

**Documentation outlining  
objections to  
Planning Application  
18/01333  
made to  
Calderdale Metropolitan  
Borough Council  
by  
Keepmoat Homes  
and  
Thornhill Estates Ltd**

**Submission**

**By**

**Rastrick Neighbourhood Forum**

**January 5<sup>th</sup> 2019**

**( By hand to Calderdale First in Brighouse, January 5<sup>th</sup> 2019))**

**(By email to Planning officer 6<sup>th</sup> January 2019)**

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# **INTRODUCTION**

**The application is not:**

- 1. Legally Compliant**
- 2. Sound**
- 3. Compliant with the Duty to Cooperate**

**This document will show how the applicant has failed to satisfy these 3 areas referring to the appropriate legislation**

**This document will also show how the Council(CMBC) has failed to demonstrate that site LP 0568 to which this application refers, is achievable and sustainable if the National Planning Policy is applied. Consideration of this application should take into account the RNF response to documentation submitted by the RNF in response to the Calderdale Draft Local Plan which outlined substantial and significant compelling reasons why site LP 0568 should be removed from the Calderdale Local Plan. (CLP).Therefore any reference by the Applicant to the Councils inclusion to this site in their LP is immaterial**

**Consideration should also be given to the Highways Agency comments in the site assessment of LP0568. In the 2017 Consultation of the CLP there were a substantial number of objections to the inclusion of site LP 0568 in the Local Plan. The only supporter was the landowner who submitted misleading information and assessments carried out 10 years earlier.**

**Consideration should also be given to the approved planning application 17/01268/FUL which granted permission for the building of 22 housing units adjacent to the site in this application**

**The applicant has failed in its legal duty to consult with affected residents and the RNF**

**The planning officer refused to meet with Officers of the RNF prior to end of submission date 14/12/18**

**The Council has failed in its legal duty to inform the RNF of their application**

**The Council has failed in its legal duty to provide a site Notice**

**The Council has failed in its legal duty to Validate the application correctly**

**The Council has failed in its legal duty to inform residents and the RNF within the required time period following the validation of the application**

**The applicant has not demonstrated that the application to build 113 houses is sustainable**

**The applicant has failed to demonstrate that appropriate housing is included in the application**

**The applicant has not submitted the required Design and Access Statement required for an application of this kind and not shown that the housing provided meets RUDP and national requirements**

**The Consultation reports submitted by the Applicant are flawed and do not meet NPPF or the Town and Countryside Act 2017 requirements and legislation**

**The Applicant has failed to demonstrate that planning policies in the Councils RUDP are met**

**The Applicant has failed to demonstrate that the local infrastructure namely school places and Health Centre vacancies and facilities are available and have not consulted with the required bodies.**

**The site to which the application refers is designated Open Space in the RNF Development Plan. Consideration should also be given to neighbouring sites with housing number in excess of 3500 in the CLP and the Kirklees Local Plan Appendix 3.**

**The Applicants Flood Risk Assessment is dated 2017 and is not solely a Report on this site, being a combined Report with another site**

**For this reason, the report is not legally compliant, and the Application should be refused**

**The Flood Risk Assessment submitted by the Applicant states that no site layout was available when the Report was written. The Assessment is therefore flawed and lacking in up to date evidence to support the application**

**Furthermore, the Application relates to a larger number of houses than were the basis of the Assessment**

**RCUDP policy GCF1 establishes that all infrastructure and other needs, including education and open space, which arise from development should be provided by the developer either on or off site**

**The RNF has already determined there are not school places available locally and no availability at local Health centres, thus it is not possible for the Applicant to satisfy GCF1 and therefore it cannot be marked as a Condition on an Approval to this Application**

**On 12<sup>th</sup> September 2012 a request was sent by local residents to the Chief Planning Officer of CMBC requesting what was later identified in the Draft LP as site LP0568 to which this Application relates, that the land at this site be returned to Green belt status, having been removed by CMBC in 1989.**

**The Chief Planning Officer did not reply**

**The RNF has taken note of residents wishes and has nominated this site as Open Space in its emerging Development Plan.**

### **In conclusion**

**The Forum strongly believes that any planning application for development of a site identified within its Draft Local Plan should not be considered if those factors identified in the CLP be fully evidenced and adhered to**

**This Application fails to do this**

**This document will demonstrate that there are overwhelming negative aspects to this site making the mitigation of noted negative issues impossible even with a substantial investment by the Applicant or Conditions should an Approval be made**

**A number of the Appraisals submitted by the Application state that further investigations are required to provide evidence in support of their Application**

**The RNF believes that the appliance of Conditions given to an Approval of this Application are not legally sound and the required evidence should form part of the Application so that residents, members of the public and the RNF can comment upon them**

**It should be taken into account that the Assessment of this site for housing by CMBC is seriously flawed**

**In its initial identification of this site the following was publically displayed on the CMBC website.**

**“Archaeology, Rights of Way, Bad Neighbours, Topography”**

**For local residents to be publically called “bad neighbours” was a serious error of professional judgement by CMBC who subsequently refused a request by residents to remove the site from their LP and have an independent assessment carried out, as to whether the site is suitable for inclusion within the LP.**

**This request was not asking CMBC to set a precedent since they had already instructed external Consultants to prepare two other local site assessments, one being in the RNF area**

**Finally it should be noted that this Application, if recommended for Approval, will have a significant affect upon residents ameniety. Article 8 of the European Convention of Human Rights clearly states the amenity rights of individuals and a recent Court case upheld a residents’ right to this in a UK Planning Application passed by a Local Authority**

