

Map not to scale – for identification purposes only

Electoral Wards Affected: Holme Valley South

Y/N

Ward Members consulted
(referred to in report)

RECOMMENDATION:

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 part of the highway network in 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 of the residential approval. 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 A decision was deferred by the Strategic Planning Committee on 29th August 2019 for one Committee cycle. Committee requested the following:
- Drainage calculations and details of soakaway design to be provided in the Committee report. (Officer response: These have now been received from the applicant and have been considered. Clarification has been requested as the location now proposed has been amended since the original submission. The applicant's drainage consultant has been requested to attend the meeting to answer any questions from Members.)
 - Drainage officer to attend the meeting to explain the soakaway scheme. (Officer response: A Drainage Officer will attend the meeting and his comments are noted in the report.)
 - Details of Management Company responsibilities and handover from developer timings to be provided in the next Committee report. (Officer response: This has been received and is addressed in the report.)
 - Further details of restoration scheme for the land currently used as the Construction Compound to be shown at the next Committee. (Officer response: This has been requested and the response will be displayed at the Meeting.)
 - Details of the timing of provision of the attenuation basins relative to current progress on the dwellings. (Officer response: This has been received and is addressed in the report.)
- 1.6 In addition, at the meeting Councillor Patrick questioned the extent of publicity of the application. (Officer response: This is clarified in the report.)
- 1.7 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.
- 1.8 The applicant has previously agreed to extension of time requests. A further extension of time to cover the time required to issue the decision has been requested and a response is awaited.

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 5th 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 is currently used as a construction compound.

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 for part of the highway drainage only. Since the original submission the proposals have been amended in terms of their design and location moved closer to Snittle Road. The current proposal shows two shallow basins created by excavation and shallow earth mounding. These allow surface water to soak into the natural strata below. The maximum depth would be 2.6 metres with a 2.2 metre headwall largely screened by embankment. A 3x metres wide access track surfaced in 'grasscrete' would be created to the north alongside 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.
- 3.3 The submission includes a Landscape scheme and Landscape Maintenance Plan.

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 19th December 2017 following consideration by the Strategic Planning Committee on 5th October 2017. The submitted plans included a Drainage Sketch showing the principle of highway 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 9th 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 30th May 2018 and natural stone and blue slate for the dwellings was agreed on 4th 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 31st May 2018 and condition 14 was agreed on 11th 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 22nd August 2018.

- 4.5 2018/91875 Variation of condition 2 (plans) approved 18th April 2019

- 4.6 2018/92701 Variation of condition 2 (plans) approved 26th 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 27th 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. A site notice was posted on the opposite side of Dunford Road close to the site entrance on 22nd October 2018. In addition a letter was sent to Hade Edge AFC on Snittle Road on 19th October 2019. This is in accordance with the Kirklees Development Management Charter and national requirements. The amended location and design has not been publicised as this is not considered necessary. National Planning Practice Guidance (Consultation and pre-decision matters) states that upon receiving amended plans:

“In deciding what further steps may be required local planning authorities should consider whether, without re-consultation, any of those who were entitled to be consulted on the application would be deprived of the opportunity to make any representations that they may have wanted to make on the application as amended.”

- 7.2 Councillor Nigel Patrick's written comments 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 – no objections

Natural England – no comments to make.

Lead Local Flood Authority – no objections subject to clarification of the suitability of the revised location and a legal agreement to secure future maintenance.

8.2 Non-statutory:

KC Ecology – no objections.

