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## Report of the Chief Planning Officer

### NORTH AND EAST PLANS PANEL

Date: 16<sup>th</sup> May 2019

**Subject: 18/06182/FU Construction of 52 dwellings on vacant land; removal of Plot 99 and substitution of house types to Plots 98 and 100 of adjacent development at land off Kennet Lane, Garforth LS25.**

APPLICANT	DATE VALID	TARGET DATE
Redrow Homes	12 <sup>th</sup> October 2018	TBA

#### Electoral Wards Affected:

**Garforth and Swillington**

Yes

Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

**RECOMENDATION: TO CONTEST THE APPEAL that has been made against the non-determination of the planning application for the following putative reasons:**

1. Development of this proposed greenspace designation would be (unacceptably) premature, contrary to the advice given by the Planning Practice Guidance (PPG) at Section 21b Paragraph 014. The Development would be contrary to a new greenspace designation in the (very advanced) Site Allocations Plan (SAP). The proposal would have an undermining and prejudicial effect upon the SAP with regards to designating greenspace, because it would predetermine decisions about the quantity and location of greenspace provision in the major settlement of Garforth. Even if the Development were not 'premature' for the purposes of the PPG, it would nonetheless be contrary to emerging policy under the SAP, having regard to paragraph 48 of the NPPF.
2. The proposed development would result in the loss of a significant area of greenfield land which plays an important visual, amenity and ecological role in an otherwise built up area. The proposal is not considered to adequately compensate for the loss of green space and results in a significant loss in area of the Leeds Habitat

Network, adversely impacting on its integrity and connectivity. The proposal is therefore considered to be contrary to Policies H2, G6 and G9 of the adopted Core Strategy and the relevant advice as contained within the NPPF.

3. In the absence of a signed Section 106 agreement the proposed development so far fails to provide the necessary mechanism to make sufficient provision for affordable housing, greenspace, travel planning and public transport enhancements contrary to policies T2, H5, G4 of the Core Strategy, saved policy GP5 of the Unitary Development Plan Review (2006) and related Supplementary Planning Documents and the National Planning Policy Framework. The Council anticipates that a Section 106 agreement covering these matters will be provided prior to any appeal Inquiry but at present reserves the right to contest these matters should the Section 106 Agreement not be completed or cover all the requirements satisfactorily.

4. The proposed development includes house types that fail to meet the accessible standards as required by emerging Core Strategy Selective Review (SSCP) policy H10. The overall accessibility, sustainability and quality of the housing offer is therefore not considered to fully meet the policy intention behind these requirements to ensure all new housing developments provide healthy and sustainable living environment for current and future generations. Accordingly the development, taken as a whole is considered to be unacceptable and contrary to CSSR policy H10 and the associated advice as contained in the NPPF.

5. The proposed development lies within a defined Development High Risk Area for coal mining legacy. The Local Planning Authority, supported by the statutory consultee charged with overseeing concerns on this matter consider the proposal has failed to adequately assess the risks to the proposed development from historical coal mine workings at the site. In the absence of suitable information to demonstrate that a safe, stable and suitable form of development can be achieved on the site, the application is contrary to Unitary Development Plan Review (2006) policy GP5 and the advice contained in the NPPF on this matter.

## **1.0 INTRODUCTION:**

1.1 This application is brought to Plans Panel following the applicant's decision to lodge a planning appeal on the grounds of non-determination. The appeal is to be dealt with through the public inquiry procedure (likely to be scheduled for the autumn but a final date is yet to be set).

## **2.0 PROPOSAL:**

2.1 The application proposes the construction of 52 dwellings with associated greenspace and landscaping. The dwellings are sited within the northern half of the application site with the southern triangular shaped half laid out as public open space.

2.2 Vehicle access would be achieved via the approved residential development lying to the west, necessitating the removal of a house plot and the substitution of two house-types as approved under permission Ref: 17/00307/FU. New footpath connections would be provided up to Kennet Lane and Welland Drive.

- 2.3 The detailed layout shows a hierarchy of streets and spaces with a main spine road running north to south through the northern half of the site, providing access to a number of cul-de-sacs. The built form comprises a mix of detached, semi-detached and short terraces all fronting the streets with rear gardens generally backing onto other rear gardens. The range of house-types comprise 16 x 2bed, 11 x 3bed, 25 x 4bed. Of these, a total of 10 units are identified as the affordable units and comprise 4 x 2bed and 6 x 3bed.
- 2.4 Building heights are 2 storey and off-street parking is provided through a combination of driveways (to the front and sides) and via shared parking courtyards or in private roads. Some units are also provided with garages as a supplement to the open parking spaces already provided. Visitor parking provided on-street.
- 2.5 The detailed design for the house types is traditional and follows the design approach adopted by Redrow Homes at their adjacent development site. Simple head and cills proposed for window openings/ doors and a variety of bay features and projections. The specification for materials is not finalised although the proposed buildings would be constructed from brick (some with render) and tiled hipped roofs. A total of 15 different house types are proposed but all share common features in terms of design approach.
- 2.6 An ecological impact assessment accompanies the application submission and assesses the northern part of the site to comprise of poor semi-improved grassland and notes the presence of the Kennet Lane Meadow within the southern part of the site. The ecological assessment considers the proposed development to have a low effect at local level on existing habitats and a medium impact on nesting bird habitats and recommends the implementation of an Environmental Management Plan to compensate and result in a neutral biodiversity impact.
- 2.7 The southern portion of the site (Kennet Lane Meadow) would be for use as public open space and comprise mostly of existing vegetation and trees with a mown circulatory footpath, informal seating/ play equipment, biodiversity features (incl. bat/bird boxes, ecology interpretation boards, habitat) and annual management strategy. A surface water attenuation storage tank is proposed to be installed below with a piped discharge connection into an existing sewer. In order to facilitate the site access and the installation of the attenuation tank 20 trees are proposed to be removed with replacement planting proposed at a ratio of 3:1.
- 2.8 The application is also accompanied by a number of supporting documents and technical reports (including a Flood Risk Assessment and Transport Assessment). A Statement of Community Involvement (SCI) has also been submitted and confirms a public consultation event took place in Firthfields Community Centre on 13<sup>th</sup> August 2018. The SCI includes details of responses received from local residents (main concerns identified were lack of local facilities (doctors, dentists, school places), highway safety and traffic concerns, flooding and drainage issues on site and surrounding areas, loss of open space and how these have been taken into account in the formulation of the application proposals.

### **3.0 SITE AND SURROUNDINGS:**

- 3.1 The application site comprises an area of grassland/ scrubland that contains clusters of tree/vegetation growth, mainly to its perimeter with a belt of tall poplar trees aligning the western boundary (which follows the line of a disused railway). The northern portion of the application site is unallocated within the Unitary Development

Plan. The southern portion of the site (triangular shaped) comprises a Leeds Nature Area (Kennet Lane Meadow), within the Leeds Habitat Network. The site is generally level with a gentle fall from north to south.

