

Item Number: 10
Application No: 15/01156/MOUT
Parish: Kirkbymoorside Town Council
Appn. Type: Outline Application Major
Applicant: Ms V Greetham
Proposal: The erection of 16 no. 3 bed semi-detached dwellings, 3 no. 1 bed apartments and 1 no. 1 bed duplex apartment with associated access and parking areas together with the realignment of the existing road.
Location: North Yorkshire Highways Depot Manor Vale Lane Kirkbymoorside YO62 6EG

Registration Date:
8/13 Wk Expiry Date: 22 April 2016
Overall Expiry Date: 17 March 2016
Case Officer: Alan Hunter **Ext:** Ext 276

CONSULTATIONS:

Environmental Health Officer	Potential issues previously raised are worse
Land Use Planning	Conditions to be attached if permission granted
Historic England	No wish to comment in detail - observations made
Countryside Officer	Comments made
Flood Risk (Stuart Edwards)	Objection
Tree & Landscape Officer	Comments made
Archaeology Section	No objection
Parish Council	Support - comments made
Highways North Yorkshire	Recommend conditions
Environmental Health Officer	Object
Historic England	Do not wish to offer any comments
Sustainable Places Team (Yorkshire Area)	No objections - recommendations made
Archaeology Section	No known archaeological constraint
Flood Risk (Stuart Edwards)	Additional comments made and previous comments still apply
Highways North Yorkshire	Await amended documents before making a formal recommendation
Parish Council	Concerns regarding flooding
Public Rights Of Way	Recommend Informative
Land Use Planning	The comments and conditions letter dated 4 November 2015, are still relevant for the proposed development.
Environmental Health Officer	Object
Housing Services	Comments received
Neighbour responses:	Mr John Wright, Mike And Andrea Cooper, Mr John Barrett, Mr Paul Birchall, Mr James Holt, Mr Paul Birchall, Mr And Mrs Malcolm Dowson, Mr Brian Bancroft, Liz & Paul Banks, M J & G G Bowsher,

SITE:

This site is located towards the northern end of Kirkbymoorside, and at the northern end of Manor Vale Lane. Manor Vale Lane runs through the application site and becomes a single track road which provides vehicular access to the Kirkbymoorside Golf Club which lies to the north of the application site.

The application site was previously used as North Yorkshire County Council offices associated with the Kirkbymoorside Area Highways depot operations. The site comprises a former quarry. Various buildings and structures occupy the eastern part of the site which lie beneath a cliff face. These buildings consist of offices, stores and garaging, whilst to the north of the buildings is a hard-surfaced car park. At present that site is derelict, and with the exception of the roadway, it has security fencing around its inner sides.

The western boundary of the site also comprises a cliff face. To the south and west of the application site, are two community halls, one of which is used as a Scout Hut and the second of which is a Band Headquarters. The Band Hall has recently been granted planning permission to extend onto the site occupied by the Scout Hut to create a Concert Hall.

Residential development is located on top of the cliff to the west of the application site. To the north-east is further residential development. To the south, various dwellings are located on Manor Vale Lane. This comprises the approach to the site from the town.

The site lies immediately to the north of the Kirkbymoorside Conservation Area. Part of the site lies within the development limit for Kirkbymoorside. This consists of the buildings which lie immediately to the east of the Scout Hut and Band Hall. The rear boundary of the development limit coincides with the northern side of these buildings. The land to the north, which is outside the development limit, falls within the Area of High Landscape Value (Fringe of the North York Moors). An area designated as a Site of Importance for Nature Conservation and Ancient Woodland is located to the northern side.

An area to the north-east and immediately adjacent but outside the application site is designated as an Scheduled Ancient Monument (Neville Castle)

PROPOSAL:

This is an outline planning application which seeks approval for the proposed access, layout, scale and landscaping to be considered. External Appearance is a Reserved Matter.

