

Report of the Assistant Director (Planning, Transportation & Highways) to the meeting of Regulatory and Appeals Committee to be held on 15th November 2018

AC

Subject:

Former Bronte School, Keighley Road, Oakworth, Keighley.

Summary statement:

The committee is asked to consider a planning application submitted under Section 73 of the Town and Country Planning Act 1990. The development in question is the residential development of 51 mixed tenure houses including associated infrastructure on the former site of Bronte School, Oakworth, Keighley, which was granted planning permission on 6th October 2016, ref. 16/02526/MAF

Government guidance makes it clear that an application under Section 73 of the Town and Country Planning Act 1990 can be used for the purpose of making a Minor Material Amendment to a previously approved development scheme. This application is for a minor material amendment to the previously approved development through a variation of condition 25 to substitute revised drawings. The revised drawings seek approval for the removal of two trees (T27, T35). The plans also seek retrospective regularisation for the retention of an underground attenuation tank, alterations to the finished floor levels of plots 35, 36, 39, 40, 41, 42 and 43, road level changes and the addition of gabion retaining walls.

A full assessment of the application, relevant planning policies and material planning considerations is included in the report at Appendix 1. It is recommended that the proposed minor material amendments are approved and that planning permission is granted for the residential development of 51 mixed tenure houses and associated infrastructure subject to a new set of planning conditions which include the proposed revised plans, as set out in Appendix 1.

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Portfolio:

**Regeneration, Planning and Transport
Overview & Scrutiny Area:**

Regeneration and Environment

1. SUMMARY

The Regulatory and Appeals Committee are asked to consider the recommendations for the determination of planning application reference 18/02252/VOC made by the Assistant Director (Planning, Transportation and Highways) as set out in the Technical Report at Appendix 1.

2. BACKGROUND

Attached at Appendix 1 is a copy of the Officer's Report which identifies the material considerations of the proposal.

3. OTHER CONSIDERATIONS

All considerations material to the determination of this planning application are set out in the Officer's Report at Appendix 1.

4. FINANCIAL & RESOURCE APPRAISAL

There are no financial implications for the Council arising from matters associated with the report.

5. RISK MANAGEMENT & GOVERNANCE ISSUES

None relevant to this application.

6. LEGAL APPRAISAL

The options set out above are within the Council's powers as the Local Planning Authority under the provisions of the Town and Country Planning Act 1990 (as amended).

7. OTHER IMPLICATIONS

All considerations material to the determination of the application are set out in the technical report at Appendix 1.

7.1 EQUALITY & DIVERSITY

In writing this report due regard has been taken of the need to eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity between different groups and foster good relations between different groups, in accordance with the duty placed upon Local Authorities by Section 149 of the Equality Act 2010.

The context of the site, the development scheme proposed and the representations received have been reviewed to identify the potential for the determination of this application to disadvantage any individuals or groups of people with characteristics protected under the Equality Act 2010.

The outcome of this review is that there is not considered to be any sound reason to conclude that the proposed development would have a significantly detrimental impact on any groups of people or individuals with protected characteristics. Full details of the process of public consultation undertaken and a summary of the comments made are attached at Appendix 1.

7.2 SUSTAINABILITY IMPLICATIONS

The sustainability implications of the construction of 51 dwellings on this site were considered under application reference 16/02526/MAF, at which time it was considered that the proposed development met the sustainability criteria outlined in established national and local policy.

This application concerns minor material amendments to the approved scheme, none of which are considered to have a material impact on the sustainability of the site.

7.3 GREENHOUSE GAS EMISSIONS IMPACTS

The impact of the development of 51 dwellings on greenhouse gas emissions was considered in the assessment of approved application reference 16/02526/MAF. It was considered that any increase in greenhouse gas emissions from construction operations and traffic levels associated with the development could be adequately mitigated with the provision of Electric Vehicle (EV) charging points and the implementation of travel plan proposals, both of which are secured by planning conditions.

The proposed minor material amendments are not considered to have any material impact on the greenhouse gas emissions associated with the development.

7.4 COMMUNITY SAFETY IMPLICATIONS

All community safety implications material to the determination of this planning application are set out in the Officer's Report at Appendix 1.

7.5 HUMAN RIGHTS ACT

Articles 6 and 8 and Article 1 of the first protocol all apply (European Convention on Human Rights). Article 6- the right to a fair and public hearing. The Council must ensure that it has taken into account the views of all those who have an interest in, or whom may be affected by the proposal.

7.6 TRADE UNION

None

7.7 WARD IMPLICATIONS

The Technical Report at Appendix 1 summarises the material planning issues raised by representations and the appraisal gives full consideration to the effects of the development upon residents within Keighley West ward.

7.8 AREA COMMITTEE ACTION PLAN IMPLICATIONS

None

7.9 IMPLICATIONS FOR CORPORATE PARENTING

None

7.10 ISSUES ARISING FROM PRIVACY IMPACT ASSESSMENT

None

8. NOT FOR PUBLICATION DOCUMENTS

None

9. OPTIONS

The Committee can approve the application as per the recommendation contained in the main report, or refuse the application. If Members are minded to refuse the application then reasons for refusal based on material planning grounds need to be given.