- 3.2 The site lies centrally within the Garforth town envelope and is within a largely residential location. To the north of the site is open land which includes a cricket ground. A large residential estate lies to the east which comprises predominantly two storey brick built dwellings, suburban in character utilising conventional dual pitch roof dwellings and chalet dormer style dwellings.
- 3.3 To the west of the site is the former Stocks Block site which is currently being re-developed for housing (benefitting from planning permission for 241 dwellings). Beyond this development runs Ninelands Lane which serves residential streets, Ninelands Lane Primary School, a large recreation ground with playing pitches, childrens' play area and skate park. A leisure centre, children's soft-play centre/nursery, cemetery and local shopping parade are also in close proximity to the site. Ninelands Lane (to west), Green Lane (to north) and Fairburn Drive (to east) are bus routes and East Garforth Railway Station (to north) is also close by.

#### **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 PREAPP/18/00396 Residential development and associated infrastructure at this application site- LCC officers advised of the then planning policy position- site designated as greenspace in the then emerging SAP and proposal would not accord. Discussions focused on other detailed planning considerations such as layout, drainage, landscaping and information required to accompany any planning submission.
- 4.2 17/00307/FU Demolition of existing buildings, development of 241 dwellings and provision of open space, landscaping and drainage works- Approved (04/01/18).
- 4.3 Tree Preservation Order No.5 (2017) retained tree groupings adjacent to site's western boundary.
- 4.4 33/297/99/FU 109 dwelling houses- Withdrawn (14/10/03).  
33/119/97/FU 78 Dwelling houses- Withdrawn (14/10/03).  
33/695/80 Outline application to erect stables and hay shed, to grazing land- Approved (02/03/81).

#### **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 During the course of the application officers have highlighted matters of site layout, amenity impact, parking arrangements, coal mining legacy issues, housing mix (incl. affordable housing), biodiversity and landscape considerations. The applicant responded to these discussions by submitting additional information/ revised plans which has resulted in a further period of formal publicity having been undertaken.

#### **6.0 PUBLIC/LOCAL RESPONSE:**

- 6.1 The application was advertised by 8 site notice displays posted adjacent to the site dated 31<sup>st</sup> October 2018 and was advertised in the Yorkshire Evening Post on 16<sup>th</sup> November 2018. Representations have been received from the following:
  - 6.2 16 letters of objection received citing the following summarised grounds:

- Monitor/ assess community effect (of adjacent development) prior to this application being considered.
- Security risk from pedestrian links to existing housing; Welland Drive not a thoroughfare; used as shortcuts;
- Increase in traffic lead to congestion on local highway network; road safety issues, parking problems, pollution issues.
- Additional people impact on availability of health services (doctors/ dentists); existing education facilities full (schools/ nurseries).
- Impact on local flooding/drainage capacity issues; proposed tank moves problem from one part of site to another.
- Seek retention of Poplar trees.
- Area of greenspace should be protected; proposed public open space is pitiful; the site is proposed greenspace- application to get in before greenspace designated; loss of wildlife.
- Impact of noise/ dust/ flooding from construction activity (on existing houses and Ninelands Lane Primary School); concern that mitigation measures will not go far enough and seek contributions for clothes washing/ window cleaning; any excavation work cause more structural damage to existing properties.
- Impact on neighbouring property prices.
- Reduction in sunlight to exiting dwelling
- Loss of privacy from building on open land; overlooking from side elevation windows
- Impact from building heights unclear but feel houses will block light to existing neighbours; dominance from side elevation; land levels on site higher than existing adding to dominating impact; request a separation buffer (of 10-15m).
- Inaccuracy in plotting existing neighbouring properties.
- Use the land for the benefit of the community.
- Why didn't Redrow submit a combined application to include these dwellings with development currently underway?
- Public transport services will not adequately serve additional development.
- Previous refusal of planning permission for residential development on this site (*to be noted that the previous residential proposals were withdrawn, see para.4.4 of this report*)
- Future access difficulties to maintain property.
- Ginnel at head of Hillside not right of way (within title deeds of No.29).

Garforth Neighbourhood Planning Forum:

- Southern part of site allocated as natural area identified as greenspace and site identified for greenspace as part of Site Allocation Plan (SAP)- under examination.
- Existing shortfall in greenspace provision in Garforth and proposal diminishes greenspace identified within the SAP.
- Proposed access road interrupt wildlife corridor.
- Not aware of any developer consultation.
- Schools already at capacity- disingenuous that CIL payments to provide additional school buildings.
- Disingenuous to state that medical provisions are not material planning considerations.

6.3 2 additional letters placing comment on the proposals:

- Surprising no contact with Garforth Neighbourhood Planning Forum as application quotes local and national documents endorsing importance of consultation.

- Attempts to reduce carbon emissions/ higher standards of insulation/energy consumption.
  - Like trees along rear of site to be protected.
  - Like that public footpaths provide access from Kennet Lane to public space.
- 6.4 On receipt of additional information/ revised plans further site notice displays were posted on 16<sup>th</sup> January 2019. No further representations were received.
- 7.0 CONSULTATIONS RESPONSES:**
- 7.1 The Coal Authority: Objection, inadequate level of information submitted to address coal mining legacy issues and inform development layout. The Coal Authority advises the applicant has submitted revised information direct to them which they consider moves things forward (and would be likely to withdraw objection (subject to conditions)) but this has not been submitted formally and is therefore later appraised in the report at 10.48 for the inclusion of refusal reason 5.
- 7.2 Environment Agency: The site falls within Flood Zone 1 and accordingly standing advice offered and no comments are made in respect of flood risk.
- 7.3 Yorkshire Water: No objection to revised layout, suggested conditions.
- 7.4 West Yorkshire Combined Authority: Requested bus stop improvements to stops 11707 and 11708 (both on Fairburn Drive) to include shelters at each with real time information at stop 11708 (at a total cost of £36,000). Comments about Residential Travel Fund noted and MCards contribution suggested (£33,070.95).
- 7.5 Highways: No objection in principle subject to further amendments to the proposed site layout summarised later in the report at 10.28.
- 7.6 SDU (Nature Conservation): Access road leads to significant fragmentation of Leeds Habitat Network and constraint on potential path route link with wider recreational use of disused railway; require appropriate buffer to trees along eastern boundary to allow for positive management; remove drainage storage tanks from southern field.
- 7.7 SDU (Landscape): Layout very dense and fails to integrate public open space; public open space sited to adjacent field and without surveillance not fit for purpose or accessible; the drainage tanks and easements running through public open space; advice provided on dispersal of public open space.
- 7.8 SDU (Design): Clarification requested on proposed garden depths and property separation distances.
- 7.9 Environmental Studies (Transport Strategy): No further assessment required in respect of noise from road traffic.
- 7.10 Contaminated Land: No objections, suggested conditions.
- 7.11 Yorkshire Wildlife Trust: LNA to south of site should be protected from development (incl. siting of storage tanks/.access roads); development would benefit from sensitive landscape scheme and management and brought into favourable condition.