## **Failure by the Applicant and CMBC in their duty to Inform and Consult**

### **Failure by the Applicant to inform and consult residents**

On the 3<sup>rd</sup> August 2018 residents received a letter from Keepmoat Homes, the applicant, informing them of a Consultation to be held at the Rastrick Fire Station Community room on 30<sup>th</sup> August between 4pm and 6.30pm relating to a proposed development at Clough Lane Rastrick. Appendix 1  
The location of the development in the letter was given as HD6 3QL which is on the northern side of Clough Lane away from the actual proposed development at HD6 3QH  
Because of the location given in the letter a significant number of residents did not attend the Consultation as they believed the development would not have a direct affect upon their amenity. Furthermore, the completion of the Consultation at 6.30pm did not allow all residents to attend the Consultation due to being unable to return home from their workplace before 6.30pm

An email, Appendix 2 was sent to the Developer informing of this error and suggesting a further Consultation at a more appropriate time, but was not responded to by Keepmoat Homes  
Using old map data, the Applicant has failed to identify and notify the owner of land adjacent to the development who did not receive the erroneous Consultation letter or a letter from the Council.

The applicant has not made CMBC aware of their failure to carry out their legal responsibility under NPPF 2 paragraphs 39 and 40 and The Town and Countryside Planning Act. to consult correctly with residents

The applicant has failed to include in its Statement of Community Engagement import areas of concern made by attending residents and thus making such a Statement seriously flawed and inadmissible  
The important area of residents concern not in the Statement are;

1. Failure to consider infrastructure issues namely the availability of available school places and health care facilities
- 2, The increase in housing numbers compared to that proposed by CMBC in its Local Plan
- 3 An inappropriate mix of housing types
- 4 Loss of open and green space
- 5 Ecological issues of protected species on the site
- 6 The public footpath on the site
- 7 The existence of a Roman Road on the site

For the above reasons the Applicant has failed in its legal duty to correctly consult and inform, so this Application should be refused.

The Applicant has failed to inform the Council of the above 7 key areas of concern expressed to them

### **Failure by the Applicant to inform and consult the Rastrick Neighbourhood Forum**

The RNF has not been informed by Keepmoat Homes of an an Application of the proposed development, of an Consultation or the Planning application

The RNF is a designated body and should have been informed of the above by the Applicant as required under the Town and Countryside Planning Act and the relevant paragraphs of the NPPF

For the above reasons the Applicant has failed in its legal duty to correctly consult and inform, and this Application should be refused

There is no mention in the Application that the Farmer tenant has been informed or consulted of this Application

There is no mention of the views of the tenant whose family have tenanted the land for over 100 years

## **Failure by the Council to inform residents**

The Application was validated on the day it was received ,namely 1<sup>st</sup> November 2018.

Residents and members of the forum have expressed serious concern that the validation of more than the 200 pages in this application could have been validated in one day. The RNF shares this concern.

The Council has failed in its duty to inform residents of the Application within 3 days of the Application being validated

Using old map data, the Applicant has failed to identify and notify the owner of land adjacent to the development who did not receive the erroneous Consultation letter

The Planning officer has failed to ascertain up to date information of ownership of land as one owner of land adjacent to the development has not been informed of the application

The Council has failed to carry out its responsibility to display a site Notice that it advised under the appropriate legislation for a development of this size. When informed of this by a resident and the RNF a site Notice was posted after the correct time and the end of Consultation date changed. However the Planning Officer refused two requests from the RNF to inform local residents of this change of date.

## **Failure by the Council to inform the RNF of the Application**

The RNF is a designated body, as mentioned and therefore has responsibilities under legislation The Council has a legal responsibility to the RNF to inform them where such matters, as planning applications are made to the Council

The RNF has not been informed of the Application, as the Council has not fulfilled its legal duty towards the RNF and therefore this Application should be refused

## **Summary**

For the reasons stated the Application is not legally sound or valid and therefore should be refused

The Planning Officer refused a request to meet with Officers of the RNF and replied to this effect on 10<sup>th</sup> December.

As a designated body the RNF believe, having submitted a Draft RNF Development Plan to the Council in 2017 that does not support housing development on the site in this Application, it was not unreasonable for the RNF to request a meeting with the planning Officer dealing with this Application

We draw the planning officers attention to Government Guidance:

*How should planning applications be decided -where there is an emerging Neighbourhood Plan but the local planning authority cannot demonstrate a 5-year supply of deliverable housing sites?*

*Where the local planning authority cannot demonstrate a 5-year supply of deliverable housing sites, decision makers may still give weight to relevant policies in the emerging neighborhood plan, even though these policies should not be considered up-to-date.*

*NPPF :216. From the day of publication, decision-takers may also give weight<sup>2</sup> to relevant policies in emerging plans.*

## **Failure by the Council to correctly validate the Application**

The process of Validation is clearly set out in legislation

Residents and the RNF expressed their concern as the validation of the Application which consists over 200 pages took place on the day it was received, namely 1<sup>st</sup> November 2018

The RNF submits the Council has failed in legal duty to correctly validate the Application as:

1. **The Applicants statement of Community Involvement is legally unsound and should not have been validated. Residents have informed the planning officer of this.**
2. **A Design and Access Statement is not included in the Application as required**  
**The Town and Countryside Planning Acts states:**

Design and access statements

9.—(1) Paragraph (2) applies to an application for planning permission which is for—

- (a) development which is major development; or
- (b) where any part of the development is in a designated area, development consisting of—
  - (i) the provision of one or more dwelling houses; or
  - (ii) the provision of a building or buildings where the floor space created by the development is 100 square metres or more.

