

## **Report of the Assistant Director (Planning, Transportation & Highways) to the meeting of Regulatory and Appeals Committee to be held on 25 June 2020**

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### **Subject:**

This is a full planning application for the construction of one detached house with associated private driveway and alterations to the access at land at Spring Gardens Lane, Keighley.

### **Summary statement:**

The application site is a steeply sloping field with a number of mature trees which are protected by Tree Preservation Order (TPO), to the boundaries of the site, including the boundary with Spring Gardens Lane. This land abuts the Devonshire Park Conservation Area, which extends beyond the eastern and southern boundaries. The land itself is allocated as Urban Greenspace. The surrounding area is a low density residential suburb.

The proposed development is not considered appropriate due to the impact on the existing trees on and close to the boundary of the site which are protected by Tree Preservation Order and collectively form a significant and prominent feature of the area. The proposed development will lead to harm to the trees and prejudice their retention. The development would also cause harm to the setting of the Devonshire Park and Cliffe Castle Conservation Area. The built nature of the development will significantly reduce the open and green character of the area which is defined as Urban Greenspace. This proposal would introduce a very bulky, large-scale dwelling of an unsympathetic design that would be out of keeping with its surroundings.

The application is recommended for refusal.

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Julian Jackson  
Assistant Director (Planning,  
Transportation & Highways)  
Report Contact: John Eyles  
Major Development Manager  
Phone: (01274) 434380  
E-mail: [john.eyles@bradford.gov.uk](mailto:john.eyles@bradford.gov.uk)

**Portfolio:**  
**Regeneration, Planning and Transport**

**Overview & Scrutiny Area:**  
**Regeneration and Economy**

## **1. SUMMARY**

This is a full planning application for the construction of one detached house with associated private driveway and alterations to the access at land at Spring Gardens Lane, Keighley.

## **2. BACKGROUND**

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

## **3. OTHER CONSIDERATIONS**

N/A

## **4. OPTIONS**

This Committee has the authority to approve or refuse this development. If Members are minded to approve this application then reasons for approval will need to be given.

## **5. FINANCIAL & RESOURCE APPRAISAL**

There are no financial implications for the Council arising from this application.

## **6. RISK MANAGEMENT & GOVERNANCE ISSUES**

No implications.

## **7. LEGAL APPRAISAL**

The determination of the application is within the Council's powers as the Local Planning Authority.

## **8. OTHER IMPLICATIONS**

N/A

### **8.1 EQUALITY & DIVERSITY**

Section 149 of the Equality Act 2010 states that the Council must, in the exercise of its functions "have due regard to the need to eliminate conduct that is prohibited by the Act, advancing equality of opportunity between people who share a protected characteristics and people who do not share it, and fostering good relations between people who share a protected characteristic and people who do not share it. For this purpose section 149 defines "relevant protected characteristics" as including a range of characteristics including disability, race and religion. In this particular case due regard has been paid to the section 149 duty but it is not considered there are any issues in this regard relevant to this application.

### **8.2 SUSTAINABILITY IMPLICATIONS**

The site is in a suburban setting that is well served by public transport and local amenities. The size and design of the proposed dwelling mean that it is unsustainable since it would introduce poor design into the street scene and Conservation Area, destroy urban greenspace and would have a demonstrably negative impact on the protected trees on the site.

### **8.3 GREENHOUSE GAS EMISSIONS IMPACTS**

There are not considered to be any significant greenhouse gas emissions impacts caused by the proposed development.

### **8.4 COMMUNITY SAFETY IMPLICATIONS**

The Community Safety Implications of the proposed development are considered in Appendix 1.

#### **8.5 HUMAN RIGHTS ACT**

Article 6 – 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. This is incorporated within the report attached as Appendix 1.

#### **8.6 TRADE UNION**

None.

#### **8.7 WARD IMPLICATIONS**

There are no Ward implications posed by this development.

#### **9. NOT FOR PUBLICATION DOCUMENTS**

There are no 'not for publication' documents.

