

**APPLICATION REPORT - FUL/345630/20**  
**Planning Committee 19<sup>th</sup> January 2022**

Registration Date: 25th November 2020  
Ward: Saddleworth West And Lees

Application Reference: FUL/345630/20  
Type of Application: Full Application

Proposal: Construction of 77 residential properties with associated access, landscaping and ancillary works

Location: Land to the east of Huddersfield Road, Diggle, OL3 5NU

Case Officer: Matthew Taylor  
Applicant: Mr Mark Sexton

## **INTRODUCTION**

The application is being reported to Planning Committee for determination given it is a major development, in accordance with the Council's Scheme of Delegation.

## **RECOMMENDATION**

It is recommended that the application should be approved subject to:

1. The conditions as set out in this report; and,
2. The completion of a Section 106 Agreement to secure:
  - The provision of 10% on site Affordable Housing (at transfer values of 80% OMV or as Discount Market Sale);
  - A financial contribution of £378,747.20 towards the enhancement of existing Open Space provision within the locality; and,
  - A financial contribution towards the provision of compensation for the loss of suitable ground nesting bird habitat by off-site habitat enhancement.

The Head of Planning shall be authorised to issue the decision upon satisfactory completion of the legal agreement.

## **THE SITE**

The application site is land to the east of Huddersfield Road, Diggle, which is split into two parcels of land by the access road (off Huddersfield Road) which serves the new Saddleworth School site (which previously served Shaws Pallet Works). The applicant refers to these sites as Site A and B.

Site A is to the north of the Pallet Works original access road and measures approximately 1.389 ha. Site B, is to the south of the Pallet Works original access road and measures 1.099 ha. Both sites slope down gently towards Diggle Brook, with residential properties to the west and north, open fields to the south and the former Shaw Pallets office building (a listed building) to the east. The Huddersfield Narrow Canal lies beyond the school development site.

Part of the former Shaw Pallet Works to the east is the Grade II listed Dobcross Works Office which falls within the development limit of the school site. There are a further two Grade II listed buildings to the south east of the site along Huddersfield Road approximately 150m from the southern boundary. The site does not fall within a conservation area.

The site is located within a Business Employment Area (BEA) and the majority of the site falls within Flood Zone 1. However, the area to the north east of the site lies in Flood Zone 2 and 3a, reflecting its proximity to Diggle Brook.

## **THE PROPOSAL**

Full planning permission is sought for the redevelopment of the site for a residential scheme comprising the erection of 77no. dwellings (Site A proposes 45 units, and 32 units are proposed on Site B), associated infrastructure, landscaping, and access to each site. Site A is proposed to be accessed from the road serving the new Saddleworth School site, whilst access to Site B is proposed directly from Huddersfield Road.

Proposed unit breakdown is as follows:

- 2 bed/3 person dwellings - 17no. plots;
- 3 bed/4 person dwellings - 8no. plots;
- 3 bed/5person dwellings - 14no. plots;
- 4 bed/6 person dwellings - 28no. plots;
- 4 bed/7 person dwellings - no. plots; and
- 5 bed/7perosn dwellings - 4 plots.

Each dwelling will benefit from front and rear gardens and off-street car parking provision as indicated on the Proposed Site Plan.

## **RELEVANT PLANNING HISTORY**

PA/337301/15 - Construction of a new Saddleworth School with associated sports fields and pitches, external recreation and teaching space together with parking and landscaping and associated works - Approved 17/06/2019

## RELEVANT PLANNING POLICIES

The 'Development Plan' is the Joint Development Plan Document (DPD) which forms part of the Local Development Framework for Oldham.

The following policies are relevant to the determination of this application:

Joint Development Plan Document:

Policy 1 - Climate change and sustainable development;  
Policy 3 - An address of choice;  
Policy 5 - Promoting Accessibility and Sustainable Transport Choices';  
Policy 9 - Local environment;  
Policy 11 - Housing;  
Policy 14 – Supporting Oldham's Economy;  
Policy 18 – Energy;  
Policy 20 – Design;  
Policy 21 - Protecting Natural Environmental Assets;  
Policy 23 - Open space and sports; and,  
Policy 25 – Developer Contributions.

National Planning Policy Framework (NPPF)

## CONSULTATIONS

Environmental Health:	Recommended both landfill gas and contaminated land conditions and informative notes.
Highways:	Recommended both conditions and informative notes.
Greater Manchester Ecology Unit:	Recommended both conditions and that compensation for the loss of suitable ground nesting bird habitat by off-site habitat enhancement.
United Utilities:	Recommended conditions and informative notes to address both drainage and the management and maintenance of Sustainable Drainage Systems.
Greater Manchester Police Architectural Liaison Unit:	Raised no objection.
LLFA/Drainage	Comments to be reported on the late list.
Trees	No objection, Subject to condition.
Historic England	Raised no objection
Environment Agency	Recommended conditions and informative notes.
Canal and River Trust	Raised concerns regarding the discharge into Diggle Brook.
Housing Strategy	Raised no objection.

