
Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 01-Nov-2018

Subject: Planning Application 2016/91573 Demolition of existing redundant mill buildings and erection of 55 dwellings with associated parking and access from Manchester Road Cellars Clough Mill, Manchester Road, Marsden, Huddersfield, HD7 6LY

APPLICANT

John Mercer, Cellars
Clough Properties Limited

DATE VALID

10-Aug-2016

TARGET DATE

09-Nov-2016

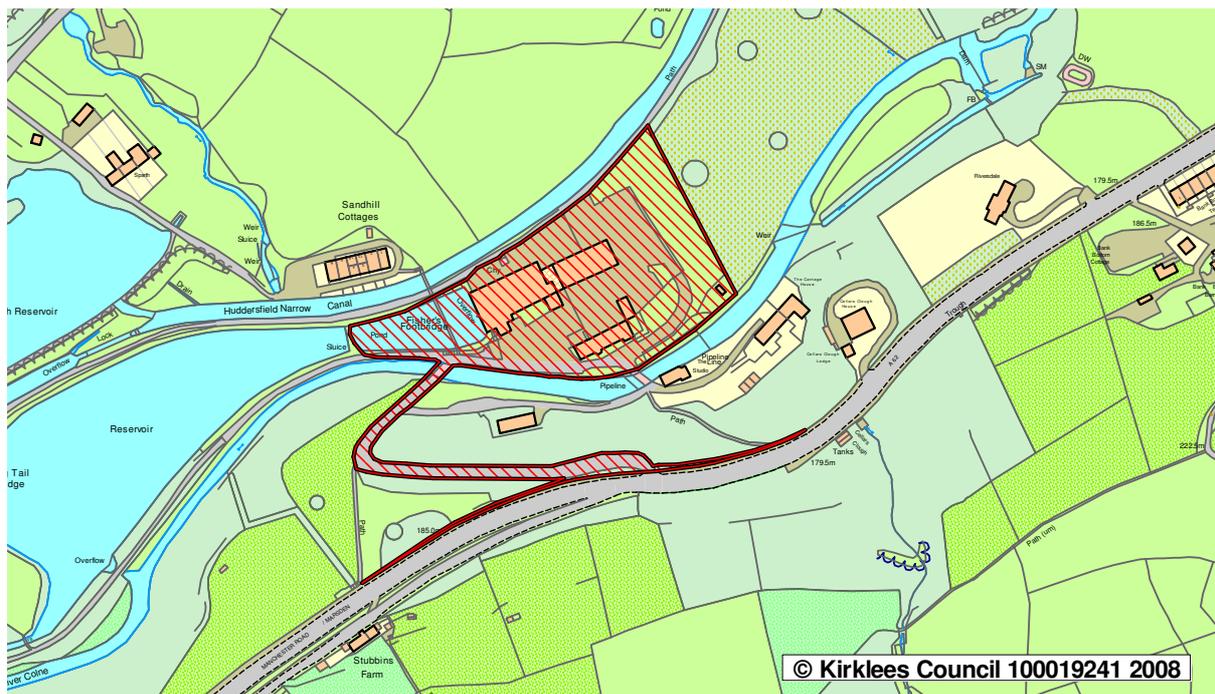
EXTENSION EXPIRY DATE

31-May-2017

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: Colne Valley

Yes

Ward Members consulted

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:

1. Public Open Space provision on site, off site commuted sum (£82, 969.00) and details of private management company to maintain and manage on site POS
2. Education contributions (£130,967.00)
3. Affordable housing on site (11 dwellings with a tenure split to be agreed in accordance with Council Policy)
4. Maintenance and management of SUDs, associated drainage infrastructure and mill pond through a private management company
5. Contribution of £26,468.75 towards the provision of a bus shelter and its maintenance at bus stop no. 19375

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 brought to Sub Committee as the site exceeds 0.5h and the proposals seek permission for the erection of 55 dwellings (apartment blocks and dwellings) with associated parking, following complete demolition of the remaining derelict redundant mill building.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site relates to the site accommodating a redundant derelict part collapsed stone mill building with associated areas of hard standing. The River Colne runs parallel to the southern boundary with areas of woodland between the application red line and Manchester Road. To the north, Huddersfield narrow canal and towpath runs parallel to and beyond the northern boundary. East of the site is a further wooded area. Beyond these areas to the north and east lies open countryside with a short row of residential properties north west of the site. West of the redundant mill building are the former mill ponds which once served the mill. These are split into two distinct areas.
- 2.2 The site itself is fairly flat with access to the site from Manchester Road, down a steep access road leading to a steel bridge over the River Colne. This also carries the route of the public footpath nos. 1181/50 and 181/100. A further footbridge which carries the public footpath no. 181/70 crosses over the former mill ponds. The site lies between Slaithwaite and Marsden.

3.0 PROPOSAL:

- 3.1 The proposals are for the total demolition of the remaining redundant mill building and erection of 55 residential units. These would comprise of 2no. five storey high apartment blocks (plots 1-38) to be sited adjacent to the northern boundary, one detached dwelling (plot 39) and 4 short rows of terraces (plots 40-55) to be sited parallel to the southern boundary. Associated open landscaped areas would be provided to the northern part of the site and centrally within the site, along with a circulatory access road to be serve the whole of the development site. Parking areas are to be provided to the front of the dwellings, undercroft to the apartments and a further visitor and allocated resident parking within the north east corner of the site.
- 3.2 The proposals would include an upgraded access road and works to improve the junction of the access with Manchester Road by providing a new right turn lane. The associated highway works would involve the existing access road and the proposed internal road to be made to adoptable standards, although these are not to be formally adopted. A 1.8m wide footpath would also be provided along the bottom side of the existing access road with the addition of a new passing place and relocation of the existing steps, to the footbridge over the mill ponds. The provision of two pedestrian islands will also be provided within Manchester Road in close proximity of the access.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2006/92095 – application for conversion of mills and new building to form 168 residential units – withdrawn.