10. RECOMMENDATIONS

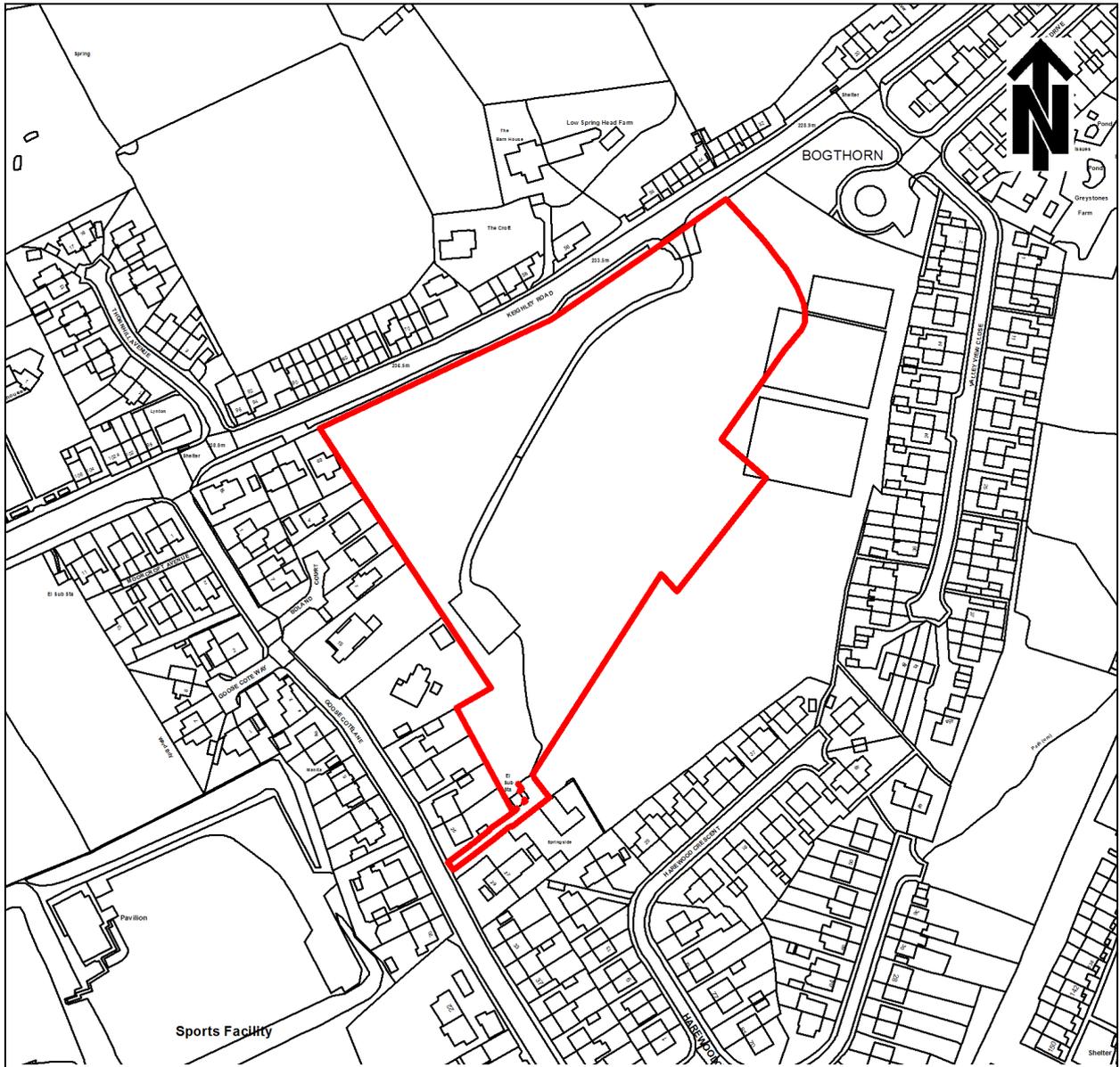
To grant planning permission subject to the conditions set out in the report attached at appendix 1.

11. APPENDICES

Appendix 1: Technical Report

12. BACKGROUND DOCUMENTS

National Planning Policy Framework (2018)
Replacement Unitary Development Plan
Local Plan for Bradford



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15 November 2018

Ward: Keighley West (Ward 17)

Recommendation:

To Grant Planning Permission for the residential development of 51 mixed tenure houses including associated infrastructure, as previously approved under planning permission ref. 16/02526/MAF, subject to a varied set of planning conditions which incorporate the proposed minor material amendments.

Application Number:

18/02252/VOC

Type of Application/Proposal and Address:

This is a planning application submitted under Section 73 of the Town and Country Planning Act 1990. The development in question is the residential development of 51 mixed tenure houses including associated infrastructure on the former site of Bronte School, Oakworth, Keighley, which was granted planning permission on 6th October 2016, ref. 16/02526/MAF.

This application is for a minor material amendment to the previously approved development through a variation of condition 25 to substitute revised drawings. The revised drawings seek approval for the removal of two trees (T27, T35). The plans also seek retrospective regularisation for the retention of an underground surface water attenuation tank, alterations to the finished floor levels of plots 35, 36, 39, 40, 41, 42 and 43, road level changes and the addition of gabion retaining walls.

Applicant:

Mrs Lorraine Wright
City of Bradford MDC - Housing Services

Agent:

Mr Peter McDermott
City of Bradford MDC-Architectural Services

Site Description:

The site is currently an active construction site following the granting of planning permission for the development of 51 dwellings in 2016. The development is substantially complete with all units present on site.

The land is enclosed by a dry stone wall with trees along its northern boundary. The site is on a gradient which descends from north to south.

The site is bounded to the north by Keighley Road beyond which lies traditional terraces of cottages, to the west lies residential properties in Goose Cote Lane. To the east the site is bounded by residential properties on Valley View Close, as well as the substantially complete development of an Extra Care and Residential Care Scheme.

To the south there is an area of vacant land which was previously utilised as playing fields when the site was occupied by a school. Beyond the vacant area of land there are residential properties on Harewood Crescent.

