
Report of the Head of Strategic Investment**STRATEGIC PLANNING COMMITTEE****Date: 03-Jan-2019****Subject: Planning Application 2018/93325 Outline application for erection of residential development Land Adj, 363, Dunford Road, Hade Edge, Holmfirth, HD9 2RT****APPLICANT**Conroy Brook
(Developments)
Ltd/Conroy Homes Ltd**DATE VALID**

09-Oct-2018

TARGET DATE

08-Jan-2019

EXTENSION EXPIRY DATE

05-Jan-2019

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<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: Holme Valley South

Y

Ward Members consulted
(referred to in report)

RECOMMENDATION:

Refuse:

1. The proposed development has the potential to affect the South Pennines Special Protection Area (European Site). There is insufficient information supporting the application to conclude that there would be no adverse effect on the integrity of the Special Protection Area. Consequently the proposed development conflicts with para 175 of the National Planning Policy Framework, policy EP11 of the Unitary Development Plan and Policy PLP30 of the Kirklees Publication Draft Local Plan.
2. The site is designated as Provision Open Land in the Kirklees Unitary Development Plan, the proposed development conflicts with Unitary Development Plan Policy D5. The site is designated as Safeguarded in the Kirklees Publication Draft Local Plan which commands very significant weight as a material planning consideration in the determination of this application. The proposal conflicts with Policy PLP6 of the Kirklees Publication Draft Local Plan as permanent forms of development, such as that proposed in this application, which prejudice the long term development options of the land, should only be considered through a change to the allocation through a review of the local plan. The economic and social benefits associated with the provision of housing in this case are outweighed by the harm arising from the conflict with the current Provisional Open Land Designation and the emerging Safeguarded designation, contrary to paragraph 139(d) of the National Planning Policy Framework.
3. There is insufficient information to adequately demonstrate that the noise and odour arising from the adjacent poultry farm would not cause significant harm to the amenities of future occupiers. The proposal fails to address UDP policies D2 and BE12 of the Kirkless Unitary Development Plan and Policy PLP24 of the Kirklees Publication Draft Local Plan.
4. Insufficient information has been submitted to demonstrate that the proposed development would not result in unacceptable highways impacts, due to the location and design of the proposed access, as required by Policy PLP32 of the Kirklees Publication Draft Local Plan and paragraph 109 of the National Planning Policy Framework.
5. There is insufficient information to demonstrate that the proposed development would be able to properly address surface water run-off in order to achieve a sustainable drainage solution, contrary to Policy PLP27 of the Kirklees Publication Draft Local Plan and paragraph 155 of the National Planning Policy Framework.

1.0 INTRODUCTION:

- 1.1 This scheme is before Strategic Planning Committee as it represents a Departure from the Development Plan.

2.0 SITE AND SURROUNDINGS:

- 2.1 The proposed development is situated to the east of Dunford Road to the south of the village and opposite existing residential development to the west. The site area is 1.2ha.
- 2.2 The site area is flat and roughly rectangular in shape. Existing residential development on Dunford Road lies immediately to the far side of Dunford Road to the west, with a scattering of residential properties on Dunford Road on the eastern side of the road. Immediately to the east of the site is a poultry farm whilst land is open to the north and south - land to the north is allocated as POL in the development plan whilst land to the south is in the green belt. There is a recent residential development approximately 65m to the north of the site boundary.
- 2.3 The site is currently grassland and has been grazed in the past.
- 2.4 The site is designated as Provisional Open Land (POL) on the Kirklees Unitary Development Plan (UDP) and Safeguarded Land on the Kirklees Publication Draft Local Plan (PDLP).

3.0 PROPOSAL:

- 3.1 The proposed scheme seeks to provide residential development on land within the village of Hade Edge. Outline approval for means of access only is sought with all other matters reserved (although an indicative layout plan has been provided which shows 41 residential units arranged around internal access roads).
- 3.2 Access is proposed directly from Dunford Road on open land between numbers 363 and 373 Dunford Road. The site is allocated as Provisional Open Land (POL) within the development plan.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 There is no past planning history on the site. However, a site nearby to the north (also allocated as POL) has recently been granted planning permission for residential development (2017/91623).
- 4.2 A pre-application enquiry was made to the LPA in May 2017 and the response to this enquiry (dated July 2017) identified a number of constraints, including ecology and potential noise and odour issues. The pre-application enquiry identified the potential policy constraints at the time and the weight afforded to the emerging Local Plan has increased significantly since the pre-application enquiry was submitted.
- 4.3 Officers gave detailed feedback in terms of the level of bird survey information required.