(2) An application for planning permission to which this paragraph applies must, except where paragraph (4) applies, be accompanied by a statement (“a design and access statement”) about—

- (a) the design principles and concepts that have been applied to the development; and
- (b) how issues relating to access to the development have been dealt with

**For this reason, the Application should not have been validated**

- 3 **No Ownership certificate and Agricultural Land Declaration have been made and if so, they are not present in the Application Documents on the Council planning website and for this reason the the Application should be refused.**
- 4 **The Application is invalid as the site Plan submitted does not show public footpath Brighthouse 106 and as stated, for this reason the Application is invalid**
- 5 **There is no Soil analysis in the Application. The planning officer knows the site well from related Planning applications and is aware that the site is a working farm with cattle and sheep grazing on the site. It is well known that the spreading of slurry is a common practice as it is on this site several times a year, over at least 30-year period.**

**Constituents of slurry include hydrogen sulphide, ammonia, methane**

**These substances are soluble in water and form acidic compounds. Methane is a dangerous gas and can be present in soil and the Applicant should have submitted a Soil Analysis Appraisal.**

**A soil analysis is also required in order to investigate the presence of parasitic nematodes which can harm humans and the plant population proposed in the Application**

**A Soil Analysis report has not been submitted with this application which therefore should have been marked invalid**

6. **The location and site plan are incorrect.**

**The applicant has failed to provide an accurate Location and Site plans and therefore this should not have been validated**

**It is regrettable that the haste in which the validation of this Application has taken place has resulted in the validation process being seriously flawed**

## **The Applicant has not submitted the required Design and Access Statement required for a development of this nature**

**A Design and Access Statement is not included in the Application as required  
The Town and Countryside Planning Acts states:**

### **Design and access statements**

**9.—(1) Paragraph (2) applies to an application for planning permission which is for—**

**(a) development which is major development; or**

**(b) where any part of the development is in a designated area, development consisting of—**

**(i) the provision of one or more dwelling houses; or**

**(ii) the provision of a building or buildings where the floor space created by the development is 100 square metres or more.**

**(2) An application for planning permission to which this paragraph applies must, except where paragraph (4) applies, be accompanied by a statement (“a design and access statement”) about—**

**(a) the design principles and concepts that have been applied to the development; and**

**(b) how issues relating to access to the development have been dealt with**

**What applications must be accompanied by a Design and Access Statement?**

- **Applications for major development, as defined in [article 2 of the Town and Country Planning \(Development Management Procedure \(England\) Order 2015](#);**
- **Applications for development in a designated area, where the proposed development consists of:**
  - **one or more dwellings; or**
  - **a building or buildings with a floor space of 100 square metres or more.**
- **Applications for listed building consent.**

**For these reasons the Application should not have been validated**

## **Failure by the Applicant to meet Council RUDP planning policies**

### **LOCATION OF DEVELOPMENT**

The Application clearly fails to meet NPPF and CMBC RUDP Guidelines

Relevant NPPF Paragraphs 6-17,67-70 and 150-185

The Councils RUDP states:

3.11 Advice from the Government in PPG12 'Development Plans' (1999), PPG13 'Transport' (2001) and PPG3 'Housing' (2000) and RPG12 (2002 and 2004) all stress the importance of promoting more sustainable locations for development.

3.12 The sequence of preferred locations for development accords with those set out in RSS (2004) Policies P1 and H2.

It is important that development does not exacerbate existing transport problems or create new ones and contributes to sustainable development objectives.

Policy GP2 clearly states that "all new development should be sited with regard to the following sequence of locational preferences

### **POLICY GP 2: LOCATION OF DEVELOPMENT**

**IN ORDER TO PROMOTE DEVELOPMENT IN SUSTAINABLE LOCATIONS, REDUCE TRAVEL DEMAND AND TO PROTECT THE COUNTRYSIDE, ALL NEW DEVELOPMENT SHOULD BE SITED WITH REGARD TO THE FOLLOWING SEQUENCE OF LOCATIONAL PREFERENCES:-**

**i. ON BROWNFIELDLAND WITHIN AN URBAN AREA WHICH IS WELL RELATED TO THE ROAD NETWORK, ACCESSIBLE BY GOOD QUALITY PUBLIC TRANSPORT, AND TO SERVICES/ FACILITIES WITHIN THE URBAN AREA**

**ii. ON AN INFILL SITE WITHIN THE MAIN URBAN AREAS ACCESSIBLE BY GOOD QUALITY PUBLIC TRANSPORT, CLOSE TO SERVICES/FACILITIES AND SUBJECT TO ACHIEVING URBAN GREENSPACE AND CONSERVING OR ENHANCING THE CHARACTER OF THE AREA**

**iii. ON A SITE WITHIN A TRANSPORT CORRIDOR FORMING AN EXTENSION TO THE URBAN AREAS OF HALIFAX, BRIGHOUSE OR ELLAND, SERVED BY GOOD QUALITY PUBLIC TRANSPORT, ACCESSIBLE TO JOB OPPORTUNITIES AND SERVICES/FACILITIES. PREFERENCE TO BE GIVEN TO A PREVIOUSLY DEVELOPED SITE BEFORE GREENFIELDLAND**

**and**

**GREENFIELD SITES SHOULD BE AVOIDED AND ONLY REGARDED AS A LAST RESORT**

**The is a Greenfield site and also land designated under the RUDP as a "wildlife corridor"**

**The Application is therefore contrary to Policy GP2**

**Furthermore, a planning precedent was established on 17<sup>th</sup> February 2012 regarding Planning Application 11/01590/ adjacent to the site which was refused. The site is a Greenfield site only 20m from the Applicants site. The Application was refused because it conflicts with PPS3, H2 and H9 of the UDP**

## **Policy GH2. PROVISION OF ADDITIONAL DWELLINGS**

5.24 states an assessment of the sustainability credentials of a site is required and outlines the required criteria.

