
Report of the Head of Strategic Investment**STRATEGIC PLANNING COMMITTEE****Date: 25-Oct-2018****Subject: Planning Application 2017/93935 Erection of 61 dwellings with associated access, drainage, open space and landscaping Land off, Woodward Court, Mirfield****APPLICANT**Bellway Homes Ltd
(Yorkshire Division)**DATE VALID**

22-Nov-2017

TARGET DATE

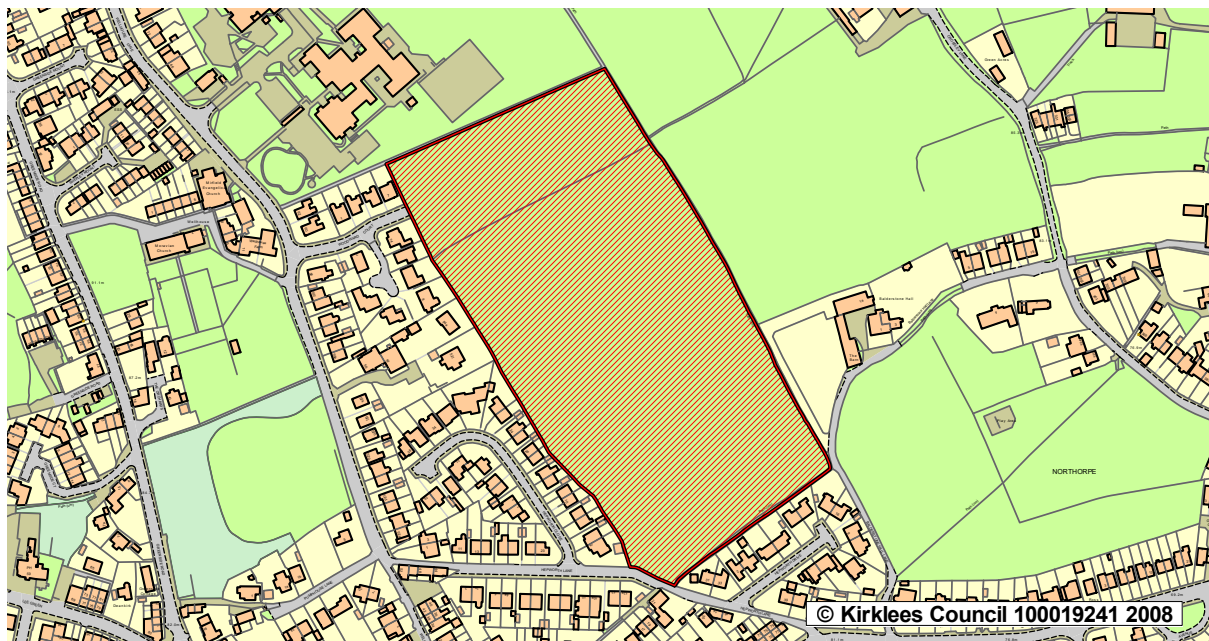
21-Feb-2018

EXTENSION EXPIRY DATE

30-Sep-2018

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

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

LOCATION PLAN

Map not to scale – for identification purposes only

Electoral Wards Affected: Mirfield Ward

Y/N

Ward Members consulted
(referred to in report)

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 and to secure a S106 agreement to cover the following matters:

Education - £212,859 comprising £68,366 to Crossley Fields Junior and Infant School and £144,492 to The Mirfield Free Grammar School.

Public Open Space – maintenance of public open space and a contribution of £102,374.00 for improvements to the nearby Crossley Lane play area.

Affordable Housing – 12 units – 6 affordable rent/6 intermediate

Sustainable Travel Fund (could include Metrocards) - £30,195.

Sustainable Urban Drainage management and maintenance scheme

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

1.0 INTRODUCTION:

- 1.1 The application is referred to Strategic Planning Committee as it involves residential development in excess of 60 dwellings. This application has been the subject of a significant number of objections the detail of which is outlined in the remainder of this report.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site comprises a rectangular piece of pasture land located to the east of existing residential properties which lie off Wellhouse Lane and Hepworth Close on a lower level. There are further residential properties to the south. Crossley Fields Junior and Infant School lies to the north. Land to the north east comprises Green Belt land which forms part of a larger expanse of Green Belt providing a significant buffer between the edge of Mirfield and the urban edge of Dewsbury. Within 40m of the site boundary to the south east lies Balderstone Hall and a collection of outbuildings and structures which are Grade II listed.

- 2.2 The application site slopes generally north-west to south-east with a level change of *circa* 14m across the site. A substantial hedgerow is the most notable vegetation feature within the site running east to west within the northern portion of the site. The boundaries of the site are relatively open comprising a mix of low set dry stone walling, timber fencing and vegetation. The western boundary is contained by rear gardens and fencing associated with existing dwellings.
- 2.3 The access would be taken off Woodward Court which an existing cul-de-sac is serving approximately 12 dwellings. The head of the cul-de-sac terminates at the boundary of the site, faced by a timber fence.
- 2.4 The site has been used informally for recreation and temporary fencing is occasionally used to divide a small portion of the site into paddocks. Public footpaths surrounding the south, east and northern boundaries of the site.

3.0 PROPOSAL:

- 3.1 The application is submitted in full and comprises the following:
- 61 dwellings comprising of 25no 3 bedroom units, 30no 4 bedroom units, 6no 2 bedroom units. All dwellings would be 2 storeys in height.
 - 12 of the units would comprise affordable housing.
 - The provision of a new access taken off the existing cul-de-sac off Woodward Court.
 - Landscaping and the provision of 1.91ha of Public Open Space within the site.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2014/91282 – Erection of 135 residential properties with associated access, parking and landscaping and the creation of a car park to serve Crossley Fields Junior and Infant School – Withdrawn before a decision was made.
- 98/92026 – Outline application for residential development with associated highway works and layout out of Public Open Space – Refused on appeal.

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

- 5.1 A pre-application enquiry (ref – 2017/20095) was submitted in 2017. The current application has generally been designed to take into account the comments made by officers at pre-application stage.
- 5.2 Revisions to the scheme have been forthcoming whilst the application has been processed. The application has been amended in the following ways:
- Revisions to the site layout including reduction of double/triple drive widths, improved pedestrian accessibility to individual dwellings, alteration to some house type designs to improve relationship with street.

- Repositioning of dwellings to the west of the site to allow space for the incorporation of trees along the frontage. Incorporation of more trees within the street.
- Public Open Space alterations including additional landscaping, areas for informal play (ball games), links to existing public footpaths and benches.
- Off-site contribution to play equipment.
- Revisions to drainage layout including details of soakaway maintenance.
- Archaeological geophysical survey and trial trenching and subsequent report.
- Submission of Road Safety Audit and minor alterations to the proposed traffic calming proposals.
- Submission of additional Coal Mining Risk Assessment including the findings of a substantial site strip to identify the location of potential mine entries. An outline of remedial measures to deal with mine entries. Subsequently the scheme was amended to adjust plots so as to avoid direct conflict with mine entries.
- Additional drainage plans and details following comments from the Lead Local Flood Authority on the finer details of the proposed soakaways.

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.

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

D5 - Provisional Open Land
H1 - Housing Need
H10/12 - Affordable Housing
H18 - Provision of Open Space
BE1/2 - Design and the Built Environment
BE12 - New dwellings providing privacy and open space
BE23 - Crime Prevention Measures
EP10 - Energy Efficiency

EP11 – Landscaping
R13 – Rights of Way and Public Access Areas
T1 - Sustainable Transport Strategy
T10 - Highways Safety / Environmental Problems
T16 - Pedestrian Routes
T19 - Off Street Parking
G6 - Contaminated Land

Kirklees Draft Local Plan Strategies and Policies (2017):

PLP3 – Location of New Development
PLP6 – Safeguarded Land
PLP7 – Efficient and effective use of land and buildings
PLP11 – Housing Mix and Affordable Housing
PLP20 – Sustainable Travel
PLP21 – Highway safety and access
PLP22 – Parking
PLP24 – Design
PLP27 – Flood Risk
PLP28 – Drainage
PLP30 – Biodiversity and Geodiversity
PLP32 – Landscape
PLP35 – Historic Environment
PLP48 – Community facilities and services
PLP51 – Protection and improvement of local air quality
PLP52 – Protection and improvement of environmental quality
PLP61 – Urban Green Space
PLP62 – Local Green Space
PLP63 – New Open Space

6.3 Supplementary Planning Guidance:

- Providing for Educational needs generated by new housing
- Interim Affordable Housing Policy
- West Yorkshire Air Quality and Emissions Technical Planning Guidance
- Planning Practice Guidance

6.4 Supplementary Guidance

- Kirklees Landscape Character Assessment (2015)
- Kirklees Housing Topics Paper (2017)
- Kirklees Local Plan Accepted Site Options – Technical Appraisal – July 2017
- Kirklees Local Plan Submission Document – New Site Options Report – April 2017
- Kirklees Local Plan Submission Document – Rejected Site Options Report – July 2017
- National Planning Policy Framework (2018)

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application was advertised on site, in the local press and by neighbour letter. Amendments to the scheme were re-advertised. A total of 472 individual objections have been received along with a petition containing 824 signatures which support the reasons for objection outlined by 'Save Mirfield'. A further

petition supporting the objection of 'Project Mirfield' has been submitted containing 15 signatures. Objections have also been received from Paula Sheriff MP and Councillor Vivien Lees-Hamilton.

These objections can be summarised as follows. Officer responses are provided where they are not already addressed in the remainder of the report:

Highways

Will result in too much pressure on very busy local roads and also local services.

The Lanes around the area are not suitable for the extra traffic. People have to mount the pavements to get passed. Causing a danger to the young people who go to the school nearby.

There is no parking proposed for the school.

Officer response – The applicant has confirmed that they wrote to the Chair of Governors of Crossley Field Junior School on 5th July 2017 to inform the school of their intention to submit a planning application and to offer a meeting.

The applicant then held a public consultation event on Wednesday 2nd August between 4.00pm and 7.00pm at Northorpe Hall, Mirfield, in order to engage with the local community, including the School and its Governors.

A public notice was published in the Mirfield Reporter on Thursday 20th, July 2 weeks prior to the event. The notice informed the wider community of the public consultation event. This was supplemented by a leaflet drop. Local ward members, parish councillors, local residents and businesses were sent a consultation leaflet providing a brief summary of the proposals and an invitation to attend a public consultation event. Leaflets were distributed to 460 local properties to inform residents in the immediately surrounding area of the proposals and of the consultation event.

According to the applicant neither the Headteacher nor the School Governors responded either verbally or in writing to the invitation from the applicant to meet.

Partly as a consequence of the above the applicant has not proposed any additional parking within the site over and above the proposed layout.

The traffic around this area is significant at peak times at peak times. Wellhouse Lane is a rat run for the school run to Crossley Fields School. Cars have to mount the pavements at school times and I have seen on many occasions, they have little or no regard for the pedestrians using the pavements.

The users of Castle Hall School do dangerous 5 point turns in the middle of Camm Lane, stop in the middle of the road to let children in and out of cars who casually meander across the roads. They use the bottom of Camm lane as a roundabout causing traffic to back up as far back as Flash Lane.

Flash lane is heavily congested and traffic queues all the way to Dewsbury from church lane at peak time.