2007/93456 – full planning application for the demolition of ancillary mill structures and conversion of main mill buildings to provide 110 residential flats and 9 live / work units, together with communal facilities in the form of a gym, swimming pool, shop, meeting room, bike store and launderette – approved

2011/91795 – extension to time limit to implement existing permission 2007/93456.

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

- 5.1 The agent was advised at the outset that due to previous permissions, the principle of redeveloping this site for residential development is supported. Negotiations have been on going through the course of the application, to address a number of both technical and design issues. This has resulted in a number of revisions to both the plans and accompanying reports/information.

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 The site is in the Green Belt on the UDP Proposals Map and would remain so in the Kirklees Publication Draft Local Plan. Woodland areas to the south and east shown within the blue line form part of the Wildlife Habitat Network on the PDLP. The application site is traversed by a number of public footpaths. Sites of Science Interest lie immediately to the north east and north west of the application site.
- 6.3 Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

BE1- good quality design

BE2 – materials, scale, layout & landscape

NE3 – development proposals affecting SSIs

NE5 – development affecting wildlife corridors

NE6 – sites containing water areas should be subject to legal agreement

BE2 – design of new development

BE12 - space about buildings standards

H10 - affordable housing provision

H18 - provision of public open space on sites over 0.4 hectares

B1 - meeting the employment needs of the district

B4 - proposals involving the change of use of industrial / business land / buildings

G6 - development having regard to contamination

R13 – proposals affecting PROW's and its users

R18 – proposals adjacent to canals and rivers

T10 - highway safety considerations

T16 – provision of safe, convenient and pleasant pedestrian routes within developments

T19 - off-street parking standards

6.4 Kirklees Publication Draft Local Plan (PDLP)

PLP 1 – Achieving sustainable development

PLP 2 – Place shaping

PLP 3 – Location of new development

PLP11- Housing mix & affordable housing

PLP 20 - Sustainable travel

PLP 21 – Highway Safety and access

PLP23 - Core walking and cycling network

PLP 24 – Design

PLP27 – Flood risk

PLP28 – Drainage

PLP29- management of water bodies

PLP 30 – Biodiversity

PLP 31 – Strategic green infrastructure network

PLP 32 – Landscape

PLP 51 – Protection and improvement of local air quality

PLP 53 – contaminated and unstable land

PLP 59 – infilling and redevelopment of brownfield sites

PLP 63 - New Open Space

6.5 National Planning Guidance:

Chapter 2 – achieving sustainable development

Chapter 5 – delivering a sufficient supply of homes

Chapter 8 - Promoting healthy communities

Chapter 9- Promoting sustainable transport

Chapter 12 – Achieving well-designed places

Chapter 13 – Protecting Green Belt Land

Chapter 14 - Meeting the challenge of climate change, flooding and coastal change

Chapter 15- Conserving and enhancing the natural environment

Chapter 16 – conserving and enhancing the historic environment

6.6 Supplementary Planning Guidance / Documents:

K.C. Supplementary Planning Document (SPD2) – ‘Affordable Housing’

KMC Policy Guidance: ‘Providing for Education Needs Generated by New Housing’

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The Council has advertised the application in the press, by site notices and through neighbour notification letters.

7.2 A total of 25 representations were received initially. On publication of the final revised proposals, the publicity period ended 25th October 2018, this post-dates the publication of this agenda. At the time of writing 1 further representation had been received. Any further representations received will be reported to Members in the update.

The following is a summary of the concerns/issues initially raised: of the representations received one is in support and states the redevelopment of this site is welcomed.

Highway safety/ parking & accessibility issues:

- Increase in traffic in and out of Marsden & lack of parking in village
- Highway safety concerns on Manchester Road from increased traffic using site
- Will public access to Manchester Road remain from Sandhill cottages
- PROW to Sandhill Cottages will need to be kept open to allow pedestrian access for none drivers
- Will the proposals result in changes to the existing access with Manchester Road
- Pedestrian and cycle access links should be made to towpath which provides good accessibility to Marsden railway station
- Has the existing bridge which crosses the river been assessed for accommodation of additional traffic

Response: Addressed in assessment below

Flood risk drainage issues:

- Drainage proposals for proposed dwellings?
- Concerns over flood risk from existing water courses and redevelopment of site
- fails to address the canal and mill-pond in an effective way

Response: Addressed in assessment below

Principle, design and impact on surrounding area:

- Prefer to see façade of existing mill building retained
- Overdevelopment of site & adverse impact on tranquillity of surrounding area/ wildlife
- Poor design, out of character does not retain industrial heritage character of the area
- Will stone from mill building be used?
- Concerns of incursion/encroachment into greenbelt
- No artists impression to support proposals
- poor residential outdoor environment
- Loss of woodland/trees
- Will a nature trail around the remaining large pond be provided?
- Sprawl of development due to spaces including spaces between buildings and addition of 4 dwellings on mill pond area
- Fishing lake is not brownfield land
- Design should be reviewed by Yorkshire Design Panel
- Lack of details of the mill pond to be infilled

Response: The scheme has been revised which omits 4 dwellings that were initially proposed on the former mill ponds. This would ensure the development is restricted to the brownfield part of the site preventing further encroachment into greenfield areas of the green belt. Amendments have also been made to the design, external appearance and layout of the site which addresses a number of the above concerns. The proposal would not include a nature trail to be provided along the fishing pond to be retained, which is outside the application red line.

With regards the design to be considered by the Yorkshire Design Panel, this is promoted by the Council. This would need the consent of the agent /applicant, who in this instance did not wish to pursue it further. Nevertheless, Officers are supportive of the revised proposals which are considered to have been designed to be reflective of the historical character and the impact on the surrounding development taking account of the site constraints.