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

n/a

6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 48 of the National Planning Policy Framework (2018). In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2018), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 D5 – Provisional open land
BE1 – Design principles
BE2 – Quality of design
BE11 – Materials
BE12 – Space about buildings
T10 – Highway Safety
T16 – Pedestrians Safety
D2 – Unallocated Land
EP11 – Ecological landscaping
NE9 – Retention of mature trees
G6 – Contaminated Land
H1 – Meeting housing needs in the district
H10 – Affordable housing
H12 – Affordable housing
H18 – Public Open Space
EP4 – Noise sensitive development
EP10 – Energy efficiency
EP11 – Integral landscaping scheme to protect / enhance ecology

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

- PLP3 – Location of New Development
PLP6 – Safeguarded Land
PLP7 – Efficient and effective use of land and buildings
PLP11 – Housing Mix and Affordable Housing
PLP20 – Sustainable Travel
PLP21 – Highway safety and access
PLP22 – Parking
PLP24 – Design

PLP27 – Flood Risk
 PLP28 – Drainage
 PLP30 – Biodiversity and Geodiversity
 PLP32 – Landscape
 PLP35 – Historic Environment
 PLP48 – Community facilities and services
 PLP51 – Protection and improvement of local air quality
 PLP52 – Protection and improvement of environmental quality
 PLP61 – Urban Green Space
 PLP62 – Local Green Space
 PLP63 – New Open Space

6.3 Supplementary Planning Guidance:

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

6.4 Supplementary Guidance

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

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised on site, in the local press and by neighbour letter. A total of 83 objections have been received which can be summarised as follows:

- Natural England should be consulted due to proximity to SPA.
- No capacity in local schools.
- Hade Edge is already increasing its size by a third with the new Jones Homes development, and I feel there is no need for any further developments at this time or in the future.
- Hade Edge has its own micro-climate and this would mean residents would use more energy to heat their homes.
- Unacceptable impact on Peak District National Park and Green Belt.
- Unacceptable impact on future residents from noise and odour from poultry farm adjacent.
- The site is safeguarded and housing won't make a significant contribution to housing supply.
- Unsustainable location with poor bus service, and at the top of a hill. Not easily walkable into Holmfirth.
- The exit and ingress to the site uses 43 metre visibility, when the Jones homes development which is to the north and further into the 30 mph zone uses 120 metre visibility lines. The 43 metre lines already cut through existing property boundaries, and this site is very close to the 60mph zone to the

South of the village. It would be extremely unwise to consider anything other than 120metre visibility given the speed of cars approaching the village from the South, and to those cars travelling out of the village in the opposite direction, that will be accelerating on approach to the 60mph zone.

- Impact on internet capacity from the new development.
- High water table in the area and there are no drainage proposals.
- No facilities for cyclists proposed.
- Impact on ecological interests such as bats and birds.
- Existing residents of Green Abbey park their cars on Dunford Road opposite the proposed new site entrance, this will cause safety issues for vehicles travelling on Dunford road when vehicles are emerging from the new proposed site and restrict the exiting of larger vehicles such as refuse trucks.
- Bird Activity on site, during breeding season of 2018 survey report activity of lapwings and discounted as not a breeding site just reported "Single adult loafing (preening and resting) on 4th June." I can report I have spent time watching lapwing's nesting in the fields just above the proposed site on both sides of the road, also during the night in the dark you hearing the calling of lapwings as I walk up the road. Although the survey report implies the grounds are not suitable for the nesting lapwings 2 fields up the Lapwing's are nesting, so the impact of building more houses could affect the ecology for these RED listed birds. In Hade Edge we have a number of RED Listed Birds, these include Song Thrush's, active breeding Starlings, Curlew's in the area, Marsh Tits and Sparrows. 6 RED listed birds out 68 reported in the UK that's 8% of the RED listed Birds can be seen at Hade Edge so this is special area. Amber listed birds we have are Dunnocks and Bullfinches.
- The development will spoil a rural village, have an impact on the local farming community and reduce farming land.
- The development will change a beautiful small village into a town and is not wanted by local residents.
- The development is not sustainable, public transport is infrequent and easily disrupted. The nature of the incline means that residents in Hade Edge rarely travel on foot or by cycle.
- Working from home is infeasible due to fragmented broadband infrastructure.
- In the Local Plan Rejected site options the land was cited as being inappropriate for development.
- The main demand for housing is in Kirklees North, a development of 3-5 bedroom homes will not target this demand.
- The development will be solely reliant on private car commuting.
- The size of the development will increase the village's overall size by around 30%.
- The proposal will contravene the NPPF for limiting infilling of villages in the green belt.
- This is a sensitive site, and proposing a housing estate on this scale would be inappropriate. It is only 1Km from the Peak District National Park boundary, visible from it, and only ½ Km from the substantial area of upland Pennine Access Land. Bare Bones Road is the PDNP boundary, as well as the Barnsley and S. Yorks boundaries.
- Bus Services to and from the village run only 3 return services per day.
- Although the village is only 2km from Holmfirth, the topography makes walking to amenities impossible.

