

**Objection in relation to an application for
Planning Permission in outline for
residential development and facilitating
engineering operations and full planning
permission for access and spine road**

At

**Land at Walkley Terrace and Brunswick
Street, Heckmondwike**

**Planning application number:
2018/62/91661/E**

Planning objection

August 2018

Objection in relation to an application for planning permission at land at Walkley Terrace and Brunswick Street, Heckmondwike for outline planning permission for residential development and facilitating engineering operations and full planning permission for access and spine road application number: 2018/62/91661/E

1. Introduction

- 1.1 These objections have been prepared on behalf
- 1.2 An application for planning permission has been submitted to Kirklees Council (“the Council”) for outline permission for residential development and facilitating engineering operations and full planning permission for access and spine road on land at Walkley Terrace and Brunswick Street, Heckmondwike (“the Site”). The application has been assigned planning application number 2018/62/91661/E (the Application”).
- 1.3 The Site is a disused railway cutting which is a haven for wildlife. The Site area is circa 2.58ha and is at some points 18 metres deep. On the UDP Proposals Map the site is within a traffic calming zone and is shown as a pedestrian/cycle route which forms part of the green corridor. The Site is adjacent to designated urban greenspace and we believe the site is an extension of this designated urban greenspace, hence the annotation as a green corridor and pedestrian/cycle route. The traffic calming policy has not been saved as it failed to serve the purpose it aimed to serve. However, it shows that the area suffers from the environmental effects of traffic and HGV’s and the Council were seeking to address this when the UDP was adopted. In relation to the draft Local Plan which is at an advanced stage, going through the examination process, the Site is a rejected housing allocation. Furthermore, the site forms part of a Core Walking, Cycling and Riding Network, is identified as part of the Strategic Green Infrastructure Network, is within a Mineral Safeguarding Area and is overlapped by designated Urban Green Space.
- 1.4 Our clients object to the Application for the reasons set out below.

2. Statutory Context

- 2.1 In accordance with Section 38(6) Planning and Compulsory Purchase Act 2004 any application for planning permission should be determined in accordance with the Development Plan unless material considerations indicate otherwise.

3. Planning History

- 3.1 There have been five planning applications previously on this Site which are relevant to this application:

93/02757: Application for infilling of former railway cutting. This application was received by the Council 11 June 1993 it was scheduled to be taken to the Planning Committee but was withdrawn on 3rd June 1994;

94/62/90001: Application for land infilling of derelict railway cutting and plugging of Brunswick Street Bridge and Church Street Bridge. This application was received by the Council 4th January 1994 but was also withdrawn on 3rd June 1994.

We understand that these two applications were withdrawn as no suitable access could be identified.

99/92140: Reclamation of Derelict Railway Cutting by Partial Infilling to form shared Cycle/Footpath and Open Green Space - **Withdrawn**

2000/92085: Partial Infilling of Railway Cutting - **Withdrawn**

2017/62/93488/E: Outline planning permission for the erection of 96 dwellings and planning permission for infill of land. **REFUSED: 15th February 2018**

- 3.2 Application 2017/62/93488/E was refused on the following grounds:

1. The proposed temporary access arrangements associated with the landfilling element of this proposal would have a significant detrimental impact on highway safety in the vicinity of the site in that the local highway network is not capable of safely accommodating the regular daily movement of the heavy goods vehicles needed to transport infill material to the site. This would be contrary to Unitary Development Plan policy T10 and Kirklees Publication Draft Local Plan policies PLP21, PLP44 and Section 7 of the National Planning Policy Framework.
2. The applicant has failed to demonstrate that the landfill of the site over a period of at least two years will not have a detrimental impact on the amenity of neighbouring uses as a result of noise and dust. This would be contrary to Unitary Development Plan policies EP4, EP6 and WD5 and Kirklees Publication Draft Local Plan policies PLP51 and PLP52 and Section 11 of the National Planning Policy Framework.
3. The applicant has failed to demonstrate that this proposal will not have a detrimental impact on the ecology of the area and that local biodiversity will not be detrimentally affected. This would be contrary to Unitary Development Plan policies D6, WD5 and Kirklees Publication Draft Local Plan policy PLP30 and Section 11 of the National Planning Policy Framework.

4. The applicant has failed to demonstrate that this proposal will not have a detrimental impact on air quality in the area. This would be contrary to Kirklees Publication Draft Local Plan policy PLP51 and Section 11 of the National Planning Policy Framework.
 5. The applicant has failed to demonstrate that the drainage measures proposed would not increase the risk of flooding in the local area. This would be contrary to Kirklees Publication Draft Local Plan policy PLP27 and Section 10 of the National Planning Policy Framework.
- 3.3 We understand that an appeal has been lodged against this refused application.

4. The Development Plan

4.1 The Development Plan for the area in which the Site is situated consists of the Kirklees Unitary Development Plan (“UDP”) which was adopted on 1st March 1999. The following policies contained within the UDP were “saved” on 28th September 2007 by a direction of the Secretary of State. The UDP sets out the Council’s policies and proposals for the use and development of land and buildings.

4.2 Policy T10 of the UDP is concerned with highway safety and environmental problems and provides:

“NEW DEVELOPMENT WILL NOT NORMALLY BE PERMITTED IF IT WILL CREATE OR MATERIALLY ADD TO HIGHWAY SAFETY OR ENVIRONMENTAL PROBLEMS OR, IN THE CASE OF DEVELOPMENT WHICH WILL ATTRACT OR GENERATE A SIGNIFICANT NUMBER OF JOURNEYS, IF IT CANNOT BE SERVED ADEQUATELY BY THE EXISTING HIGHWAY NETWORK AND BY PUBLIC TRANSPORT. PROPOSALS WILL BE EXPECTED TO INCORPORATE APPROPRIATE HIGHWAY INFRASTRUCTURE DESIGNED TO MEET RELEVANT SAFETY STANDARDS AND TO COMPLEMENT THE APPEARANCE OF THE DEVELOPMENT.”

4.3 The proposal does not accord with UDP Policy T10 for the reasons set out in section 5 below.

4.4 Policy T23 of the UDP is concerned with the re-use of disused railway and provides:

“DEVELOPMENT WHICH WOULD PREVENT THE RE-USE OF DISUSED RAILWAYS FOR TRANSPORT PURPOSES WILL NOT NORMALLY BE PERMITTED.”

4.5 Obviously the development of this railway cutting would prevent this part of the disused railway from being reused for transport purposes and it is therefore contrary to Policy T23.

4.6 Policy DL1 is concerned with bringing derelict and neglected land back in to beneficial use. Policy DL1 provides:

“DERELICT AND NEGLECTED LAND WILL BE BROUGHT INTO BENEFICIAL USE TO ASSIST IN THE REGENERATION OF THE DISTRICT”

4.7 The applicants state that this site is a derelict site. However, we disagree with this, albeit that the site is within a derelict land zone. The Site is wonderful tranquil open green space protected from light pollution which is a haven for wildlife. It is therefore serving a very important function in this very urban area. The proposal does not accord with UDP Policy DL1 as it would not assist in the regeneration of the district and the Site serves a better purpose in its current state.