KMC have resurfaced part of Crossley Lane from the bottom to the School only, (Close proximity to the development) but this does not change the issue in that the road is so narrow that there are no room for white lines during this section. Additional cars of proposed new development would add an unnecessary burden to an oversubscribed narrow highways.

Highways are gridlocked at School time so additional volume of proposed housing will be detrimental to safety of children

The impact on traffic on nearby roads would be severely compromised. For example Flash lane is already a dangerous bottle neck, with parked cars to navigate, making it practically impassable most of the time.

Any building works and heavy goods vehicles required by the new builds will have to use wellhouse via Jenny lane this will be a danger to all children during school times and an enforceable ban on heavyweight goods movements and any building vehicles during 8:00am 9:30am and 14:30 16:00. Even this will be dangerous at other times due to width restrictions. There is insufficient space for trades parking off site.

Sunny bank already is heavily congested to the A62 and so is the Raventhorpe Road is too. Greenside road is impossible to navigate already and heavily restricted due to residential parking requirements this will be a long term problem for the new residents. And medium term problem for all building lorries and delivery's this is already dangerous due the large trucks moving aggregates and buses

The cycling lanes surrounding the main roads are mainly used for parking.

There is very limited parking in Mirfield Town Centre and the bus services are uselessly infrequent and much more expensive than car travel.

There is concern about access for emergency vehicles

Obstructions of driveways around the proposed site.

Disabled persons' access – There are already ongoing issues with cars parking on pavements causing hazards to children, pushchairs, wheelchairs and people with impaired vision.

Wellhouse lane is a narrow lane. Crossley Fields Junior and Infants school lies on this lane. Wellhouse Lane is exceptionally busy and congested between 8.15am and 9.15am and between 2.30pm and 4.30pm.

The footpath is narrow and there is no footpath at the bottom of Wellhouse Lane at the junction with Flash Lane.

Many children use this area to walk to Crossley Fields School, Castle Hall School and Mirfield Free Grammar school.

It is unsustainable to add 61 houses to an area where traffic density is already high due to two school sites, two churches, a cricket club, Sunday morning football and a shop.

Visibility at the Wellhouse Lane/Flash Lane junction is severely restricted due to parked cars, creating another safety hazard and one which would be increased should the proposed development go ahead and create more traffic at this junction.

Infrastructure

The only GP practice in the local area would have grave concerns on the significant population increase this new development would pose on its resources in terms of appointment availability and home visit requirements. The practice would propose a discussion and assessment of this development and as a minimum impose a levy under the community Infrastructure Levy and planning obligations to help support its infrastructure should approval be granted (Mirfield Health Centre).

Dentist over subscribed.

Not enough room in the schools

The school itself is oversubscribed with 620 pupils. A large proportion of its intake are by children from neighbouring areas with no choice due to distance but to drive their children to school. The oversubscription of this school every year means that the families that would be living in Bellways proposed development will only add to the traffic problem as they will not be able to attend the local school and will have to be driven to other schools in neighbouring areas, further adding to the chaos at peak times, not just a few extra cars but potentially up to another 150.

Drainage

Concerns regarding existing drainage.

Concerns that new development will make drainage worse

Officer response – A re-emergence geological assessment has been submitted that concluded re-emergence of water (slowed down) will be in line with current watercourses (i.e. 300m away at Canker Dyke).

I live next to the fields. Every time they have tested and poured water down. My cellar gets damp. Also neighbours houses have subsidence due to the excess water from that field. Bad drainage. If so this build all of grove street will be flooded. Plus on Hepworth lane. If you view the map and the field it's like a funnel which lets to my house. Put any more houses there mine and others will get the brunt of excess water (21 Grove Street)

Officer response – Drainage/technical officers of the Council have visited 21 Grove Street in the past and concluded that there was ponding on the road due to gully locations and camber. The proposed development would not make this situation worse and getting water into the substrata and protecting adjacent houses with the proposed swales and bund would help.

Mining

There are mine shafts under that field that are not shown on some maps, due to documentation dates not being done after a certain date. Need to stop this build. Plus the latest planning has not been shown to local residents, it has changed. I expect this is illegal to do this.

Officer response – A 2013 Coal Mining report obtained in 2013 by the applicant confirmed no known mine entries within or within 20m boundary of the site. The applicant has also undertaken a geophysical survey which did not identify evidence of any mine shafts.

Heritage

Can this be allowed so close to a Grade 1 listed building? Balderstone Hall? Unacceptable development in this area of Mirfield, spoiling the landscape and nearby historical balder stone hall.

Officer response – Balderstone Hall and associated collection of buildings are Grade II listed. Impact on heritage assets is covered in the relevant section of this report.

Development of this site would destroy the last remaining undeveloped part of Mirfield's medieval landscape. The field concerned was part of one of the three medieval fields of Mirfield and includes the footpaths that provided access to the individually cultivated selions. Parts of the surviving Balderstone Hall probably date from the medieval period as there is evidence that there was a building there before that erected by Dr Balderstone and therefore that Dr Balderstone updated a previous structure. Its presence is an integral part of the medieval field landscape.

Other Matters

Our pony is situated on this field

Officer response – private agreements with the landowner concerning the current use of the land are not a material planning consideration.

Our Green Belt needs saving

Officer response – the site lies on an area of greenfield land identified as Provisional Open Land on the UDP. It does not lie in the Green Belt.

Many of the open spaces that remain are private property. Green space is the lungs of a town. People live in Mirfield because they like it. It is a fact that the Council Tax payable by the citizens of Mirfield makes a substantial contribution towards the upkeep of the Council. If amenities are removed, then residents will leave, no-one will replace them, houses will remain empty, and degeneration will ensue.

Air pollution from cars parked outside our house with engines left running is so bad that we have had to retreat from our gardens and close windows.

Visual impact on area of greenspace.

Precedence - two previous planning decisions (including appeal decisions) have already been refused from Bellway Homes for this site in the last 20 years. The first went to appeal and the Inspector upheld the decision based on highways safety issues. What has changed since except for Mirfield to be now busier than it has ever been but yet local facilities have not improved in line.

Officer response – the previous planning application was for 135 dwellings and this was withdrawn before a decision was made. The current proposal is for 61 dwellings.

Loss of accessible informal green space and open land (farm stock occupies the land surrounding the development). Mirfield is currently underserved with accessible green space.

Layout and density of building - the plans submitted may be changed and there is no guarantee that the proposed green space around the development will stay at all, can this be guaranteed.

Officer response – use of the area of public open space would be secured as part of a S106 agreement. Details of POS provision are provided in para 10.102 of this report.

Noise and disturbance resulting from use

Design, appearance and materials - are the proposed homes to be built from materials that are sympathetic to the local landscape and area and other houses in the area.

The Kirklees Local Plan is currently under examination by the Inspector. In this plan the site in question is allocated as “safeguarded” land, it should stay as such. In view of the Local Plan, shouldn't a decision on the planning application be deferred until decisions on allocation have been made?

Mirfield has always been a semi rural location with enviable green space, this is why people stay in Mirfield, this is why people buy existing for sale housing in Mirfield. I feel the council is not sufficiently protecting this and not appreciating the areas beauty.

I am hoping the local MP's who in the past were opposed to this area being developed will stay true to their word and not be swayed by the 'incentive' payments and 'affordable' housing promises of Bellway. Your decision has the power to change the face of Mirfield, and influence how the area will evolve for our future generations, you surely have a duty to protect our cleaner air areas and green spaces.

I walk my dogs around these fields and during the summer months the area is full of bats (evenings). I'd have concerns that these would disappear with this development.

Officer response – the submitted ecological survey does not indicate a direct impact on bats. Most of the existing hedgerow would be retained. The scheme includes a number of ecological enhancement measures including bat boxes. Concerns relating to green space and air quality are addressed in the remainder of this report.

Who will maintain landscaping? Mowing etc?

Officer response – a private management company are likely to maintain the public open space. Maintenance would be secured by S106 agreement.

I regularly see wild birds, bats, foxes, etc. when walking my dog next to this field and area, disruption from building works and homes taking their habitation will result in these birds and animals trying to find habitation elsewhere, which is becoming more and more difficult for them with new houses and buildings being erected.

Officer response – the Council's biodiversity officer raises no objection and details of ecological impacts are covered in the relevant section of this report.

'Save Mirfield'

In addition, further detailed representations have been submitted on behalf of a local voluntary organisation 'Save Mirfield'. Their organisation is supported by 824 members who have signed their submission, most of which are local residents. Their submissions focus on the following concerns which have been summarised as follows:

The Local Plan (LP) is currently being inspected and an application at this time undermines the LP process.

- The traffic and road safety impacts arising from the proposed development will have a materially adverse impact on highway safety. The proposed development would not therefore be consistent with the policy guidance provided by the NPPF and the Kirklees Unitary Plan.
- The planning application does not constitute sustainable development as defined in The National Planning Policy Framework (NPPF) document of 2012. Deficiencies go to the point that the area is indeed **not** sustainable for development; the consequence of this is dis-application of the presumption of sustainability.
- Mirfield's infrastructure, namely roads, schools, health services and public services, is saturated
- The Flood Risk Assessment by Eastwood and Partners does not fully address the risk of surface, or foul water flooding for the current application.
- Balderstone Hall Fields, by custom and practice over very many years is a valued amenity. The NPPF recognises "*that open land can perform many functions such as for wildlife, recreation, flood risk mitigation.....*" It is our opinion that insufficient attention has been paid to the effects on the local community.
- There is a group of Grade II Listed Buildings at Balderstone Hall which are important Heritage assets for the local area. This is recognised by the Council's response to the LP Inspector which stated that "subsequent development could harm elements which contribute to their significance".

- The application does not take into consideration the increased air pollution that the development will generate because of the increased traffic and the potential impact on the health of the community.
- There are a large number of homes for sale, across all price ranges, in Mirfield and a number under construction. The mean time to sale is quite long, which therefore indicates that demand is not high.

Policy

- *UDP policy D5 is a policy for the supply of housing in accordance with para49 of the NPPF (contrary to the applicant's submission).*
- *POL land is not a list of possible future development land. The aim of the policy is to identify the value of the land as open land.*
- *The supporting text to policy D5 makes it clear that POL could be acceptable for development if new infrastructure such as roads and sewers were provided. However, two planning applications have shown that the site is unsuitable for the proposed development and no new infrastructure can be delivered.*
- *Contrary to the applicant's submission the site is not identified as being part of the supply of housing within the emerging Local Plan. It is being safeguarded against development until at least the next review, at which point it can continue to be safeguarded, allocated or designated as urban green space or Green Belt.*
- *The emerging Local Plan identifies more than sufficient land for housing. There would be no need for the development of the site to meet any housing need during the Local Plan period. If the site is to be allocated as Safeguarded Land within the Local Plan then PLP6 makes it clear that this designation should only be reviewed as part of the Local Plan review.*
- *The release of the site for development would undermine the Local Plan, plan making process which is at a very advanced stage. Therefore, the application is premature and should be refused.*

Density

- *The application is for 61 dwellings on a site of 4.77ha which is less than 13 dwellings per hectare. Policy PLP7 (Local Plan) seeks to provide housing density in accordance with para47 of the NPPF – 35 dwellings per hectare. The applicants have not explained why such a low density is being proposed and it would not be an efficient and effective use of land. If the principle of development is established then it is very likely that a further application will be made for a higher density development which makes more efficient use of the land.*

Sustainability

- *The site is far removed from the already busy town of Mirfield. GP's and schools in Mirfield are at capacity and cannot sustain any more development.*

Conclusion

- *The application does not accord with the Development Plan, the emerging Development Plan or National Policy. Furthermore, no material considerations indicate that planning permission should be granted. The adverse impacts of the proposal would significantly and demonstrably outweigh any benefits.*

The above represents a summary of the submission from Save Mirfield. Within their submission are detailed documents/appendices highlighting the concerns detailed above including submissions relating to Highways, comments on Mirfield's infrastructure, comments on Flood Risk Assessment, Loss of Balderstone Fields Amenity, Herigate Assessment, Air Quality and Pollution.

