

Statement of Reason Delf Clough, Skelmersdale

Appendix A – Site Plan

Appendix B – EIA Determination Response

February 2016

1. **LDO Statement of Reasons**

1.1 **Introduction**

1.2 The Town and Country Planning (Development Management Procedure) (England) Order 2015 (SI 2015/595) outlines that 'where a local planning authority proposes to make a local development order (LDO) they shall first prepare:-

- a. a draft of the order; and
- b. a statement for their reasons for making the order'.

1.3 Article 38 paragraph (2) of the DMPO states that 'the statement of reasons shall contain:-

- a. a description of the development which the order would permit; and
- b. a plan or statement identifying the land to which the order would relate'.

1.4 The text in this document acts as the statement of reasons for making the LDOs. A plan identifying the land at Delf Clough is attached (Appendix A).

2. **Background and Context**

2.1 The West Lancashire Local Plan seeks the delivery of at least 500 new dwellings within the Skelmersdale Town Centre Strategic Development Site. As a first step in delivering some of this housing, three sites have been identified for LDO's to assist in this delivery of housing they are:

- Findon – a HCA-owned brownfield site within the town centre strategic development site
- Delf Clough – a HCA-owned greenfield site within the town centre strategic development site
- Former Digmaor Sports Centre – a Council-owned brownfield site outside the town centre strategic development site

2.2 The LDO will grant permitted development rights for a specified use or development proposal on a defined site. They typically set out the type of development permitted subject to a series of planning conditions, and so, instead of submitting a planning application for the specified development proposal on that site, an applicant simply submits their proposals to the local planning authority for a conformity check (which must be completed within 28 days) to ensure that the proposals are in line with the LDO before development commences.

2.3 It is envisaged that the LDO would become a mechanism for both increasing housing and also for improving the appearance of the area.

3. **Why a Local Development Order**

3.1 While some, limited interest was expressed in these sites (primarily in the former Digmaor Sports Centre site), no firm proposal has emerged but the Council and the HCA are still keen to see these sites come forward and to continue to package the more attractive former

Digmoor Sports Centre site with the less attractive Findon and Delf Clough sites in order to ensure these important sites within the town centre come forward for housing as quickly as possible.

- 3.2 As such, in light of DCLG's consultation on building more homes on brownfield land, it was considered that the Findon and former Digmoor Sports Centre sites may benefit from an LDO, as this would provide a developer with more certainty when considering the purchase of the site, and a greater degree of flexibility than a planning application / permission, thus potentially tipping the balance in a developer's consideration of whether to take on the site and develop it. This opportunity was also extended to include the Greenfield site at Delf Clough which is seen to have potential for delivering housing.

4. Legislative Framework Governing the LDO Process

4.1 Primary legislation:

LDO provisions are contained in sections 61A-D of and Schedule 4A to the Town and Country Planning Act 1990, as amended. The primary legislative provisions related to LDOs were introduced by the Planning and Compulsory Purchase Act 2004, and commenced in 2006

4.2 Secondary legislation:

These primary powers were amended by the commencement of section 188 of the Planning Act 2008 in June 2009. The effect of this amendment was to remove the requirement that LDOs must implement local plan policies.

- 4.3 More detailed legal provisions on LDOs are contained in Article 38 of and Schedule 7 to the Town and Country Planning (Development Management Procedure) (England) Order 2015 (the 'DMPO'). The DMPO came into force in October 2010 as a consolidation of the Town and Country Planning (General Development Procedure) Order 1995 and instruments which have amended that Order.

5. Area Covered by the LDO

5.1 Delf Clough

Delf Clough is a Greenfield site located to the east of Northway to the east of Skelmersdale town centre. The site consists of an open grassed area with footpaths crossing it and stands of trees spread across it, with wooded cloughs to the north and south (both of which are designated nature conservation sites), a tree belt to the west (screening the site from Northway) and a residential care home to the east (Evenwood Court). See appendix A for site plan.

6. Planning Policy Context

- 6.1 The current planning policies for the sites are set out within the West Lancashire Local Plan 2012-2027 (adopted October 2013). The land is designated as SP2 Strategic Development Site on the Delf Clough site along with GN1a Settlement boundary.

