
Report of the Head of Development and Master Planning**STRATEGIC PLANNING COMMITTEE****Date: 11-Jul-2019**

Subject: Planning Application 2018/93951 Outline application for the erection of up to 54 dwellings with all matters reserved for future submission except for access which is to be taken from Kingsmeade. Works to include the demolition of No 28 Kingsmeade. Land to the rear of Tolson Street, Kingsmead, Hazel Crescent and Deneside, Chickenley, Dewsbury

APPLICANT

C Noble, D Noble Ltd

DATE VALID

29-Nov-2018

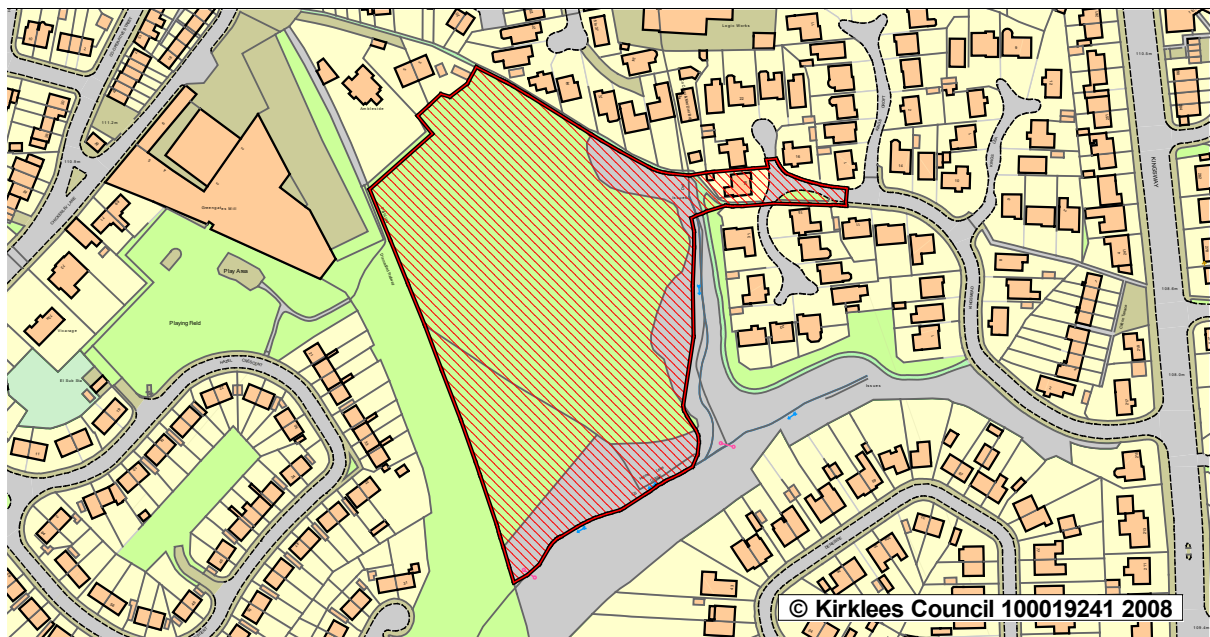
TARGET DATE

28-Feb-2019

EXTENSION EXPIRY DATE

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

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

LOCATION PLAN

Map not to scale – for identification purposes only

Electoral Wards Affected: Dewsbury East Ward

Yes

Ward Members consulted
(Referred to in the report)

RECOMMENDATION: REFUSE

That refusal of the application and the issue of the decision notice be delegated to the Head of Development and Master Planning in order to complete the list of reasons including those set out in the report;

(1) The site is allocated as safeguarded land on the Kirklees Local Plan. Policy LP6 states that 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. Given that the proposed residential development is not necessary for the operation of existing uses and will not result in an alternative open land use or temporary use, the development will result in an inappropriate use on land that has been protected for future development. The proposed development therefore fails to comply with Policy LP6 of the Kirklees Local Plan and guidance within the National Planning Policy Framework.

(2) The development of the site will result in the loss of biodiversity for which no detailed assessment or mitigation measures have been provided and therefore the development would result in loss to biodiversity contrary to Policy LP30 and Chapter 15 of the NPPF.