- 7.12 Travelwise: No objection to updated Travel Plan, to secure monitoring fee (£3,000) and Residential Car Club (£25,245) and condition details of cycle storage and electric vehicle charging points.
- 7.13 West Yorkshire Police (Architectural Liaison): Query the need for two footpath connections adding vulnerability for crime; comments on boundary treatment heights; lockable gates; shared pathway access not supported; advice on standards for lighting, doors/ windows and intruder alarms.
- 7.14 School Places Team: Current projections versus available school places and indicates that over the next 5 years there may be insufficient capacity available to meet the additional primary and secondary demand that it is estimated this development would generate.
- 7.15 Public Rights of Way: Claimed footpaths from Whitham Way, Welland Drive and Hillside abut the site. Request that footpath at Whitham Way be incorporated within the site.
- 7.16 Flood Risk Management: No objection following confirmation from Yorkshire Water that development can connect into existing sewer at a restricted rate. Suggested conditions.

## **8.0 PLANNING POLICIES:**

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for Leeds currently comprises the Core Strategy, saved policies within the Leeds Unitary Development Plan (Review 2006) and the Natural Resources and Waste Development Plan Document (2013), the Aire Valley Area Action Plan (2017) and any made Neighbourhood Plans.

### Local Planning Policy

- 8.2 The Core Strategy sets out the strategic planning policy framework for the district until 2028. The application site forms part of the Leeds Habitat Network and the following core strategy policies are relevant:

Spatial Policy 1	Location of development
Spatial Policy 6	The housing requirement and allocation of housing land
Policy H2	New housing on non-allocated sites
Policy H3	Density of residential development
Policy H4	Housing mix
Policy H5	Affordable housing
Policy P10	Design
Policy P12	Landscape
Policy T1	Transport management
Policy T2	Accessibility requirements and new development
Policy G3	Standards for open space, sport and recreation
Policy G4	New greenspace provision
Policy G6	Protection and redevelopment of existing green space
Policy G8	Protection of important species and habitats
Policy G9	Biodiversity improvements
Policy EN1	Sustainability targets
Policy EN2	Sustainable design and construction
Policy EN5	Managing flood risk

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|  | Policy ID2 | Planning obligations and developer contributions |
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- 8.3 The northern portion of the site is unallocated within the Unitary Development Plan Review (2006) (UDP Review) with the southern portion designated as greenspace. The relevant saved UDP Review policies are listed below for reference:
- Policy GP5: Seeks to ensure that development proposals resolve detailed planning considerations, including access, drainage, contamination, stability, landscaping and design and avoid environmental intrusion.
  - Policy N1: Protection of urban greenspace.
  - Policy N23: Retention and provision of incidental openspace within developments
  - Policy N24: Development proposals next to green belt/ corridors.
  - Policy N25: Seeks boundaries of sites to be designed in a positive manner using walls, hedged or railings where appropriate to the character of the area.
  - Policy BD5: Seeks to ensure new development protects amenity.
  - Policy LD1: Seeks for landscape schemes to complement and where possible enhance the quality of the existing environment.
- 8.4 The following Natural Resources and Waste policies are also considered to be relevant:
- MINERALS3: Surface Coal resources.
  - AIR1: Major development proposals to incorporate low emission measures.
  - WATER1: Water efficiency, including incorporation of sustainable drainage.
  - WATER4: Effect of proposed development on flood risk.
  - WATER6: Provision of Flood Risk Assessment
  - WATER7: All developments are required to ensure no increase in the rate of surface water run-off to the existing formal drainage system and development expected to incorporate sustainable drainage techniques.
  - LAND1: Supports principle of development on previously developed land and requires submission of information regarding the status of the site in term of contamination.
  - LAND2: Relates to development proposals and tree retention/ replacement.
- Supplementary Planning Guidance
- 8.5 Neighbourhoods for Living (SPG13, adopted).  
 Sustainable Urban Drainage (SPG22, adopted).  
 Street Design Guide (SPD, adopted).  
 Designing for Community Safety (SPD, adopted).  
 Sustainable Design and Construction (SPD, adopted).  
 Travel Plans (SPD, adopted).  
 Leeds Parking Policy (SPD, adopted).
- Neighbourhood Planning
- 8.6 There is a Neighbourhood Plan for Garforth in preparation. The forum have made good progress and are expecting to reach pre-submission stage later this year. Whilst the Plan has not reached a stage at which it can be afforded material weight, it is important to note that the emerging draft plan is seeking to deliver a vision for Garforth, which has at its heart positive health outcomes. The protection and improvement of greenspace lies at the heart of that vision and the emerging plan notes the importance of the application site as a part of this.

#### National Planning Policy

- 8.7 The National Planning Policy Framework (NPPF, 2019) sets out the Government's planning policies for England and how these are expected to be applied. It provides a framework within which locally-prepared plans for housing and other development can be produced.
- 8.8 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions. The policy guidance in Annex 1 to the NPPF is that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given. It is considered that the local planning policies mentioned above are consistent with the wider aims of the NPPF.
- 8.9 The NPPF gives a presumption in favour of sustainable development (para. 11).
- 8.10 Chapter 4 covers decision making and states that local planning authorities may give weight to relevant policies in emerging plans according to: (a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given); (b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and (c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given) (para.48).
- 8.11 Chapter 5 covers the delivery of a sufficient supply of homes with importance given to that a sufficient amount and variety of land can come forward where it is needed (para.59).
- 8.12 Chapter 8 states that planning policies and decisions should aim to achieve healthy, inclusive and safe places which, amongst other matters, promote social interaction (e.g. allow for easy pedestrian/ cycle connections, active street frontages) and are safe and accessible (para.91).
- 8.13 Chapter 9 covers the promotion of sustainable transport modes and achieving safe and suitable access to sites for all users (para.108) and to refuse developments on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe (para.109).
- 8.14 Chapter 11 promotes the effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions (para.117).
- 8.15 Chapter 12 identifies that good design is a key aspect of sustainable development creation of high quality buildings and places is fundamental to sustainable development (para.124).
- 8.16 Chapter 14 requires account be given to flood risk and that when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere (para.163).
- 8.17 Chapter 15 states that planning policies and decisions should contribute to and enhance the natural and local environment (para.170) and ensuring that a site is

suitable for its proposed use taking account of ground condition and any risk arising from land instability and contamination (para.178).

