

# KIRKLEES METROPOLITAN COUNCIL

## PLANNING SERVICE

### UPDATE OF LIST OF PLANNING APPLICATIONS TO BE DECIDED BY STRATEGIC PLANNING COMMITTEE

25<sup>th</sup> OCTOBER 2018

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PLANNING APPLICATION 2017/93935

ITEM 10 – PAGE13

#### ERECTION OF 61 DWELLINGS WITH ASSOCIATED ACCESS, DRAINAGE, OPEN SPACE AND LANDSCAPING

#### LAND OFF WOODWARD COURT, MIRFIELD.

##### Representations

Paragraph 7.1 of the committee report summarises that objections have been received from Paula Sheriff MP and Councillor Vivien Lees-Hamilton. However, objections have also been received from Councillor Martyn Bolt and Councillor Kath Taylor. The details of their objections are set out in subsequent paragraphs of the committee report.

Mirfield Town Council raise the following objection in addition to those already reported in the committee report:

*No evidence from Bellway on the effects to the existing properties regarding the revised drainage solutions. No detailed figures given for flow rates and not approved by Yorkshire Water. Bellway have redesigned houses around mine shafts but what about the public open spaces and roads. No final design submitted, so where will the tank be placed? MTC objects to this tank in respect of the above and the fact that maintenance will be given to a third party under a sub tenant agreement. MTC feel that the whole application has not been transparent and objects to the application in its entirety.*

An additional representation was circulated to all committee members and the planning department from Mr Benson (Mirfield Town Councillor). He raises the following concerns:

- I am not sure why the report features the 2013 Coal Authority report when it was made clear, to the case officer he should have been requested, and have advised the applicant to seek a new report from the Coal Authority 4 year later for this application 2017. The 2013 report was out of date. The applicant now admits there are 12 mine shafts on this site and the coal authority has insisted on further site investigations.

*Officer response – The committee report makes it clear that the applicant provided additional information and site investigations in addition to those earlier reports. Paragraph 10.88 details that 12 shafts have been identified. Para 10.91 confirms that the Coal Authority have had sight of all the submitted*

*reports and information and raise no objections subject to a planning condition.*

- I am not sure why the case officer as mentioned in is reports that Crossley lane has been re-surfaced, Crossley lane still does NOT have any kerbs nor footpaths and is still dangerous for school foot traffic, or any pedestrians.

*Officer response – Highways DM assessed the surrounding road network, including pedestrian provision and safety, in arriving at their conclusions.*

- Many of the soakaway BRE Digest 365 failed however the ones that passed were directly above, or near to shallow coal workings. Some of the original BRE Digest 365 tests failed to the original site layout, however, more soak-away locations have been added to a new site layout where no BRE Digest 365 testing has been carried out, and are positioned over Mine workings.

*Officer response – The applicant has clarified that the test results from the 5 pits in 2013 and 9 pits in 2018 and the results indicate that only the test in SW102 “failed”; all the others indicate soakaways will provide a satisfactory means for the disposal of surface water to ground. In any event, conditions are recommended concerning drainage and additional testing.*

- High risk of ground water flooding to Hepworth Close, Hepworth Drive and Grove Street.

*Officer response - The applicant commissioned a consultant to carry out an independent review of the geology at the site and the proposed drainage concept to address previous concerns. All of these reports confirm that ground water flooding will not be an issue. Nevertheless, conditions are recommended concerning investigations and a final drainage scheme.*

The LLFA have many times asked the applicant to provide an alternative surface water scheme the only information made available to the public is "we could put an attenuation tank in the POS area" NO rates agreed with Yorkshire Water nor any design made available to the public on this application.

There are two watercourses within reach of this proposed development which could be explored and the benefits to local existing off-site drainage have NOT been realized for an upgrade, this would relieve pressure to existing surface water drainage which suffers from overcapacity. We believe that LLFA and the Developer have simply ignored this fact and steered away from a sustainable solution because of the cost issue.

The surface water scheme for this proposed development is none sustainable and ambiguous, to say the least. Existing boundary properties which are cited below the finish ground level of the proposed site, with some more than 2.6m below, all properties are at risk from flooding created by the poor design with the use of cheap soak-aways.