4.8 Policy D1 of the UDP is concerned with the loss of valuable open land and provides:

“DEVELOPMENT PROPOSALS WHICH WOULD LEAD TO A LOSS OF VALUABLE OPEN LAND WITHIN TOWNS OR OF OPEN COUNTRYSIDE WILL NOT NORMALLY BE PERMITTED.”

4.9 We consider that the Site is valuable open land within the town of Heckmondwike and this proposal which would lead to loss of this valuable open land should not be permitted in accordance with Policy D1.

4.10 The Site is shown as being a Green Corridor on the proposals map and is adjacent to designated Urban Greenspace. Policy D6 is concerned with development of land within or adjacent to green corridors and provides:

“DEVELOPMENT PROPOSALS INVOLVING LAND WITHIN OR ADJOINING A GREEN CORRIDOR WILL BE CONSIDERED IN TERMS OF THEIR IMPACT ON:

- i PLANTS WITHIN THE GREEN CORRIDOR AND ANIMALS USING IT;
- ii ANY WATERCOURSE, WATER AREA OR WETLAND WITHIN THE GREEN CORRIDOR;
- iii THE VISUAL QUALITY OF THE GREEN CORRIDOR;
- iv PUBLIC ACCESS ALONG THE GREEN CORRIDOR; AND
- v THE PHYSICAL CONTINUITY OF THE GREEN CORRIDOR.

PLANNING PERMISSION WILL NOT NORMALLY BE GRANTED UNLESS IT CAN BE DEMONSTRATED THAT THE GREEN CORRIDOR WILL BE SAFEGUARDED OR AN ALTERNATIVE GREEN CORRIDOR WILL BE ESTABLISHED AND THAT THERE WILL BE NO DETRIMENT TO WILDLIFE OR RESTRICTION TO PUBLIC ACCESS.

4.11 Paragraph 2.21 of the UDP provides justification for policy D6 and provides:

“The corridors themselves can enable people to walk or possibly cycle through urban areas in unpolluted and uncongested surroundings. There are also opportunities to observe wildlife which provide educational and recreational benefits within urban areas rather than being confined to the relatively remote urban periphery. Public access is therefore the second key factor in establishing green corridors although it will not be appropriate where there would be detriment to wildlife interests.”

4.12 The proposal does not accord with UDP Policy D6 nor would it serve the purpose of the Green Corridor for the reasons set out in section 6 below.

4.13 Policy NE3 of the UDP is concerned with development proposal within or in the vicinity of a site of scientific interest. Policy NE3 provides:

“DEVELOPMENT PROPOSALS WITHIN OR IN THE VICINITY OF A SITE OF SCIENTIFIC INTEREST WILL NOT NORMALLY BE PERMITTED UNLESS THERE IS AN EXCEPTIONAL REQUIREMENT FOR THE DEVELOPMENT AND MEASURES WILL BE TAKEN TO MINIMISE ANY DETRIMENT TO THE SITE.”

4.14 We believe that the site is potentially a site of scientific interest and surveys are required to establish this one way or another prior to any decision being issued. In the event that it is concluded that this is a site of scientific interest then the development should not be permitted as there are no exceptional requirements for the development and no measures can be taken to minimise the detriment as the whole area will have been developed resulting in the loss of any scientific interest. The proposal therefore does not accord with UDP Policy NE3.

4.15 Policy NE4 of the UDP is concerned with sites of wildlife significance and provides:

“DEVELOPMENT PROPOSALS WHICH WOULD AFFECT A SITE OF WILDLIFE SIGNIFICANCE WILL NOT NORMALLY BE PERMITTED UNLESS PROVISION CAN BE MADE TO MAINTAIN THE SITE’S ROLE FOR NATURE CONSERVATION.”

4.16 For the reasons set out in section 6 below we consider that this is a site of wildlife significance and if the Site is developed the sites role for nature

conservation could be maintained in no way. Therefore, the proposal does not accord with UDP Policy NE4.

4.17 Policy EP4 of the UDP is concerned with noise and provides:

“PROPOSALS FOR NOISE SENSITIVE DEVELOPMENT IN PROXIMITY TO EXISTING SOURCES OF NOISE, OR FOR NOISE GENERATING USES OF LAND CLOSE TO EXISTING NOISE SENSITIVE DEVELOPMENT, WILL BE CONSIDERED TAKING INTO ACCOUNT THE EFFECTS OF EXISTING OR PROJECTED NOISE LEVELS ON THE OCCUPIERS OF THE EXISTING OR PROPOSED NOISE SENSITIVE DEVELOPMENT.”

4.18 The proposal does not accord with Policy EP4 for the reasons set out at section 6 below.

4.19 Policy EP11 of the UDP is concerned with landscaping and provides:

“APPLICATIONS FOR PLANNING PERMISSION SHOULD INCORPORATE AN INTEGRAL LANDSCAPING SCHEME WHICH PROTECTS OR ENHANCES THE ECOLOGY OF THE SITE.”

4.20 We do not consider that the proposal can accord with Policy EP11 due to the level of engineering operations which would be required to allow this development to go ahead so all ecology on the Site would be lost, there is no way that developing this Site in such a way could protect or enhance the ecology of the Site. Therefore, the proposal does not accord with Policy EP11.

4.21 Policy G6 of the UDP is concerned with contamination and land stability and provides:

“DEVELOPMENT PROPOSALS WILL BE CONSIDERED HAVING REGARD TO AVAILABLE INFORMATION ON THE CONTAMINATION OR INSTABILITY OF THE LAND CONCERNED.”

4.22 Insufficient information has been provided on the stability of the land in order to satisfy Policy G6. The level of facilitating engineering operations required to make this development possible requires far more consideration than has already been given to it.

4.23 Policy B1 of the UDP is concerned with the built environment and provides:

“ALL DEVELOPMENT SHOULD BE OF GOOD QUALITY DESIGN SUCH THAT IT CONTRIBUTES TO A BUILT ENVIRONMENT WHICH:

i CREATES OR RETAINS A SENSE OF LOCAL IDENTITY;

- ii IS VISUALLY ATTRACTIVE;
- iii PROMOTES SAFETY, INCLUDING CRIME PREVENTION AND REDUCTION OF HAZARDS TO HIGHWAY USERS;
- iv PROMOTES A HEALTHY ENVIRONMENT, INCLUDING SPACE AND LANDSCAPING ABOUT BUILDINGS AND AVOIDANCE OF EXPOSURE TO EXCESSIVE NOISE OR POLLUTION;
- v IS ENERGY EFFICIENT IN TERMS OF BUILDING DESIGN AND ORIENTATION AND CONDUCIVE TO ENERGY EFFICIENT MODES OF TRAVEL, IN PARTICULAR WALKING, CYCLING AND USE OF PUBLIC TRANSPORT.”