Amenity issues:

- Object to plots 1-4 directly opposite Sandhill Cottages/loss of privacy/overshadowing, due to scale & elevated position of these proposed plots & spoil openness of area
- Increase in noise levels from demolition/ works on site and future residents
- Not clear from submitted drawings how the proposals would sit with existing landscape/surrounding area
- Will works be carried out within certain timescales to avoid noise/disturbance to nearby residents?
- Light pollution should be kept to a minimum
- Contravene legal right of way from Cellars Clough House through existing mill yard where it is proposed to build houses (plots 40-55)

Response: Plots 1-4 now omitted. Revised site block plan indicates the full extent of the proposals within the developable areas of the site and how it would integrate with surrounding development. With regards to light and noise during construction, a note will be included on the decision notice recommending the developer/applicant of that works shall be restricted to certain hours to avoid and minimise disturbance at nearby premises.

Other issues:

- Need for affordable housing for local young families on site
- Shortfall of infant school & health service provision in area

Response: The proposals would trigger affordable housing on site as such this will be sought through the normal mechanisms for such obligations.

Subsequent to Ward Councillors being briefed on the application details, Cllr Nicola Turner (Ward Councillor at the time) stated:

“The water supply to Sparth Cottages is piped through the mill building and any scheme must ensure a connection direct from Manchester Rd”.

Response: Whilst this is a civil matter, to be resolved between the owners of Sandhill Cottages and the applicant, the applicant has been made aware of the above and the comments received from occupiers of Sandhill Cottages.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

Canal & River & Trust- support subject to conditions

Environment Agency – have no concerns on flood risk grounds with regards to removal of culvert under the site. However they have advised the development may require a permit under the Environmental Permitting (England and Wales) Regulations 2010 from the Environment Agency for any proposed works or structures, in, under, over or within eight metres of the top of the bank of the River Colne, designated a ‘main river’.

DM Highways – support subject to conditions

KC Lead Local Authority – “support subject to appropriate conditions and an acceptable unilateral undertaking to set up a management company and agree lifetime maintenance of SUDS and the mill pond in order to avoid/mitigate flood risk”

8.2 **Non-statutory:**

KC Biodiversity Officer- support subject to conditions

KC Arboricultural Officer - support subject to conditions

KC Public Rights of Way - support subject to conditions

KC Conservation & Design – support revised design & layout

KC Environmental Health – support subject to conditions to address contamination, Electric Vehicle Charging points for all plots & Travel plan to consider and offset the potential damage to air quality as a result of the proposed development

KC Landscape – support revised scheme with on- site POS provision & off site contributions

KC Strategic Housing – there is a significant need for affordable housing in the area as such the Council seeks to secure 20% of the total units for affordable housing

KC Education Service – Contribution required

WY Police Architectural Liaison Officer- Support subject to condition

Yorkshire Water – support subject to development being carried out in accordance with Flood Risk Assessment

9.0 **MAIN ISSUES**

- Principle of development
- Layout, Design & Materials
- Residential Amenity
- Highway issues & promoting sustainable transport
- Drainage Flood risk issues
- Ecology/Trees
- Contaminated land
- Representations
- Planning obligations
- Other Matters
- Conclusion

10.0 APPRAISAL

10.1 Principle of development:

The site lies in an area of green belt, comprising of previously developed land and is therefore classed as 'brownfield' for the purposes of assessing the proposed development in accordance with guidance in the NPPF.

- 10.2 As the Council is unable to demonstrate a 5 year housing land supply, relevant policies relating to housing are considered to be out-of-date. Indeed, the housing land supply shortfall is substantial. Whilst the Council have submitted the Publication Draft Local Plan (PDLP) for examination which, for housing purposes, is predicated on the basis of a five year housing land supply; the Local Plan has not been adopted. Therefore, it is currently the case that the Council are unable to identify a five year supply of specific deliverable housing sites against the requirement.
- 10.3 Consideration also needs to be applied to the potential continued future use of the site as employment premises in relation to Policies B1/B4 of the UDP and PLP3 of the PDLP.
- 10.4 In addition, whilst the majority of the site falls within flood zone 2 it does in part fall within zones 1 and 3 as identified on the Environment Agency's flood risk map. As such the proposals need to be considered in accordance with guidance in the NPPF/NPPG and Policy PLP27 of the PDLP in relation to the acceptability of the proposals for residential use on a site.
- 10.5 Firstly with regards to Green Belt, the proposals would fall into the category of complete redevelopment of previously developed land under point g) of paragraph 145 of the NPPF. The information accompanying the application provides details of the footprint & volume of the mill building complex in comparison to the footprint and volume of the proposed buildings as well height details. From this it is concluded that the proposed buildings with a reduced footprint/volume and height would not materially exceed the height of the mill building and as such not have a greater impact on the openness of the Green Belt than the existing development, in accordance with guidance in the NPPF or Policy PLP59 of the PDLP. Furthermore, the proposals would bring about significant and demonstrable environmental improvements to the brownfield part of the site. These are addressed in the assessment below.
- 10.6 Secondly, turning to the potential continued future use of the site as employment premises, from the previous permission it is acknowledged that the principle, albeit through the conversion of the mill building to residential use, was accepted for a number of reasons. These included renovating and bringing back into use traditional mill buildings; (iii) improving residential amenity by replacing industrial operations with less intrusive and more compatible residential uses; (iv) improving some aspects of local road safety by removing commercial traffic and improving the existing access; and (v) providing an opportunity for the Council to secure community benefits through the development in terms of affordable housing, public open space, footpath improvements, wildlife habitat conservation and improvements, and the maintenance and long term management of the mill dams, the chimney and other associated structures.