Relevant Site History:

Application Ref.	Description	Decision
16/02526/MAF	Proposed development of 51 No mixed tenure houses including associated infrastructure	Granted-06.10.2016
16/02526/NMA01	Non material amendment to planning permission 16/02526/MAF in order to insert a new planning condition listing the approved plans	Granted-19.04.2018
16/02526/SUB01	Submission of details to comply with Conditions 4 (landscaping), 8 (surface water drainage), 9 (surface water drainage maintenance), 10 (SUDS Investigations), 11 (foul water drainage), 12 (gas monitoring) and 13 (remediation strategy) of permission 16/02526/MAF	Partial Discharge (4,8,10,11,12)- Granted-13.11.2017
16/02526/SUB02	Submission of details to comply with conditions 2 (CEMP), 7 (Tree Protection Fencing), 16 (Soil Quality Control), 18 (Access Specifications) and 21 (Construction Plan) of permission 16/02526/MAF	Partial Discharge Granted (7 ,21)- 11.12.2017
16/02526/SUB03	Submission of details to comply with condition 24 (materials) of permission 16/02526/MAF	Granted-05.10.2017
16/02526/SUB04	Submission of details required by condition 2 (construction environmental management plan), 9 (surface water drainage Management Plan), 13 (details of remediation strategy), 16 (methodology - quality control), 23 (boundary details) of planning permission 16/02526/MAF	Pending Consideration.

The following applications relate to the adjoining land to the east of the application site, which was also formerly part of the Bronte School site.

Application Ref.	Description	Decision
16/06766/MAF	Extra Care and Residential Care Scheme comprising : Extra Care : 36 two bed apartments and 33 one bed apartments. Communal area comprising of ; lounge, activity room, restaurant, offices, hair salon, buggy store, therapy room, laundry and staff facilities. Care Home : 50 bedrooms in households of 10 with separate lounge and dining areas. Communal area comprising of: gym, lounge, offices and staff facilities	Granted 10.10.2016
16/06766/SUB01	Submission of details to comply with conditions 9 (surface water drainage), 11 (SUDS investigation) and 12 (foul water drainage) of permission 16/06766/MAF	Granted-13.11.2017
16/06766/SUB02	Submission of details to comply with conditions 7 (Tree Protection), 13 (Phase 2 Methodology), 14 (Phase 2 Report) and 15 (Remediation Strategy) of permission 16/06766/MAF- Granted	Granted- 13.11.2017
16/06766/SUB03	Submission of details to comply with conditions 2 (CEMP) and 23 (Construction Plan) of permission 16/06766/MAF	Granted-06.10.2017.
16/06766/SUB04	Submission of details as required by condition 26 (materials) of permission 16/06766/MAF-	Granted-04.06.2018

The National Planning Policy Framework (NPPF):

The National Planning Policy Framework is a material planning consideration on any development proposal. The Framework highlights the fact that the purpose of the planning system is to contribute to the achievement of sustainable development and that there is a presumption in favour of sustainable development which can deliver:-

- i) Planning for prosperity (an economic role) - by ensuring that sufficient land of the right type and in the right places is available to allow growth and innovation;
- ii) Planning for people (a social role) - by promotion of strong, vibrant and healthy communities by providing an increase supply of housing to meet the needs of present and future generations and by creating a good quality built environment with accessible local services;
- iii) Planning for places (an environmental role) - by protecting and enhancing the natural, built and historic environment, adapting to climate change including moving to a low-carbon economy.

As such the Framework suggests local planning authorities should approve development proposals that accord with statutory plans without delay.

The National Planning Practice Guidance

National Planning Practice Guidance (NPPG) acknowledges that new issues may arise after planning permission has been granted, which require modification of the approved proposals. Where these modifications are fundamental or substantial, a new planning application under section 70 of the Town and Country Planning Act 1990 will need to be submitted. Where less substantial changes are proposed, there are other options. These options are to either make a non-material amendment to the planning permission or to amend the conditions attached to the planning permission, including seeking to make minor material amendments.

An application can be made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. One of the uses of a section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied. The NPPG advises that there is no statutory definition of a 'minor material amendment' but it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved.

The Local Plan for Bradford:

The Core Strategy for Bradford was adopted on the 18th July 2017 though some of the policies contained within the preceding Replacement Unitary Development Plan (RUDP), saved for the purposes of formulating the Local Plan for Bradford, remain applicable until the adoption of Allocations and Area Action Plan development plan documents. The site is identified as being part unallocated and part playing fields.

Replacement Unitary Development Plan (RUDP):

Retained policy OS3-Playing Fields- of the Replacement Unitary Development Plan is relevant in that the development site is on land partially allocated as playing fields. However the principle of residential development in this location was previously accepted with the approval of application reference 16/02526/MAF. The current application does not raise any new material considerations in respect of the principle of residential development.

Core Strategy

The proposed minor material amendments are concerned with the retention of an attenuation tank, the removal of trees, alterations to the finished floor levels of plots 35, 36, 39, 40, 41, 42 and 43, alterations to road levels and the addition of gabion retaining walls. The following Core Strategy policies are considered to be relevant to these matters:

- EN5- Trees and Woodland
- EN7- Flood Risk
- DS1- Achieving Good Design
- DS2-Working with the Landscape
- DS3- Urban Character
- DS5- Safe and Inclusive Places

Parish Council:

No comments were received from Keighley Parish Town Council.

Publicity and Number of Representations:

The application was publicised by press notice, site notice and neighbour notification letters. The expiry date for the submission of comments was 18th July 2018.

A total of 49 objections were received. A letter of objection was received from the local MP, which raised the following concerns:

This application fundamentally reneges on a promise to the residents of Harewood Crescent to provide them with a view of open greenspace and an attractive water feature.

