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Your ref: Cliffe Lane, Gomersal  
Our ref: J1026304

20<sup>th</sup> November 2019

Dear Chris

**OUTLINE APPLICATION FOR THE DEMOLITION OF 1 NO. DWELLING AND ERECTION OF 98 NO. DWELLINGS WITH CONSIDERATION FOR ACCESS, LANDSCAPING AND LAYOUT ON LAND AT AND TO THE REAR OF 271 CLIFFE LANE (APPLICATION REFERENCE: 2019/60/90902/E)**

This letter has been prepared following our discussion on Monday morning to provide clarification about the current proposals which seek to address the consultee comments received during the initial application consultation (March – May 2019) and a meeting between the design team, yourself (as the Case Officer) and your colleagues from Highways, Flooding and Public Rights of Way on 22 May 2019. During that meeting, the Council requested the applicant clarify a number of technical matters (for instance, unstable areas, drainage, roadways, access and parking) and ensure broad compliance with the adopted Local Plan. In this respect to deliver a higher density of housing and engage with the adjacent landowner to satisfy policies LP7 (density) and LP11 (housing mix) and master-planning (LP5).

Revised material has been submitted to support a scheme of 98 units across the application site; an increase (of 6 units) over the previous scheme of 92 units. This revised scheme is undergoing an extended second consultation through to the end of the month.

This letter explains the proposals and justifies why an increased quantum of development is not achievable when balanced against broader policy considerations and without detrimentally affecting the quality of the scheme for existing and future residents. It develops upon the site specific considerations and policy evidence for the revised application package and resolves issues raised by key consultees. These are summarised into sections below divided into technical and policy matters:

- Unstable land;
- Flood risk and drainage;
- Highways/ Access;
- Density (LP7);
- Housing Mix (LP11); and
- Master-planning (LP5).

## **1. Unstable Land (Coal Authority)**

An objection was received from the Coal Authority (April 2019) to the initial scheme due to the application site falling within a Development High Risk Area with potential coal mining features and hazards. Although the Phase 1 Geo-environmental Desk Study Report (JPG, December 2018) identified the presence of two recorded mine entries (420426-005 & 420426-006), the site layout failed to accurately reflect this. Accordingly revised material was prepared and submitted, it is noted that the Coal Authority objection has been lifted.

## 2. Flood risk and drainage

Kirklees LLFA (The Flood Authority) submitted a holding objection citing lack of a condition survey of the existing drainage assets. It is noted in correspondence from the LLFA that the matter is now resolved.

In response to comments from Yorkshire Water, amendments have been made to the scheme. Material was submitted to the Council and confirmation with Yorkshire Water regarding adoption has been received.

## 3. Highways and access

During the 22<sup>nd</sup> May meeting, detailed discussions with the Highways and PROW officers agreed a number of specific interventions with treatment of the public footpath on the western boundary and around the main Cliffe Lane access, connectivity and links through the site and pedestrian access through to Ferrand Lane.

Dealing with the scheme specifics, detailed discussion about the road hierarchy including private drives, bin presentation points and visitor parking sought to clarify that provision of these aspects is adequate for future residents and that sufficient space is available for visitor parking through formal and informal provision. These matters are set out on the revised layouts.

On a general matter, clarification was requested about gradients across the site (specifically the developable area), to satisfy the Council's policy provisions regarding accessibility. A number of new drawings and sections have been prepared which illustrates the extent of the development platform (Ref.: Ellis Healey Drawing 1332 SK 20B - May 2019) where the gradient will not exceed 1 in 20. The diagrams indicate the amount of ground engineering works that will be required and particularly in the areas along the site periphery to Ferrand Lane, where the resulting gradient will be around 1 in 3, and effectively comprises a no build zone.

In terms of the transport network a revised highways assessment note has been prepared dealing with the increase in numbers of dwellings across the site.

## 4. Density (LP7):

A planning statement was submitted with the initial submission supporting the case for the proposals in the context of the Local Plan allocation (Ref: H172) and site specific requirements listed within the provisions of the policy. A number of specific concerns remain, albeit it principally in relation to the indicative yield set out in the Local Plan of 135 units.