## REPRESENTATIONS

The application has been advertised by means of neighbour notification letters, site notice, and press notice. In response, the following representations have been received:

- 0 **support** comments have been received.
- 0 **neutral** comments have been received
- 79 **objection** comments have been received

## SUMMARY OF OBJECTIONS:

- Affect local ecology;
- Inadequate access for the additional dwellings within the village;
- Inadequate parking provision within the development for future occupiers;
- Increase danger of flooding as a result of the additional urbanisation;
- Increase in traffic and pollution;
- More open space needed on development, the additional residents will put a strain on existing provision;
- Green spaces need to be retained not developed;
- Noise nuisance from the development will impact existing residents;
- Development is out of keeping with character of area;
- Scheme represents over development of the village;
- Strain on existing community facilities, existing lack of doctors, dentist, shops and school places;
- Wool Road and Huddersfield Road Junction already suffers from severe traffic congestion during peak times, this problem is soon to be further aggravated once the construction of the school is complete;
- The village has narrow pavements on Wool Road and Huddersfield Road junction, which pose a risk to pedestrians and this will be further exacerbated with increased footfall;
- Application does not provide enough affordable home;
- There is insufficient public transport in Saddleworth to get people to work/shopping; and,
- The impact of the extra traffic due to the opening the school in Diggle has yet to be ascertained and the official predictions are both out of date and underestimated. The addition of 78 houses with potential for an extra 156+ Vehicles would create more misery for the people both in Diggle and Dobcross.

Saddleworth Parish Council: Recommended refusal for the following reasons:

- Poor vehicular access, resulting in congestion issues.
- Infrastructure concerns, e.g., availability regarding number of school places, overdevelopment.
- Errors in traffic report.
- Heightened levels of noise and vibration from vehicles.
- Deemed a premature submission as school not built.
- Application of this type should only be considered once school is completed and an impact assessment carried out.

- Whilst land allocated for business and employment purposes, has been so since 2006 with no development having come forward indicating lack of demand. Updated NPPF advises that Planning policies and decisions need to reflect changes in demand for land and where Local Planning Authority considers there to be no reasonable prospect of application coming forward for use allocated in plan, applications for alternative uses on land should be supported in interim, prior to updating plan, where proposed use would contribute to meeting unmet need for development in area. In circumstances and taking into account sustainable location of site and Oldham's shortfall in housing land supply, arguably unmet need, likely that very difficult to resist principle of residential development even when balanced against loss of employment land. Will clearly impact on open outlook from Huddersfield Road towards east, more so than school development, and obscure views of Listed office building but would also have been case if employment allocation implemented.

## **PLANNING CONSIDERATIONS**

The main planning issues for consideration are as follows:

1. Principle of Development;
2. Developer Contributions;
3. Energy;
4. Highway safety;
5. Design
6. Heritage;
7. Residential Amenity;
8. Trees;
9. Ecology;
10. Drainage;
11. Environment Agency; and,
12. Contamination and Landfill Gas.

### **Principle of development**

#### *Loss of Employment:*

Policy 14 of the Local Plan sets out that uses other than those listed in the policy (list numbered i to xiii) will be permitted on sites currently or most recently used for employment purposes. This list does not include residential. However, provided the applicant can clearly demonstrate that it is no longer appropriate or viable to continue the existing use, the policy does allow other uses (which would include residential) by exception. This can be demonstrated by the developer:

- a) through a marketing exercise that there is no market for the uses listed in the policy. The marketing exercise should be agreed with the Council before commencing and be of a professional standard; or,
- b) through a viability exercise that the continued use/development of the site for the uses listed in the policy is unviable; or,

- c) that the development of the site for alternative uses would benefit the regeneration areas identified by the Council as being in need of investment or would benefit the community of an area.

The Planning Statement Addendum (May 2021) submitted by the applicant draws reference to the requirements of Policy 14 and an Employment Land Report (February 2021) has been submitted by Avison Young and Grasscroft Development Solutions. This report considers the suitability of the site for employment generating development and the current market conditions. The conclusion of this report confirms the site is unsuitable for modern industrial uses given it is in a tertiary industrial location with the closest motorway junction being a distant 13 miles away. As a result, no logistics businesses would typically be attracted to the site due to the long distance required to travel to access the motorway network. Preference tends to be for the M62/M6 corridor.

Moreover, the impact of industrial / logistics development on the site would be have a significant impact on both the adjacent residential properties and the and new Saddleworth school site, highway safety (HGV movements), potential noise and light pollution. It is considered that employment development would be detrimental both the residential and visual amenity of the area and the open aspect/nature of the surrounding Green Belt.

Furthermore, given the eastern part of the BEA allocation has already been lost from employment use to create the new secondary school, and that the presence of a school in this location significantly reduces the suitability of the western part of the allocation for employment uses, it is considered that the BEA allocation, as a whole, is no longer viable or achievable and development of the site for alternative uses would benefit the community of the area.