4.24 The proposal does not accord with Policy B1 due to the excessive noise and pollution which will result from the development which has not be sufficiently considered. This is exceptional for this site due to the level of facilitating engineering operations which would be required to make the development of this Site possible.

4.25 Policy BE2 of the UDP is concerned with design of developments and provides:

“NEW DEVELOPMENT SHOULD BE DESIGNED SO THAT:

- i IT IS IN KEEPING WITH ANY SURROUNDING DEVELOPMENT IN RESPECT OF DESIGN, MATERIALS, SCALE, DENSITY, LAYOUT, BUILDING HEIGHT OR MASS;*
- ii THE TOPOGRAPHY OF THE SITE (PARTICULARLY CHANGES IN LEVEL) IS TAKEN INTO ACCOUNT;*
- iii SATISFACTORY ACCESS TO EXISTING HIGHWAYS CAN BE ACHIEVED; AND*
- iv EXISTING AND PROPOSED LANDSCAPE FEATURES (INCLUDING TREES) ARE INCORPORATED AS AN INTEGRAL PART OF THE PROPOSAL.”*

4.26 The proposal does not accord with Policy BE2 of the UDP. No satisfactory access can be achieved and existing landscape features would be lost which is wholly unacceptable.

4.27 Therefore, the Application does not accord with the development plan and in particular the above policies for the reasons set out in Section 6 below.

Kirklees Local Plan

4.28 The Council are in the process of introducing the Kirklees Local Plan. Once adopted the Local Plan will constitute the development plan for the area. The

Inspector has produced her interim report and the Council will soon be consulting upon their Major Modifications.

4.29 The Site is identified on the Publication Local Plan as being a rejected housing site. Furthermore, the site forms part of a Core Walking, Cycling and Riding Network, is identified as part of the Strategic Green Infrastructure Network, is within a Mineral Safeguarding Area and is overlapped by designated Urban Green Space.

4.30 The Site appears to have been rejected as a housing allocation for a number of reasons including:

- Significant engineering works would be required to achieve access to the site and insufficient evidence available to show that these could be carried out;
- Access onto Walkley Lane would be unsuitable;
- Culverted watercourse cross the site which would require further investigation;
- Industrial noise could affect the new householders;
- The Site could be supporting lowland dry acid grassland which is a UK BAP Priority Habitat. More surveys would be required to establish this;
- Need for additional primary school places;
- Part or all of the site lies within a high risk coal referral area

4.31 Draft Policy PLP21 of the Publication Local Plan (“PLP”) is concerned with highway safety and provides:

“Proposals shall demonstrate that they can accommodate sustainable modes of transport and be accessed effectively and safely by all users.

New development will not be permitted if it adds to highway safety problems or in the case of development which will generate a substantial amount of trip generation, cannot be adequately served by the existing local highway network. Proposals shall demonstrate adequate information and mitigation measures to avoid a detrimental impact on highway safety and the local highway network.

Proposals shall also consider any impacts on the Strategic Road Network. All proposals shall:

- a. Ensure the safe and efficient flow of traffic within the development and on the surrounding highway network;
- b. in locations where development is otherwise considered acceptable, new infrastructure or improvements on or off site may be required to ensure safe access from the highway network to the development site for pedestrians or disabled people, cyclists, public transport users, and private vehicles which will not materially add to highway safety problems or reduce the efficiency of the highway network;

- c. be accompanied by a supporting Transport Assessment or Transport Statement where the development would generate significant trip generation, providing detail as to the impact on highway safety, air quality, noise and light restrictions;
- d. take into account changes in site levels and topography to ensure the development can be accessed easily and safely by all sections of the community and by different modes of transport;
- e. take into account the features of surrounding roads and footpaths and provide adequate layout and visibility to allow the development to be accessed safely;
- f. take into account access for emergency, service and refuse collection vehicles;
- g. have provision for electric vehicle charging points within the site layout;
- h. provide on-site safe, secure and convenient cycle parking/storage facilities to encourage sustainable travel modes.”

4.32 The proposal would not accord with emerging Policy PLP21 for the reasons set out in section 6.

4.33 Draft Local Plan Policy PLP23 is concerned with the Core Walking and Cycling Network, which this site forms part of. Emerging policy PLP23 provides:

“The core walking and cycling network as shown on the Policies map will provide an integrated system of cycle routes, public footpaths and bridleways that provide opportunity for alternative sustainable means of travel throughout the district and provide efficient links to urban centres and sites allocated for development in the local plan.

The core cycling and walking network will be safeguarded and extended to provide opportunities to reduce the number of car journeys and to link settlements, employment sites and transport hubs.

The safeguarding of the network will also provide further opportunities for leisure uses, cycling, walking and riding in the countryside by linking to existing bridleways and national trails where appropriate.

Disused railway lines and waterways throughout the district shall be protected from other forms of development to safeguard their potential to be reinstated to their former use for commercial or leisure purposes or to extend the cycling or footpath networks. (our emphasis)

Proposals that may prejudice the function, continuity or implementation of the core walking and cycling network will not be permitted.

Proposals shall seek to integrate into existing and proposed cycling and walking routes as identified in the core walking and cycling network by providing connecting links where appropriate; and regard shall also

be had to linking to Strategic Green Infrastructure networks as identified on the Policies Map.

Where there is an identified need, extensions or enhancements to the existing network can be secured through scheme design, planning conditions and planning obligations if this does not prejudice the overall viability of the development.”

4.34 The proposal to develop this disused railway line would not accord with emerging policy PLP29 for the reasons set out in section 6 below.

4.35 Policy PLP30 of the draft Local Plan is concerned with Biodiversity & Geodiversity. Draft Policy PLP30 provides:

“The council will seek to protect and enhance the biodiversity and geodiversity of Kirklees, including the range of international, national and locally designated wildlife and geological sites, Habitats and Species of Principal Importance and the Kirklees Wildlife Habitat Network.

South Pennine Moors

Proposals which may directly or indirectly compromise achieving the conservation objectives of a designated or candidate European protected site will not be permitted unless the proposal meets the conditions specified in Article 6 (3) - (4) of the Habitats Directive.

Statutory Designated Sites

Statutory designated sites, including the South Pennine Moors Special Protection Area (SPA) and Special Area for Conservation (SAC) and Sites of Special Scientific Interest, are already highly protected through existing laws and legislation. In accordance with legislation, the Council will seek to ensure that harmful impacts to these areas as a result of development proposals are avoided.

Development proposed within or outside a designated Site of Special Scientific Interest, likely to have an adverse effect on the site's special nature conservation features, will not normally be permitted.

Exceptionally development will be allowed where the benefits of the development clearly outweigh the impacts on the site's special conservation features and measures are provided to mitigate harmful impacts.

The Dark Peak Nature Improvement Area

Proposals that contribute to the aims and objectives of the Dark Peak Nature Improvement Area will in principle be supported, subject to

other policies in this plan. Development likely to have an adverse impact on the aims and objectives of the NIA will not be permitted.