LP7 of the Local Plan dictates that housing density should ensure efficient use of land, in *keeping with the character of the area* and design of the scheme aspiring to deliver a **nett** density of 35 dwellings per hectare (dph), where appropriate. Addressing this the Council considered the 92 dwelling application below the density requirement of LP7 and therefore requests an increased density in the application. The current proposals achieve 98 dwellings upon the application site; this exceeds the policy requirement set out in Policy LP7.

The **gross** application site area is 3.6 ha. In the 2015 Kirklees SHLAA Report, the site (site no. 7, pg. 103) was identified with potential to deliver 105 dwellings with a density of 30 dph, having a known and recognised topographical constraint.

Whilst the Local Plan designates a potential capacity of 135 dwellings across the entire allocation including the adjacent land, this is an indicative number which is not substantiated by detailed survey work; it is simply a multiplication of the site size and generic dph (of 30dph). Upon further survey work and discussions with the Council regarding appropriate drainage methods and achieving the 1 in 20 gradient for roads, the Ellis Healey Drawing 1332 SK 20B illustrates the nett developable area that dictates how the development platform is designed. The site constraints are broken down as follows:

<b>Policy constraints:</b>	<b>Size (ha)</b>
Dwelling separation distances for existing residential amenity purposes (LP24)	0.08
Creation of potential access to adjoining land (LP5)	0.04
<b>Physical Constraints:</b>	
Topographical levels	0.23
Tree Protection Orders (TPOs)	0.21
Mine Exclusion Zones	0.06
SUDs and Drainage Infrastructure	0.09
Public Rights of Way (PROW)	0.05
Hedgerow with high ecological importance	0.02
Enhancement of Spen Valley Trail and PROW	0.04
<b>Scheme Constraints:</b>	
Substation	0.01
<b>Total Constraints:</b>	<b>0.83</b>
<b>Nett Development Area</b>	<b>2.77</b>
(Of which) On-Site Public Open Space (POS) Provision	0.28
<b>Development Density</b>	<b>35.38 dph</b>

**Table 2: Land at Cliffe Lane Site Constraints and nett developable area calculation**

When considering the site constraints above, the nett developable area of the application site is 2.77ha and the scheme of 98 dwellings can be considered compliant with LP7 achieving a nett density of 35.38 dph. Provision of POS is not considered a site constraint by the Council, however a policy compliant 0.28ha of POS has been provided on-site. This seeks to ensure the scheme is of a high quality so existing and future residents of the area can enjoy amenity space without having to travel elsewhere, in accordance with the social and environmental principles of sustainable development.

A number of measures have been suggested by the Council to “improve” the site yield; two such measures include residential development to be provided on the semi-natural green buffer on the northern edge of the site adjacent Ferrand Lane and also to increase the proportion and quantum of terraced housing on site. Dealing with these in turn:

The Council consider it possible to provide approximately 10 dwellings on this green buffer in order to increase the density of the site. As a start the green buffer has significant topographical issues, a gradient of 1 to 3 means the area is too steep for houses. Constructing houses, gardens and retaining walls in this area conflicts with LP2 – Place Shaping that seeks to protect and enhance the qualities which contribute to the character of specific areas in Kirklees and national policy guidance on development affecting the Green Belt.

Drawing SK22 Cross Section C is submitted for information purposes and illustrates how the addition of houses to the northern boundary would over dominate and detrimentally impact upon the ecological features and rural setting of Ferrand Lane and cause harm to the openness of Green Belt to the north of Ferrand Lane.