Following the submission of additional information by the applicant, 'Save Mirfield' submitted a suite of additional responses covering highways, drainage, heritage and planning policy. This additional representation can be summarised as follows:

- *Highways* – The further information submitted by Bellway does not overcome our previously stated concerns. Northern Transport Planning (consultant) are submitting that further objections dealing with local traffic and road safety problems at the beginning and end of the school day, the severity of which is such that access to the proposed development via Wellhouse Lane is unrealistic and unacceptable. The report also confirms that visibility to the left at the junction of Wellhouse Lane and Woodward Court is well below normal standards, such that additional use arising from traffic generated by the proposed development would be undesirable.

With regard to the traffic calming measures proposed for Wellhouse Lane, it is notable that the independent Road Safety Audit commissioned by Bellway considers the proposals as submitted will increase traffic speeds passing Crossley Fields Junior and Infant School.

The Road Safety Audit suggests amendments to the traffic calming proposals in an attempt to resolve the above issue. However, the NTP report demonstrates that with this revision traffic speeds on Wellhouse Lane would remain at a level at which the visibility splay available at the junction with Woodward Court would remain below the required standard, such that additional traffic generated by the proposed development would be detrimental to highway safety.

It is easy but wrong to assume that the traffic is always light in Wellhouse Lane outside school pick up and drop off times. All the latest data and presumably site visits have only occurred in the winter months when traffic is generally at its lightest anyway. During the months when the playing field is in use and the cricket field is in full swing and on Sundays at the Evangelical Church, the amount of traffic in Wellhouse Lane is also considerable. There is an increase in horse riding in the warmer months too. Where is the consultation with local residents on the traffic calming measures?

We would like all parties to be aware of a number of 'near misses' in the area of the school that have been reported to us whereby residents have, for example, been clipped by car wing mirrors. Since last September, the school has voluntarily tried to manage drop-off, pick up and parking with staff and helpers because Kirklees and police do not have the resources. Should the school have to withdraw this activity then accident potential will be heightened.

- *The Site* – The public open space will be paid for by new home owners. In some areas we know this causes conflict when non-residents attempt to use the facility. People waiting outside the school could also seize the opportunity to park on the public open space. The development also represents an

inefficient use of land as PLP7 local plan policy requires development of at least 35 dwellings per hectare.

- *Drainage* – We believe the maintenance of SuDS in private gardens by the homeowner, as confirmed by DPP, is a weakness in the drainage design.
- *Heritage* – There is now evidence of Iron Age/Romano British activities which underlines the historic importance of the site to Mirfield history. The applicant failed to detail the cumulative change as referenced in Historic England's guidance note *Historic Environment Good Practice Advice in Planning, Note 3, The Setting of Heritage assets (Second Edition, 2017)*, which states:- *"Where the significance of a heritage asset has been compromised in the past by unsympathetic development affecting its setting, to accord with the NPPF policies consideration still needs to be given to whether additional change will further detract from, or can enhance, the significance of the asset. Negative change could include severing the last link between an asset and its original setting; positive change could include the restoration of a building's original designed landscape or the removal of structures impairing key views of it"*.

Further submissions have been received from 'Save Mirfield' including an update on their interpretation of the planning policy position in light of the updated NPPF.

In light of the updated NPPF, 'Save Mirfield' consider the impacts on road safety to be unacceptable and planning permission should be refused.

'Project Mirfield'

An additional detailed representation has been submitted on behalf of a local voluntary organisation 'Project Mirfield'. Their submissions focus on the following concerns:

"Over the last 3 years, Project Mirfield have been working very hard promoting locally for people to report problems, from blocked gully's, blocked, out falls in field's surcharging drainage Ext. After the storms of 2015 people are now more aware of their respectability's, and a greater understanding of the effects of climate change, and what this means to them, and the knowledge that Yorkshire water sewer systems capabilities are at their limits.

Surface water runoff design is very dangerous, which will affect low lying existing boundary properties downstream. Several existing properties Hepworth drive, Hepworth Lane, Grove Street downstream of the site already suffer from damp and water problems, some properties have cellars, one property which is located 25m away from the proposed soak-away13-16, 37m away from proposed highways soak-away, and 12m away from the earth bund for surface water flooding;as damp and ground water problems this was treated in 2014, however, the problems are still continuing and will get worse if the status quo of the ground water is altered with this design. The surface water design is forcing 90% of the runoff and 100% ground water into a small section of the field. Again with 60 existing properties downstream from 35m to 110m away from the abovementioned surface water design.

Soakaway's have been used for many years now they are getting larger, wider and deeper, because of the Intensity of rainfall we now suffer. On level areas with no existing development on its boundary's this could be deemed fine

however when there are existing properties which are sited lower, and in some cases 2.400mm below the proposed existing field level then this goes against all protocol and must be deemed none sustainable by any definition and does not comply with NPPF.

With server topography to the field, the developer must demonstrate in detail how they are to plan, design to protect surrounding properties from surface water runoff, and re-emergence from ground water in their final drainage scheme to protect existing properties for the life time of their development. Also in the construction phase. This design should also protect surrounding properties from surface water runoff local drainage networks from mud, silt and pollution associated with site activities.

I'm am very concerned with what looks like a huge earth bund at the bottom the field the bund is too close to the low-level properties what boundary on Hepworth drive/ and Hepworth close, and Grove street. I believe this is a safety measure to direct rain water when pluvial flooding occurs for the new proposed development, however, this provides limited protection to the existing low-level properties downstream. The bund will always be damp and because of the topography of the field the collection of water and the long lasting wet condition, this will put more pressure on the existing properties cutting short the life time on the properties.

The proposed flood routing to the main spine road is cross fall from left to right not cambered? The fall from the spine road and connecting mews courts are all falling directly to the rear of Hepworth Close which are shown with the **FGL** all properties to Hepworth close are at low level. Though out the development this will create flooding to the properties of Hepworth close Hepworth drive Grove Street. Once the development is complete this will become a bone of contention when the new residents extend patios paving, extensions, sheds creating urban creep creating more run-off " pluvial flooding " which will fall to the rear of the properties on Hepworth Close.

Downstream of the site which already suffers from pluvial flooding will be put under more stress Hepworth Drive Hepworth Lane, Grove Street, Flash Lane, Shill bank Lane, North street.

Please take a particular attention to a private management company, which could be set-up to manage the S-U-D-S and the POS areas. The proposed site will incorporate 49 sales and 12 affordable properties 61 new properties in total ground rent will be very expensive, and over the years will double which could lead to none payments, and poor maintenance.

Fault line could have moved after the earthquake 2008 Mirfield Balderstone Hall Field. It is not stated to where the ground water, and the run off discharges to, remediation of this magnitude will up-set the status-Quo, and this could change the migration of the ground water effecting local properties, and downstream catchments

Kirklees Local draft Plan 2017 Surface water drainage strategy Sustainable Urban Drainage systems SUDs and NPPF does not carry any weight for development on land which has deep or shallow coal workings.

The proposed development will remove our right since 1975 when our homes (Hepworth Close) were built to access the field for maintenance to the boundary dry stone wall.

Officer response – there is no requirement to provide an easement to the rear of existing properties as the site lies on private land.

On the basis of the above permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions”.

The above represents a summary of the submission from Project Mirfield. The full submission included additional information and diagrams which has also been considered by officers.

Paula Sheriff MP objects on the following grounds:

- The application has been before Kirklees Planning Department previously and was recommended for refusal at this time. Whilst the number of dwellings in this application is reduced from the former application, I believe that the issues that led to the recommendation of refusal remain the same. The access to the site is completely inadequate for 61 home and associated traffic movements. The site is next door to a busy school where a great many pupils travel from out of area, resulting in heavy congestion at peak times.

I would ask that particular notice is taken to the number of vehicles park on-street during peak times in and around the proposed access to the development, as referred in the traffic survey carried out by Northern Transport Planning Ltd. The number of vehicles parked rises from 76 to 178 in the morning peak period and from 80 to 264 in the afternoon peak period. Adding traffic from 61 new dwellings to this congestion would, simply put, be an accident waiting to happen. Visibility is poor and roads leading into this area, particularly the south entrance to Wellhouse Lane, are completely inadequate for dealing with the added pressure this development would bring.

Councillor Vivien Lees-Hamilton raises the following objection:

This site has already been the subject of two planning applications. The first application was refused on highway matters in 1999 and this refusal was upheld by the planning inspectorate at the time. The roads surrounding this site have not been upgraded or seen any form of improvements since before the time the first planning application was submitted and subsequently refused.

There are now many more dwellings in the surrounding area and the volume of traffic has increased exponentially. And it is not just the increase in housing. A major contributor to the increase in vehicular movements in this area that adds significantly to the highway problems surrounding this site, are the high volumes of children who attend the local Mirfield schools but who live out the local area. Many children from Ravensthorpe and Dewsbury attend Mirfield schools and this brings much traffic through this area.

Castle Hall school takes over half of their pupils from out of the local area. Most travel to school by car. The highway issues surrounding this site will only worsen over time. There is no possible scope for improvement of the surrounding highway network. The most recent application for this site was

withdrawn exactly one hour before the meeting of the strategic planning committee at Kirklees. The application was to be determined by the committee with a recommendation to refuse based on highway safety, old mine workings and drainage issues. Nothing has changed in the area since this time.

The development of this site has been judged as unacceptable and not sustainable on both occasions. Both in 1999 and again in July 2015. It is impossible to improve highway problems surrounding this site. Drainage will always be a problem as will the old mine workings. These problems are insurmountable. Woodward Court is a small Cul-de-Sac and the visibility at the access and egress point is limited in the very least. There are bends to both the left and right of the junction and this factor combined with the gradient does severely restrict the view to either side when exiting Woodward Court and joining Wellhouse Lane. It would be quite dangerous to add any more vehicle movements to this junction but it is madness to add a drop and go zone in this location when the site line is so severely restricted. The number of vehicle movements this factor alone will add to the limited visibility splay is quite unacceptable not to mention the traffic another 61 dwellings will add.

Councillor Kath Taylor makes the following comments:

Over intensive buildings, drainage, mine workings, including the groundwater.

Highways and the lack of sight lines from the Woodward Court exit and egress. The impact on the school traffic which is a nightmare at school times.

The highway improvements that have been suggested will only make matters worse for existing residents.

Total lack of concern already shown from the developers with the way they have left the site after digging it up and not then securing the site.

This land is not allocated for housing and is totally unsuitable for such a large development.