The application proposes 16no. 3 bed dwellings, 3 no. 1 bed apartment and a 1 bed duplex apartment together with the realignment of the highway and associated access and parking areas. All of the dwellings are in the form of frontage development which runs along the both the western and eastern sides of the site.

Six of the dwellings are also located within the development limit and ten are located outside the development limit and also within the AHLV. The 10 no. dwellings proposed beyond the development limit are proposed to be 'Rural Productivity' dwellings. There is no information as to what constitutes a 'rural productivity' dwelling.

The dwellings beyond the development limit are proposed on the western side of the newly aligned road with parking on the eastern side. The dwellings within the development limit feature the apartments on the southern side with 3 pairs of identical semi-detached properties to the north on the eastern side.

The 16no 3-bed semi-detached properties shall each measure 4.9m in width by 7.3m and 6.1m to eaves height and 9m to the ridge height. The dwellings are proposed to be finished in render and cedar cladding under a slate roof with timber windows and doors.

The building containing the 3no. 1-bed apartments and 1no 1-bed duplex apartment will have a footprint approximately measuring 13m by 9m at its largest and be 7.2m to the eaves height and 10.4m to the ridge height. The building is proposed to be finished in render, brick, and cedar cladding, under a slate roof with timber windows and doors.

The application is accompanied by the following reports:

- Planning Statement;
- Landscape and Visual Appraisal;
- Noise Assessment;
- Tree Survey;
- Asbestos removal survey;
- Archaeology assessment;
- Contaminated Land Report - Phase 2 report;
- Surface water drainage calculations;
- Design & Access Statement; and
- Ecology surveys.

These reports are able to be viewed on the Council's website.

HISTORY:

Recent planning history includes:

2014: Planning application for B1 and B8 use- dismissed on appeal.

2014: Change of use of office to a dwelling refused – dismissed on appeal.

2014: Two planning applications for residential development withdrawn.

2013: Demolition Consent granted to demolish the redundant buildings on the site.

2008: Planning permission refused for residential development on this site – dismissed on appeal.

POLICY:

National Policy

National Planning Policy Framework 2012 (NPPF)

National Planning Practice Guidance 2014 (NPPG)

Local Plan Strategy

Policy SP 1 – General Location of Development and Settlement Hierarchy

Policy SP 2- Delivery and Distribution of New Housing

Policy SP 3 – Affordable Housing

Policy SP 4 – Type and Mix of New Housing

Policy SP 11 – Community Facilities and Services

Policy SP 12 - Heritage

Policy SP 13 - Landscapes

Policy SP 14 - Biodiversity

Policy SP 16 - Design

Policy SP 17 – Managing Air Quality, Land and Water Resources

Policy SP 19 – Presumption in favour of sustainable development

Policy SP 20 – Generic Development Management Issues

Policy SP 22 – Planning Obligations, Developer Contributions and the Community Infrastructure Levy

APPRAISAL:

The main considerations in relation to this application are:-

- the principle of the proposed residential development both within and outside the Town's development limit;
- the siting, scale and design of the proposed scheme;
- whether the proposed dwellings will have a satisfactory level of residential amenity;
- The impact of the proposed development upon surrounding properties;
- Heritage impacts;
- Affordable housing provision;
- Ecology and protected species;
- Contaminated land and ground stability;
- Archaeology;
- Drainage;
- Flood risk;
- The impact upon trees
- The impact of the proposal upon the landscape designated as an Area of High Landscape Value;
- Contamination and ground stability; and,
- CIL.

This application was originally submitted as an Outline application with all matters reserved. The Local Planning Authority confirmed in accordance with **The Town & Country (General Development Procedure) Order 2015 Part 3 Section 5 (2)** that full details of the proposal were required. The applicant agreed to provide all the information with the exception of External Appearance. In the circumstances the Local Planning Authority can withdraw the requirement for External Appearance to be considered at this stage. The scale, layout, access and landscaping details are considered to be sufficient to enable the proposed development to be properly considered at Outline stage. Following receipt of this information, the application was the subject of a full re-consultation with interested parties.

