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**2017/0638**

**Applicant:** Gleeson Developments Ltd

**Description:** Residential development of 97 no. dwellinghouses with garages, parking spaces and public open space and associated roads and sewers.

**Site Address:** Land off Lowfield Road, Bolton Upon Dearne, Rotherham, S63 8JF

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Members will recall that this application was presented to Planning Regulatory Board in May with a recommendation for approval subject to conditions. The decision was deferred by Councillors to require Officers to explore whether the applicants stated intention to challenge one of the conditions and history of breaching conditions could be a material consideration.

### **Site Description**

The site is located on the field adjacent to the housing estate under construction by Gleeson Homes at Lowfield Road in Bolton-Upon-Deerne which is now known as Lowfield Park. The application is effectively for a 3rd phase of the development approved under 2011/0963 and 2013/0960). Planning permission was refused for a similar scheme in 2016 (2015/0725) with the decision upheld at appeal in 2017 (APP/R4408/W/17/3170851). This application is a re-submission.

The proposed development is on a greenfield site. This currently comprises an open field which is used for horse grazing purposes and is 2.65ha in size. The development would extend the existing urban settlement to the south east where the site would adjoin further open countryside located to the east and south. To the north and west are located existing houses. The site is separated from the existing Gleeson development by a banking containing vegetation. Houses located on Lowfield Road and Lowfield Grove overlook the site. Located to the south west is Bolton Upon Dearne Waste Water Treatment works.

Access to the development entrance on Lowfield Road is via a humpback bridge passing over the main Sheffield to Leeds railway.

### **Proposed Development**

The application proposes a 3<sup>rd</sup> phase development of 97 houses. This would increase the size of the estate to 215 houses overall if all of the houses on each of the 3 phases were to be developed.

The houses would be two storeys in height and would be either detached or paired in semis that would be of a similar form and layout to the existing estate. Overall it would consist of 27no two bedroom, 60no three bedroom and 10no four bedroom properties.

Access would be via the roads built to serve phases 1 and 2 (Prior Croft). This road adjoins Lowfield Road in a location to the north west of the site via a 'T' shaped junction. Thereafter road and pedestrian traffic has to cross over the railway using a humpback bridge prior to the site connecting with the main road network via the junction between Lowfield Road and Station Road/Angel Street (the B6098).

## History

2015/0725 - Erection of 97 dwellings with garages and/or parking spaces together with the provision of open space and associated roads and sewers. Refused 22/11/2016 with five reasons for refusal including two relating to the gravel driveways:-

*The proposed driveway specification is considered to be contrary to the interests of highway safety and convenience of highway users. The proposal will not prevent loose material (gravel) from being deposited onto the public highway, posing a safety hazard and inconvenience for users of the highway especially two wheeled motorised vehicles, cyclists, wheelchair users and pedestrians who are particularly vulnerable. As such the proposed driveway design would be contrary to requirements of Core Strategy Policy CSP26 'New Development and Highway Improvement' which require new developments to be served with safe and convenient access arrangements.*

*The proposed driveway specification, with consequential displacement of loose material will be detrimental to visual amenity. The development would therefore have an unsightly appearance that would detract from the overall quality, appearance and finish of the development. As such the development is also considered to be contrary to the requirements of Policy CSP 29 'Design' and the aspirations of the NPPF.*

The decision was appealed by the applicant with the Inspector dismissing the appeal, supporting the Council's position with regards gravel driveways in relation to highway safety and character and appearance. The Inspector also concluded that the application could support the financial contributions sought to mitigate the impact of the development and at least 5% affordable housing. The Inspector did however conclude proposal would be acceptable in terms of (i) the position and orientation of the proposed dwellings to the WWTW (including dwelling Nos 203-208) and (ii) that actual and perceived levels of odour, subject to further tree planting to be secured planning condition, would be acceptable for the occupiers of the proposed dwellings. This decision is referred to in more detail throughout the report as appropriate.

In addition to the planning history for this site, the following is relevant being lodged by the same applicant and specifically relating to gravel driveways:-

2015/0720 - Variation of condition 4 of application 2013/0960 (Residential development of 58 dwellings) in relation to surfacing of parking/manoeuvring facilities (Phase 2). Refused by the Council 09/10/2015 for the following reason:-

*In the opinion of the Local Planning Authority the deposition of loose gravel on the highway poses a hazard for users of the highway including vehicles, cycles, motor bikes, scooters, wheelchair users, elderly people and people with pushchairs. In addition future highway maintenance problems would be caused due to the effects on gullies and the damage caused to road surfaces. Accordingly the proposal is considered to be contrary to Core Strategy Policy CSP 26 and S151 of the Highways Act 1980.*

The decision was appealed by the applicant but the appeal withdrawn after the Planning Inspectorate determined that the appeal should be determined via the written representations process rather than following an informal hearing. Subsequent to the appeal being withdrawn the Council applied for a costs award against the applicant and were successful in obtaining a costs award for the majority of the work covered by the appeal. As the development was being built out in breach of the condition the Council served a breach of condition notice on the development.