Councillor Martyn Bolt makes the following comments:

I am concerned that the manner in which this application and associated works has progressed may have had a negative impact on residents confidence and the reputation of Kirklees

Issues such as requests for street naming, prior to planning approval which I have not seen before in 21 years, the need for Conservative Councillors & Mirfield to have identified issues requiring further detailed investigation rather than the Planning Authority demanding them.

I am unconvinced by the responses from the developer that identified issues in drainage and old mines workings have been mitigated and that there will be no adverse effects on land and properties outside the current application boundary

Previously highways had recommended refusal based on highways safety. In my opinion this was not subject to the quantity of housing proposed but on any additional vehicles and as such should still be a strong reason for refusal

Please let me know if highways change their previous position so I can investigate any grounds.

There are no meaningful measures proposed to mitigate additional traffic to and from the development. Any new development should also allow sufficient road space for the increase in home deliveries, and based on many examples locally and nationally the garage should not be counted as a parking space. Too often it is used for either storage or converted into living space, with the result that vehicles park on the road or the footway

I would also request that the developers should provide and fund through a commuted sum provision of winter grit bins, as too often we get calls from residents to provide them subsequently and the council has a policy of none provision now, so the developer should pay.

If the Council are to allow SUDS then the cost of maintenance should be conditioned with a schedule of works from the LLFA, otherwise they have been found to be ineffectual over time

Have dye tests been done to ascertain any off site runoff through the water course and so mitigate any impact from drainage?

In addition to the above, Councillor Bolt makes additional comments relating to coal mining risks:

Whilst the Coal Authority are willing to allow the application to proceed with a request to have conditions prior to commencement. If approval of the application is thus delegated to officers I would ask that all investigations and reports are done prior to application being determined

This has been a contentious matter for over 20 years and all decisions should be made by committee

If, and it is only IF at this stage, the issues pertaining to stabilisation of former mine workings can be achieved to the satisfaction of the Coal Authority and Kirklees Planning by grouting etc, then in my opinion that may affect the drainage information and water flows previously submitted

New drainage reports and data should be prepared once the engineering works to stabilise the ground have taken place and settled in.

Soakaways have been found to be problematic in many places due to lack of planned and funded maintenance and if the LPA are minded to consider these then mitigation and maintenance needs to be a factor through some robust mechanism for the life of the development

Is it possible to condition provision of land allocation for an attenuation tank, in the event that soakaways/SUDS are found not to be feasible and connection to the mains water can be made without adversely affecting residents elsewhere

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

Highways – No objection subject to conditions. A full appraisal of the highway impact of the development is set out in the relevant section of this report.

Environment Agency – No comments received.

Coal Authority – The Coal Authority concurs with the recommendations set out in the additional information, prepared by Lithos, submitted to support this application, that further intrusive site investigation works should be undertaken prior to development in order to investigate the condition of the mine entries and inform the remedial works necessary.

A condition should therefore require prior to the commencement of development:

- The submission of a report of findings arising from the further intrusive site investigations, including details of the remedial works necessary for approval; and
- Implementation of those remedial works.

The Coal Authority has no objection to the proposed development subject to the imposition of a condition or conditions to secure the above.

Yorkshire Water – No objection.

Lead Local Flood Authority – Overall no objection. In summary:

Soakaways are now spread out as is reasonably practical for the design. The extent of SW102 poor results needs further testing to qualify. Where soakaways are located between test pits with successful results, further testing will be required although can be conditioned. Some results did not cover 3 consecutive tests and given that results were viable but reduced in effectiveness we deem this necessary to mimic saturated ground.

In addition to the three consecutive tests and those publically available from previous application, we advise that additional testing covers the requirement for seasonal testing for completeness although we recognise that water table analysis has commenced. The slowest percolation result should be selected. Tests appear to have been carried out at appropriate depths.

Flood Routing

An indicative plan indicating flow arrows has been submitted within the FRA. Levels have been provided and flood routing is acceptable in the most part. However local parking bays and ramps may alter the routing suggested by arrows and further consideration is required for 'significant runs'. We accept landscaped swales and bunds have been provided to further protect properties for exceedance events. This may require its own soakaway to prevent waterlogging.

Temporary Drainage

Protection of existing properties during the construction phase post soil and vegetation strip will be required as increased run off is envisaged on this sloping site. A suitable plan, including protecting existing drainage infrastructure from blockages and sedimentation should be formulated alongside a construction phasing plan. This can be conditioned.

8.2 Non-statutory:

Education - In response to the above application the calculation shows that an education contribution of £296,093 is required.

Strategic Housing - There is a significant need for more affordable 3+ bedroom houses in Dewsbury and Mirfield. House prices are in the lower range for Kirklees; ranging from around £88,100- £170,000. Home ownership rates are just under 65%, private renting is about 15% and affordable (social) housing is around 20%. Affordable rents in the area start at around £394 monthly.

Environmental Health – No objection subject to conditions regarding dust, contamination and air quality.

Arboriculturist – No objection subject to tree protection measures.

Biodiversity Officer – No objection subject to conditions.

Landscape – No objection.

The increased accessibility and paths etc. in the public open space (POS) are great, the increased tree planting along the main estate road to help continue the avenue green streets effect is much effective, although, even better would be if opportunities could also be taken to include some new tree planting in rear gardens (to those houses with no trees included in the front garden) if possible. As agreed at the meeting, railings would be more appropriate for both the pos boundaries at the main entrance and would also help contain informal play/ball games and children playing adjacent to the road, rather than a low timber knee rail in this location.

There is no opening onto the pavement from the footpath leading to/from the pos. There also appears to be no access into the smaller pos on the right hand side as you enter the development, the rails appear continuous. The pos areas should be fully accessible. Appropriately located access points to the pavement will be required.

Who will manage and maintain the pos areas in perpetuity? Who will maintain the native hedgerows and what height will they be maintained to ensure continued natural surveillance of the pos areas across their private drives etc.? The site triggers the requirement for a Local Equipped Area of Play. Given the close proximity of an existing equipped play facility, Crossley Lane, approximately 220m walk to the east along existing PROW's, we recommend an offsite contribution towards this facility. This existing site can then have improvements to broaden its age range through both equipped provision and natural play, there is potential for the informal kick about to benefit from improvements and accessibility to the entire site as a playable space. In

addition, there will be opportunities for potential environmental improvements such as planting, tree planting, seats and paths.

The off-site lump sum in lieu of on-site equipped provision is £102,374.00 (based on capital cost of construction inclusive of commuted sum and administrative costs but exclusive of Legal or Planning costs), for improvements to the nearby Crossley Lane play area.

Officer response – in response to the above, additional plans and clarification was submitted and Landscaping raise no objections subject to conditions and securing of POS by way of a S106.

West Yorkshire Archaeological Advisory Service – At the time of writing the report final comments are awaited. The applicant has carried out trial trenching and a geophysical survey following initial requests from WYAAS and subsequently submitted a further report for their consideration.

Public Rights Of Way - *In general, the application scheme appears to be designing in two standards. PROW previously asked for the definitive paths to be widened and improved on this site – there is no such proposal. The proposals appear to show a developer interested in public access but the development appears likely to encourage neglect and disuse of the definitive paths and miss out on an appropriate opportunity.*

Mirfield Town Council –

This site has already been the subject of two planning applications. The first application was refused on highway matters in 1999 and this refusal was upheld by the planning inspectorate at the time. The roads surrounding this site have not been upgraded or seen any form of improvements since before the time the first planning application was submitted and subsequently refused.

There are now many more dwellings in the surrounding area and the volume of traffic has increased exponentially.

High volumes of children who attend the local Mirfield schools but who live out the local area. Many children from Ravensthorpe and Dewsbury attend Mirfield schools and this brings much traffic through this area.

Castle Hall School takes over half of their pupils from out of the local area. Most travel to school by car.

The most recent application for this site was withdrawn exactly one hour before the meeting of the strategic planning committee at Kirklees. The application was to be determined by the committee with a recommendation to refuse based on highway safety, old mine workings and drainage issues. Nothing has changed in the area since this time.

The development of this site has been judged as unacceptable and not sustainable on both occasions. Both in 1999 and again in July 2015. It is impossible to improve highway problems surrounding this site. Drainage will always be a problem as will the old mine workings. These problems are insurmountable.

Woodward Court is a small Cul-de-Sac and the visibility at the access and egress point is limited in the very least. There are bends to both the left and right of the junction and this factor combined with the gradient does severely restrict the view to either side when exiting Woodward Court and joining Wellhouse Lane. It would be quite dangerous to add any more vehicle movements to this junction but it is madness to add a drop and go zone in this location when the site line is so severely restricted. The number of vehicle movements this factor alone will add to the limited visibility splay is quite unacceptable not to mention the traffic another 61 dwellings will add.

MTC has concerns regarding the maintenance of the drainage and that it is not sustainable for the future. The concerns are around surface water and grouting as there are no assurances that this will work.

MTC has concerns the impact of former mine workings, and concerns that the disbursement of surface water has not been factored into the drainage consideration.

MTC has concerns that the use of SUDS has no certainty to being effective in future years and MTC encourage Kirklees to set a condition that Yorkshire Water are adopted and not a third-party contractor.

MTC query if the development complies with NPPF64 (Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions).

Further comments have been received from Mirfield Town Council as follows:

MTC demands that no final consultations are carried out via any authority until a proper intrusive investigation by means of a drilling rig is carried out & a full report compiled & circulated. MTC note with some alarm that following the discovery of human remains a statutory cessation of work was not observed and a full investigation by the police carried out.

9.0 MAIN ISSUES

Principle of Development
Urban Design Issues
Heritage
Highways Issues
Drainage Issues
Residential Amenity
Ecology
Coal Mining Legacy
Land Contamination
Air Quality
Construction Impacts
Infrastructure
Planning Obligations
Planning Balance

10.0 APPRAISAL

Principle of development

- 10.1 The site is allocated as Provisional Open Land (POL) 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 2018 (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). If a planning application does not accord with the development plan, then regard should be had as to whether there are other material considerations, including the NPPF, which indicate that planning permission should be granted. The Council are also at an advanced stage in the preparation and adoption of the Local Plan. The Local Plan - Kirklees Publication Draft Local Plan (PDLP) – was submitted for examination in April 2017.

Unitary Development Plan

- 10.2 Policy D5 of the UDP relates to POL land. This policy is considered to be up-to-date as it complies with the NPPF, in particular para 139 and, therefore, it is considered that it should be given full weight. Development of this site for housing would run contrary to policy D5 thus representing a departure from the Development Plan.

Emerging Safeguarded Land

- 10.3 In the Kirklees PDLP the site is designated as Safeguarded. The associated text contained within the PDLP – SD1, PLP6 states:

Areas identified as safeguarded land will be protected from development other than that which is necessary in relation to the operation of existing uses, change of use to alternative open land uses or temporary uses. All proposals must not prejudice the possibility of long term development on safeguarded land sites. The status of safeguarded land sites will only change through a review of the local plan.