With the above in mind, it is considered the applicant has provided sufficient evidence to satisfy Policy 14, as it has been clearly demonstrated, in this instance, that the use of the site for employment purposes would be inappropriate.

#### *Development for Housing:*

DPD Policy 1 seeks to ensure the effective and efficient use of land and buildings by promoting the re-use and conversion of existing buildings prior to the use of greenfield sites. It also aims to meet Oldham's housing needs by focusing residential development in sustainable locations and to ensure that development respects Oldham's natural, built and historic environments.

Policy 3 of the Local Plan sets out the council's approach for managing the release of housing land. It states that planning applications for residential development, in whole or as part of a mixed-use scheme, will be permitted where:

- (a) The site is allocated for residential development or mixed-use and has come forward in line with the council's approach to phasing, reflecting the residential distribution described within the policy; or,
- (b) The site is allocated for residential development or mixed-use and has come forward prematurely from the phasing set out in the Site Allocations DPD and does not undermine other national and local guidance and policies: and
  - i. A deliverable five-year supply of housing land cannot be demonstrated; or,
  - ii. It contributes to the delivery of the borough's regeneration priorities; or,

- iii. It contributes to the delivery of affordable housing that meets the local affordable housing needs.

Proposals on a non-allocated site for residential development will be considered favourably where it meets the three criteria listed under b) above or it is for a small development, comprising a change of use or conversion or not identified in the Council's Strategic Housing Land Availability Assessment (SHLAA).

These three criteria are considered in turn below.

*Housing land supply position:*

The SHLAA (as at 1 April 2020) identifies a baseline housing land supply of 10,706 dwellings increasing to 11,263 when considering the small sites and clearance allowances. The Government has introduced a standardised methodology for assessing local housing need (LHN), based on household projections with an adjustment to take account of affordability. For Oldham, Local Housing Need (LHN) has recently changed to 693 homes per year. Based on the five-year supply identified within the SHLAA, the council is unable to meet the borough's housing need over the next five years at this time under the adopted Development Plan for the borough.

As such, delivering housing on suitable sites is imperative to meeting local needs. The proposed development site is included within the SHLAA and has been assessed as being suitable, available and achievable for residential development in principle.

*Delivery of the borough's regeneration priorities:*

Paragraph 5.47 of the Local Plan outlines that residential development need to be in suitable locations, which offer a range of community facilities and with good access to jobs, key services and infrastructure in order to create sustainable communities. Whilst housing will be focused on regeneration areas, areas within and accessible to the borough's other centres and rural settlements will also be considered suitable locations.

This approach ensures that the delivery of housing development reflects the Council's aspirations and principles and addresses the needs and demands of all communities, recognising that the focus for housing development generally will be in regeneration areas and other suitable (and sustainable) locations, whilst acknowledging the contribution that non-allocated sites may make to the housing market.

Whilst the site is not within a regeneration area, it is clear the policy does not expect all housing to be in those areas. Moreover, as the application site is within 480m of two local services and is served by satisfactory public transport (as required by Policy 11 of the Local Plan), owing to its village location, it is considered the scheme would reflect the aspirations and principles of Policy 3 of the Local Plan.

*Delivery of affordable housing to meet local affordable housing needs:*

The capacity of the proposed site qualifies for the Affordable Housing threshold, which applies to developments of 10 dwellings or above, as set out within NPPF. Following negotiations with the developer, 10% on-site affordable housing has been agreed and this matter is fully addressed in more detail in the next section of this report.

As such, for the reasons given above, it is considered that the principle of the proposal is acceptable.

### **Affordable Housing**

Paragraph 65 of the NPPF sets out that where major development involving the provision of housing, planning decisions should expect at least 10% of the total number of homes to, be available for affordable home ownership.

Following negotiations, it has been agreed that the development will include 10% on-site Affordable Housing units (at transfer values of 80% OMV or as Discount Market Sale) via a Section 106 agreement. This would wholly satisfy the requirements of the NPPF and Policy 11 providing much needed affordable housing in a sustainable location.

### **Open Space**

Policy 23 of the Local Plan states that major residential development should contribute towards the provision of new or enhanced open space, unless it can be demonstrated by the developer that it is not financially viable for the development proposal or that this is neither practicable nor desirable. It continues to state that regard will be given to the proposed development and the open space surpluses and deficiencies in the area (identified through the Council's Open Space Study) to determine where appropriate whether on-site or off-site new provision or enhanced existing provision or a financial contribution will be required.

As the scheme does not provide public open space on-site, in order to be compliant with Policy 23, the applicant must make contributions towards new provision or enhancing existing provision off-site. Following an assessment of the proposal and needs of the local area, a cost has been calculated for off-site public open space provision and provided to the applicant during negotiations.

### **Financial viability**

In respect of the total developer contributions generated by the development, the applicant has provided economic viability information purporting the scheme cannot sustain a full contribution towards off site Public Open Space and Affordable Housing.