Members will be aware from the site history that planning permission was refused for residential development on this site and subsequently dismissed on appeal. A copy of that appeal decision and block plan showing the layout previously considered is appended for Members' information.

The earlier application that was dismissed on appeal because of the layout and suburban arrangement of dwellings; the potential for future residents to have significant amenity impacts from the band hall; the impact of the proposal upon the character and appearance of the area, the lack of information regarding ecology, and inadequate affordable housing provision.

This application is a 'Major' planning application and therefore has to be determined by the Planning Committee.

The principle of the proposed development

The proposed 6 no semi-detached properties and 4 no. flats at the southern part of the site are located within the development limits of Kirkbymoorside. In accordance with Policy SP2 it is considered that the development of the part of the application site within development limits can be regarded as 'infill' development and acceptable in principle.

The area beyond for a further 10 dwellings lies beyond the Kirkbymoorside development limit. That part of the site is therefore outside of the development limits of Kirkbymoorside. The principle of developing this site is therefore contrary to Policy SP2 of the Local Plan Strategy. However, as the Council has not finalised its housing allocations there is an opportunity to assess the site in terms of Policy SP19 and the presumption in favour of sustainable development which runs through both local and national planning policy. Kirkbymoorside is designated as a 'Local Service Centre' and an area identified for some growth over the plan period (2013 - 2028) of approximately 300 dwellings. One site has recently been granted for Outline approval for up to 225 dwellings. The Council is currently considering other sites in Kirkbymoorside for allocation through the Sites Document. It is also important to note that the Council currently has a 5.92 years of housing supply, and therefore is not under immediate need to approve residential development on non-allocated sites outside of development limits to meet its supply. The principle of residential development on this site is therefore not established. There may be some benefits of developing this brownfield site however, careful consideration of any harm identified in the appraisal below will also need to be weighed in the planning balance.

The siting, scale and design and materials of the proposed development

The Inspector in 2008 stated

'The appellant argues that the layout would 'break up' the development although in my view its suburban estate style layout would appear alien in its disused quarry setting, neither reflecting its industrial heritage nor enhancing its landscape setting.'

'.. I conclude that the proposal would be harmful to the character and appearance of the site, including both parts within Kirkbymoorside's defined development limits and parts of it within Kirkbymoorside's development limits and the parts within the AHLV'

Policy SP16 of the Local Plan Strategy states:

'Development proposals will be expected to create high quality durable places that are accessible, well integrated with their surroundings and which:

- Reinforce local distinctiveness
- Provide a well-connected public realm which is accessible and usable by all, safe and easily navigated
- Protect amenity and promote well-being. To reinforce local distinctiveness, the location, siting, form, layout, scale and detailed design of new development should respect the context provided by its surroundings including:
 - Topography and landform that shape the form and structure of settlements in the landscape
 - The structure of towns and villages formed by street patterns, routes, public spaces, rivers and becks. The medieval street patterns and historic cores of Malton, Pickering, Kirkbymoorside and Helmsley are of particular significance and medieval two row villages with back lanes are typical in Ryedale
 - The grain of the settlements, influenced by street blocks, plot sizes, the orientation of buildings, boundaries, spaces between buildings and the density, size and scale of buildings

- *The character and appearance of open space and green spaces including existing Visually Important Undeveloped Areas (VIUAs) or further VIUAs which may be designated in the Local Plan Sites Document or in a Neighbourhood Plan. Development proposals on land designated as a VIUA will only be permitted where the benefits of the development proposed significantly outweigh the loss or damage to the character of the settlement*
- *Views, vistas and skylines that are provided and framed by the above and/or influenced by the position of key historic or landmark buildings and structures*
- *The type, texture and colour of materials, quality and type of building techniques and elements of architectural detail'*

In this case, 16 no. identical 3-bed semidetached properties are proposed. They are spaced in a regular pattern. The individual design of the properties is considered to be appropriate to the locality, and the render reflects other rendered properties in Kirkbymoorside. Equally the proposed materials are considered to be appropriate, although some use of clay pantiles would be preferred.