Councillor Greaves:

- *Please note my strong objection to this application to develop a Local Plan Safeguarded site. Besides the site specific issues raised by residents and the Peak Park, the Local Plan is now so advanced that full weight must be given to the intention not to develop this site under either the UDP or the Local Plan.*

There remain numerous approved, undeveloped sites within the Holme Valley area and there is no pressing need to release this site for development now, as there no realistic prospect of this site making even a modest contribution to the land supply shortfall before the Local Plan comes into effect (which will address the land supply shortfall in full).

Councillor Patrick:

- *I recall there was a pre app enquiry about this land and at that time the advice was that a nesting bird survey would need to be undertaken. Has that been done?*
- *If this is approved then I would like to see a S106 contribution towards the junction improvements at the junction of Dunford Road and Penistone Road. That is additional to the S106 contribution by Jones Homes for the same junction in order that a better outcome can be provided. Also S106 contributions for Education for the local school, and an affordable homes contribution. That the s106 contributions are honoured and not challenged at a later stage.*

Holme Valley Parish Council object on the following grounds:

- 1) Village has more than doubled over last few years resulting in the loss of agricultural land.
- 2) Insufficient electricity (16 amp charging points).
- 3) Highways, sewerage and drainage issues.
- 4) More run-off from other development (Jones Homes) now having to be addressed.
- 5) Over intensification of the site.
- 6) 310 bus infrequent and long walk to other buses, so not sustainable.
- 7) Lack of schools and already pushed to capacity with other development.
- 8) Not clear regarding access points and concerns regarding splay points.
- 9) Westwood Yarns disappeared years ago yet mentioned regarding employment in the area.

Due to the topography of the area, Members recommend that the author of the transport report walks and cycles the area, and then updates their report accordingly.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

Highways DM – Object on the following basis:

- The 2.4m x 43m sight line will need justifying with an independent speed survey. Recent data submitted as part of a nearby application would suggest measured 85th percentile traffic speeds well above 30mph.

- No tracking information.

8.2 **Non-statutory:**

Environmental Health - Objects. The proposed development site is immediately adjacent to an existing poultry rearing farm with 4 large poultry sheds. It is inevitable that there will be some odour produced by this activity and which is likely to have a significant adverse impact on the future occupiers of the proposed residential properties, in particular those closest to the eastern boundary of the site.

There is also likely to be some noise associated with the poultry rearing and possibly occasional flies. The applicant has not provided any evidence to suggest that the proximity of the poultry rearing establishment would not present any problems. I consider that the proposed development is too close to this poultry rearing establishment.

Planning conditions are recommended relating to air quality and contamination.

Yorkshire Water – No objection subject to a planning condition.

Peak District National Park – Objects. The form and layout of Hade Edge has clearly been altered in recent years and does not display a historic settlement pattern, existing as it does in two principle blocks of development with a suburban character. Nevertheless the existing areas are relatively light touch and allow the landscape to wrap around it presenting the form of a more rural settlement. Planning permission has been granted for residential development on a site to the north which this Authority objected to on the grounds of impact upon the setting of the National Park.

The Authority maintains the same concerns raised about the previous scheme and consider that the scale and layout of a residential development on this site would add a heavier urban quality that would be conspicuous in the scenery and landscape character flowing from the National Park.