Local Designated Sites & Important Local Ecological Features

Proposals having a direct or indirect adverse effect on a Local Wildlife Site or Local Geological Site, Ancient Woodland, Veteran Tree or other important tree, will not be permitted unless the development can be shown to be of an overriding public interest and there is no alternative means to deliver the proposal. In all cases, full compensatory measures would be required and secured in the long term.

Habitats and Species of Principal Importance

Proposals will be required to protect Habitats and Species of Principal Importance unless the benefits of the development clearly outweigh the importance of the biodiversity interest, in which case long term compensatory measures will need to be secured.

Biodiversity and Development

Development proposals will be required to:

- (i) avoid significant loss or harm to biodiversity in Kirklees through protection, mitigation and compensatory measures secured through the establishment of a legally binding agreement;
- (ii) (minimise impact on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist;
- (iii) safeguard and enhance the function and connectivity of the Kirklees Wildlife Habitat Network at a local and wider landscape-scale unless the loss of the site and its functional role within the network can be fully maintained or compensated for in the long term;
- (iv) establish additional ecological links to the Kirklees Wildlife Habitat Network where opportunities exist; and
- (v) incorporate biodiversity enhancement measures to reflect the priority habitats and species identified for the relevant Kirklees Biodiversity Opportunity Zone.”

4.36 The proposal would not accord with emerging Policy PLP30 for the reasons set out in section 6 below.

4.37 Draft Local Plan policy PLP31 is concerned with the Strategic Green Infrastructure Network of which this Site is part. Emerging policy PLP31 provides:

“Within the Strategic Green Infrastructure Network identified on the Policies Map, priority will be given to safeguarding and enhancing green infrastructure networks, green infrastructure assets and the

range of functions they provide. Development proposals within and adjacent to the Strategic Green Infrastructure Network should ensure:

- (i) the function and connectivity of green infrastructure networks and assets are retained or replaced;
- (ii) (new or enhanced green infrastructure is designed and integrated into the development scheme where appropriate, including natural greenspace, woodland and street trees;
- (iii) The scheme integrates in to existing and proposed cycling and walking routes, particularly the Core Walking and Cycling Network, by providing new connecting links where opportunities exist;
- (iv) the protection and enhancement of biodiversity and ecological links, particularly within and connecting to the Kirklees Wildlife Habitat Network.

The council will support proposals for the creation of new or enhanced green infrastructure provided these do not conflict with other local plan policies.”

4.38 The proposal would not accord with emerging Policy PLP31 for the reasons set out in section 6 below.

4.39 Draft Local Plan Policy PLP38 is concerned with mineral safeguarding. The Site falls within a Mineral Safeguarding Area as identified on the draft Local Plan Proposals Map. Policy PLP38 provides:

- “1. Surface development will only be permitted within a Mineral Safeguarded Area where it has been demonstrated that:
 - a. the mineral concerned is proven to be of no economic value as a result of the undertaking of a Mineral Resource Assessment; or
 - b. the development will not inhibit mineral extraction if required in the future; or
 - c. there is an overriding need for the development; or d. the mineral can be extracted prior to the development taking place
- 2. This policy will not apply to the following classes of surface development as they are unlikely to lead to the long-term sterilisation of viable mineral resources:
 - a. extension to existing buildings and the erection of ancillary buildings within their curtilages;

- b. developments on sites of less than 1000sq.meters except for proposals within 250 metres of an existing planning permission for mineral extraction;
- c. minor development (such as walls, gates and access);
- d. temporary uses of sites for periods of less than 5 years;
- e. amendments to previously approved developments;
- f. applications for Listed Building Consent;
- g. reserved matters;
- h. applications for advertisement consent”

4.40 Draft Local Plan Policy PLP51 is concerned with local air quality and provides:

- “1. Development will be expected to demonstrate that it is not likely to result, directly or indirectly, in an increase in air pollution which would unacceptably affect or cause a nuisance to the natural and built environment or to people.
2. Proposals that have the potential to increase local air pollution either individually or cumulatively must be accompanied by evidence to show that the impact of the development has been assessed in accordance with the relevant guidance. Development which has the potential to cause levels of local air pollution to increase to unsafe levels must incorporate sustainable mitigation measures that reduce this impact to a safe level. If sustainable measures cannot be introduced the development will not be permitted.
3. Where the development introduces new receptors into Air Quality Management Areas or Areas of Concern or near other areas of relatively poor air quality, for example near roads or junctions, the development must incorporate sustainable mitigation measures that protect the new receptors from unacceptable levels of air pollution. Where sustainable mitigation measures cannot be introduced which prevent receptors from being exposed to unsafe levels of air pollution, development will not be permitted.”

4.41 We do not consider that the proposal would accord with emerging policy PLP51 for the reasons set out in section 6 below.

4.42 Draft Local Plan Policy PLP52 is concerned with the protection and improvement to environmental quality and provides:

“Proposals which have the potential to increase pollution from noise, vibration, light, dust, odour, shadow flicker, chemicals and other forms of pollution or to increase pollution to soil or where environmentally sensitive development would be subject to significant levels of pollution, must be accompanied by evidence to show that the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution, so as to ensure it does not reduce the quality of life and well-being of people to an unacceptable level or have unacceptable impacts on the environment.

Such developments which cannot incorporate suitable and sustainable mitigation measures which reduce pollution levels to an acceptable level to protect the quality of life and well-being of people or protect the environment will not be permitted. Where possible, all new development should improve the existing environment.”

4.43 We do not consider that the proposal accords with emerging policy PLP52 for the reasons set out in section 6 below.

4.44 Draft Local Plan Policy PLP53 is concerned with contaminated and unstable land and provides:

“Development on land that is unstable, currently contaminated or suspected of being contaminated due to its previous history or geology, or that will potentially become contaminated as a result of the development, will require the submission of an appropriate contamination assessment and/or land instability risk assessment.

For developments identified as being at risk of instability, or where there is evidence of contamination, measures should be incorporated to remediate the land and/or incorporate other measures to ensure that the contamination/instability does not have the potential to cause harm to people or the environment.

Such developments which cannot incorporate suitable and sustainable mitigation measures which protect the well-being of residents or protect the environment will not be permitted.”

4.45 The proposal would not accord with emerging policy PLP53 for the reasons set out in section 6 below.

5. Material Considerations

National Planning Policy Framework (“NPPF”)

5.1 The NPPF was published in March 2012 and updated in July 2018. The NPPF sets out the Governments planning policies for England and how these are expected to be applied.

5.2 Paragraph 7 of the NPPF provides:

“The purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.”

5.3 Paragraph 10 of the NPPF provides:

“So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development.”

5.4 Paragraph 11 of the NPPF then sets out the presumption for sustainable development and provides:

“Plans and decisions should apply a presumption in favour of sustainable development.

...

For **decision-taking** this means:

- c) *approving development proposals that accord with an up-to-date development plan without delay; or*
- d) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
 - i. *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
 - ii. *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*

5.5 Paragraph 98 of the NPPF is concerned with access to public rights of way and provides:

“Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.”