- 10.7 There have been no occupiers of the buildings (business or otherwise) since the previous permissions. Furthermore, part of the mill building has collapsed and what remains is a dangerous structure. With regards to the suitability to convert the remaining part of the mill building a structural report accompanies the application which concludes

“due to the age and condition of the building the works required to improve the building fabric to a standard that is suitable for a building shell for future use would be very extensive and costly. There are no drivers to maintain the building in its current form as the buildings are not listed nor have they any architectural merit. Therefore, to remove the high financial risk of the unknown it is recommended that serious consideration should be given to the total demolition of the buildings, to then be replaced with a new-build scheme with all the benefits this will bring”

- 10.8 In light of the above the existing derelict/dangerous condition and large areas already collapsed, would make it more problematic to convert. Officers are of the opinion in the current state, the remaining mill building is beyond repair and conversion as such to demolish the remaining structure would be far more viable for any developer wishing to take on the regeneration of this brownfield site. Having regard to the suitability of the site being continued for business and industrial, due to the above, it is considered there is no real prospect of re- use or redevelopment of the site for such uses and the principle to redevelop the site with new build for residential use would accord with UDP Policies B1(ii) and B4(i) and PLP3 of the PDLP and guidance within the NPPF.
- 10.9 Finally, turning to the acceptability of the proposals for residential use on a site which falls within flood zones 1, 2 and 3, the application is accompanied with sequential and exception tests statement and a flood risk assessment. The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. A sequential approach should be used in areas known to be at risk from any form of flooding. If, following application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding; the Exception Test can be applied if appropriate.
- 10.10 In all cases the developer must justify with evidence to the LPA what area of search has been used when making the application. The starting point would be publication draft local plan which identifies similar sites allocated for housing. This will allow the Local Planning Authority to undertake the sequential test as part of its consideration of the application. It is accepted that given the nature of the Cellars Clough site it would be appropriate to review comparable mill sites in the Colne & Holme Valley adjacent to rivers where they are proposed housing allocations. On this basis the supporting sequential test statement makes reference to and provides reasons for discounting two sites from the DPLP allocations document.

10.11 These are:

Site no. 1) Black Rock Mills, Linthwaite & site no. 2) Perseverance Place, Holmfirth.

10.12 Both do not lie in the green belt. Site no. 1 is much larger than the application site and a small part of site falls within flood zone 2. It is identified for a capacity of 213 dwellings and for these reasons it is not considered comparable nor available.

10.13 Site no. 2 includes land within flood zones 2 & 3. The site is stated to be larger than the application site and has been rejected as a potential housing allocation because development on site is almost complete and not available.

10.14 The agent states there are no other comparable sites sequentially available in the search area.

10.15 Paragraph no. 159 of the NPPF advises, following the application of a sequential test if it is not possible for development to be located in zones with lower risk of flooding then an exceptions test would need to be applied.

10.16 It is considered that the Sequential Test has been satisfied. The proposed development with the end use is of more vulnerable classification under table 2 of NPPG. The flood risk vulnerability and flood zone compatibility is shown in table 3, which indicates an exception test would be required for any of the dwellings falling within flood zone 3.

10.17 The agent states that majority of the built form would lie within flood zones 2 with only the garden of dwellings facing the river within flood zone 3. From the information plans submitted, officers are of the opinion that part of the development (units 48-55) may overlap and fall slightly within flood zone 3.

10.18 However, the proposals would provide appropriate mitigation measures which include, the lower floors of the dwellings that appear to fall within flood zone 3 to accommodate garaging with utility and W.C areas, discharges of surface water to be managed through surface water attenuation and storm water storage systems. The conditions suggested by the Lead Local Flood Authority Officer, which includes a requirement for a S106 Unilateral Undertaking to include all agreements to maintain and manage through a management company, the mill pond in line with the applicant's drainage consultant's instructions in an email dated 17th September 2018 to the Council, would provide wider sustainability benefits. Subject to the conditions recommended, it is demonstrated that the site could be developed to ensure it is safe for its lifetime taking account the vulnerability of its users, without increasing flood risk elsewhere and where possible would reduce flood risk overall, in accordance with guidance in the NPPF/NPPG and Policy PLP27 of the PDLP.

- 10.19 On the basis of the information provided it is considered the proposals would regenerate a site which currently accommodates an unsightly derelict dangerous, part collapsed building, with a development which would preserve the industrial heritage and characteristic of the site. Furthermore, the proposed use of the site is considered to be more compatible within the context of the existing surrounding development, thereby, improving the environmental and amenity conditions of the area, through proposals which would achieve the three overarching objectives of sustainable development (social, environmental and economic) as set out in chapter 2 of the NPPF.
- 10.20 In applying a balanced approach to the principle of demolition and redevelopment of the site for housing, Officers are supportive for this brownfield site to be brought forward for redevelopment which is considered would not have a greater impact on the openness of the green belt particularly at a time when the Council is unable to demonstrate a 5 year supply of land for housing.
- 10.21 **Layout, Design & Materials:**
- 10.22 The proposals would provide a linear form of development with the introduction of two apartment blocks adjacent to the canal and dwellings houses adjacent to the river with landscaped areas to be sited in between and along the northern boundary. These will be served by an upgraded access road from Manchester Road and new circulatory traffic route within the site. The apartments would reflect the historic character in relation to the form and massing of the mill building. The development would be largely confined to and extend no further than the footprint of the mill building and current areas of hardstanding. Proposed areas of hard standing include the car park within the north east corner of the site.
- 10.23 The design of the proposed apartments has been amended with the final revisions to be more reflective and sympathetic to the character and appearance of the existing mill building, particular with regards to the external appearance of the northern elevation of the apartments. This being the most likely part of the development to be more visible from the surrounding areas. The scale of the dwellings (3 storey) and apartments (5 storey) in the siting proposed with the separation distance in excess of 21m to be achieved between them would be compatible with each other.
- 10.24 In terms of layout, the scheme would offer two areas of public open space. These are shown along the northern boundary and centrally within the site to form a 'village green' style open space. The central principal area would incorporate play equipment facilities, details of which have been provided on drawing no. SHF.1330.001.L.D.002.Rev C. The northern POS areas would be more informal with seating. Surfacing of the play areas will consist of grass, self-binding gravel with sett stone/composite material to provide textured surfaces on the edge and raised benches/seating. Soft and hard landscaping details in the layout proposed would be appropriate and would provide adequate POS areas to serve the proposals.

