

KIRKLEES METROPOLITAN COUNCIL

PLANNING SERVICE

**UPDATE OF LIST OF PLANNING APPLICATIONS TO BE DECIDED BY
PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)**

13 DECEMBER 2018

Item 18 – Page 39

Application for a definitive map modification order to add a public footpath to the definitive map and statement, Clayton Fields, Edgerton. (Application reference 204).

Please see attached letter submitted on behalf of the landowner.

Attention: Giles Cheetham
Kirklees Council

Contact: Lee Gordon

Definitive Map Officer – Public Rights of Way

T:
E:

Streetscene & Housing Service

Our ref: 761551-1

Kirklees Council, Flint Street, Fartown,
Huddersfield, HD1 6LG

Your ref: 204

By Email

Date 11 December 2018

Dear Sir,

Land at Clayton Fields ("Property")

Application for a definitive map modification order to add a public footpath to the definitive map and statement, Clayton Fields, Edgerton (Application reference 204) ("Application 204")
Planning sub-committee (Huddersfield Area) on 13 December
Representation on behalf of Paddico (267) Limited

We have reviewed the officer report relating to Application 204.

These representations are made on behalf of Paddico (267) Limited ("Owner"), the freehold owner of the Property to which Application 204 relates.

Background – Planning

The Property has been allocated for residential development in successive Local Plans of the Council. Outline planning permission has been granted by an independent Inspector for development at the Property and reserved matters approval has also been granted by the Council. The latter includes detailed design of the approved development, including provision of public open space and new public footpaths. The design followed extensive consultation with the Council and the public. The proposed replacement paths were the subject of detailed scrutiny by the Planning Inspector in granting planning permission and subsequently by both the High Court and Court of Appeal when both courts dismissed a judicial review challenge to the grant of that permission. There are robust planning conditions to secure the delivery of such replacement paths, including the woodland walkway.

Background – DMMO Applications

Various applications have been made over the years which allege public rights of way across the Property. The Council engaged extensively with local people over the claimed routes and considered all of the evidence in great detail prior to resolving to make an order to record 6 claimed footpaths across the Property. This order has now been made by the Council and is entitled: "Kirklees Council (Huddersfield Public Footpaths 477, 478, 479, 480, 481 and 482 – Clayton Fields, Edgerton) Public Path Modification Order 2018" ("DMMO Order").

Our ref:

Your ref:

Whilst reserving its position, to date the Owner has largely left the Council to determine the previous DMMO applications and has focussed instead on supporting the order made by the Council on 28 September 2018 pursuant to section 257 Town and Country Planning Act 1990 entitled "Kirklees Council (Clayton Fields, Edgerton) Public Path Stopping Up Order 2018" ("Section 257 Order"). The purpose of the Section 257 Order is to stop up the routes included by the Council in the DMMO Order and to create new public footpaths in accordance with the detailed design approved and secured pursuant to the reserved matters approval.

The Council intends to send both the DMMO Order and the Section 257 Order to the Secretary of State for consideration.

The public has had every opportunity to make DMMO Applications over the years prior to the Council's resolution to make both the DMMO Order and Section 257 Order.

Following the resolutions of members to make the DMMO Order and Section 257 Order, the Council received Application 204 on 4 July 2018. Application 204 relies on precisely the same evidence as included with DMMO application 183, with a slightly different alignment of the route previously determined by the Council based on that evidence and included within both the DMMO Order and Section 257 Order.

Representations

We make the following short points in relation to Application 204:

1. The Owner welcomes the fact that the Council is taking Application 204 to committee.
2. The Council has already decided to make an order based on the same evidence contained in Application 204. That DMMO Order will be sent to the Secretary of State for consideration
3. It is clear that only one footpath is claimed by local people (in the vicinity of Application 204 and DMMO application 183) and not two. There is simply disagreement by some local residents over the precise alignment determined by the Council following extensive consideration of the evidence. That issue will be fully considered by the Secretary of State in the context of the DMMO Order and so local people will not be prejudiced.
4. The Owner supports the officer recommendation of sending the documentation relating to Application 204 to the Secretary of State with the orders so that the Secretary of State can consider everything together. This will provide local people with an opportunity to make representations and be heard over the precise alignment.
5. No further order should be made by the Council in respect of Application 204 and it would be contrary to officer recommendation for members to do so.
6. Whilst officers are not recommending "Option A", we wish to make it absolutely clear that it would be entirely inappropriate and, it is submitted, unlawful for the Council to proceed with "Option A" for the following reasons:
 - a. It is clear from the evidence that only a single route is being claimed and so the Council cannot make two orders for different alignments. The Council has already

Page: 3

Our ref:

Your ref:

made a DMMO Order in respect of the claimed route and the DMMO Order includes the alignment as previously determined by the Council.

