

**Consultation Response from KC,
Policy****2023/92490 Former Dowker Works, Dowker Street, Milnsbridge, Huddersfield, HD3 4JX****Erection of 38 dwellings with associated access and landscaping (within a Conservation Area)****Date Responded: 26/09/23****Responding Officer: James Broadhead/Hannah Morrison****Responding Ref:**

The Local Plan was adopted on 27 February 2019. The Local Plan Strategy and Policies should be fully considered; however, the following response relates to specific Local Plan policies which are of particular relevance to the proposal. This is a high-level response and other policies that are not mentioned here may also apply.

The planning application relates to a residential development comprising 38 dwellings with associated access and landscaping at Former Dowker Works, Dowker Street, Milnsbridge, Huddersfield, HD3 4JX.

The site is unallocated in the Kirklees Local Plan and comprises of previously developed land. The majority of the sites is within Flood Zone 2.

Principle of the development**5 year-housing land supply**

The 2023 update of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land. As the Council is currently unable to demonstrate a five-year supply of deliverable housing sites, it is necessary to consider planning applications for housing development in the context of NPPF paragraph 11 which triggers a presumption in favour of sustainable development. This means that for decision making “Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (NPPF Footnote 8), granting permission unless: (i) the application of policies in this Framework that protect areas or assets of particular importance provides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 (NPPF Footnote 7) ; 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. (paragraph 11 d) i.”

The application site lies within Milnsbridge conservation area which is a designated heritage asset and therefore considered to be an area/asset of particular importance in relation to footnote 7 of the NPPF.

Should it be deemed that the proposal would result in harm to the conservation area, the absence of a five-year housing land supply should not weigh in favour of approving the application.

If it is considered there would not be an adverse impact to the conservation area, then the absence of a five-year housing land supply means that there would be a presumption in favour of approving the application provided there are no overriding reasons for refusal.

LP7 Efficient and effective use of land and buildings

Local Plan Policy LP7 (Efficient and effective use of land and buildings) states that proposals should encourage the efficient use of previously developed land and encourage the reuse or adaptation of vacant and underused properties, which this development proposes.

Policy LP7 also states that developments should achieve a net density of 35 dwellings per hectare if appropriate. The area of the site is approximately 0.52ha. A development of 38 dwellings would represent a net density of approx. 76 dwellings per hectare which exceeds the minimum expected net density of 35 dwellings per hectare.

LP11 Housing Mix and Affordable Housing

Local Plan Policy LP11 (Housing Mix and Affordable Housing) states that all proposals of more than 10 dwellings should reflect an appropriate housing mix. The Affordable Housing and Housing Mix Supplementary Planning Document (SPD), adopted March 2023, sets out housing mix tables for each sub-area. The proposal is located within the Huddersfield South sub-area, and as such the following housing mix would be required, in accordance with the Affordable Housing and Housing Mix SPD.

<i>Huddersfield South</i>	Market Housing	Affordable Rent	Affordable Intermediate
1 and 2-bed	30 – 60%	40-79%	40-79%
3-bed	25 – 45%	0-19%	20-39%
4+ bed	15 – 35%	20-39%	0-19%

The application proposes 16 one bed flats, 8 two bed flats, 8 two bed houses and 6 three bed houses.

It is accepted that as most of the dwellings proposed are newbuild flats, it may not be possible to achieve the mix set out in the SPD. In this case it is noted that there would be 16 one bed flats and 8 two bed flats. In terms of the houses proposed 8 would be two bed and 6 would be three bed. Consideration should be given to whether this is an appropriate housing mix for the location and it is advised that Housing Growth are consulted on this matter.

Local Plan Policy LP11 also sets out the requirements for affordable housing, which are set at 20% of the site, split 55%/45% for affordable rent and intermediate tenure respectively. This means that 8 dwellings are expected to be available for affordable housing, with 4 being affordable rent and 4 being intermediate tenure. Of the 4 intermediate tenure dwellings, 2 must be made available for First Homes as per national planning policy.

It is not stated whether affordable housing would be provided on site. The affordable homes should be incorporated within the development in accordance with policy LP11, but where justified, a financial contribution of at least equal value may be accepted to provide affordable homes elsewhere or to re-use or improve the existing housing stock.

LP27 Flood Risk Assessment/Sequential Test

The NPPG in relation to Flood Risk and Coastal Change was updated in August 2022.

The majority of the site lies within Flood Zone 2 (EA and SFRA), where there is a medium probability of flooding. Dwellings (excluding basement dwellings) are a more vulnerable use as set out in the flood risk vulnerability classification, Annex 3 of the NPPF, therefore, it is appropriate, only after the sequential test has been passed (Table 2, NPPG).

This area was not subject to a Sequential Test as part of the Local Plan process, as the land is not allocated.

The decision in relation to the assessment of sites (and justification for discounting them) as part of the test would be a Development Management decision. Therefore, these comments relate to the Sequential Test methodology only.

A sequential approach should be applied within the site to seek to locate the most vulnerable uses in the lowest flood risk area of the site and the least vulnerable uses (such as open space) in the areas of greatest risk within sites.