This information and its findings have been independently appraised on behalf of the Council and, in light of that independent appraisal, officers consider the scheme is viable to make the full amount of contribution required to address Policy 11, 23 and 25 of the Local Plan. To this end, it is recommended to Members that the Council enters into a Section 106 Agreement for the applicant to contribute:

- 10% On Site Affordable Housing (at transfer values of 80% OMV or as Discount Market Sale);
- A contribution of £378,747.20 towards the enhancement of existing Open Space provision within the locality to be compliant with Policy 23 of the Local Plan (further details to be confirmed in the Late List prior to the committee meeting); and,
- A financial contribution towards the provision of compensation for the loss of suitable ground nesting bird habitat by off-site habitat enhancement (refer to ecology section of



report below and note that further details will be confirmed in the Late List prior to the committee meeting).

## **Energy**

Policy 18 of the Local Plan states that all developments over 1,000m<sup>2</sup> or 10 dwellings and above are required to reduce energy emissions in line with set targets.

To address the requirements of this policy the applicant has provided a 'Energy Statement by Lancaster Maloney', dated September 2020 Ref: 2009-00, which notes the development will achieve a 16.3% reduction in CO<sub>2</sub> over Part L 2013, as required.

## **Highway Safety**

Policy 5 of the Local Plan requires that developments do not compromise pedestrian or highway safety and Policy 9 of the Local Plan states that the development will be permitted where it minimises traffic levels and does not harm the safety of road users. Crucially, NPPF paragraph 111 requires that, in considering planning applications, "*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*" This therefore provides the key test for considering this (and other) proposal in relation to highway safety.

Having considered the submitted Transport Assessment, the Council's Highway Engineer does not consider that there will be any additional significant amount of traffic generated which would have a severe impact on the network (which is the necessary test having regard to the NPPF). The mitigation measures being implemented as a result of the construction of the new school will also serve to mitigate the impacts of the proposed residential development whilst improving the highway safety in the area and for future residents.

Furthermore, the proposed parking provision is considered to be of a sufficient level that there will not be an increase in the demand for on-street parking on the local highway network.

Therefore, as the amended highway layout is acceptable and will be considered for adoption by the local Highway Authority, it is considered the scheme complies with the highway safety aspects of Policies 5 and 9 of the Local Plan.

## **Design**

Policy 1 states that the Council will ensure that development proposals respect Oldham's built environment. Policy 9 requires that development does not have a significant, adverse impact on the visual amenity of the surrounding area, including local landscape and townscape, nor should it cause significant harm to the amenity of neighbouring occupants. Policy 20 is also relevant, as it seeks to promote high quality design.

The supporting Design and Access Statement and Planning Statement explains that the proposed layout has been amended to respond to the existing street scene and address the view of the listed building within the school site to the rear.

Following an assessment of the character of the surrounding area, it is observed that the existing development along Huddersfield Road is characterised as predominantly terraced

houses which create a solid character route through Diggle. This design principle has been incorporated into the amended scheme by way of terraced properties against the main road, with semi-detached and detached properties behind the main road frontage. This results in a strong main road building line and winding cul-de-sacs to the rear inside the site, which reflect the opposite side of Huddersfield Road.

The overall amended layout is considered to follow the overarching built form of Diggle, and has been designed so as to avoid any adverse impacts on the street scene and integrate with the existing built surroundings.

Having regard to the design and finish of the proposed house types it is considered that the traditional Saddleworth character is promoted through the proposals incorporating an appropriate pallet of materials since the development proposes the use of both slate and stone flag roof finishes as well as a mix of clean and weathered stone finishes. Natural stone heads on sills and stone mullions are also proposed and the scale and massing associated with each house type is considered to be in keeping with the surrounding area. Furthermore, the proposed hard and soft landscaping works are considered to be acceptable, which incorporate landscaping forward of the front elevation of the proposed dwellings.

Overall, it is considered that the high-quality design of the proposed development would have a positive impact on the character of the area, in accordance with Policies 9 and 20 of the Local Plan.

## **Heritage**

The Planning (Listed Buildings and Conservation Areas) Act 1990, states that the primary duty of the Local Planning Authority in relation to listed buildings is to have special regard to the desirability of preserving the building, its setting or any features of special architectural or historic interest which it possesses. Chapter 16 of the NPPF 'Conserving and enhancing the historic environment' and Policy 24 of the Oldham Joint DPD reflects this duty in stating that alterations to listed buildings and structures must serve to preserve or enhance its special interest and its setting.

### *Impact on Grade II listed buildings on Huddersfield Road (No's 45, 47 and 49):*

The updated Statement of Heritage Significance confirms that the sites contribution to the setting of these listed buildings is low given that it is located on the opposite side of a busy main road. As a result, the sensitivity of these listed buildings to further changes to their setting also considered to be low through the development of this site.

Therefore, the development site is considered to make, at most, a minor impact on the setting of these designated assets, and therefore any harm should be considered 'less the substantial'.