1.0 INTRODUCTION:

- 1.1 The application is submitted in outline for residential development with access included, all other matters are reserved.
- 1.2 The application is brought to Strategic Planning Committee for determination in accordance with the Council's Scheme of Delegation as the site represents a departure from the Local Plan adopted 27th February 2019. The site is allocated as Safeguarded Land.
- 1.3 The majority of the proposed site area falls within the Kirklees District with the exception of a small area of land along the eastern boundary which comprises no. 28 Kingsmead. This dwelling is proposed to be demolished to enable the creation of an access into the site leading from Kingsmead. This part of the site lies within the administrative boundary of Wakefield. In circumstance where an application site crosses the administrative boundary between two Local Planning Authorities two identical applications are required to be submitted; one to each Local Planning Authority with the fee payable to the authority of whichever area contains the larger or largest part of the whole application site. In this case the majority of the application site falls within the administrative area of Kirklees (approximately 96%), accordingly Kirklees are in receipt of the fee.

- 1.4 Although it is strictly possible and lawful for an applicant to formulate two distinct planning applications for each Local Planning Authority, such an approach would be artificial since each Local Planning Authority would need to know details of the development proposed in the other Local Planning Authority's administrative area in order to make an appropriate determination of the application.
- 1.5 In the absence of alternative administrative or statutory arrangements, a planning application should be determined by the Local Planning Authority in whose administrative area the development is proposed to be carried out. In the case of cross boundary applications, this can lead to two Local Planning Authorities making individual determinations, imposing different conditions on the permissions and entering into separate Section 106 agreements. However, this is not recommended as it does not promote a coordinated approach to development management and the permissions granted by each Local Planning Authority may be inconsistent in terms of the conditions attached to them and the obligations entered into the related Section 106 Agreements. This is, of course, highly undesirable in terms of achieving a coordinated approach to delivering development. It is also contrary to the overall tenor of Government advice, which encourages joint working between Local Planning Authorities in relation to the use of their planning powers and the duty to cooperate in relation to plan making.
- 1.6 Section 101(5) of the Local Government Act 1972 authorises two or more Local Planning Authorities to discharge any of their functions jointly. This arrangement can be achieved through the establishment of a joint committee. In practice, this type of arrangement is usually established for large scale applications or if it is likely that there will be a number of cross boundary applications.
- 1.7 In this case, Kirklees and Wakefield Councils could choose to establish a joint committee and determine the two cross boundary applications collectively. If both Local Planning Authorities were minded to grant consent for the cross boundary development, it could grant planning permission authorising the development applied for in both of their administrative areas under the two original planning applications.
- 1.8 This approach can be preferable since it will ensure that the determination of the application, imposition of conditions and agreement of planning obligations in any related S106 Agreement (to be entered into by both authorities) are consistent and provide an effective development management framework for regulating the delivery of the development. Whilst the proposal submitted is for up to 54 dwellings this is not considered to be of a significant scale to warrant the establishment of a joint committee and consideration would need to be given as to whether this would be an efficient use of Council resources having regard to the overall scale of the development proposed.
- 1.9 It is anticipated that Wakefield MDC will delegate its decision making powers to Kirklees in respect of its determination of this cross boundary application. Section 101(1) of the Local Government Act 1972 authorises a local authority to arrange for the discharge of functions by any other local authority. This provision could be relied on by an LPA to delegate its development management functions to another local authority in respect of a specific cross boundary planning application. Kirklees Council, who have been paid the full

application fee in any event, would then determine both the planning application submitted directly to them and the application submitted initially to Wakefield. If Kirklees Council was minded to grant consent for the cross boundary development, it could grant planning permission authorising the development applied for in both of the administrative areas under the two original planning applications. The same applies should Kirklees Council be minded to refuse the application.