- 10.4 Within the subtext to this policy and reflective of para139 of the NPPF, safeguarded land comprises areas between the urban area and the Green Belt, in order to meet long-term development needs stretching well beyond the plan period. It is considered that this policy anticipates development on safeguarded land at some time in the future, rather than having the overall purpose of seeking to restrict or prevent development indefinitely. Nevertheless, this policy is considered to carry substantial weight and the proposed development would be in clear contravention of this policy.
- 10.5 As part of the PDLP examination process a series of public hearings have taken place to discuss a variety of different issues, including the proposed site allocation. Following the hearing sessions the Inspector invited the Council to consult on a range of proposed modifications in order to make the Local Plan sound. The consultation period on these proposed modifications ended on 1st October 2018. Insofar as site specific modifications are concerned, the allocation associated with the application site is not subject to any modifications

and, therefore, the emerging designation – Safeguarded (ref – SL2163) – remains and will be carried forwards with the intention that it remains safeguarded in the adopted PDLP.

- 10.6 The emerging Safeguarded designation (SL2163) forms approximately 4.8ha of a larger 6.9ha land allocation which includes a further irregularly shaped piece of land joining the application site to the east and generally on the opposite side of Balderstone Hall Lane. It is against this larger allocation that the site has been rejected as a housing allocation by officers prior to the Examination in Public process (Kirklees Rejected Site Options Report – July 2017).
- 10.7 A number of objections were received to the proposed designation through the plan making process. Some of these objections highlight that the land should be protected from further development (green space or Green Belt) whilst others representations state that the land should be allocated for housing. However, given that the list of proposed modifications published by the Inspector did not advise that the current intended designation should be altered, there does not appear to be a compelling case to designate the site as anything other than Safeguarded. The NPPF is a Government statement of policy and is, therefore, considered an important material consideration especially in the event that there is an emerging Local Plan, as is the case here. This is reinforced in para 48 of the NPPF which guides that due weight should be given to relevant policies in emerging Local Plans having regard to the stage of the Local Plan, the extent to which there are unresolved objections, and the degree of consistency with policies in the NPPF. Consequently, it can only be concluded at this stage that significant weight should be attached to the Safeguarded PDLP designation on the basis of the advanced stage of preparation of the Local Plan, and the fact that objections to the Safeguarded designations have been heard through the public hearings..
- 10.8 There is clear support for housing proposals contained within the NPPF in order to *“boost significantly the supply of homes...”* (para 59). The same chapter then goes on to describe how local authorities should meet the full objectively assessed need for market and affordable housing. Officers are currently of the view that the Council are unable to demonstrate a 5 year supply of deliverable sites in accordance with the NPPF and NPPG. Based on the Objectively Assessed Need which has been used to inform the PDLP which is at an advanced stage of examination, the PDLP intends to assist in the delivery of at least 1730 homes per annum which is required in order to ensure a 5 year housing land supply. Following the Inspector’s recommended modifications to the Local Plan the Council will be able to demonstrate a housing land supply in excess of 5 years when it is adopted.
- 10.9 For the current application this has implications. 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 in the NPPF that protect areas of assets of particular importance provides a clear reason for refusing the development proposed; or

Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework when taken as a whole.

- 10.10 At the time of writing, the Council are unable to demonstrate a 5 year housing land supply as required by para 73 of the NPPF. Therefore, it is considered that the 'tilted balance' presumption in favour of sustainable development as advocated by para 11 of the NPPF applies in this case. This 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.

Prematurity

- 10.11 The NPPF provides guidance in relation to prematurity. Paragraph 49 states:

...arguments that an application is premature are unlikely to justify a refusal of planning permission other than in limited circumstances where both:

a. the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and

b. the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

- 10.12 The PDLP and supporting housing needs assessments demonstrate that the housing requirement over the plan period amounts to circa 31,000 units. The current proposal would amount to approximately 0.2% of housing needs over the plan period. The amount of housing proposed as part of this application, therefore, is not considered to meet the threshold required to demonstrate that the development is so substantial that it undermines the plan making process as it does not predetermine decisions about the scale or location of new development that are central to the PDLP. Furthermore, it is noted that the proposal does not comprise housing covering the whole of the emerging Safeguarded allocation. Whilst the PDLP is at an advanced stage, the proposed development would not undermine the plan making process. In addition, the provision of housing on this site would not appear to result in tangible harm to the local plan process and outcomes as a result of 'over-allocation'. There is no cap on housing numbers and the spirit of the NPPF is to promote housing development on appropriate sites. As its name suggests, safeguarded land is intended to safeguard land for potential future development and the provision of housing at this time would only serve to boost housing numbers.

Housing Land Supply and Emerging Local Plan technical considerations

- 10.13 In the PDLP the housing requirement is set at 31,140 homes from 2013 – 31 to meet identified needs, with 16,637 dwellings to be delivered during the five year period following the adoption of the Local Plan. This equates to 1730 homes per annum with additional arrangements set out in the NPPF to ensure continual delivery throughout the plan period.

10.14 Over a number of years there has been persistent under-delivery of new housing. However, the PDLP is predicated on achieving sufficient housing deliver and if it was to be adopted in its current form, the Council would be able to demonstrate a five year housing land supply.

10.15 As already stated, the proposed development comprises 61 dwellings and forms part of a larger POL site. As part of the Local Plan process, the prospect of allocating the whole allocation for housing was considered by officers but rejected. The rejected housing allocation comprised an indicative housing capacity of 241 dwellings. The supporting concluding text to this emerging allocation states the following:

Third party land required. Access can be achieved from an extension to the end of Woodward Court. However, the visibility splays at the junction of Woodward Court and Wellhouse Lane are sub-standard. The site frontage on to Hepworth Lane has sub-standard visibility splays and would require third party land to provide the standard 2.4 x 43m visibility splays. I would note that the width of Hepworth Lane is also substandard (4.5m wide) and not suitable for intensification of use. Balderstone Hall Lane is unsuitable

10.16 In addition the *Kirklees Rejected Site Options Report 2017* considered the allocation and concluded that there are technical constraints associated with the site, the most notable of which being highways and access. This is echoed in the *Accepted Site Options – Technical Appraisal – July 2017* which identifies:

This site is not deliverable or developable during the Local Plan period. There is a reasonable prospect that the constraints on this site could be overcome to allow the delivery of new homes beyond the end of the Local Plan period.

10.17 However, it is noted that the assessments carried out in relation to potential future allocations relate to significantly more dwellings and a larger site than the current application proposes.

Conclusion on Principle of Development

10.18 The site lies on POL land on the UDP and it is considered that accompanying policy D5 should be applied full weight. The site is allocated as Safeguarded in the PDLP to which significant weight should be attributed due to advance stage of the emerging Local Plan process. It is considered that the strict application of these policies would prevent improvement to the shortfall in the supply of housing at this particularly time and this should, therefore, be weighed against the significant lack of housing land supply and the contribution to housing numbers made by this application.

10.19 For the reasons identified above, the current POL allocation is not an automatic brake on development and this has been evidenced in recent years through appeal decisions. The emerging Safeguarded designation has increased in weight through the Local Plan process and now commands significant weight in determining this application. The proposed development would result in the loss of a large proportion of the emerging allocation, albeit that the number of dwellings proposed is significantly less than the indicative capacity of the allocation upon which the PDLP was considered. The Council cannot demonstrate a five year supply of deliverable sites. The 'tilted balance' as set out in para11 of the NPPF is engaged in this case and planning permission should be granted unless any adverse effects of doing so would significantly

and demonstrably outweigh the benefits when assessed against policies in the NPPF taken as a whole.

Urban Design issues

- 10.20 Chapter 12 of the NPPF states, amongst other things, that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 10.21 Policy BE1 of the UDP requires that all development should be of good quality design such that it contributes to a built environment. Policy BE2 states, amongst other matters, that new development should be designed so that it is in keeping with any surrounding development. Policy PLP24 of the PDLP requires that good design to be at the core of all planning decisions.
- 10.22 The site comprises a rectangular piece of open land which slopes gently up from south to north and sits on a slightly higher level than properties on Woodward Court and Hepworth Close. The proposed housing would sit against existing residential properties which lie to the west. The northern portion of the site is indented by a hedgerow which runs across the full width of the site; housing would lie to the south with an area of Public Open Space (POS) to the north which would wrap around the perimeter of the site, including a much larger area of POS close to the site entrance.
- 10.23 The land is open and has some value as a piece of open land. However, it is relatively featureless and there are few landscape elements of significant value apart from the prominent hedgerow within the site and a few trees along the boundary. There are Public Rights Of Way (PROW) which run round the perimeter but there is no public access within the site. Despite this, there is an informal non-designated footpath which runs from the south eastern corner of the site to the north eastern portion which demonstrates the site has been used for informal recreational purposes. Furthermore, the wider site appears to be used by local residents for activities including dog walking, this being observed on site visits by officers and by representations received. Nevertheless, the UDP acknowledges that POL sites were designated on the basis that they had less quality in terms of urban greenspace merits than those sites designated formally as urban greenspace. Moving forwards, as part of the PDLP, officers consider that the site has low value as open space and no scarcity value and a greenspace allocation could not be justified. Whilst this has been contested by some objectors as part of the Local Plan process, the proposed modifications to the Local Plan do not suggest that the land will be allocated as Green Space in the adopted Local Plan. Ultimately, its current POL allocation and emerging Safeguarded status serves to underline the fact that the site is not considered to be an intrinsic component of urban greenspace or the wider countryside but, rather, an urban and rural fringe parcel of open land acting as a Green Belt buffer.
- 10.24 It is considered that the proposal responds to the visually sensitive Green Belt which lies beyond the site generally to the north and east. The application includes a large swathe of POS along its edge which would soften the transition between the site and Green Belt to the east. This would also aid in reducing the visual impact of the proposed development for users of the surrounding public footpaths although, clearly, the housing would be readily visible for these

receptors. It is considered that the visual intrusion of the proposal would be relatively limited to the land closest to existing urban development.

- 10.25 Within the wider landscape the topography of the land serves to reduce and obscure views of the site from the wider Green Belt land to the north and north east. Views of the site from along Crossley Lane, which is representative of a middle distance view from the Green Belt, are limited by the intervening topography and vegetation. Any views of the proposal would not generally be against the skyline given the way the land falls away and towards the existing urban area. Overall, despite the fact that the proposed development comprises greenfield land and lies in the countryside, it is considered to comprise urban fringe being influenced by existing urban development towards the west and contained by rises in the landform on its open edges. The impact of the proposal on the wider landscape is not considered to be significant in this context.
- 10.26 In respect of the proposed layout, the scheme has generally been designed around a primary spine road which would run through the site, terminating at the southern edge of the site. When entering the site the presence of housing would not be immediately obvious as the first portion of the site is proposed POS with estate railing and trees in order to provide a 'green', softer entrance. The existing hedgerow would be largely retained thus obscuring views of the proposed housing from the site entrance. Within the layout a mix of planting and trees would ensure the green street principles were followed throughout the layout. It is recommended that final details are secured by condition.
- 10.27 Proposed house types would consist of a range of two storey units, both semi and detached. Some would have front projecting dormers and they would comprise a mix of hipped and pitched roofs. Materials proposed are indicative but the applicant suggests a mottled red brick with art stone detailing. Dwellings on Woodward Court are generally lighter, buff brick bungalows and two storey dwellings whilst those on Wellhouse Lane comprise red brick units. There are a number of split level red brick houses facing the site off Hepworth Close and within the older part of the settlement to the south east comprise more traditional stone units. The varied character and appearance of the local vernacular reinforces the acceptability of the design of the proposed development which would be in keeping. Details of final materials could be conditioned.
- 10.28 Parking is proposed in curtilage with front gardens being open. Corner plots would comprise sympathetic styled dwellings, boundary treatments and/or planting. The scheme incorporates large areas of shared surfacing in order to improve accessibility for pedestrians which would also improve the aesthetics of the development. There are extensive areas of hedge planting and trees within the layout and fronting most of the plots.
- 10.29 The layout includes a significant amount of POS which would generally be located on the edge of the site and on the higher slopes. This would appreciably reduce the impact of the proposed development on the wider Green Belt in that there would be a large buffer of open land in between the surrounding footpaths and countryside to the north, east and south.
- 10.30 The applicant has amended the scheme to address good design as advocated by Building for Life 12 (Design Council CABE – good practice). This includes creating a more welcoming entrance to the site through the use of appropriate

planting, boundary treatments, the orientation of dwellings and the reduction in large areas of hard surfacing fronting plots. The development would have a spacious feel incorporating 'green streets' and large area of open space and planting. In accordance with policy BE2 of the UDP the proposal would make a contribution to the existing built form and comprise a good standard of design in accordance with PLP24.