The following criteria have not formed part of the Application

1. The capacity of potential and existing infrastructure including public transport, water and sewage. Other utilities and social infrastructure to absorb further development and the cost of adding further infrastructure.

2. The physical and environmental constraints on development of land for example, the level of contamination, stability and flood risk taking into account that such risk may increase as a result of climate change.

The Applicant has failed to show the development is sustainable as defined by the above policies and the NPPF requirements

## **Policy BE2 Residential Amenity**

Policy BE2 establishes that development should not significantly affect the privacy, daylighting or amenity space of existing and prospective residents and other occupants.

This document clearly shows, as would a site visit by an Officer, members of the Planning Committee and official should the process end in a Judicial Review that the amenity of neighbouring residents would be significantly compromised

The Application also fails to satisfy a significant number of the Councils Planning Policies stated in its RUDP and these are listed in Appendix 4

## **Failure by the Applicant to satisfy NPPF and the Town and Countryside Act Requirements**

The site is unsuitable for development as outlined in this document and its development would compromise the amenity of residents and would not ensure a better quality of life for residents now and in the future as required by the NPPF and the Act of 2012. Appendix 7.

There are three dimensions to sustainable development: economic, social and environmental

- an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure
- a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high-quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being
- an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimize waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy

The applicant has failed to demonstrate that the development will achieve these dimensions

The Application fails to address the Strategic policies set out in the NPPF and Council RUDP

## **Failure by the Applicant to show the development in the application is sustainable**

The Applicant has failed to show that this site is sustainable in terms of the Councils RUDP ,the CLP and NPPF and the Town and Country Planning Act of 2012

The Sustainability Statement of the Applicant only addresses the construction of the dwellings and fails to address the sustainability objectives in National legislation, the NPPF and Council planning polices stated in its RUDP and Draft Local Plan where this site is identified as site LP0568

Identifying sustainability is a necessary part and requirement of a planning application and the Applicant has failed to address this issue fully.

The site is unsuitable for development as outlined in this document and its development would compromise the amenity of residents and would not ensure a better quality of life for residents now and in the future as required by the NPPF and the Act of 2012. Appendix 7.

The Applicant has failed to show that the following sustainability objectives are achievable

### **Objective 1: To create, encourage and retain healthy vibrant and inclusive communities.**

The development will not foster an inclusive community or social interaction since all of the existing residents object to this Application due to loss of amenity and the negative impact this site will have upon them and the community.

Due to the limitations of the site size, practical layout and proposed housing number the development is not sustainable.

The development of this site will not improve the accessibility and affordability cultural, leisure and recreational facilities due to the limitations of the site size, layout and proposed housing number.

The development of this site will not enhance existing community and cultural facilities.

The development this site will not provide access to the countryside or green space due to its enclosed position in the area.

The development of this site will not improve levels of green/open since it will reduce green and open space for residents in the area.

The development of this site will close Footpath Brighthouse 106

The Bus Service referred to in the Applicants Transport Report show a limited bus service that fails to meet this Objective

The Bus journey to the rail station is 20 minutes and not the 10 stated in the Application and the service is limited

In considering this Application the Council must consider the site LP 1078 in its LP i.e.: -150 houses- 20m away from the site in the Application. This makes the retention of this site as an open/green space necessary as it will be the only open space between the Clough Lane area and the motorway.

To protect and enhance the natural, semi natural and manmade landscape

The Application does not satisfy this objective in terms of availability of places at GP surgeries ( Brighthouse Health Centre has closed) and schools which the Forum has identified as not having any spare capacity.

### **Objective 2 To improve safety and security for people and property**

The Applicant has failed to demonstrate that this objective is achievable, and the Transport Survey does not give accurate evidence as to the accident record in New Hey Road and Clough Lane

The Applicant has failed to report that police crime statistics show an increase in crimes in the area.

The Applicant has failed to demonstrate this objective is achievable in terms of road safety

**Objective 3: To improve accessibility to essential services, facilities and employment**

The Applicant has failed to demonstrate this objective can be marked positively and furthermore, the Traffic Assessment provided by the Applicant has not shown that the accessibility criteria of this objective can be met

**Objective 4: To encourage and retain healthy vibrant and inclusive communities**

The development will not foster an inclusive community or social interaction since the existing residents all object to this Application due to loss of amenity and the negative impact this site will have upon them and the community.

Due to the limitations of the site size, practical layout and proposed housing number: -

The development of this site will not improve the accessibility and affordability cultural, leisure and recreational facilities due to the limitations of the site size, layout and proposed housing number.

The development of this site will not enhance existing community and cultural facilities.

The development this site will not provide access to the countryside or green space due to its enclosed position in the area.

The development of this site will reduce open and green space for existing and proposed residents,

This development will not improve levels of green space since it will reduce green and open space in the area.

The development of this site will close Footpath Brighthouse 10

**Objective 5: To retain, protect and create a quality, locally distinctive built and historic environment.**

The NPPF and the Town and Country Planning Act of 1990 clearer identifies the duty of the Applicant and the Council towards this objective.