- 1.10 The application submitted to Wakefield MDC was presented to their Planning and Highways Committee on the 13th June 2019. The report to Members requested that they form a view on the appropriateness of the works proposed within the Wakefield MDC area; to identify issues associated with the wider development in order that any concerns could be sent to Kirklees Council for consideration in the determination of the duplicate application and to seek approval to delegate the Council's decision making authority to Kirklees Council in respect of the cross-boundary planning application.
- 1.11 It was noted that the majority of the proposed site area (approx. 96%), development and works fall within the Kirklees District with the exception of a small area of land along the eastern boundary which comprises no.28 Kingsmead, which is proposed to be demolished to enable the creation of an access into the wider site leading from Kingsmead. The report is available via the council website. This includes the summarised objections from local residents and technical analysis carried out by officers of this council in so far of the works that relate to the part of the site within the Wakefield administrative area. That analysis identifies that notwithstanding the level of objection received, the view of officers of the Council is that no fundamental concerns should be expressed in respect of the works within the Wakefield District subject to the imposition of conditions
- a schedule of suggested conditions was included as an appendix to the report.
- 1.12 Following discussion Members resolved to defer the application to a future meeting and in doing so expressed concerns in respect of the use of Kingsmead to access the development site and the impact this could have on highway safety and amenity. Members requested that Officers explore specific matters relating to the provision of alternative access arrangements within Kirklees. Furthermore Members of the Wakefield Planning and Highway Committee would like to have sight of a committee report from Kirklees Council to ascertain views on the overriding principle of development and other material considerations to assist in their understanding of the wider implications of the development. Essentially they would like our Committee to consider this application and formulate a resolution before they reach a conclusion on their duplicate application.

2.0 SITE AND SURROUNDINGS:

- 2.1 In the main, the site comprises a parcel of land which extends to approximately 2.05 hectares. The main parcel of land located within the administrative area of Kirklees is predominantly grass land which slopes down in a south easterly direction. The site is bound by dwellings situated on Kingsmead to the east, Hazel Crescent to the south west and Tolson Street to the North. There are watercourses that run along the eastern and southern boundaries with a number of trees aligning the site's eastern, southern and western boundaries. There is evidence within the site of informal leisure activity with a number of unmade paths.

2.2 The site includes number 28 Kingsmead which is a 2 storey detached brick building beyond which the red site line extends to include approximately 64 metres along Kingsmead within the Wakefield MDC administrative area.

2.3 There is currently no vehicular access in to the site. Pedestrian access can be gained from Hazel Crescent and from Kingsmead (within Wakefield MDC). Public Right of Way DEW/144/10 runs along the northern boundary running between Chickenley Lane and Kingsmead.

3.0 PROPOSAL:

3.1 Outline permission is sought for the erection up to 54 dwellings. All matters are reserved apart from access. An indicative layout plan has been provided which shows a mixture of dwelling units arranged an internal loop access road.

3.2 The demolition of no.28 Kingsmead facilitates access to the site this extends along the existing highway in Wakefield.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 None

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

5.1 Further information has been sought with regards to access.

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 statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

6.2 The site is allocated as Safeguarded Land in the Kirklees Local Plan.

Kirklees Local Plan (2019):

6.3 Relevant policies are:
LP1 – Presumption in favour of sustainable development
LP2 – Place shaping
LP3 – Location of new development
LP6 – Safeguarded land
LP7 – Efficient and effective use of land and buildings
LP11 – Housing mix and affordable housing
LP20 – Sustainable travel
LP21 – Highway safety and access
LP22 – Parking
LP23 – Core walking and cycling network
LP24 – Design
LP27 – Flood risk
LP28 – Drainage
LP30 – Biodiversity and geodiversity

- LP31 – green infrastructure network
- LP32 – Landscape
- LP33 – Trees
- LP34 – Conserving and enhancing the water environment
- LP47 – Healthy, active and safe lifestyles
- LP48 – Community facilities and services
- LP49 – Educational and health care needs
- LP50 – Sport and physical activity
- LP51 – Protection and improvement of local air quality
- LP52 – Protection and improvement of environmental quality
- LP53 – Contaminated and unstable land
- LP63 – New open space

Supplementary Planning Guidance / Documents:

6.4 West Yorkshire Low Emissions Strategy and Air Quality and Emissions

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

Interim Affordable Housing Policy

National Planning Guidance:

- 6.5
- Chapter 2 – Achieving sustainable development
 - Chapter 5 – Delivering a sufficient supply of homes
 - Chapter 8 – Promoting healthy and safe communities
 - Chapter 9 – Promoting sustainable transport
 - Chapter 11 – Making effective use of land
 - Chapter 12 – Achieving well-designed places
 - Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
 - Chapter 15 – Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application has been advertised with site notices and neighbour letters. 113 representations have been received. A summary of the comments are listed below:

- Noise/Disruption
- Pollution
- Traffic/Congestion
- Loss of amenity strip (used to service strips)
- Limited visibility
- Highway safety (poor road alignment, no footways, poor sight lines)
- Poor access
- Lack of parking
- Remove areas for children to play out safely
- Loss of green space
- Adverse on well being
- Loss of family home
- Merge of districts
- Adverse impact on character of the area
- Environmental impact has not been assessed properly
- Loss of wildlife (bats/birds)

Inaccuracies in the report
Access should be within Kirklees
Loss of residents gardens to provide footpaths
Safeguarded land
Areas of land already cleared
Number of dwellings (54/73)
Contrary to human rights
Any contributions will be given to Kirklees
Strain on services
Overlooking
Loss of views
Loss of house value
Drainage issues
Emergency services will be at a disadvantage
Coal mining workings
Within 20 metres of 2 becks
Hazard for children
Risk to elderly
Any alterations to the footpath will need to go through a formal process (DMO)
Loss of trees/hedges

Cllr Cathy Scott – The land should remain protected
Former Cllr Eric Firth – The site should remain as safeguarded land

Ossett Ward Councillor - Objects

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

Coal Authority – No objections subject to conditions
Yorkshire Water – No objections subject to conditions
Environment Agency – Comments not received
KC Highways DM – No objections
KC Lead Local Flood Authority – Comments provided but no objection
Wakefield MDC – Awaiting our resolution

8.2 Non-statutory:

KC Ecology – The development proposals cannot be supported
KC Education – Further information is required to enable a calculation
KC Environmental Health – No objections
KC Landscape – No objections
KC Trees – No objections
KC PROW – Comments not received
KC Strategic Housing – Affordable provision required.
KC Police Architectural Liaison Officer – No objections

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Landscape issues
- Housing issues

- Highway issues
- Drainage issues
- Planning obligations
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 At the heart of the National Planning Policy Framework (NPPF) is a presumption in favour of sustainable development, Paragraph 11 of the NPPF sets out what this means for decision taking as follows:

c) approving development proposals that accord with an up-to-date development plan without delay; or
 d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date , granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

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

- 10.2 The site is allocated as safeguarded land on the Kirklees Local Plan. Policy LP6 states that 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 which is preserved for future development.

Residential development

- 10.3 In the recently adopted Local Plan the council have demonstrated 5.51 years supply of deliverable housing capacity (including incorporation of the required 20% buffer). As the Local Plan was adopted within the last five years the five year supply calculation is based on the housing requirement set out in the Local Plan (adopted 27th February 2019) and takes account of shortfalls in delivery since the Local Plan base date (1st April 2013).

- 10.4 Recent amendments to National Planning Practice Guidance have revised the Housing Delivery Test measurement for local planning authorities and a technical note on the process used in its calculation. Results for 2018 (published 19th February 2019) show that housing delivery in Kirklees over the period 2015-2018 was 75% of the number of homes required by the test. This means that the council must produce an Action Plan within six months of the test results being published and continue to apply a 20% buffer to the five year housing land supply requirements. In summary the council can currently demonstrate a 5-year supply of deliverable housing sites, with appropriate buffer.