Public Open Space

- 10.31 As already detailed above, the provision of public open space makes up approximately 1.91 ha (10,910m²) of the site. This is well in excess of planning policy requirements which requires 1830m².
- 10.32 The extensive area of POS represents a significant opportunity for further betterment of the scheme. The proposed layout includes benches, gravel/crushed stone paths, additional areas of planting and footpath links. Overall the POS would form an important and component part of the overall design ethos which would improve the proposed residential environment for future occupiers and provide a more formal area of public open space for use by members of the public. The applicant has confirmed that they would be amenable to improving the public footpaths which run north to south on either boundary of the site. The POS proposal is supported by officers.
- 10.33 There is no play equipment proposed on site. Officers are satisfied with the proposed off-site lump sum in lieu of on-site equipped provision. This equates to £102,374.00 for improvements to the nearby Crossley Lane play area is requested and could be secured by S106 agreement. Crossley Lane play area is located approximately 220m from the site and is accessed directly via existing public footpaths which would be linked to the proposed area of POS. The monies would offer significant enhancement of the existing play area in terms of providing through ages play provision along with other improvements.
- 10.34 Overall it is not considered that the proposed development would compromise the character of the area. Whilst the site would be changed from open countryside to an expanse of housing which would be detrimental to openness and policy D5; harm to the wider landscape is limited by the topography of the site and the high standard of design which includes a POS buffer which would significantly soften the more sensitive site boundaries. Views of the site would be prominent from the footpaths surrounding the site but significantly less visible from mid distance. Overall there would be no overriding landscape harm arising as a result of the proposal and the intrinsic character of the wider countryside in this location would not be significantly harmed. The proposed development represents good quality design in accordance with UDP policies BE1, BE2 and emerging Local Plan policy PLP24.

Heritage

- 10.35 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty to have special regard to the desirability of preserving listed buildings or their settings. Policies BE1 and BE2 of the UDP focus on good quality design. Chapter 16 of the NPPF focuses on good design, chapter 16 relates to heritage assets. Policy PDLP55 reflects the NPPF in respect of heritage assets.

- 10.36 There are no heritage assets within the site boundary. However, situated to the east within approximately 40m is Balderstone Hall which is Grade II listed (built early to mid-18th Century, although there is some evidence to suggest it was built before this time). The hall includes an associated building group, each individually Grade II listed, which comprise a barn range to the rear of the hall, a barn to the south west and a garden wall, gate and gate piers. It is considered that the impact in this case would arise as a result of the urbanising element of the proposed housing which would affect the setting of the building and associated listings, especially given that the land on which the site is based is agricultural and a component part of the setting of Balderstone Hall which harks back to a time of more intensive agricultural use. The submitted archaeological assessment reinforces historic agricultural activities on this land along with small pockets of mining.
- 10.37 It is considered that the setting of the building forms part, although certainly not a fundamental element of, the significance of Balderstone Hall. Part of the historic setting comprising fields to the north and east, has already been eroded to an extent by more modern housing development.
- 10.38 Furthermore, the impact on the setting of the heritage assets in this case is restricted by the area of proposed POS which provides a wide buffer between the existing hall and proposed dwellings. In accordance with para190 of the NPPF, this serves to minimise conflict between the heritage asset's conservation and the proposal
- 10.39 As a number of objectors have commented, the application proposes an overall density of 12 dwellings per hectare which is significantly short of the aspiration set out in policy PLP7 of the PDLP of 35 dwellings per hectare. Given the location of the POS and the already reduced density of housing on the site, the conflict between the development and the nearest heritage asset is considered to have been appropriately mitigated in this case.
- 10.40 Considering the historical context and the details of the listing of Balderstone Hall and associated buildings, the principal elements of significance in terms of architectural and historic interest are considered to lie within their retained fabric with the surrounding agricultural setting also making a contribution to the setting of the assets. The historical agricultural context surrounding the listed building would not be wholly removed and would remain to the north and the south. It is therefore considered that the impact on the significance of the heritage asset would be less than substantial. Para196 of the NPPF states that where a proposal will lead to *less than substantial harm* to the significance of a designated heritage asset, such harm should be weighed against the public benefits of the proposal, including its optimum viable use. Para 193 of the NPPF states that when considering the impact of a proposal on the significance of a designated heritage asset, '*great weight*' should be given to the asset's conservation.
- 10.41 In respect of archaeology, the applicant carried out a geophysical survey with additional trial trenching which evidences archaeological activity on the site in the form of several enclosures, possible enclosures and a probable trackway. In summary, the assessments discovered several backfilled mining features and a series of ditches likely to comprise earlier field boundaries (possibly of a late medieval strip system). The assessment also discovered four small pits of prehistoric origin containing evidence of in-situ burning along with pottery from the Bronze Age. These remains have been assessed and West Yorkshire

Archaeological Advisory Service have also assessed the proposals. Comments from West Yorkshire Archaeological Advisory Service will be reported as an update.

- 10.42 The proposed development would particularly affect the setting of a group of Grade II listed buildings and structures. The 'less than substantial harm' to the heritage assets should be given great weight which accords with its relative importance as a heritage asset. Consequently, there is a requirement for public benefits to be demonstrated in accordance with para 196 of the NPPF. In this case the proposal would provide a high quality designed housing development which would deliver new open market homes and policy compliant levels of affordable housing at a time when the Council are unable to demonstrate a 5 year housing land supply. There would be a combination of direct and indirect economic benefits resulting. In this case these public benefits are considered to outweigh the less than substantial harm to the heritage assets in compliance with para 196 of the NPPF.

Highway issues

- 10.43 Policy T10 of the Kirklees UDP states that new development will not normally be permitted if it will create or materially add to highway safety issues. Policy PLP21 of the PDLP aims to ensure that new developments do not materially add to existing highway problems or undermine the safety of all users of the network.

Para 108 of the NPPF states:

In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;

b) safe and suitable access to the site can be achieved for all users; and

c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

This is followed by para 110 of the NPPF which states:

Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 10.44 The application has been accompanied by a Transport Statement which has been assessed by Highways DM. It is noted that the scheme has been met with a considerable number of objections and consequently the application has been considered in detail in light of the concerns raised by interested parties. An initial assessment by Highways DM raised concerns with the submitted information in terms of trip information, clarification over junction visibility, a range of issues concerning the internal layout and the fact that no Stage 1 Road Safety Audit had been submitted. The applicant subsequently provided additional information which formed part of a re-consultation exercise, along with additional amendments to the layout to facilitate sufficient parking.

Existing highway network

10.45 Woodward Court comprises a traditional estate road cul-de-sac serving approximately 14 dwellings. From its junction with Wellhouse Lane there are 3 vehicular routes connecting with the wider highway network:

- Wellhouse Lane (two-way northbound) to Greenside Road via Jenny Lane;
- Wellhouse Lane (two-way southbound) to Flash Lane; and
- Hepworth Lane (one-way Flash Lane/Shillbank Lane to Wellhouse Lane).

10.46 Wellhouse Lane southbound allows is two-way vehicular with exception of its section between its junction with Hepworth Lane and Flash Lane where the road is narrow with a low kerbed narrow footway and two way vehicular flows are difficult to achieve along its full length. Vehicle queuing and overrunning of the footway is frequent.

10.47 Including side roads bounded by Crossley Lane and Greenside Road, these roads which are subject to a 30mph speed limit serve approximately 350 properties and Crossley Fields Junior School.

Impact on the Highway Network

10.48 Recorded vehicular flows over 7 days on Wellhouse Lane approximately 30m south of its junction with Woodward Court has been provided by the applicant with data collected between 30/11/2016 and 06/12/2016. A detailed response to the application provided by 'Save Mirfield' in objection to the scheme also included a report considering transport related matters. This document included recorded data collected between 03/12/2017 and 09/12/2017. Both data showing existing flows is tabulated as follows and has been taken between 0800 and 0900 when peak existing flows would coincide with highest proposed development traffic flows:

Location of Count: Wellhouse Lane approx. 30m south of Woodward Court							
Andrew Moseley Associates (Applicant)				Northern Transport Planning (Save Mirfield)			
Data collected 30/11/16 to 06/12/16				Data collected 03/12/17 to 09/12/18			
0800 to 0900hrs	North Direction	South Direction	Total	0800 to 0900hrs	North Direction	South Direction	Total
Mon: 04/12/16	118	72	190	Mon: 04/12/17	101	94	195
Tues: 05/12/16	114	82	196	Tues: 05/12/17	101	103	204
Wed: 30/11/16	111	64	175	Wed: 06/12/17	104	95	199
Thurs: 01/12/16	138	64	202	Thurs: 07/12/17	90	116	206
Fri: 02/12/16	134	66	200	Fri: 08/12/17	91	98	189
Average	123	68	193	Average	97	101	199

10.49 An additional count was undertaken on Wellhouse Lane by the applicant approximately 40m north of Woodward Court and this showed an average of 75 daily trips in a southerly direction and 108 daily trips in a northerly direction between 30/11/2016 and 06/12/2016 (between 0800 and 0900).

10.50 So as to ensure a robust approach, Highways DM requested that the applicant consider 0.7 trips per dwelling in the AM and PM peak hours. On this basis, the proposed development is anticipated to generate 43 trips during the weekday peak hour, with 22 trips forecast as an hourly daily generation.

10.51 Focusing on the 'am' peak hour when the development trips are at their highest together with the school start times, applying a trip rate of 0.7 x 61 dwellings equates a forecast development generation of 43 two way vehicular movements. Highways DM consider that during the AM peak, 70% of vehicles would be leaving the site and 13 vehicles would be arriving. In terms of the forecast development trip distribution onto Wellhouse Lane from/to Woodward Court, the applicant forecasts 56% of traffic would use the northern link of Wellhouse Lane and 44% would use the southern link.