### *Impact on the listed buildings that form part of the Huddersfield Narrow Canal:*

These are Huddersfield Narrow Canal No.69 Bridge, which is 100m east of the site, the Huddersfield Narrow Canal Subway under Canal after Lock 30, 180m north-east of the site and the Huddersfield Narrow Canal Milestone, which located 225m south of the site.

Setting makes a significant contribution to the significance of these designated assets. From the supporting information provided these assets are set some distance from the application site

and to the rear of the new Saddleworth School site. Therefore, it is considered that the development will have a negligible impact on the setting of these designated assets.

*Impact on the Grade II listed Dobcross Works Office Building:*

Planning consent for the construction of a new Saddleworth School with associated sports fields and pitches, external recreation and teaching space together with parking landscaping and associated works (Planning Ref: PA/337301/15) was granted with conditions in June 2019 on land at the former W H Shaw Pallet Works site on the eastern side of the brook that forms a boundary to the application site. These works are nearing completion and have significantly impacted the setting of this heritage asset. As the site is forward of this asset it is considered that the site contributes positively to the significance of the setting by providing a rural setting.

Overall, the introduction of housing would inhibit views of the listed Dobcross Works Office Building resulting in harm which is considered to be 'less than substantial harm' to this heritage asset.

NPPF Paragraph 202 NPPF states that *'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.'*

In terms of public benefits, the development will bring forward new homes in the borough that will have both economic and social benefits. Residential developments have a lasting economic impact as the future occupiers of the development, some of whom will move into the area from outside the borough, are likely to bolster the viability of existing and new local businesses through spend in the local community. There may also be potential for employment opportunities through the construction work on the site.

In terms of the social benefits, given the scale of the development requires contributions towards both public open space improvements/maintenance and affordable housing provision within the locality, these are afforded weight as a material planning consideration when considering public benefits.

Finally, given a continued business use of the site has been demonstrated to be inappropriate for this site, it is considered that the development will secure its optimum viable use. Therefore, the scheme accords with the requirements of Policy 24 of the Local Plan and NPPF Paragraph 202 NPPF.

### **Residential Amenity**

Policy 9 of the Local Plan requires that new development does not result in a significant, adverse impact on the visual amenity of the surrounding area or significantly harm the amenities of occupiers of existing or future neighbouring properties, whilst Policy 20 includes the requirement that development proposals should reflect local character.

*Impact on the dwellings on existing dwellings on opposite side of Huddersfield Road:*

The front elevation of the proposed units facing onto Huddersfield Road are located over 21m from the front elevations of these neighbouring properties and the side elevation of the proposed units on Huddersfield Road are over 18m away. As such, it is considered the

development would not appear overly oppressive and not result in any significant loss of light to the habitable rooms of these neighbouring properties.

*Impact on No's 104 and 106 Huddersfield Road:*

When considering the separation distances from rear of proposed unit No's 56 to 58 to the rear gardens of the existing neighbouring dwellings at 104 and 106 Huddersfield Road, a key consideration was the relationship between the existing dwellings within the locality. Dwellings on Ambrose Crescent and Huddersfield Road are orientated at oblique angles to one another resulting in limited direct visibility between windows. Therefore, as the new units would also be orientated at oblique angles to the existing dwellings, it is considered the separation distances are acceptable. As such, the development is not considered to appear overly oppressive to the occupiers of the existing dwellings.

*Impact on the future occupiers:*

Policy 9 of the Oldham LDF states that the Council will ensure development does not cause significant harm to the amenity of the occupants and future occupants of the development. The development has been assessed against the 'Technical housing standard - nationally described space standards', March 2015. Given that the scheme complies with these national standards, it is concluded that the development will provide appropriate living space for the future occupants of the development.

## **Trees**

Having considered the originally submitted information no justification had been provided for the loss of trees as a result of the proposed development. Saved UDP Policy D1.5 'Protection of Trees on Development Sites', states:

*"In determining a planning application for development of a site containing existing trees, or adjoining a site containing trees, the Council will only permit a proposal where:*

*the development is designed, insofar as is reasonably practicable, to maximise the retention and continued health of the trees in question; and*

*development comprising residential accommodation is positioned in relation to retained trees so as to avoid an unacceptable degree of overshadowing of both internal accommodation and garden areas.*

*In those cases where it is agreed that trees will be lost to accommodate the development, adequate replacement planting will be required as a condition of planning permission for the development.*

*Where trees are to be lost to development, the Council will require, as a minimum, replacement at a ratio of three new native trees for each mature or semi-mature tree lost. Where possible the replacement trees should be accommodated on or immediately adjoining the development site. In exceptional circumstances (e.g. certain small infill sites), where it is agreed that on-site replacement planting is not practicable, arrangements must be made for the planting of replacement trees on a suitable site in the wider locality through a section 106 planning obligation."*

Existing trees across the site are to be removed. However, the majority of the trees located on the riverbank boundary are to be retained. Given that the scheme includes mitigation planting, as indicated on the submitted landscaping proposal plans, it is considered that the overall loss will be adequately addressed. Moreover, the Council's Arboricultural Officer has been consulted and raised no objection, subject to conditions that require the implementation of the submitted tree protection measures and the provision of proposed replacements.