Urban Design issues

- 10.5 Whilst an indicative layout plan is submitted, the application seeks outline permission with details of access points only reserving layout, appearance, scale and landscape details. Although, the indicative layout appears to promote a mix of house types in accordance with Policy LP11 of the Local Plan, an assessment in relation to Policies LP24 and LP52 of the Local Plan and Chapters 12 and 15 of the NPPF needs to be undertaken on any subsequent future applications to ensure good design is achieved that respects and enhances the character of the local townscape and provides a high standard of amenity for future and neighbouring properties.
- 10.6 With regards to scale and appearance, the site has varying levels and topography covering a large area that could accommodate buildings varying in height. However, where sited close to existing neighbouring buildings and development, the proposals would need to be designed sympathetically so as not to appear overbearing and oppressive, also to proposed buildings internally within the site and to existing adjacent land levels. Finished floor and ground levels, at the stage of reserved matters would need careful consideration, accompanied with section drawings to demonstrate the relationship of existing and proposed development and land levels. It is acknowledged that materials of construction are varied in the local area so an assessment of appearance and materials would also need to be undertaken as part of any reserved matters application.
- 10.7 Notwithstanding concerns regarding the principle of development of the site, it is considered that a scheme could be appropriately designed so as to promote good design ensuring that the scale, layout and details respect and enhances the character of the townscape and landscape as required by Policy LP24 of the Local Plan.

Residential Amenity

- 10.8 The site is currently located adjacent to existing residential areas and is bound by dwellings to the north, south west and east. As such it is considered that a residential use could be designed to an appropriate scale so as to avoid any detrimental impact on existing nearby occupants.
- 10.9 At present the application includes access for consideration only and therefore the proposed layout is not being considered or approved at this stage. However, it is considered that a satisfactory layout can be achieved on this site which would protect the privacy and residential amenity of both existing and future occupants.

Landscape issues

- 10.10 Landscaping is not included for consideration and is retained as a reserved matter. As previously set out, any future landscaping scheme would be beneficial in terms of providing mitigation and enhancement where possible.
- 10.11 Full landscape proposals are required as a planning condition including hard and soft landscape details and planting plans to create a diverse and attractive landscape which should enhance the setting of the development. Thoughtful planting to incorporate native species would contribute to enhancing the biodiversity in this setting and would help in the development of

green corridors as well as providing valuable mitigation for existing local residents or those in the vicinity who will be overlooking this development should permission be granted. All details relating to existing retained trees and vegetation should also be provided, including their protection during the development. It should be noted that there are no objections to the loss of trees per se as these are not considered worthy of protection. As such the development is in accordance with policy LP33.

- 10.12 Local Plan Policy LP30 requires that applications for planning permission incorporate landscaping which protects/enhances the ecology of the site. Whilst a Preliminary Ecological Appraisal has been received this is considered insufficient in terms of providing a complete assessment. In the absence of any further information it is considered that the development of the site will result in the loss of biodiversity and as such the development would be contrary to Policy LP30 and Chapter 15 of the NPPF.

Housing issues

- 10.13 Chapter 5 of the NPPF clearly identifies that Local Authority's should seek to boost significantly the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 68 of the NPPF recognises that "small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should... support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes". Notwithstanding the concerns regarding the principle of development the erection of up to 54 houses would contribute to a mixture of units in a sustainable location.

Highway issues

- 10.14 The applicants have provided a Transport Statement prepared by Paragon Highways together with revised plans showing the proposed access. Access to the site is from Kingsmead and B6128 Kingsway which are situated within the boundary of Wakefield Council.
- 10.15 This information has been assessed by Wakefield Council Highways officers who have confirmed that the proposals are on-balance considered acceptable. The proposed site access arrangements as shown on submitted drawing 1219 01 rev A are very similar to the previously submitted scheme however the road alignment, carriageway width and verge areas have been altered. Visibility splays from the two accesses to the east of the proposed site access have now been shown on the plan.
- 10.16 In terms of traffic generation and the ability of the network to cope with the additional vehicle movements the submitted TS (Transport Statement) includes an assessment of the potential development traffic impact. This predicts that the development would generate approximately 21 and 23 vehicle trips during the weekday AM and PM peak respectively. Wakefield Council's assessment of the TRICS database reveals slightly higher trip rates, however the discrepancy in trip rates is considered to be minor and would not have a material effect on the predicted development traffic generation.