- b. It would be irrational to make a second order in these circumstances. It is also an important principle of public law that there should be consistency of decision making by public bodies. It would be wholly inconsistent and irrational for the Council to now make a further Order over the alignment claimed in Application 204 when the Council has previously determined a different alignment based on the same evidence and in circumstances where it is clear only a single route is being claimed
- c. The historic photo evidence available for the relevant 20 year period shows the area of the claimed alignment as densely covered with trees. It is understood that the route on the ground today (which follows extensive tree removal) would not therefore have existed during the relevant 20 year period.

Please ensure these representations are taken fully into account.

Yours faithfully,

Weightmans LLP

Copy:

Sandra Haigh

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

Informative:

A formal consultation is received from Building Control seeking comments on the proposals to demolish the remaining mill building. Planning Services has responded referring to the ecologist survey forming part of the planning application which clearly identified that the building is known to support several bat roosts.

Under regulation 9 of the Conservation of Habitats and Species Regulations 2017 (Habitats Regulations) a Local Authority has a duty to have regard to the requirements of the EC Habitats Directive in exercising any of its functions. The EC Habitats Directive provides protection for the breeding sites and resting places of certain species, which includes all species of bat in the UK. The above legislation requires the local authority to take account of the known presence of bat roosts when deciding to issue a notice under section 81 of the Building Act 1984.

This requirement on local authorities indicates that permission for an activity that will result in a criminal offence in respect of bats should only be granted where Natural England are also likely to grant a licence to permit the activity.

The applicant is fully aware of the above and the need to obtain a licence from Natural England prior to demolition.

Outline application for erection of residential development

former Gees Garage, New Hey Road, Outlane, Huddersfield, HD3 3YJ

This application should be read in conjunction with 2018/92935.

Amended Recommendation

As a consequence of the need to amend the recommendation, particularly in light of outstanding, fundamental points of uncertainty regarding the proposed access, and outstanding drainage matters, officers recommend that this application be **deferred** so that the outstanding matters can be properly addressed and brought back to committee at the earliest opportunity.

Outline application for erection of residential development

land adj, former Gees Garage, New Hey Road, Outlane, Huddersfield, HD3 3YJ

Amended Recommendation

As a consequence of the outstanding fundamental points of uncertainty regarding the proposed access and outstanding drainage matters, officers recommend that this application be **deferred** so that the outstanding matters can be properly addressed and brought back to committee at the earliest opportunity.

Access

In respect of both planning applications above, additional information has been submitted by the applicant concerning the proposed access in an attempt to address the Highways DM comments set out in the committee report. Highways DM have assessed this information and do not consider it fully addresses their initial concerns. The following matters are still outstanding:

Road safety Audit

Details of the extent of public highway to be stopped up

Speed survey information

Revised swept paths

The footways to either side of the ramp should be carried past the ramp at the access.

Fundamentally, the submitted plans show visibility splays of 2.4m x 45m, but this has not been supported by adequate informing concerning the average speed of vehicles on this stretch of highway, or a road safety audit. Both are fundamental in order to ascertain whether or not the junction as proposed is acceptable.

Drainage

The Lead Local Flood Authority initially objected on the basis that no Flood Risk Assessment or Drainage Strategy had been submitted. There is still no Flood Risk Assessment (although technically a Flood Risk Assessment is only required on sites above 1 hectare – each site is less than 1 hectare but in combination they are over 1 hectare).

The drainage strategy that has been submitted shows the use of a soakaway. However, the LLFA maintain their objection as there are concerns with the soakaway testing undertaken. In short, there is insufficient detail to properly understand the acceptability of surface water drainage on this site.

Conclusion

As a consequence of the above, particularly in light of outstanding, fundamental points of uncertainty regarding the proposed access, officers recommend that this application be deferred so that the outstanding matters can be properly addressed and brought back to committee at the earliest opportunity.

Planning Application 2018/92937

Item 22 – Page 97

Erection of 50 dwellings and associated works

Land south of, Helme Lane, Meltham, Holmfirth, HD9

Highways

The layout has been amended in order to address comments received from Highways DM and in order to address landscaping requirements.

