
Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 19-Dec-2019

Subject: Planning Application 2019/92462 Erection of 71 dwellings with associated works including new access off Lady Ann Road, regrading works and landscaping land at, Lady Ann Road, Soothill, Batley, WF17 0PY

APPLICANT

C Noble, D Noble Ltd

DATE VALID

24-Jul-2019

TARGET DATE

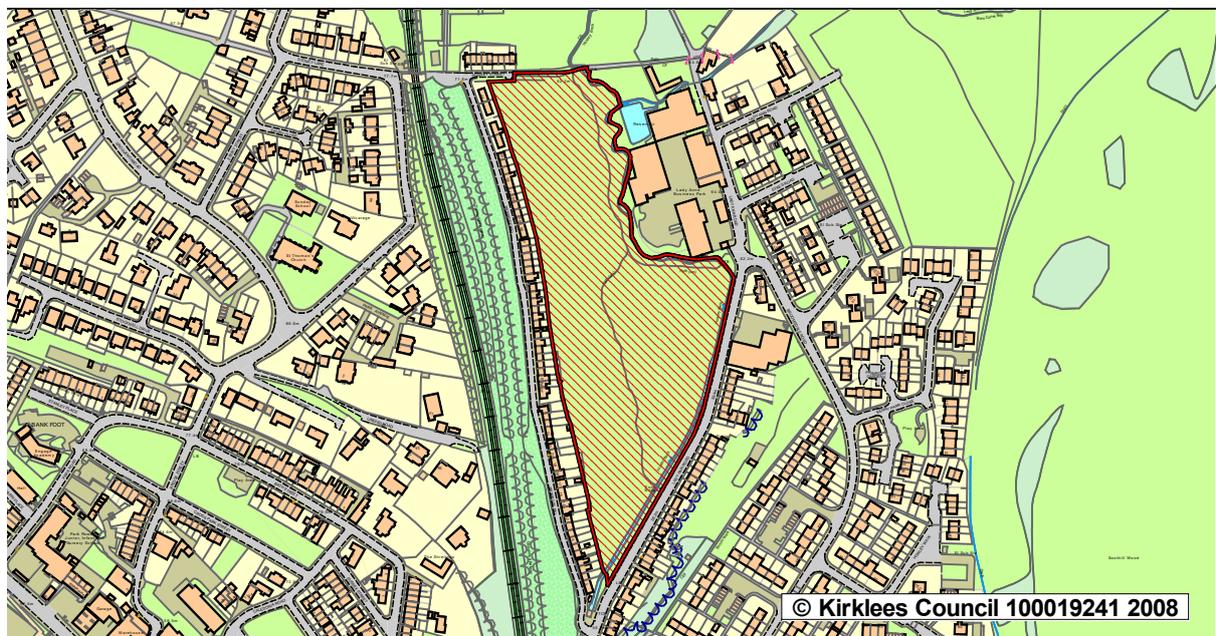
18-Sep-2019

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: Batley East

Yes

Ward Members consulted
(referred to in report)

RECOMMENDATION:

REFUSE FOR THE FOLLOWING REASONS.

1. There is no information supporting the application relating to requirements to support local infrastructure. A S106 agreement is required to ensure contributions towards affordable housing, education, Public Open Space and play equipment. The proposed development, therefore, fails to achieve the requirements of policies LP4; LP11 and 49 of the Kirklees Local Plan
2. The proposal fails to provide sufficient information to enable a meaningful assessment of the scheme in terms of ecological mitigation, impact on trees and landscape proposals. As such the scheme is contrary to policies LP30; LP32 and LP33 of the Kirklees Local Plan.
3. There is insufficient information to demonstrate that the proposed development would direct development away from the areas of flooding, contrary to policy LP27 of the Kirklees Local Plan and paragraph 155 of the National Planning Policy Framework.
4. Insufficient information has been submitted to demonstrate that the proposed development would not result in unacceptable highways impacts as required by policy LP32 of the Kirklees Local Plan and paragraph 109 of the National Planning Policy Framework.
5. There is insufficient information contained with the application to understand the potential impact of the proposed development on heritage assets, namely archaeology, based on the potential for the site to support historical findings, contrary to policy LP35 of the Kirklees Local Plan and paragraph 199 of the National Planning Policy Framework.