#### **10. RECOMMENDATIONS**

It is recommended that the Committee accept the recommendation of refusal within the report attached as Appendix 1.

#### **11. APPENDICES**

Appendix 1: Report of the Strategic Director of Regeneration and Culture.

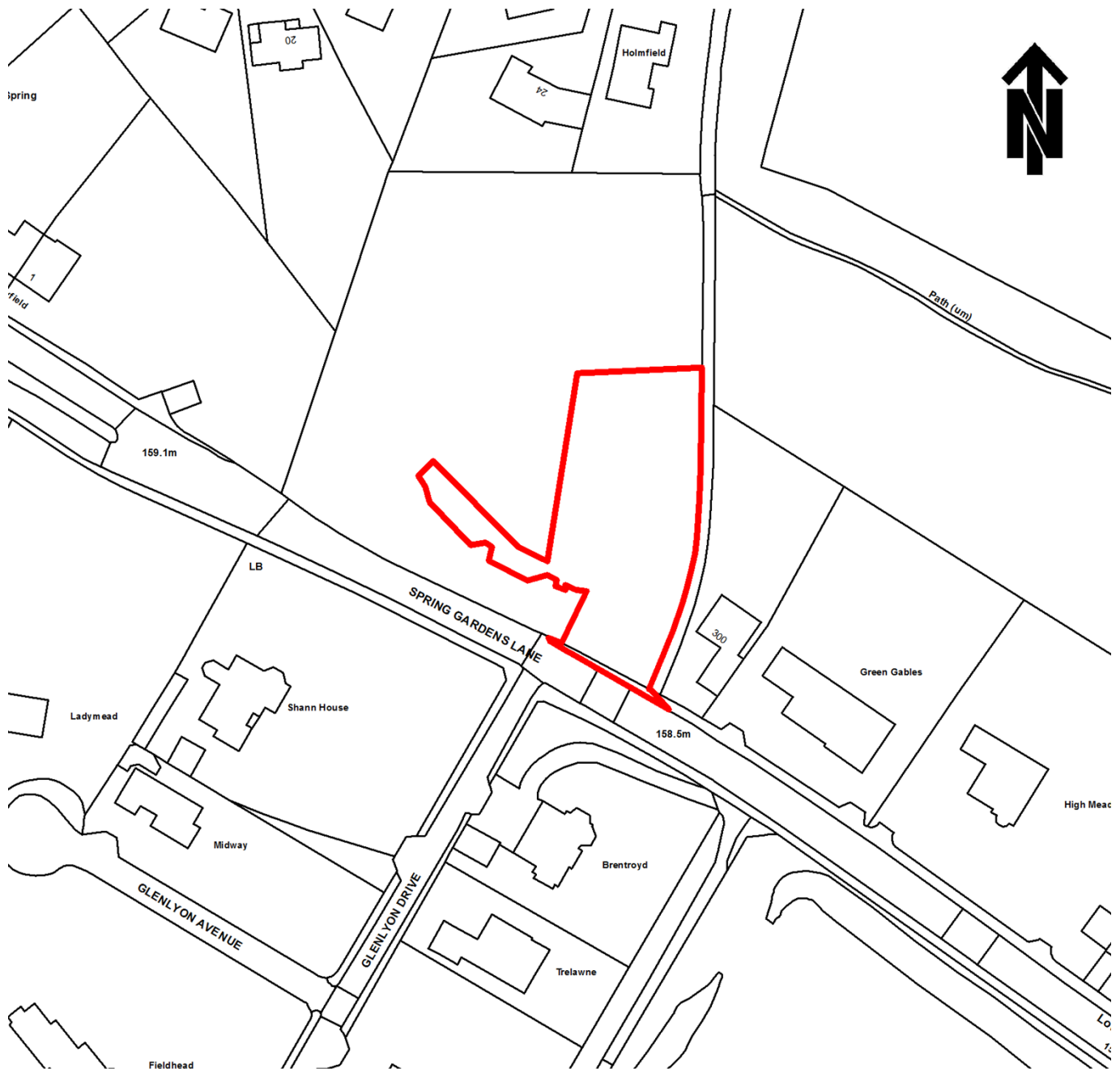
#### **12. BACKGROUND DOCUMENTS**

The Replacement Unitary Development Plan for Bradford District  
National Planning Policy Framework  
The Core Strategy Development Plan Document