Within the layout, this belt of semi-natural greenery provides three principal functions:

1. *protection of ecological features such as TPO's and the Spen Valley Heritage Trail;*
2. *the development platform, road layout and drainage infrastructure can be created in accordance with the 1 in 20 gradient as per the Highways' Officer request; and*

3. *maintain the rural setting of Ferrand Lane by forming a transitional buffer between Green Belt to the north and the new proposed development.*

The application site falls within the Batley and Spen area of the LP2 Place Shaping sub-statement, the Local Plan notes the strengths and opportunities of this area as follows:

- Greenway network in the Spen Valley encourages walking and cycling;
- A range of settlements with distinctive characters, which are protected in Conservation Areas;
- Attractive countryside between settlements, primarily in the Spen Valley; and
- Strong housing market area around Birstall, Gomersal, Upper Batley and Cleckheaton.

A challenge in Batley and Spen is the narrow Green Belt gaps between many settlements in the Spen Valley, Local Plan policies and the National Planning Policy Framework (2019) dictate the essential characteristics of the Green Belt are its openness and permanence, these features must be protected.

The scheme is designed to enhance the strengths outlined in the place shaping sub-statement of LP2 and mitigate the challenge of narrow Green Belt strips between settlements by creating a transitional buffer between Green Belt and the proposed development. This buffer will maintain the openness and permanence of the Green Belt by limiting views in and out of it, thus improving the environmental principle of sustainable development and adhering to the Local Plan Inspectors Report emphasising protection of the rural character of Ferrand Lane. Therefore, the topography, local policy guidance on enhancing the characteristics of Batley and Spen and national policy protecting the openness and permanence of Green Belt dictate that placement of additional dwellings on this northern buffer is non-compliant with the economic, social and environmental principles of sustainable development.

In considering more terraced dwellings the Council also suggests that by providing more of such units, the scheme can meet the density requirement and deliver close to 110 dwellings. Notably, a planning application submitted by Kirklees Council as landowner and applicant was approved at Planning Committee (June 2019), on land off Soothill Lane (app ref: 2018/94189). The scheme proposed 366 units (including 54 apartments) on a 12.7 ha site, this produces a density of 28.8 dwellings per hectare (dph). Even with 54 apartments in a high density block, the proposed density is well below the policy compliant 35 dph, however the Case Officer considered the lower density acceptable due to *'the identified site constraints and the challenging topography'*, this was deemed acceptable by Councillors.

LP7(c) states that *'lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, ... or to secure particular house types to meet local housing needs'*. As evidenced by the acceptance of a lower density (28.8 dph) in the application on land off Soothill Lane (app ref: 2018/94189), the densities outlined in LP7 are flexible and applied in the context of the surrounding area and site constraints. Table 1 above clearly calculates how the site achieves a nett density of 35.38 dph. However, should the Council choose not to accept the evidence in table 1, this letter demonstrates the scheme complies with LP7(c) by:

- Being compatible with its surroundings, enhancing the place shaping principles of LP2 and protecting existing residential amenity; and
- Securing a particular housing type (3 and 4 bedroom properties) to meet local housing needs as set out in evidence from the SHMA (housing mix section)

Therefore dependent upon the yield of the residual (allocated) site area, it likely that the allocation site may well yield the 105 dwellings identified in the 2015 SHLAA document.

## **5. Housing Mix**

The proposed housing mix and affordable housing contribution needs to accord with LP11 with the aim to create balanced and mixed communities. Provision and location of affordable dwellings is not considered

an issue by the Council as the scheme delivers a policy compliant 20%. However, the Council has challenged the proposed housing mix, suggesting the revised 98 unit scheme under delivers on terraced dwellings and additional terraced dwellings will increase the density. The previous section outlines that additional units cannot be provided by extending the (nett) developable area without detriment to the overall scheme.

In reconsidering the overall mix, the 2016 Kirklees Strategic Housing Market Assessment (SHMA) provides evidence that enables the Local Plan to set out policies that achieve an appropriate housing tenure and mix to meet needs within Kirklees, as a whole. The corresponding policy does not require each and every site allocation to achieve the exact housing mix, suggesting that this should respond to local circumstances.