The addition of an attenuation tank is obviously there to replace what is shown on the original plan as a lake/pond, this would have been a welcome and an attractive feature for both neighbours and of course wildlife.

It is important for public confidence that developer promises are kept wherever possible. The greenspace, the lake and the trees were an integral part of the original plan.

Summary of Representations Received:

Objections:

Drainage

Sewer/ foul water drains are of major concern

Removing trees will destroy the water table.

Residential Amenity

The residents living across the road from the site would much prefer a view of trees rather than houses

The development will have a negative impact on the gardens of dwellings on Harewood Crescent.

Highway and Pedestrian Safety

Goose Cote Lane cannot withstand any additional traffic.

Trees

Large cherry trees were already removed to facilitate this development. Further tree removal is not necessary.

The application form does not state which trees are to be removed.

Harm to visual amenity from loss of trees.

The trees assist in screening the development

Trimming the trees periodically would be better than removal

The builders/planners should have been aware of these long established trees from the start and should have planned the properties accordingly.

The retention of trees will assist with drainage on the development site.

The trees are central to the appearance of the approach into Oakworth

The trees along the main road should be retained

Biodiversity

Harm to wildlife and nesting birds

Other

The Keighley Road elevations of the development do not match the section drawings. Has the ground level been raised above the agreed level?

Are the houses nearest the main road built higher up and closer than originally planned?

The trees have a beneficial role in preserving air quality in the area.

Local infrastructure will be strained immeasurably

Contractors vehicles block the roads surrounding the development.

Dust from the development has harmed the amenity of neighbours

The original plans were for mixed tenure housing. Now the whole of the site will be for social housing.

Residents of the development will generate noise at unsociable hours.

The disposal of clinical materials from the care home will pose health risks.

Insufficient details of phase 2 of the development.

Harm to neighbouring property value

Insufficient neighbour notification has been carried out.

Has any space been set aside for recreation of children and adults on the site

The original plans for the lower part of the site were to return the land to green belt and included a soakaway pond.

Consultations:

Trees (23.10.2018)

As the site is near completion the relationship between the development and the tree under contention (T35) is now readily apparent.

It is understood that removal of the tree is proposed primarily due to shading into a room or rooms of the nearest dwelling. It is also evident that the tree has incurred root damage during the construction process. The root loss has manifested itself in dieback and long term survival is estimated to be no better than 40-50%.

The current proposal is to remove the tree and plant 5 hornbeam in gaps in the tree line to Keighley Road. This is an acceptable solution and is preferable to hoping that the tree recovers because in the event that it does not, the chances of securing acceptable tree replacement will likely diminish when the site becomes occupied.

Landscape Design Unit

Replacement tree planting is required to compensate for the loss of T35.

Regarding the other proposed tree species for the site it is suggested that the applicant liaises with the Arboricultural Officer in order to further consider some of the species shown on the submitted masterplan drawing.

N.B Following further consultation the landscape plan has been amended to include satisfactory tree species across the site.

Highway Development Control

No objections are raised to the proposed minor amendments to the highway layout. The Section 38 (Estates Roads) Officer has also reviewed the submitted plans and has raised no objections to the proposed minor material amendments.

Lead Local Flood Authority

The Lead Local Flood Authority has assessed the submitted details and calculations and has confirmed that the proposed surface water drainage arrangements are acceptable for the entirety of the site, including the attenuation tank.

Summary of Main Issues:

Background

Principle

Impact of Gabion Retaining Walls

Impact of Changes to Road and Plot Levels

Impact of Tree Removal

Impact of Surface Water Attenuation Tank

Further Issues Raised by Representations

Appraisal:

Background

Planning permission for the residential development of 51 mixed tenure houses including associated infrastructure was granted at this site on 6th October 2016 subject to 24 planning conditions.

Subsequently various technical details, such as drainage, landscaping and construction site management proposals, were approved through the submission of details reserved by planning condition applications.

A non-material amendment application was approved in April 2018, the purpose of which was to add an additional planning condition (Condition 25) listing approved plans to application reference 16/02526/MAF. The purpose of submitting this application was to enable the submission of Section 73 application to make minor material amendments to the approved development. This is the accepted approach set out at paragraph 018 (Reference ID: 17a-018-20140306) of the Flexible Options for planning permissions guidance document published by The Ministry of Housing, Communities & Local Government .

Principle

The proposal is an application under Section 73 of the Act for the residential development of the land at Site Of Former Bronte School, as previously authorised under planning permission reference 16/02526/MAF, but subject to a varied set of conditions which allow for minor material amendments to the approved development scheme consisting the removal of two trees (T27, T35) and the retrospective regularisation of alterations to the floor levels of plots 35, 36, 39, 40, 41, 42 and 43, road level changes and the addition of gabion retaining walls and a surface water attenuation tank.

Section 73(5) prohibits applications under Section 73 from being used to extend the time within which a development must be started. The development permitted by planning permission 16/02526/MAF (residential development) has already begun and the changes proposed in the current application have already been partially implemented (in respect of the installation of the surface water attenuation tank, alterations to plot levels, alterations to road levels and the addition of gabion retaining walls), therefore section 73(5) is not relevant.

Section 73A states that planning permission for development which has been carried out before the date of the application may be granted so as to have effect from the date on which the development was carried out. Therefore if planning permission is granted as a consequence of the current application it will have immediate effect.

Section 73(2) directs that, for Section 73 applications, 'the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted'. Therefore the principle of granting planning permission for the development as a whole cannot be revisited. However the effects of the proposed changes to the conditions should be fully considered having regard to the provisions of the development plan and to any other material considerations.