Therefore, the loss has been mitigated for and the scheme accords with the requirements of saved UDP Policy D1.5.

## **Ecology**

Policy 6 and Policy 21 of the Oldham LDF Joint DPD are concerned with protecting, conserving and enhancing our local natural environments.

### *Designated Sites:*

The application site is within 1.5km of the South Pennine Moors Special Area of Conservation and Site of Special Scientific Interest, although it lies outside the identified risk zones for impacts on the SPA/SSSI as prepared by Natural England. The site is separated from the designated sites by the new school site currently under construction and by the Huddersfield Narrow Canal. While it may be used by bird species associated with the SPA (e.g. Lapwing, Skylark) it is very unlikely to be considered to be functionally linked to the SPA because of the small numbers of birds involved and because the application site is subject to significant levels of human disturbance and probable predation pressures. The value of the site for breeding and foraging birds is further discussed below.

There is an issue as to whether the development of the site for housing could have an indirect effect on the SPA by increasing public recreational use of the SPA, which could in turn lead to increased disturbance to habitats and species within the SPA. However, given the lack of direct connectivity between the application site and the SPA, the relative size of the development and the very large area of the SPA it is not expected that there would be significant effects on the SPA to arise from this source.

The application site is also within 100m of the Huddersfield Narrow Canal Site of Biological Importance, a Local Wildlife Site. The Canal has been designated because it supports important populations of aquatic plant species. The proposed development will not have any direct impacts on the Canal although there may be indirect hydrological connectivity via the watercourse which runs along the eastern boundary of the site. To avoid any indirect impacts from surface water pollution on the Canal, a Construction Environmental Method Statement condition has been attached to the recommendation requiring the details of measures to be taken to prevent water pollution during the construction and operation of the development.

### *Notable Habitats:*

The site generally supports unremarkable habitats, although the areas of broadleaved woodland and trees and the small watercourse at the eastern boundary are of local nature conservation value. These habitats are to be retained and protected as they are outside the gardens of the proposed dwellings that back on to the Diggle Brook.

### *Protected and Notable Species:*

The site is considered to have only low potential to support any specially protected species, although the tree-lined watercourse is likely to be of value for foraging bats, these are to be retained within the 8 metre buffer from them the river.

Fields in the wider area are known to be of value for ground nesting birds, including Lapwing. Lapwing are a Red list species in the UK because they have suffered from significant declines, probably as a result of agricultural intensification. The fields which are the subject of this application are relatively small, subject to public disturbance and likely predation pressures, but nevertheless they remain suitable for use by the species.

Under the Wildlife and Countryside Act 1981 it is an offence to remove, damage, or destroy the nest of a wild bird, while the nest is in use or being built. Planning consent does not provide a defence against prosecution under this act. However, given that the proposed development includes both site clearance and the removal of existing trees, a condition to address the protection of birds has been attached to the recommendation.

Moreover, it is clear following negotiations that the scheme can support a contribution to mitigate the loss of suitable ground nesting bird habitat, this will be commuted sum towards off-site habitat enhancement. There is extensive land nearby which could be enhanced for Lapwings and other ground nesting birds. On the site, bird nesting boxes and bat roosting boxes can be placed close to the Diggle Brook within the buffer, and this is required by a condition attached to the recommendation.

### *Invasive Plant Species:*

There are extensive areas of invasive plants on the application site, including Himalayan balsam and Japanese knotweed. Under the terms of the Wildlife and Countryside Act 1981 (as amended) it would be an offence to spread these plants in the wild.

The Method Statement for the control of invasive species, combining herbicide control and mechanical control, is considered to be acceptable by the Officers at GMEU.

### *Enhancement for Nature conservation and Biodiversity Net Gain:*

Para. 170(d) and 175(d) of the NPPF strongly encourage development to achieve a net gain for Biodiversity, and government will soon make the achievement of Biodiversity Net Gain mandatory within the planning system.

This development will result in the loss of open grassland of use to nesting and foraging birds, habitats which cannot be recreated on site if the development goes ahead. As noted above, compensation for the loss of habitat, and as a way of achieving net gain, a contribution is to be made towards off-site habitat enhancement of grassland habitats nearby, particularly for Lapwing.

### **Drainage**

Policy 19 of the Oldham LDF Joint DPD is concerned with ensuring that new developments do not result in an unacceptable flood risk or increased drainage problems by directing developments away from flood risk areas.

*United Utilities:*

United Utilities have reviewed the submitted details and have raised no objection to the application in principle. On this basis, they have recommended the imposition of a condition requiring a drainage scheme to be submitted for surface water and a requirement that foul and surface water are discharged to separate systems.

*Environment Agency:*

Following the review of the plans showing estimated flood level for the proposed development scenario for Saddleworth school. The EA consider that the proposed buffer from Diggle Brook, as outlined on the amended proposed site layout (Drawing no. 1309/006 rev B dated 14/12/21) is acceptable.