- 10.25 The application form states the proposed buildings will be faced in stone, brick and render. The supporting statement makes reference to the use of the reclaimed stone from the demolished mill building. This is considered sustainable. However the use of render and brick is not supported. Details of external facing materials are to be conditioned, in the event there is not sufficient reclaimed stone from the mill building to complete the development and to ensure the visual amenity of the area is not unduly compromised, in accordance with Policies BE1 of the UDP and PLP24 of the PDLP as well guidance within the NPPF.
- 10.26 **Residential Amenity:**
UDP Policy BE12 sets out the normally recommended minimum distances between habitable and non-habitable room windows. The proposed development adequately deals with these objectives in respect of spaces in relation to internal space about building standards. Furthermore, with regards to the dwellings, it is considered necessary to remove permitted development rights for extensions and structures in the rear garden areas. This is to prevent over development of the plots, in the interests of amenity of neighbouring dwellings from structures in close proximity to their boundaries, to preserve the openness of the green belt and reduce the potential of increasing the risk of flooding
- 10.27 **Highway issues and promoting sustainable transport:**
The site is currently not generating traffic. The site access is substandard in terms of radii at the junction with Manchester Road, road width pedestrian facilities and forward visibility on the bend.
- 10.28 The highway works put forward would include upgrading and widening of the existing junction with Manchester Road to provide a new right turn lane along with the provision of a new 1.8m footpath for the majority of its length to the bottom side of the access road. The proposals would also include two traffic islands in Manchester Road in close proximity of the access to the site. Detailed drawings along with sections have been submitted. Whilst the highway works are acceptable in principle, further information would be required in the form of technical/structural surveys to ensure the proposals can be carried out appropriately.
- 10.29 The revised internal layout would provide adequate car parking for the development. Further information has been submitted to demonstrate the revised layout in particular the access road, traffic flow through the development and central landscaped space, works to upgrade the access road and widening of the junction with Manchester Road, subject to conditions are considered to be acceptable to serve the development and would accord with Policies T10 and T19 of the UDP, PLP20 and PLP21 of the PDLP along with guidance in chapter 9 of the NPPF.
- 10.30 With regards to PROW's there is no indication to divert the route of the public footpath nos. 181/50 & 181/100 which share and runs the route of the access road. The proposals are likely to increase the level of activity and use of this PROW from both traffic and pedestrians. To ensure the safety and convenience of the both, at the request of Officers, the proposals would include the provision of a new footpath along the access road. The proposed footpath would link into existing PROW no. 181/60. In addition to this the applicant has agreed to tidy up the two existing PROW's either side of the access road which are shown on land within the ownership of the applicant.

- 10.31 The proposed PROW improvements are welcomed as wider public benefits. Whilst the PROW's to be upgraded/tidied fall outside the application red line, it would be reasonable to condition the upgrade of these as they are within the applicant's ownership, shown within the blue line.
- 10.32 To ensure adequate vehicle manoeuvrability of service and emergency vehicles within the site, the steps to the existing footbridge would need to be relocated on the opposite side of the existing steps. The existing steps/footbridge carries public right of way no. 181/70. The applicant has confirmed access of the existing steps to the footbridge would be retained open until provision of the new stair case has been fully completed and made operational. This would ensure pedestrian access is retained to the canal and Sandhill Cottages, which lie northwest of the site.
- 10.33 Details of the new staircase are to be provided. Should Members be supportive of the scheme/proposals, it is considered necessary to request for this information through a pre- commencement condition, to ensure the stability of adjacent structures/walls is not compromised.
- 10.34 Furthermore it has been brought to the applicant's attention that whilst a scheme for the relocation of the steps can be agreed through a planning condition, this does not permit a diversion or re- routing of the definitive PROW. This would require formal consent outside the remit of the planning process and at the cost of the applicant. In view of this, should Members be supportive of the scheme, it is reasonable to include a suitably worded condition, requiring written confirmation that formal diversion/routing of this PROW has been obtained prior to the closure and removal of the existing staircase which is required to address highway issues to allow for adequate manoeuvrability of service and emergency vehicles to serve the proposed development
- 10.35 On the basis of the above subject to conditions to ensure all highway and PROW works are completed prior to occupation or as suggested by the PROW Officer's, the proposals would accord with Policies R13, T10 & T16 of the UDP, PLP23 and PLP 24 of the PDLP and guidance in the NPPF.
- 10.36 Turning to other forms of sustainable travel, Fishers footbridge, adjacent to the site, offers direct access to the canal towpath, which provides a traffic route to Marsden, the closest town to the site. It also provides a recreational resource for walking and cycling in direct proximity to the site and pedestrian access to Sandhill Cottages from Manchester Road. The proposed development would introduce significant population to the area, which could substantially increase the usage of the towpath and improvements to ensure that the towpath is capable of accommodating such use should therefore be considered in order to encourage its use and reduce car dependency.
- 10.37 Previous permission on this site for the conversion, included a condition specifying opportunities to improve surfacing to areas of the canal towpath in the vicinity of the site. This is still considered relevant to the current scheme as the need to promote the use of towpath as a sustainable transport route in accordance with Policies T16, T17 and R18 of the UDP and paragraph 108 of the NPPF. This is to be addressed via a Grampian worded condition should the application be approved.

10.38 With respect to other measures being included within the development to reduce dependency on the use of the cars which in return would also off set carbon emissions West Yorkshire Combined Authority (WYCA) has advised the provision of a bus shelter to bus stop no. 19375 and payment be secured for its maintenance. Other measures can include, resident's metro cards, car club use, cycle purchase schemes car sharing promotion, walking/cycling promotion and or further infrastructure enhancements. The contribution appropriate for this development would be £26,468.75 and secured through a S106 agreement.