5.6 The proposed development offers no links to the adjoining cycle and footways and we understand that Sustrans and Railway Path Ltd do not support the current proposal for this reason.

5.7 Paragraph 102 of the NPPF provides:

“Transport issues should be considered from the earliest stages of plan-making and development proposals, so that:

a) the potential impacts of development on transport networks can be addressed;

b) opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated;

c) opportunities to promote walking, cycling and public transport use are identified and pursued;

d) the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and

e) patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.”

5.8 The proposal does not accord with paragraph 102 of the NPPF for the reasons set out in section 6 below.

5.9 Paragraph 108 of the NPPF provides:

“In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;

b) safe and suitable access to the site can be achieved for all users; and

c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.”

5.10 We do not consider that safe and suitable access to the site can be achieved for all users contrary to paragraph 108. We reserve the right to make further representations on this once we have seen the Council's Highway Departments response to the application.

5.11 Paragraph 110 of the NPPF provides:

“Within this context, applications for development should:

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;*
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;*
- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;*
- d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and*
- e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.”*

5.12 Paragraph 170 of the NPPF provides:

“Planning policies and decisions should contribute to and enhance the natural and local environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*
- c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;*
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and*

f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.”

5.13 The proposal does not accord with paragraph 170 for the reasons set out in section 6 below.

5.14 Paragraph 178 of the NPPF provides:

“Planning policies and decisions should ensure that:

- a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);*
- b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and*
- c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.”*

5.15 The proposed development does not accord with paragraph 178 of the NPPF for the reasons set out in section 6 below. Furthermore, no up to date report has been submitted dealing with these issues and the current proposal, the submitted report relates to the previous application and proposal to landfill the site prior to building housing. This is significantly different to the engineering works which are now proposed and this needs to be fully considered prior to any determination of this application.

5.16 Paragraph 180 of the NPPF provides:

“Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;*

- b) *identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and*
- c) *limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.”*

5.17 The area is well known as a tranquil part of an otherwise busy urban area. Indeed the applicants own noise survey confirms that the background noise is predominantly birdsong. This would be lost if development were to take place. This area is prized for its much needed tranquillity in this very busy area. The bats also favour it (along with other wildlife) due to the dark landscape in this otherwise built up urban area. The proposal is therefore contrary to paragraph 180 of the NPPF for the reasons set out in section 6 below.

5.18 The proposal is therefore contrary to the NPPF as a whole and the adverse impacts of granting planning permission would significantly and demonstrably outweigh any possible perceived benefit.

6. Reasons for objection

6.1 A Design and Access statement has been prepared by Vida Architects in support of this application.

6.2 The D&A Statement refers to this as being a derelict site. However, we do not agree with this description. The site is a former railway cutting which now serves a huge ecological purpose and is very important quiet, dark, green space within this very urban area.

6.3 The D&A statement states:

“The primary motivation to reclaim the former cutting is to bring derelict land back into use and provide much needed housing for the region, close to the Town Centre and also deliver an aspiration of the Local Plan with the delivery of the Green Space.”

6.4 It is very important to note that there is no reference to delivering “...a vital element to the local cycle/pedestrian network...” which was offered as part of the previously refused application.

6.5 The brief for the architects was:

“To reclaim the former railway cutting (zoned as derelict Land) to provide Residential land, wildlife areas and dedicated childrens play area.”

6.6 Again this removes an important part from the previous brief which included the following:

“...and also to create the extension of the Spen Valley Ringway with good pedestrian / cycle links”

- 6.7 The Site is within a derelict land zone on the UDP proposals map. However, it is also part of the pedestrian cycle route and part of the Green Corridor. The Site is also adjacent to designated Urban Greenspace. In relation to the emerging Local Plan the site is identified as being part of the Core Walking, Cycling and Riding Network and part of the Strategic Green Infrastructure.
- 6.8 We do not consider that this land is derelict, it is serving a very important function as tranquil open greenspace within this very highly populated urban area. It is already in use as such and enjoyed by the residents of Heckmondwike. The proposed development of the Site would not bring the site back in to beneficial use or assist with the regeneration of the district contrary to UDP Policy DL1.

Pedestrian/Cycle Route/Green Corridor

- 6.9 As set out above the Site is part of the pedestrian cycle route and green corridor under the UDP and it is proposed as being part of the Core Walking, Cycling and Riding Network and the Strategic Green Infrastructure under the emerging Local Plan.
- 6.10 The continuation/joining up of the Ringway is a desire that has been held by the Council, Sustrans and local residents for many years. It is important to the local people that the local cycle/pedestrian network is completed.
- 6.11 Despite the previous application offering to incorporate a section of the Urban Greenway in to the development this does not form part of the current application and there is no proposal to incorporate a cycle route within the development, this is contrary to the UDP and the Local Plan.
- 6.12 Paragraph 2.21 of the UDP confirmed that the Green Corridors “*enable people to walk or possibly cycle through urban areas in unpolluted and uncongested surroundings. There are also opportunities to observe wildlife which provide educational and recreational benefits within urban areas rather than being confined to the relatively remote urban periphery.*” The proposal is contrary to UDP Policy D6 as it does not safeguard the Green Corridor and the development of this Site would have a significant detriment to wildlife.
- 6.13 It is important to point out that we understand that the Applicant has previously refused to sell the site in order for cycle/pedestrian network to be provided through the Site. There is a group within the community who are very keen to purchase the Site in order to provide the cycle/pedestrian network along with providing public access to this valued greenspace. Therefore, there are options for providing the Urban Greenway element of this scheme without the need for the development which will have such a significant negative impact on this area.

- 6.14 The development of this disused railway is contrary to emerging Local Plan policy PLP23 as it does not safeguard the potential of the railway to be reinstated to its former use for commercial or leisure purposes or to extend the cycling or footpath networks. What is being proposed is a housing estate and this would prejudice the function, continuity and implementation of the core walking and cycling network. This should not be permitted under draft Local Plan Policy PLP23.

Transport

- 6.15 The Appellants D&A Statement states the following regarding transport:

“A Transport Impact Assessment includes all required junction surveys to Walkley Lane / Brunswick Street; Walkley Lane / Church Street; High Street / Church Lane. The report has concluded that the level of vehicle movements generated would not result in over-intensification of the local network.

Vehicle deliveries to site will be limited to general construction traffic, as required to service the site needs, this requirement would be similar to that which was required to build the new developments of 34 New dwellings that now form the dwellings on the continuation of Horton Street (Approved on 03/12/1998) and also the conversion of the Mill and new build dwellings off Brunswick Street / Thomas Street that involved creating 72 Residential Units Approved in 2008. Both these schemes involved using the side roads from Walkley Lane to facilitate site deliveries of materials. The development of the railway cutting will also utilise the same roads that were used for the adjacent developments.

As set out in the Construction Management Plan, an area will be formed within the boundary of the site for the establishment of Site cabins, the secure storage of materials, and also provide suitable space for operative to park cars, ensuring that no operative uses the local roads to park vehicles during the day.