9.0 APPLICANT'S STATEMENT

- 9.1 The applicant considers that the proposal is not inappropriate development in the Green Belt and is not in conflict with the five purposes of Green Belt in NPPF. The applicant has stated that the proposed basins have minimal impact and natural visual appearance which preserves the openness of the Green Belt.
- 9.2 The applicant argues that the current proposal is a material improvement on the previously agreed scheme for six, five metre deep 2.1m diameter concrete ring soakaway chambers dug into the ground. Drainage calculations relating to the scheme and the soakaway design and details have been sent to and accepted by the LLFA and KC Highways. *(Officer comment: this is subject to clarification that the submitted Soakaway Test Report remains relevant to the amended location or the submission of an amended report if required).*
- 9.3 The management responsibilities of residents are stated in the first purchasers' transfer agreement with Jones Homes. The fees are collected by direct debit on a quarterly basis and purchasers and successors in title in perpetuity sign to agree to pay these fees which will increase over time based on Retail Price Index.
- 9.4 The managed areas at Hade Edge include the private soakaways and catch pits (silt traps) installed in back gardens together with the area of open space including the SUD's basins. All households pay an equal amount no matter whether there is a private soakaway in their back garden.
- 9.5 The basins and an access / maintenance strip will be dedicated to Kirklees Highways (KH). The basins, the area of open space and the grasscrete vehicular access will be maintained by the managing agent. The surface water pipes serving the basins will be maintained by Kirklees Highways (KH) but will be inspected by the managing agent during maintenance visits to the site and reported back to KH.
- 9.6 The soakaways within the residential estate would be maintained by a private maintenance company clearing obstructions. The Company will provide a 24 hour call out service to local residents. Silt removal will be by tanker. The SuDs Drainage basins would also be managed by the maintenance Company inspecting for blockages and leaks and de-silting /weeding of the basins.

- 9.7 Whilst the current application is for the soakaway basins only the applicant confirms that the soakaway drainage scheme for each plot's private soakaway to take surface water has been installed before occupation and the highway soakaway serving a small section of the highway layout to the north of the site has also been installed. The applicant confirms that no plot has been occupied without adequate as approved soakaway installation to provide suitable drainage for surface water. The off-site basins are purely for highway surface water for the area not served by the highway soakaway already constructed and operational to the north of the site.
- 9.8 The anticipated completion and handover of the basins is subject to Planning Consent being received however Jones Homes state that they will make every effort to form the basins and install the grasscrete vehicular access within 8 to 10 weeks of receipt of Planning Consent (subject to weather conditions) and install the landscaping as soon as possible afterwards.
- 9.9 The applicant states that they suggested the alternative SUD's basins to the Council almost two years ago as an improvement to the consented scheme that offered much less disruption to a parcel of land adjacent to the development. It is stated that it is not an issue relating to cost but instead to long term sustainability and drastically reduced maintenance costs for the Council as well as to accord with sustainability principles in the NPPF and the Kirklees Local Plan.
- 9.10 It is stated that landscaping sympathetic to the surroundings will be provided to retain the site's countryside context and improve visual amenity. This will be maintained by the management company.

10.0 MAIN ISSUES

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

11.0 APPRAISAL

Principle of development

- 11.1 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.

- 11.2 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.
- 11.3 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.
- 11.4 Paragraph 144 states that 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.
- 11.5 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.
- 11.6 It is considered that the development proposed would not contradict these five purposes. Furthermore after further consideration whilst the proposed development would result in changes to ground levels and the creation of embankments, an access road and a headwall this is not considered to cause harm to the openness of the Green Belt. The proposal would therefore constitute appropriate development in accordance with paragraph 146 of the NPPF.
- 11.7 Paragraph 10 of the NPPF states a presumption in favour of sustainable development whilst paragraph 165 states that Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be unacceptable.

Drainage Issues

- 11.8 The management responsibilities have been outlined above.
- 11.9 The submitted Soakaway Testing Report may be summarised as follows:
- Soakaway tests were carried out in accordance with BRE Digest 365: Soakaway Design and the requirements of BS EN ISO 14688-1:2002 “Geotechnical Investigation and Testing- Identification and Classification of Soil – Part 1”, BS EN ISO 14688-2:2004 “Geotechnical Investigation and Testing –Identification and Classification of Soil – Part 2” and BS EN ISO 14689-1:2003 “Geotechnical Investigation and Testing – Identification and Classification of Rock – Part 1”.
 - Testing involved filling trial pits with water and recording the fall in water level over a period of time to calculate Soil Infiltration Rate (SIR).