Nevertheless, the design team has carried out an exercise using the nett developable area, this exercise involved replacing several semi-detached properties with terraced dwellings. The result of this was that 6 terraced dwellings could replace 4 semi-detached properties, however, bin refuse points and car parking would not comply with the requested standards, therefore it was considered poor design and unsympathetic to the local character. The following section elaborates on the proposed housing mix, it establishes that replacing semi-detached units with terraced dwellings is not appropriate or policy compliant and the revised 98 dwelling scheme complies with housing mix policy.

Tables 4.9, 4.10 & 4.11 of the SHMA highlight the future development profile of market dwellings against the current stock, market aspirations and expectations of the 2015 Household Survey. The SHMA evidence clearly indicates there is a saturation of terraced properties within the Batley and Spen area that is more than sufficient to fulfil the market aspirations and expectations of residents within Kirklees. Also, the evidence specifies a significant deficiency in dwellings to meet resident expectations and aspirations for semi-detached and detached housing, particularly for 3 and 4 bedroom properties. Furthermore, points 4.21, 4.22, 7.35 & 7.36 of the SHMA acknowledge the importance of providing 3 and 4 bedroom semi-detached and detached properties to provide for the core of the Kirklees market.

Likewise, point 7.36 states *'a challenge is to provide aspirational housing for higher income groups, particularly houses with at least 3 bedrooms, to ensure that this population is retained, and also to attract mid to upper income households from elsewhere'*, if the Council is to attract families and professionals from neighbouring authorities, it should seek to build homes these demographic groups aspire to live in. Moreover, the comment received by the Council's own Strategic Housing Officer on the application emphasised a need for 3+ bedroom houses in the Batley and Spen SHMA sub-area.

Of the 165 households invited to consult on this scheme, it was observed that Cliffe Lane contains numerous bungalows and approximately 30-40 terraced dwellings are interspersed between semi-detached and detached properties in the immediate locality; this reinforces evidence in the SHMA that points towards a saturation of terraced dwellings in the area. Table 7.12 of the SHMA (2016) indicates what the type of house people aspire to buy in Kirklees:

- Detached – 42.2%
- Semi-detached – 36%
- Terraced – 9.7%
- Bungalow/flat/other – 12.1%

The proposed scheme mix is as follows:

- Detached – 30% (29 units)
- Semi-detached - 65% (64 units)
- Terraced – 5% (5 units)

Although demand exists for bungalows in Batley and Spen, there is an abundance in close proximity to the application site (along Cliffe Lane) and they constitute an inefficient use of land with regard to delivering a policy compliant density of 35 dph. Additionally, flats are not considered appropriate for the area given its proximity to the Conservation Area and principle character formed of two, three and four bedroom dwellings. This scheme seeks to maintain the characteristics of the area whilst delivering a desirable high quality development that meets the demands of Kirklees' core housing market. Upon assessment of existing properties and the surrounding character, evidence in the SHMA (2016) and through attempting to utilise land effectively, the proposed housing mix is considered acceptable in meeting both policy and market evidence ambitions, in accordance with LP11.

## **6. Master-planning (LP5)**

Kirklees Development Policy team has requested that consideration be given to LP5 – Master-planning, as this application site forms part of a larger housing allocation and the Inspectors' Report outlined that access for the allocation should be taken off Cliffe Lane to maintain the rural character of Ferrand Lane. Policy LP5 recommends that, where feasible and appropriate, a masterplan should be submitted before an application where multiple land owners must co-ordinate infrastructure delivery and ensure place shaping principles and other policy requirements are met. This application has gone through pre-application engagement prior to submission and aspects of policy LP5 have been resolved through information provided in the application.

Although there is on-going dialogue with the adjacent landowner, no agreement has been formed to bring the entire allocation forward in one application. It must be highlighted that the proposal illustrated in this application does not restrict the adjacent landowner submitting a planning application for residential development on their own land. The site is *not phased*, no community facilities or employment uses are proposed and drainage infrastructure does not preclude development of the adjacent land coming forward. Therefore, there is no need for infrastructure to be coordinated and given matters relating to design, scale and appearance are not being considered in this outline application, the necessity to coordinate place-shaping principles and other policy requirements can be the subject of a later reserved matters application.