1.0 INTRODUCTION:

- 1.1 This application is brought to Strategic Committee as it is a development in excess of 60 dwellings.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site covers an area of approximately 3.3 hectares and is located approximately 3km north of the centre of Dewsbury. The site is a large plot of land situated between Lady Ann Road to the east and Primrose Hill to the west.

- 2.2 The site is an irregular shape, with northern site boundary marked by a 1m high wooden fence and bushes. The western site boundary is marked by the back gardens and rear fences of the terraced houses on Primrose Hill. Further to the west and out of sight lies a railway line. The north-eastern site boundary is marked mainly by dense bushes and trees.
- 2.3 The site slopes down steeply from the west towards the east and south. The site is surfaced by an assortment of vegetation including trees, bushes and other vegetation. A row of mature trees cuts the site in roughly half across the centre from east to west.
- 2.4 Properties facing the site are faced in stone dating back to the late 19th/early 20th century. Adjacent to site lies a large red brick building which forms part of a larger complex which was historically a woollen mill.

3.0 PROPOSAL:

- 3.1 It is proposed to redevelop the site for the erection of 71 dwellings. The application has been submitted in full.
- 3.2 The access would be taken off Lady Ann Road opposite no's 114 and 116. The access would cross Howley Beck into the site.
- 3.3 The scheme includes a variety of 2 and 3 storey houses which generally front Lady Ann Road, albeit significantly set back from the road and on a slightly higher level. The proposal includes engineering operations in order to facilitate a series of platforms to erect the dwellings and associated infrastructure.
- 3.4 A large area of open space is proposed to the east of the proposed access road and another area to the south of the site towards the junction with Primrose Hill.
- 3.5 The layout has a linear appearance with dwellings generally positioned off a main spine road running through the site.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2017/91851 Erection of 84 dwellings- Refused for the following reasons

1. The proposal would entail residential development on a greenfield site which would significantly overwhelm the character and appearance of part of Lady Ann Road by virtue of the scale, massing and location of the proposed development. The prominent location in this case is emphasised by poor design, inconsistent roof designs and a lack of cohesion between the development and the existing urban grain. The development would represent a stand-alone design of inappropriate scale and appearance that would cause significant harm to the character and appearance of the area whilst failing to enhance the townscape. Accordingly, the proposal constitutes poor design and is considered unacceptable in terms of visual amenity, contrary to paragraph 13 of the National Planning Policy Framework, policies BE1 and BE2 of the Kirklees Unitary Development Plan and Kirklees Publication Draft Policy PLP 24.

2. The application potentially impacts on water voles which are a species of Principal Importance. There is insufficient information concerning the existing population of water voles, nor has it been demonstrated that the proposed development would contribute to, and enhance the natural environment having regard to the impact on the known water vole population. The proposal is therefore contrary to UDP policies NE5, BE2 (iv) of the Kirklees Unitary Development Plan and policy PLP30(i) (ii) of the Kirklees Publication Draft Local Plan and paragraph 175(a) of the National Planning Policy Framework.

3. There is insufficient information to demonstrate that the proposed development would direct development away from the areas of flooding, contrary to policy PLP27 of the Kirklees Publication Draft Local Plan and paragraph 155 of the National Planning Policy Framework.

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

5. There is insufficient information contained with the application to understand the potential impact of the proposed development on heritage assets, namely archaeology, based on the potential for the site to support historical findings, contrary to paragraph 199 of the National Planning Policy Framework.

6. There is no information supporting the application relating to requirements to support local infrastructure. A S106 agreement is required to ensure contributions towards affordable housing, education, Public Open Space and play equipment. The proposed development, therefore, fails to achieve the requirements of policy PLP4 of the Kirklees Publication Draft Local Plan.

7. The application would result in a significant impact on trees within the site which are subject to a Tree Preservation Order (TPO – 72/91). The proposal includes a retaining wall feature which would be positioned in between the protected trees potentially resulting in their loss. In addition, the proximity of proposed dwellings in close proximity of the protected trees would put undue pressure on the trees to be removed in future due to the impact the trees would have on the amenity of future occupiers of the properties. The application conflicts with policy NE9 of the Kirklees Unitary Development Plan and PLP33 of the Kirklees Publication Draft Local Plan.

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

5.1 The applicant indicated that they believe the scheme is unviable if Section 106 obligations, including affordable housing and education contributions were required.