10.52 Based on the applicant's submission, Highways DM consider that the proposed development vehicle trip generation would be distributed as follows between 0800 and 0900:

Development Vehicle Trip Generation and Distribution (0800 – 0900hrs: 43 Vehicle Trips)							
0800 – 0900hrs (60 minutes)	Arr	Dep	Total	0830 – 0900hrs (30 minutes)	Arr	Dep	Total
Woodward Crt	13	30	43	Woodward Crt	7	15	22
Wellhouse Lane Nth Link (56%)	7	17	24	Wellhouse Lane Nth Link (56%)	4	8	12
Wellhouse Lane Sth Link (44%)	6	13	19	Wellhouse Lane Sth Link (44%)	3	7	10
Jenny Lane (56%)	7	17	24	Jenny Lane (56%)	4	8	12
Flash Lane (44%)	5	13	18	Flash Lane (44%)	3	6	9
Hepworth Lane (13%)	1	n/a	1	Hepworth Lane (13%)	1	n/a	1

10.53 Given the busy nature of the highway network with both pedestrian and vehicular movements within the 'am' peak hour, Highways DM acknowledge that the movement vehicle trip profile is unlikely to be evenly spread throughout the hour with residents of the proposed development in main avoiding the spike within the peak circa 0830 to 0900. As such, viewing the forecast development traffic in its simplest form with an even profile would equate to 22 two-way movements between 0830hrs and 0900hrs, 15 vehicles leaving, and 7 arriving. As such, viewing the forecast development traffic in its simplest form with an even profile would equate to 22 two-way movements between 0830 and 0900,

15 vehicles leaving, and 7 arriving. Bearing in mind the comments above, the number of vehicular trips is likely to be lower.

Highway Safety – Visibility

- 10.54 Visibility concerns relate to the proposed junction of Woodward Court where it meets Wellhouse Lane. Several speed readings have been provided within the applicant's Transport Statement and by Northern Transport Planning (on behalf of 'Save Mirfield').
- 10.55 In terms of visibility requirements in both directions, Highways DM have based their assessment on 85th percentile wet weather speed readings (the speed at which 85% of traffic will be travelling at during wet weather) and the speed readings evidence a speed of 25.4mph southbound (meaning 2.4m x 34m visibility required north of Woodward Court) and 29.7mph northbound (meaning 2.4m x 42.3m visibility required south of Woodward Court).
- 10.56 Based on these speed readings Highways DM consider that visibility from Woodward Court along Wellhouse Lane to the north can be achieved. However, due to the alignment of the highway of Wellhouse Lane to the south, only 2.4m x 30m to the nearest kerb line can be achieved which is a shortfall of 12.3m.
- 10.57 As mitigation, the applicant is proposing a localised traffic calming scheme along Wellhouse Lane with a junction plateau being provided at the Wellhouse Lane / Woodward Court junction and two speed humps, one located to the north and south of the junction. The revised traffic calming proposals have been provided by the applicant. The revised hump's final location and design would be appropriately addressed at detailed design stage to the satisfaction of the Local Highway Authority adopting the works.
- 10.58 In terms of effectiveness, Department for Transport Research indicates that relative to the location of proposed southern speed hump and the Woodward Court junction 85 percentile vehicular speeds should be brought down to between 23 and 24mph, with the higher speed requiring a visibility splay of 31.4m. Vehicular speeds should be brought down to between 23 and 24mph, this equates to requiring visibility splays of 29.8m and 31.4m. Given that Highways DM accept that the extent of the visibility splay can be projected to the nearside vehicle track into the carriageway, it is considered that acceptable visibility can be provided.
- 10.59 A Stage 1 Road Safety Audit has been carried out by an independent consultant commissioned by the applicant with a recommendation to remove the junction plateau from the design and provide an additional speed hump to the north of the junction. This has been investigated further by the applicant and by Highways DM and it is considered that the junction plateau should remain as proposed to aid pedestrian movement at the junction of Woodward Court, in particular at busy school periods.
- 10.60 During school pick up and drop off time on-street parking occurs along the south of Woodward Court along Wellhouse Lane with on-site observations by the Councils Highway Safety section that vehicles occasionally park on the western side of Wellhouse Lane. The above mitigation would ensure that vehicles travelling along Wellhouse Lane towards the junction are travelling on the

correct side of the road not having to overtake any parked vehicles and in the sightlines of traffic emerging from the junction of Woodward Court.

- 10.61 To manage this situation waiting restrictions are proposed along the western side to ensure that vehicles travelling along Wellhouse Lane towards the junction are travelling on the correct side of the road not having to overtake any parked vehicles and being partially obscured from drivers emerging from the junction of Woodward Court.
- 10.62 It is noted that there are further traffic movements and parking associated with the cricket pitch and church on Sunday morning and weekday evenings, the proposed waiting restriction at the junction of Wellhouse Lane/Woodward Court and the development traffic are not expected to exasperate the existing situation.

Accident Data

- 10.63 Recorded injury from accidents over the past 5 years are summarised in the following table:

Recorded injury accidents between 01st Feb 2013 and 31st Jan 2018		
No.		Severity
Woodward Court J/W Wellhouse Lane:	0	n/a
Wellhouse Lane (northern link):	0	n/a
Jenny Lane inc. J/W Greenside Road:	0	n/a
Wellhouse Lane (southern link):	0	n/a
Wellhouse Lane J/W Flash Lane	0	n/a
Hepworth Lane J/W Wellhouse Lane	0	n/a
Hepworth Lane link:	0	n/a
Hepworth Lane J/W Flash Lane:	2	Slight

Parking

- 10.64 The internal layout would be an extension of Woodward Court with footways being provided along the spine road giving access to shared surfaces within the layout. The applicant proposes sufficient in-curtilage and visitor parking in accordance with the UDP. Highways DM would wish to see the proposed cul-de-sacs 'looped' to aid with refuse collection. However, the applicant has not amended the scheme to reflect the requested changes and given that the cul-de-sacs are relatively short and have sufficient turning areas, the absence of

'loops' is not fundamental to a scheme which is otherwise compliant in terms of design and layout.

Highway safety and access

- 10.65 It is recognised that there are periods of parking stress along Woodward Court from which access to the application site would be taken. However, this is concentrated around a relatively short period of time during the AM and PM school peak. There are no records of accidents within the immediate vicinity of Woodward Court.
- 10.66 The proposed development includes sufficient off-street parking and there is no reason why it would add to on-street parking given the development itself is within easy walking distance of the school. Taking into account the relatively modest amount of peak hour and daily development traffic being distributed onto the highway network and recognising the local highway constraints together with the busy periods associated with the local school; Highways DM considers that on balance and subject to the proposed mitigation measures, which include a raised plateau and other traffic calming measures, it would be difficult to substantiate that the proposal would have a severe cumulative impact on highway efficiency and safety. The development is considered to accord with para's 108 and 109 of the NPPF, UDP policy T10 and PLP21 of the PDLP subject to the imposition of appropriate planning conditions.

Accessibility

- 10.67 Four bus stops are located within 400m of the site, all of which are accessible by foot. There are buses running to Leeds, Bradford and Dewsbury at least every hour with more regular services to Mirfield.
- 10.68 Mirfield station is located 2.4km to the south of the site which is in excess of the recommended walking distance, although it is easily accessible by bus or cycle.
- 10.69 There are a wide range of services within 2km of the site. It is accepted that services within Mirfield Town centre are likely to be an excessive distance for easy walking. However, there are non-car options to access facilities. The site lies adjacent to an extensive urban area. It is considered to be sufficiently accessible by sustainable transport means.

Drainage Issues

- 10.70 Para 155 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. On the basis that the site lies in Flood Zone 1 (lowest risk of flooding from rivers or the sea), a sequential test is not required in this case.
- 10.71 The submitted Flood Risk Assessment (FRA) considers the risk of flooding from various sources including rivers, groundwater, artificial sources and surface water.

- 10.72 The National Planning Practice Guidance (NPPG) states that the aim of a drainage scheme should be to discharge run-off as high up the hierarchy as practicable:
- 1 – into the ground (infiltration)
 - 2 – to a surface water body
 - 3 – to a surface water sewer, highway drain, or another drainage system
 - 4 – to a combined sewer
- 10.73 The drainage scheme is predicated on the basis of initial infiltration testing carried out by the applicant which suggests that infiltration rates are moderately good to good. The hydrogeological conceptual model for the site shows that surface water currently infiltrates to the Falhouse Sandstone layer which is likely to form a shallow groundwater system that issues to the south east of the site and outfalls into Canker Dyke. The information submitted with the application and assessed by the Lead Local Flood Authority (LLFA) suggests that the site would be suitable for soakaways, subject to planning conditions requiring the submission of additional detail/testing.
- 10.74 In isolation the use of soakaways represents a viable and sustainable means of draining the site. Water from the site currently soaks into the soil and into the existing groundwater system. The development would alter the current situation by concentrating the soakaways at a number of locations, rather than water infiltrating across the whole site. Therefore, the proposed development would not alter the underground water flows. However, as stated in the 'Coal Mining Legacy' section of this report, the site has been the subject of significant investigation and the Coal Authority recommend additional mine investigation and remedial works to the identified mine entries. As the applicant suggests, this is likely to involve grouting which the applicant states is intended to stabilise the shaft backfill and any localised workings in close proximity to the mine entries. They do not consider significant grouting beyond the entries is likely so permeability of the ground away from the mine entries should not be affected by shaft treatment.
- 10.75 In addition, the identified workings appear to lie 15m below ground level and the soakaway waters would intercept the water table which the applicant estimates is likely in excess of 4m. Therefore, the applicant concludes that any grouting would not affect the performance of the soakaways or the water table as this lies at a much lower level than the proposed drainage soakaways.
- 10.76 Due to uncertainty relating to coal mining risks, particularly in the early stages of the planning application, the applicant produced a fall-back proposal which showed that drainage to the existing Yorkshire Water infrastructure off-site would be feasible with an attenuation tank on-site. The LLFA also assessed this proposal and are satisfied it is feasible, subject to agreement with Yorkshire Water.
- 10.77 Whilst the evidence in support of this application and consultation responses strongly suggest that soakaways would be feasible on this site, and they are supported by the drainage hierarchy in terms of sustainable drainage principles, a planning condition is recommended requiring soakaway design details which would be partly informed by the additional coal mining investigations (also required by condition). In the unlikely event that soakaways are unfeasible a condition is recommended requiring full details of a fall-back plan which would be based on a connection to the existing drainage infrastructure.

10.78 Due to the topography of the site, where levels generally fall to the south west corner of the site, an earth landscape bund is proposed to prevent overland flow discharging to Hepworth Lane. The LLFA are satisfied that this would prevent flooding of properties during periods of intense rainfall and a condition is recommended in this respect. Overall the proposal is considered to represent a sustainable means of draining the site in accordance with policy PLP28 of the PDLP and the NPPF.

Residential Amenity

10.79 Para 123 of the NPPF indicates that planning policies and decisions should aim to:

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through use of conditions.

10.80 Policy BE12 of the UDP provides guidance on appropriate separate distances for dwellings. PLP24 of the PDLP requires developments to provide a high standard of amenity for future and neighbouring occupiers.

10.81 The nearest residential properties lie to the west of the site. The applicant has submitted a cross section which demonstrates that proposed dwellings would be sited approximately 3m above existing dwellings. The proposed layout demonstrates that proposed gardens would be at least 20m in length and at least 28m from existing dwellings (and in some cases in excess of 30m). In all cases the proposed development is considered to be well in excess of UDP spacing standards and in compliance with policy BE12 and PLP24 of the PDLP. This would ensure no unacceptable levels of overlooking, overshadowing or overbearing impact.

