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**Report of the Head of Development and Master Planning****STRATEGIC PLANNING COMMITTEE****Date: 26-Sep-2019**

**Subject: Planning Application 2017/92568 Erection of 59 dwellings with associated works and formation of associated parking with vehicular access from Woodhead Road (amended description) Land off Woodhead Road, Honley, Holmfirth**

**APPLICANT**

BMS Group

**DATE VALID**

21-Jul-2017

**TARGET DATE**

20-Oct-2017

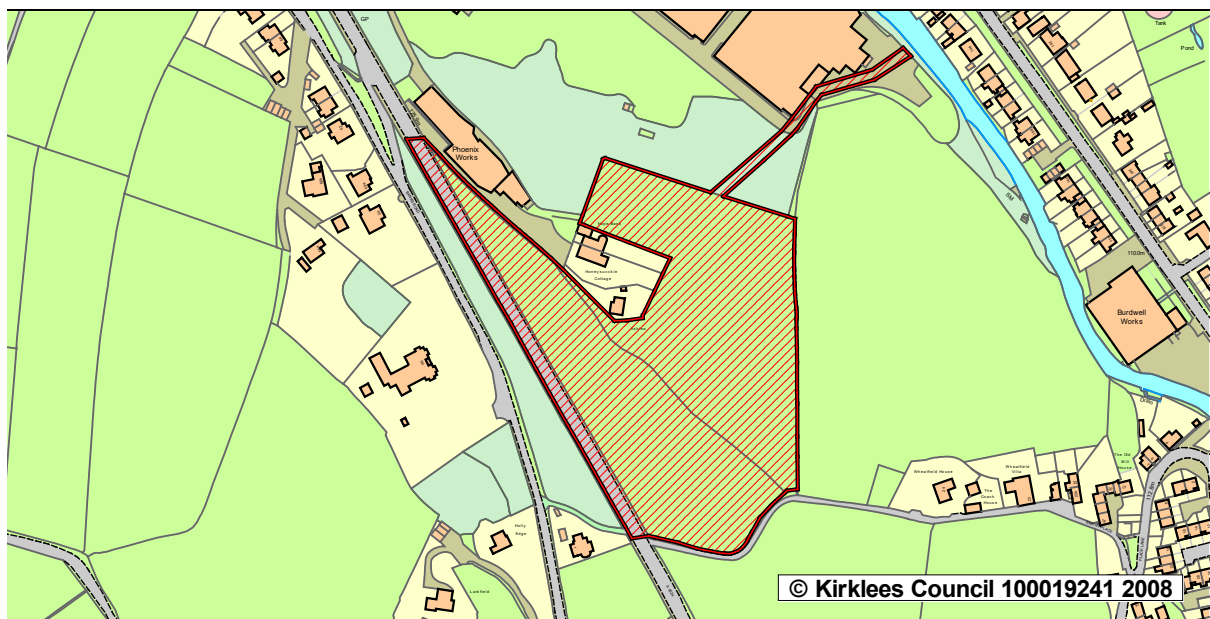
**EXTENSION EXPIRY DATE**

05-Nov-2018

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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**

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**Electoral Wards Affected: HOLME VALLEY NORTH**

Yes

Ward Members consulted  
(referred to in report)

**POSITION STATEMENT – For Members to note the content of the report and presentation and to grant officers a further period of time to conclude negotiations on the s106 Agreement.**

**1.0 INTRODUCTION:**

- 1.1 The council's Officer-Member Communication Protocol provides for the use of Position Statements at Planning Committees. A Position Statement would usually be provided prior to an application being formally considered by the Planning Committee however in this case the application is brought to the Strategic Planning Committee as a Position Statement in relation to progress with the s106 Agreement and drainage matters.
- 1.2 The Strategic Planning Committee resolved to approve the application on 3<sup>rd</sup> January 2019. The resolution was:
1. Delegate approval of the application and the issuing of the decision notice to the Head of Development and Master Planning in order to:
  2. To finalise the drainage details and complete the list of conditions including those contained within the considered report and the update list;
  3. Secure a s106 agreement to cover the following matters:
    - a. Education £141,439 is required towards school funding in the area.
    - b. An offsite contribution of £102,374.02 to off-site play.
    - c. Sustainable Travel Fund (could include Metro cards) of £10,000 for travel improvements including bus shelters.
    - d. Maintenance for drainage infrastructure (to be agreed).
    - e. The provision of 12 affordable houses split between 54% affordable rent and 46% intermediate.
    - f. Secure a legal agreement to ensure a provision of an access road to the Southern Boundary (to the edge of the land under the applicant's ownership);

4. That, pursuant to (3) above, in circumstances where the s106 Agreement has not been completed within three months of this decision, the Head of Development and Master Planning shall be authorised to 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, and would therefore be permitted to determine the application and impose appropriate reasons for refusal under delegated powers.