However, given the scheme is based on a rear facing amenity garden design along Diggle Brook waterbody, which is generally their less environmentally preferred design approach, as this can sometimes lead to formal amenity gardens extending into wildlife corridor or tipping of material or garden waste into river and key ecological receptor. Therefore, the EA have recommended this riparian buffer is protected, with private householders clearly stipulated that extending existing garden boundaries or tipping into corridor is prohibited, and element of any scheme landscape management plan adopted for site which ensures such poor practice is avoided and ensure processes are in place to rectify any such poor environmental practice, where identified.

To this end, a site-specific method statement is to be agreed to put appropriate control measures in place regarding the invasive species Japanese Knotweed, Himalayan Balsam, Variegated Yellow Archangel & Rhododendron present on the site. The submitted report for Invasive Species Methodologies for the development site does not currently specify which of the varied control methodologies will be adopted for the Huddersfield Road development site and the specific timing of these. This is particularly relevant regarding Japanese knotweed, which will likely need varied techniques to control to ensure this is not spread as part of scheme's construction.

Moreover, the proposed landscape enhancements that have been proposed will require a conservation management plan to be in place once the existing resident invasive non-natives species have been appropriately managed. This will ensure the retained semi-natural areas will be restored and positively managed in the long-term and provide the maximum benefit to people and the environment.

This approach is supported by paragraphs 170 and 175 of the National Planning Policy Framework (NPPF) which recognise that the planning system should conserve and enhance the environment by minimising impacts on, and providing net gains for, biodiversity. As such, it is considered that, in this instance, an appropriately worded planning condition is required to address these concerns and ensure that the development will not result in significant harm to Diggle Brook key ecological network and green infrastructure asset.

## **Contamination and Landfill Gas**

Paragraph 183 of the NPPF states that the planning decisions should ensure that a site is suitable for its proposed use taking account of ground contamination and risk.

The Council's Environmental Health section have recommended intrusive site investigations for contaminated land and landfill gas risks are required and the submission of a remediation strategy before any development takes place. This is secured through the imposition of a condition attached to the recommendation to ensure that the development does not conflict with the requirements of the paragraph 183 of NPPF.

## **CONCLUSION**

For the reasons set out above it is considered that the submitted scheme complies with all relevant planning policies and material planning considerations. It will provide a significant and positive contribution towards the Council's identified housing needs in a sustainable location and, together with the mitigation to be secured through the imposition of conditions and a Section 106 agreement to secure on site affordable housing, off site open space improvements and provision of compensation for the loss of suitable ground nesting bird habitat off-site, comprises sustainable development and is therefore recommended for approval.

## **RECOMMENDATION**

It is recommended that the Planning Committee resolves to grant permission, subject to the inclusion of the conditions listed below, and a Section 106 Agreement securing the provision of the following:

- The provision of 10% on site Affordable Housing (at transfer values of 80% OMV or as Discount Market Sale);
- A financial contribution of £378,747.20 towards the enhancement of existing Open Space provision within the locality; and,
- A financial contribution towards the provision of compensation for the loss of suitable ground nesting bird habitat by off-site habitat enhancement (details to be clarified on the Late List).

Conditions:

1. The development must be begun not later than the expiry of THREE years beginning with the date of this permission.

REASON - To comply with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be fully implemented in accordance with the Approved Details Schedule list on this decision notice.

REASON - For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and specifications.



3. A scheme for the Biodiversity Enhancement Measures, shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the construction of any buildings hereby approved. This shall include details of:
  - Additional landscaping plan within the onsite Diggle Brook buffer zone, to ensure the retention and enhancement of the habitats along the Brook corridor; and,
  - Bird nesting boxes and bat roosting boxes onsite Diggle Brook buffer zone. The approved scheme shall be implemented prior to first occupation of the development (or in accordance with a phasing plan which shall first be agreed in writing with the Local Planning Authority) and shall be retained thereafter.

REASON - To ensure positive enhancement of the site having regard to Policy 21 of the Oldham Local Plan.

4. No development shall take place until a detailed method statement for removing or the long-term management / control of Japanese knotweed, Himalayan Balsam, Variegated Yellow Archangel & Rhododendron identified on the site shall be submitted to and approved in writing by the local planning authority. The method statement shall include proposed measures that will be used to prevent the spread of Japanese knotweed, Himalayan Balsam, Variegated Yellow Archangel & Rhododendron during any operations e.g. mowing, strimming, bank regrading or soil movement. It shall also contain measures to ensure that any soils brought to the site are free of the seeds / root / stem of any invasive plant covered under the Wildlife and Countryside Act 1981, as amended. Development shall proceed in accordance with the approved method statement.

REASON - To prevent the spread of Japanese knotweed, Himalayan Balsam, Variegated Yellow Archangel & Rhododendron which are invasive species. Without it, avoidable damage could be caused to the nature conservation value of the site contrary to national planning policy as set out in the National Planning Policy Framework paragraph 170, where planning decisions should contribute to and enhance the natural and local environment & 174, plans should promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.