- 6.16 We disagree with these statements whole heartedly.
- 6.17 The applicants have submitted a transport statement in support of their application which has been produced by VIA Solutions. We are not surprised that the applicants have chosen to submit a Transport Statement rather than a Transport Assessment. However, we consider that this proposal would have a material impact and as such the trigger for requiring a Transport Assessment as oppose to just a Transport Statement has been triggered. We do not consider that the Council can safely consider this application further without requesting a full Transport Assessment from the applicants.
- 6.18 The Transport Statement confirms the remit of the Statement and states:

“Via Solutions has been appointed to prepare this Transport Statement in support of a planning application for the construction of 74 dwellings. The site will be accessed from Horton Street.

6.19 The Transport Statement concludes:

“This report concludes that the development is considered acceptable in terms of traffic impact and accessibility provision, and fully accords with both national and local transport policy. There are therefore no highway safety or capacity reasons why planning consent for the proposed development should not be granted.”

6.20 The Transport Statement states at paragraph 5.2.3 that:

“The proposed 74-unit residential development is predicted to generate 18 arrivals and 34 departures in the morning peak hour and 35 arrivals and 22 departures in the evening peak hour.”

6.21 This is very unrealistic. The fact is that the 74 dwellings will have a minimum of 2 cars and it is safe to assume that there will be at least 148 movements in the morning peak hour and the same at the evening peak hour. In addition to these movements will be visitors, delivery vehicles etc.

6.22 Paragraph 5.4.4 of the Transport Statement states:

“From Horton Street (site access) the highest peak hour flows for the three possible routes for development traffic onto the strategic highway network are shown at AM and PM peak periods in the Table below:

<i>Approach</i>	<i>Morning Peak</i>	<i>Evening Peak</i>
<i>Brunswick Street</i>	<i>17</i>	<i>19</i>
<i>Church Street</i>	<i>12</i>	<i>14</i>
<i>Church Lane</i>	<i>21</i>	<i>24</i>

6.23 Paragraph 5.4.5 then concludes:

“The increase in flows on any approach is less than 30 vehicles and is considered neither material or significant. Therefore, the addition of development traffic to the design year traffic flows will have minimal impact on traffic...”

6.24 We do not agree that these figures are correct. However, it is important to note that the Traffic Statement does not take into account the fact that these road networks are already at/beyond capacity. In addition, we understand that the Council are considering making Church Street in to a cul-de-sac and this would have a significant impact on the ability of any traffic to disburse down these routes. We believe that the proposed increase in traffic (whether at the

Traffic Assessments unrealistic levels or at more realistic levels) cannot be accommodated on the highway network and the increased flows will have a significant impact on an already overloaded highway network.

6.25 A local resident undertook their own assessment of traffic in relation to the previous application by sitting on the local road network for a day and recording traffic movements. One survey was undertaken on Walkley Terrace and a more limited survey on Church Street. The findings were as accurate as possible. However, at times the traffic on Walkley Terrace was so relentless that the surveyor could not record the vehicles fast enough or the traffic was at a standstill and the surveyors view was restricted by the standing traffic. These surveys were submitted as part of the previous application and can be submitted again if that would assist.

6.26 During two periods the traffic backed up along Walkley Lane from Heckmondwike Town Centre these were at 1442 to 1452 and 1453 to 1457. At other times the traffic was at a standstill within 20m of the junction of Walkley Terrace. During the 2 hour survey on Church Street the surveyor recorded 563 vehicle movements.

6.27 At paragraph 3.2.2 of the Transport Statement it states:

“...Walkley Lane can be easily access from the north of the application site via Church Street...”

6.28 Paragraph 3.2.3 goes on to state:

“...Church Street connects Horton Street to both High Street and Walkley Lane...”

6.29 These local roads are often at a standstill and are very very busy particularly during school drop off times given the close proximity to Heckmondwike Grammar School. Photographs are submitted at Appendix 1 which show how busy these roads are.

6.30 The applicants Transport Assessment states that there have been twenty two accidents in the vicinity of the site:

“Injury collision data has been obtained from 1 January 2013 to 31 December 2017 from the highways safety department at Kirklees Council. The collision data includes 22 incidents within the vicinity of the site access.”

6.31 Paragraph 3.5.3 of the Transport Statement states:

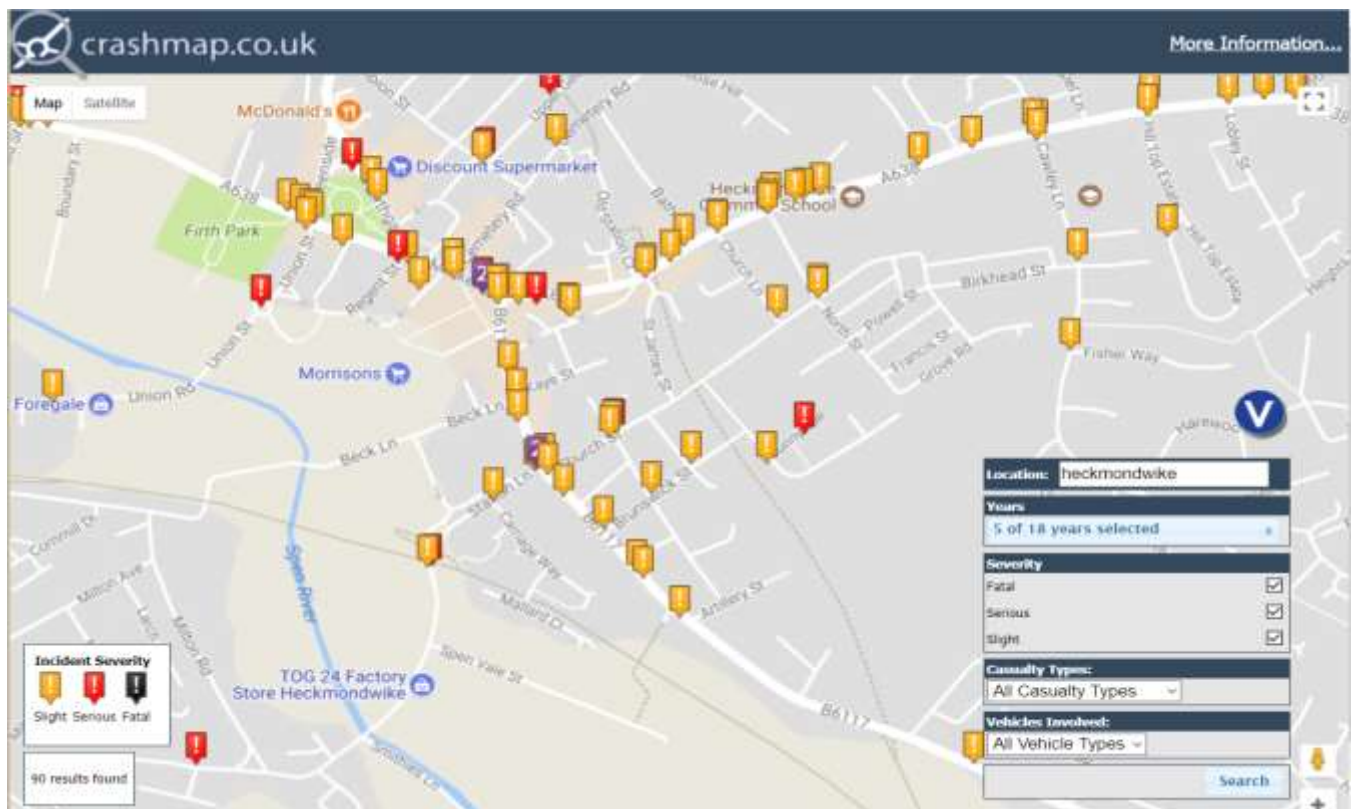
“Of the 22 incidents recorded, 21 of these were recorded as resulting in slight injuries with only one being severe. Whilst any incident which results in a casualty is regretted, having due regard to the significant

volume of traffic that use both Walkley Lane and High Street, the addition of the small amount of traffic from the proposed development would not materially affect the road safety record.”