A heritage asset is a site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest.

CMBC has already identified this site as a wildlife corridor

The Applicant has not fulfilled the requirement for a Conservation Management plan for this site or taken steps to identify the existence of a Roman road running through the site

**Objective 6: To reduce the risk of flooding and resulting detrimental effects upon people and property**

The Report is flawed and lacking in evidence since no site plan was available when the report was written, and the proposed number of houses has increased

The Applicant has ignored evidence of flooding presented to CMBC Application 12/01135/FUL which consists of photographic evidence of flooding on site and the landowner's own surveys show dug trenches filling with water on being dug .

The Councils Assessment of this site identifies the likelihood of extra surface water run-off rates because of development and the Applicant has not shown how this can be mitigated apart from proposing an "unlined lake"

The gardens of existing properties adjoining the site have "wet" gardens due to water from the site  
The Applicant states that the existing sewage system cannot cope with surface water from the development.

The Applicants Appraisal states that further investigation as to the existing sewage system and water run-off needs further investigation and the Forum believes that until evidence is provided the Application should be refused

The Applicants report is dated 2017 and is not solely a Report on this site being a combined Report with another site

For this reason, the report is not legally compliant, and the Application should be refused

**Objective 7: To reduce the effect of traffic upon the environment**

The development will be subject to noise from the M62 due to its close proximity. Highways England note that the location is within an identified “Noise Important Area”, and these are areas where residents experience the highest levels of noise from roads managed by Highways England.

The Council have demonstrated in the assessment of this site in their Draft Local Plan that the development of the site will increase traffic volumes.

The Application has not demonstrated that the development of this site with an additional number of houses will not reduce the effect of traffic upon the environment

An Acoustic Report for approved Application 17/01268 adjoining the site concludes that *“Mandatory mitigating recommendations are necessary to provide adequate protection against intrusion from external noise sources and achieve the WHO guidelines for the internal noise climate of the residences”*

Recommendations are provided for the glazing system in order to achieve the internal dwelling room exposure levels, however this will only be achieved if windows are non-opening and either acoustic passive or forced ventilation is used throughout the development.

**Objective 8: To protect and enhance biodiversity and geodiversity**

The Ecological appraisal provided by the Applicant is seriously flawed due to the time of year it was carried out. The Applicant states:

Surveys of this type provide a snapshot of the Site at the time of the survey. As the walkover was undertaken in September, outside the peak season for botanical survey, it is possible that some flowering plants may have been under recorded

The planning officer is already aware from residents’ submissions to Application 12/01135/FUL that there are protected species of plants on the site. Due to the timing of the Applicants Report these protected would not be seen on the site

Species would fall into the “unrecorded” category referred to in the Report

The Applicant has failed to demonstrate that the Councils designation of this site as a wildlife corridor and Greenfield site should be removed from the RUDP and Draft Local Plan

**Objective 9: Pollution and the policies in the RUDP and CLP to reduce pollution levels and CO2 emissions to target levels**

The part of the M62 motorway bordering the site is recognised as the busiest section of the UK’s motorway network.

New Hey Road is recognised as being part of one of the 10 busiest roads in the UK

The Traffic Appraisal submitted by the Application fails to include evidence of car emissions

CMBC has indicated that it will not meet its target of a 40% reduction in CO2 levels if site LP 0568 is developed as part of its RUDP states its intention to reduce pollution levels and CO2 emissions to target levels

The Air Quality Assessment submitted by the Applicant relates to 102 dwellings and not the 113 houses in the Application and is therefore not legally compliant

The Assessment states that the proposed development is flanked by the A6107, A643 and the M62, all of which are considered significant sources of road vehicle exhaust emissions. Subsequently, the development has the potential to introduce future site users to poor air quality. Additionally, the site has the potential to cause adverse impacts during the construction phase of the development.

Subsequently, the development has the potential to introduce future site users to existing levels of poor air quality.

The Assessment fails to take into account ground emissions of hydrogen sulphide and methane from over 30 years of slurry spreading by the farmer and no Soil Analysis Appraisal has been submitted.

**The Applicants Assessment also states:**

**Based on the criteria shown in Table 4, the sensitivity of the receiving environment to potential dust impacts was considered to be high. This was because users would expect to enjoy a reasonable level of amenity, aesthetics or value of their property could be diminished by soiling and people would be expected to be present for extended periods of time e.g. residential properties.**

**For this further reason the Application should be refused since the Applicant has not demonstrated that mitigation action would be successful**

**The Assessment has failed to provide evidence that the noise levels and emissions from the M62 motorway can be mitigated to make the development sustainable in these two areas and for this reason the Application should be refused**

**The RUDP states that it will only support development if|:**

***i.It would not harm the health and safety of users of the site and surrounding area;and***

***ii. It would not harm the quality and enjoyment of the environment."***

**The Applicant has failed to demonstrate that this development satisfies the RUDP and is sustainable in all Pollution aspects and namely air quality and noise pollution.**

**The Applicant has failed to demonstrate that adequate mitigation measures can be applied to this development to reduce the increase in air and noise pollution and therefore the Application should be refused**

**Objective 10: To enhance the natural, semi natural and manmade landscapes.**

**The Applicant has failed to demonstrate whether this objective can be met and has failed to identify the present use of the land which the tenant farmer and his family have farmed for 3 generations**

**Objective 11. To ensure prudent and efficient use of Natural resources and energy**

**The Applicant has failed to demonstrate that a development of 113 houses on this site will be sustainable due to the increased energy demands this site will create and the increase in water consumption and waste this site will generate**