In considering an application under Section 73, a full review should be undertaken of all previously imposed planning conditions, taking account of any material changes in circumstances. This process has been undertaken and the set of conditions recommended at the end of this report includes various updates to the previously imposed conditions in recognition of details which have already been approved.

It is considered that the revised conditions recommended at the end of this report are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects and consistent with both the adopted Core Strategy and the National Planning Policy Framework.

Impact of Gabion Retaining Walls

Gabion Spine Wall

The land level of the site descends from its northern boundary with Keighley Road towards Harewood Crescent on the southern boundary.

As a result of the change in levels plots 43-51 occupy an elevated position in relation to plots 35, 37, 38 and 39. The approved application indicated that the level changes in this location would be accommodated by re-grading the land within the amenity areas of plots 43-49 and by constructing a 900mm retaining wall to the rear of plots 50 and 51. However, owing to the severity of the gradient and the desire to improve the usability of the amenity areas a gabion retaining wall has been constructed which extends between plots 43-51 and plots 35, 37, 38 and 39. The structure also retains the side boundaries of plots 50 and 51.

The structure is constructed of stone filled gabion baskets and its appearance is not considered to result in any adverse visual amenity implications. This aspect of the proposal is therefore considered to accord with policies DS1 and DS3 of the Core Strategy.

The retaining wall has a height of 1.25 metres between plots 43-46 and plots 35 and 37. The wall increases to a height of 3.3 metres between plots 47-49 and plots 38 and 39. Plots 50 and 51 are split level units and as such the retaining wall decreases to a height of 2.5 metre between the rear boundary of these units and the side boundary of plot 39.

Plots 37 and 38 are the only units located on the lower ground level which have a direct relationship between their habitable room windows and the retaining wall. It is considered that the aforementioned units are sufficiently separated from the retaining wall to ensure that there would be no significant adverse residential amenity implications for future residents. The proposal is therefore considered to accord with policy DS5 of the Core Strategy.

Replacement Gabion Walls

The approved development included a series of reconstituted stone retaining walls to accommodate level changes across the site. Specifically retaining walls were approved at the rear of plots 5-17, the rear of plots 18-21, the side boundary of plot 23 and the side boundary of plot 27.

The reconstituted stone faced retaining wall at the rear of plots 5-13 has been constructed 1 metre closer to the Keighley Road site boundary than was previously approved. At the rear of plots 14-17 the retaining structure has been constructed from stone filled gabion baskets, rather than as a reconstituted stone faced wall. The aforementioned amendments are not considered to result in any adverse implications in respect of visual amenity or residential amenity and the retaining structures remain sufficiently separated from the protected trees on the northern boundary to ensure that no adverse implications would be incurred. This aspect of the proposal is therefore considered to accord with policies DS1, DS3, DS5 and EN5 of the Core Strategy.

The retaining walls to the rear of plots 18-21 and to the side boundaries of plots 23 and 27 have been constructed using stone filled gabion baskets rather than as reconstituted stone faced walls. The gabion walling is considered to be of an acceptable appearance and accords with the requirements of policies DS1 and DS3 of the Core Strategy.

The aforementioned gabion walls do not differ in height in relation to the previously approved retaining walls and therefore the proposed amendments do not raise any residential amenity concerns.

Impact of Changes to Road and Plot Levels

In order to ensure that the internal estate road met with Section 38 requirements the road has undergone minor alterations to the approved levels. The submitted plan indicates that the levels of the main spine road have been altered by up to 200mm and the road level of the cul-de-sac serving plots 36-41 has been raised by 600mm. The amended road levels are considered necessary to ensure that the estate road is of adoptable standard and they are therefore considered to be acceptable.

As a result of the changes to the estate road the following plot levels have been amended to ensure that each plot benefits from level access from the pavement:

1. Plot 43- Lowered by 900mm
2. Plots 35 and 36 –Lowered by 900mm and 665mm
3. Plots 39 and 40- Raised by 300mm
4. Plots 41 and 42 –Raised by 725mm

The sloping nature of the site dictates the need for a variety of eaves and ridge heights throughout the development. In this context it is considered that the minor amendments to plot levels, as noted above, do not result in any significant visual amenity implications. This aspect of the proposal is therefore considered to accord with policies DS1 and DS3 of the Core Strategy.

The moderate increases to the finished floor levels at plots 39, 40, 41 and 42 do not result in any adverse residential amenity implications and accord with the requirements of policy DS5 of the Core Strategy, which requires that development proposals do not harm the amenity of existing or prospective users and residents.

Impact of Tree Removal

T27 is a Common Alder which is protected as part of a group Tree Preservation Order (TPO). The approved application illustrated that the tree was to be retained within the rear garden area of plot 23. The current application proposes to remove the tree.

Policy EN5(D) of the Core Strategy states that on development sites, the Council will require the retention of those trees which are healthy and which have or would have a clear public amenity benefit.

In relation to T27 the tree has a significant lean and it is classified within retention category C1. That is the retention category for unremarkable trees of very limited merit, or such impaired condition that they do not qualify in higher categories. The tree is therefore not considered to make a significant contribution to public amenity and its removal would not be contrary to the requirements of policy EN5 of the Core Strategy.

T35 is a Common Alder falling with retention Category C1. The Tree Preservation Order (06/00104/IG) contains a discrepancy concerning this tree. The tree is not contained within the TPO boundary map, but it is noted in Schedule 1 of the order. It is considered that Schedule 1 of the order takes precedence over the map and therefore the tree is considered to be protected.