They submitted a viability appraisal, and were advised of the Councils process which delivers an independent appraisal at the expense of the applicants. An Independent Assessor was agreed, but at the time of writing the report the applicants did not pay the invoice. As such the information on viability remains untested and insufficient to determine the application.

- 5.2 Additional information regarding the Ecological Impact Assessment has been requested, but has not been forthcoming. This information is required to satisfactorily inform a tree planting and biodiversity enhancement scheme across the site, in accordance with Policy LP30 of the Kirklees Local Plan. It is accepted that additional information regarding water voles has been undertaken, and the amended scheme has better potential in terms of creating an environment potentially to attract the water voles back.
- 5.3 A revised and updated Flood Risk Assessment is required and has been requested. This has not been received and as such the objection from the Environment Agency still applies.
- 5.4 Additional highways information and an update of the Transport Assessment has been requested but not received.
- 5.5 Constructive negotiations have taken place regarding the amended layout, and additional information provided.

6.0 PLANNING POLICY:

Kirklees Local Plan (Adopted 2019):

PLP3 – Location of New Development
PLP4 - Infrastructure
PLP7 – Efficient and effective use of land and buildings
PLP11 – Housing Mix and Affordable Housing
PLP20 – Sustainable Travel
PLP21 – Highway safety and access
PLP22 – Parking
PLP24 – Design
PLP27 – Flood Risk
PLP28 – Drainage
PLP30 – Biodiversity and Geodiversity
PLP32 – Landscape
PLP35 – Historic Environment
PLP48 – Community facilities and services
PLP51 – Protection and improvement of local air quality
PLP52 – Protection and improvement of environmental quality
PLP61 – Urban Green Space
PLP62 – Local Green Space
PLP63 – New Open Space

6.2 Supplementary Planning Guidance:

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

Many policies within the National Planning Policy Framework (2018) are relevant to this proposal and, where relevant, are referred to in the main report text.

6.3 Supplementary Guidance:

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

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised on site, in the local press and by neighbour letter. A total of 34 letters of objection are summarised below and addressed in the officer report unless otherwise stated:

- A house is close to our boundary at no15 Primrose Hill.
- Concerns about the impact on wildlife and water voles.
- Traffic is already bad existing onto Soothill Lane.
- Such a large development would have a detrimental impact on the local infrastructure, roads and traffic volumes, as well as the local school. The proposal to build three storey properties would also greatly affect the privacy of houses on Primrose Hill.
- It would appear that the majority of the proposed houses directly in front of Primrose Hill are 3 storey houses, we currently enjoy open uninterrupted views of Howley ruins and surrounding farm land and this will be totally blocked out, Primrose Hill on the current road side is shielded by a large railway banking and therefore the residents do not get any sunlight on this side and therefore any shading from the proposed houses will have a serious detrimental affect on the residents of Primrose Hill.
- We have a large number of bats that feed on the land and again loss of habitat would not be acceptable. I am also concerned that the beck could be inadvertently polluted due to the construction of the houses were undoubtedly a large amount of chemicals are used in building materials. It would appear from the plans that the proposed house on plot 58 opposite 63 Primrose Hill and adjacent to Howley Street would require the removal of a large mature Ash tree that supports nesting birds.
- There is currently no vehicle access to the site. Primrose Hill is a very narrow street where only 1 car at a time can proceed, the front doors open directly onto the street and therefore any increase in traffic would be dangerous to the residents. Access to the site by any heavy plant should be avoided at all cost due to noise, difficulties in access due to the street width and the dangers posed to residents. It is also unclear if the proposed new road merges with Howley Street, if it does then this would increase traffic on Primrose Hill and for the reasons already mentioned this should be avoided. The development will also add to the serious congestion we have on Soothill lane trying to access Bradford Road in Batley.