**Objective 12: To ensure efficient use of land**

**The Applicant has failed to identify and demonstrate what a valuable amenity asset this site would be to the area.**

**CMBC identify the site as greenfield and state "it is potentially negative" for development**

**Objective 13: To reduce the amount of waste product**

**The Applicant, by submitting this Application will not meet this objective in the Councils RUDP or LP**

**Objective 14: To provide good employment opportunities for all**

**The Applicant has provided lower than actual times for public transport journeys identifying a public journey time of 0-15 minutes when the actual journey time to the Primary Employment Area (Brighouse Town centre) will be 25-30 minutes and to the area of commercial development will require a further 10 minutes' walk since the area is not served by public transport**

**For these reasons the Application should be refused**

## **IMPLICATIONS OF OTHER SITES IDENTIFIED NEARBY**

**CMBC should in determining this Application consider the below:**

**The Applicant have failed to assess the impact on this site of 8 further sites it has identified within 2.5 miles with a projected housing number of 1,632 houses . Appendix 3. Map**

**The Applicant has failed to assess the impact of sites in Kirklees Metropolitan Borough Council and Calderdale within 2,5miles with a projected **2200** houses.**

**One site with a proposed allocation of 150 houses is 50 yards away on the opposite site of the busy traffic controlled 4-way junction of the A643 and the B6114**

**These sites will all have a significant impact upon sustainability of the site in the Application ,the road junction identified in the above paragraph whose proposed access is 20 yards away and the infrastructure in the area.**

## **Conclusion**

**The Council does not have an Adopted Local development stage and therefore this Application must be judged on the Councils RUDP ,National legislation and National Policies**

**The site, identified as LP0568 in the Councils Draft Local Plan indicates that only 50% of the site is suitable for development. Thus this application is contrary to the RUDP and the Councils emerging Local Plan**

**This document has shown and given evidence, that this Application should be refused, and that it would not be possible to attach Conditions , financial contribution requirements or mitigation to an Approval as these would not be achievable in order to demonstrate sustainability of the Application**

**Consideration of present RUDP Planning Policies must be taken as read and it would not be lawful for an officer of the Council to make a decision by considering the RUDP Policies are “out of date”**

**This document has clearly shown that the application is not:**

- 1. Legally Compliant**
- 2. Sound**
- 3. Compliant with the Duty to Cooperate**