The approach taken under the approved application was to retain trees wherever possible. In relation to T35 the Arboricultural Statement noted that:

“During the design of the site layout it was felt that trees should be retained wherever possible and as a result some less valuable trees have been incorporated into the design. This includes T35, an alder which currently stands alone. This tree has been designed into the road layout effectively making it the centrepiece between two curved drives. Although categorised as a ‘C’ it is an open grown tree of good shape and form. Alder are not particularly long lived but its inclusion into the site layout will ensure a long-term area for new planting when the tree ultimately has to be removed.”

It is therefore apparent that whilst T35 was retained within the layout of the approved development it was acknowledged at the time that the tree was not of significant value and that it would ultimately need to be removed and replacement planting provided.

The development is now substantially complete and it is apparent that T35 has incurred root damage during the construction process. The tree now sits in a small island of soil approximately 1200mm above the level of the excavated surroundings. The Arboricultural Officer has estimated that tree has a 40-50% chance of long term survival.

The agent has indicated that as construction has advanced the relationship of T35 with the habitable room windows of plots 24, 25, 26 and 27 has become readily apparent. The agent has raised concern that T35 is overshadowing the habitable room windows of the aforementioned plots. However there is no shadow cast information available to substantiate this assertion.

The proposal is to remove T35 and to provide replacement planting in the form of five Hornbeam within the gaps of the protected tree line along the northern boundary, adjacent to Keighley Road. The existing TPO on the northern boundary is to be amended to include the five replacement trees. The Arboricultural Officer has confirmed that the removal of T35 and the provision of replacement planting is acceptable.

Policy EN5(D) of the Core Strategy states that the Council will retain trees which are healthy and which have clear public amenity value. The policy advises that where appropriate, the council will secure replacement tree planting for trees lost or damaged during construction.

It is considered that T35 falls within a low retention category and its long term health cannot be assured. Consequently the proposed provision of replacement planting is considered to be an acceptable solution in order to secure planting which will provide clear and long-term public amenity value at the site.

The proposal is therefore considered to accord with policy EN5(D) of the Core Strategy.

Impact of Surface Water Attenuation Tank

The drainage scheme approved under application reference 16/02526/MAF included the provision of a surface water attenuation pond adjacent to plots 37 and 38. Following a health and safety review it was considered that the depth of the attenuation pond would pose a health and safety risk to residents.

Given the risk associated with the attenuation pond it was considered that an underground attenuation tank would provide a more appropriate solution. An underground attenuation tank has been installed in the location previously identified for the attenuation pond. This application seeks to retain the underground attenuation tank and it is proposed to provide an area of landscaped public open space on the land directly above.

The Lead Local Flood Authority has assessed the submitted details and calculations and has confirmed that the proposed surface water drainage arrangements are acceptable for the entirety of the site, including the attenuation tank. The proposal is therefore not considered to increase flood risk and accords with the requirements of policy EN7 of the Core Strategy and paragraph 165 of the National Planning Policy Framework.

The approved attenuation pond was primarily intended to meet the surface water drainage needs of the development, although it is accepted that the pond would have also provided an attractive visual feature within the site. However, any visual benefits would have most likely been negated by the need to enclose the pond to ensure public safety.

It is considered that the proposed landscaped public open space would provide an attractive and usable focal point within the same area of the development and the proposed amendment is therefore not considered to result in any adverse visual amenity implications. The amendment is therefore considered to accord with policies DS1 and DS3 of the Core Strategy.

Further Issues Raised by Representations

Drainage

Sewer/ foul water drains are of major concern to residents.

The foul water drainage details have been assessed by the Lead Local Flood Authority and approved under application reference 16/02526/SUB01. This proposal does not impact the approved details.

Removing trees will destroy the water table.

It is considered that the removal of two trees from the site will not have a significant impact on the water table. This is confirmed by the fact that the Lead Local Flood Authority have assessed and accepted the submitted surface water drainage details and calculations.

Residential Amenity

The residents living across the road from the site would much prefer a view of trees rather than houses.

The loss of views is not considered to be a material planning consideration. However, it should be noted that all trees on the northern boundary of the site are to be retained and supplemented with additional planting.

The development will have a negative impact on the gardens of dwellings on Harewood Crescent.

The location of the properties has been previously approved under application reference 16/02526/MAF. This minor material amendments proposed under this application do not alter the location of the development plots and the amendments proposed would not have any significant implications for the amenity areas of the dwellings on Harewood Crescent.

Highway and Pedestrian Safety

Goose Cote Lane cannot withstand any additional traffic.

The impact of the development on the capacity of the surrounding highway network was considered and accepted under application reference 16/02526/MAF. The minor material amendments proposed under this application will not alter the impact of the development on the surrounding highway network.

Trees

Large cherry trees were already removed to facilitate this development. Further tree removal is not necessary.

The proposed tree removal is considered to be justified based on the low retention categories of T27 and T35 and the ability to provide replacement planting of suitable public amenity value.

The application form does not state which trees are to be removed.

The submitted plans and accompanying statement identify that T27 and T35 are to be removed as part of this application.

Harm to visual amenity from loss of trees.

T27 and T35 fall within retention category C1. That is the categorisation assigned to unremarkable trees of very limited merit. Consequently it is considered that the proposed replacement planting, consisting of five hornbeam specimens, will adequately mitigate the loss of the existing low value specimens.

The trees assist in screening the development

The trees located on the northern boundary of the site are to be retained and supplemented with five additional specimens.

Trimming the trees periodically would be better than removal.

The proposed tree removal is considered to be justified based on the low retention categories of T27 and T35 and the ability to provide replacement planting of suitable public amenity value. The retention and on-going management of the trees is considered to be a less desirable option, as the ability to secure replacement planting is diminished once the development site is occupied.