There is, however, concern at the form and layout of the proposed development and its relationship with the traditional vernacular of Kirkbymoorside, a historic Market Town. The traditional character of the settlement comprises mainly terraced properties at the back edge of the footpath in an 'organic' form, with variation in heights and materials. As compared to the proposed scheme, which comprises a very regular and regimented arrangement of dwellings which appears suburban in its form and layout. Furthermore, it is not considered that this form of development would successfully relate to the industrial heritage on this site, a point made by the Inspector in 2008.

In view of the above it is considered that the regular layout and form of dwellings as is not locally distinct or consistent with the objectives of SP16 of the Local Plan Strategy.

Whether the proposed development will have a satisfactory level of residential amenity

Policy SP20 of the Local Plan Strategy states:

New development will not have a material adverse impact on the amenity of present or future occupants, the users or occupants of neighbouring land and buildings or the wider community by virtue of its design, use, location and proximity to neighbouring land uses. Impacts on amenity can include, for example, noise, dust, odour, light flicker, loss of privacy or natural daylight or be an overbearing presence.

Developers will be expected to apply the highest standards outlined in the World Health Organisation, British Standards and wider international and national standards relating to noise'

There are concerns in respect of the following issues:

- The potential for noise and disturbance from the adjacent band hall
- The position of the cliff faces on the western and eastern sides measuring up to 10m above the site level proposed for the houses
- The existing trees on the top of the cliff faces

Kirkbymoorside Band Hall is located opposite the site, together with an existing scout hut. Planning permission (15/00644/FUL) was granted last year for an extension of the band hall onto the site of the scout hut to create a concert hall. The band hall is an important community and recreational facility that is afforded protection within the Local Plan Strategy.

Policy SP 11 of the Local Plan Strategy states:

'Existing local retail, community, cultural, leisure and recreational services and facilities that contribute to the vitality of the towns and villages and the well-being of local communities will be protected from loss/redevelopment unless it can be demonstrated that:

- *there is no longer a need for the facility or suitable and accessible alternatives exist, or*
- *that it is no longer economically viable to provide the facility, or*
- *Proposals involving replacement facilities provide an equivalent or greater benefit to the community and can be delivered with minimum disruption to provision'*

There is an issue with the co-existence of housing adjacent to the band hall and the degree of noise that future occupiers will be subject to and whether this will create complaints for the band hall. As noted above in Policy SP20 the Local Planning Authority requires the highest standards of noise for new residential developments. A Noise Assessment has been submitted. The Environmental Health Officer has objected and considers the assessment to be inadequate. The EHO is particularly concerned at the inter-relationship of housing and the band hall. The Environmental Health Officer has stated:

'I have examined the proposals for the above planning scheme and the associated noise report. I have compared the 2016 noise report with DC1112-R1 (June 2013) with the report associated with this application DC1112 – R1v4 (January 2016), other than some slight amendments to the proposed mechanical ventilation and minor amendments to the to the internal noise levels in Charter 5.2, the acoustic reports remain the same. It is noted that the previous typographical error has been amended to state that the report excludes assessment of the behaviour of the band members. The proposals do not differ in any significant way to the previous proposals for residential development for this site. Planning permission has however subsequently been granted permission for the Band Room to have an extension for a concert hall, which is likely to increase the intensification of activities from this site and potentially make intrusion even worse.

As the proposals do not differ in any significant way, my attached comments relating to the previous proposals remain valid and I object to the application. Both British Standards, BS 8233 and BS4142, have been revised in 2014, but BS4142 for instance has now even more correction factors for intrusiveness of the noise.

If permission were to be granted, in relation to contaminated land I attach the relevant e mails regarding requirement relating to contaminated land. The e mail dated 30 June 2014, refers to Report Reference 2013-655 dated 11 April 2014, this should be replaced in the proposed condition in the third line by reference to the updated report (Report Reference 2013-655 dated 21 January 2015v2).'