In terms of Highways; house types have been altered in order to ensure that garages proposed are large enough to accommodate cars. Overall there is now sufficient parking proposed across the site to address policy and Highways DM requirements. The alterations to the house types in this case are not markedly different to the existing in terms design and appearance and are considered acceptable.

The applicant has submitted cross-sections which demonstrate that acceptable gradients can be achieved for highways within the site. Highways DM raise no objection to this aspect.

The additional information provided also includes swept path tracking through the site. The turning head nearest the footpath is considered deficient and Highways DM recommend that the scheme be amended in order to ensure a suitable turning head for vehicles at the turning head. This is a relatively minor technical matter which could be addressed through amended plans.

Landscaping

The application has been amended in order to soften the impact of the scheme on the Green Belt boundary to the north east. This has involved increasing the width of the buffer and providing landscaping. Officers are generally satisfied with the buffer but would wish to see heavy standard native species and other appropriate planting to further soften the impact along this buffer. Landscaping is a recommended planning condition.

Drainage

The drainage proposals, involving a pumping system, are considered acceptable by the Lead Local Flood Authority. Planning conditions are recommended relating to drainage.

Ball-strike

As detailed in the committee report, the applicant provided a ball-strike assessment following an objection from Sport England. Sport England have now assessed the submitted information and do not object to the proposals.

Archaeology

Following a consultation response from West Yorkshire Archaeological Advisory Service (WYAAS) the applicant carried out a geophysical survey. WYAAS provided further comment on the report:

"I have had a chance to study the geophysical survey supplied and given the level of uncertainty in the origin in some of the anomalies and the possibility of evidence of earlier field systems, (potentially prehistoric) I would recommend that the site is subject to a pre-determination archaeological evaluation to determine its significance".

In response to this the applicant has provided a response:

"Further to West Yorkshire Archaeology Service's email dated 5th December 2018, it is our opinion that the geophysical survey provides a clear picture of the archaeological potential of the site which has been achieved through the use of a multi-sensor array cart system which achieves far better and clearer results than the more traditional survey methods. This is in part due to the marked increase in the point data collected.

The data clearly shows that much of the site is devoid of any features other than those related to agricultural activity including field drains and ridge and furrow. It is clear that the origin of some of the anomalies in the north eastern and southern parts of the site is unknown. There is no clear or obvious pattern to these to indicate an archaeological origin although it is recognised that this interpretation is not definitive. Equally there are no anomalies within the data which indicates to early settlement or significant occupation activity within the site. It should be recognised that the pit type features identified within the north eastern part of the site only seem to appear in the area where drainage activity has taken place and thus an association would seem likely (although not definitive) as stated in the geophysical survey report. If they were earlier it is odd that they would only occur in the areas of drainage activity.

The data plots presented by Phase Site Investigations are generated from the raw data collected on site with no processing. This provides a high degree of confidence that the anomalies shown are representative of that which is there. In addition to this as the results show the north south ploughing regime and other infilled features, we are assured that the drift geology has sufficient magnetic properties thus any archaeological features such as ditches should show up just as the aforementioned features have.

We are of the opinion that the work undertaken to date is proportionate to the importance of the features and is more than sufficient to determine the application with trial trenching done as a condition.

It is understood that this site will shortly be presented at committee, subsequently as Barrat Homes and David Wilson Homes Archaeological Advisor with over near 20 years' experience within Yorkshire, we consider that this statement and the geophysical survey provides a sufficient level of confidence to members that significant archaeology does not lay within the site and that any archaeology found as a condition will be preserved by record. Similarly there can be little justification in this instance for not determining the application on archaeology grounds alone based on the low level activity within the site and the fact that this can be reasonably dealt with as a condition."

WYAAS have been consulted on the above but have not responded. However, based on the evidence provided, it appears that a condition would be appropriate in this case.

Amended Recommendation:

DELEGATE the application to officers to ensure an acceptable turning head in order to accommodate large vehicles and subsequent 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 - 46,127 towards Honley High School

Public Open Space – Off-site contribution:

***£176,351 is required for POS and a LAP
= £44,100 towards Broadlands existing play area and £132,250 towards Broadlands Public Open Space.***

Affordable Housing – 10 units – 5 affordable rent/5 intermediate but split to be confirmed.

Pumping station to be maintained until adopted by Yorkshire Water

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.