Ecology

10.82 UDP policy EP11 requires that application incorporate landscaping which protects/enhances the ecology of the site. Emerging Local Plan policy PLP30 states that the Council will seek to protect and enhance the biodiversity and geodiversity of Kirklees, including the range of international, national and locally designated wildlife and geological sites, habitats and species of principal importance and the Kirklees Wildlife Habitat Network.

10.83 The site does not lie within the Kirklees Wildlife Habitat Network nor is it within any other wildlife/habitat designation. The majority of the site comprises species poor semi-improved neutral grassland. There is an existing hedgerow through the site which is species poor although to be largely retained. The applicant considers that new, species rich neutral grassland could be created in the areas of public open space. There are many opportunities for native tree planting. Bird and bat boxes could be incorporated into the development.

10.84 The proposed development includes an indicative layout detailing habitat enhancement within areas of public open space. The application has been assessed by the Council's Biodiversity Officer and no objections have been raised subject to the imposition of appropriate planning conditions.

Coal Mining Legacy

- 10.85 The site lies in a High Risk Area Coal Referral Area. Consequently, the application has been accompanied by a Coal Mining Risk Assessment which has been assessed by the Coal Authority. Initially the Coal Authority raised concerns with the submitted report and assessment. The applicant subsequently considered the response from the Coal Authority and carried out further investigation works.
- 10.86 The local geology at the site is based on site investigation data comprising geotechnical and geological data taken between 2013 and 2017. The submitted assessment included 19 trail pits, 19 rotary probe holes, 8 shallow ground gas/ground water monitoring probe holes and British Geological Survey records.
- 10.87 Following the initial comments by the Coal Authority the applicant submitted a Coal Mining Features Report which essentially considered shallow ground investigations of the 7 suspected mining features which were highlighted by the applicant. The submitted report also indicated the possibility of other bell pits across the site and highlighted that consideration should be given to a geophysical survey. Following a review by the Coal Authority, it was recommended that a more detailed intrusive site investigation be carried out in order to establish whether more of the mining features were present within the site boundaries. They also commented that the intrusive site investigations should inform the remedial measures required and should guide the layout of the development.
- 10.88 Following comments from the Coal Authority the applicant carried out an extensive strip of soils on the site which was subsequently investigated and accompanied by a report. The report highlighted further suspected mine entries within the site in addition to the 7 previously identified meaning that a total of 12 entries have been identified. This includes:
- *3 mine entries within POS to the southeast of the new development*
 - *3 mine entries within POS to the north of the new development*
 - *6 mine entries within the area of the new development.*
- 10.89 The layout of the scheme has been amended to take into account the extensive site investigation and the Coal Authority are now satisfied that adequate separation is proposed between the features and proposed dwellings. Furthermore, the Coal Authority have stated that they are satisfied with the site investigations which have been carried out and recommend the imposition of a planning condition requiring additional site investigation (which includes ascertaining the depth and specifications of identified workings) and remedial measures.
- 10.90 The applicant considers that the mine entries affected by the development would be at a shallow depth, many of which comprise bell pits. Therefore, they propose that a number of the mine entries be capped and grouted, details of which would be required via the recommended planning condition by the Coal Authority and further permissions from the Coal Authority under separate legislation.

- 10.91 On the basis of the above it is considered that the applicant has undertaken extensive site investigation which has culminated in information sufficient to demonstrate the current ground conditions and coal mining legacy. It is considered necessary to ensure that any appropriate further investigation and remediation works are secured via a planning condition in order to accord with para's 178 and 179 of the NPPF.

Land Contamination

- 10.92 The application is accompanied by Contaminated Land Reports demonstrate findings that the site is uncontaminated. A condition is recommended concerning reporting of unexpected contamination. This is in accordance with the requirements of Chapter 15 of the NPPF, policy G6 of the UDP and PLP 53 of the PDLF.

Air Quality

- 10.93 PDLF policies 20 and 47 encourage schemes which offer to reduce air quality impacts. Given the scale of the development, 1 electric vehicle charging point shall be installed for each dwelling. There is also a requirement for a Travel Plan.
- 10.94 As such, a condition is recommended to this effect, in accordance with the aims of para 181 of the NPPF and the guidance of the West Yorkshire Low Emissions Strategy. To some extent this will help offset any impacts relating to private car use to the services which are not within easy walking distance, in accordance with PLP20 of the PDLF.

Construction Impacts

- 10.95 A condition is recommended concerning a construction method statement identifying measures to reduce the impact of noise and disturbance to existing residents.

Infrastructure (Health Services)

- 10.96 There is no policy or supplementary planning guidance requiring a proposed development to contribute specifically to local health services. However, PLP49 of the PDLF identifies Educational and Health impacts as an important consideration. Additionally, PDLF policy PLP4 Providing Infrastructure requires developments to provide new infrastructure, where it is needed, in line with the appropriate phase of development. PLP5 Masterplanning Sites also requires that health facilities should be incorporated (proportionate to the scale of development), where required.
- 10.97 As part of the development of the Local Plan evidence base, an ongoing infrastructure planning process has considered the impact of future growth on health infrastructure, summarised in the Infrastructure Delivery Plan (IDP) 2015 and IDP Addendum 2016. This is an on-going process and will be monitored and updated alongside the Local Plan. It acknowledges that funding for GP provision is based on the number of patients registered at a particular practice and is also weighted based on levels of deprivation and aging population, with direct funding provided by the NHS for GP practices / health centres based on an increase in registrations.

10.98 There is no policy basis on which to seek a contribution to health services at this time.

Planning Obligations

10.100 In accordance with para 56 of the NPPF planning obligations should only be sought where they meet the following three tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

Education Provision

10.101 Para 94 of the NPPF states that great weight should be given to the need to create, expand or alters schools. In line with the requirements for 'Providing for Education Needs Generated by New Housing' (KMC Policy Guidance), the proposed development attracts a contribution towards additional school places. In order to address the additional pressure on local schools, the Council Education section requires the following contribution:

Total of £212,858 comprising £68,366 to Crossley Fields Junior and Infant School and £144,492 to The Mirfield Free Grammar School.

Public Open Space

10.102 Policy H18 of the UDP requires 30sqm of Public Open Space per dwelling on development sites in excess of 0.4 hectares. The site would provide over 1ha of POS. The provision of POS would be secured by S106 agreement along with ongoing maintenance. A contribution of £102,374.00 is also required for improvements to the nearby Crossley Lane play area as an off-site play area contribution.

10.103 It is also noted that the site lies on the edge of an existing settlement and there are footpaths and routes into the open countryside. The applicant has confirmed that they would be willing to improve the footpaths to the north and south (one of which lies adjacent to the school). A condition is recommended concerning this matter. In accordance with para 92 of the NPPF, the scheme provides access to high quality open spaces which can make an important contribution to the health and well-being of communities.

Affordable Housing

10.104 The Council's Interim Affordable Housing Policy requires that 20% of units are secured as affordable housing. The applicant has offered 12 affordable units on-site which is fully policy compliant. The Council would wish to see 6 affordable rent and 6 intermediate units. This could be incorporated into a S106 agreement.

Transport

10.105 A contribution of £30,195 is required for the provision of metro cards in the interests of sustainable transport options for future occupiers in accordance with PDL20.

11.0 Planning Balance

- 11.1 The application site lies on an area of land allocated as Provisional Open Land (POL) on the UDP. The emerging Safeguarded designation now carries significant weight in the decision making process and against this policy the provision of housing is not in accordance. However, it is not considered that approval of this application would amount to pre-determining decisions about the scale, location or phasing of new development that are central to the emerging Local Plan. The provision of housing on this site would assist with housing delivery at a time of persistent undersupply.
- 11.2 It is inevitable that development on any greenfield site would mean a loss of landscape quality because there would be buildings in place of open land which represents a negative aspect of the proposal. The impact on local views such as some of the surrounding footpaths would be unavoidable. However, the scheme has been designed so as to ensure that the impact on the Green Belt is reduced through the positioning and appearance of the dwellings which would be set back within the site; there is a substantial buffer of landscaping POS which would contain the development and reduce inward views from the surrounding Green Belt. This, coupled with the location and scale of the proposal, means there would be no overriding harmful landscape and visual harm. The scheme is considered to represent a good standard of design.
- 11.3 The application has been carefully considered in light of highways concerns. Traffic impacts are not considered to be significant during most of the day. During the AM and PM peaks, particularly 0800 to 0900 during weekdays, the amount of traffic generated by the proposal is not considered to constitute a severe cumulative impact on highway efficiency and safety. The amount of development proposed in this case constitutes an overall acceptable highway impact.
- 11.4 The harm to heritage assets in this case is considered to be less than substantial. The increase in housing supply, by way of a well-designed scheme with policy compliant affordable housing and a large area of POS, at a time when the Council are unable to ensure a five year supply, is a significant positive and constitutes public benefits outweighing the less than substantial harm in accordance with para 134 of the NPPF.
- 11.5 Having regard to the above, the 61 proposed dwellings is considered to represent a quantum which respects the identified constraints. In this case therefore a lower density of development is considered acceptable.
- 11.6 There would be no unacceptable harm in relation to drainage/flood risk, living conditions and ecology, subject to the conditions proposed. Coal mining risks can be mitigated through the imposition of appropriate planning conditions. Infrastructure provision would be dealt with by a S106 Agreement where the scheme is fully compliant with policy requirements.
- 11.7 In conclusion, the tilted balance in favour of sustainable development as advocated by para 11 of the NPPF is engaged in this case because the Council are unable to demonstrate a 5 year housing land supply. On the one hand, there is harm to the heritage assets (less than substantial) and relatively minimal harm to the character and appearance of the area due to the loss of a greenfield POL site. There is conflict with policy D5 of the UDP with additional, albeit lesser weight applied to, the conflict with the emerging Safeguarded designation. There are highways impacts which are concentrated around the school start and finish times, but the proposed development would not lead to

severe impacts on highway efficiency nor would safety impacts be unacceptable. Significant benefits would arise from the proposed housing due to the number of dwellings proposed at a time of shortage and the proposed affordable housing element. There are further benefits provided through the significant area of POS which is well in excess of the Council's policy requirements and associated landscaping/biodiversity gains. In this case the planning balance lies in favour of the development as there are no adverse impacts in granting planning permission which would significantly and demonstrably outweigh the benefits. The proposal is considered to represent sustainable development.

12.0 Grant subject to S106 Agreement and CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Strategic Investment)

1. 3 years
2. Approved Plans
3. Materials
4. PD rights
5. Drainage soakaways including testing
6. Surface water drainage scheme to be submitted following testing
7. Temporary Drainage
8. Flood Routing
9. Coal mining entry investigations and mitigation
10. Highways conditions including highways improvements
11. Tree protection
12. Landscaping
13. Habitat enhancement
14. Electric charging points
15. Construction management plan
16. Finished levels
17. Report unexpected contamination
18. Overland flow routing scheme
19. Scheme for adoptable roads
20. No removal of trees/hedgerows during bird nesting season
21. Details of improvements to off-site public footpaths
22. Road and path surfacing details
23. Construction management plan

Background Papers:

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f93935>

Certificate of Ownership – Notice served on/ or Certificate A signed: Certificate B
notice served on P Dews