- Soothill lane is bad enough and with extra houses more traffic etc and only 2 exits out of lady Ann road with the proposed building application if houses were to be built will give an extra 188 vehicles to commute will cause congestion! Putting an access road to join Howley Street/Primrose Hill, can't see how it's possible as road is narrow enough and unsuitable to be used as main road as two cars cannot pass. Railway crossing is to be closed making less access! We have historic access to the field and a gate that goes onto the field which we will lose?
- There is a risk of flooding to the East of the site from Howley Beck. Plots 1 to 17 will be in severe danger and risk of being flooded in the future if planning accepted. Also to the North of the site off Howley Street, there is a natural spring which has not been considered. This may have an effect on plots 54 to 56. There is also a notable risk of subsidence. Houses on Lady Ann Road have already been affected by subsidence.
- The front elevation of my property faces due East, directly on to the plot and the only source of sun light I get here is from sun rise to around noon. The erection of 3no 2 story town houses 20.5 meters from my house will seriously affect this. I am not prepared to have this sacrificed. Nor am I happy with the closeness of the boundary fences of plots 1 and plots 58 to 94. On Primrose Hill we have historical access to the back of our houses and gardens from the east elevation. This access will be compromised without the insertion of a road or pathway and or gap between the boundary fences.
- I am concerned about access to the site during construction. It is not possible for HGV's or heavy plant to gain access via Primrose Hill and until a bridge has been built, how are they going to do this?
- If these houses are built the amount of traffic that will cause major disruption to Lady Ann Road and Soothill Lane T-junction. It's bad enough as it is I could wait a good 15mins to turn right. With all the cars parked on Lady Ann road it might as well be one way traffic, there will be no possibility of the 212 bus coming down which will cause congestion up hill it will be grid locked completely. Not only that but there's parked cars at the T-junction so turning left is virtually impossible now. With 94 houses being built your looking at 100+ extra cars in such a small place, you take your life in your own hands from the s-bend up to the T-junction hoping no one is turning into the junction to come down as there's nowhere to pass.
- The local schools, doctors, dentist are all already overcrowded and with the loss of Batley fire station and cut backs at the local hospital and police, a further 93 dwellings of 3-4 bedroom houses is going to push these past their breaking points.
- The area is also prone to flooding and the stream at the bottom has flooded numerous times in the last few years, which has resulted on many occasions of having to shut Lady Ann Road. So I would not have thought it would be wise to build houses so close to the stream.
- A lot of children use the land to exercise and play football.

- I have reviewed the title deeds from the Land Registry regarding my property on Primrose Hill. This shows there is a public right of way on the proposed site; at the end of the gardens of the properties on Primrose Hill. It is vital that this public right of way be maintained. Several of the properties on Primrose Hill have narrow doorways on the 'roadway' side of the houses. It is occasionally necessary for deliveries of large pieces of furniture and 'white goods' to be made using the entrances on the garden sides of the houses. The submitted plans for the proposed site do not appear to have allowed for this.
- The exit from Lady Ann Road, has limited visibility of traffic travelling up Soothill Lane due to the walls of the railway bridge. Combining this with moving cars being in the centre of the road (due to the parked cars described above), any increase in traffic can only increase the risk of road traffic collision and congestion at this junction.
- The beck that runs through the bottom of the land is frequently not able to take heavy sustained rainfall, causing the excess water to flood the land. Standing surface water can currently take around 5 days for the swell to go down and the beck to flow at "normal" levels.
- There has been a considerable amount of building on and around Soothill Lane in the past few years.
- Loss of green space.
- Architecture of the suggested dwellings as they are not in keeping with the surrounding properties of Lady Ann Road, Primrose Hill and Howley Street, which unlike the proposed dwellings are built of stone. Furthermore, the height of the proposed 3 storey houses will be to the detriment of my own east facing home and garden. The close proximity of the proposed 3 storey houses will block out the sun light, an already precious commodity, from my property.
- We have had summer rain in the last few years which have caused severe flooding of land in Ailsa Dell, and along Lady Ann Road. Unless sufficient provision of storm lakes, and the combined sewer running in line with the water course running from our address and the proposed site has been calculated to be large enough to cope with the 1/100 years storms we are currently having every year, there will be further issues all around. There is livestock in the two fields upstream from the site and causing further flooding will not only put risk to our properties, but also put risk to livestock and potentially pollute the water course once again due to overflow from the combined sewer that has history of not being able to cope in recent years.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

Highways DM – Amendments to the layout requested. Principle of access is acceptable as is the sites location.

Yorkshire Water – Recommend conditions.

Lead Local Flood Authority – Largely support this application given recent dialogue, however supporting information which we believe to be already available has not been submitted with the application. This further information is required.

- Additionally we advise the applicant that an updated model of the watercourse running through site has been produced by the Environment Agency (attached). This model should be used alongside Kirklees evidence of road flooding and that of local residents (listed in previous commentary).
- We suggest a revised FRA is produced with new maps, incorporating resident's historical photographs and information to determine likely flood levels on the road in relation to site topography existing and proposed.
- The spring flowing north to south through the site must be included on plans.
- A demonstration of keeping attenuation out of flood zones is required.
- Areas shown on the new river model and the surface water model as flowing between the watercourse and a 'dry island' should be discussed. As levels change on site we believe we agreed to keep properties elevated but also take out the dry island so volume of flooding is unchanged or improved in this area whilst keeping the properties gardens as safe as practicable.