Amended Conditions:

- 1) 3 years
- 2) Approved plans
- 3) Materials
- 4) Ecological enhancement
- 5) Final levels of dwellings to be approved
- 6) Electric charging points (at least 16 amp)
- 7) Contaminated land conditions
- 8) Noise assessment
- 9) Travel Plan
- 10) Landscaping
- 11) Full details of pumping station
- 12) Details of footpath link
- 13) Details of surfacing materials for all hard surfaced areas
- 14) Boundary treatments
- 15) Construction management
- 16) Flood routing
- 17) Drainage scheme to be submitted and agreed
- 18) Archaeological investigation and potential watching brief
- 19) Adoptable highway details to be submitted

Planning Application 2018/90501

Item 23 – Page 115

Change of use and alterations to part of mill to form 42 residential units and 8 light industrial units (use class B1c) and retention of part of existing retail use (revised description and amended plans)

Stanley Mills, Britannia Road, Milnsbridge, Huddersfield, HD3 4QS

Request to defer by applicant

The applicant has written to officers requesting additional time in order to address the outstanding issues. They do not feel they have been given sufficient opportunity to address the outstanding noise issues and feel that they can address all the matters of concern. They would seek deferral in order to carry out additional noise survey work and put forward any necessary mitigation measures.

Officer response – The applicant's concerns are noted and Officers are comfortable with this request should the Committee agree it. However, as detailed in the committee report, the provision of additional information would not likely address the fundamental concerns raised by officers regarding the location of residential development in this case within the Priority Employment Area.

Highways

Members will note that one of the recommended reasons for refusal refers to highway safety. Highways DM have clarified their specific concerns and are unable to support the application without the following:

- A new Transport Assessment to take into account concerns highlighted in committee report
- Details of bin storage and collection
- Amendments to parking
- Re-evaluation of off-street parking facilities and how the recommended provision is achieved
- Sight-lines onto Britannia Road
- Details of improvements to pedestrian access on the existing public highway

Additional representation

An additional representation has been received which outlines the following concerns:

I note that following my previous objection letter highways have added a small note about the highway footpath. Unfortunately I do not feel that they are looking at this matter seriously as a highway safety issue:

Kirklees Highway Design Guide dated October 2018

Priority: Putting pedestrians and cyclists first by designing vehicular routes that minimise barriers to their movement and ensure their safety.

Inclusivity: Catering for people of all ages and abilities so that the public realm can be navigated and negotiated by everyone.

Legibility: Ensuring that routes are recognisable, easy to understand, and able to be navigated by wayfinding, landmarks, gateways, nodes, and focal points.

Connectivity: Integrating development physically and visually with its surroundings. Permeability: Providing a variety of pleasant, direct and convenient routes that connect to existing networks and local amenities.

Functionality: Using scale, texture and colour to reflect and reinforce an areas function and character. Good highway design is underpinned by a series of overarching 'place-making' principles that permeate through each and every aspect of highway design.

Safety: Incentivising walking and cycling by creating a welcoming, secure and pleasant environment that incorporates natural surveillance, lighting, high-quality landscaping and protection from motor vehicles.

I am attaching two photographs of Britannia taken at the junction with the access road to Scarbottom showing the footpath only on one side of Britannia Road for most of its length. Photo 1 is taken looking west up Britannia Road with Stanley Mill on the left. The footpath opposite the Stanley Mills is only 1.1 m. wide (at the nearest end) and tapers down to 900mm at the other end. This is a single footpath. The width of the footpath (photo 2) adjacent and in front of 22 Britannia Road is only a metre wide.

A wheelchair user or wide pram would have difficulty passing at these restricted widths and have to go into the roadway as has already been reported to planning. If cars are parked on the road) the situation will potentially be extremely dangerous.

Britannia Road is a straight level road with no road markings and cars travel at excessive speeds of the road. The fact that there is only a single footpath of very substandard width for most of the length of Britannia Road should already have been a major consideration in terms of highway safety as residential development has been recently constructed virtually opposite Stanley Mills .

With the proposed intensifying of residential use, Highway safety should be a prime consideration in the design of the proposed scheme for Stanley mills scheme and improvements must now be made to this section of Britannia Road.

T10 NEW DEVELOPMENT WILL NOT NORMALLY BE PERMITTED IF IT WILL CREATE OR MATERIALLY ADD TO HIGHWAY SAFETY OR ENVIRONMENTAL PROBLEMS.

I would be grateful if you would take these points into consideration in your decision on this application.

Vacant Building Credit

The proposed development may be eligible for vacant building credit. If the existing vacant floor space exceeds the proposed then no contribution can be sought. If members were minded to approve the application then it would be prudent to defer this item to officers in order to clarify whether or not the proposed development qualified for vacant building credit.