19/04190/FUL



City of  
**BRADFORD**  
METROPOLITAN DISTRICT COUNCIL



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**Land At Spring Gardens Lane  
Keighley**

**Ward:** Keighley Central (Ward 15)  
**Recommendation:**  
**To refuse planning permission**

**Application Number:**  
19/04190/FUL

**Type of Application/Proposal and Address:**

Full planning application for the construction of one detached house with associated private driveway and alterations to the access on land at Spring Gardens Lane, Keighley.

**Applicant:**  
Mrs Bailey

**Agent:**  
Michael Ainsworth Design Partnership

**Site Description:**

The application site is on the north-west side of Keighley and is the top part of a steeply sloping field behind a stone wall and line of protected (TPO) trees adjoining Spring Gardens Lane. The surrounding area is a low density residential suburb including a number of schools. Cliffe Castle park is nearby. The land abuts the boundary of the Devonshire Park and Cliffe Castle Conservation Area, which extends beyond the eastern and southern boundaries. The land falls away steeply towards the north. It is allocated as Urban Greenspace on the RUDP Proposals Map - adopted in 2005. This designation reflected its visual contribution as a green break in the built up area. The lower slopes of the same field have recently been developed with 4 detached dwellings which take access via a private drive from the end of the cul de sac called Manor Road. The protected mature trees run along the boundary with Spring Gardens Lane and also down the two side boundaries. The eastern boundary adjoins a public footpath (Keighley Public Footpath 16).

**Relevant Site History:**

13/04890/FUL : Construction of 4 four bed detached dwellings with integral garages, gardens and demolition of existing garages to form new private driveway access.  
Granted 24.07.2014

16/00448/FUL Construction of 5 detached houses. Granted subject to conditions and a section 106 agreement – permission dated 15.05.2017

**The National Planning Policy Framework (NPPF):**

The NPPF is a material planning consideration on any development proposal. The NPPF 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 NPPF suggests local planning authorities should approve development proposals that accord with statutory plans without delay.

**Local Plan for Bradford:**

The Core Strategy for Bradford was adopted on 18 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 adoption of Allocations and Area Action Plan development plan documents. The site is allocated as Urban Greenspace in the RUDP. Accordingly, the above adopted Core Strategy and saved RUDP policies are applicable to this proposal.

**Core Strategy Policies**

SC1 - Overall Approach and Key Spatial Priorities  
SC9 - Making Great Places  
DS1 - Achieving Good Design  
DS2 - Working with the Landscape  
DS3 - Urban character  
DS4 - Streets and Movement  
DS5 - Safe and Inclusive Places  
EN1 – Open Space, Sports and Recreational  
EN3 - Historic Environment  
EN5 – Trees and woodlands  
EN7 – Flood Risk  
EN8 – Environmental Protection Policy

**Parish Council:**

Keighley Town Council has requested that the application is determined by the Area Planning Panel. The comments suggest it opposes the development.

The Town Council's concerns are;

- a. Scale and height of the development including when/if the further 3 houses will be built.
- b. The height of the development, there will be a significant loss of light to the houses below – in particular to the new builds at the bottom of the field
- c. Poor design – large floor to ceiling windows – lack of privacy to the lower houses, 1 car parking space adjacent to the footpath – no easement
- d. Potential loss of trees along the southern boundary (Spring Gardens Lane) and potential subsidence of the road
- e. Possibility of a gas pipeline going through the site
- f. Drainage issues

**Publicity and Number of Representations:**

Publicised by neighbour notification letters and site notice.

One objection and twelve support comments have been received, including one from a Keighley Central Ward Councillor.

The Ward Councillor has referred the application to Area Planning Panel for determination in the event of an officer recommendation to refuse.