**The Applicant has not shown that the proposed Development is sustainable**

**The Planning Officer has failed in their Duty to Cooperate and correctly Validate this Application**

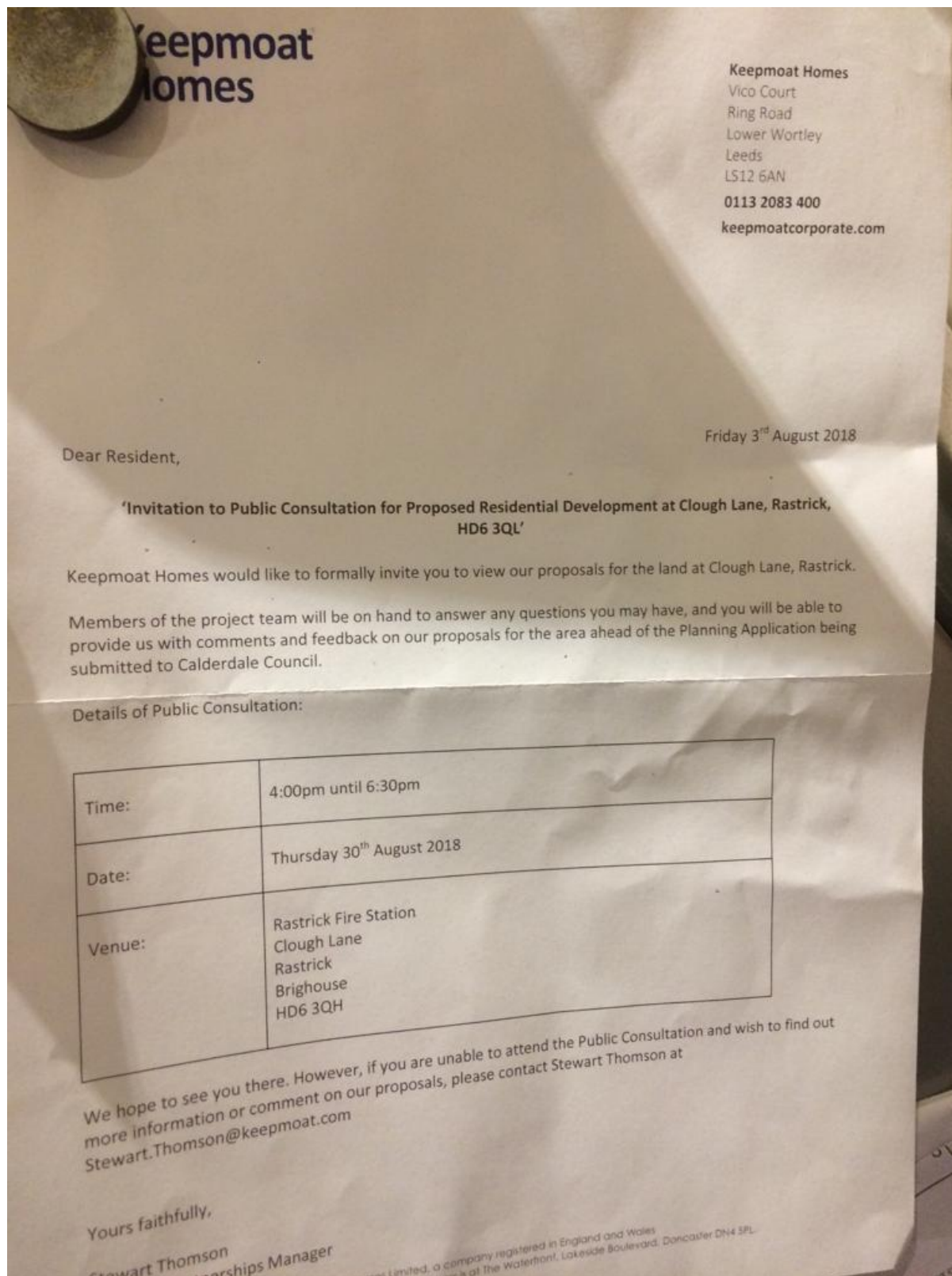
**On behalf of:**

**The Rastrick Neighbourhood Forum**

**Correspondence to**

**The Secretary  
12 Clough Lane  
Rastrick  
HD6 3QH**

# Appendix 1 : Letter from Keepmoat homes advising residents of a Consultation event at a different location to that in the Application



## **Appendix 2 : Copy of email sent to Keepmoat Homes following Consultation event**

**3<sup>rd</sup> [September 2018 ,To Stewart.Thomson@keepmoat.com](mailto:Stewart.Thomson@keepmoat.com)**

**Dear Stewart**

**I write on behalf of a number of residents in Clough Lane, Rastrick regarding the Consultation Keepmoat Homes held at the Rastrick Fire Station on 30<sup>th</sup> August 2018.**

**A number of residents did not attend as the location of the development was not correct in the letter you sent them on 3<sup>rd</sup> August.**

**The letter residents received gave the post code of the development as HD3 3QL which is further along Clough Lane and on the opposite side of the road.**

**Had the location of the development been correct in your letter other residents would have attended the Consultation and expressed their views to you.**

**Providing residents with incorrect information does not give residents a good impression of Keepmoat Homes or faith in the ability of the company to involve residents in any proposed development.**

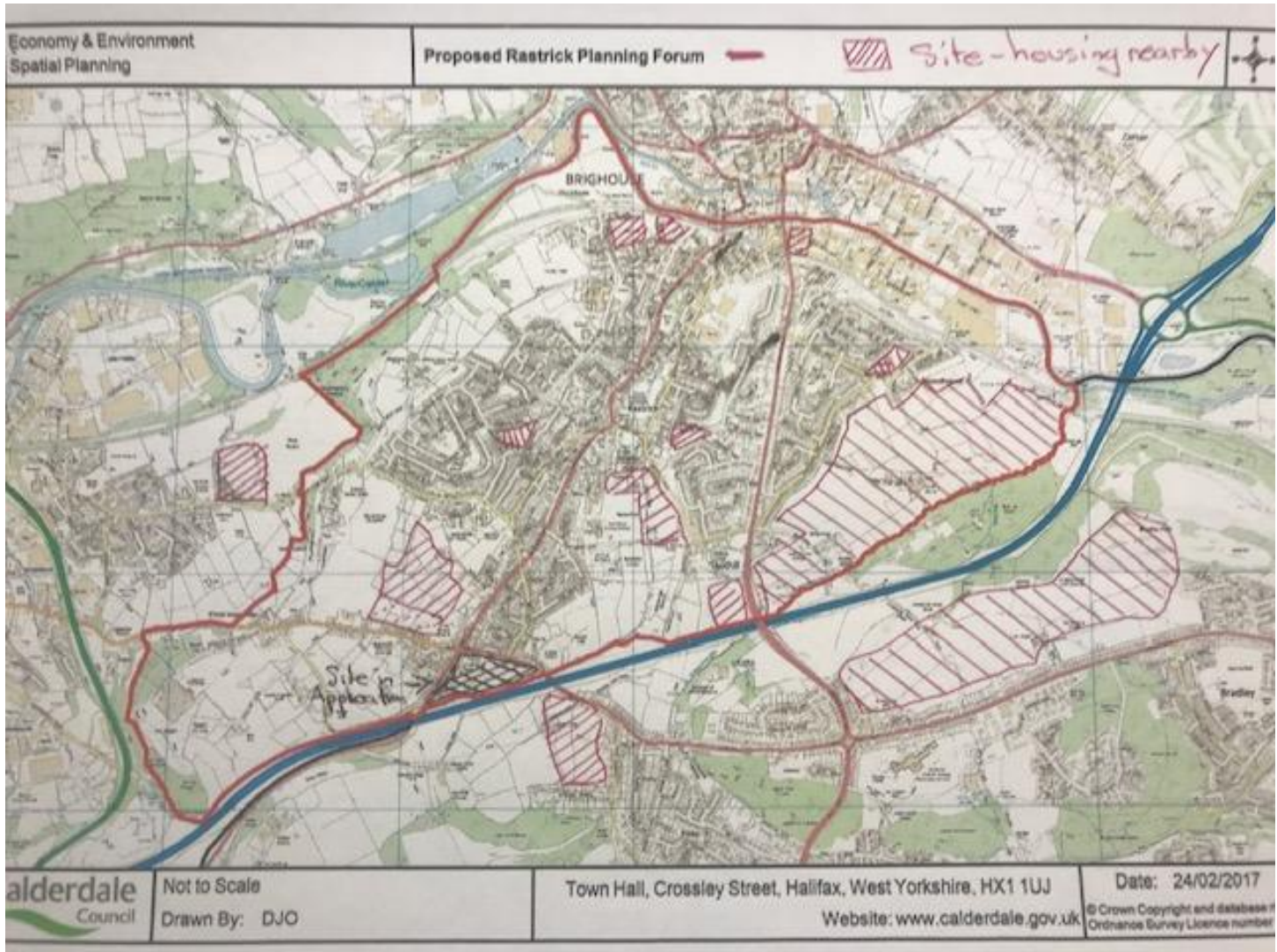
**Furthermore, several residents were not able to attend as they were unable to arrive home from work before the Consultation finished and I am sure you do not wish residents to view the times organised as a means of limiting the attendance of residents.**