Emerging Policy –

Core Strategy Selective Review (CSSR):

- 8.18 Hearing sessions relating to this selective review of the Core Strategy were completed at the end of February/beginning of March 2019 and the Inspector's Main Modifications were published on April 10<sup>th</sup> 2019. Executive Board are due to recommend that these Modifications be subject to consultation at their meeting on 16<sup>th</sup> May. The CSSR is anticipated to be Adopted in September. The advanced nature of the CSSR is such that significant weight can be attached to the revised policies where relevant:

Policy SP6 Review of Leeds' Housing Requirement

Policy H9 Minimum Space Standards

Policy H10 Accessible Housing Standards

Policy G4 Greenspace provision

Policy EN1 Carbon Dioxide reduction

Policy EN2 Sustainable Design and Construction

Policy EN8 Electric Vehicle Charging Infrastructure

Site Allocations Plan (SAP):

- 8.19 The SAP allocates land for housing and employment and designates green spaces across Leeds, except for the area covered by the Aire Valley Area Action Plan. Main Modifications to the SAP were published by the Inspectors in January and consultation on these was held between 21<sup>st</sup> January and 4<sup>th</sup> March with 695 submissions being made; substantially reduced from the 25,000 submissions at Publication stage. The next stage of the process is receipt of the Inspectors' Report, which is anticipated (in consultation via the Programme Officer with the Inspectors) in May. On that basis the Council expects to adopt the SAP in July.

- 8.20 The Site Allocations Plan is therefore at a highly advanced stage, close to adoption and is considered to carry significant weight and a significant material consideration in the determination of planning applications.

- 8.21 The site is proposed for greenspace designation (G1229 Kennet Lane Meadows) in the Submission Draft Plan (2017). The designation remains unchanged in the Inspector's Main Modifications (21<sup>st</sup> January).

DCLG - Technical Housing Standards 2015

- 8.22 This document sets internal space standards within new dwellings and is suitable for application across all tenures. The government's Planning Practice Guidance advises that where a local planning authority wishes to require an internal space standard it should only do so by reference in the local plan to the nationally described space standard.

- 8.23 With this in mind the city council is currently progressing to adopt the national standard as part of the CSSR under new housing policy H9. The proposed dwellings comprise 2, 3 and 4 bedrooms with variations in the number of bedspaces and each particular house-type being required to meet the relevant gross internal floorspace standards. As assessed each of the proposed house-types proposed satisfy the respective standards taking account of the nature and likely occupancy of the house-types proposed. This is further discussed within the residential amenity section of the appraisal.

## **9.0 MAIN ISSUES**

1. Principle of development
2. Highways and access
3. Design, visual amenity and character
4. Residential amenity (incl. dominance, overshadowing, overlooking):
5. Other matters

## **10.0 APPRAISAL**

### **1. Principle of development**

- 10.1 The application site lies within Garforth which is defined as a Major Settlement in the Core Strategy. The site is undeveloped and not allocated for development by the Unitary Development Plan Review (UDP Review) and the southern portion of the site is designated as greenspace. The entire site forms part of the Leeds Habitat Network (Core Strategy policy G9) and also forms part of a coal safeguarded area.
- 10.2 In the highly advanced Site Allocations Plan (SAP) it is proposed to designate all of the application site as Greenspace (site reference G1229 Kennet Lane Meadows) which upon adoption, will supersede the designation of the southern part of the site only as greenspace.
- 10.3 Policy H2 of the Core Strategy applies to all proposals for new housing development on non-allocated land. It requires that the number of dwellings does not exceed the capacity of transport, educational and health infrastructure (as existing or as provided as a condition of development) and that the location accords with the relevant accessibility standards. These matters are considered in more detail later within this appraisal following advice from relevant consultees.
- 10.4 In addition to this, Policy H2 specifies that greenfield land, such as the application site:
- (a) *Should not be developed if it has intrinsic value as amenity space or for recreation or for nature conservation, or makes a valuable contribution to the visual, historic and/or spatial character of an area, or*
- (b) *may be developed if it concerns a piece of designated green space found to be surplus to requirements by the Open Space, Sport and Recreation Assessment.*
- 10.5 In relation to the first criteria, the application site is considered to be an integral part of a wider swathe of open land that extends from the Garforth Parish Cricket Club (off Green Lane) southwards through to Ninelands Lane. This land is considered to perform an important visual, amenity and ecological role in this otherwise built up area, sandwiched between existing housing to the east and the on-going residential development at the former Stocks Blocks site, lying to the west.
- 10.6 In respect of the second policy criteria, the Green Space Background Paper which provides up-to-date figures on greenspace provision (and supersedes the quantitative analysis of the Leeds Open Space, Sport and Recreation Assessment referred to in the Core Strategy policy) identifies that there is a deficiency in the quantity of 3 typologies of green space in the Garforth and Swillington ward. On this basis and in the absence of a greenspace surplus it is considered that the proposal would fail to meet the requirements of Policy H2.

- 10.7 As noted above, the application site is proposed to be designated as Greenspace (site reference G1229 Kennet Lane Meadows) through the SAP. The applicant's submission suggests within their planning policy statement that the emerging SAP attracts limited weight given the "*substantial objection submitted to the proposed allocation and the plan itself and the inspectors report*". On this basis, they consider that the principle of this development should be decided in accordance with adopted UDP Review policy. This is of particular relevance to considerations relating to Green Space, as whilst the whole application site is proposed to be designated as Green Space in the SAP, only the southern half of the site is designated in the UDP Review.
- 10.8 Paragraph 48 of the NPPF makes clear that local planning authorities may give weight to relevant policies in emerging plans, dependent on 3 factors (as set out in para. 8.10 of this report). In relation to each of these:
- The SAP was submitted in May 2017, with hearing sessions on matters relating to Green Space (amongst other matters) taking place in October 2017, followed by hearing sessions on housing related matters in July/ August 2018. A post-hearing note was received in October 2018 which confirms that the SAP should be modified to reduce the extent of green belt release, and re-presented so that any changes to the initial 2017 submission are shown as modifications (to address a procedural issue). No modifications to the Greenspace designation of the site (nor its status as a discounted housing site) were considered necessary by the SAP Inspectors and following the issuing of the Inspector's Main Modifications (April 10<sup>th</sup> 2019) the SAP is at a highly advanced stage close to adoption and is considered to carry significant weight and is a significant material consideration in the determination of planning applications.
  - In relation to unresolved objections, only 1 objection to the designation of Kennet Lane Meadows (G1229) was received, which was from the applicant (who was promoting the site as a residential allocation). The hearing sessions provided the opportunity for all objections to be heard, and no one raised this site at the relevant session. The absence of a Main Modification on the site indicates that the Inspectors' are satisfied that the submitted SAP is sound and does not need to be modified. The objection is therefore resolved by proposing to retain the Council's proposed designation as greenspace.
  - The SAP has been prepared in accordance with the NPPF, and is being examined under NPPF 2012 in accordance with the transitional arrangements (NPPF paragraph 214).
- 10.9 Taking account of the above circumstances it is concluded that the SAP is at a highly advanced stage, that there was only one objection to the greenspace designation of site G1229 Kennet Lane Meadows (and unresolved objections have all been heard through the hearing sessions) and the SAP is consistent with the NPPF. As a result, it is considered that significant weight should be given to the designation of the whole site as Greenspace in the SAP and the proposal is in direct conflict with that designation.
- 10.10 The application proposal will involve the redevelopment of existing green space and Core Strategy Policy G6 sets out the approach to assess such proposals and specifies that green space will be protected from development unless one of following policy criteria are met:

- (i) *There is an adequate supply of accessible green space/open space within the analysis area and the development site offers no potential for use as an alternative deficient open space type, as illustrated in the Leeds Open Space, Sport and Recreation Assessment; or*
- (ii) *The green space/open space is replaced by an area of at least equal size, accessibility and quality in the same locality; or*
- (iii) *Where supported by evidence and in the delivery of wider planning benefits, redevelopment proposals demonstrate a clear relationship to improvements of existing green space quality in the same locality.*

- 10.11 The NPPF states at para 96 that “*Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate*”. The Green Space Background Paper (prepared to support the provision of greenspace in the SAP) contains information regarding quantity, quality and accessibility of greenspace provision in Leeds. The evidence base identifies that Garforth and Swillington ward has a deficiency in the quantity of 3 typologies of green space (parks and gardens/ amenity space/ natural greenspace) and fails to satisfy the requirements of the first policy criteria. Moreover, the application does not propose replacement green space of at least an equal size, accessibility or quality, and so this criteria is not met. The third criteria allows development where, supported by evidence and the delivery of wider planning benefits, redevelopment proposals demonstrate a clear relationship to improvements of existing green space quality in the same locality. The development proposes works within the southern portion of the site as a useable habitat meadow but given that this area is already defined as semi-improved grassland (as part of the Leeds Habitat Network) and there are no other wider planning benefits associated with the scheme, this is not considered to sufficiently address or compensate for the significant loss of greenspace that would result from the proposal. In addition to this, it is also recognised that this greenspace provision is proposed in order to satisfy the requirements for on-site green space of the development itself, which then further detracts from the extent to which the provision could be considered as an improvement to compensate for the loss of green space under the provisions of Policy G6. As a result, this proposal is not considered to comply with Policy G6 and a principled planning policy objection is raised on this basis.
- 10.12 All of the application site forms part of the Leeds Habitat Network (Core Strategy Policy G9) which extends to the north and south, broadly following the route of a former railway line. The network of natural habitats provide a valuable resource linking sites of biodiversity importance and provides a route for the migration of species from which the policy seeks to safeguard from inappropriate development. The proposed residential layout will occupy a significant proportion of the northern part of the site, leading to a significant narrowing in the width of available habitat and the potential long-term assurance for its protection. The access to the development will involve the removal of part of the mature TPO tree line that extends along the western boundary of the site and will introduce a permanent gap in this north-south connection of the habitat network. Allied to the proposed siting of a surface water attenuation tank within the southern portion of the site and its associated pipework which will lead to disturbance of the ground (from storage of soils/ movement of machinery), requiring periodic maintenance or repair causing further disruption in

future and any habitat creation above the tank and pipework will be of limited and unknown value. Accordingly, the proposal will result in a significant loss in area of the Leeds Habitat Network, leading to a fragmentation of the north-south continuity of the habitat network and disturbance arising from drainage infrastructure that are considered to adversely impact on the integrity and connectivity of the Leeds Habitat Network, contrary to Core Strategy Policy G9.

- 10.13 Policy G4 of the Core Strategy requires the provision of 80sqm of greenspace per residential unit for development schemes located in areas deficient of Green Space. The CSSR proposes to alter the quantitative requirements of Policy G4 (quantity aligned to dwelling size), and was submitted for examination in August 2018. Examination hearing sessions were completed at the end of February/ beginning of March 2019 and the Inspector's Main Modifications were issued on April 10<sup>th</sup> 2019. The advanced nature of this review is such that significant weight can now be attached.
- 10.14 The northern portion of the application site will accommodate the proposed dwellings, associated incidental openspace and private garden areas with the southern portion of the site reliant on providing greenspace through the creation of a mown circulatory footpath, informal seating, biodiversity features and managed as a usable habitat meadow. As a whole, the southern part of the site is in excess of the size of public green space required to be provided for 52 dwellings (the CSSR amended quantitative policy requirement would equate to 0.23ha), however, this land is already designated as green space. So, in quantitative terms, no additional green space is being provided through this application proposal. It is recognised that the land is currently very overgrown and unmanaged therefore limiting its usability. However this lack of management and access does potentially provide habitat benefits. This proposal will open this land for unrestricted public use with the addition of informal seating and footpath serving an additional amenity/ play function which along with formal management has the potential to result in some changes in the way this space can be used and accessed. Certainly this would help to meet the needs for accessible green space to serve the occupants of the proposed dwellings but would alter the area's habitat credentials.
- 10.15 Paragraph 73 of the NPPF sets out that LPAs should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old. When measured against the Adopted Core Strategy housing requirement in Policy SP6 (at 4,700 homes per annum) the Council can demonstrate a 4.79 year supply of housing, inclusive of backlog and appropriate buffer as set out in the Housing Delivery Test. This is not the full 5 year supply as required by para 73 of the NPPF and under such circumstances it would be usual for paragraph 11 of the NPPF to be engaged and the most important policies for determining the application to be considered out of date for decision taking.
- 10.16 Accordingly, para 11(d) of the NPPF is relevant to this determination. This is known as the "tilted balance" of decision taking, where there is a presumption (or "tilt") in favour of sustainable development as set out in para 11 of the NPPF. Planning permission under these circumstances should be granted, except where specific policies in the NPPF indicate otherwise (para 11(d)(i)) or the benefits are 'significantly and demonstrably' outweighed by the adverse impacts (para 11(d)(ii)). The "tilted balance" is a matter of planning judgement and the weight to be given to local development plan policies is a matter for the decision taker. To that end, there

are material considerations that are relevant to this balance and which when considered together support refusal of this application.