The Authority therefore would object to the development of this site as proposed. If the planning authority is minded to accept development of this site in principle then the National Park Authority would recommend that any scheme coming forward for approval of reserved matters should:

- *Be of an appropriate density and layout to provide an urban rather than suburban character reflecting the landscape character type and historic field pattern.*
- *Design dwellings to be sympathetic to the local vernacular rather than a sub-urban design using natural gritstone and slate for walls and roofs.*
- *Design landscaping to integrate the development into the landscape and use gritstone walling to boundary treatments.*

Education – A total contribution of £79,712 would be required based on 41 dwellings.

Trees – No objection.

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Landscape issues
- Housing issues
- Highway issues
- Drainage issues
- Planning obligations
- Representations

10.0 APPRAISAL

Principle of development

10.1 The site is allocated as Provisional Open Land (POL) on the Kirklees Unitary Development Plan. Planning law requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework 2018 (NPPF) is one such material consideration. The starting point in assessing any planning application is, therefore, to ascertain whether or not a proposal accords with the relevant provisions of the development plan, in this case, the saved policies in the Kirklees Unitary Development Plan, 1999 (UDP). If a planning application does not accord with the development plan, then regard should be had as to whether there are other material considerations, including the NPPF, which indicate that planning permission should be granted. The Council are also at an advanced stage in the preparation and adoption of the Local Plan. The Local Plan - Kirklees Publication Draft Local Plan (PDL) – was submitted for examination in April 2017.

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

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

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

10.4 Within the subtext to this policy and reflective of para139 of the NPPF, safeguarded land comprises areas between the urban area and the Green Belt, in order to meet long-term development needs stretching well beyond the plan period. It is considered that this policy anticipates development on safeguarded land at some time in the future, rather than having the overall purpose of seeking to restrict or prevent development indefinitely. Nevertheless, this

policy is considered to carry substantial weight and the proposed development would be in clear contravention of this policy.

- 10.5 As part of the PDLP examination process a series of public hearings have taken place to discuss a variety of different issues, including the proposed site allocation. Following the hearing sessions the Inspector invited the Council to consult on a range of proposed modifications in order to make the Local Plan sound. The consultation period on these proposed modifications ended on 1st October 2018. Insofar as site specific modifications are concerned, the designation associated with the application site is not subject to any modifications and, therefore, the emerging designation – Safeguarded (ref – SL2170a) – remains and will be carried forwards with the intention that it remains safeguarded in the adopted PDLP.
- 10.6 The emerging Safeguarded designation (SL2170a) forms approximately 2.8ha. The application site forms the southern parcel of this wider designation. It is against this larger allocation that the site has been rejected as a housing allocation by officers prior to the Examination in Public process (Kirklees Rejected Site Options Report – July 2017).
- 10.7 The NPPF is a Government statement of policy and is, therefore, considered an important material consideration especially in the event that there is an emerging Local Plan, as is the case here. This is reinforced in para 48 of the NPPF which guides that due weight should be given to relevant policies in emerging Local Plans having regard to the stage of the Local Plan, the extent to which there are unresolved objections, and the degree of consistency with policies in the NPPF. Consequently, it can only be concluded at this stage that significant weight should be attached to the Safeguarded PDLP designation on the basis of the advanced stage of preparation of the Local Plan.
- 10.8 There is clear support for housing proposals contained within the NPPF in order to *“boost significantly the supply of homes...”* (para 59). The same chapter then goes on to describe how local authorities should meet the full objectively assessed need for market and affordable housing. Officers are currently of the view that the Council are unable to demonstrate a 5 year supply of deliverable sites in accordance with the NPPF and NPPG. Based on the Objectively Assessed Need which has been used to inform the PDLP which is at an advanced stage of examination, the PDLP intends to assist in the delivery of at least 1730 homes per annum which is required in order to ensure a 5 year housing land supply. Following the Inspector’s recommended modifications to the Local Plan the Council will be able to demonstrate a housing land supply in excess of 5 years when it is adopted.
- 10.9 For the current application this has implications. Para 11 of the NPPF states that for decision-taking, the presumption in favour of sustainable development means:
- Approving development proposals that accord with an up-to-date development plan without delay; or
 - Where there are no relevant development plan policies in the NPPF that protect areas of assets of particular importance provides a clear reason for refusing the development proposed; or
- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework when taken as a whole.*