**Since, I am sure a great deal of information was available at the Consultation, it would seem Keepmoat Homes have a duty to hold another Consultation ,perhaps ending at 8pm and informing residents of the correct location of the Development and revised times of Consultation**

**I will await your response.**

**Yours sincerely**

**Appendix 3 : Location of the site in the Application and influencing neighbouring sites in the RNF area, adjoining Council Ward and Kirklees MBC.**



## **Appendix 4: RUDP Policies and related NPPF guidance and policies the Application contravenes**

1. **Core Part 1 Council RUDP Policy (and many others including national policies)**  
**GP1. To protect the natural and historical environment**  
**GP2. Greenfield sites should only be used as a last resort**  
**and Policies GE4 , GBE1 , GBE2**
2. **Transport and Highways issues**  
**GE4 ,GT5 , GH2 , BE5**
3. **Protected animal and plant species ( 3 ) occupy the site and adjoining land**  
**GCF1, GCF2 , GNE2 , NC16 , EP12**
4. **The site is unsuitable for geological reasons and due to excessive water run off**  
**GCF1 , GCF2 , PPS25 , EP14 , EP19**
5. **Existence of a Roman road that runs through the centre of the site**  
**GBE1 , BE22 , BE23**
6. **Land is designated as a “wildlife corridor” in the RUDP**  
**GBE2 , NE11 , NE15**
7. **A Public footpath, Brighthouse 106 runs directly through the site- **contrary to the RUDP****
8. **Next to and opposite residential properties – noise, amenity ,fire risk, privacy issues and safety issues**  
**BE1 , BE2 , EP1 , EP5 Also, Human Rights Act Contravention.**
9. **Existing sewage and drainage system built in late 1800’s inadequate for new development**  
**Contrary to RUDP**
10. **Water pressure locally is inadequate – no tests/survey carried out as required by RUDP**
11. **Privacy of nearby residential properties reduced – ignored in the application .contrary to RUDP**
12. **Fire Risk Assessment – none has been carried out - **contrary to RUDP****
- 13 **Contrary to policy BE1 as the proposals do not respect the character of their surroundings**
14. **Policies E13 , E14 , H1 , BE8 , BE9 , EP2 ,EP8 , EP9 ,  
E13 , E18 , OS1 . and section 7 of the RUDP Protected Open Spaces for recreational use.**

## **Appendix 5 : Additional factors by Consultees as to why the Application should be refused**

### **Yorkshire Water**

**The Consultees comments make it clear the site is unsuitable for development and the Application should be refused since Conditions attached to an Approval could not be achieved.**

**The Consultee states that the Applicants Flood Risk Assessment is not acceptable. Discharge rates are unacceptable and not achievable**

**The Consultee also states” *Land and highway drainage have no right of connection to the public sewer network.*”**

### **West Yorkshire Archaeology Advisory Service**

**The Service confirms the presence of Roman remains on the site as identified in this document’**

#### **Impact of Proposed Development**

**The development may uncover and destroy important evidence of human activity in the Pennine hills dating from Prehistory to the early medieval period.**

**One of the joint applicants Mr Edmund Thornhill of Thornhill estates is fully aware of the evidence of historical human activity on the site but has chosen to ignore it and failed to provide a full Archaeological Appraisal**

**If the Planning officer selects to require an Archaeological Survey as a Condition of Application approval the officer will be failing in their duty of care to Council RUDP and National Planning policies.**

## **HIGHWAY DEVELOPMENT CONTROL RESPONSE**

**The Consultee states:**

- 1. There are a number of areas that the Applicant has not submitted required information required for the Application to be approved**
- 2. The Traffic Impact by the Applicant is flawed with figures being underestimated**
- 3. Site access- the Applicant has failed to submit a Stage 1 Road Safety Audit**
- 4. Site layout is unsuitable in its present form with no provision for visitor parking, limited visibility due to high boundaries around properties and no cycle storage provision identified**

### **Community Involvement**

**The Consultee states:**

- 1. No on-site Open Space has been provided in the Application and this cannot be provided outside the Development as there is a serious shortage of Open Space in the area which has also been significantly reduced by housing sites identified in the area in the Councils Local Plan.**

### **Education Services**

**The Consultee states:**

**There is a shortage of secondary places within the area and projections indicate that the numbers are likely to increase over the next few years.**

**That the Consultee proposes a £316,489 contribution from the Applicant towards secondary provision is commendable, but fails to give any indication how additional school places can be provided in terms of buildings and teacher provision. The secondary phase of education covers a 5 year period with the National Curriculum requiring specialist teaching and facilities throughout. The actual estimated cost of adequate provision to CMBC is likely to be up to £3m.**

**The Consultee has failed to mention the shortage of Pre-school, Nursery, Infant and Junior school places in the area which will be required for children living in the number of houses in the Application**

**RNF note several Consultees have not commented in the required time so we reserve the right to comment**