*Officer response – Planning Practice Guidance sets out a drainage hierarchy for the disposal of surface water. First, Planning Practice Guidance directs surface water to infiltration. Only if infiltration is not suitable should other method for the discharge of surface water be considered. Infiltration is therefore the most sustainable drainage solution and hence if they work – and the tests undertaken as part of the evidence to support this application show that they do – the applicant should use them. Discharging the surface water to*

*alternative receptor, such as a water course or a sewer, is not proposed at this stage. However, whilst officers are confident that soakaways are feasible on this site, there is some uncertainty regarding the extent of grouting works required and further testing for soakaway feasibility is required. The applicant has demonstrated that in a worst case scenario the site could be drained by connection to Yorkshire Water infrastructure but that is not proposed at the moment. Conditions are recommended to deal with drainage*

I now have an overlaid drawing of the site layout, and mine entries (Shafts) plus the shallow workings in the east of the proposed development. My overlaid drawing quite clearly identifies many proposed new dwellings are to be constructed over shallow worked coal workings and the placing of soakaways directly over grouted shallow coal workings.

*Officer response - The site has been the subject of extensive investigation including the stripping of the top soil to reveal all of the shallow coal workings. These areas of shallow coal workings have all been surveyed and are shown on our layout. The applicant confirms that the proposed soakaways all lie outside the zone of influence for proposed treatment of identified areas of shallow coal workings.*

- 11 existing properties will be land locked some with retaining walls more than 2.6m below the proposed application field level. Access is restricted to the rear elevation via the front elevation. The restrictions consist of 1m wide paths between properties and garages some with no access where the garages are joined to the properties. One property accesses their rear garden via 10 steps and the gap is only 1m wide.

*Officer response – Access over land not in the ownership of the householder/homeowner to maintain walls/hedges etc is a private civil matter.*

- Woodward Court, as the planned gateway to and from the 61 dwellings, attracts parents who park their cars at both sides of the court and in front of drives to the houses. Some parents arrive early to ensure they have a parking spot. This action affects the parents who arrive later, who then must manoeuvre their vehicles causing all kinds of safety issues and putting pedestrians at risk, most of them being young children.
- The visibility coming out of Woodward Court to the left into Wellhouse Lane is heavily restricted. This point, which accommodates a large volume of school foot traffic, is very dangerous for pedestrians crossing.

*Officer response - The required visibility splay to the north along Wellhouse Lane from Woodward Court can be achieved, however, due to the highway alignment of Wellhouse Lane to the south of Woodward Court only 2.4m x 30.0m to the nearside kerb line can be achieved. An unacceptable shortfall of 12.3m.*

*As mitigation, localised traffic calming scheme along Wellhouse Lane with a junction plateau are proposed at the Wellhouse Lane / Woodward Court junction and two speed humps, one located to the north and south of the junction which would reduce vehicular speeds to between 23 and 24 mph, this equates to requiring visibility plays of 29.8m and 31.4m. HDM consider this to be in line with visibility and stopping distance requirements.*

- Wellhouse Lane, Wellhouse Ave, Hepworth Lane, Hepworth Close, Lockwood Ave, Jenny Lane, suffer similar issues as set out above. All these roads form part of the route to and from Crossley Field School.
- A large stretch of Wellhouse Lane between Hepworth Lane, and Flash Lane is already an area of great concern. The road cannot accommodate two-way traffic. Vehicles mount the 900mm wide footpath to pass oncoming vehicles which affects the safety of the pedestrians, and other road use.

*Officer response - There are currently no accident issues to back up the objections raised. It is considered the impact of the development in traffic generation terms will be minimal and distributed onto the existing network accordingly.*

- The current problems in relation to road safety are already un-resolvable due to the design of the existing infrastructure and the positioning of Crossley Field School. Adding traffic of the planned 61 dwellings is unacceptable, highly irresponsible and will cause chaos. The increased volume of traffic will also increase the risk of a serious accident or could lead to loss of life.