- The test positions and depths were selected by Council Officers although actual depths were occasionally shallower than requested as ground levels had been reduced so that the test depth corresponded to the actual final depth.
- The trial pits encountered weathered sandstone bedrock becoming competent with depth.
- Two trial pits were carried out in the application site boundary, the one nearest to the amended basin location recording a soil infiltration rate of 1.84E-04. Confirmation is awaited from the applicant of further tests to the east to address the amended location of the basins.
- The SIR tests showed that permeability is unaffected seasonally which is to be expected since the site is elevated, located on fractured sandstone and the groundwater table will probably be at depth. These permeabilities are considered adequate for both house and highway drainage.

11.10 The LLFA confirm that applicant has been in discussion with the Officers to incorporate the scheme as part of an approved drainage scheme within the s38 agreement to adopt the internal road network. The LLFA has accepted the principle of soakaway drainage on this site and note that the proposals have been amended to suit maintenance requirements for the s38 agreement. The attenuation design and volume is acceptable but clarification of the acceptability of the amended location is required.

11.11 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 soakaways are demonstrated to work on site the option must be explored and encouraged as a priority over discharge to watercourse and sewer.

11.12 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.

11.13 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

11.14 S38 Technical Approval has been sought and is expected to be complete shortly subject to agreement of the fine construction detail. Vehicular access to the basins is from Snittle Road by a 3 metre wide grasscrete strip. Officers do not anticipate that the proposal will be a significant traffic generator and raise no objections.

Biodiversity issues

- 11.15 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.
- 11.16 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 raises no objections. Natural England have been consulted and make no comments.

Landscaping and Visual issues

- 11.17 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.
- 11.18 A landscaping scheme has been submitted showing that the existing soil would be broken to relieve compaction and assist drainage and sifted to remove large objects and create an even surface. New topsoil would be laid. The majority of the site including the basin banks are to be a low maintenance grass seed mix or turfed depending on conditions. This would be similar in appearance to the grassland adjacent to the site and as assumed prior to development.
- 11.19 Wildflower meadows would be seeded in wide verges along the north and southern boundaries. These would be augmented by seven native trees along the southern boundary and a further three in the south east corner. Hedgerows of native species would be planted on all boundaries except that to the residential estate.
- 11.20 The landscaped areas would be managed by a private maintenance company with two cuts in Spring and Autumn as well as litter picking. Dead dying or lost trees during the first five years of planting would be replaced. Hedges are to be cut to protect nesting birds.

Representations

- 11.21 None received.

Enforcement

- 11.22 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.

- 11.23 Conditions requiring the submission and agreement of details before work commences have been discharged.
- 11.24 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 / Conditions

- 11.25 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.
- 11.26 With regard to the timing of commencement the planning permission would normally allow three years to commence the development. However, planning permission for the residential development was issued on 19th December 2017. Development has commenced with a number of dwellings occupied and others sold for occupation. It is recommended that any planning permission for the soakaway basins be subject to a condition requiring them to be completed and connected to the highway within a practical timescale. The planting would be required to be completed within the first planting season following the completion of the basins.
- 11.27 In the light of current progress on the estate roads, the applicant's anticipated schedule in para 9.8 above and allowing for a reasonable time for the decision to be issued after the legal agreement has been drawn up a condition is recommended requiring the drainage scheme to be completed and brought into use within six months of the date of the decision. In the meantime the approved temporary surface water drainage scheme continues to operate until the completion of the development.
- 11.28 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.

12.0 CONCLUSION

- 12.1 The proposal would not conflict with the purposes of including land within Green Belt and would preserve its openness. Therefore it does not constitute inappropriate development in the Green Belt. It provides sustainable surface water drainage in accordance with the principle established when planning permission was issued for the residential development and is in accordance with Local Plan policy and national planning guidance.
- 12.2 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.

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

1. Completion of development and brought into use within six months of commencement of development
2. Standard plans condition
3. Timing of Planting, seeding or tree management works forming part of the approved landscaping / restoration scheme

Background Papers:

Application and history files.

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

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