1.3 A draft s106 has been prepared by the applicant and officers have undertaken negotiations in respect of the wording of the agreement. The agreement has not however been signed. In addition, details of a legal opinion that has been provided to the Council to assist in the implementation of the masterplan policy LP5 of the Local Plan will be provided to members within a confidential paper that will be circulated to committee members prior to the committee meeting.

## **2.0 SITE AND SURROUNDINGS:**

2.1 The application site forms part of housing allocation HS161 in the Local Plan.

2.2 The site is located off the A6024, Woodhead Road. A Public Right of Way runs through the site (Hol/31/40). The site measures approximately 2.8 hectares and borders open fields to the east, Robinson Lane to the south and a number of dwellings/Phoenix Works to the north. Woodhead Road runs along the western boundary at a higher level.

2.3 There are a number of trees present particularly on the southern and eastern boundaries and the site is well screened from Woodhead Road by a line of mature trees. A number of these trees are subject to Tree Preservation Orders (TPO's).

## **3.0 PROPOSAL:**

3.1 The application is for the erection of 59 dwellings with associated works and formation of associated parking with vehicular access from Woodhead Road.

3.2 It is proposed to access the site via a new priority junction from Woodhead Road, positioned roughly centrally along the site frontage on to Woodhead.

## **3.0 RELEVANT PLANNING HISTORY:**

3.1 2016/92181 – Outline application for erection of residential development (116 dwellings) and formation of new access to Woodhead Road - Land off, Woodhead Road, Honley, Holmfirth – Refused – *Included this site and the site adjacent*

2017/93326 - Outline application for erection of residential development (62 dwellings) and formation of new access to Woodhead Road - Land off, Woodhead Road, Honley, Holmfirth – Refused and appeal dismissed – *This appeal relates to the land immediately adjacent this site.*

2013/93373 Outline application for residential development – Conditional outline permission (all matters reserved) – Approved.

## **4.0 PLANNING POLICY:**

4.1 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).

### **4.2 Kirklees Local Plan (2019):**

Relevant policies are:

LP1 – Presumption in favour of sustainable development  
LP2 – Place shaping  
LP3 – Location of new development  
LP5 – Masterplanning sites  
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  
LP24 – Design  
LP26 – Renewable and low carbon energy  
LP27 – Flood risk  
LP28 – Drainage  
LP30 – Biodiversity and geodiversity  
LP31 – Green Infrastructure Network  
LP32 – Landscape  
LP33 – Trees  
LP35 – Historic Environment  
LP48 – Community facilities and services  
LP51 – Protection and improvement of local air quality  
LP52 – Protection and improvement of environmental quality  
LP63 – New open space  
LP65 – Housing allocations

### **4.3 Supplementary Planning Guidance / Documents:**

Draft Highways Design SPD

### **4.4 National Planning Guidance:**

NPPF Chapter 2 – Achieving sustainable development  
NPPF Chapter 5 – Delivering a sufficient supply of homes  
NPPF Chapter 8 – Promoting healthy and safe communities  
NPPF Chapter 9 – Promoting sustainable transport  
NPPF Chapter 11 – Making effective use of land  
NPPF Chapter 12 – Achieving well-designed places  
NPPF Chapter 15 – Conserving and enhancing the natural environment

## **5.0 PUBLIC/LOCAL RESPONSE:**

- 5.1 The application was advertised by neighbour letter, newspaper advertisement and site notices. A total of 19 objections were received. These were summarised and addressed within the original committee report.
- 5.2 Ward Councillor Greaves has regularly asked for updates with progress of the s106 negotiations.

## **6.0 APPRAISAL**

- 6.1 This Position Statement focuses on those matters that were delegated back to officers to resolve. These are the completion of the s106 and outstanding drainage matters.