Outline application for erection of 36 dwellings**land off, Upper Quarry Road and Bradley Road, Bradley, Huddersfield, HD2 1XD***A62/A644 link road scheme*

On 03/12/2018 the council commenced consultation on the A62/A644 link road scheme. This scheme is intended to address slow journey times and poor air quality in the Cooper Bridge area. Details of the proposed scheme can be viewed online at: <https://www.yourvoice.westyorks-ca.gov.uk/A644LinkRoad> . Three options have been put to public consultation, all include a link road connecting the A644 (Wakefield Road) to the Bradley Road / Leeds Road junction, and all have implications for the application site at Upper Quarry Road / Bradley Road as follows:

- Option A – Two-way dual carriageway in the northern part of the site, road junction at the centre of the site, one-way single carriageway between the new road junction and the Bradley Road / Leeds Road junction, and two-way single carriageway between the new road junction and Bradley Road (meeting Bradley Road approximately where existing site access is located).
- Option B – Two-way single carriageway in the northern part of the site, road junction at the centre of the site, one-way single carriageway between the new road junction and the Bradley Road / Leeds Road junction, and two-way single carriageway between the new road junction and Bradley Road (meeting Bradley Road approximately where existing site access is located).
- Option C – One-way dual carriageway from Bradley Road / Leeds Road, continuing northwestwards through the site before becoming a one-way single carriageway.

Details of these three options were only recently published for consultation, and no final proposal for the link road scheme has been settled on. As such, this is background information which is not a material consideration to the current planning application. No changes to the officer's recommendation are proposed in light of the recently-published information.

Highways

On 09/11/2018 the applicant submitted an amended plan (1707802c). This shows the proposed pedestrian island moved by 0.4m, to increase the carriageway width of the eastbound lane to 5.5m (including a 1m wide cycle lane, which would be marked out with red surfacing). While it is accepted that this amendment would provide more space for eastbound traffic, it is again noted that a 5.5m carriageway width is not stopping vehicles from running over the kerb line at another location further along Bradley Road (at the Upper Quarry Road junction, where a pedestrian island exists). The proposed amendment, therefore, does not fully address the concerns set out at paragraph 10.48 of the committee report, and in the first recommended reason for refusal.

Second reason for refusal

On 10/12/2018 the applicant's agent raised concerns regarding the second recommended reason for refusal and paragraph 10.70 of the committee report, stating that the applicant's motives for submitting a planning application should not be a material consideration, and that in recommending the second reason for refusal officers are ignoring the material planning consideration of financial viability (contrary to NPPF paragraph 57 and emerging Local Plan policy PLP4), and are proposing an approach not followed in relation to other applications.

It is, however, legitimate to question why a planning application was submitted for an unviable scheme, not least because an applicant or developer (acting rationally) is unlikely to submit such an application unless they were aware of a means of making the development viable, or had optimistic expectations of values increasing (and/or costs decreasing). In those scenarios, revised financial viability information should be submitted, setting out how the development would be viable based on amendments to the scheme, revised inputs, and/or forecasts of increased values or decreased costs. If this application were to go to appeal, officers would expect an Inspector to similarly question why the application was submitted, and how the applicant expects to make the development viable.

Notwithstanding the above, the recommended second reason for refusal does not question the applicant's motives for submitting a planning application for an unviable scheme, and does not cast doubt on the applicant's financial viability information. It only refers to the lack of affordable housing, POS and education provision/contributions, and the development's failure to mitigate its impacts.

It is not correct for the applicant's agent to say that officers are ignoring the material planning consideration of financial viability. Officers have indeed taken into account this information. It is noted, however, that the NPPF does not direct local planning authorities to accept shortcomings of a scheme where those shortcomings are supported by financial viability information. Paragraph 57 of the NPPF in fact states that "The weight to be given to a viability assessment is a matter for the decision maker". Local planning authorities are free to conclude that unmitigated impacts of a development are of such significance as to warrant a reason for refusal, even if financial viability information demonstrates that those impacts cannot be mitigated.

Reserved matters application pursuant to outline permission 2016/91502 for erection of one detached dwelling**Adj, 1, Spring Lane, Holmfirth, HD9 2LN**Clarification on paragraph 10.15

Paragraph 10.15 considers the impact upon nos. 5 and 7 Spring Lane. Within reference is made to the first floor windows being obscure glazed to prevent concerns of overlooking. For clarification, this extends to the Rooflight windows serving the ground floor on the rear elevation. This is covered within proposed condition 3.