## **Summary of Representations Received:**

### Objections

Impact on footpath adjoining site. Rebuilding of footpath wall is necessary  
Overshadowing  
Raising of ground levels will cause disruption  
Gas main is on the site  
Adverse effect on trees

### Supporters

Enhancement to the area from development  
Good design  
Plenty of parking is available  
Good use of land  
Trees unaffected  
One house on a plot previously for two is beneficial  
Proposal is in keeping with area

## **Consultations:**

Trees Team – Objects. The application is contrary EN4, EN5 and has a lack of information/evidence regarding protection of the trees on the site during development.

Rights of Way Officer – Records indicate that Keighley Public Footpath 16 abuts the site. This route is also shown on the Councils Rights of Way Improvement Plan (ROWIP).

Concerns have been raised previously regarding the current condition of the public footpath and the boundary wall running alongside the eastern boundary of the site. Previous approval for x5 dwellings on this site has included a condition relating to the reconstruction of this wall and this condition should be repeated in any approval of this scheme. Any additional site fencing should remain on the development side of the wall similar to the existing fencing on site.

Conservation Team – Objects. Development as proposed would cause further harm to the setting of the conservation area, compounding the effect of the development already approved. The existing openness is a positive characteristic which affords beneficial views. The positive contribution the site makes in its present form would not be outweighed by any public benefits of development. The harm would be contrary to Para.196 of the NPPF and would not be in accordance with policies EN3, DS3 and SC1 of the RUDP.

Environmental Health – Based on the past history of the site the probability of contamination being present sufficient to affect future site users is considered to be a low risk. However, with any site, the possibility of unidentified contamination being present cannot be entirely excluded therefore Environmental Health recommends that conditions are included on the decision notice if approval is granted.

## **Summary of Main Issues:**

Background  
Impact on the Urban Greenspace  
Design/Impact on Built Environment  
Heritage Implications  
Impact on Trees  
Impact on Neighbouring Occupants  
Impact on Highway Safety

## **Appraisal:**

### **Background/Circumstances**

This steeply sloping field is designated as part of an Urban Greenspace by the Bradford RUDP. Urban Greenspaces are valuable breaks within the fabric of the built up area valued for their contribution, as open land, to the character of the urban areas of the District. However, planning permission 13/04890/FUL was granted for development of 4 houses on the lower part of the same Urban Greenspace field by Area Planning Panel in 2014, and these houses are now built.

A second application 16/00448/FUL followed. This proposed 5 detached houses on the more prominent upper slopes of the same field – the development adjoining Spring Gardens Lane and taking access via a short length of private drive leading off that road.

This application was recommended for refusal by Officers on grounds of being contrary to the Urban Greenspace policy, adverse effects on trees, and harm to the setting of the adjoining conservation area. However, after consideration and a site visit the Council's Area Planning Panel decided to grant planning permission - subject to the imposition of a number of planning conditions and a S.106 agreement to secure delivery of necessary alterations to Spring Gardens Lane as identified by the Highway Officer.

Although there is evidence that some site preparation work has been carried out on the land, (shutter fencing is in place, some hardcore has been deposited and some excavation was undertaken, including around the protected trees) there is no evidence that this constitutes a lawful commencement of the approved development. Significantly, at the time of writing this report, none of the conditions precedent have been discharged.

The previous planning permission 16/00448/FUL for construction of five detached houses granted by Area Planning Panel and issued on 15 May 2017 is certainly a material consideration, but it is now regarded to have lapsed.

The latest application is a full application for the construction of one detached house with an associated driveway. The proposal follows the layout approved by the previous planning application but would replace two of the conventional detached houses previously approved with one large dwelling.

### **Impact on the Urban Greenspace**

As mentioned, the site is allocated as part of an area of Urban Greenspace by the RUDP and needs to be assessed against saved policy EN1 which seeks to safeguard such tracts of open land which form important visual breaks in the fabric of the built-up area so as to maintain the contribution made by those as a green backdrop to the urban areas.