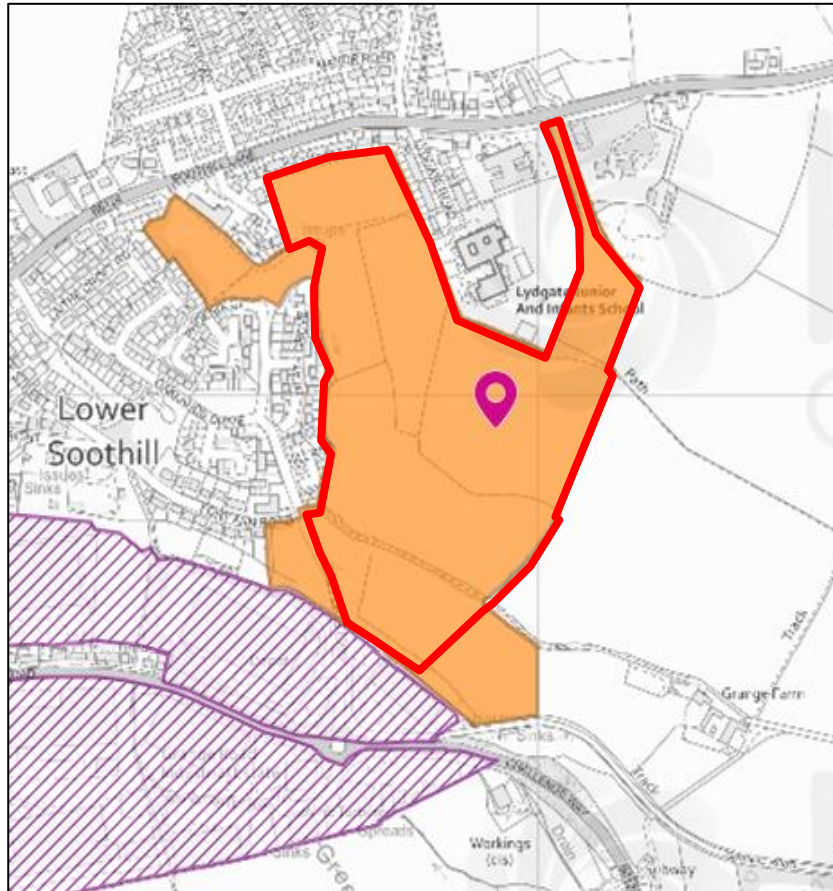
It is understood that a pre-application enquiry for 5 dwellings has been submitted on the adjacent land utilising access from Ferrand Lane, although specific details are not available publicly, the Council has an understanding of proposals on both parcels of land to dictate the place shaping principles. Nonetheless, a suitable and safe access has been incorporated into the revised layout should the Council consider Ferrand Lane not a suitable access point. The inclusion of this access road has resulted in the loss of a dwelling in the north-east corner of the application site. This addition means the adjacent landowner has the opportunity to bring forward development of their land utilising the new access road, subject to agreement with the landowners & promoter involved in this application.

In the planning application on land off Soothill Lane (app ref: 2018/94189), master-planning (LP5) was considered unnecessary and not applicable even though the application site (12.7ha) splits a 15.19ha housing allocation into four separate parcels (figure 1 below), none of which have been incorporated into an overarching masterplan. With regard to policy LP5, the officer report to Committee in the aforementioned application stated the following:

*Policy LP5 of the Local Plan requires master plans to achieve, community facilities to serve the new development (e.g. local shops, community halls, schools and health facilities.....) In this instance the proposals for up to 366 dwellings/units does not in itself generate the additional need nor justify for such facilities to be provided on site.*

Furthermore, the applicant (Kirklees Council) did not provide full access infrastructure into the adjacent sites that have been partitioned, therefore creating two ransom strips. The evidence alongside precedent set by *Stokes v. Cambridge Corporation (1961) 13 P & CR 77* indicates acceptance in not providing access infrastructure into an adjacent landowners site for free, both in practice and law; the landowners must come

to a reasonable agreement in order for access of the adjacent land to come through the proposed development.