- 6.2 There are no significant issues in terms of compliance with the National Planning Policy Framework (NPPF) or National Planning Policy guidance (NPPG).
- 6.3 The Local Development Orders are in compliance with the Councils Supplementary Planning Documents including the Design Guide SPD, Skelmersdale Town Centre Masterplan and others listed at <http://www.westlancs.gov.uk/planning/planning-policy/supplementary-planning-guidance.aspx>

7. **Environmental Impact Assessment (EIA)**

- 7.1 Developments which are likely to have a significant impact on the environment are subject to Environmental Assessment (EIA).
- 7.2 (Environmental Impact Assessment) (England and Wales) Regulations 2011 (EIA Regulations) require the developer to provide an Environmental Statement (ES) where the development proposed is:
- a. Within one of the categories of development in Schedule 1;
 - b. Either it is in a sensitive area or is above a given threshold for that type of development (listed in Schedule 2) and the development is likely to have significant effects on the environment by virtue of factors such as its nature, size or location (i.e. 'EIA development').
- 7.3 A formal decision on whether the development proposed is 'EIA development' (and hence an ES is required) can be obtained from the Local Planning Authority through a screening opinion request. It should be additionally noted that Article 38 paragraph 12 part (b) of the DMPO prohibits the use of an LDO to grant permission for development which falls within one of the categories in Schedule 1.
- 7.4 The site of the Delf Clough LDO site has been screened (as far as is possible with the information available) as part of the process of developing the LDO. This screening opinion is detailed below.

8. **Screening Opinion**

Delf Clough

- 8.1 The site at Delf Clough was EIA Screened for residential development on the site for up to 140 dwellings, highway and landscaping works, to be developed under a Local Development Order. For the following reasons, it was determined by West Lancashire Borough Council on 2nd October 2015 that an Environmental Impact Statement is not required for the development as described above:
- The development is not within a 'sensitive area' as defined by Part 1 of the Town and country Planning (Environmental Impact Assessment) Regulations 2011.
 - The environmental impact would not be of more than local significance or result in any impact greater than of local significance.
 - The development itself is not considered to be environmentally sensitive.

- The development would not result in unusually complex or potentially hazardous environmental effects.

9. **The limitations of the order**

9.1 It is intended that the LDO is active for a period of ten years following the date of its adoption. This is to help the delivery of the sites in a recovering economic market. Following the end of this ten year period, the LDO would cease to apply. The Council would then have the following options:

- Renew the LDO under same terms/conditions as previously;
- Renew the LDO but modify its terms and conditions

10. **Consultation on the LDO**

10.1 A fundamental principle of LDOs is that they represent a partnership approach to development management. This requires an approach to consultation which seeks support for the concept of the LDO and its objectives, both among the direct participants; the communities affected; and wider stakeholders.

10.2 It is a requirement that LDOs are the subject of local consultation. LDO consultation procedures are set out in article 38 of the Town and Country Planning (Development Management Procedure) Order 2015 (Statutory Instrument 2015/595). Consultation must include any person with whom the local planning authority would have been required to consult on an application for planning permission for the development proposed to be permitted by the LDO.