- 10.17 The submitted Transport Statement does include a model of the Kingsway/Kingsmead priority junction and this demonstrates that the development proposals are unlikely to have a material impact on the operation of the junction.
- 10.18 In terms of the traffic impact of this development upon roads within Kirklees, Kingsway links to the Kirklees boundary to the north west of the site via either Wakefield Road or Leeds Road and Chancery Way. The Transport Statement estimates only 11 peak hour vehicle movements at the Kingsway/Kingsmead junction in the north westerly direction. Kirklees Highways Development Management (HDM) would therefore concur with Wakefield's view that this level of traffic is unlikely to have any material impact.
- 10.19 The application proposals have been considered by Kirklees Highways Development Management and no objections have been raised, however in order to deal with outstanding matters conditions are recommended.

Drainage issues

- 10.20 The NPPF sets out the responsibilities for Local Planning Authorities in determining planning applications, including flood risk assessments taking climate change into account and the application of the sequential approach. The Lead Local Flood Authority raise no objections to the proposals. Yorkshire Water have raised no objections subject to the inclusion of conditions regarding drainage specifically.

Representations

- 10.21 Noise/Disruption

Response: The development is for a residential purpose which can function with existing nearby development without resulting in any detriment. It is possible that some disruption may occur during any potential development but this is not a matter that can be controlled through the planning process.

Increase in pollution

Response: The application has been assessed by Environmental Health and there are no objections to the development. In order to exploit opportunities for the use of sustainable modes of transport the development should incorporate provision for vehicle charge points and facilities for other low emission vehicles

Traffic/Congestion

Response: The application has been assessed by Kirklees Highways DM and the development proposals are considered to be acceptable in principle subject to conditions.

Loss of amenity strip (used to service strips)

Response: The application has been assessed by Kirklees Highways DM and the development proposals are considered to be acceptable in principle subject to conditions.

Limited visibility

Response: The application has been assessed by Kirklees Highways DM and the development proposals are considered to be acceptable in principle subject to conditions.

Highway safety (poor road alignment, no footways, poor sight lines)

Response: The application has been assessed by Kirklees Highways DM and the development proposals are considered to be acceptable in principle subject to conditions.

Poor access

Response: The application has been assessed by Kirklees Highways DM and the development proposals are considered to be acceptable in principle subject to conditions.

Lack of parking

Response: The application has been assessed by Kirklees Highways DM and the development proposals are considered to be acceptable in principle subject to conditions.

Remove areas for children to play out safely

Response: The application has been assessed by Kirklees Highways DM and the development proposals are considered to be acceptable in principle subject to conditions. It is not considered that the development will result in any detriment to pedestrians. The loss of the land cannot be supported at this time for other reasons. The development would be required to provide open space provision.

Loss of green space

Response: The site is allocated as safe guarded land and as such development cannot be supported in principle.

Adverse on well being

Response: The site may currently offer some leisure opportunity for local residents. The loss of the land cannot be supported at this time. Any residential development would be required to contribute to public open space thereby potentially compensating for any loss.

Loss of family home

Response: The loss of the dwelling cannot be resisted in this case. It will not result in any detrimental impact on the character of the area.

Merge of districts

Response: The application site sits across two districts which currently share a boundary. The development cannot be refused on this basis.

Adverse impact on character of the area

Response: The loss of the land cannot be supported. Any development could be designed so as to complement the character of surrounding development and not detract from it.

Environmental impact has not been assessed properly

Response: The report submitted is inadequate and as such concerns are raised regarding the impact on ecology.

Loss of wildlife (bats/birds)

Response: The report submitted is inadequate and as such concerns are raised regarding the impact on ecology.

Inaccuracies in the report

Response: The reports submitted have been assessed and commented on **accordingly**.

Access should be within Kirklees

Response: The application details have been assessed as submitted. There is no requirement for an alternative access to be provided.

Loss of residents gardens to provide footpaths

Response: Access has been assessed and considered acceptable. The grass verges are understood to be part of the highway.

Safeguarded land

Response: The site is allocated as safe guarded land and as such development cannot be supported in principle.

Areas of land already cleared

Response: Any clearing has been carried out in advance of any planning permission. It is not considered that the clearing would require any permission.

Number of dwellings (54/73)

Response: The agent has confirmed the application is for up to 54 houses and this is reflected in the description of development.