Representation

The public representation period expired on the 11th of December, following the Committee Report being published. One public representation was received within the public representation period, following the report being published. The following is a summary of the concerns raised;

- The proposal has brought a habitable room window much closer to the shared boundary with a neighbouring dwelling; 3.2m. The dwelling is on a higher level to neighbouring land. This will result in the destruction of privacy and amenity within part of the neighbouring garden. This denies residents the right to a quiet enjoyment of their property.

Response: The proposal's impact on the amenity of neighbouring residents has been considered at length within paragraphs 10.9 – 10.17. While officers acknowledge the potential for overlooking, they are satisfied that the proposed boundary fence (securable via condition and part implemented on site) would mitigate the impact resulting in no undue harm caused.

- The boundary is not shown in the correct place, or accurately shows the sloping nature of the site. This would impact on the positioning of the screen. The plans only show a vague position.

Response: It is understood that the claim is that the application site's boundary is larger than shown. Because of this, officers are satisfied that the Certificate of Ownership (signed within the outline permission) is accurate. Boundary disputes are a private legal matter. In terms of planning, officers are satisfied that the submitted plans allow for an accurate assessment of the proposal.

- The fence should be taller than 1.8m and the full length of the shared boundary. A timber fence is unacceptable and it should be the same durability of the dwelling. It would be unsightly from neighbouring land. A stone wall should be used.

Response: Considering the level difference and the site layout, officers are satisfied that a height of 1.8m would be appropriate. In terms of length, the plans show it the full length of the shared boundary. A fence over 2.0m would raise concerns of being overly large. In terms of design between stone and

timber, officers are satisfied that a timber fence would be visually acceptable. A 1.8m stone wall, while not considered with the benefit of plans, could potentially raise concerns being to the front of the dwelling.

- The road at the point of entry and exit from the development is narrower than the rest of the carriageway, making manoeuvring in and out of the site awkward and dangerous. The parking and manoeuvring area is now much reduced and inadequate.

Response: Access was a consideration of the Outline permission and has been done in accordance with that document. In terms of the internal layout, while reduced, officers are satisfied that the layout shown is acceptable from highway terms.

- There are two mature elm trees adjacent to the site which provide a significant local amenity. Their roots extend well into the area of the development and could be impacted upon. Harm to the roots could harm the trees' health and stability. A permeable surface for the driveway should be used for irrigation.

Response: The tree is removed from the dwellinghouse, which is not anticipated to impact upon the trees. In regards to the surfacing, Officers and K.C. Trees are satisfied that the works required would not cause undue harm.

Condition 7 of the outline permission requires the parking area to be completed in accordance with the 'Communities and Local Government; and Environment Agencies 'Guidance on the permeable surfacing of front gardens (parking areas)'. This document either requires the use of permeable surfacing, or hard surfacing with appropriate drainage solutions.

- All the above concerns could be addressed by reverting to the original proposal.

Response: This is noted. Nonetheless, for the reasons detailed within the Officer's report and in the above responses, officers do not object to the proposed development.

Please note

The boundary fence between the proposed dwelling and Somerton has been erected on site.

Erection of 5 dwellings**land off, Netherley Drive, Marsden, Huddersfield, HD7 6HL**Correction to recommendation for refusal 1.

1. The site is allocated as Provisional Open Land within the Kirklees Unitary Development Plan and Safeguarded Land within the emerging Kirklees Publication Draft Local Plan. While the Council is unable to demonstrate a five year housing land supply, because the site has been through Appropriate Assessment the tilted balance through the presumption in favour of sustainable development does not apply. The benefits of the proposal, including the housing provision, does not in this situation justify the loss of Provisional Open Land. To approve the development would be in breach of Policy D5 of the Kirklees Unitary Development Plan and Policy PLP6 of the Kirklees Publication Draft Local Plan.

Outline application for erection of residential development**Land off, Burn Road, Birchencliffe, Huddersfield**Flood risk and drainage issues

The Lead Local Flood Authority (LLFA) has reviewed the amended plan showing a single point of access and no specific objections have been raised to the access point.

The point of access will however influence the final site layout and the LLFA has reiterated concerns with the indicative layout and has re-emphasised the potential constraints of drainage and flood risk considerations on the future layout of the site. This will need to be taken into account when planning the site layout and will need to be informed by detailed investigation, which will come forward at reserved matters stage.