Potential emergency access at the north east of the site from existing road and footpath should also be discussed in a revised FRA.

Environment Agency – Object. The FRA submitted with this application does not comply with the requirements set out in paragraphs 29 – 32 of the National Planning Practice Guide supporting the National Planning Policy Framework. The submitted FRA does not therefore provide a suitable basis for assessment to be made of the flood risks arising from the proposed development for the following reasons:-

- 1) The latest guidance for climate change predictions should be considered (i.e. a minimum of 30% increase in flow for 'more vulnerable development') when determining floor levels for new buildings.
- 2) The submitted FRA fails to demonstrate the impact the development will have on Howley Beck and its associated floodplain and no finished floor levels have been included.

8.2 Non-statutory:

Landscape – No comments received.

Biodiversity Officer – Object. *The proposals are supported by ecological information that is based on survey information that is incomplete and inadequate for the purpose. The water vole survey undertaken was significantly constrained (see paras. 18 and 42 of the Water Vole Assessment and Mitigation Plan, which identifies the limitations of survey and outlines the further survey requirements respectively). The survey undertaken is not sufficient to establish a baseline ecological value of the site in respect of water voles, rendering any subsequent assessment invalid. It is not possible from the existing survey effort to quantify the magnitude of the impact to water voles at the site.*

The assessment presented in the report, aside from the above survey limitations, refers to an earlier iteration of the proposals. The current proposals differ significantly from those assessed, including a different location for the watercourse crossing point. Regardless of the layout that has been assessed, the scope of the assessment is insufficient to determine the long-term impacts to water voles; critically, the assessment has not accounted for the established flood risk at the site and the impact that constraining the existing watercourse will have on the existing water vole population. I am concerned that development within flood zone 3 will deny a refuge to the existing water vole population within the site at times of high water. Currently voles are able to escape to grasslands higher up the slope at these sites. Loss of all of these habitats to development is likely to result in the extinction of the water vole population at the site.

Water voles were observed by council staff at this site during a site visit to discuss drainage constraints. As one of only 2 known populations in Kirklees, the water vole population at the site is of district importance.

Water voles are a species of principle importance (S41, NERC Act 2006). Policy PLP 30 requires proposals to protect such species unless the benefits of the development outweighs the importance of the biodiversity interest. Given the district importance of the water vole population, I cannot see a valid justification for approving the proposals.

The proposals would result in a net loss of biodiversity, which is inconsistent with the general principles of policy PLP 30 and NPPF. In addition, insufficient information has been provided to demonstrate that the proposals are in line with the mitigation hierarchy described in the NPPF, para. 175(a); this same paragraph suggests applications for such schemes should be refused.

Strategic Housing – No objection. *Batley & Spen has the highest level of need for affordable housing in Kirklees. 3+ bedroom houses in particular are needed, as well as 1-2 bedroom homes and 1-2 bedroom homes for older people specifically.*

Owner occupier rates in the area are around 65% whilst private renting is about 15% of the market and affordable (social) housing is just under 20%. House prices in Batley and Spen range between £86,000 and £162,500, putting it in the lower range for house prices in Kirklees. Affordable rents in the area start from around £394 per month. Batley and Spen is a popular area – 18% of Kirklees households planning to move in the next 5 years, cited it as their first choice destination.

Leeds City Council – No objection.

West Yorkshire Archaeological Service – No change from the previous application.

Environmental Health – the Noise report submitted is satisfactory, and its implementation should be conditioned if approval is granted. Together with a condition requiring alternative ventilation on a number of the plots. Conditions recommended regarding decontamination and remediation as well as the provision of Electric Vehicle Charging points

Design and Conservation – The amended scheme with a reduction on numbers, results in a scheme that better reflects the topography and character of the area. No information has been provide with respect to the site archaeological potential, which is contrary to guidance contained in paragraph 199 of the NPPF.

Network Rail – No objection subject to informative.