10.39 **Drainage & Flood risk issues:**

10.40 The applicant has been liaising with the Environment Agency and the Council's Lead Local Flood Authority Officer which has resulted in revisions to the original Flood Risk Assessment (FRA). The revised FRA was commissioned to investigate and report flood risk for the site and the overall drainage proposals for the future use of the site when redeveloped.

10.41 Joint site visits and investigations have been carried out by the applicant's drainage consultant and the Council's Lead Local Flood Authority Officer. This has resulted in a revised FRA and subsequent submissions of further information which also considers the residual flood risks of the development in relation to existing drainage systems (including mill pond) together with all proposed site surface water systems for the future users of the site.

10.42 The information includes:

- indicative surface water proposals which would include amongst other things, a detention basin or attenuation tank to be located beyond the eastern boundary of the site, on land within ownership of the applicant.
- Indicative details relating to renew/repair, include a new draw down to provide safe flows to avoid flood risk,
- Associated works to all other ancillary structures inlet and outlets and mill pond, and
- Future maintenance and management of the mill pond and associated structures

10.43 The proposals would result in the mill pond adjacent to the mill building to be largely infilled. The Council's Lead Local Flood Authority Officer and the Environment Agency now support the indicative proposals subject to appropriate conditions and an acceptable S106 which will need to include the setting up of a private management company for the maintenance of SUDS and the mill pond in order to avoid and mitigate against flood risk for the lifetime of the development, in accordance with paragraph no. 165 of the NPPF. The applicant is amenable to this and the recommendation above is reflective of this.

10.44 Yorkshire Water are also in support of the proposals subject to the proposals being carried out in accordance with the revised FRA.

10.45 Canal & River Trust are satisfied the proposals would be at a relatively low risk subject to retention of existing boundary wall along the northern boundary with the canal, which acts as an effective flood barrier. Furthermore, they have requested details of ongoing repair, maintenance/management of the wall along with the submission of a construction method statement to ensure the structural integrity of the canal infrastructure is not unduly affected during the course of the construction works. These issues can be addressed through the imposition of the suggested conditions by Canal & River Trust, to accord with guidance within the NPPF, Policies PLP27, PLP28 & PLP29 of the PDLP.

10.46 **Ecology/Trees**

10.47 UDP Policy EP11 requires that applications for planning permission should incorporate landscaping which protects/enhances the ecology of the site. Policy PLP30 of the PDLP states the Council will seek to protect and enhance the biodiversity and geodiversity of Kirklees, including the range of international, national and locally designed wildlife and geological sites, Habitats and Species of Principal Importance and the Kirklees Wildlife Habitat Network.

10.48 The proposed development is located approximately 850 m from the South Pennine Moors Phase 2 Special Protection Area (SPA) and 1.4 km from the South Pennine Moors Phase 1 SPA, which are internationally important for breeding upland birds. Together, the two phases of the SPA are also designated as the South Pennine Moors Special Area of Conservation (SAC), which is internationally important for its range of upland habitats.

10.49 Natural England's Impact Risk Zone tool (available on the Council's mapping system and DEFRA's MAGIC website) indicates that the proposed scheme is of a type and scale that has the potential to impact the European protected sites. For this reason the LPA has undertaken a Habitat Regulations Assessment (HRA) of the proposals and consulted Natural England, as required under the Conservation of Habitats and Species Regulations 2017. Natural England has indicated that it is in agreement with the findings of the HRA and that, subject to the mitigation proposed in the HRA, the scheme will not have an adverse effect on the integrity of the European protected sites and it has no objection to the proposals.

10.50 The proposed mitigation is to erect signage where the public rights of way network enters the South Pennine Moors SAC and South Pennine Moors Phase 2 SAC to the north of the application area. The purpose of this mitigation is to encourage local residents to keep to paths and keep dogs on a lead during the bird breeding season, in order to prevent damage to the important habitats and disturbance of breeding birds. This can be secured by condition and would accord with paragraph nos. 175 and 176 of the NPPF.

10.51 The applicant has submitted an Ecological Impact Assessment (EclA) incorporating the results of an additional bat emergence survey visit. The Council's Biodiversity Officer has on assessment summarised, in combination with the previous survey information, this latest report is sufficient to support the application, but conditions will be required to secure the detail of mitigation and enhancement measures outlined in the report and in the Biodiversity Officers consultation response dated 10/10/18. This should include details of the proposed wetland habitat within the mill pond.

- 10.52 In addition, there is some uncertainty around whether or not buildings on site are used as a nest site for barn owl, with this species having been positively identified on site. Further investigation can be conditioned along with impact avoidance or mitigation measures. Notwithstanding the details in the ecological report, separate conditions will also be required for the removal of invasive non-native species and a lighting strategy to avoid any adverse impact on the habitat network in and around the site.
- 10.53 Subject to the works being carried out in accordance with recommendations set out in the report as well as those suggested by the Council's Biodiversity Officer, the proposals would accord with Policies EP11 of the UDP, PLP30 of the PDLP and guidance within the NPPF.
- 10.54 With respect to trees, UDP Policy NE9 seeks to retain mature trees on development sites. The importance of retaining trees is also highlighted in paragraph no. 175 of the NPPF. Publication Draft Local Plan Policy PLP 33 states permission will not be granted which directly or indirectly threaten trees or woodland of significant amenity.
- 10.55 The most significant tree related constraint to the site comes from the adjacent woodland south of the developable area and between Manchester Road. This area is also identified as a Kirklees wildlife habitat network (KWHN) on the Publication Draft Local Plan.
- 10.56 The consequence of works to providing a footpath, restraint barrier and widening of the existing access road would result in the loss of trees within the KWHN. As a result, the applicant has also through submissions of detailed section drawings explored the potential of providing a footpath on the top side of the road. On assessment of this information, Officers raise significant concern to the achievability of carrying out such works, given the potential impact it could have on the structural stability of Manchester Road. Secondly, the cost of such works could be problematic in bringing forward the re development of this brownfield site.
- 10.57 Officers taking into account the overall benefits of bringing this brownfield site forward for development, consider the most acceptable option would be for the footpath to be on the bottom side of the access road, albeit with the consequence of some tree loss in the KWHN. Both the Council's Arboricultural and Biodiversity Officers, are on balance supportive of the proposals subject to more information in relation to the proposed footpath. This would need to be accompanied by an Arboricultural Method Statement, in order to fully appraise the potential impact and officers to evaluate the level of mitigation measures required to compensate for the loss of this part of the KWHN. The applicant is amenable to this confirmed in writing the acceptance of pre- commencement conditions to address this issue.
- 10.58 To summarise Officers are satisfied the harm to the trees and KWHN resulting from the proposals could be adequately mitigated through additional tree planting and further measures, in accordance with paragraph 175 of the NPPF, Policies PLP30 and PLP33 to compensate for the loss of trees and wildlife habitat network from the proposed highway works.