Additional noise information has been submitted, however the Environmental Health Officer has maintained his objection.

It is considered that the existing trees on the outer cliff sides will not provide a satisfactory level of amenity for the proposed occupiers, by reducing daylight and creating an overdominating sense of enclosure to the rear of the proposed properties. The Tree and Landscape Officer has suggested that the trees be removed and appropriate planting be undertaken. This has the potential to address the concerns in this respect. However, the prominence of the steep outer cliff sides will also be capable of having significant impacts upon the amenities of future occupiers.

The scheme has been designed with properties having a minimum of 10m from the rear elevation to the cliff faces for the 10no dwellings proposed beyond the development limits. This is not ideal. The proposed gardens will be dark areas at certain times of the day with a significant loss of sun light. There is even greater concern at the limited nature of the gardens and their proximity to the outer sides of the quarry for the proposed plots within the development limits.

As submitted however the layout and arrangement of dwellings is considered to be detrimental to the amenities of the future occupiers of the proposed dwellings.

The impact of the proposed development upon the amenity of the adjoining neighbours

The proposed residential properties themselves are not considered likely to be prejudicial to the amenities of surrounding properties, by virtue of the separation distances to those properties on Manor Vale and by virtue of the levels changes to those properties on higher land to the eastern and western sides of the site.

Impact upon the setting of Heritage assets

Kirkbymoorside Conservation Area boundary lies to the south of the application site. The Scheduled Ancient Monument of the former Neville Castle is to the north eastern side. There are also 7 grade 2 listed buildings in the locality. High Hall and Low Hall to the eastern and south eastern side (and accessed via Castlegate) and No. 10,12,14,18, and 20 Dale End.

There is not considered to be an adverse effect upon the setting of these nearby listed buildings given the levels and separation distances. Notwithstanding the above concerns regarding the form, design and layout of the proposed development, the character and appearance of the Conservation Area and views from the Conservation Area looking north along the road are considered to be preserved.

Heritage England do not object to the setting of the Scheduled Ancient Monument. It is not considered that the proposed development will have an adverse effect upon the setting of the Scheduled Ancient Monument given the site's location on substantially lower ground.

Flooding and drainage

Both foul and surface water is proposed to be drained via the mains sewer.

Yorkshire Water has accepted that the site is not suitable for soakaways and confirmed that there is no watercourse locally to accept surface water, also stated in the Phase 2 report submitted regarding details of ground conditions. As a result Yorkshire Water has accepted that surface water can drain into the public sewer. They have stated that:

'On- site attenuation, taking into account climate change, will be required before any discharge to the public sewer network is permitted. Surface water discharges to the public sewer must have a minimum of 30% reduction based on the existing peak discharge rate during a 1 in 1 year storm event.'

Yorkshire Water also recommends standard planning conditions in respect of drainage.

The agent has submitted calculations for this discharge rate including the 30% reduction required by Yorkshire Water.

NYCC's Flood Risk Officer has objected to the application and stated:

I note that since my last response calculations for surface water attenuation have been supplied. This states that existing runoff is based on 140l/s/ha; it is not clear where this figure comes from nor that it is obtained using recommended methods.

The report goes on to say that as there is a reduction in impermeable area that surface water attenuation is not required. This implies that the 1778m² reduction in impermeable area used in this calculation is 100% permeable and will not contribute to runoff. This is a flawed assumption and calculation, the 1778m² will generate runoff.

Whilst we accept that it can be demonstrated that surface water discharges by means of disposal to soakaway or watercourse is not practical, information is not presented to demonstrate preliminary detail of suitable surface water management proposals.'

In view of this, there is considered to be inadequate information submitted in respect of surface water flood risk. Moreover, without a suitable surface water drainage scheme, there is the possibility of increasing the risk of flooding to existing and proposed properties.

The site is also located within an area at high risk of flooding from surface water on the Environment Agency Surface Water Flood Maps.