Yorkshire Wildlife Trust – *Yorkshire Wildlife Trust would be extremely concerned if a residential development was to lead to the loss of the water vole population on Howley Beck (Lady Anne Road). Yorkshire Wildlife Trust undertook a water vole project in West Yorkshire in 2009/2010 in which we surveyed and mapped water vole populations across West Yorkshire. The findings of such survey were alarming, and highlighted that the main strongholds for the species in West Yorkshire are catchments in Wakefield and Leeds, with Kirklees, Bradford and Calderdale having very few water vole populations. Only two water vole populations were identified in Kirklees during these surveys, one of which is the Howley Beck population. These two populations are therefore important at a district level, and their isolation makes them very vulnerable.*

Yorkshire Wildlife Trust is therefore concerned about the impacts that the proposed housing scheme at Lady Anne Road will have on the Howley Beck water vole populations. Disturbance from dogs and people, and predation by cats are likely to have significant negative impacts on the population and could wipe out one of the last water vole populations in Kirklees completely. If the proposed housing development is to go ahead then substantial ecological mitigation will have to be undertaken in order to safeguard this crucial water vole population.

Police Architectural Liaison Officer- No fundamental objections to the scheme. However attention needs to be given to the provision of adequate boundary treatments, ensuring natural supervision of the open space areas, and common parking courts, and lighting.

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Highways Issues
- Bio-diversity/Trees and Landscape Issues
- Drainage Issues
- Heritage Assets and Archaeology Issues.

10.0 APPRAISAL

Principle of development

- 10.1 The application site is allocated for housing on the Kirklees Local Plan allocation no. HS74, with an indicative capacity of 97 no dwellings. However, there are also a series of constraints identified on the Local Plan allocation, including the part of the site that is within Flood Zones, protected trees on the site a noise source for the Lady Ann Business Estate and the site contains important biodiversity habitat.
- 10.2 As such the principle of development for residential is accepted, subject to the scheme respecting the site constraints (this would clearly impact upon the final density of a development on this site) and other relevant policies within the Kirklees Local Plan.
- 10.3 In terms of density, a previous application for housing on the site, originally for 94 then reduced to 87 was refused, one of the reasons being the harm the development of that scale and design would have on the character of the area.
- 10.4 The current application provides for 71 no dwellings a mix of 3 and 4 bedroom dwellings, a mix of mainly detached and some semi-detached properties. This represents a site density of just over 21 per ha.
- 10.5 Policy LP7 indicates that development should make efficient and effective use of land, in keeping with the character of the area, and that lower densities will only be acceptable if this is necessary to demonstrate the development is compatible with its surroundings.
- 10.5 There are significant areas of the site that cannot be developed, and constraints that need to be respected eg distances from the Lady Ann Business Park, that increase that density to approximately 28 per ha. In terms of the amended design to the layout the layout represents a significant improvement upon the previous scheme in terms of respecting the site constraints and the characteristics at the top of the slope. As such it is considered that in this case, to refuse the application as being contrary to Policy LP7 would be difficult to justify.

Section 106 obligations

- 10.6 Notwithstanding the above, the size and scale of the scheme would trigger the requirement for contributions for the provision of affordable housing, education and on and off site POS. The applicant has submitted a viability appraisal which has not been assessed – this scheme is unviable if such contributions are required.
- 10.7 Paragraph 57 of the National Planning Policy Framework indicates that where up to date policies set out contributions from development, planning applications that comply with them should be assumed to be viable. In addition whilst the applicant has submitted a viability appraisal, the Council protocol indicates that such an assessment should be independently assessed at the expense of the applicant, and this protocol has not been fulfilled. As such the proposal fails to satisfy the Council's Policies of Affordable Housing, Education and POS, as well as being contrary to the guidance within the National Planning Policy Framework "Planning conditions and Obligations".

Urban Design Issues

- 10.8. This part of Soothill lies on a piece of sloping land which faces onto Lady Ann Road. The steep slope exacerbates the prominence of the site, and consequently the impact the new residential development will have on the character of the area.
- 10.9 Accepting that the character of the slope will change given the residential allocation a development that respects the topography slope, and character of the area, without overly dominating the hill. The previous application on this site proposed a significantly greater number of dwellings (84) and covered a larger area of the hillside.
- 10.10 The reduction in density in this case, has enabled the provision of more extensive area of open space and wetland habitat, on the bottom side of the hill next to stream and the back edge of the pavement on Lady Ann Road. The first tier of dwellings is set back considerably and approx a third of the way up the slope. The remaining tiers of development are stepped up the hill running parallel with the slope. The dwellings on the highest points to the north, being at a lower level than those dwellings on Primrose Hill, are well sited, creating more space between the properties, to break up the mass of the housing at the top part of the hillside.
- 10.11 The dwellings proposed will be a mixture of 2 and 3 storey (many split level) to reflect the slope, which is considered an appropriate scale and approach to development on a slope such as this. The mixture and density proposed (whilst not approaching the 35per ha target set in policy LP7) is considered to be an appropriate response to this site and its constraints.
- 10.12 As such the layout proposed is considered to be a significant improvement on the previous refusal and a well-reasoned approach to this site and the site constraints.