**Figure 1: 2019 Kirklees Proposals Map with land off Soothill Lane application site outlined in red within orange housing allocation HS72.**

With an up-to-date Local Plan, the Council has a duty to apply policies in a consistent manner to ensure the development plan is applied effectively across the district, and stakeholders understand the policy approach taken by the Council. As evidenced, Kirklees Planning team considers the partitioning of a large housing allocation into 4 separate development parcels acceptable when assessed against LP5 and the design of ransom strips for commercial reasons also acceptable.

Consequently, it is inappropriate for the Council to place heavy emphasis on LP5 when the Council has inconsistently applied a flexible policy approach to its own land resulting in the partitioning of a housing allocation into 4 parcels. By approving the application at Soothill Lane, the Council accepts the provision of a ransom strip between landowners is reasonable and as this application provides the opportunity for access through the site to the adjacent land, it complies with LP5.

This application is in outline, with scale and appearance reserved for a later stage; Consultee feedback indicates compliance with policy aspects LP5 c-o, therefore the inclusion of a potential access point into the revised scheme accords with comments by the Inspector and is considered to be overwhelmingly compliant with the policy. In addition, this application should be determined on the material submitted and should not be prejudiced by proposals on 3rd party land that are not publicly available.

## **7. Conclusion**

The initial application scheme sought the erection of 92 dwellings with consideration for layout, access and landscaping. Following the round of formal consultation and a meeting with Council Officers (which highlighted a number of technical matters and the Council's desire to increase housing numbers across the

site), a revised site layout (drawing reference: 1332 PL101J) is submitted for the erection of 98 dwellings. Comments from the Council subsequently requested clarification of the scheme's compliance with policies LP7 (Density), LP11 (Mix) and LP5 (Master-planning).

As a consequence of comments within the Inspector's Report and identified site constraints that diminish the nett developable area, it has been established that the indicative Local Plan allocation of 135 dwellings is unrealistic and undeliverable. The current scheme has undergone market analysis and has interest from house-builders has shown the scheme to be viable and deliverable.

The development platform cross sections (shows a scheme incorporating the request from Highways for road surfaces to have a gradient of no less than 1 in 20 whilst incorporating the aforementioned site constraints outlined in table 2; these confirm the housing mix and density is acceptable in achieving a nett density of 35 dph. Fundamentally, it is considered the Case Officer must pragmatically balance implementation of newly adopted Local Plan policies with specific site considerations and the character of the local area, when assessing if the proposed scheme is compatible with its surroundings and the strategic vision of the development plan.

This scheme seeks to deliver the type of housing Kirklees residents aspire to live in whilst respecting local residential amenity and design by not compromising on spatial principles. Within the SHMA, it is considered that the request for an increased number of terraced dwellings on site consequently has no link with the housing demand of Kirklees' residents, nor is it aligned with the housing mix evidence that suggests Batley and Spen is saturated with terraced properties and has strong demand for 3 and 4 bedroom properties.

The revised application package addresses technical matters raised by the Coal Authority, LLFA, Landscaping, Ecology and Highways Officers at Kirklees Council and clarifies the position of the revised 98 dwelling scheme. This letter should provide transparency on how the density and housing mix has been configured based upon local and statutory consultation feedback. Upon consideration, adequate justification is provided for the housing mix utilising the Council's SHMA, the recently approved planning application off Soothill Lane (app ref: 2018/94189), an assessment of local housing characteristics and a balanced approach to meeting all policy requirements. The Scheme is therefore considered compliant with LP1, LP2, LP5, LP7 and LP11 as it conforms to the overarching objective of the Local Plan to deliver a high quality housing development that protects the amenity and character of the local area.

It is noted that the current consultation period concludes towards the end of this month and we reserve the right to submit further comments by that date if other new issues arise as necessary.

Should you have any queries, please do not hesitate to contact me.

Yours sincerely,

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Town Planner

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