Para. 101 of NPPF states:

'The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The Strategic Flood Risk Assessment will provide the basis for applying this test. A sequential approach should be used in areas known to be at risk from any form of flooding.'

and para. 103 of NPPF states:

'When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, and if required the Exception Test, it can be demonstrated that:

- *within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and*
- *development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.'*

The applicant has not been requested to undertake a Flood Risk Assessment, as the site is not above a hectare in area or located within Flood Zone 2 or 3. Instead it is located in Flood Zone 1, based on flooding mainly from Rivers and the Sea. However, it does lie within a high risk area for surface water flooding as identified on the Environment Agency surface flood water maps. Para. 101 and para. 103 of NPPF and Policy SP17 of the Local Plan do not exclude surface water flood risk from the sequential test. In this case, the site does flood and surface water comes from the higher land to the north down through the steps at Manor Vale Wood (eastern side) and across the application site. The water is then known to pool to the south of the site in Manor Vale.

To date the applicant has not been asked to produce a sequential test due to the other issues identified within this report. However, it is considered that there are other sites at Kirkbymoorside where new housing can be located in locations that do not flood and are therefore at a much lower risk of flooding. Therefore the Local Planning Authority does not consider that the application has passed the sequential test.

Archaeology

NYCC Heritage has no objection to the application.

Highway safety

The Highway Authority has responded and has questioned some of the proposed tree species within the highway as not being suitable. The Tree and Landscape Officer and the applicant's Landscape Consultant has commented on this. The final views of the Highway Authority are awaited. Members will be updated. NYCC High ways have not questioned other highway safety aspects of the scheme.

It is considered likely that there are no highway related objection to the proposal. Members will note that the road through the site is to be slightly realigned and moved eastwards in part. A turning head is also proposed on the eastern side, and the width of the road is a minimum of 5m with some parts at 6m. Members will appreciate that this represents an improvement to the current situation. The impact upon the junction of Manor Vale and Dale End will be considered by the Highway Authority, together with the lawful operations that previously operated from the site. Members will be appraised of the Highway Authority's final position in due course.

Affordable Housing

Policy SP3 of the Local Plan Strategy requires a contribution of 35% on-site affordable housing provision. This equates to 7 no. affordable units

The application proposes 3 no. 1 bed flats and 1 no. duplex apartments.

The Council's Housing Officer requires 7 units to be provided, 4 x 1 bed units and 3 x 1 bed units. The full response is appended to this report.

The provision of 4 on-site properties is a 20% contribution towards affordable housing and below the required 35% on-site contribution. No financial justification has been submitted to justify a reduced provision of affordable housing on site. The proposed affordable housing provision is therefore contrary to the requirements of adopted Policy SP3 of the Local Plan Strategy.

Mention is made within the submission about the 10 dwellings outside the development limit being 'Rural Productivity' dwellings. It is not clear what is meant by this term, and such units are not consistent with the adopted Development Plan. If the agents are referring to 'starter units', these too would not be consistent with the requirements of the development plan. Whilst changes have been consulted on nationally with regard to 'starter units' these changes have not been implemented and the Local Planning Authority has a duty to determine the application in accordance with the adopted Development Plan.

Contamination and ground stability issues

The Environmental Health Manager has provided a copy of the previous response to the Phase 2 report on this site which recommends a condition in respect of ground contamination and requires further detailed assessment of potential contaminants on the site. If this application is recommended for approval it is recommended that an appropriate condition in this respect be imposed.

There are caves on the site, and there are some reservations about ground stability for the construction of the proposed dwellings. However, the Local Planning Authority does not have any evidence with regard to ground stability issues on the site and there is no evidence to substantiate this as a reason for refusal. If the application is approved, a 'grampian' style pre-commencement condition could be considered to require the applicant to demonstrate the ground is stable and capable of accommodating the proposed development. In view of the above objections, however, this has not been requested from the applicant prior to the determination of this application. Moreover, if approved, the safe construction of the development in relation to ground conditions will be addressed in accordance with Building Regulations.