The trees are central to the appearance of the approach into Oakworth

The trees on the northern boundary of the site make a significant visual contribution to the appearance of the approach into Oakworth. All of the trees located on this boundary of the site are to be retained and supplemented with the addition tree planting.

Biodiversity

Harm to wildlife and nesting birds

The Preliminary Ecological Appraisal carried out under application reference 16/02526/MAF found the site to be species poor, with limited potential to accommodate anything other than common garden birds. It is therefore considered that the removal of two trees would not have a significant adverse impact on important habitats or species. The developers responsibilities under the Wildlife and Countryside Act can be affirmed by imposing a footnote on the decision notice.

Other

The Keighley Road elevations of the development do not match the section drawings. Has the ground level been raised above the agreed level?

The levels of the plots adjacent to Keighley Road remain unaltered from the details approved under application reference 16/02526/MAF.

Are the houses nearest the main road built higher up and closer than originally planned?

The location and height of the plots adjacent to Keighley Road remain unaltered from the details approved under application reference 16/02526/MAF.

The trees have a beneficial role in preserving air quality in the area.

It is accepted that trees play an important role in maintaining air quality. However it is considered that the proposed replacement planting will provide adequate compensation for the loss of T27 and T35.

Local infrastructure will be strained immeasurably

The principle of development was accepted with the approval of application reference 16/02526/MAF and it cannot be re-visited under this application for minor material amendments.

Contractors vehicles block the roads surrounding the development.

Any vehicles obstructing the highway should be reported to the police.

Dust from the development has harmed the amenity of neighbours

Application reference 16/02526/MAF was approved subject to a planning condition requiring Construction Environmental Management Plan (CEMP) for minimising the emission of dust and other emissions from the site operations and associated transport movements. Failure to adhere to the terms of the imposed condition should be reported to Planning Enforcement for further investigation.

The original plans were for mixed tenure housing. Now the whole of the site will be for social housing.

The proposed minor material amendments are inconsequential to the tenure of the houses.

Residents of the development will generate noise at unsociable hours.

The principle of residential development in this location was accepted with the approval of application reference 16/02526/MAF and it cannot be re-visited under this application for minor material amendments. In any case the development site is comprised of residential dwellings set within an existing residential area. The uses are therefore entirely compatible and the claim that residents of the development will generate noise at unsociable hours is entirely unsubstantiated.

The disposal of clinical materials from the care home will pose health risks.

This application does not relate to the extra care facility that is currently under construction on the adjacent development site.

Insufficient details of phase 2 of the development.

Any details of phase 2 are indicative only and are not under consideration as part of this minor material amendment application.

Harm to neighbouring property value

Property value is not a material planning consideration.

Insufficient neighbour notification has been carried out.

Adequate neighbour consultation has been undertaken in line with the requirements of the Development Management Procedure Order 2015.

Has any space been set aside for recreation of children and adults on the site.

The proposed amendments include the provision of an area of public open space.

The original plans for the lower part of the site were to return the land to green belt and included a soakaway pond.

The lower part of the site is not within the red line boundary of this planning application. However the land is allocated as playing fields which were associated with the former school use of the site. Application reference 16/02526/MAF provided an indicative layout for this area which demonstrated a potential layout of 42 dwellings. However, the layout was indicative only and this area of the site does not currently benefit from planning permission for residential development.

Equality Act 2010, Section 149:

In writing this report due regard has been taken of the need to eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity between different groups and foster good relations between different groups, in accordance with the duty placed upon Local Authorities by Section 149 of the Equality Act 2010.

The context of the site, the development scheme proposed and the representations received have been reviewed to identify the potential for the determination of this application to disadvantage any individuals or groups of people with characteristics protected under the Equality Act 2010.

The outcome of this review is that there is not considered to be any sound reason to conclude that the proposed minor material amendments would have a significantly detrimental impact on any groups of people or individuals with protected characteristics.

Reason for Granting Planning Permission:

The proposed minor material amendment would allow for the removal of two trees (T27, T35) and the provision of an appropriate replacement planting scheme, in accordance with the approach required by policy EN5(D) of the Core Strategy.

The proposal would also allow for the retrospective regularisation of changes to finished floor levels of plots 35, 36, 39, 40, 41, 42 and 43, road level changes, the addition of gabion retaining walls and the retention of a surface water attenuation tank. Subject to the provision of an appropriately landscaped area of public open space above the surface water attenuation tank, it is considered that these changes would not unacceptably affect the amenities enjoyed by future residents of the development, adjacent neighbouring residents or result in any other significant harm. The proposal is therefore considered to accord with policies DS1, DS2, DS3, DS5, EN5 and EN7 of the Core Strategy and the National Planning Policy Framework.

Conditions:

1. ***** Implementation Condition Omitted – Application Partly Retrospective *****

2. The development hereby approved shall only be carried out in accordance with the approved plans listed below:

Location Plan-AR00165-(00) 00-Rev B
Elevations- AR/00165/(00) 07
Elevations AR/00165/(00) 08
Sections AR/00165/(00)- 09 Rev A
Proposed Plans and Elevations-AR/00165/(20) 01
Proposed Plans and Elevations- AR/00165/(20) 02
Proposed Plans and Elevations-AR/00165/(20) 03
Proposed Plans and Elevations - AR/00165/(20) 04
Proposed Plans and Elevations -AR/00165/(20) 06
Proposed Plans and Elevations- AR/00165/(20) 07
Sections AR/00165/(00) 13
Proposed Plans and Elevations- AR/00165/(20) 08
Proposed Plans and Elevations-AR/00165/(20) 08-1 Rev A
Proposed Plans and Elevations-AR/00165/(20) 09-1
Proposed Plans and Elevations- AR/00165/(20) 09-2
Highways Layout 1884 61 150 Rev A
Highways Layout 1884 61 170 Sheet 1
Highways Layout 1884 61 171 Sheet 2
Highways Layout 1884 61 172 Sheet 3
Highways Layout 1884 61 173 Sheet 4
Proposed site and Landscape Plan- A3 AR_00165A01(00) 01 Rev.J
Proposed Sections BB1 and BB and CC+1- AR00165-(00) 10-Rev G
Proposed Elevations along Section 5-5- AR00165-(00) 11-Rev G
Travel Plan-Reference-8548/LOB/002/01-dated 15th March 2016