### The Section 106 Agreement

- 6.2 The draft s106 satisfactorily provides for the education, open space, affordable housing and sustainable travel fund requirements as set out in the committee resolution.
- 6.3 Negotiations in relation to the timing of the provision of an access road to the site's southern boundary have resulted in a delay to the signing of the s106.
- 6.4 The provision of the access road up to the southern boundary is necessary in order to facilitate the comprehensive development of the wider housing allocation under the council's masterplanning policy (LP5).
- 6.5 Development on the remainder of the allocation is reliant on achieving access through the application site given the planning history of the adjoining land. An application for residential development on the adjoining land with a separate access off Woodhead Road was refused and an appeal dismissed on highway safety grounds. As such the only realistic point of access for the remainder of the allocation is via the current application site.
- 6.6 During negotiations the Council obtained its own independent legal advice in respect of the application of its masterplanning policy (LP5), with particular regard to the Woodhead Road allocation. In summary the advice concluded that the planning system cannot supersede property rights, which allow developers to have ransom strips. To a significant degree the ransom value and costs associated with providing the road are matters for the different land owners and are not the concern of the Council as long as all of the allocation is delivered.
- 6.7 The applicant initially proposed to provide the access road before works commence to Plots 47 to 59 (save for drainage and services). As justification for the proposed trigger the applicant pointed to the significant initial cost of constructing the access off Woodhead Road and the fact that a substantial proportion of the dwellings in the first half of the development are affordable. This was in the context of the viability of the development and the potential impediment to secure developer funding.

- 6.8 Officers considered that this was too late in the build phase because it would not give the Council a sufficiently robust enforceable position in order to help deliver a physical connection to the remainder of the allocation. It is possible that the developer could have constructed 46 of the 59 dwellings and then cease development without having provided the access road to the southern boundary.
- 6.9 The applicant has recently revised their position on the timing of the delivery of the access road to the southern boundary. The applicant has agreed to provide it before works to construct the superstructure of Plots 31-59 commence, roughly half way through construction. This is considered to represent a reasonable trigger for delivery of the access road which incentivises the developer to deliver the access road and meets the Council's obligations to facilitate development coming forward on the remainder of the allocation.
- 6.10 Notwithstanding the applicant's agreement to the above, a request has been made to amend the wording so that the road is provided before works commence to the superstructure of Plots 34-59. The reason for this is because of the way the site is laid out and the likely phasing of the development. Plots 1-33 form a fairly well defined part of the development to the west of the public footpath crossing the site, with plots 34-59 lying to the east of the footpath. Plots 31-33 are also positioned along the first part of the new estate road within the site.
- 6.11 Officers consider that the agreed draft wording, i.e. that the road is provided before works commence on plots 31-59, is the appropriate trigger for the provision of the access road to the southern boundary.
- 6.12 The access road would need to be constructed to base course level in order to ensure it was suitable to carry construction traffic to the adjoining land.

**Do Members have any comments in relation to the trigger for the provision of the access road?**

- 6.13 Members should note the situation of the adjoining land owner to the south of the application site that falls within the same Housing allocation within the Local Plan (site HS16). The Council has been informed that technical drawings outlining the construction works that the adjoining landowner considers necessary to form the access along with proposed drainage solutions have been prepared in order to give an idea of the overall costs. These plans have not yet been provided to the Council however, the adjoining landowner also intends to provide a collaboration proposal, which would show how both sites could come forward and their intended strategy for the submission of a planning application on their land.
- 6.14 The draft agreement does not currently provide acceptable arrangements for the future maintenance and management of surface water drainage infrastructure. At present the agreement refers to a financial contribution but it is necessary for a management company to be created to maintain the system on behalf of the future residents in the event that Yorkshire Water do not adopt the system.

### Drainage matters

- 6.15 The resolution requires drainage details to be finalised before the decision is issued. The applicant has provided details relating to the proposed drainage design and flood risk matters. Foul waste is to be pumped to sewer and surface water is to be disposed of to the River Holme.
- 6.16 Kirklees Lead Local Flood Authority (LLFA) is satisfied with the information provided subject to the provision of an engineering layout plan showing contours in order to fully establish flood routing within the site and subject to the imposition of conditions. Conditions are to include the removal of permitted development rights on certain plots and further details of the attenuation. The LLFA has highlighted the importance of a management company for the long term maintenance and management of the drainage infrastructure.
- 6.17 Further to the above comments on drainage, the application does not give rise to any additional climate change issues over and above planning policy and any material considerations that were involved in the determination of the application and the committee resolution at Strategic Committee on 3<sup>rd</sup> January 2019.

## **7.0 CONCLUSION**

- 7.1 Members are asked to note the contents of this report. Members' comments in response to the question listed above (and recapped below) would help and inform ongoing negotiations with the applicant.
- 1) Do Members have any comments in relation to the trigger for the provision of the access road?
- 7.2 Further to the above, officers are seeking a further period of time to conclude the s106 negotiations.
- 7.3 A formal extension of time to the application's determination period has previously been agreed with the agent but has expired. Officers have requested a further extension of time from the agent.

### **Background Papers:**

Application and history files.

Website link:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f92568>

Certificate of Ownership – Notice served on Mr P Goodwin and Mr F Eaton.