10.59 **Contaminated land:**

10.60 The application is accompanied with a Phase I contaminated Land report. This has been assessed by Environmental Services who accept the findings of the report and recommend a full suite of contaminated land conditions requiring the site to be fully investigated for the presence of contaminants.

10.61 **Representations:**

Turning to representations not responded to in the assessment above, in particular to the contravening of legal rights of way, this is a private civil issue to be resolved between all interested parties, outside the planning remit. The granting of planning permission does not waive any legal rights or covenants that may exist.

10.62 **Planning obligations:**

In addition to the maintenance and management of SUDS, mill pond and all associated drainage infrastructure, to be undertaken by a private management company and Contribution of £26,468.75 towards the provision of a bus shelter and its maintenance to bus stop no. 19375, set out in the preceding paragraphs the following contributions are sought:

10.63 ***Education***

The council's Education Service was consulted who advised that in this instance a contribution of £130, 967. 00 would be required.

10.64 ***Public Open Space***

The site is over 0.4ha and triggers the requirement for a public open space in accordance with Policy H18 within which there should be a Local Equipped area of play (LEAP) in accordance with Fields in Trust Guidance. Two areas of POS are shown within the proposed layout. The principal area in the centre of the site would accommodate low key playing equipment, equivalent to a local area of play (LAP), details of which have been provided. It would be necessary to impose a condition to ensure the POS areas are completed in accordance with these details prior to occupation of the development, should the application be approved.

10.65 The second area of POS accommodates an informal open space with seating. Taking account of both the areas of POS, the quantum to be provided on site within the layout falls short by a small amount of approximately 30sqm, therefore a financial contribution of £82, 969.00 to improve existing open space off site will be required, (which also takes account of the shortfall of equipped provision of the LEAP).

10.66 ***Affordable Housing***

The Council's Interim Affordable Housing Policy requires that 20% of units are secured as affordable housing on site. The identified need in the area is 1-2 bedroom housing, as well as a need for 1-2 bedroom housing for older people specifically. As an alternative to on site provision the applicant states;

“given its remote position from facilities, shops, schools etc, and given the large internal floor spaces and units to be 3 bedroom plus, off site contributions would be more appropriate”.

- 10.67 Officers do not accept this as a valid justification as this would equally apply for occupiers of the market units. Social housing tenants are not necessarily more or less likely than private homeowners to need access to public transport, shops, amenities etc. Social housing tenants are just as likely to use their own cars/bikes for travel and public transport. Furthermore, a Policy compliant scheme would be for on-site affordable units.
- 10.68 To summarise the provision of affordable housing will be sought on site, with a tenure split in accordance with Council Policy requirements.
- 10.69 **Highway Works:**
Highways works would be required at the junction of the access with Manchester Road, including the provision of new pedestrian islands on either side of the access and widening of Manchester Road. These works can be done under a S278 of the Highways Act.
- 10.70 **Other Matters:**
- 10.71 **Air Quality & sustainable transport:**
The provision of electric vehicle charging points will be secured by condition to promote sustainable transport initiatives and improve local environment conditions, to comply with the aims of Chapters 9 and 15 of the NPPF, WYLES and Policies PLP24, PLP52 of the PDLP.
- 10.72 The NPPF also encourages the promotion of sustainable transport. The West Yorkshire Low Emission Strategy (WYLES) has been drafted to take a holistic approach to Air Quality and Planning. The site is classed as a medium sized development with regard to Air Quality. In this particular instance, Environmental Health Officers have advised a detailed Travel Plan be conditioned to consider sustainable transport and that all transport mitigation measures may be included within the Travel Plan. Measures are required to negate the increased emissions in order to be compliant with the NPPF and the WYLES and PDLP Policy PLP 51 and Section 15 of the NPPF
- 10.73 **Crime Prevention:**
- 10.74 New development should incorporate crime prevention measures to achieve pedestrian safety on footpaths, natural surveillance of public spaces and secure locations for car parking areas.
- 10.75 The West Yorkshire Police Liaison Officer has made a number of comments recommendations. These should be incorporated into the scheme to promote good security, maximise surveillance and lighting to publicly accessible areas, controlled access system for the apartment blocks, the design of rear /side garden boundaries.
- 10.76 In light of this a suitable worded condition will need to be included to ensure the security measures to meet the secure by design guidance and prevent crime prevention, in accordance with Policies BE23 of the UDP and PLP24 of the PDLP. With regards to external doors and windows, it is accepted these would form part of a Building Regulations application and as such would provide sufficient protection to the future occupants.