Ecology and the impact of the proposed development upon protected species and Manor Vale SINC

Ecological and Protected Species surveys have been undertaken. They have confirmed that there would not be a material adverse effect upon Manor Vale Woodland (SINC) to the north.

The Countryside Management Officer has no objection subject to conditions regarding mitigation, method statements, and enhancements described with the submitted reports. Furthermore, the Countryside Management Officer states:

' However, there is an issue with the Section 106 agreement which is proposed to deal with the long term problem of the small areas of ancient woodland habitat to East and West of the development site, particularly the western section which is perched right on top of the cliff. From the information included with the application it is not clear if the developers' ownership includes these areas of land. If they do not it would not be possible to enact a section 106 agreement. Before this application can be determined I recommend that this issue is resolved.'

The agent has been asked to confirm whether the land in question is within the both the red line and the applicant's ownership. Members will be updated at the meeting.

Trees and Landscape impact

A Landscape Assessment has concluded that there will be no significant harm upon the landscape as a result of the proposal. The Tree and Landscape Officer has considered the report and raises no objections. The appearance of the current site, is a tired disused former highway depot containing utilitarian structures and buildings. The scheme is considered to represent an opportunity to introduce development within this area that is capable of enhancing the current appearance of the site. Given that the proposed development is contained within the quarry sides the impact upon the Area of High Landscape Value is concentrated to within the immediate area. In this respect it is considered to be difficult to argue that the proposal will adversely affect the special scenic qualities of the Area of High Landscape Value.

The area has exposed, steep quarry sides with a hardstanding across the lower part of the site. The trees and planting on the rising and outer sides provide an attractive environment.

The Tree and Landscape Officer has previously stated that the trees on the outer sides should be removed for maintenance reasons and replaced with more appropriate species.

There is an outstanding issue regarding the proposed trees adjacent to the road. Additional information has been submitted and the Highway Authority are yet to confirm their agreement.

Other issues

The Town Council are concerned regarding surface water flooding and they have included pictures and videos of the flooding events in Manor Vale that occurred in the winter of 2015-2016. They have confirmed that they support the views expressed by local residents in respect of surface water flooding, access rights for band hall, and concerns regarding the proposed trees in front of the proposed band hall and scout hut.

There have been 9 letters of objection and 1 letter of support. The letter of support states that the site is untidy and an eyesore and would benefit from being re-developed, but does go on to question whether 20 dwellings is too many. Although it does acknowledge that the affordable housing provided would be important for the Town.

The issues raised in the objections relate to:

- the risk of surface water flooding;
- the trees on the outer sides of the quarry
- the narrow access width
- the impact of the proposal upon the setting of the Kirkbymoorside Conservation Area
- noise
- the inaccuracies with the Noise Assessment
- pedestrian safety
- the impact upon protected species
- the stability of the quarry face, from ground activities such as fracking;

- a supreme court ruling regarding a prescriptive right to create noise
- the issues being similar to those already dismissed on appeal;
- Housing Need in Kirkbymoorside
- Changes to rights of way over land to the band hall
- Maintenance of rock face, quarry top and branches;
- the amenity implications from the trees on the outer sides of the quarry
- That the Noise Assessment was outdated and does not take account of the band room extension 14/00644/FUL;
- Opinions on whether the noise relating to movements to and from the band hall and accurate details of its operations should be included within the assessment; and
- Comments from the band hall about why they occupy their site following planning decision 1975 to ensure that they were in a location that would not affect residential properties.

The issue of noise, surface water flooding, trees, the setting of the Kirkbymoorside Conservation Area, and pedestrian and highway safety have been addressed earlier in this report. The comments regarding the band hall's relocation to the site in 1975 are noted along with their concerns. The opinions regarding the accuracy and information included within the Noise Report is also noted. The Environmental Health Officer has also stated that the Noise Report is insufficient to justify the co-existence of both uses. The maintenance of the rock face, prescriptive rights, and rights of access referred to are civil issues and not material planning considerations. The comments about housing need are noted, but this is not considered to be a justified reason on its own not to object to the application. No evidence has been submitted to state that fracking activities (if approved) would cause stability issues for the cliff face.