10.3 As part of the preparation of this LDO the following consultation arrangements were undertaken:

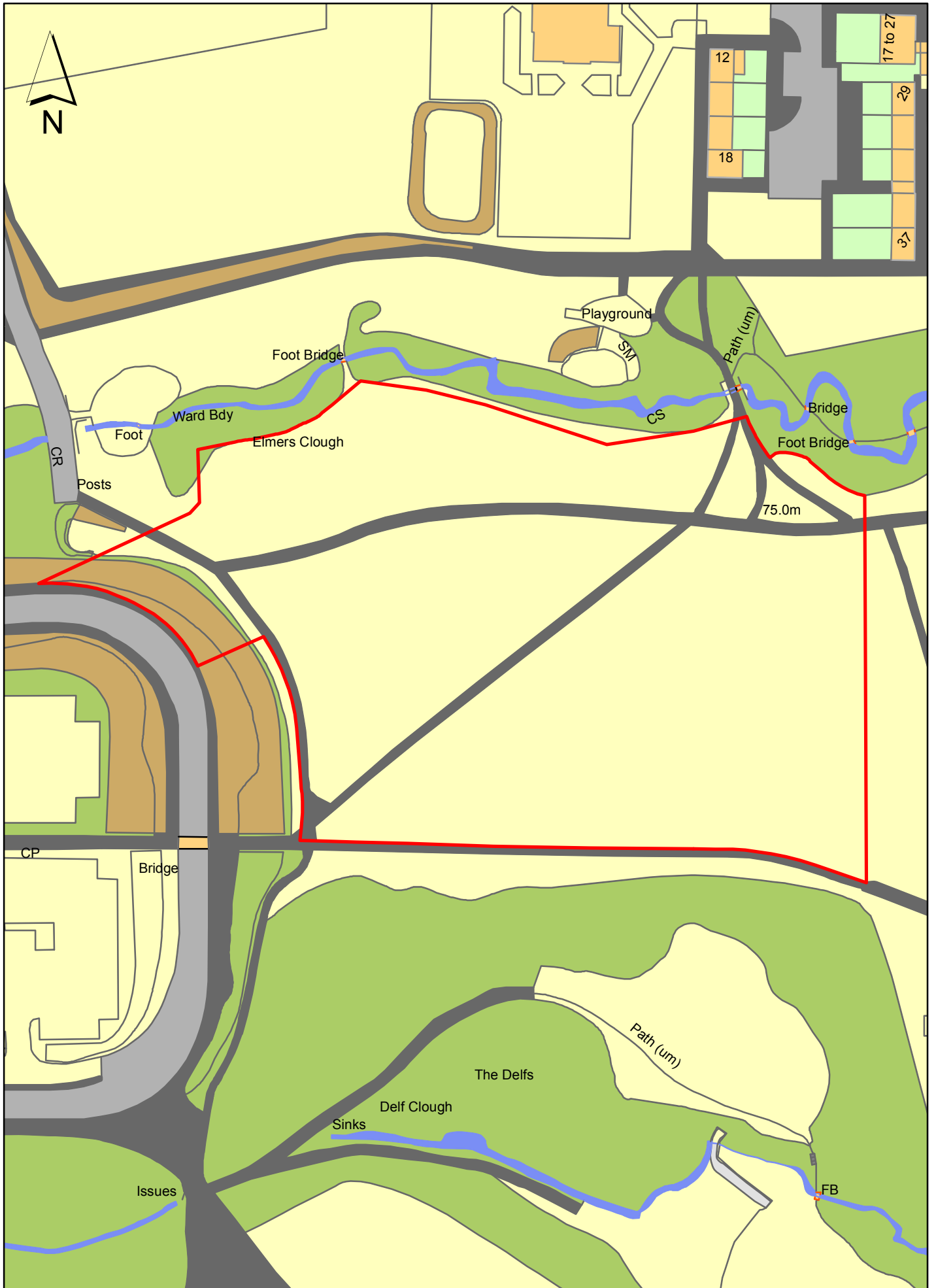
- Compliance with the publicity and consultation requirements of Article 38 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) which relates specifically to publicity requirements for LDOs;
- Formal approval to consult on the draft LDO required by the Cabinet Members
- Compliance with the consultation requirements of the Statement of Community Involvement
- Direct consultation letters to the stakeholders

11. **Monitoring and Enforcement**

11.1 This LDO will be subject to on-going monitoring to assess its effectiveness in delivering development that supports the West Lancashire Local Plan. The outcome of the monitoring process will be reported annually through the AMR.

11.2 Failure to comply with the terms of the LDO or any other statutory requirements may result in appropriate enforcement action being taken by the Council and / or other agencies.

Appendix A



Appendix B



Directorate of Transformation

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Dear Ms Kneale

THE TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) (ENGLAND AND WALES) REGULATIONS 2011 SCREENING OPINION – ENVIRONMENTAL STATEMENT

Proposal: Screening Opinion - Residential development up to 68 dwellings.
Location: Land To The West Of Evenwood Court, Evenwood, Tanhouse,
Skelmersdale

Introduction

West Lancashire Borough Council has been asked for a formal screening opinion in relation to proposed residential development of up to 68 dwellings and associated infrastructure at land to the west of Evenwood Court, Tanhouse, Skelmersdale. This screening opinion is based on the letter of 22nd October 2015. A previous screening opinion has been provided for this site (2015/0831/SCR); however, the site area has now increased by approximately 0.3ha, although the maximum number of dwellings remains the same.

The Site

**Gill Rowe LL.B (Hons) Solicitor
Managing Director (People and Places)**

**Kim Webber B.Sc., M.Sc.
Managing Director (Transformation)**

The request relates to a roughly rectangular parcel of land in between Northway and Evenwood Court, Skelmersdale. The site is currently a grassed and wooded area of land criss-crossed by footpaths linking residential areas to the town centre. The site extends to approximately 1.8 hectares and slopes from south to north towards Elmers Clough and the River Tawd.