Planning permission was granted for four dwellings on the lower part of the field under reference 13/04890/FUL. The reason given for that permission was that the development would be restricted to only the less prominent portion of the Urban Greenspace - which was the bottom of the steeply sloping field and which was not particularly prominent. The rest of the field sloping up to Spring Gardens Lane would remain undeveloped, and the section of field to be developed was related to the existing housing on Manor Road.

The upper part of the field that comprises the application site is more prominent to views

from points to the north and therefore the impact of new development on the open character of the area would be much more noticeable than the development on the lower slope. Although mindful of the permissions granted by Area Planning Panel, officers consider that the Urban Greenspace should be upheld by resisting development of the upper slopes.

### **Design/Scale - Impact on Built Environment**

The new proposal is to place a single large dwelling on the plots of two of the 5 detached dwellings shown on the layout approved under 16/00448/FUL.

This house would have a substantially larger mass than the two detached houses. It would appear as a 2-3 storey house from Spring Gardens Lane, but the north elevation facing across the valley involves 4 storeys of accommodation and extends to a height of 13.7 metres to ridge, 10.35 metres to eaves. It would stand in an elevated position with the north elevation being prominent and also visible from the adjoining footpath.

The land was designated as Urban Greenspace because of its character and prominence and if development was permitted, it is important that any buildings are subservient to the landscape and carefully integrated with the slope.

These proposals would present a large, bulky building on the slope and would have a much more damaging effect on the character of the area than the previously approved proposals.

The design submissions list an assortment of proposed materials, including large amounts of glass and balconies to the north side, with stone, render and grey UPVC dormer cladding as the main facing materials. The split level design, with large expanses of glazing results in an appearance neither respectful nor relevant to the prevailing quality of more traditional design in the locality, nor appealing as contemporary design. It is unclear from the elevations as to where stone and render are to be applied. As well as being a very dominant house, its design lacks attention to ensure that its style and materials will allow it to sit comfortably within its context.

The height and mass of the dwelling is out of scale with surrounding properties and the house would dominate the site and appear very intrusive in these surroundings. The proposal will create a dwelling that will form an unduly dominant building that will detract from the character and appearance of the area and the visual amenity of the street scene and does not comply with Core Strategy Policies DS1 and DS3.

### **Heritage Implications**

The site is bordered by the Devonshire Park and Cliffe Castle conservation area. It is steeply sloping with a mature belt of trees adjacent to Spring Gardens Lane. The Council's Design and Conservation Team considers that the development site makes a positive contribution to the setting of the conservation area by virtue of its openness and presence of the mature trees. Mature trees are identified as one of the key characteristics of the conservation area, with tree lined roads. The site is also identified as providing key open views from the conservation area, north towards the Aire valley.

The proposed dwelling would result in further loss of open views, resulting in a screen of built form comprising 4 closely set detached properties of some stature. The latest intended dwelling would effectively block views from the corner of the site.

The development as proposed would cause further harm to the setting of the conservation area, compounding the effect of the development previously approved.

The existing openness is a positive characteristic which affords beneficial views. The positive contribution the site makes in its present form would not be outweighed by any public benefits of development.

The Conservation Officer also notes that an incongruous timber fence erected along the public footpath already displays a lack of regard to local character and this fence now forms an unsightly edge to the conservation area.

Due to its bulk and intrusive appearance the proposal is not consistent with the Council's duty under S.72 of the Planning (Listed Buildings and Conservation Areas) Act, 1990 which requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. The development would cause harm to the character and appearance of the conservation area which would be contrary to Para.196 of the NPPF and would not be in accordance with policies EN3, DS3 and SC1 of the RUDP.

### **Impact on Neighbouring Occupants**

There will be a significant distance between the north elevation of the proposed dwelling and existing approved houses at the bottom of the hill. The distance from the proposed dwellings to the rear gardens of those approved at the bottom of the field will be approximately 30 metres. The proposed dwelling has been positioned so it would not have an adverse impact on either existing residents or future residents by reason of overbearing impact or overshadowing. Equally the habitable room windows will not cause overlooking of private garden areas or habitable room windows for existing or future residents. The proposal will accord with Core Strategy Policy DS5 in terms of its impact on residential amenity.