Residential Amenity.

- 10.13 The nearest dwellings to this site are located to the south, and at a lower level, on Lady Ann Road, to the north, above the site on Primrose Hill, and a small terrace of dwellings to the NE corner, Howley Street.
- 10.14 The propose scheme, with access off Lady Ann Road sets the dwellings back from the road, a considerable distance, with open space areas, and proposed wetland habitat areas, towards the front of the site. The first dwellings will be set approx. a third of the way up the hill, and face towards the properties on Lady Ann road. There would effectively be 3 tiers of housing, sited parallel to the slope, which would be visible from Lady Ann Road. However the dwellings are a significant distance from the back edge of Lady Ann road, and whilst there would be habitable room windows facing towards Lady Ann Road, the distance and elevated position of the new dwellings should not result in any loss of privacy, or create an over dominating effect for the Lady Ann dwellings.
- 10.15 The dwellings on Primrose Hill, are situated above the site, and any new dwellings will be set down from the rear dwellings of Primrose Hill not resulting in any adverse effects on privacy or outlook. Also no vehicle movements associate with the new development will be off Primrose Hill.

- 10.16 The nearest proposed dwelling to Howley Road, is set down from Howley Road and also has a gable facing, with a road/path and proposed planting strip in between the proposed and existing dwellings.
- 10.17 Parts of the proposed development are located in close proximity to the Lady Ann Business Park. Environmental Health have confirmed that a noise report, detailing adequate noise mitigation for future residents is acceptable and its implementation can be conditioned.

Highway Issues

- 10.18 Policy LP21 of the Kirklees Local Plan sets out the matters against which new development will be assessed in terms of highway safety.
- 10.19 Highways initially set out a number of concerns relating to the internal layout and a lack of detail in the Transport Assessment concerning the impact on capacity. It is noted that the site is allocated for housing in both the UDP and the PDLP and therefore, housing development on this site is generally supported. Highways DM assessed the original scheme (94 dwellings) and raised concerns that Broomdale Road had not been modelled. In addition, they raised concerns that no Stage 1 Road Safety Audit had been carried out. No further information has been assessed relating to the revised layout in order to address these points.
- 10.20 Within the submitted Transport Assessment the applicant calculated the impact on the Lady Ann Road and Grace Leather Road junctions. Highways DM raise no objections in terms of the impact on those junctions from a capacity perspective.
- 10.21 With regards to other matters, there are a number of outstanding detail concerns that have been raised with the applicant which are still outstanding, and as such in its current state the application is contrary to Policy LP21 of the Kirklees Local Plan.

Biodiversity /Trees and Landscape Issues.

- 10.22 Policy LP30 establishes the importance of wildlife corridors such as the Kirklees Wildlife Habitat Network. It is important that habitats of ecological value are taken into account when assessing the acceptability of development, with chapter 15 of the NPPF establishing that local authorities should aim to conserve and enhance biodiversity. Under policy LP30, which carries, proposals are required to protect habitats of principal importance and the Kirklees Wildlife Habitat Network.
- 10.23 Following the previous refusal on this site, one of the reasons being insufficient information regarding the population of water voles, additional information and survey work regarding specifically water voles has been undertaken, and is in itself considered to be carried out to a satisfactory standard. Given that water voles have left the area, the aim should be to establish and enhance a habitat area, sufficient to encourage their return.