The applicant has obtained a copy of Yorkshire Water sewer records for this location and has provided an image with the indicative layout overlain on the sewer map. This demonstrates that the point of access is relatively well separated from the nearest sewers within the site.

Updated section drawings have also been provided which show that the formation of the access point does not require significant engineering works and only requires a limited amount of cut and fill.

Based on the information provided the access point would not conflict with Yorkshire Water infrastructure.

Erection of two storey rear extension, porch to front and alterations to roof

9, Inglewood Avenue, Birkby, Huddersfield, HD2 2DS

An additional representation has been received for the above application which is set out below, along with a response to the points raised.

Re the above I note that the Officers Report to Members at section 7.1- Comments from the initial plans- bullet point 4 refers to the objection because of the impact as seen from the bedroom window but does not refer to the same concern as seen from the living space. This concern was expressed in my original letter of objection of 18 June and my follow-up of 16 October.

I acknowledge that the impact of the front porch will be less than was the case with the previous application dismissed on appeal (2013/90733). However in the decision letter the Inspector clearly at paragraph 7 expressed concern about the impact. It is clearly a relevant consideration which is argued is a proper cause for concern. Accordingly I would argue that the increase in size of the front porch should be refused.

I trust you will include my concern in the Update to Members.

Response: The impact of the proposed porch on the adjacent property is considered to be acceptable given the single storey nature of the porch and separation between the two dwellings.

Erection of two storey and single storey extensions

Brigsteer, 402, Birkby Road, Birkby, Huddersfield, HD2 2DN

Further to the details set out in the published committee report the applicant has submitted an amended plan and further representations have been received. The details of this is set out below:

RECOMMENDATION: DEFER

It is recommended that the application be deferred until the next Huddersfield Sub Committee, January 24th 2019. This recommendation is made because of the late submission of amended plans which in the view of planning officers represent an important material consideration, and to ensure that Committee Members have a reasonable amount of time to consider the new plans and form a balanced view on them.

2.0 SITE AND SURROUNDINGS:

2.1 Correction. The plot measures approximately 39m from north to south and 30m west to east.

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

5.1 All amended and additional plans are listed below:
07-Dec-2018. Submission of amended plans deleting the proposed single-storey extension and retaining the two-storey extension only. These are on the website but have not been formally re-advertised.

7.0 PUBLIC/LOCAL RESPONSE:

7.1 Since the original officer's report, new or additional letters of representation from 12 third parties have been received. These comprise 7 in opposition, 5 in support, although it is noted that some of the supporters fail to provide a complete name or home address. The points made are summarised below with officer responses:

Representations objecting to the proposal:

7.2 Dimensions of the plot (20m by 15m) cannot be correct.

Response: This is acknowledged as an error (2.1 above)

7.3 On the plans submitted by Acumen (drawing reference – Rev D on plan 2532-03D) it clearly states that the reduction in the size of the single-storey extension is only 1.3m, not 1.6m as stated in the officer's report. Therefore the reduction is even smaller than is mentioned in this paragraph.

Response: These are based on officer's measurements of scanned plans and are believed to be accurate. The observation still stands that the change shown on Revision D is quite small. The latest amendment, Revision E, deletes this extension altogether.

7.4 The refusal of the original outline application for erection of a dwelling, 2002/60/94079/W, should be a material consideration. The subsequent application, 2003/94421, was approved even though it was not in accordance with the Kirklees Highways Directive, and there were inaccuracies in the highway consultants' report. In particular there is no shared turning head within the lane nor has there ever been one.

Response: The previous refusal for residential development is not considered material to the proposal now under consideration. Paragraph 10.16 in the officer's report refers to "...rights of use over any shared turning head within the land, or absence thereof..." For the avoidance of doubt, the words "shared turning head", wherever they appear in the report, should not be construed as confirming that a turning head actually exists.

7.5 The report indicates there were 6 objections to the application, this seems low. We know that there was 100% representation from all the other 5 households on the lane, but there are at least two representations that we do not recognise as being from the householders on the lane.

Response: All representations have been reported accurately.

7.6 Residents' concerns about highway safety issues have not been accurately reported. The key point is that if any vehicles cannot turn within the boundary of the property, they will be forced to reverse down the lane into Birkby Road, and this could be made more dangerous after the Halifax Road and Birkby Road junction alterations, because when vehicles turn left into Birkby Road from Halifax Road they may be travelling at a greater speed due to a filter lane. The 5 current residents of the lane, 404-412, and their visitors, have no need to reverse into Birkby Road.