- 10.17 The first main consideration here is the way in which the highly advanced Local Plan documents and other policies in the Framework help clarify the position of Leeds' housing land supply as being fully in line with the Framework's ambition to significantly boost the supply of homes in paragraph 59
- 10.18 First, there is no evidenced need for housing on the application site, to meet up to date local needs and therefore the development's benefits in terms of housing provision are not sufficient to outweigh its adverse impacts. This is on the basis that significant weight can now be attached to the emerging Policy SP6 of the CSSR. Policy SP6 sets a revised target between 2017 and 2033 of 51,952 (or 3,247 homes per annum) which has been based on a local housing need assessment, subject to examination by an independent Inspector and remains unchanged in the Inspector's published Main Modifications (10th April 2019). Upon adoption of the CSSR (est. September) the revised requirement, when measured against the supply within the SHLAA 2018 Update, would provide for circa 9 years' worth of housing land. It is noted that the SHLAA 2018 Update took account of the Government's updated definition of delivery.
- 10.19 Second, and set out here simply as information for the decision taker, even if the CSSR requirement was not adopted, the adopted Core Strategy will be five years old in November 2019. At that point the Government's standard methodology housing need figure would be used in line with the Housing Delivery Test. This is lower than the figure being promoted through the CSSR and if used would provide for more than 9 years supply.
- 10.20 Third, the SAP releases allocations from the Green Belt in order to boost the supply of housing in Leeds. The SHLAA 2018 Update reflects that upon Adoption of the SAP (est. July 2019) this specific deliverable supply would enhance the Council 5 year supply position against the Adopted Core Strategy to provide a 5.5 year land supply. The report already notes that significant weight can be given to the SAP given its advanced stage.
- 10.21 In considering all of the above, whilst the tilted balance is engaged the proposed development cannot be supported as it would result in the loss of a significant area of greenfield land. This land plays an important role as part of an open swathe of green space within an otherwise built up area and its development would be contrary Policies H2 and G6 of the Core Strategy. Whilst only the southern part of the application site is currently designated by the UDP Review, it is all to be designated as green space by the SAP. The SAP has not yet been adopted but should, in accordance with paragraph 48 of the NPPF, be afforded significant weight. The loss of the northern part of the application site as Green Space would consequently be contrary to Policy G6 of the Core Strategy. Moreover, the proposed development results in a significant loss in area of the Leeds Habitat Network, adversely impacting on its integrity and connectivity, contrary to Policy G9 of the Core Strategy Policy.
- 10.22 Aligned to the policy position, in order to fully consider whether the application is sustainable, it is considered also important to assess the development in how it responds to its surroundings, impacts on the highway network, flood risk and existing drainage infrastructure and any effects on residential amenity. These matters are considered in more detail below.

## **2. Highways and access:**

- 10.23 As assessed by the Council's highways officer the application site does not quite fully meet the Core Strategy Accessibility Standards. The centre of the site lies just outside the designated 400m distance (5 minute walk time) of bus stops located on Ninelands Lane and Green Lane. The site is however within a 5 minute walk of bus stops located on Fairburn Drive and amendments to the detailed layout have introduced further pedestrian access points to assist connectivity (Welland Drive and Kennet Lane) and access to public transport services. Fairburn Drive is served by bus services 166 and 175A but these do not appear to meet the designated standard of 4 buses per hour to a major public transport interchange (defined as Leeds, Bradford or Wakefield). However, the site is within a 10 minute walk (800m) of East Garforth Railway Station, which provides a 30 minute service frequency to Leeds City Centre. Access to a good, reliable rail service is considered to be a significant benefit as whilst only providing a 30 minute service, travel times to Leeds (as the largest centre) are significantly less than if using the bus.
- 10.24 With respect to access to other services, a limited range of local services are present within the nearby shopping parade on Fairburn Drive, including a convenience store, post office facility, pharmacy. A doctor's surgery is also very nearby at Hazelwood Avenue although additional medical facilities are available at Garforth Medical Practice (Church Lane) and is within a 20 minute walk distance (1600m). More extensive services within the town centre of Garforth are also available, just outside the specified 15 minute walk distance.
- 10.25 Ninelands Primary School is located on the opposite side of Ninelands Lane some 200m away and there are two other primary schools within the required 1600m walk distance (Garforth Green Lane Academy, off Ribblesdale Avenue and St Benedicts Catholic Primary School, off Station Fields). The nearest secondary education facilities (Garforth Academy, off Lidgett Lane) is also within the required 30 minute walk (2400m) of the site. In light of the above assessment, the overall accessibility of the site is considered to provide a good level of access to most services. Those which do not fully meet the specified accessibility standards are either only marginally further away or in the case of transport some bus services are available and a good alternative is also provided by the train. For these reasons the Council's Highways officer raises no objection and officers support this position.
- 10.26 The transport statement accompanying this submission shows that the proposed development will not impact on existing junctions close to the development to justify off-site highways works. The additional vehicles generated from this development, based on surveyed data from a neighbouring estate in Garforth, will not significantly affect the already modelled highway network. The proposal is predicted to add only 8 AM peak and 4 PM peak additional vehicles exiting from Bar Lane onto Aberford Road. The Council's Highways officer therefore considers that this will not materially impact on the operation of this junction. Whilst it is recognised that there is pressure on the highway network at this location, the above figures are insignificant in terms of the total movements through the junction and it would therefore be difficult to substantiate a highway objection on this issue. Particularly as the NPPF advises that threshold requirement of 'severe' impact is needed to support a highway refusal reason.
- 10.27 Parking provision is largely provided via open spaces (driveways and within private road) and where individual properties are shown to have garages these are over and above the open provision already laid out. All properties have at least 2 off-street parking spaces with many having more. Accordingly the development meets the Council's parking requirements.

- 10.28 The latest proposed site layout has some unresolved issues in respect of the detailed design including dedicating visibility splays as highways, specific junction design, extent of adoption, separation distance between trees and highways, identification of visitor parking spaces, bin storage and electric vehicle charging points. These unresolved items are all relatively minor and would normally be fully resolved during consideration of the application. However, the submission of a non-determination appeal is such that work on these issues has effectively stopped. Notwithstanding this, most outstanding issues simply require the submission of further information (e.g. details of the electric vehicle charging points) and are not matters which officers consider to reasonably translate into a formal reason for refusal as they can be overcome by way of the imposition of appropriate planning conditions.
- 10.29 Overall, the proposed development can be safely accessed by pedestrians/ cyclists/ vehicles (subject to resolution of specific highway design details), complies with the Council's car parking standards and will not adversely impact on the highway network. The submission of a non-determination appeal stopped any further negotiations on travel plan measures and public transport enhancements and whilst no highway objection is advanced against the development the absence of an appropriate mechanism to secure these provisions (a s106 agreement) this matter would amount to a reason for refusal.