Sequential Test

A Sequential Test has been submitted to accompany the planning application.

Area of search (geographical area):

For individual planning applications subject to the Sequential Test, the area to apply the test will be defined by local circumstances relating to the catchment area for the type of development proposed (NPPG).

The Local Plan Policy LP27 (flood risk) states that the whole Kirklees district should be the starting point for the sequential test with applicants required to provide justification where a smaller area of search is proposed, each case will be assessed on its merits.

It is noted that a smaller area of search has been used, however there is no justification for using a smaller area of search nor any reasons why this area of search has been used.

For housing, using information set out in the latest Strategic Housing Market Assessment (SHMA) is advised to determine an area of search.

The Kirklees SHMA (2016) showed that Kirklees is a largely self-contained housing market area hence the reference to using the Kirklees area as a starting point for the Sequential Test.

The SHMA sets out NHPAU housing market evidence showing three local market areas within Kirklees (Huddersfield, Cleckheaton and Dewsbury) which is used to evidence a smaller search area. These are split into sub-areas by SHMA with information set out by each of the sub-areas, in this case the following area would apply:

- Huddersfield Local Market Area

Planning Policy would normally agree an area of search with the applicant before the test is carried out.

[Kirklees SHMA 2016](#)

Sources:

These should include:

- Local Plan allocations
- Sites that haven't been allocated in the local plan, but that have been granted planning permission for a development that's the same or similar to the proposed development (HLSR)
- Expired sites (HLSR)
- Windfall sites, that aren't allocated in the Local Plan and don't have planning permission, but that could be available for development (information from local estate agents about sites for sale)

Guidance states that allocated sites, unallocated sites with planning permission and windfall sites should be searched for potential alternative sites and this should be as up to date as possible ([Flood risk assessment: the sequential test for applicants - GOV.UK \(www.gov.uk\)](#)).

The sources of 'reasonably available' sites used as part of the submitted Sequential Test do not comply with guidance, all the sources listed above should be used and this includes, Local Plan

allocations, unallocated sites with planning permission and expired sites. Its difficult to tell from the submitted test that all these sources have been explored, specifically expired sites and sites with planning permission (although I do note that some of the sites listed have planning permission). Planning Policy can provide the applicant with a list of all sites with planning permission and expired sites.

Site Size:

Reasonably available sites could include a series of smaller sites and/or part of a larger site if these would be capable of accommodating the proposed development. Such lower-risk sites do not need to be owned by the applicant to be considered 'reasonably available' (NPPG Paragraph: 028).

Therefore, all sizes of sites should be considered as part of the test and not just those 'that could accommodate this size of development, allowing for a reasonable degree of flexibility'. As this approach is not in accordance with national policy.

Since the Rushden decision in 2014, national guidance relating to this matter has changed, as NPPG was revised in 2022. It now states that a series of smaller sites and/or part of a larger site could be considered as reasonably available.

The submitted Sequential Test does not comply with the guidance set out in NPPG or Local Plan Policy LP27 in terms of the methodology used.

Design

Careful consideration should be given to the design quality of this proposed development in accordance with Local Plan policy LP24 (Design) and the design principles set out in the council's Housebuilders Design Guide SPD. This includes sensitively respecting and enhancing local character, high standards of residential amenity, such as minimum separation distances between houses, integrating green infrastructure and accessible open space, net biodiversity gain, walking and cycling and road connections, materials and detailing, and how the proposal in terms of energy efficiency contributes to the council's ambition to have net zero carbon emissions by 2038.

The following criteria from Local Plan policy LP24 are applicable:

- a) the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape;
- b) they provide a high standard of amenity for future and neighbouring occupiers; including maintaining appropriate distances between buildings and the creation of development-free buffer zones between housing and employment uses incorporating means of screening where necessary;
- c) extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details and minimise impact on residential amenity of future and neighbouring occupiers;
- d) high levels of sustainability, to a degree proportionate to the proposal;
- e) the risk of crime is minimised by enhanced security, and the promotion of well-defined routes, overlooked streets and places, high levels of activity, and well-designed security features;
- f) the needs of a range of different users are met, including disabled people, older people and families with small children to create accessible and inclusive places;
- g) any new open space is accessible, safe, overlooked and strategically located within the site and well-integrated into wider green infrastructure networks;
- h) development contributes towards enhancement of the natural environment, supports biodiversity and connects to and enhances ecological networks and green infrastructure;

Open Space

As this proposal is for more than 10 dwellings, new open space provision is required in accordance with Local Plan Policy LP63 (New Open Space) and the Council's Open Space SPD to meet the needs of the development.

In accordance with policy LP63 new residential proposals are required to provide open space to meet the needs of the development based on an assessment of the quantity, quality, and accessibility of the existing open space within an area taking into account any deficiencies. This analysis will help determine the need for new on-site or off-site open space, enhancement of existing provision and/or a financial contribution and considers the need to provide for different types of open space. As such, an assessment of the open space requirement for 38 dwellings, as proposed in this case, is set out in Appendix 1. Further comments should be sought from the council's Landscape team.