*Officer response - 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 Development Management considers that on balance with the proposed mitigation measures, it would be difficult to substantiate that the proposal would have a severe and measurable cumulative impact on highway efficiency and safety.*

Additional representations have been submitted on behalf of 'Save Mirfield'; summarised as follows:

- As acknowledged within your report the proposal does not accord with the Development Plan. Therefore you look to (d) of paragraph 11. There are relevant development plan policies as identified within your report so the first part of (d) is not engaged and you then look at whether the "policies which are most important for determining the application are out-of-date". You have concluded that the lack of 5 year housing land supply means that this 'tilted balance' is engaged. However, the most relevant policies to this application (as set out within your report) are not housing land supply policies and therefore the policies most important for determining the application are not out-of-date simply because the Council have not got a 5 year housing land supply. The tilted balance is not triggered in this case by the lack of a 5 year housing land supply.

*Officer response – Officers are of the view that the 'tilted' or 'enhanced' balance does apply on the basis that the Council does not have a 5 year housing land supply.*

- The justification for the development based on public benefits is not set out in sufficient detail (in terms of impact on heritage assets).

*Officer response – The scheme would provide 61 new homes at a time when the Council are unable to demonstrate a 5 year housing land supply and a time of persistent under-delivery. The scheme would provide 20% affordable homes which equates to a social benefit. There are additional environmental*

*benefits arising from the large areas of public open space which would be in excess of policy requirements, and provide additional planting for biodiversity enhancement. There would be additional indirect benefits arising during the construction phase through the creation of construction jobs which in turn would have an economic benefit to local services. New residents would contribute economically to Mirfield which is accessible from the site by regular bus service.*

#### Consultee response

West Yorkshire Archaeological Service - The presence of bronze Age cremation burials (in two separate locations) without any obvious evidence of burial mounds is very unusual in West Yorkshire. However, this evidence is of no more than regional significance and would not, in our opinion, be sufficient to prevent development.

We would recommend further archaeological excavation to attempt to understand these and their context and also to further understand other features

*Officer response – further investigation can be secured by condition in line with the provisions of the NPPF.*

#### Additional Conditions

Archaeological investigation  
Off-site highway works

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**PLANNING APPLICATION 2017/92568**

**ITEM 11 – PAGE 57**

### **ERECTION OF 62 DWELLINGS WITH ASSOCIATED WORKS AND FORMATION OF ASSOCIATED PARKING WITH VEHICULAR ACCESS FROM WOODHEAD ROAD (AMENDED DESCRIPTION)**

**LAND OFF WOODHEAD ROAD, HONLEY, HOLMFIRTH.**

#### Viability

The Council's appointed viability consultant has confirmed that in their view, and contrary to the applicant's submission, the scheme would be viable if contributions for all S106 matters were sought. A private paper has been prepared detailing the financial viability assessment matters.

#### Recommendation

In response to the officer recommendation, the applicant has submitted draft heads of terms confirming that they willing to make a contribution to all S106 requirements. However, there are still a number of matters outstanding as is detailed in the main report .Consequently, officers recommend that this item be deferred for consideration at a future planning committee pending the following:

**The submission of a S106 agreement which includes contributions towards:**

**Education - £141,439**

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

**Affordable Housing – 12 units comprising 7 units for social rent and 5 for intermediate sale.**

**Sustainable Travel Fund (could include Metrocards) – at least £10,000 for travel improvements including bus shelters.**

**Sustainable Urban Drainage management and maintenance scheme**

**And the provision of an access link to the edge of the land under the applicant's ownership in order to ensure an access is delivered to access the adjacent site.**

**A revised drainage Strategy Plan and Arboricultural/Method Statements to be provided, and additional clarification over the internal highways layout**

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**PLANNING APPLICATION 2018/91579**

**ITEM 12 – PAGE 79**

**RESERVED MATTERS APPLICATION PURSUANT TO OUTLINE APPLICATION 2015/93824 FOR ERECTION OF 56 DWELLINGS**

**FORMER MIDLOTHIAN GARAGE, NEW MILL ROAD, HOLMFIRTH.**

**Additional comments**

**Kc Highways DM-** Amendments acceptable, no objections subject to appropriate conditions.

Additional representation received on behalf of applicants relating to the Reserved Matters applied for, and the concerns raised by ward Members.

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**Date:** 22 October 2018  
**Our ref:** 50813/01/JG/RHa/16638201v2  
**Your ref:** 2018/91579

Dear Bill

**Reserved Matters Application 2018/91579 - Land at Former Midlothian Garage, New Mill Road, Holmfirth**

We write on behalf of our client, Seddon Homes, in response to comments you forwarded to us by email on 17<sup>th</sup> October 2018 in relation to the Reserved Matters application (application ref. 2018/91579) for residential development at Land at Former Midlothian Garage, New Mill Road, Holmfirth.