5. No works to trees or shrubs shall occur or site clearance commence between the 1st March and 31st August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and written confirmation provided that no active bird nests are present which has been agreed in writing by the Local Planning Authority.

REASON - To ensure the protection of bird habitats, which are protected species under the Wildlife and Countryside Act 1981 having regard to Policy 21 of the Oldham Local Plan.

6. The development hereby approved, shall be carried out in accordance with the submitted Sustainability Statement by Award Energy Consultants, dated April 2021, and/or any other future improvements in Building Regulations.

REASON - To accord with policy 18 (Energy) of the Joint DPD and to future proof any of the new dwellings that will be subject to future changes in Building Regulations.

7. Prior to the commencement of any part of the development hereby approved, including site clearance, excavation or construction works or the entry of vehicles or plant into the site, all existing retained trees and hedges on and adjacent to the site, other than those indicated for removal on the approved plans, shall be physically protected from damage by plant, equipment, vehicles, excavation, deposit of excavated material and any other cause on accordance with the hereby approved tree protection plan Dwg no.6250.04. The protective measures shall be maintained for the duration of the development operations and no operations or storage whatsoever shall take place within the fenced protection areas.

REASON - Prior approval of such details is necessary to protect existing trees and hedges having regard to saved Policy D1.5 of the Unitary Development Plan.

8. All planting, seeding or turfing comprised in the approved landscaping detail Dwg No's: 6250.03 sheets 1 and 2 shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless, the Local Planning Authority gives written consent to any variation.

REASON - In order to avoid damage to trees/shrubs within the site, which are of important amenity value to the area having regard to saved UDP Policy D1.5 and Policy 20 of the Oldham Plan.

9. No development shall commence unless and until a site investigation and assessment in relation to the landfill gas risk has been carried out and the consultant's report and recommendations have been submitted to and approved in writing by the Local Planning Authority. Written approval from the Local Planning Authority will be required for any necessary programmed remedial measures and, on receipt of a satisfactory completion report, to discharge the condition.

REASON - In order to protect public safety, because the site is located within 250m of a former landfill site and having regard to requirements of the paragraph 183 of National Planning Policy Framework.

10. No development shall commence unless and until a site investigation and assessment to identify the extent of land contamination has been carried out and the consultant's report and recommendations have been submitted to and approved in writing by the Local Planning Authority. Written approval from the Local Planning Authority will be required for any necessary programmed remedial measures and, on receipt of a satisfactory completion report, to discharge the condition.

REASON - In order to protect public safety and the environment, having regard to requirements of the paragraph 183 of National Planning Policy Framework.

11. No dwelling shall be occupied until the access to the site and car parking space for that dwelling has been provided in accordance with the approved plan Ref: 1309/001 Rev G

and with the details of construction, levels and drainage, which shall have been submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of the access and parking spaces. Thereafter the parking spaces and turning area shall not be used for any purpose other than the parking and manoeuvring of vehicles.

REASON - To ensure adequate off-street parking facilities are provided and remain available for the development so that parking does not take place on the highway to the detriment of highway safety having regard to Policies 5 and 9 of the Oldham Local Plan.

12. No development shall commence until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme must include:

- An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water;
- A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations); and
- A timetable for its implementation.

The approved scheme shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.

The development hereby permitted shall be carried out only in accordance with the approved drainage scheme.

REASON - To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution.

13. Foul and surface water shall be drained on separate systems.

REASON - To secure proper drainage and to manage the risk of flooding and pollution.

14. Prior to commencement of any phase of development a construction management plan shall be submitted to and approved in writing by the Local Planning Authority. This shall include details of:

- Wheel wash facilities for construction vehicles;
- Any arrangements for temporary construction access;
- Contractor and construction worker car parking;
- Details of measures to be taken to prevent water pollution during the construction and operation of the development; and,
- Details of on-site storage facilities.

The development shall be carried out in accordance with the approved construction management plan.

REASON - In the interest of highway safety, in accordance with Policies 5 and 9 of the Local Plan.

15. A landscape and ecological management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas; post invasive non-native species management/control programme (except privately owned domestic gardens), shall be submitted to, and approved in writing by, the local planning authority. The landscape and ecological management plan shall be carried out as approved and any subsequent variations shall be agreed in writing by the local planning authority. The scheme shall include the following elements:

- details of maintenance regimes;
- details of all newly introduced soft landscaping including planting schedule;
- predominantly based on native species;
- details of any new habitat created on site;
- details of treatment of site boundaries and/or buffers around water bodies;
- details of invasive non-native monitoring regime; and,
- details of how semi-natural habitats will be sensitively managed over the longer term including adequate financial provision and named body responsible for management.

REASON - To ensure the protection of wildlife and supporting habitat. Also, to secure opportunities for enhancing the site's nature conservation value in line with national planning policy and adopted policy 6, 19 & 21 of the Local Development Framework Core Strategy.

**SITE LOCATION PLAN (NOT TO SCALE):**