11.0 CONCLUSION

- 11.1 The proposals would bring forward the redevelopment of the former Cellars Clough site which are to be confined to the brownfield part of the site, thus avoiding encroachment further into undeveloped parts of the Green Belt.
- 11.2 The overall benefits of redeveloping this site would secure net gains across all three strands of sustainable development and help provide additional housing at a time when the Council is unable to provide a five year housing land supply. The proposals will also enable the retention & creation of jobs during the construction phase and contribute towards enhancing the natural and built environment by making efficient use of this redundant derelict site, taking into account the characteristics of the surroundings and safeguarding residential amenity and highway safety of both pedestrian and vehicle users.
- 11.3 Officers are of the opinion the proposals have responded and been designed taking into account the identified constraints on and adjacent to the site. The final revised proposals appears to be a more viable scheme, when compared to the previous permissions and would potentially facilitate the redevelopment of a site that has been lying dormant for a number of years.
- 11.4 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.5 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

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

1. 3 year Time limit condition
2. Development in accordance with approved plans
3. Approval of samples of (stone) materials
4. Environment Agency condition- restricting finished ground level of all plots
5. Environment Agency condition-The ground floors of all the proposed dwellings will only be for entrance halls and garages and not habitable rooms.
6. Details of mill pond - to be infilled (to avoid adverse impact on openness of green belt, biodiversity interests, and to ensure safe development for future users of the site.)
7. Ecological Design Strategy (EDS), based on the latest ecological surveys and assessments, including assessment of impacts associated with access improvements – to provide implementable detail of habitat works sufficient to provide a net biodiversity gain.
8. Landscape and Ecological Management Plan (LEMP) – to ensure long-term benefits to biodiversity by securing management of the created habitats.
9. Construction Environmental Management Plan (CEMP), aimed at bats, barn owl, other breeding birds, and invasive non-native plant species – to avoid ecological impacts during construction

10. Lighting design – to ensure lighting associated with the scheme do not result in impacts to bats and the Kirklees Wildlife Habitat Network
11. Method statement for mitigation from Habitat Regulations Assessment (HRA) – to ensure the mitigation measures for impacts to the South Pennine Moors agreed with Natural England are implemented.
12. Arboricultural Impact and methods statement in relation to new footpath and engineering operations along access road.
13. Mitigation measures (including new tree planting) as a result of the impact on the KWHN/trees from the creation of new footpath and engineered operations
14. Details of new external stair case to footbridge and written evidence that formal diversion/routing has been obtained prior to closure or removal of existing staircase
15. Structural survey of stone wall along adjacent to canal to demonstrate it will form an effective flood barrier, in vicinity of the site
16. Details of retention and maintenance of the stone wall adjacent to canal in vicinity of the site with construction method statement for proposed works (foundations, excavation works and stock piling)
18. Grampian worded condition for improvements to the towpath, in vicinity of the site
19. Details of a scheme detailing foul, surface water and land drainage
20. Assessment of overland Flows and Flood Routing
21. A scheme detailing temporary construction phase flood risk and pollution control
22. Details of an emergency draw down facility to drain the mill pond
23. A scheme for the safety and protection of footpaths and path users during the construction and [improvement to the other paths prior to the closure works commencing on the site access road and junction with Manchester Road](#)
24. Full structural assessment of the bridge over the River Colne.
25. Scheme for the provision of road widening, right turn facilities at the Manchester Road junction.
26. Scheme for the provision of works to the access road including widening, vehicle restraint and new footway
27. Access Sightlines to be provided
28. Scheme detailing the proposed internal estate roads
29. Construction Management Plan
30. Details of the siting, design, structural calculations and material to be used in the construction of retaining walls/ structures near or abutting highway
31. Private parking spaces/drives surfaced in permeable material
32. works to be carried out in accordance with Flood Risk Assessment
33. Submission of an Intrusive Site Investigation Report (Phase II Report)
34. Remediation Strategy where recommended in the Phase II Intrusive Site Investigation Report
35. Remediation of the site shall be carried out and completed in accordance with approved Remediation Strategy
36. A Validation Report in respect of approved remediation measures being carried out
37. To incorporate necessary measures to minimise the risk of crime in accordance with WY Police Architectural Liaison Officer's comments dated 12th December 2017
38. A full comprehensive detailed landscape planting and hard landscaping plan, in accordance with Landscape Officers comments dated 16/10/18
39. Landscape Management Plan to include details of initial aftercare and long-term maintenance for minimum of 5 years, in accordance with

Landscape Officers comments dated 16/10/18

40. A detailed travel plan which considers air quality mitigation

41. Provision of electric vehicle charging points, one for each dwelling/apartment and rapid chargers for every 10 unallocated spaces for apartments

42. Removal of permitted development rights for dwellings.

NOTE:

Floodline Warnings Direct

We support the suggestion in the FRA that future occupants sign up to Floodline Warnings Direct to receive advance warning of flooding. This can be done online at <https://www.gov.uk/sign-up-for-flood-warnings> or by phoning Floodline Warnings Direct on 0345 988 1188.

Discharging to watercourse

Where a new surface water drainage connection to a main river is proposed, pre-approval from the Environment Agency must be sought. New connections must be discharged at greenfield runoff rate. The acceptable greenfield runoff rate is normally 5 litre/second/hectare, but you should consult with the Lead Local Flood Authority for variances in their district. If it is an existing brownfield site then 30% reduction in discharge will be required if the site is bigger than 1ha.

Environmental Permitting Regulations

It is proposed that a bund will be built behind the existing wall along the River Colne. This activity will require an Environmental Permit from us prior to the work taking place. Please refer to our letter dated 9 January 2018 (to the LPA) for further information regarding the need for a permit. As part of the permit application the applicant will have to demonstrate that the embankment is structurally sound enough to support the new bund and land raising behind it.

Online guidance can be found at: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>

NOTE:

“The applicant/developer is advised to contact the Canal & River Trust’s Works Engineering Team on 0303 040 4040 in order to ensure that any necessary consents are obtained and that the works comply with the Trust’s “Code of Practice for Works affecting Canal & River Trust”

Background Papers:

Application and history files.

Website link to application/details:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planningapplications/detail.aspx?id=2016%2f91573>

Certificate of Ownership – Certificate A signed by agent