Contrary to human rights

Response: A balance should be sensitively struck between potentially allowing planning permission and needing to protect the interests of those who are affected. In this instance it is considered that the development of the site cannot be supported for the reasons provided.

Any contributions will be given to Kirklees

Response: The majority of the site falls within the Kirklees area and as such it is relevant that any contributions are received.

Strain on services

Response: It is not considered that the development would result in a loss of services. Contributions would be considered in respect of education and housing.

Overlooking

Response: There are no details provided in terms of location and scale of housing.

Loss of views

Response: This is not a material planning consideration.

Loss of house value

Response: This is not a material planning consideration.

Drainage issues:

Response: The application has been assessed by the LLFA and no objections have been received. Comments and advice are provided.

Emergency services will be at a disadvantage

Response: The application has been assessed by Kirklees Highways DM and the development proposals are considered to be acceptable in principle subject to conditions.

Coal mining workings

Response: The application has been referred to the Coal Authority who do not object subject to condition.

Within 20 metres of 2 becks

Response: The LLFA raise no objections to the principle of residential development.

Hazard for children

Response: The application has been assessed by Kirklees Highways DM and the development proposals are considered to be acceptable in principle subject to conditions.

Risk to elderly

Response: The application has been assessed by Kirklees Highways DM and the development proposals are considered to be acceptable in principle subject to conditions.

Any alterations to the footpath will need to go through a formal process (DMO)

Response: It is recognised that there are trodden pathways through the site and Officers are aware of an application for Definitive Modification Order is being considered. The layout of development could accommodate paths through the site. An application for extinguishing any rights may be made in the future but is not a reason to refuse the application.

Loss of trees/hedges

Response: The trees within the site are not worthy of protection and as such no objections have been raised regarding their loss from the Arboricultural Officer. It is noted that the ecological information submitted is inadequate.

Planning obligations

10.22 *Affordable housing:*

The council seeks to secure 20% of dwellings on sites with 11 or more dwellings, for affordable housing. On-site provision (housing) is preferred, however where the council considers it appropriate, a financial contribution to be paid in lieu of on-site provision will be acceptable.

10.23 There is a significant need for more affordable 3+ bedroom houses in Dewsbury and Mirfield (the SHMA sub-area the site is in). House prices are in the lower range for Kirklees; ranging from around £88,100- £170,000. Lower quartile (affordable) rent in the area is £394 per month. Homeownership rates are just under 65%, private renting is about 15% and affordable housing is around 20%.

10.24 The development of the site would be expected to deliver 20% affordable units. There's demand for affordable 3+ bedroom homes in the area. 3+beds, or house types closest to 3+ beds would be suitable for the affordable housing. In terms of the split between social/affordable rented housing and intermediate housing, Kirklees' SHMA advises a split of 54% Social or Affordable Rent to 46% Intermediate housing but this can be flexible.

10.25 *Public Open Space:*

Open Space requirements under the new Local Plan Policy LP63 are provided by Planning Policy and demonstrate that there is a deficiency in the Ward for typologies, including Natural and Semi Natural Greenspace and Allotments, opportunities for the provision for which should be explored.

- 10.26 The requirement under LP63 is for 5455 sq. m of open space on site, this number of dwellings (over 50) triggers a LEAP as per fields in trust guidance. There is no play provision shown on the plan so it is assumed this will be an off-site contribution. The developer should provide the measured areas for the open space included on the plan. Open spaces which are accessible amenity and playable spaces, which will not cause nuisance to residents or those parking adjacent to the areas should be identified. Levels and accessibility plans will be required together with details of any seating bins and footpaths serving any amenity greenspace/pos. The plan should specify what is accessible and what is not so that it is clear what meets the typologies outlined above. On receipt of further information a more detailed calculation for open space contributions which takes account of on-site provision can be provided. Currently, with no measured areas, the total for off-site lump sum would be £29,722 for Children and young people and allotments as an off-site contribution.

Other Matters

10.27 *Noise:*

The Background Noise Assessment prepared by Clover Acoustics Ltd - Report No: 4102-R1 - Dated 5th November 2018 has been assessed. Road traffic was found to be the dominant noise source during both the day time and night time periods. The report specifies that noise from the commercial uses to the northwest of the proposed development was not evident during the assessment and that ultimately road traffic was the dominant noise source.