To the north is the River Tawd and Elmers Clough which is a Biological Heritage Site, to the west is the Co-operative office building and the town centre screened by a belt of trees, to the south is Delf Clough and to the east is the residential care home at Evenwood Court. The site is within the main settlement of Skelmersdale and also within the Strategic Development Site of Skelmersdale Town Centre.

Proposal

The proposal is for residential development on the site for up to 68 dwellings, highway and landscaping works, to be developed under a Local Development Order.

Assessment

The proposal does not fall within Schedule 1 of the EIA Regulations.

The proposal does not meet the applicable criteria as set out in Part 10)b) Infrastructure Projects – Urban Development Projects in Schedule 2 of the Town and Country Planning (Environmental Impact Assessment)(Amendment) Regulations 2015 (the development is for less than 150 dwellings and the overall area of development is less than 5 hectares).

Schedule 3 of the Regulations provides guidance on how to decide whether the project is likely to have significant environmental effects, thereby requiring EIA under Schedule 2.

National Planning Practice Guidance (NPPG)

NPPG has now replaced previous guidance on Environmental Impact Assessment as set out in Circular 02/99 and advises:

When screening Schedule 2 projects, the local planning authority must take account of the selection criteria in Schedule 3 of the Regulations. Not all of the criteria will be relevant in every case. Each case should be considered on its own merits in a balanced way and authorities should retain the evidence to justify their decision.

Only a very small proportion of Schedule 2 development will require an assessment. While it is not possible to formulate criteria or thresholds which will provide a universal test of whether or not an assessment is required, it is possible to offer a broad indication of the type or scale of development which is likely to require an assessment.

The NPPG also provides an annex providing indicative screening thresholds. However, it should not be presumed that development above the indicative thresholds should always be subject to assessment, or those falling below these thresholds could never give rise to significant effects, especially where the development is in an environmentally sensitive location. Each development will need to be considered on its merits.

Schedule 3 Criteria

Schedule 3 of the regulations outlines the criteria against which any Schedule 2 development should be assessed.

1. Characteristics of the development

The proposal is for the development of approximately 1.8 hectares of land to accommodate up to 68 dwellings.

In assessing the scale of the proposed development, I consider that the proposal would raise no issues that can be considered of more than local importance.

2. Environmental sensitivity of the location

The site is not located within a Sensitive Area as defined by Regulation 2(1) of the EIA Regulations (i.e. sites designated as Sites of Special Scientific Interest, National Parks, World Heritage Sites, Scheduled Monuments, Areas of Outstanding Natural Beauty and sites covered by internal conservation designations) and does not lie within an identified Natura 2000 qualifying habitat or within close proximity to an environmentally sensitive site. The site is bound to the north and south by Biological Heritage Sites; however, this in itself does not mean that the site is considered to be a “sensitive site” in the terms defined above and any impact upon these areas will be taken into account during consideration of a full planning application.

The nearest residential properties are located to west and beyond Elmers Clough to the north. An assessment of the impact of the proposed development on the amenities of these neighbouring residents would form part of a full planning application.

In landscape and visual impact terms, the proposed development will no doubt be visible in the wider area but given the nature of the use and compatibility with neighbouring uses, this visibility is likely to be readily assimilated. Considerations of visual impact and impact on landscape character will be a consideration in any planning application.

In assessing the environmental sensitivity of the proposed development, I consider the potential impact to be of no more than local importance.

3. Characteristics of the Potential Impact

When assessed against the criteria within Schedule 3, Part 3 sections a) to e) of the regulations, it is considered that the effects of the proposals would not be significant taking into account the extent of the impact, the transfrontier nature of the impact, the magnitude and complexity of the impact, the probability of the impact and the duration, frequency and reversibility of the impact.

Conclusion

For the following reasons, it is determined that an Environmental Impact Statement is **NOT REQUIRED** for the above development:

1. The development is not within a ‘sensitive area’ as defined by Part 1 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011.
2. The environmental impact would not be of more than local significance or result in any impact greater than of local significance.
3. The development itself is not considered to be environmentally sensitive.
4. The development would not result in unusually complex or potentially hazardous environmental effects.

Please note that in giving this opinion, it is recognised that an EIA would not be the only means of gaining the environmental information required to assess an application for planning

permission. Planning application consultees such as English Nature, Environment Agency, RSPB, NATS, County Highway, Lead Local Flood Authority and MEAS would no doubt require appropriate highway, landscape, drainage and ecological studies as part of the assessment of any such planning application.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'J.R.H.', with a long horizontal flourish extending to the right.

John R Harrison, DipEnvP, MRTPI
Assistant Director Planning