- 10.24 In respect of the submitted information, the Council's biodiversity officer has reviewed the scheme and required further survey work regarding the entire site as to the ecological impact and harm that will inevitable occur on the site (given it is currently a greenfield hillside). The purpose of this more comprehensive and up to date survey is to better inform what needs to be conserved and what level of mitigation is required to achieve "betterment " on the site in accordance with both policy LP30 of the Local Plan and the guidance contained in chapter 15 of the NPPF " Conserving and enhancing the natural environment".
- 10.25 Policies LP32 Landscape and LP33 Trees are also of relevance to this proposal. Any landscape scheme and/ or replacement of trees for those indicated to be felled, would be better informed and result in a significantly greater level of betterment if delivered in a coordinated manner, on the basis of an adequate Ecological Impact Statement.
- 10.26 As such the current application is provides insufficient information and is therefore contrary to policies LP30, LP32 and LP33 of the Kirklees Local Plan, as well as the guidance contained in chapter 15 of the NPPF "Conserving and enhancing the natural environment".
- 10.27 Policy LP21 guides on matters relating to highways and access.
- 10.28 Highways initially set out a number of concerns relating to the internal layout and a lack of detail in the Transport Assessment concerning the impact on capacity. It is noted that the site is allocated for housing in both the UDP and the PDLP and, therefore, housing development on this site is generally supported. Highways DM assessed the original scheme (94 dwellings) and raised concerns that Broomdale Road had not been modelled. In addition, they raised concerns that no Stage 1 Road Safety Audit had been carried out. No further information has been assessed relating to the revised layout in order to address these points.
- 10.29 Within the submitted Transport Assessment the applicant calculated the impact on the Lady Ann Road and Grace Leather Road junctions. Highways DM raise no objections in terms of the impact on those junctions from a capacity perspective.
- 10.30 With regards other matters, a further update will be provided to Strategic Planning Committee based on the current amended scheme.

Drainage issues

- 10.31 The NPPF sets out the responsibilities for Local Planning Authorities determining planning applications, including flood risk assessments taking climate change into account and the application of the sequential approach.
- 10.32 Part of the site lies in Flood Zones 2 and 3. The layout has been refined in order to ensure that properties are located away from flood zones 2 and 3. No revised Flood Risk Assessment has been submitted and whilst the Lead Local Flood Authority are generally supportive of the layout, it has not been accompanied by robust evidence.

- 10.33 The applicant has been advised that a new Flood Risk Assessment is required to support the revised scheme and The Environment Agency have restated their objection to the scheme in view of the lack of that updated information. Consequently the proposed development conflicts with paragraphs 29 – 32 of the NPPF and LP policy 27.

Heritage Assets/Archaeology

- 10.34 According to West Yorkshire Archaeological Advisory Service (WYAAS), the site lies in an area dominated by 19th century industrial remains including mills, workers' housing, railways and collieries. However, the site has not been previously developed and faces south-east with Howley Beck passing along its eastern boundary. The latter are both features which would have made the site an attractive location for early communities to settle. There are known records of archaeological importance to the north east of the site.

- 10.35 The proposed development could affect archaeological remains from the Prehistoric period to the English Civil War. Paragraph 199 of the NPPF states:

Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.

- 10.36 Local Plan LP35 states:

Development proposals affecting archaeological sites of less than national importance should conserve those elements which contribute to their significance in line with the importance of the remains. In those cases where development affecting such sites is acceptable in principle, mitigation of damage will be ensured through preservation of the remains in situ as a preferred solution. When in situ preservation is not justified, the developer will be required to make adequate provision for excavation and recording before or during development. Proposals which would remove, harm or undermine the significance of a non-designated heritage asset, or its contribution to the character of a place are permitted only where the public benefits of the development would outweigh their harm.

- 10.37 On the previous application based on the advice from WYAAS, there was insufficient information contained with the application to understand the potential impact of the proposed development on heritage assets before a determination is made on the application. No additional information has been provided with this resubmission in this respect, as such refusal on these grounds should be restated.

11.0 CONCLUSION

11.1 The principle of residential development on this site is acceptable and the scale and density of the resubmitted proposal represents a significant improvement upon the previous refusal. A development of this scale triggers a requirement for contributions for affordable housing, POS and education. In addition, given the sites constraints updated information has been requested regarding a Flood Risk Assessment and an Ecological Impact Assessment. This is core information, necessary to develop a successful scheme that delivers biodiversity enhancements coordinated with replacement tree planting, as well as satisfying flood risk issues. It is not feasible to make a considered decision without this information, in place and conditioning this information is inappropriate.

11.2 As such the application is once again recommended for refusal, whilst acknowledging that good progress has been made regarding the layout.

Background Papers:

Application and history files.

Website link to be inserted here

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