We note that the planning application will now be considered at Strategic Planning Committee on 25<sup>th</sup> October 2018 at the request of two local Ward Councillors who have expressed concerns about the suitability of the site for residential development.

It is important to recognise that no objections have been made to the application by members of the public. Indeed, the principle of residential development has already been established through the outline planning permission approved in May 2016. It is also proposed to be allocated for housing in the emerging Kirklees Local Plan (allocations ref. H2587), which is at an advanced stage of preparation.

It is noted that the Councillors concerns regarding the application relate to the former use of part of the site as landfill and they question whether it is therefore suitable for the site to accommodate housing in a safe manner. Whilst dealing with such matters can add additional cost to a development, it is important to recognise that it is not unusual for new housing to be delivered on previously contaminated brownfield sites, or ones that previously accommodated landfill.

In this case, matters relating to ground conditions were considered in considerable detail at the outline planning stage. Ground investigation surveys and additional gas monitoring works to supplement the submitted details were provided as part of that application and were considered and deemed acceptable by your Environmental Health colleagues, subject to a range of planning conditions. It was on this basis that the Strategic Planning Committee considered and supported the outline planning application.

Those conditions on the outline planning permission will ensure that further ground investigations take place prior to construction works commencing and the identified remedial works have been agreed and subsequently carried out to the satisfaction of the Council prior to the occupation of any of the properties. It is therefore not appropriate to reconsider the approach to the remediation of the site at this Reserved Matters stage, given that the matter has been resolved.

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Notwithstanding this approach, it is noted that the Councillors query whether such conditions would be enforced by Kirklees Council. From our client's perspective they will clearly undertake all necessary work to ensure that all of these, and indeed all other conditions are complied with and discharged through the formal process as they do on all their sites. Furthermore, it is in Kirklees Council's control to ensure that this happens and would have the power to take enforcement action as appropriate in the unlikely event that it was deemed necessary.

In addition to the above, there are a range of further safeguards and mechanisms which should provide the Councillors with comfort that any issues associated with the former use of the site will be comprehensively dealt with and the finalised development will provide a safe location for new housing free of contamination.

Firstly, Seddon Homes is a National House Building Council (NHBC) registered housebuilder and obtains NHBC guarantees for each of their properties. The NHBC is a recognised standard for construction standards and provides consumers with its 10-year warranty if the development meets their testing and compliance standards. In order to meet the standards and for the warranty to be valid, the site will be required to be remediated to the appropriate NHBC standards. The 10-year warranty includes matters relating to ground contamination should any issue occur during this period. Furthermore, the NHBC will not issue a Council for Mortgage Lenders Certificate until all pre-commencement conditions are resolved, effectively rendering a property unsalable until after the discharge of conditions.

Secondly, following any commencement of development, Building Control will monitor the development proposals as they emerge, again requiring compliance against relevant Building Regulations and technical standards, including Part B which relates to ground conditions.

In addition to the above I attach a letter from our client's contaminated land adviser E3P who has considered such matters from a technical perspective and who also conclude that the previous use of the site is no impediment to the delivery of housing.

In summary therefore, whilst we understand the Councillor's concerns on ground conditions, such matters have previously been considered and appropriately addressed as part of the outline planning permission and as such it is not necessary for Strategic Planning Committee to revisit this matter when they consider the Reserved Matters application. Planning conditions are in place to ensure that further intrusive investigations of the ground conditions prior to construction works commencing, for any necessary remediation work to be agreed, and for this to then be inspected and validated as meeting required standards prior to any properties being occupied. In addition, such matters will be separately enforced through meeting Building Regulations and by our client meeting NHBC standards to ensure that the development benefits from the 10year NHBC warranty. Furthermore, the NHBC will not issue a Council for Mortgage Lenders Certificate until all pre-commencement conditions are resolved, effectively rendering a property unsalable until after the discharge of conditions.

We trust that these comments will be provided to Members prior to the Strategic Planning Committee Meeting on 25<sup>th</sup> October.