- 10.10 At the time of writing, the Council are unable to demonstrate a 5 year housing land supply as required by para 73 of the NPPF. Therefore, it is considered that the 'tilted balance' presumption in favour of sustainable development as advocated by para 11 of the NPPF applies in this case. This provides that planning permission should be granted unless the adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole.
- 10.11 The PDLP and supporting housing needs assessments demonstrate that the housing requirement over the plan period amounts to *circa* 31,000 units. The current proposal would amount to less than 0.2% of housing needs over the plan period. The amount of housing proposed as part of this application, therefore, is not considered to meet the threshold required to demonstrate that the development is so substantial that it undermines the plan making process as it does not predetermine decisions about the scale or location of new development that are central to the PDLP. Furthermore, it is noted that the proposal does not comprise housing covering the whole of the emerging Safeguarded allocation. Whilst the PDLP is at an advanced stage, the proposed development would not undermine the plan making process. In addition, the provision of housing on this site would not appear to result in tangible harm to the local plan process and outcomes as a result of 'over-allocation'. There is no cap on housing numbers and the spirit of the NPPF is to promote housing development on appropriate sites. As its name suggests, safeguarded land is intended to safeguard land for potential future development and the provision of housing at this time would only serve to boost housing numbers.

Housing Land Supply and Emerging Local Plan technical considerations

- 10.12 In the PDLP the housing requirement is set at 31,140 homes from 2013 – 31 to meet identified needs, with 16,637 dwellings to be delivered during the five year period following the adoption of the Local Plan. This equates to 1730 homes per annum with additional arrangements set out in the NPPF to ensure continual delivery throughout the plan period.
- 10.13 Over a number of years there has been persistent under-delivery of new housing. However, the PDLP is predicated on achieving sufficient housing deliver and if it was to be adopted in its current form, the Council would be able to demonstrate a five year housing land supply.
- 10.14 The proposed development comprises 61 dwellings and forms part of a larger POL site. As part of the Local Plan process, the prospect of allocating the wider designation for housing was considered by officers but rejected. The rejected housing allocation comprised an indicative housing capacity of 78 dwellings. The *Kirklees Rejected Site Options Report 2017* considered the housing allocation and concluded that there are technical constraints associated with the site, the most notable of which being odour. This is echoed in the *Accepted Site Options – Technical Appraisal – July 2017* which identifies:

This site is not deliverable or developable during the local plan period. There is a reasonable prospect that the constraints on this site could be overcome to allow the delivery of new homes beyond the end of the local plan period. Environmental Health objection raised to housing site adjacent to the chicken farm to the south east.

Conclusions on principle of development

- 10.15 The material consideration concerning the lack of 5 year housing land supply leads in many such cases to the application of the 'tilted balance' set out in paragraph 11 of the NPPF being engaged. However, footnote 6 sets out that this should be disapplied in certain circumstances. One such circumstance is the impact on Special Protection Areas. Para177 states:

"The presumption in favour of sustainable development does not apply where development requiring appropriate assessment because of its potential impact on a habitats site is being planned or determined."

- 10.16 As this report will confirm, there is a potential impact on the South Pennine Moors Special Protection Area (SPA) therefore, the 'tilted balance' presumption in favour of sustainable development does not apply in this case.
- 10.17 The site lies on POL land on the UDP and it is considered that accompanying policy D5 should be applied full weight. The site is allocated as Safeguarded in the PDLP to which significant weight should be attributed due to advance stage of the emerging Local Plan process. It is considered that the strict application of these policies would prevent improvement to the shortfall in the supply of housing at this particularly time and this should, therefore, be weighed against the significant lack of housing land supply and the contribution to housing numbers made by this application.
- 10.18 For the reasons identified above, the current POL allocation is not an automatic restriction on development and this has been evidenced in recent years through appeal decisions. The emerging Safeguarded designation has increased in weight through the Local Plan process and now commands significant weight in determining this application. The proposed development would result in the loss of a large proportion of the emerging designation. The Council cannot demonstrate a five year supply of deliverable sites. The 'tilted balance' as set out in para11 of the NPPF is not engaged in this case and the acceptability of the scheme requires a straightforward balancing exercise.