Response: The clarification is noted, but the concern that vehicles might not be able to turn within the boundary of the property is still considered to be unfounded.

7.7 There is nothing in any supporting comment relating to 4 cars being accommodated. Therefore, we do not understand why this has been introduced as a supporting comment.

Response: This text appeared in one of the letters of support, but was redacted from the web version. The case officer has reviewed this matter with colleagues in the Admin team and a more complete version is now available to view.

7.8 To describe the immediate neighbouring dwellings as "individually designed two-storey houses" is not accurate.

Response: This is an error – the sentence should read "...individually designed detached houses. " It is acknowledged that not all are two-storey.

7.9 The site plan is difficult to understand because the trees on the drawing cover what is proposed on the ground and a separate plan should be provided to make this clear.

Response: It is considered that the plans are clear enough to be accurately interpreted by all parties who may have an interest in the application.

7.10 The previous decision on application 2018/90978 should be given weight as a material consideration.

Response: This position is agreed in principle, as is made clear in the main report.

7.11 Covenant says that every plot must be 200 square yards, and if this had been followed Brigsteer would never have been built.

Response: A restrictive covenant is not enforceable through the planning system, and this factor cannot be taken into account as a material consideration.

7.12 Any extensions could open the door to further permitted development – any such rights should be removed.

Response: Condition (8) on permission 2004/91771 removed permitted development rights for extensions and outbuildings. This remains in force.

7.13 The highway improvements will reduce the size of the curtilage even further and make the dwelling more prominent in the street scene.

Response: The siting and prominence of the dwelling is noted, but the assessment of visual impact has been carried out on the basis of the site's existing layout.

7.14 The report refers to '*calculations done independently by the applicant and by the case officer*' but makes no mention of the independent survey using measurements on the ground commissioned by residents. It should also include the comparative building densities of other properties that use the lane.

Response: As previously stated, all measurements in the report are approximate. Alternative calculations have been submitted by the third party as part of a representation and are available to view. These actually confirm the case officer's and applicant's current view – that no. 408 is more densely developed than no. 402, the difference being about 2%.

7.15 Disputes some claims made by a supporter – in particular about the resurfacing of the driveway and about neighbours being shown the plans for the new dwelling and invited to view the property.

Response: These are not deemed to be material considerations.

7.16 Removing the single-storey extension does not address the concerns and objections.

Response: As stated in 10.1, this change is considered significant from the point of view of the planning merits of the scheme.

Representations in support of the proposal:

7.17 It has been reduced, would not amount to overdevelopment, and this shows the applicant's willingness to address the reason for refusal at Committee.

Response: The officer's report and recommendation is on the basis of the Rev D plans which it is considered do not amount to a substantial reduction or overcome the original reason for refusal. The amended plans, 03E and 04K, do however represent a further material consideration.

7.18 There is no effect on access,

Response: Noted.

7.19 The neighbours cannot see the proposed extension.

Response: It will be visible from various points outside the application site and this has been taken into account.

7.20 No effect on residential amenity.

Response: It is considered it would have no adverse impact on the amenities of neighbouring properties or land.

7.21 No Ward Councillors have raised any concerns or objections.

Response: Noted.

7.22 It is a quiet lane with minimal traffic and no parking or turning issues exist. A large van can easily manoeuvre in the drive.

Response: Highways safety issues are considered in the report. Turning for vehicles larger than a private car is not specifically addressed in the officer's report, but again it is noted that all existing turning and manoeuvring space would remain unchanged.

7.23 Tree planting will help to screen it.

Response: It is noted that replanting is shown on the drawings but this was also shown on the 2018/90978 plans and is not a new material consideration.

7.24 Recommendation to refuse, when it been reduced, contradicts previous recommendation to approve.

Response: It has been established by case law that a previous planning decision on the same site, for a development that is similar in nature, can legitimately be treated as a material consideration, and this is the approach that has been taken here.

10.00 APPRAISAL

Urban design issues.

10.1 The latest amended plans (2532-03 Rev E and 2532-04 Rev K), deleting the single-storey extension, represent a more substantial change in the overall scale and footprint of the extension than the earlier version as shown on Rev D and K respectively. They should therefore be given increased weight as a material consideration. Had they been submitted at the start of the application process it is possible they might have led to a different recommendation from the one set out in the report.

10.2 In the interests of giving Committee Members, third parties, and officers, a reasonable amount of time to look at the new plans and form a balanced view on them, it is recommended that the application be deferred until the next Huddersfield Sub Committee, January 24th.