6.32 Paragraph 3.5.4 goes on to conclude:

“It is considered that the accidents recorded above do not indicate a safety concern nor any safety trends on this section on the local highway network in the vicinity of the proposed development.”

6.33 The number of identified collisions has increased significantly since the previous application where the applicants were only aware of 2 incidents. However, we have assessed the collision data on the Crash Map website and see that there have been 90 incidents in Heckmondwike within the last 5 years. Please see below a screenshot of incidents Therefore, we disagree that the network in this area is operating safely.



6.34 Paragraph 6.1.3 of the Transport Statement concludes

“...that the development is considered acceptable in terms of traffic impact and accessibility provision, and fully accords with both national and local transport policy. There are therefore no highway safety or capacity reasons why planning consent for the proposed development should not be granted.”

- 6.35 The Transport Statement has been carried out using TRICS data which in some cases is 10 years out of date. We reserve the right to produce our own highway assessment to be conducted by a well respected highway consultant dependant upon the response provided by the Council's highway department.
- 6.36 The proposal will create, materially add to and significantly adversely affect highway safety with circa 150 vehicles adding to the highway network on a daily basis from the proposed housing element (each property is shown as having 2 parking spaces). The proposal is therefore contrary to UDP Policy T10. The cumulative impacts of the development on the highway network are sever enough to refuse permission in accordance with the NPPF.
- 6.37 As set out above the highway network is at capacity. Heckmondwike is a pinch point between Dewsbury, Bradford and Liversedge and it cannot deal with any more traffic. This has been demonstrated by our own limited highway survey and it is supported by photographs of the local highway network. The additional journeys created by the housing development cannot be served by the existing highway infrastructure and the proposal is therefore contrary to UDP Policy T10.

Ecology

- 6.38 The council's ecology officer has asked to see an Ecology Appraisal. This was requested as part of the previously refused application and has still not been submitted. We note the Council's ecology officer has made the following comments:

"The applicant has submitted a Preliminary Ecological Appraisal. This is contrary to my advice in relation to the previously refused scheme for this site, where I indicated that the proposals need to be supported by an Ecological Impact Assessment. An Ecological Impact Assessment, when undertaken following appropriate guidance (CIEEM, 2016 & 2017) includes information that demonstrates how the ecological mitigation hierarchy has been applied. Given the nature of the habitats present, this information is essential to assessing the application against biodiversity planning policy.

...

In the absence of sufficient information I cannot support the application."

- 6.39 A Ecological Impact Assessment is vital as the Site serves a significant ecological purpose and when the Site was considered for allocation for housing through the Local Plan process potential ecology constraints were identified.
- 6.40 The Preliminary Ecology Appraisal identifies that there are protected species within the vicinity of the Site. The Preliminary Ecological Appraisal provides:

be informal tributaries providing routes for surface water to the River Spen and, if any of these are identified within or adjacent to the site, then flooding from this source will need to be considered.”

- 6.48 The Drainage Strategy which has now been submitted as part of this application confirms at paragraph 2.5:

“The consultation with Kirklees Council identified that the site was subject to surface water flood risk due to the low lying nature of the cutting and that ponding upstream of Brunswick Street was around 1.2m in flat areas. This water flows through the site in the bottom of the cutting in a northwest to southeast direction during times of storm. An assessment of the catchment was recommended and properties will have to be significantly raised for safety within the development. The consultation did confirm that the British Geological Society data suggests that infiltration would be problematic and the Land Drainage Authority would accept that soakaways or other infiltration systems are unlikely to be appropriate. Therefore, it was recommended that a connection to watercourse should be explored with the nearest river being the River Spen approximately 500m to the south. It is likely that watercourse tributaries to the River are within the site boundaries or close by and it would be appropriate to investigate these to determine a suitable outfall for surface water discharge.”

- 6.49 We do not consider that flooding nor drainage has been fully addressed in order for a decision on this Application to be made. We do not consider that any decision can be taken until further information has been submitted and made available for consultation.

Schools/Infrastructure

- 6.50 The Design and Access statement states:

“The site lies within walking distance of the centre of Heckmondwike, with a good mix of shops and services, local schools are also easily accessible, with Littleton Nursery and Infant School within a mile of the site, this school is under subscribed at present. Other primary schools are within the vicinity also. The Upper schools, Spen Valley High is also with a mile of the site. Access to the local Railway network is via a bus to Dewsbury Station with easy links to Leeds and Manchester.”

- 6.51 This site is not within the catchment area for Littleton Nursery and Infant School. However, we contacted Littleton Nursery and Infant School and they had 1 place in year 5. Other than that one place they are fully subscribed and over PAN in some year groups. It is therefore not correct to suggest that this school is under subscribed. All the primary schools within the vicinity of the site from which children from the Site would seek to go are oversubscribed. We have carried out a survey of school spaces and have found the following information:

Heckmondwike Primary have 0 spaces and have a waiting list. This school has no room to expand.

Holy Spirit have 0 spaces and have a waiting list.

Westmoor have 2 places in 2 year groups but are over PAN in a few year groups

Norristhorpe have 7 places but they indicated that this is very unusual, and they expect to be up to capacity very soon.

Millbridge has got 13 spaces in reception, is over PAN in years 1 and 2, has 3 places in year 2, 1 place in year 5 and 11 places in year 6. They are also expecting these places to reduce as it is unusual.

- 6.52 In relation to secondary schools. Spen Valley High has a waiting list of 48. Year 7 is 7 over PAN, year 8 is full, year 9 is over Pan, year 10 is over Pan and there are 2 places in year 11.
- 6.53 Heckmondwike Grammar School is the closest Secondary school to the Site albeit that it is a selective Grammar school. The Grammar schools attracts pupils from a very large area due to its reputation. Therefore, the school itself puts a huge strain on the highway network in the vicinity of the Site. The Headmaster was very surprised that they had not been consulted on the Application given that they are one of the biggest schools in Kirklees which is very close to the proposed development. The proposed housing development would have significant impact on the Grammar school, even though it is selective. One of the main attractions of purchasing a house on the Site may be that it is within the catchment area for the Grammar School so children would be guaranteed a place if they met the standard. The Grammar school is currently taking over PAN by 30 students each year and there is no space to add more. The Grammar school is landlocked.
- 6.54 In addition to the lack of school places the area in which the Site is located is already densely populated, we believe one of the most populated parts of Kirklees and therefore the pressure on doctors, dentist and hospitals is huge. All services in this area are overstretched and adding to this situation will make it even more dangerous.
- 6.55 Development of the Site for housing is therefore not sustainable contrary to NPPF.