Urban Design issues

- 10.19 Chapter 12 of the NPPF states, amongst other things, that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 10.20 Policy BE1 of the UDP requires that all development should be of good quality design such that it contributes to a built environment. Policy BE2 states, amongst other matters, that new development should be designed so that it is in keeping with any surrounding development. Policy PLP24 of the PDLP requires that good design to be at the core of all planning decisions
- 10.21 Within the village existing dwelling houses are predominately two storeys in height and of natural stone construction, with stone boundary walls. There are prominent views of the site from Penistone Road looking west towards Dunford Road. The existing village and the application site are not within a conservation

area; however to the North West further along Dunford Road are the Hade Edge Methodist Chapel and Sunday school which are grade II listed buildings.

- 10.22 The proposal has been submitted in outline form with all matters reserved except for access. The Peak District National Park object to the application. Officers also requested a Landscape and Visual Impact Assessment as part of the pre-application advice. PDLP policy PLP32 requires applicants to consider the impact on the Peak District National Park including:

“The need to protect the setting and special qualities of the Peak District National park, views in and out of the park and views from surrounding viewpoints...”

- 10.23 In terms of the potential impact on the Peak District National Park, Section 62 of the Environment Act 1995 places a duty on all relevant authorities to have regard to the purposes of the National Park, these being:

- to conserve and enhance the natural beauty, wildlife and cultural heritage of the national park.
- to promote opportunities for the understanding and enjoyment of the special qualities [of the park] by the public.

- 10.24 The site would be located against the backdrop of existing buildings and development associated with Hade Edge and would be in close proximity of a recent housing development where the impact on the Peak Park was considered to be minimal. It is considered that the landscape and visual impacts of the proposal would be fully realised as part of any subsequent reserved matters. The current application involves outline (with no specific numbers of houses being applied for). Therefore, it is considered appropriate in this case to ensure that landscape and visual impacts are fully considered and addressed in any subsequent reserved matters.

Residential Amenity

- 10.25 UDP Policy D2 requires the effect on residential amenity to be considered and policy BE12 sets out the normally recommended minimum distances between habitable and non-habitable room windows of existing and proposed dwellings. In this case a full assessment would be undertaken pending the submission of reserved matters. The scheme could be designed in such a way so as to avoid unacceptable impacts on neighbouring properties.
- 10.26 The main issue in this case concerns the proximity of the site to the existing poultry rearing farm it is considered that significant impacts would arise. There are objections to the proposal from Environmental Health and this was also a key issue when determining whether or not the site was a suitable Housing Allocation in the PDLP.
- 10.27 The proposed development site is immediately adjacent to an existing poultry rearing farm with 4 large poultry sheds. It is inevitable that these activities would produce odour which is likely to have a significant adverse impact on the future occupiers of the proposed residential properties, in particular those closest to the eastern boundary of the site. There is also likely to be some noise associated with the poultry rearing and possibly occasional flies. The applicant has not provided any evidence to suggest that the proximity of the poultry

rearing establishment would not present any problems. The proposal fails to address UDP policies D2 and BE12 and PDLF policy PLP24.

Highway issues

- 10.28 Policy T10 of the Kirklees UDP states that new development will not normally be permitted if it will create or materially add to highway safety issues. Policy PLP21 of the PDLF aims to ensure that new developments do not materially add to existing highway problems or undermine the safety of all users of the network. Para 109 of the NPPF states:

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

- 10.29 Highways DM object to the application due to insufficient information concerning the following:

“The 2.4m x 43m sight line needs justifying with an independent speed survey. Recent data submitted as part of a nearby application would suggest measured 85th percentile traffic speeds are well above 30mph”.

- 10.30 As a consequence of the above the proposed development fails to provide sufficient information to address policy T10 of the UDP and PLP21 of the PDLF.