- 10.28 Recommendations have been made to achieve internal noise levels in the form of glazing. Exact specifications have not been decided however recommendations have been provided in the report with various glazing specifications which will achieve the required internal noise levels. I have recommended a condition below to ensure these internal noise levels are achieved.

10.29 *Land Contamination:*

I have reviewed the phase 1 Geoenvironmental Risk Assessment prepared by Michael D Joyce Associates LLP – Report Number: 3831 – Dated July 2018. This report identifies previous land uses, nearby historical uses and possible contamination on the land. A phase II Intrusive Site Investigation has been recommended. This is necessary to ensure any contaminants are identified and remediated. Conditions are recommended.

10.30 *Coal Mining Legacy:*

The applicant has obtained appropriate and up-to-date coal mining information for the proposed development site and has used this information to inform the Phase 1 Geoenvironmental Risk Assessment Report (prepared Michael D Joyce Associates LLP, dated July 2018) which accompanies the planning application.

- 10.31 The Phase 1 Geoenvironmental Risk Assessment Report correctly identifies that the application site has been subject to past coal mining activity. Specifically, the report identifies a risk to the application site posed by probable unrecorded coal mining at shallow depth, referencing a depression in the ground near the eastern boundary as possibly a crown hole associated with mining collapse (pg. 11).
- 10.32 The report recommends intrusive site investigations, comprising of rotary open whole drilling to determine the presence of shallow workings beneath the application site. In addition, “gas protection measures may be required in accordance with normal good practice” (pg. 28).
- 10.33 The Coal Authority concurs with the conclusions and recommendations of the Phase 1 Geoenvironmental Risk Assessment Report (prepared Michael D Joyce Associates LLP, dated July 2018). The exact form and extent of the intrusive site investigations should be discussed and agreed with The Coal Authority’s Permitting Team as part of the applicant’s permit application. Intrusive site investigations should be prepared and conducted by a suitably competent person and findings used to inform an appropriate scheme of remedial measures. These follow up phases of investigation and remediation are necessary to demonstrate that the application site is safe, stable and suitable for development as required by the National Planning Policy Framework, paragraphs 178-179.
- 10.34 *Air Quality:*

The development has been assessed in accordance with the West Yorkshire Low Emission Strategy Planning Guidance. The size of the development is more than that of prescribed values set out in this document, which is why it is regarded as a medium development. The development is also in an area of poor air quality and proposes to introduce relevant receptors to elevated pollutant levels as such conditions are recommended in respect of electric charging points, submission of a travel plan and air quality impact assessment.

11.0 CONCLUSION

- 11.1 The proposed development site for housing is allocated as safeguarded land (SLS2) in the Local Plan.
- 11.2 Local Plan policy LP6 Safeguarded land (land to be safeguarded for potential future development) states that ‘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.
- 11.3 The status of safeguarded land sites will only change through a review of the Local Plan.’
- 11.4 Therefore, the consideration of the permanent development of safeguarded land, such as for housing will only occur through a change to the allocation through a review of the local plan. As such the proposal is contrary to policy LP6 in the Kirklees local plan.

11.5 In the absence of any further information regarding matters of ecology it is considered that the development of the site will result in the loss of biodiversity and as such the development would be contrary to Policy LP30 and Chapter 15 of the NPPF.

12.0 REFUSE:

1. The site is allocated as safeguarded land on the Kirklees Local Plan. Policy LP6 states that 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. Given that the proposed residential development is not necessary for the operation of existing uses and will not result in an alternative open land use or temporary use, the development will result in an inappropriate use on land that has been protected for future development. The proposed development therefore fails to comply with Policy LP6 of the Kirklees Local Plan and guidance within the National Planning Policy Framework.
2. The development of the site will result in the loss of biodiversity for which no detailed assessment or mitigation measures have been provided and therefore the development would result in loss to biodiversity contrary to Policy LP30 and Chapter 15 of the NPPF.

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f93951>

Certificate of Ownership – Notice served on/ or Certificate A signed: