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**Report of the Head of Development and Master Planning****STRATEGIC PLANNING COMMITTEE****Date: 29-Aug-2019****Subject: Planning Application 2018/93372 Installation of 2 highway surface water drainage attenuation basins Land Adj, Hade Edge AFC, Snittle Road, Hade Edge, Holmfirth, HD9 2JF****APPLICANT**L Northcote, Jones  
Homes (Yorkshire Ltd)**DATE VALID**

12-Oct-2018

**TARGET DATE**

07-Dec-2018

**EXTENSION EXPIRY DATE**

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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**

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**Electoral Wards Affected: Holme Valley South**

Y/N

Ward Members consulted  
(referred to in report)

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**RECOMMENDATION:**

Subject to the receipt of no further significant objections as a result of the expiry of the period of consultee comment DELEGATE approval of the application and the issuing of the decision notice to the Head of Development and Master Planning in order to complete the list of conditions including those contained within this report and to secure a S106 agreement to cover the future maintenance of the surface water drainage system.

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 Development and Master Planning 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 Development and Master Planning is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

**1.0 INTRODUCTION:**

- 1.1 This is a full planning application for the construction of two surface water attenuation basins to drain the adjacent residential development which is currently under construction. This was the subject of a condition on the planning permission for the residential development. This application has been submitted for planning permission in its own right as opposed to a Discharge of Condition application, as the works are on land outside the red line boundary. This application is brought to Committee at the request of Councillors Nigel Patrick and Donald Firth.
- 1.2 Councillor Patrick's reason is:  
"Strategic Planning Committee determined the original planning permission for the development and Members need to see what has happened at this site so that a decision can be made bearing in mind the impact on the Green Belt and on neighbouring land."
- 1.3 Councillor Firth's reason is for Members "to consider tanking surface water across Penistone Road into Boshaw Whams reservoir which costs more but is cheaper in the long run."
- 1.4 The Chair has agreed these requests.

- 1.5 This application has been submitted subsequent to an application to discharge the condition which currently remains undetermined. Should members resolve to grant planning permission the application for discharge of the condition can be withdrawn or determined by officers on the basis of the approved plans under this planning application.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application relates to a site off Dunford Road currently being developed as 58 dwellings (Heather View) following an earlier decision by the Strategic Planning Committee on 5<sup>th</sup> October 2017 for Full Planning Permission (2017/91623). The proposal is for two surface water attenuation basins to the east of the site off Snittle Road, a rough surfaced track serving isolated development. The proposed basins would be opposite Hade Edge AFC ground and pavilion with Mag Valley farm complex further to the south. The site was previously an open field but has recently been used as temporary access to the residential site.

## **3.0 PROPOSAL:**

- 3.1 The proposal is for two off-site surface water attenuation basins off Snittle Road to the east of the dwellings. Since the original submission the proposals have been amended. The current proposal shows two shallow basins created by excavation and shallow earth mounding. The maximum depth would be 1.29 metres with a 1.77 metres high headwall. A 3 metres wide access track surfaced in 'grasscrete' would be created to the north of the basins. The basins would be connected from the residential development by pipe in the nearest cul de sac.
- 3.2 A landscaping plan shows a proposed native hedgerow to the site boundaries with sporadic tree planting. The majority of the area would be grassed with wildflower planting along the side boundaries.

## **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

- 4.1 2017/91623 Full planning permission for the erection of 58 dwellings and associated means of access off Dunford Road was issued on 19<sup>th</sup> December 2017 following consideration by the Strategic Planning Committee on 5<sup>th</sup> October 2017. The submitted plans included a Drainage Sketch showing the principle of drainage by soakaways in the adjacent field to the east. The permission was issued subject to a S106 Agreement for affordable housing, education contribution and highway improvement works within Hade Edge village.

Condition 10 of the planning permission stated:

*10. A scheme demonstrating adequately designed soakaways for an effective means of drainage of surface water on the site shall be submitted to and approved in writing by the Local Planning Authority before works to construct the foundations of any dwelling commence. The scheme shall include seasonal percolation tests in accordance with BRE Digest 365 along with calculations demonstrating that the designed soakaways can store a critical 1 in 30 year storm event and can empty by 50% within 24 hours. Evidence that the critical 1 in 100 year storm with a 30% allowance for climate change can be safely retained on site is required. The scheme shall include a maintenance and management plan for all sustainable drainage systems. No*

*dwelling shall be first occupied until the works comprising the approved scheme have been completed, including enacting the management and maintenance plan, and retained thereafter. Where it is demonstrated that soakaways prove not to be an adequate method of draining surface water an alternative surface water drainage scheme should be submitted for consideration with discharge rates and attenuation requirements to be confirmed by the Local Planning Authority.*

**Reason:** *To ensure the provision of adequate and sustainable systems of drainage are employed, in the interests of amenity, environmental well being and to accord with Policy BE1(iv) of the Kirklees Unitary Development Plan and the aims of the National Planning Policy Framework.*

- 4.2 2018/90749 Application for discharge of conditions 3 (materials), 7 (design details of internal roads), 8 (footway provision on the site frontage to Dunford Road), 9 (access for construction traffic), 10 (soakaway design details) & 11 (assessment of effects and mitigation of surface water storm events) of approved planning application 2017/91623.

On 9<sup>th</sup> April 2018 walling materials were approved as a split decision on condition 3. On the same date condition 7 was agreed subject to the applicant continuing dialogue with the Local Highways Authority to achieve technical agreement and completion of a S38 Agreement. Condition 9 was agreed on 30<sup>th</sup> May 2018 and natural stone and blue slate for the dwellings was agreed on 4<sup>th</sup> June 2018.

The details submitted to discharge condition 10 have been superseded by the current application and it awaits determination.

- 4.3 2018/90938 Application for discharge of conditions 12 (temporary surface water drainage), 14 (travel plan) and 15 (electric vehicle recharging points). Condition 12 was agreed on 31<sup>st</sup> May 2018 and condition 14 was agreed on 11<sup>th</sup> July 2019. Condition 15 was a requirement which did not require the submission of further details.
- 4.4 2018/91874 Application to discharge condition 16 (ecological mitigation scheme) approved in principle on 22<sup>nd</sup> August 2018.
- 4.5 2018/91875 Variation of condition 2 (plans) approved 18<sup>th</sup> April 2019
- 4.6 2018/92701 Variation of condition 2 (plans) approved 26<sup>th</sup> April 2019.

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

- 5.1 None

## **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 27<sup>th</sup> February 2019).

Kirklees Local Plan (2019):

- 6.2 The site of the proposed basins is shown as Green Belt on the Local Plan.

LP1 – Sustainable development  
LP27 – Flood Risk  
LP28 – Drainage  
LP 30 Biodiversity

National Planning Policy Framework (NPPF):

- 6.3 **Chapter 13** – protecting Green Belt land  
**Chapter 14** – Meeting the challenge of climate change, flooding and coastal change.  
**Chapter 15** – Conserving and enhancing the natural environment

**7.0 PUBLIC/LOCAL RESPONSE:**

- 7.1 The application has been advertised by site notice and letter with no response.
- 7.2 Councillor Nigel Patrick's has commented which can be summarised as follows:
- Officers considered the use of soakaways in this Green Belt location to serve the development was unacceptable when the planning application for residential development was made. Councillor Patrick had no objections but asks what has changed for Officers to be now recommending approval.
  - The field has been stripped and used for storage and access which Councillor Patrick understands to have been done without planning permission and without enforcement action. Councillor Patrick asks that the field is reinstated.
  - Whilst the principle of soakaways was agreed by Strategic Planning Committee the location was not. This highlights a recurring issue at sites across the Ward where development begins without drainage details being finalised or any action by the Planning Authority. This has led to flooding of adjacent land and crop damage on another site in Scholes.
  - Strategic Planning Committee determined the original planning permission for the development and Members need to see what has happened at this site so that a decision can be made bearing in mind the impact on the Green Belt and on neighbouring land.
- 7.3 Councillor Donald Firth has commented which can be summarised as follows:
- He objects to the use of soakaways for this development as the area is subject to heavy rainfall and after commencement of building flooding of adjacent land has occurred for the first time after heavy rain.
  - The Council should consider natural land drainage and damage to underground springs to avoid these problems.
  - Enforcement is required before any soakaway drainage takes place.
  - The application should be brought to Strategic Planning Committee for Members to consider tanking surface water across Penistone Road into Boshaw Whams reservoir which costs more but is cheaper in the long run.
- 7.4 Holme Valley Parish Council object to the proposal as no technical data has been submitted to say whether they will cope with the volume of water.

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

**KC Highways** – comments awaited

**Natural England** – comments awaited.

**Lead Local Flood Authority** – comments awaited

### **8.2 Non-statutory:**

**KC Ecology** – comments awaited

## **9.0 MAIN ISSUES**

- Principle of development
- Drainage issues
- Highway issues
- Biodiversity issues
- Visual issues
- Planning obligations
- Representations

## **10.0 APPRAISAL**

### Principle of development

- 10.1 The site falls within the Green Belt. Chapter 13 of the National Planning Policy Framework states that there is a presumption against inappropriate development in the Green Belt in such areas unless there are very special circumstances to allow the development. In this case the key issues are whether the proposed development is inappropriate development and if so whether there are any very special circumstances which outweigh the presumption against inappropriate development. The NPPF notes that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.
- 10.2 Paragraph 133 of the National Planning Policy Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, with the essential characteristics of the Green Belt being its openness and permanence.
- 10.3 Paragraph 146 of the NPPF notes that engineering operations may not be inappropriate in the Green Belt provided that they preserve its openness and do not conflict with the purposes of including land within it.
- 10.4 The Local Planning Authority should give substantial weight to any resultant harm to the Green Belt from the development proposed. Inappropriate development is by definition harmful to the Green Belt and very special circumstances will not exist unless the potential harm, by reason of that inappropriateness and any other harm to the Green Belt is clearly outweighed by other considerations.

- 10.5 In order to form a judgement about the harm caused, it is best to consider firstly whether harm is caused to any of the purposes of including land in the Green Belt as set out in paragraph 134 of NPPF. These are:
- to check the unrestricted sprawl of large built-up areas;
  - to prevent neighbouring towns merging into one another;
  - to preserve the setting and special character of historic towns;
  - to assist in safeguarding the countryside from encroachment; and
  - to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- 10.6 It is considered that the development proposed would not contradict these 5 purposes and would not cause harm to the openness of the Green Belt in this regard.
- 10.7 The proposed development would result in changes to ground levels and the embankments created would look alien in the largely even levels of the surrounding landscape. This in itself would cause harm albeit to a small degree. Officers consider that this harm is outweighed by the benefits of sustainable drainage to the residential development. Furthermore it is recognised that

#### Drainage Issues

- 10.8 The applicant has been in discussion with the LLFA to incorporate the scheme as part of an approved drainage scheme within the s38 agreement to adopt the internal road network. The officers' comments are awaited.
- 10.9 The LLFA has accepted the principle of soakaway drainage on this site however, its views are awaited on latest scheme.
- 10.10 In response to the issues raised by Cllrs Patrick and Firth the LLFA consider that the site is suitable for soakaway drainage. Tests have been carried out to demonstrate adequate percolation rates in accordance with nationally recognised methodology and to accommodate storm events. National guidance is that there is a hierarchy of disposal and if soakways are demonstrated to work on site the option must be explored and encouraged as a priority over discharge to watercourse and sewer.
- 10.11 The LLFA recognise an incident during construction where surface water run off affected nearby land but the developer assures Officers that this has been addressed. Members will note that a scheme for temporary surface water drainage during construction has been agreed as a discharge of condition.
- 10.12 The LLFA point to the use of soakaways at Green Abbey and Abbey Court close to this site for 20-25 years with no reported problems.

#### Highway Issues

- 10.13 Comments awaited.

### Biodiversity issues

- 10.14 The application site together with that currently being developed is located in proximity to the South Pennine Moors Special Protection Area (SPA) which is designated for internationally important populations of birds. Any land outside the SPA that is used for foraging by individual birds breeding within the SPA should be considered to be functionally linked to the SPA. As such the applicant is required to demonstrate that the proposals will not result in a likely significant effect on the SPA or its qualifying features or lead to an adverse effect on its integrity. As part of the planning application for residential development this was done through bird surveys and was acceptable.
- 10.15 Mitigation measures to protect the SPA were agreed as a discharge of condition on the planning permission for the residential development subject to the final details of sign boards and leaflets. The KC Biodiversity Officer has been consulted on the current application and comments are awaited.

### Visual issues

- 10.16 The site does not contain any trees or landscape features of any note having been shallow sloping grazing land. The proposal will involve earth bunding, headwalls, an access road and further landscaping. However, the change in levels, walling and access road is not excessive and it is not considered that there would be a harmful effect on visual amenity or landscape quality.

### Representations

- 10.17 None received.

### Enforcement

- 10.18 With regard to the enforcement issues raised by Ward members the Committee is advised that the site has been monitored as a major site including site visits by enforcement officers.
- 10.19 Conditions requiring the submission and agreement of details before work commences have been discharged.
- 10.20 The triggers for the compliance with S106 requirements are as follows:
- Affordable Housing Construct and make available for sale to RSP 12 affordable dwellings before 50% of market dwellings are occupied
  - Education Contribution Pay £246,834 towards the provision of education facilities in the vicinity of the development subject to need before occupation of 50% of market dwellings
  - Highway Works Contribution Pay £287,546:50 towards highway improvement works within the village of Hade Edge before occupation of 50% of market dwellings

These triggers have not yet been met.



## Planning obligations

- 10.21 The LLFA have asked for a S106 agreement to secure the long term maintenance of the drainage system. This is considered reasonable as a requirement as it is specifically mentioned in condition 10. The applicant has verbally agreed to this subject to no further financial requirements. The applicant will use a private management company financed by the future residents.
- 10.22 Whilst the planning permission would give three years to commence the development the current application to discharge the relevant condition of the permission for the residential development can be discharged upon issue of the planning permission on the basis of the current plans

## **11.0 CONCLUSION**

- 11.1 The proposal would constitute inappropriate development in the Green Belt but the minimal harm to the openness is outweighed by the provision of sustainable surface water drainage in accordance with the principle established when planning permission was issued for the residential development.
- 11.2 Upon issue of the planning permission the approval of the separate application for the discharge of condition 10 and the issue of the decision letter is recommended to be delegated to the Head of Development and Master Planning on the basis of the plans hereby resolved to be approved or as may be amended.

## **12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Development and Master Planning)**

1. Three years to commence development
2. Approved plans and documents
3. Landscaping
4. Landscape and Ecological Management Plan

### **Background Papers:**

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f93372>

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