa 54 two-way trips during the PM peak hour.
- 10.17 As detailed in the highways DM consultation response, a number of matters remain outstanding including concerns regarding the junction arrangement as it is currently presented as no swept path information has been provided. It is not possible for highways DM to therefore provide full detailed comments on the submission at this stage.

Contaminated Land Issues

- 10.18 Policy BE1 states that “new development should be of good quality design such that it contributes to a built environment which...promotes a healthy environment, including...avoidance of exposure to excessive noise or pollution”.
- 10.19 Policy G6 of the UDP states that “development proposals will be considered having regard to available information on the contamination or instability of the land concerned”.
- 10.20 The NPPF requires that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

- 10.21 No contaminated land information has been submitted in support of this application. However, as part of planning application 2016/91074 a phase 1 contaminated land risk assessment was submitted.
- 10.22 The previous use of the site is a significant cause for concern. The originally submitted report identified potential on-site contaminated sources including landfill materials comprising stone, ash, timber, bricks, metal fragments, rags, concrete, glass and plastic, and unspecified industrial waste along with the former land use as a brick works. Officers are also aware that spent waste from a nearby chemical works, which was involved in the production of creosote and agricultural chemicals, was deposited at the site however there is no proper record of the type and quantities of waste deposited other than in the licence for the northern part of the site which operated from 1978 until it was surrendered in 1993. This permitted solid, inert and non-putrescible demolition and construction waste only. Landfilling was completed in 1997.
- 10.23 Whilst officers were satisfied with the phase 1 report submitted with application 2016/91074, they were of the view that due to the complexity of the contamination issues with the site, and the uncertainty around its remediation, it was considered necessary to request intrusive ground investigations (phase 2 report) and a detailed remediation strategy. It was also highlighted that such information would need to include the results from a landfill gas monitoring programme to assess the risk and characterise the gas regime of the site; it is considered that 12 months of gas monitoring results would be needed to adequately characterise the gas regime. This information is reflected in the most recent comments received from Environmental Health.
- 10.24 Members will note from the site history section that an appeal was lodged against a previous decision to refuse planning permission. The request for additional information in this case is consistent with the appeal decision whereby the Inspector considered that detailed investigations were necessary to accurately delineate the extent of the contamination by monitoring over the seasons of the year for both methane and organic solvents in order to produce a satisfactory remediation strategy for both. The Inspector concluded that without adequate investigations and a suitable remediation strategy the principle of housing development could not be accepted.
- 10.25 In summary, the application does not provide sufficient information to demonstrate that the site can be safely developed for housing and that development could proceed without prejudicing adjacent residential properties and neighbouring school. The application is therefore considered to be unacceptable and contrary to Policies BE1 (iv) and G6 of the Kirklees Unitary Development Plan and guidance in the National Planning Policy Framework.

Drainage Issues

- 10.26 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. Policy PLP 28 of the PDLP provides guidance on drainage.
- 10.27 Whilst no comments have been received from the Lead Local Flood Authority, it is noted that this is an outline application and reserved matters/conditions could deal with technical matters concerning drainage. However, an update will be provided to Strategic Planning Committee addressing these points.

Ecological Considerations

- 10.28 Policy NE4 states that development proposals which would affect a site of wildlife significance will not normally be permitted unless provision can be made to maintain the site's role for nature conservation. It is important that habitats of ecological value are taken into account when assessing the acceptability of development, with chapter 15 of the NPPF establishing that local authorities should aim to conserve and enhance biodiversity. Under PDLP policy PLP30, which carries substantial weight, proposals are required to protect habitats of principal importance and the Kirklees Wildlife Habitat Network.
- 10.29 There is no information accompanying the planning application to demonstrate that the proposed development would avoid significant loss or harm to biodiversity; and that any impact on biodiversity can be offset by incorporating enhancements. The site itself has naturally regenerated over the years and includes an array of vegetation and self-set trees. There is potential for biodiversity harm that has not been properly addressed.

Infrastructure

Affordable housing provision:

- 10.30 In accordance with the Council's Interim Affordable Housing Supplementary Planning Document 20% affordable housing should be provided. As this is an outline application with access the only matter applied for it is considered that affordable housing provision could be dealt with via condition.

Public Open Space:

- 10.31 The site area is over 0.4 hectares and as such the proposal triggers a requirement to provide public open space (UDP policy H4). As layout remains a reserved matter it is considered that POS provision could be secured by condition.

Education provision:

- 10.32 An education contribution of £151,936 is required by this development. This would need to be secured by S106 Agreement and there is no Agreement submitted with the application.

11.0 CONCLUSION

- 11.1 The application provides insufficient information to demonstrate that the site can be developed safely having regard to the historic uses of the site, potential contamination and in light of the previous appeal decision and the concerns raised through the previous planning application contrary to policy G6 of the UDP and policy PLP53 of the Kirklees Publication Draft Local Plan.
- 11.2 In addition the application does not provide sufficient information in respect of the impact of the development on the local highway network contrary to policy T10 of the Kirklees Unitary Development Plan.

- 11.3 There is no information accompanying the planning application to demonstrate that the proposal addresses policy NE4 of the UDP which requires that development proposals affecting wildlife significance will not be permitted.
- 11.4 Notwithstanding the above, there are concerns that the position of the proposed access is contrived and would serve to undermine the character and appearance of the area and the amenity of existing occupiers contrary to Policy BE2(i) of the Kirklees Unitary Development Plan and policy BE12 and policy PLP24(b) of the Kirklees Publication Draft Local Plan.
- 11.5 The proposal represents an unsustainable form of development.

Background Papers:

Application and history files.

Certificate of Ownership – Certificate A signed