Land Stability/Mining

- 6.56 The Design & Access Statement states:

“The desktop study was produced on the 13th June 2017, and gives an overview of the geology, mining history, Hydrology and other environmental data. The report identifies 2 on site mine entries on or close to the site, and 5 potential seams from near surface to 290m

depth. The coal mine entries must be identified and dealt with appropriately prior to commencing the site reclamation. Both mine shafts are located on the eastern bank approximately mid point and then roughly central from there to the northern boundary. With the proposed regrading of the site, it will be important to undertake testing of soil samples during the works to determine the presence of any contaminants within the soil. Should any contaminants be identified, it would be prudent to ensure that any soil used for residential gardens is clean imported topsoil to a depth of 600mm.”

6.57 Given the significant difference between the previous application and this application it is unclear why the same Contamination Report has been submitted. It seems necessary that a new report is required which considers the facilitating engineering operations which are proposed as part of this application rather than the landfill proposals of the previous application. Until such information is submitted we cannot see how the proposal can be considered on contamination or land stability issues.

6.58 The Contamination Report (Desk based study) at paragraph 4.8 states:

“...there is the possibility of unrecorded shallow coal workings beneath the site, and this will need to be assessed by an intrusive investigation using a rotary drilling rig. In addition, two mine entries are present on-site. These will need to be located at an early stage, so that the development layout can be planned to avoid construction of buildings over the entries. The entries will also need to be treated to ensure long term stability.

6.59 The application does not satisfactorily show that the Site is suitable for the proposed development given the above findings and the fact that the submitted report relates to a totally different proposal. This is contrary to the NPPF and more information is required in relation to this point. Evidence must be provided to show that the land is stable enough to support the proposed housing development in accordance with UDP Policy G6.

6.60 The Stage 1 Desk Study Report confirms at paragraph 6.17:

“Given the likely requirement for significant fill material to be placed in the railway cutting, it is anticipated that piled foundations will probably be required in most cases. Piles would need to be socketed into the rock beneath the cutting slopes. However, a complicating factor is the likely presence of coal workings, which may require grout treatment. The extent and depth of any workings is not presently known, and will impact on foundation design. It is possible that different areas of the site will require different solutions, including piles, pseudo rafts and trench fill. The appropriate solutions can only be confirmed by an intrusive investigation. Any strip or trench fill foundations utilised would require mesh reinforcement due to the

presence of two geological faults. Foundations should be designed by a suitably qualified structural engineer”.

- 6.61 This needs to be updated to consider and address the current proposal for significant engineering operations to support the proposed housing development.

Noise

- 6.62 The applicants have submitted a noise assessment as part of the application. This appears to be the same noise assessment which supported the previously refused application. The objective of the noise assessment is identified within the assessment as being:

“The objectives of the investigation were to:

- i. Determine the ambient noise climate at the application site during representative periods of the daytime and night time.*
- ii. Assess the potential impact of the external noise climate on the proposed development with reference to the National Planning Policy Framework (NPPF) and other pertinent guidelines.*
- iii. Provide recommendations for a scheme of sound attenuation works, as necessary, such that the future occupants of the proposed residential development do not experience any unacceptable loss of amenity due to noise.*
- iv. Consider the potential impact on local commercial premises associated with introducing a residential receptor at the site.”*

- 6.63 Paragraph 2.3 of the Noise Assessment confirms that:

“During the course of the noise survey, the main noise sources were noted to be birdsong and distant traffic, with local traffic contributing at the northern and southern ends of the site. The adjacent commercial uses were all noted to be operating, with no breakout noise audible; except for occasional faint impacts, which were not considered significant. Brunswick Street (to the north) was noted to be lightly trafficked, with a manual traffic count during the daytime noise survey recording of the order of 60 vehicles per hour (circa 16:00 hours). Walkley Lane (to the south) was more heavily trafficked, with a manual traffic count during the daytime noise survey recording of the order of 800 - 900 vehicles per hour (circa 13:00 hours), reducing significantly to of the order of 70 vehicles per hour during the night time period (circa 05:15 hours).”

- 6.64 Therefore, it is clear that the Site currently generates no disturbing noise. The development of this Site will inevitably produce a considerable amount of noise and the impact of this noise on existing residents must to be fully considered.

- 6.65 When assessing the noise we would ask that noise impact on the surrounding area a large area needs to be considered due to the topography of the area and the fact that noise radiates up the valley towards Norristhorpe.
- 6.66 The noise of the extensive facilitating engineering operations would have a significant negative impact on the quality of life and wellbeing of local residents and this is unacceptable. The proposal is therefore contrary to the Development Plan, the emerging Local Plan and paragraphs the NPPF.
- 6.67 In addition the Urban Walkway and future housing development would also generate a significant amount of noise which could have a significant detrimental impact on the existing residents, no assessment of this has been carried out and this wholly unacceptable and contrary to the Development Plan and National Policy.

Dust and Air Quality

- 6.68 The extensive facilitating engineering operations will create a significant amount of dust. This will have a very damaging impact on the Air Quality of the area. No assessment appears to have been carried out in relation to dust and air quality. This is unacceptable and contrary to the Development Plan and National Policy.
- 6.69 In addition to the dust and air pollution which will be created from the facilitating engineering operations the increased traffic will have a significant determinant impact on air quality. No assessment of this appears to have been carried out. This is contrary to emerging Local Plan Policies PLP21 and PLP51 and the NPPF.
- 6.70 Heckmondwike is 1 of 7 areas in Kirklees which is failing on air quality levels. The Local Authority are required to take steps to improve this. Approving an application will be contrary to this requirement as it will make air quality worse in an area where air quality is already poor.

Public Consultation

- 6.71 In relation to the previous application the D&A Statement referred to a consultation event and stated:

“The views expressed during the public exhibition were positive and are included within the application pack.”

- 6.72 The majority of the local residents were unaware that any exhibition ever took place and it is note worthy that there is no reference to any form of public consultation being undertaken in relation to the current application. There has been no consultation contrary to national policy.

7. Conclusion

- 7.1 For the reasons set out above the Application does not accord with the Development Plan, the emerging Development Plan or National Policy. Furthermore, no material considerations indicate that planning permission should be granted. The harm of the proposed development significantly and demonstrably outweighs any possible perceived benefits from the proposed development.
- 7.2 Therefore, in accordance with the statutory context planning permission should not be granted. We therefore respectfully request that planning permission be refused.

August 2018