2016/1041 - Variation of wording of condition 4 of application 2013/0960 (Residential development of 58 dwellings) in relation to surfacing of parking/manoeuvring facilities. Refused 22/11/2016 for the same two reasons as set 2015/0725.

The decision was appealed by the applicant along with 3 similar refusals on other sites within the borough. The appeal was dismissed and the decision and reasons for refusal supported by the Inspector.

## **Policy Context**

Planning decision should be made in accordance with the development plan unless material considerations indicate otherwise and the NPPF does not change the statutory status of the development plan as the starting point for decision making. The development plan consists of the Core Strategy and the saved Unitary Development Plan policies. The Council has also adopted a series of Supplementary Planning Documents and Supplementary Planning Guidance Notes, which are other material considerations.

The Council has submitted our emerging Local Plan to the Secretary of State and the examination process is ongoing. It establishes policies and proposals for the development and use of land up to the year 2033. The document is a material consideration and represents a further stage forward in the progression towards adoption of the Local Plan. As such increasing weight can be given to the policies contained within the document although, in accordance with paragraph 216 of the NPPF, the extent of this will depend on:

- 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;
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

### Local Development Framework Core Strategy

CSP3 'Sustainable Drainage Systems'  
CSP4 'Flood Risk'  
CSP8 'The Location of Growth'  
CSP9 'The Number of New Homes to be Built'  
CSP10 'The Distribution of New Homes'  
CSP14 'Housing Mix and Efficient Use of Land'  
CSP15 'Affordable Housing'  
CSP17 'Housing Regeneration Areas'  
CDP19 'Protecting Existing Employment Land'  
CSP25 'New Development and Sustainable Travel'  
CSP26 'New Development and Highway Improvement'  
CSP29 'Design'  
CSP35 'Green Space'  
CSP36 'Biodiversity and Geodiversity'  
CSP39 'Contaminated and Unstable Land'  
CSP40 'Pollution Control and Protection'  
CSP42 'Infrastructure and Planning Obligations'

### Saved UDP Policies

UDP notation: Safeguarded Land

## SPD's

- Designing New Residential Development
- Parking
- Open Space Provision on New Housing Developments

## Planning Advice Note's

- 30- Sustainable Location of Housing Sites
- 33- Financial Contributions to School Places

## Other

South Yorkshire Residential Design Guide

## Publication version of the Draft Local Plan

Proposed allocation: Housing Proposal (AC26)

Indicative number of dwellings 86

The development will be expected to:-

- Provide traffic signals at the railway bridge at Lowfield Road
- Provide an odour report and incorporate any appropriate mitigation measures including a landscaping buffer

## NPPF

The National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied. At the heart is a presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved unless material considerations indicate otherwise. Where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole; or where specific policies in the Framework indicate development should be restricted or unless material considerations indicate otherwise.

## **Consultations**

Ward Councillors – Councillors Johnson has formally objected whilst Councillor Noble has expressed concern.

Affordable Housing Officer – Request that 15% of the overall number of dwellings are provided as affordable housing in accordance with CSP15.

Broadband – Request standard condition to ensure highspeed broadband is provided.

Contaminated Land Officer – No objections.

Drainage – No objections subject to the condition that full foul and surface water drainage details are submitted prior to the commencement of development for approval by the Council, Yorkshire Water, Sustainable Places and Danum Drainage Commissioners.

Ecology – The Ecologist has requested that the Ecology Report be updated to reflect the proximity of the development and the Adwick Washlands nature reserve (less than 100m) and the sites location within the Dearne Valley Green Heart Nature Improvement Area (NIA) neither of which are covered and additional mitigation / enhancements are likely to be required. This request has been supported by the RSPB in relation to Adwick Washlands. However, this has not previously been an issue of dispute between the Council and the Applicant and as such the same ecological conditions as previously recommended would need to be applied.

Education – There is a shortage of primary school places in the area and a financial contribution of £147,504 is required.

Highways – Consider that mitigation works would be required to the existing humpback railway bridge crossing the railway on Lowfield Road in the form of traffic signals and associated works, the projected costs of which would be £210,000. Within the development Highways object to the specification of the proposed private drives and parking areas as the proposed specification is ineffective at preventing loose material from being deposited onto the public highway as evidenced by the applicants existing developments located elsewhere in the Borough which indicate a widespread and consistent problem. Concerns are raised on that basis that the loose stones would pose a safety hazard for users of the highway including vehicles, cycles, motor bikes, scooters, wheelchair users, elderly people and people with pushchairs.

PROW – There are no public rights of way across the site however, request some S106 funds for improvements to the public bridleway from Lowfield Road to Adwick Washlands.

Regulatory Services – Share Yorkshire Water's concerns in relation to the majority of issues they have raised about the potential for the plots located nearest to the WWTW to be affected by odour nuisance and poor standards of amenity.

Tree Officer – Does not object to the plans taking into account the effect of the development on existing trees. However consider that the development should be accompanied by a high quality soft landscaping scheme.

SYMAS – No objections

Yorkshire Water – Do not object to the development in its entirety but are concerned that there is a risk that residents in the south west corner of the site in particular, would suffer a loss of amenity as a result of their location (the closest properties will be little more than 50m from the works boundary). YW remain of the view that it is generally an inappropriate use of land to site sensitive receptors so close to an operational WWTW. Specifically they raised the following concerns:-

- Proximity of plot numbers 203-210 to the Waste Water Treatment Works
- Proximity to a combined sewer overflow (CSO) located just outside the north east boundary of the WWTW and approximately 30m from the nearest proposed houses
- Concerns that amenity of plots 202-206 could be affected by a rising main that passes near to the gardens of those plots.
- YW also state that it is their intention to undertake a complete refurbishment of the WWTW and in all likelihood this will involve changing the technology that is used.
- Consequently they consider that a new odour assessment should have been carried out to inform the proposed position of the houses. They are also concerned that the odour assessment submitted with the application was carried out in 2012 and a new survey should have been carried out in any case.

- In the opinion of Yorkshire Water a substantial landscaping buffer located between the houses and the WWTW should form part of the plans.

## **Representations**

The application was publicised by notices in the press, on site and by individual neighbour notification. 215 objections have been received from local residents, the majority of which have been submitted by residents who are a member of the Friends of Lowfield Road Action Group. In summary the main objections are summarised as follows:-

Numerous concerns are raised about the ability of Lowfield Road to safely accommodate the increase in traffic as a result of the development. Namely these are:-

- The humpback bridge: Its narrow width, poor forward visibility. It is also pointed out that the bridge has been identified to be a public safety risk by Network Rail.
- It is asserted that subsidence has occurred on Lowfield Road as a result of the existing amount of traffic using the road and that this would be made worse by the development.
- Concerns that the narrow width of Lowfield Road is such that drivers exiting the existing Gleeson development are unable to turn left without driving onto the other side of the road into oncoming traffic.
- It is also stated that the kerb to the south of the junction between the new development and Lowfield Road is still unfinished causing a safety concern due to it jutting out into the highway.
- Concerns that Lowfield Meadows, or the access serving Lowfield Lakes fishing lodge may be required to provide additional future accesses to serve the development and that both are unsuitable as they would increase the level of conflicts with cars leaving Lowfield Meadows and Lowfield Farm Close/Woodside View.
- Conflict with on street parking due to Lowfield Road containing a number of terraced houses. In addition it is stated that the number of vehicles parking on street on Lowfield Road has increased since the homes on the applicant's site started to become occupied, including vans. Concerns are also raised regarding conflict with visitor traffic to the nature reserve and recreation land to the east of Lowfield Road which includes many bird watchers and dog walkers.
- Concerns that the development shall lead to additional queuing at the junction between Station Road and Angel Street (B6098) causing a further inconvenience for existing residents.
- Concerns are again raised about the narrow width of footpaths on Lowfield Road and the difficulties for users with wheel and push chairs and that this will become more difficult to use with more people living in the area.

Residential amenity - It is stated that the development would lead to a reduction in the quality of life for existing residents due to loss of light, outlook and enjoyment of gardens.

Safeguarded land - Development of the site would be contrary to the relevant UDP policies which designate the site to be Safeguarded Land. Concerns are raised therefore that the release of the site for housing would be contrary to this designation and that other sites should come forward first.

Urban sprawl - Concerns that the development would result in the loss of countryside. In addition it is stated that the high amount of properties in the area for sale and for let in the area indicate a lack of demand for further housing in the area.

The supporting documents - Concerns that the number of traffic movements recorded in the transport assessment is improbable. Concerns are also raised that the supporting documents cut and paste text from the reports accompanying the previous application which is not relevant to the proposal. An example is that the site is referred to as being brownfield rather than greenfield.

Concerns that the applicant has attempted to scaremonger the local community into supporting the development by suggesting that the train station may be closed unless the development is allowed.

The applicants assertions that the site benefits from good access to public transport is disagreed with based upon the following points:-

- Trains to Leeds and Sheffield are only available on an hourly basis.
- There being no bus service to Doncaster
- There is no public transport service to Manvers
- The frequency of other bus services in the area is only once every half an hour

Flood risk – It is asserted that the site is located in a flood plain and that a number of properties on Lowfield Road have been evacuated in the past in flooding events.

Harm to the Lowfield Lakes fishing business – Concerns are raised that the housing development would spoil the rural setting of the site. In addition concerns are raised that the living conditions of the residents who live in the dwelling would be harmed as a result of proximity issues. The owners also question whether the development would affect the existing septic tanks and water tanks located in the field leading to pollution control issues.

Concerns about low water pressure/poor electricity supply and sewage disposal facilities due to existing outdated infrastructure not being brought up to date despite all of the development in the area over the last 30 years.

Loss of agricultural land and land used for equestrian purposes.

Harm to the open countryside landscape and views from Adwick on Dearne.

Harm to biodiversity – Specific concerns are raised about the proximity of the site to an RSPB nature reserve.

Potential harm to broadband speeds for existing residents.

Proximity to a WW2 archaeology site.

Concerns that the residents of the houses would have a poor standard of amenity due to being affected by odour from the waste water treatment works.

It is stated that there are other sites around the Dearne Valley which would be better suited to accommodate a large housing development.

It is questioned whether the track located on the far eastern edge would be used as an emergency access.

Concerns that the maintenance costs associated with the greenspace in phase 2 will increase if phase 3 is not approved or is developed by a third party.

## **Assessment**

### Principle of Development

It was determined in the recent Planning Appeal that in this case the planning policy framework comprises the development plan, SPDs including the South Yorkshire Residential Design Guide, the UDP Planning Advice Note on education and national policy.

The UDP was adopted in 2000. Given that a 5 year housing land supply cannot be demonstrated at the present time relevant policies for the supply of housing are out of date but not cancelled. In such circumstances the tilted planning balance at Paragraph 14 of the NPPF requires that planning permission is granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

The site is allocated as safeguarded land in the UDP and is located in the Principal Town of Goldthorpe (which encompasses Bolton Upon Dearne), which prioritises new housing growth in the adopted Core Strategy. The site has been proposed as a housing allocation in the emerging Local Plan and is considered to be a sustainable location for residential development. Therefore it is accepted that the proposed development is acceptable in land use planning policy terms.

### Design/Visual Amenity

The purpose of Safeguarded Land is to retain land on the edge of settlements which may be required for long term development needs. This designation therefore is not visual amenity related. However characteristics of the site are that it is greenfield and is located adjacent to open countryside which is in the Green Belt.

The proposals are to build a development very similar to the two previous phases. However there are some differences:-

- The development would be located in closer proximity to the Yorkshire Water Waste Water Treatment Works (WWTW).
- The plans have been amended during the course of the application being under consideration to propose that all private driveways within the development are built out to the applicants preferred specification. Essentially this comprises two rows of paving slabs with crushed aggregate between and on either side as far as the front building line of the dwellings, and crushed aggregate thereafter. Driveways to individual houses will comprise two rows of paving slabs with crushed aggregate between and on either side as far as the front building line of the dwellings, and crushed aggregate thereafter.

The first point is considered in more detail in the section of the report relating to residential amenity considerations. The second point is a matter of a current dispute between Officers and the applicant concerning the visual amenity and highway safety implications of the use of gravel driveways. This has introduced problems relating to loose gravel being deposited on the roads and footpaths as a result of normal day to day usage which give the developments an untidy appearance overall. In addition the material lends itself to weeds growing through the surface. In the opinion of Officers this specification detracts from the appearance of the whole development and means that it falls short of the minimum standards expected by policy CSP29 and the Designing New Residential Development SPD. This matter has been subject to thorough testing through the appeal process with the applicant losing 5 appeals last year specifically related to the unacceptability of loose aggregate on drives.

The applicant has sought to address the issue by offering a revised driveway specification which now includes two rows of paving slabs (DWG No:0904-18). Whilst the intention of this approach is to provide a solid surface on which residents can park without dislodging loose aggregate, it is entirely reliant on residents parking in a specific manner. Furthermore, this approach does not resolve issues associated with the wider maintenance of the driveways including the need to keep the surface clear of weeds. At the recent appeal(s), the Inspector(s) accepted that not all residents would conscientiously maintain the gravel drives and it is the Council's view that similarly it is not acceptable to put the onus on residents to park on the paving slabs so as to ensure gravel is not dislodged and deposited on the highway.

The applicant has referred specifically to the Environment Agency document Guidance on the permeable surfacing of front gardens (CLG September 2008) as justifying the acceptability of their approach. The document is a leaflet issued by the Department for Communities and Local Government (now the Ministry of Housing, Communities and Local Government) and the Environment Agency to provide guidance for homeowners following the change to permitted development rights in relation to surfacing front gardens. The purpose of the guidance (and the change in the permitted development rights) was to address issues associated with homeowners surfacing front gardens to create additional parking or low maintenance gardens and the consequences of this in relation to surface run off and flood risk. The guidance is not a planning policy document and is not intended to provide advice for volume housebuilders. Further, whilst the use of sustainable drainage systems is given priority in the NPPF (Para 103) and CSP 3, the applicants Drainage Statement and Stage 1 and 2 ground investigation confirm that infiltration testing has been carried out on this site and the ground conditions are not suitable for soakaways. Therefore the guidance can be afforded very little weight and does not override local planning policies and the accompanying SPD and Design Guidance. It is also important to state that this guidance was submitted at the appeal(s) by the applicant and the Inspector(s) considered it when making the previous decisions to uphold the Council's decisions.

In the past the Council has sought to control this matter through a condition with this application reported to the Planning Regulatory Board in May with a recommendation for approval on this basis. However after the agenda was published the applicant issued a press release on 18<sup>th</sup> May which stated a clear intention to challenge the condition post decision despite the failed appeal decisions on the previous 5 appeal cases.

The power to apply conditions derives from section 72 of the Town and Country planning Act 1990. It can be imposed on any land under the control of the applicant if it is expedient for the purposes of or in connection with the development authorised by the permission. Therefore the past behaviour of the applicant is relevant to the extent that there are unresolved enforcement issues with phase 2 that have an effect on this development i.e. the loose aggregate driveways and the non provision of the equipped children's play area.

Officers have sought to enter into further discussions with the applicant to speak about ways forward. However the applicant is not willing to attend a meeting at the Council's offices, nor on site and no response has been received to the correspondence that has listed the breaches of conditions on other sites. As such it would appear that there is no prospect of reaching an agreement about a suitable condition. In the circumstances therefore it is considered that the use of a condition is insufficient to mitigate the adverse effects of the development proposed.

Apart from these considerations no other significant visual amenity concerns have been identified. The existing site is largely clear of vegetation. The trees of value identified on the tree survey are located outside of the site and would not be affected. The layout plan has been designed to comply with the space between building standards in the SPD. The house

type plans are for the same type of houses as the previous two phases and comprise a modern form of conventional two storey housing which is an acceptable standard of external appearance.

The site is also located near to the deteriorating remains of a World War 2 anti aircraft battery which is a Scheduled Ancient Monument (SAM) located to the field to the east of the site as has been pointed out in the representations. However the access road serving Lowfield Lodge provides a barrier between the housing development and the field where the SAM is located. In addition the proposed houses would be no closer to the SAM than existing housing on Crane Well View. As such it is not considered that the development would have a significantly adverse impact on the setting of the SAM.

### Residential Amenity

The main issues with regards to residential amenity considerations are:-

- The waste water treatment works and potential odour issues.
- The effect of the development of the living conditions of existing residents.
- Amenity standards for future residents in relation to the space between building and private rear garden sizes

#### *The waste water treatment works and potential odour issues*

An important consideration for the application is the relationship between the development and the Waste Water Treatment Works. This is nothing new as it was a consideration for the previous applications, phase 2 in particular. The application is accompanied by an odour assessment which is the same odour assessment that was submitted with the application for the phase 2 development. Yorkshire Water raised concerns about reliance on this given that it was carried out in 2012. They also state that it is their intention to complete refurbishment of the WWTW, in all likelihood altering the technology that is used.

Yorkshire Water's underlying concern is that the development would be located too close to the WWTW and would be affected by odours. In addition they are concerned that the plans do not make sufficient provision for a soft landscaping screening barrier located between the development and the WWTW. Aside from the proximity of the WWTW there is also a combined sewer overflow (CSO) just outside the north east boundary of the WWTW and approximately 30m from the nearest proposed houses, that could in itself cause a loss of amenity for residents and a rising main passing in close proximity to the gardens of plots 202-206 which has the potential to lead to further amenity issues.

This matter was discussed in length at the appeal and it was agreed that it would be possible to increase the landscaped buffer shown on amended planning layout to encompass the entire area annotated as "public open space". The use of quick growing trees was discussed. In addition, the appellant agreed to include a minimum ten metre wide landscape buffer on the southern boundary of the phase 2 site (in the ownership of the appellant) where it meets the boundary with the WWTW. Subject to the imposition of these tree planting areas, the Inspector was satisfied that any perceived adverse odour / psychological effects arising out of the proximity of proposed dwellings 203-208 to the WWTW could be suitably mitigated. As a result conditions would have been appropriate.

#### *The effect of the development on the living conditions of existing residents*

The development would be sensitive from the perspective of removing outlook for the residents of a number of existing dwellings located on Lowfield Grove which overlook the site at present in its open and green form. Loss of view is not a material consideration

however and the plans have been designed to achieve the separation distances between new and existing properties required by the SPD. The relationship between the dwelling positioned on the Lowfield Lodge site and the development would produce a tight relationship due to that dwelling being located very near to the boundary between the two sites. However the potential for overlooking would be reduced if a 1.8m fence was to be erected on that particular boundary as would be expected and could be done using permitted development rights. Also the new houses would be set at an angle to the Lowfield Lodge dwelling and be set more than 10m away from the boundary with the amenity area to the front of the property to comply with the SPD. Plot 188 is an exception in part due to the boundary line altering half way across the width of the garden of the plot. However with the addition of a fence overlooking would not occur to the rooms to the front of the dwelling due to the tight angle that would exist.

#### *The effect of the development on the living conditions of existing residents*

Within the development the separation distances between existing buildings and the private rear garden sizes would meet the standards required by the SPD in the majority of cases. Where this would not be the case on some corner plots the removal of permitted development rights would be appropriate.

#### Highway Safety

As with the previous applications it is recognised that traffic generation considerations are one of the most contentious parts of the application which is reflected in the majority of objections to the application. Primarily the concerns relate to the existing humpback bridge over the railway on Lowfield Road which suffers from a lack of forward visibility. In addition residents have raised concerns about the existing difficulties exiting the junction between Station Road and the B6098, Angel Street due to the high volumes of traffic using the road and the vehicle speeds.

The situation is that phase 2 was approved requiring highway works to mitigate the effects of the development. In scenario 'A' the applicant would have paid a commuted sum to the Council of £75,000 towards the costs of traffic signals which were due to be constructed on the bridge by Network Rail. Scenario 'B' was that the following mitigation works judged to be required in the event of non delivery of the traffic signals by Network Rail:-

- Provision of 2 vehicle activated signs
- Any necessary signing/lining
- Measures to control parking and loading
- Provision of high friction coloured surfacing
- Provision of LED street lighting on the bridge and the approaches to the bridge.
- Provision of/any necessary changes to highway drainage
- Resurfacing/reconstruction as necessary

The current position is that the Council is under the presumption that the Network Rail are not intending to construct the traffic signals within the necessary timescales required to provide mitigation for phase 2 houses, which are in the process of being built and occupied at present. Given that this is happening currently with no mitigation works being in place the present situation is unsatisfactory. Discussions with the applicant have yielded an offer from the applicant to pay £210,000 to the Council towards the cost of signalisation costs on the bridge to enable the scheme that would mitigate the effects of both the phase 2 and 3 developments. This sum would be sufficient to pay for the costs of the signalisation costs. In principle this would be sufficient for Highways not to object to the development on highway safety grounds. However Highways also view the proposed gravel driveway specification to be unacceptable because the use of loose gravel has the potential to pose a hazard for

users of the highway including vehicles, cycles, motor bikes, scooters, wheelchair users, elderly people and people with pushchairs. In addition future highway maintenance problems would be caused due to the effects on gullies and the damage caused to road surfaces. Therefore the proposal is contrary to CSP26 'New Development and Highway Improvement'.

No further issues have been identified with the internal road design in that the widths and number of parking spaces would be regarded as being satisfactory. The private drive accessing plot 119 is over that recommended for fire service access, however, the issue can be resolved through the Building Regulations process and the use of sprinklers. A sustainable travel plan is proposed as a measure to encourage residents to carry out trips using an alternative to lone trips using a private car. In principle this would have been sufficient to enable the development to comply with CSP 25 'New Development and Highway Safety'.

#### Other S106 considerations – education, public open space and affordable housing

Education - Education have confirmed that a contribution of £147,504 is required to offset a deficit in primary school places in the area.

Open space provision – New green space provision is required to be provided as part of the development in accordance with SPD: Open Space Provision on New Housing Developments. In this instance and due to a play area being approved as part of the phase 2 development it is deemed appropriate to seek an off-site contribution in entirety to upgrade existing facilities in the locality. Based on the submitted unit split, a financial contribution of £162,345.04 would be sought. The applicant has made assertions that viability of the development would be marginal. Provisionally however they have agreed to meet the commuted sum request. However a condition would have been needed to address the issue of the equipped play area on phase 2 not being provided prior to the commencement of development on phase 3 in order to remedy that particular breach of the planning permission first.

Affordable housing – The site is an area where affordable housing provision should be 15% of the overall number of dwellings. The applicant submitted a viability assessment with the application which contended that the development could not viably provide any affordable housing. This was dealt with at the appeal with the Inspector concluding that, taking account of contributions required to mitigate the development, at least 5% affordable housing could viably be supported by the development (10% if based on a blended profit rate of 17.5% for market housing and 8% for affordable). Since the appeal the applicant has requested affordable housing be dealt with as an offsite contribution which has been agreed (with advice from the District Valuer and the Council's Housing Officers) at £250,000.

#### **Other Considerations**

##### Drainage/Flood Risk

The Flood Risk Assessment has concluded that the site is not in an area that is classed to be at risk of flooding either from the River Dearne or overland flows and drainage infrastructure., i.e. it is located outside of EA flood zones 2 and 3 and therefore policy CSP3 'Flood Risk' is complied with and the advice within the NPPF regarding the sequential test.

The management of surface water run off from the development is another important consideration in order to prevent an increase in the risk of flooding downstream of the site. The policy requirement on greenfield sites is to construct developments with suitable systems with storage capacity and attenuation so that surface water run off rates do not exceed the greenfield run off rate of 5 litres per seconds per hectare.

The policy is that first preference should be given to SUDS. However the ground investigation has concluded that the ground conditions would be unsuitable for soakaways. Therefore it is likely that the development would need to be constructed with an attenuation tank, or oversized pipes prior to discharge into the River Dearne, the existing drainage system or the ponds at Lowfield Lakes. However no detailed proposal has been received it would be necessary to impose a condition as has been requested by Drainage Officers and Yorkshire Water. In terms of foul sewerage Yorkshire Water have not raised any concerns with regards to any issues with the capacity of the sewerage system to accommodate flows from the development

### Ground Conditions

The site investigation has not identified any issues with contamination or unstable land arising from historical land uses. In addition the site is located outside of a Coal Mining Risk Area. No objections have been received from Regulatory Services accordingly.

### Ecology

The main criteria for assessing the application is CSP36 'Geodiversity and Biodiversity'. The application is supported by an extended phase 1 habitat survey which has concluded that the ecological value of the site is low and that there are no constraints affecting the site from being developed. The Biodiversity Officer accepted these findings in 2015 but considered that insufficient proposals have been received regarding enhancement measures. As part of this application process the Biodiversity Officer has raised concerns regarding the nearby Adwick Washlands Nature Reserve which is not assessed in the extended phase 1 habitat survey. However, this matter was not previously picked up when assessing the 2015 application and given there has been no change in the status of the washlands and the planning history it is not appropriate to require this additional assessment now. Further, it is likely that both issues could be overcome via the imposition of a suitable condition.

### **Conclusion**

The site is designated Safeguarded Land in the UDP which remains part of the development plan for the Borough at the current time. However due to the age of the policy it is classed to be out of date by the National Planning Policy Framework.

In such circumstances the NPPF instructs Local Planning Authority's to grant planning permission for new development proposals unless:-

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
- specific policies in the Framework indicate development should be restricted.

The site is located in the Goldthorpe Principal Town which is a priority to accommodate new housing growth (3000 new homes) before 2026 (CSP8 and 10). In addition the site is proposed to be allocated for housing development in the SPD meaning that it has been identified to be in a suitably sustainable location.

The plans for the development are considered acceptable for the most part in relation to layout and design considerations having regards to the Designing Residential Amenity SPD in that spacing standards between new and existing properties would be achieved and the amount of garden amenity space that would be provided to serve the houses. A contribution of £250,000 towards the provision of affordable housing off site has been agreed providing some affordable housing. Also the elevations plans for the houses would be of an

acceptable standard. In addition it would be possible to mitigate the impact of the application through:-

- the proposed payment of a commuted sum of £210,000 towards the costs of providing traffic signals on the humpback railway bridge on Lowfield Road addressing highway safety implications;
- a commuted sum of £162,345.04 for the enhancement of open space located off the site is acceptable in relation to the Open Space Provision SPD; and
- a contribution of £147,504 to offset a deficit in primary school places in the area in accordance with PAN 33.

Furthermore the application has also been judged to be acceptable in relation to considerations including the flood risk, drainage, biodiversity consideration and effect on trees.

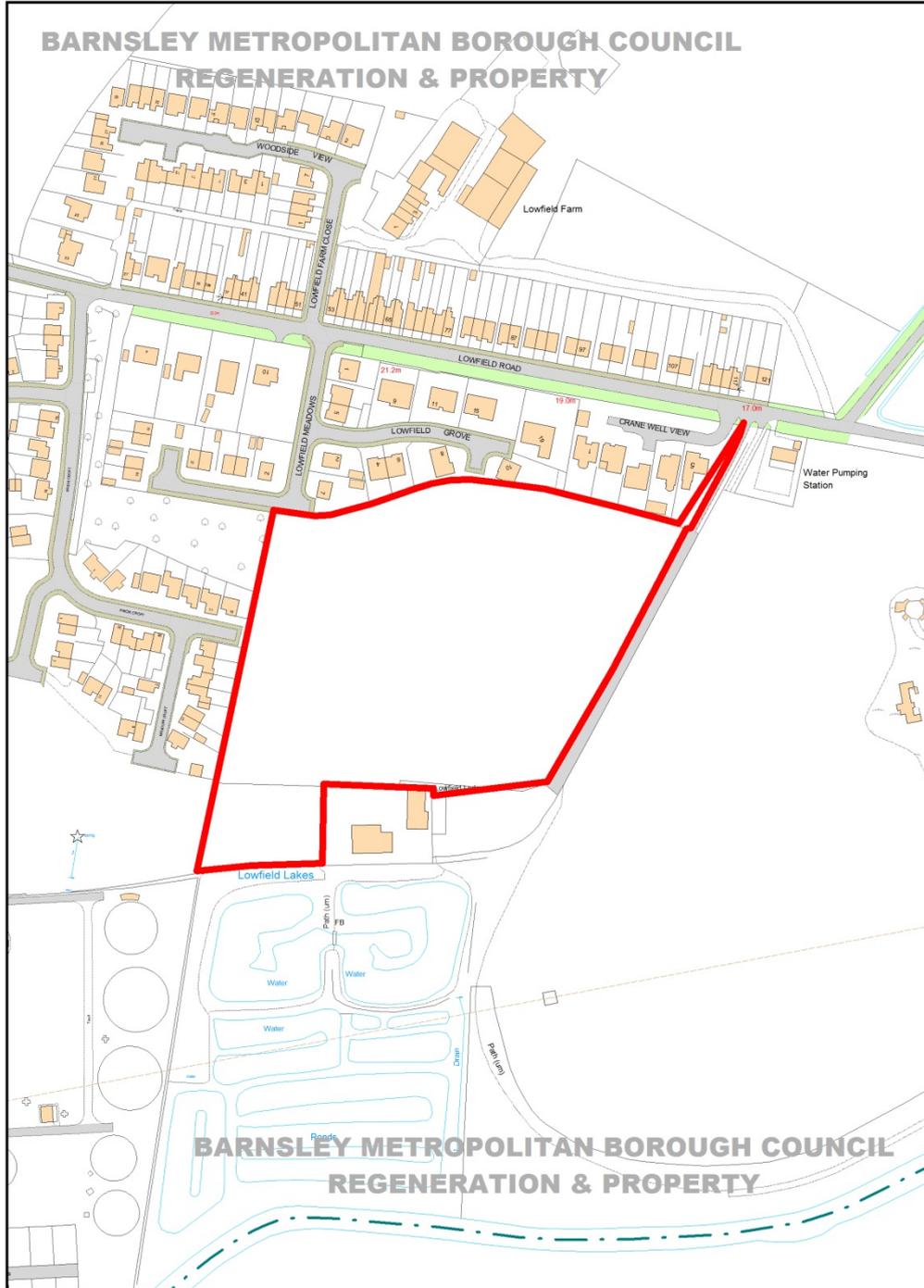
However the issue of the proposed use of gravel/loose aggregate for all of the driveways located throughout the development is considered unacceptable from a visual amenity point of view having regard to policy CSP29 'Design' and in relation to highway safety having regard to CSP26 'New Development and Highway Improvement'. Councillors are advised that this matter is part of a wider ongoing dispute between the Council and the applicant with Enforcement Action being pursued on phase 2 along with two other sites being developed within the Borough (following last year's appeals). No agreement has been reached with the applicant who has also made it clear that the previously proposed condition requiring the use of solid bound material on private drives and parking areas is something that they would seek to challenge post decision despite the 5 failed previous appeals. In the circumstances therefore it is considered that the use of a condition is insufficient to mitigate the adverse effects of the development proposed and refusal is recommended accordingly.

## **Recommendation**

### **Refuse**

- 1 The proposed driveway specification is considered to be contrary to the interests of highway safety and convenience of highway users. The proposal will not prevent loose material from being deposited onto the public highway, posing a safety hazard and inconvenience for users of the highway especially two wheeled motorised vehicles, cyclists, wheelchair users and pedestrians who are particularly vulnerable. As such the proposed driveway design would be contrary to requirements of Core Strategy Policy CSP26 'New Development and Highway Improvement' which require new developments to be served with safe and convenient access arrangements, the Council's Designing New Housing Development and Parking SPD's and the South Yorkshire Residential Design Guide.
- 2 The proposed driveway specification, with consequential displacement of loose material will be detrimental to visual amenity. The development would therefore have an unsightly appearance that would detract from the overall quality, appearance and finish of the development. As such the development is also considered to be contrary to the requirements of Policy CSP 29 'Design', the Council's Designing New Housing Development SPD and the paragraphs 17, 35, 58 and 64 of the NPPF.

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