### **3. Design, visual amenity and character:**

- 10.30 The application site comprises an area of grassland/ scrubland that contains clusters of tree/ vegetation growth, mainly to its perimeter with a belt of tall poplar trees aligning the western boundary. The site is to be principally accessed from the residential development currently being built out to the west.
- 10.31 The proposed housing development is to occupy the northern portion of the site and the site shape largely dictates the layout which creates a main street with dwellings fronting along its length, offering enclosure to the street with short sections of cul-de-sac extending off. The proposed layout includes on-site public openspace, located within the southern portion of the site, in an area which will have a multi-functional purpose intended to accommodate biodiversity enhancements (managed as a usable habitat meadow) as well as associated drainage infrastructure. The public openspace is not integrated within the housing layout and lies to the south with limited natural surveillance but it is recognised that opening this land up for unrestricted public use would help to meet the needs for locally accessible green space to serve the occupants of the proposed dwellings.
- 10.32 The proposed house types are considered to be well designed and contextually appropriate, reflecting the appearance of the adjacent housing development currently under construction. The dwellings have hipped tiled roofs with variations in appearance provided by gable fronts and projecting bay window details to offer visual interest. The two storey height allows for a compatible relationship with the established two storey dwellings that stand to the east. The proposal includes 15 different house-types and they display a consistency of design, materials and detailing and will appear as a cohesive group. The proposed house-types are considered to be acceptable from a design perspective.
- 10.33 The proposed dwellings afford adequate space between plots with off-street parking contained within individual curtilages. Parking provision to the side of dwellings allows for the creation of front gardens and ensures the street scene is not unduly

dominated by the presence of motor vehicles or hard surfacing. The proposal has scope to suitably integrate functional bin/ cycle storage facilities within the development without causing detriment to the site appearance. The plots that are side-on to the highway include robust boundary treatments (walling) to present a visually attractive boundary to the street. Precise details of the boundary treatments can be dealt with by planning condition.

- 10.34 The proposed housing layout includes pedestrian links to the residential streets Welland Drive and Kennet Lane. These points of connection are directly overlooked by proposed and existing housing and will help integrate the development with the existing housing, providing convenient and safe access between for footpath users.
- 10.35 Overall and notwithstanding the objection to the development in principle, it is considered that the proposed housing layout and house-types used strike a good balance between providing a quantum of development in a respectful design in accordance with Core Strategy policy P10 and saved UDP Review policy GP5 and does not warrant refusal in design terms.

#### **4. Residential amenity (incl. dominance, overshadowing, overlooking):**

- 10.36 The proposed replacement residential development is, in use terms, compatible with the nearby residential properties that border the site. However, careful regard is given to any dominance, overbearing, overshadowing or overlooking issues to these adjacent neighbours.
- 10.37 The proposed house types are two storey in height and considered appropriate given the site's context. The site layout affords adequate separation distances to the existing dwellings. Particular care has been given to ensure the position and orientation of the plots standing adjacent to the existing dwellings to the east are compatible and that suitable orientations and distances are provided from the proposed where the spatial relationships are at their closest. Full details of the proposed and existing land levels in relation to the existing dwellings to the east will be necessary to ensure the levels are compatible and do not lead to adverse dominance impacts and this matter can be adequately dealt with by planning condition. In order to prevent overlooking to adjacent land it will be necessary to restrict the first floor side elevation windows proposed to be obscure glazed (these windows all serve bathrooms/ en-suites) and restrict the insertion of any additional first floor side windows to identified plots. Again this matter can be adequately dealt with by planning conditions.
- 10.38 Having regard to the amenity of future occupants of the dwellings, it is considered that adequate private garden space is provided across the site and would provide suitable outlooks and living conditions for occupants. In addition to the provision of reasonable level of outdoor space and outlook there is also the need to ensure the internal accommodation being offered is adequate. On this issue, the government introduced optional national technical housing standards which state the minimum quantum of accommodation for dwellings as well as room heights and sizes. The national space standards do not currently form part of the adopted development plan but as specified in para. 8.23 the Council is moving towards this position through the CSSR (Policy H9). With this in mind and taking account of the nature and likely family occupancy of the proposed house-types are assessed to meet or exceed the internal space standards.
- 10.39 In addition to the space standards, the CSSR policy H10 introduces accessibility standards for newly constructed dwellings. This policy requires 30% of dwellings to

meet the requirement of M4(2) 'assessable and adaptable dwellings' of Part M Volume 1 of Building Regulations and 2% M4(3) 'wheelchair user dwellings'. This equates to 16 x M4(2) dwellings and a single M4(3) dwelling. In the absence of any information demonstrating that these requirements can be met, officers are not confident that planning conditions could be used to secure CSSR policy H10 requirements as changes to the design, layout, size and potentially the housing mix could be necessary. For this reason and again noting the impending adoption of the CSSR non-compliance with the emerging accessibility requirements is considered to amount to a reason for refusal.

- 10.40 Mindful of objector concerns raised about the amenity impact of construction activity and given the site's closeness to existing residential properties a construction management plan could be secured by planning condition (incl. restrictions on construction hours) to safeguard neighbour amenity.
- 10.41 Overall, it is considered that the proposed layout and house-types are not considered to unreasonably impact on the residential amenity of nearby residences and would provide an adequate level of accommodation for future occupiers in terms of outlook, receipt of daylight and amenity space.

## **5. Other matters:**

- 10.42 Housing capacity and mix: The minimum density requirements for new developments within Garforth should meet or exceed 40 dwellings per hectare and the developed part of the application site (northern portion) broadly complies with this. With respect to housing mix, the number of 2, 3 and 4 bedroom houses sit within the parameters of the relevant policy requirements and therefore includes an appropriate mix of dwelling types and sizes to address needs. Although no flats are provided, smaller household provision is accommodated via the 2 bed dwellings and officers have not pursued flats due to the site's relatively small size and the prevailing character which is family housing.
- 10.43 Affordable housing: The proposed development includes the provision of affordable housing. An affordable housing target of 15% applies for residential schemes involving 15 or more units in Garforth. The application has been revised to meet this requirement, with the provision of 10 affordable dwellings, exceeding the policy quantitative requirements. The units are also considered to be suitably integrated within the development site. Whilst officers are content with the level of affordable housing provision that is identified, in the absence of an appropriate mechanism to secure this provision (s106 agreement) this matter would amount to a reason for refusal in its own right. Accordingly such a reason is included within the officer recommendation albeit officers will, as part of the appeal process seek to ensure this matter is fully resolved.
- 10.44 Sustainability: In accordance with adopted Core Strategy policies EN1 and EN2 (and also the requirements set out in the revised CSSR policy wording) it is expected the development will incorporate a range of design and energy/ water efficiency measures and low and zero carbon technologies in order to help reduce energy consumption and deliver reductions in CO2 emissions and this matter can be appropriately dealt with by planning conditions.
- 10.45 Drainage and flood risk: It is recognised that this part of the Garforth has experienced drainage and flooding issues and residents are sensitive to new developments and the impacts these have on existing drainage infrastructure and the ground water conditions. However, the application site does not lie within an

identified flood risk zone and an on-site survey has identified existing drainage infrastructure to which the proposed development can suitably connect to. Yorkshire Water have confirmed no objections to the revised proposal and the Council's Flood Risk Management officer is satisfied with the contents of the submitted surface water drainage strategy which sets out proposed maximum discharge rates (5l/s) from the site and attenuation options for excess run-off. Ultimately, the detailed drainage calculations, final attenuation measures for surface water flows and the installation of any water saving devices and water butts can be adequately dealt with by planning conditions.