Biodiversity

In accordance with Local Plan policy LP30 (Biodiversity and geodiversity) criterion (ii) development proposals are required to minimise the impact on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist, and the council's approved Biodiversity Net Gain Technical Advice Note. The Environment Act requires mandatory biodiversity net gain (BNG) of at least 10%, to be secured for 30 years via planning obligations or conservation covenants. The BNG can be delivered onsite, offsite or via a financial contribution.

In accordance with Local Plan policy LP30 (Biodiversity and geodiversity) criterion (iii) development proposals are also required to 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. Further comments should be sought from the council's Biodiversity Officer.

Conclusion

The proposal is for a residential development of a previously developed site comprising of 38 dwellings and associated access and landscaping. As set out above the methodology for the flood risk sequential test is not consistent with guidance. The applicant should agree the area of search for the sequential test with the Council or provide adequate justification for a smaller area of search. Once an appropriate methodology has been agreed the case officer would need to determine whether the assessment of sites as part of a sequential test and justification for discounting them is appropriate.

Details of affordable housing have not been provided but the development would be required to provide this at the levels set out in the comments above. The development should also seek to satisfy residential/design standards as set out in Local Plan policy LP24 and the Housebuilder Design Guide SPD, and an open space contribution should be provided as set out in the appendix.

Appendix 1: Open Space Assessment (Golcar) - 38 Dwellings	Quantity	Accessibility	Quality	Quantity Required (sqm)	Outcome
Parks & Recreation Grounds	<p>Not Met</p> <p>The local standard is 0.8ha per 1,000 population.</p> <p>Current provision is 0.33ha per 1,000 population.</p>	<p>Met</p>	<p>Crow Lane Recreation Ground and Coronation Park are within a 15-min walk and was assessed as high value, in the 2016 Kirklees Open Space Study (KOSS).</p> <p>Consult the Landscape/Greenspaces Team for the need for quality improvements to Coronation Park.</p>	<p>19.44 sqm per dwelling.</p> <p>Total = minimum 739 sqm.</p>	<p>Existing deficiencies indicate the need for useable recreation space. Explore opportunities to provide new recreation space on-site or enhancements to existing provision.</p> <p>For developments of 10-500 dwellings, a financial contribution towards the enhancement of existing park/recreation ground provision nearby may be appropriate to meet quality deficiencies.</p>
Natural and Semi-natural Greenspace (NSNG)	<p>Not Met</p> <p>The local standard is 2ha per 1,000 population.</p> <p>Current provision is 0.8ha per 1,000 population.</p>	<p>Not Met</p>	<p>No site within a 15-min walk of the site.</p> <p>Consult the Landscape/Greenspaces Team for the need for quality improvements to provision within the area.</p>	<p>48.6 sqm per dwelling.</p> <p>Total = minimum 1,847 sqm.</p>	<p>Explore opportunities to provide new natural/semi-natural greenspace on-site, such as natural areas, landscaping treatments and tree planting. New off-site provision can be provided within a 15 minute walk.</p> <p>For developments of 10-199 dwellings, a financial contribution towards new or enhanced natural/semi-natural greenspace within the vicinity may be appropriate, particularly to support habitat creation and connectivity with the Kirklees Wildlife Habitat Network.</p>
Amenity Greenspace	<p>Not Met</p> <p>The local standard is 0.3ha per 1,000 population.</p> <p>Current provision is 0.15ha per 1,000 population.</p>	<p>Not Met</p>	<p>No site within a 15-min walk of the site.</p> <p>Consult the Landscape/Greenspaces Team for their comments on the need for improvements to existing sites within the area.</p>	<p>14.58 sqm per dwelling</p> <p>Total = minimum 554.04 sqm.</p>	<p>Provide new amenity greenspace on-site to achieve a well-designed scheme and quality of place. A financial contribution may be required towards the enhancement of existing public open space in the area.</p>

Allotments	Provision not required.				
Equipped Play - Children	Not Applicable	Met	Contact Landscape Team	6.1 sqm per dwelling. Total = minimum 231.8 sqm.	<p>Developments of 10-50 dwellings trigger the requirement for a Local Area of Play (LAP). A financial contribution in lieu of on-site provision to improve existing play facilities in the area may be required.</p> <p>As set out in the council's Open Space SPD a discount will be applied for flats and apartments (25% for two-bedroom flats and 50% for one-bedroom flats)</p>
Equipped Play - Teen Provision	Not Applicable	Met	Contact Landscape Team	7.3 sqm per dwelling. Total = minimum 277.4 sqm.	
Young People Provision – Major Skate Park	Not Applicable	Met	Contact Landscape Team	Not Applicable.	
Young People Provision – MUGA	Not Applicable	Met	Contact Landscape Team		
Outdoor Sport provision	Within the Huddersfield Area, the 2016 Playing Pitch Strategy identifies shortfalls in grass football pitches, 3G pitches, rugby provision, and cricket match sessions.	N/A	See Playing Pitch Strategy 2016 for quality of sites within the Batley & Spen sub-area.	Financial contribution of £355 per dwelling. Total = £13,490	A financial contribution of £13,490 is required.