Accessibility

- 10.31 The site is located within the village of Hade Edge. The village is within a rural location with a limited public transport service. The closest bus stops are located on Dunford Road and Greave Road and provide services to Penistone and Holmfirth, New Mill, Hepworth, and Huddersfield. Future residents of the development are likely to rely on private transport to access jobs, shops and other services and it is acknowledged that the site is not well served by public transport. There are some local facilities within the village, including a junior and infant school, a butchers and food hall, a band room, recreational area, a public house and a Methodist chapel and Sunday school. Residents would generally have to travel outside of the village however to access health, shops and employment opportunities. The village has a bus service, but is poorly connected in comparison with many other towns and villages in the district. It could be argued that an increase in population could create demand to help generate a degree of voluntary social / community organisation although it is recognised that this would be extremely marginal. Whilst it is acknowledged that residential development has recently been granted in the village (2017/91623), it was acknowledged in that particular case that the proposal suffered from relatively limited access to a range of services and that was weighed in the planning balance. Accessibility is a component part of achieving good design in accordance with PLP24 of the PDLF. Consequently, the location of the site and identified accessibility constraints means that it is not possible to achieve all the aims of PLP24 and there is a social element, which is one of the three limbs associated with achieving sustainable development, which the scheme fails to achieve. This should be weighed in the planning balance.

Drainage issues

- 10.32 The application site is located with flood zone 1 but due to the size of the site should be supported by a Flood Risk Assessment (FRA). There is no Flood Risk Assessment with the application. The application form details that the site would be drained by soakaway but there is no additional information to ascertain that soakaways are an acceptable drainage solution on this site. There is insufficient information with this application to address the requirements of PLP28 of the PDLP and the NPPF.

Ecology

- 10.33 UDP Policy EP11 requires that applications for planning permission should incorporate landscaping which protects/enhances the ecology of the site. Policy PLP 30 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.
- 10.34 The application site is located approximately 0.8 km from the Peak District Moors (South Pennine Moors Phase 1) Special Protection Area (SPA) which is designated for internationally important populations of birds.
- 10.35 In accordance with the Habitats Regulations, the Council have screened the proposal for likely significant effects to the SPA (and other European sites) and concluded that the proposals require an Appropriate Assessment in order to identify whether the proposals are likely to adversely affect the integrity of the SPA, and to identify appropriate avoidance and mitigation strategies where such effects are identified.
- 10.36 Any land outside of the SPA boundary that is used for foraging by the birds for with the site is designated are considered to be functionally connected and the land receives equal protection. Golden plover in particular will utilise agriculturally improved grassland and females regularly fly in excess of 6 km from nest to feed. Males forage exclusively at night during the breeding season and fly up to approximately 2.5km from the nest site.
- 10.37 Due to the specific ecology of golden plover, a bespoke survey methodology is required to provide the information necessary to undertake the Appropriate Assessment. Under the Habitats Regulations it is the applicant's responsibility to provide this information. In this case the applicant has not included the whole application area in the surveys and the survey methodology has not included sufficient nocturnal surveys to determine the presence or absence of SPA birds. Overall, the supporting information has utilised an industry standard breeding birds' surveys rather than the methods suitable to determine the presence or absence of foraging SPA birds.
- 10.38 Section 2.15 of the submitted ecological report suggests "Adjacent land was also observed for additional input." However, neither the extent of the area covered nor, the level of survey effort expended, is clear from the information provided in the report. Nor are there any maps of survey routes used or, locations of bird registrations recorded during the survey. Although a single nocturnal survey was carried out – which falls short of the survey effort required as suggested in the guidance - no details are provided of the methods used.

10.39 There has been no assessment of potential impacts on the land areas surrounding the development site, in the context of functional land. Consequently, there is insufficient information to make an informed decision about the potential impacts of this proposed development on biodiversity.

10.40 Without additional bird survey information it cannot be concluded through the Appropriate Assessment that the proposed development would not adversely affect the integrity of the European Site. Therefore, the proposal fails to satisfy the Conservation of Habitats and Species Regulations 2017 and policy EP11 of the UDP and PLP30 of the PDLP.

Planning obligations

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

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

10.42 The proposal triggers the following contributions:

Education Provision

Para94 of the NPPF states that great weight should be given to the need to create, expand or alters schools. In line with the requirements for 'Providing for Education Needs Generated by New Housing' (KMC Policy Guidance), the proposed development attracts a contribution towards additional school places. In order to address the additional pressure on local schools, the Council Education section requires the following contribution:

£79,712.00 – the final figure to be determined at reserved matters stage.

Public Open Space

10.43 Policy H18 of the UDP requires 30sqm of Public Open Space per dwelling on development sites in excess of 0.4 hectares. There is also a requirement towards a play area/equipment on site or off-site. It is anticipated that this matter would be dealt with as part of the reserved matters.