- 10.46 Contaminated land: In respect of land contamination matters, officers have reviewed the submitted Phase 1 desk study report accompanying the application which recommends that a Phase 2 site investigation is carried out and contamination officers are content that such additional work can be covered by conditions.
- 10.47 Coal mining legacy: The application site falls within the defined Development High Risk Area with coal mining features that need to be taken account of within the development proposal. The Coal Authority records indicate that there are two mine entries within the site (to the northern and southern portions of the site), a mine entry within 20m of the site boundary and likely historic unrecorded workings at shallow depth.
- 10.48 The Coal Authority advise that the applicant has supplied a revised Geo-Environmental Appraisal direct to them identifying the precise location of a mine entry within the northern portion of the site, confirming that the entry will not be under or close to proposed dwellings as well as a means to treat/ cap the mine entry. The Coal Authority had requested that more detailed consideration be given to a mine entry within the southern portion of the site. Upon the submission of revised landscaping details incorporating defensive planting, designed to prevent unhindered access to this part of the site, The Coal Authority consider that this would move things forward and would be likely to withdraw its objection (subject to conditions) should the revised Geo-Environmental Appraisal be formally submitted to the local planning authority. The revised report has not been formally submitted, and in its absence, officers consider that inadequate information to address coal mining legacy issues and inform development layout has been supplied and this would amount to a reason for refusal. This unresolved matter is not expected to constitute a substantive issue but one that could be resolved during appeal proceedings.
- 10.49 School provision: The concerns expressed in a number of the third party contributors regarding school capacity are noted. Although officers appreciate access to local schooling is a very real issue for many and that current projections on available school places indicates that over the next 5 years there may be insufficient capacity available to meet the additional primary and secondary demand generated by the development, there is no formal planning policy requirement for the applicant to make any provision beyond CIL as education features in the Council's 123 list.
- 10.50 Health provision: With regard to health infrastructure, the provision of health facilities falls within the remit of NHS England and at a local level, Leeds' three Clinical Commissioning Groups. Whilst clearly the introduction of housing on the site will increase the demand for both doctor and dentist services, providers plan for their own operating needs and part of this includes responding to changes in local demand. Existing practices determine for themselves (as independent businesses) whether to recruit additional clinicians in the event of increased demand. Practices can also consider other means to deal with increased patient numbers, including

increasing surgery hours. With this context in mind and noting the site's accessibility credentials no site specific requirements are considered to exist.

10.51 **Community Infrastructure Levy (CIL)**

CIL was adopted by Full Council on the 12<sup>th</sup> November 2014 and was implemented on the 6<sup>th</sup> April 2015. The application site is within CIL Zone 2b. Based on the floorspace currently proposed (discounting the affordable units which are likely to be eligible for CIL relief, subject to the submission of the appropriate paperwork), the development proposal is anticipated to generate a CIL requirement of approximately £228,825. Consideration of where any Strategic Fund CIL money is spent rests with Executive Board and will be decided with reference to the 123 list.

**11.0 CONCLUSION**

- 11.1 At present Leeds is unable to demonstrate a five year housing land supply and this is the applicant's substantive argument in terms of pursuing this appeal on the basis the Framework does direct that where an authority is unable to demonstrate a five year housing land supply, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The "tilted balance" of decision taking is therefore relevant to this application determination.
- 11.2 Notwithstanding the above, when taking account of the highly advanced Local Plan documents and other policies in the Framework these clearly set out the position of Leeds' housing land supply as being fully in line with the Framework's ambition to significantly boost the supply of homes. The imminent adoption of these Local Plan documents is therefore a significant material consideration.
- 11.3 Whilst the tilted balance is engaged the proposed development cannot be supported as it would result in the loss of a significant area of greenfield land which plays an important visual, amenity and ecological role in an otherwise built up area, lead to a loss of the northern part of the application site as Green Space and results in a significant loss in area of the Leeds Habitat Network, adversely impacting on its integrity and connectivity. Consequently, the proposed development is contrary to policies H2, G6 and G9 of the Core Strategy and should be resisted.
- 11.4 Notwithstanding the planning policy position, it is considered that the proposed housing layout and house-types used strike a good balance between providing a quantum of development in a respectful design and does not warrant refusal in design terms.
- 11.5 Whilst it is considered that the design and layout of the scheme raises no specific design concerns and would not compromise the amenities of existing neighbours, it has not been demonstrated how the proposed house-types would meet accessibility standards for new housing and are therefore considered contrary to CSSR policy H10.
- 11.6 The proposed development is to be principally accessed from a neighbouring residential development to the west of the site with footway connections to two established residential streets in the east. The proposed development complies with the Council's car parking standards and subject to resolution of specific highway design details, which can be adequately dealt by planning conditions no highway conflict is identified.

- 11.7 The application site falls within a defined Development High Risk Area for coal mining features and hazards. The applicant has supplied additional information directly to the statutory consultee, The Coal Authority, but this information has not been formally submitted as part of this planning application. In the absence of this information it has not been adequately demonstrated that the coal mining legacy issues have been fully addressed and this matter amounts to a further reason on which to contest the appeal.
- 11.8 The submission of a non-determination appeal stopped any further negotiations on the provision of affordable housing, greenspace, travel plan measures and public transport enhancements and in the absence of an appropriate mechanism to secure such provisions (a s106 agreement) this matter also amounts to a technical reason for refusal that the appeal needs to be contested on. Officers will nonetheless seek to make progress on these matters during the appeal.
- 11.9 The development would not cause harm to flood risk, contamination nor public health and these are neutral matters which weigh neither for nor against the scheme, and which can be mitigated by conditions where required.
- 11.10 The proposed development would deliver market housing which is capable of being considered a very significant benefit, however in this instance it is considered to not be a benefit which is sufficient to outweigh the proposal's adverse impacts on a greenspace allocation in the highly advanced SAP to which significant weight can be attached. Notably, the SAP allocation process also discounted the site as being suitable for housing development.
- 11.11 It is thus considered that applying the tilted balance, the application should be recommended for refusal as the adverse impacts of the scheme significantly and demonstrably outweigh the benefits of housing delivery. As such had planning officers been in a position to advance a recommendation prior to the appeal on non-determination grounds it would be for planning permission to be refused. Owing to the inability to conclude other detailed matters additional technical reasons for refusal are also advanced by officers.

**Background Papers:**

Application and history files.