3. In the first planting season following the completion of the development, or as may otherwise be agreed in writing by the Local Planning Authority, the landscaping proposals and new tree planting shall be implemented at the site in accordance with details shown on the approved Landscape Proposals drawing reference 'A3 AR_00165A01(00) 01 Rev J Proposed site and Landscape Plan' dated 29th October 2018.

Any trees or plants comprising the approved landscaping that become diseased or die, or which are removed or damaged within the first 5 years after the completion of planting shall be removed and a replacement landscape planting using the same or similar species/specifications shall be planted in the same position no later than the end of the first available planting season following the demise of the original landscape planting.

Reason: In the interests of visual amenity and to accord Policies EN5, DS2 and DS3 of the Core Strategy Development Plan Document.

4. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.

Reason: To achieve a satisfactory standard of landscaping in the interests of amenity and to accord with Policies DS1, DS2 and DS5 of the Core Strategy.

5. A management plan/maintenance agreement for the long term management/maintenance of communal/public open space areas, including long term design/ecological objectives, management responsibilities and maintenance schedules shall be submitted to, and approved by the Local Planning Authority prior to the first occupation of any unit. The management plan/maintenance agreement shall be carried out as approved.

Reason: To ensure proper management and maintenance of the landscaped communal areas in the interests of amenity and to accord with Policies DS1, DS2 and DS5 and DS5 of the Core Strategy.

6. Prior to the first occupation of any unit a detailed remediation strategy which removes unacceptable risks to all identified receptors and clarifies the methodologies for risk management in relation to ground gases and asbestos shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall be implemented as approved unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the site is remediated appropriately for its intended use and to comply with policy EN8 of the Core Strategy.

7. Unless otherwise agreed in writing with the Local Planning Authority, a remediation verification report prepared in accordance with the approved remediation strategy shall be submitted to and approved in writing by the Local Planning Authority prior to the completion of the development.

Reason: To ensure that the site is remediated appropriately for its intended use and to comply with policy EN7 of the Core Strategy.

8. Prior to the first occupation of any unit a methodology for quality control of any material brought to the site for use in filling, level raising, landscaping and garden soils shall be submitted to, and approved in writing by the Local Planning Authority.

Reason: To ensure that all materials brought to the site are acceptable, to ensure that contamination/pollution is not brought into the development site and to comply with policy EN7 of the Core Strategy.

9. No construction work shall take place outside the following times: 0730 to 1800 hours from Monday to Friday, and 0730 to 1300 on Saturdays. There shall be no construction work at any time on Sundays and bank or public holidays.

Reason: To protect the amenities of the occupants of nearby dwellings and premises and to accord with Policy DS5 of the Core Strategy.

10. Before any works towards construction of the development commence on site, the proposed means of vehicular and pedestrian access hereby approved shall be laid out hard surfaced, sealed and drained within the site to a base course level in accordance with the approved plan AR/00165/(00)20 Rev A.

Reason: To ensure that a suitable form of access is available to serve the development in the interests of highway safety and to accord with paragraph 108 of the National Planning Policy Framework.

11. Before any part of the development is brought into use, the visibility splays hereby approved on plan as part of the Transport Assessment details shall be laid out and there shall be no obstruction to visibility exceeding 900mm in height within the splays so formed above the road level of the adjacent highway.

Reason: To ensure that visibility is maintained at all times in the interests of highway safety and to accord with policy 108 of the National Planning Policy Framework.

12. Before any part of the development is brought into use, the proposed means of vehicular and pedestrian access hereby approved shall be laid out, hard surfaced, sealed and drained within the site in accordance with the approved plan and completed to a constructional specification approved in writing by the Local Planning Authority.

Reason: To ensure that a suitable form of access is made available to serve the development in the interests of highway safety and to accord with paragraph 108 of the National Planning Policy Framework.

13. The development shall not be occupied prior to implementation of those parts of the approved Travel Plan that are capable of being implemented prior to occupation. Those parts of the approved Travel Plan that are identified therein as only being capable of implementation after occupation shall be implemented in accordance with the timetable contained therein and shall continue to be implemented as long as the development is occupied.

Reason: To encourage alternative modes of sustainable transport and build upon existing modes of transport to provide a sustainable development in accordance with policy TR2 of the Core Strategy and the National Planning Policy Framework.

14. Notwithstanding the boundary details shown on the submitted plans prior to the first occupation of the development a scheme of measures to take account of Secure by Design principles for phase 1 of the development including the external landscaping areas shall be submitted to and approved in writing by the Local Planning Authority. Thereafter all agreed measures shall be implemented and remain in place whilst ever the use subsists.

Reason: To ensure a safe and secure environment for occupants of the development and to accord with the requirements of policy DS5 of the Core Strategy.

Footnote: All contractors on site shall be briefed about their legal obligations in respect of protected species and any works should be undertaken under caution that protected species could be present. In the event that protected species are found work shall stop immediately and Natural England shall be contacted immediately.