### **Impact on the protected trees**

In respect of the previous application, the Council's Tree Officer expressed the view that development on such a sloping site is incompatible with retention of the mature protected trees which are a vital feature of the area and contribute to the setting of the adjoining conservation area. Those fears are repeated in respect of this new proposal.

The applicant has submitted an Arboricultural Impact Assessment which identifies a number of potential conflicts and emphasises that this will need to be developed into an Arboricultural Method Statement to coincide with the main contractor's Construction Method Statement (CMS) before any works start on site. For example, the applicant's consultant identifies how a detailed section showing the build-up of level footprint on which the proposed dwellings will be sited and construction details showing relative levels (existing and proposed) and proposed edge restraints along the tree-side edge of the proposed hard surfacing will be essential prerequisites for the completion of the final version of the method statement.

However, the Council's Tree Officer points out that the submitted Arboricultural Impact Assessment is dated 2015 – now almost 5 years old and it is out of date. Various problems with this report were highlighted previously and the concerns remain unresolved. Nor have the proposals for tree protection been developed since the previous application.

The Council's Tree Officer therefore advises, once again, that the proposed application provides no specific evidence that the protected trees can be protected in accordance with BS 5837 and the depicted RPAs are incorrect and out of date. There is significant lack of detail on levels, the future location of drainage and details of some services which could impact on trees. Whilst tree protection measures look possible on paper

this remains completely aspirational. The previous advice from trees team was that suitable tree protection measures could not be undertaken on this site for practical reasons due to site restrictions and the steep slope. The lack of appropriate tree protection could also potentially create a public hazard. One tree has already collapsed onto the road after plant access was taken close to the tree.

The Council's Tree Officer advises that the proposed development will lead to the loss of significant trees on site that make a positive and important contribution to public amenity – this would further adversely impact on the green nature of the urban green space and the setting of the conservation area. It is therefore considered that the proposal will not accord with Core Strategy Policies EN4 and EN5 and there is a lack of information/evidence to justify the claims of the applicant that these important protected trees can be retained.

### **Impact on Highway safety**

The proposed access to the highway would remain via the short drive as approved under application 16/00448/FUL. The Council's Highways Officer was satisfied that the site layout and supporting highway information would make the scheme acceptable in terms of parking and highway safety subject to compliance with previous conditions and the previous S.106 agreement.

### **Reasons for Refusal:**

1. The existing trees on and close to the boundary of the site are protected by Tree Preservation Order and collectively form a significant and prominent feature of the area. The supporting information submitted with regard to trees and the impact of the development on them is inadequate. The proposed development is unacceptable as it will actually lead to harm to the trees and prejudice their retention contrary to Core Strategy Policies EN4 and EN5. As such the development fails to form sustainable development compatible with the National Planning Policy Framework.
2. The development is unacceptable as it would cause harm to the setting of the Devonshire Park and Cliffe Castle Conservation Area and the positive contribution the site makes in its present form would not be outweighed by any public benefits of proposed development. The harm would be contrary to Para.196 of the National Planning Policy Framework and would not be in accordance with Core Strategy Policies EN3, DS3 and SC1.
3. The proposal is unacceptable in principle the development will take place on a steeply sloping undeveloped field that is prominent to views from public land and across the Airedale Valley. The built nature of the development will significantly reduce the open and green character of the area which is defined as Urban Greenspace on the Replacement Urban Development Plan and is therefore contrary to policy EN1 of the Core Strategy. Further the adverse impact on the green nature of the Urban Greenspace will be exacerbated by the loss of mature protected trees on site that make a positive impact on the green nature of the Urban Greenspace contrary to Core Strategy Policy EN1. The development will thus fail to form sustainable development compatible with the National Planning Policy Framework.
4. The proposal would introduce a bulky, large-scale dwelling of an unsympathetic design that would be out of keeping with its surroundings. The proposal would form an unduly dominant and incongruous addition to the site that will detract from the character and appearance of the area and the visual amenity of the

street scene contrary to policies DS1 and DS3 of the Core Strategy Development Plan Document.