Affordable Housing

10.44 The Council's Interim Affordable Housing Policy requires that 20% of units are secured as affordable housing. This would be dealt with as part of the reserved matters.

11.0 CONCLUSION

11.1 The application site lies on an area of land allocated as Provisional Open Land (POL) on the UDP and Safeguarded on the PDLP.

11.2 The application has the potential to affect the South Pennine Moors SPA and there is insufficient to conclude that the SPA would not be adversely affected

by the proposed development. This in itself is sufficient to recommend refusal of the planning application as the proposal fails to address the requirements of policy EP11 of the UDP and PLP 30 of the PDLP.

- 11.3 As a consequence of the impact on the SPA, a straightforward planning balance should be applied. The Council are unable to demonstrate a 5 year housing land supply. Significant benefits would arise from the proposed housing due to the number of dwellings proposed at a time of chronic shortage and the proposed affordable housing element. However, the proposed development would conflict with policy D5 of the UDP insofar as it would be an obtrusive urban form in an existing rural area. There is further conflict with policy PLP6, which carries substantial weight, as permanent forms of development, such as that proposed in this application, which prejudice the long term development options of the land, should only be considered through a change to the allocation through a review of the local plan. There are limitations in terms of the accessibility of the site to local services which undermines the ability of the scheme to fully realise the social dimension of sustainable development. The benefits associated with the provision of housing in this case are significantly and demonstrably outweighed by the harm arising from the conflict with the current Provisional Open Land Designation and the emerging Safeguarded designation, contrary to paragraph 139(d) of the National Planning Policy Framework.
- 11.4 There are other matters of concern. The applicant has failed to demonstrate that the residential development is acceptable in light of the close proximity of the poultry farm which could give rise to significant odour and noise impacts, affecting future residents.
- 11.5 There is insufficient information to justify the proposed visibility splays associated with the provision of the access which is contrary to policy T10 of the UDP and PLP21 of the PDLP.
- 11.6 There is insufficient information to demonstrate that the proposed development would be able to properly address surface water run-off in order to achieve a sustainable drainage solution, contrary to Policy PLP27 of the Kirklees Publication Draft Local Plan and paragraph 155 of the National Planning Policy Framework.

12.0 Reasons

1. The proposed development has the potential to affect the South Pennines Special Protection Area (European Site). There is insufficient information supporting the application to conclude that there would be no adverse effect on the integrity of the Special Protection Area. Consequently the proposed development conflicts with para 175 of the National Planning Policy Framework, policy EP11 of the Unitary Development Plan and Policy PLP30 of the Kirklees Publication Draft Local Plan.

2. The site is designated as Provision Open Land in the Kirklees Unitary Development Plan, the proposed development conflicts with Unitary Development Plan Policy D5. The site is designated as Safeguarded in the Kirklees Publication Draft Local Plan which commands very significant weight as a material planning consideration in the determination of this application. The proposal conflicts with Policy PLP6 of the Kirklees Publication Draft Local Plan as permanent forms of development, such as that proposed in this application, which prejudice the long term development options

of the land, should only be considered through a change to the allocation through a review of the local plan. The economic and social benefits associated with the provision of housing in this case are outweighed by the harm arising from the conflict with the current Provisional Open Land Designation and the emerging Safeguarded designation, contrary to paragraph 139(d) of the National Planning Policy Framework.

3. There is insufficient information to adequately demonstrate that the noise and odour arising from the adjacent poultry farm would not cause significant harm to the amenities of future occupiers. The proposal fails to address UDP policies D2 and BE12 of the Kirkless Unitary Development Plan and Policy PLP24 of the Kirklees Publication Draft Local Plan.

4. Insufficient information has been submitted to demonstrate that the proposed development would not result in unacceptable highways impacts, due to the location and design of the proposed access, as required by Policy PLP32 of the Kirklees Publication Draft Local Plan and paragraph 109 of the National Planning Policy Framework.

5. There is insufficient information to demonstrate that the proposed development would be able to properly address surface water run-off in order to achieve a sustainable drainage solution, contrary to Policy PLP27 of the Kirklees Publication Draft Local Plan and paragraph 155 of the National Planning Policy Framework.

Background Papers:

Application and history files.

Website link to be inserted here: <http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f93325>++

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