Community Infrastructure Levy

Community Infrastructure Levy (CIL) is chargeable on this proposed development, (with the exception of affordable housing) at a rate of £85m2.

Conclusion:

In view of the harm identified in the appraisal above in relation to surface water flooding, affordable housing, drainage inadequacy, residential amenity impacts, and the character and form of the development, the recommendation is one of refusal. Furthermore, in view of the above harm and inconsistencies with planning policy the benefits of releasing part of the site that is outside of the development limits of Kirkbymoorside are not considered to be outweighed by the harm identified above.

RECOMMENDATION: Refusal

- 1 The proposed residential accommodation is located in very close proximity to the Kirkbymoorside band hall, (which has planning permission for an extension), and could create complaints regarding the operations of the band hall. The Band Hall is an important community facility and a use protected in accordance with Policy SP11 of the Local Plan Strategy. Insufficient information and mitigation measures have been provided to demonstrate that noise from the Band Room will not have an adverse effect upon the amenity of occupiers of the proposed residential accommodation and not be likely to generate complaints regarding the bands operations. The proposed development is thereby contrary to the requirements of Policy SP11 and Policy SP20 of the Local Plan Strategy.

- 2 Insufficient information has been submitted to demonstrate that surface water drainage can be attenuated and discharged at satisfactory rate. Furthermore, the site is located within an area identified as having a high risk of surface water flooding by the Environment Agency. Therefore, in the absence of satisfactory information in regard to a suitable surface water drainage scheme, the proposal could exacerbate the risk of surface water flooding to the existing properties, and the proposed properties in Manor Vale. As such the proposal is considered to be contrary to Policy SP 17 of the Local Plan Strategy and paras. 100 and 103 of NPPF.
- 3 The site is identified as having a high risk of flooding from surface water by the Environment Agency. In this case the site does not pass the sequential test in terms of flood risk and there are other sites in Kirkbymoorside where housing could be located which is at a lower risk of flooding. The approval of this application could also put the occupiers of the proposed dwellings at an unacceptable risk of flooding from surface water flooding. The proposed development will therefore be contrary to the requirements of Policy SP 17 of the Local Plan Strategy and paras 100 and 103 of NPPF.
- 4 The affordable housing provision proposed does not comply with the 35% on-site affordable housing requirements contained within Policy SP3 of the Local Plan Strategy. No justification has been submitted to justify a departure from the adopted policy level for affordable houses. The proposal is therefore contrary to the requirements of Policy SP 3 of the Ryedale Plan - Local Plan Strategy.
- 5 The proposed layout, form and design of the scheme is considered to be too regular in layout and is not locally distinctive. There scheme will also reduce views of the exposed cliff faces. As such the proposed development is considered to be contrary to the requirements of Policy SP 16 of the Local Plan Strategy.
- 6 The proposed residential development by virtue of its close proximity to the outer sides of the steep cliff faces, and the inter-relationship with the Band Hall is not considered to ensure a satisfactory level of residential amenities for future occupiers of the proposed dwellings and be contrary to the requirements of Policy SP 4 and SP 20 of the Ryedale Plan - Local Plan Strategy.
- 7 The application site includes land that is outside the development limits of Kirkbymoorside and the principle of residential development in such a location would be contrary to the requirements of the adopted development plan. Furthermore, in view of the significant harm identified above it is not considered to outweigh the benefits associated with developing this brownfield site. The proposal is therefore contrary to the requirements of Policy SP 2 of the Ryedale Plan - Local Plan Strategy.

Background Papers:

Adopted Ryedale Local Plan 2002
Local Plan Strategy 2013
National Planning Policy Framework
Responses from consultees and interested parties