KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 70

DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS

Reference No:	2017/60/94299/E
Site Address:	Land adjacent to 129, Marsh Lane, Shepley, Huddersfield, HD8 8AS
Description:	Outline application for erection of 3 detached dwellings
Recommending Officer:	Katie Wilson

DECISION – APPROVE CONDITIONAL OUTLINE PERMISSION

I hereby authorise the approval of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

Julia Steadman

AUTHORISED OFFICER

Date: 03-Sep-2018

Officer Report

Site Description

The application site is an ‘L – shaped’ plot of land (approximately 0.16 hectares), accessed from Marsh Lane, between Nos.127 & 129, Marsh Lane, Shepley. It is currently rough ground with several large trees adjacent to the southern boundary and an informal track linking the road to a field at the rear.

The site abuts open fields to the south, whilst to either side are residential properties which line the southern side of Marsh Lane and approximately 2/3rd of the site together with adjacent land to the east has recently gained outline planning permission for residential development for 2 dwellings (reference 2017/90272), with the point of access only considered. All other matters reserved.

Description of Proposal

Outline planning permission is sought for erection of 3 detached dwellings with access and layout being considered and all other matters reserved.

Access:

This is shown to be taken from Marsh Lane between plot 1 and adjacent to the boundary with 127, Marsh Lane with access to plots 2 and 3 to the rear and internal turning.

Layout:

Plot 1 - is adjacent to the eastern side of 129, Marsh Lane, with similar footprint and external amenity space. Access directly from Marsh Lane.

Plot 2 – Footprint of two overlapping and staggered rectangles (one larger than the other). Located on land at the back of 129, Marsh Lane and plot 1, and adjacent to the back garden of 131, Marsh Lane. It would be accessed from the proposed turning head.

Plot 3 – Footprint a ‘handed’ version of plot 2 located at the head of the short cul-de-sac, with slightly larger area of amenity space (relative to the other plots). Adjacent to plot 2, the back garden of 131, Marsh Lane, an open field to the south and land forming part of area with extant outline planning permission for 2 dwellings, to the east.

History of negotiations/amendments received

During the course of this application a tree impact assessment report (including an arboricultural implication plan) and amended site layout drawing were requested and received. This was to address concerns about the impact upon trees subject to preservation orders.

Relevant Planning History

Approx.2/3rd application site and adjacent land to the east:

2017/90272 – Outline application for residential development (2 dwellings). Granted conditional outline permission.
http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2F90272

99/91477 – erection of 4 detached houses with garages. Conditional full permission. Not implemented.
http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=99%2F91477

At 129, Marsh Lane:
2002/90734 – Erection of 1no 5 bedroomed detached house with integral garage. Conditional full permission.
http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2002%2F90734

Representations

Final publicity date Expires: 29.1.2018. Representations received from or on behalf of the occupants of 7 residences.

A summary of the comments received is set out below:

- Area of land with outline approval is L-shaped and returns to Marsh Lane.
- Plots 2 & 3 will directly overlook 6 gardens to south west of the development.
- They change the character of the area.
- The land is agricultural land not garden space.
- Impact upon TPOed trees has not been taken into account
- Marsh lane is too busy to support additional traffic
- The sewage system is too old to support further usage
- It will lead to urban sprawl
- Adjacent plot shows that it has outline planning permission, which is untrue, only access from the road was granted. The proposed access is not safe for 5 dwellings (2 from application 17/90272) and the proposal would have a significantly negative impact upon highway safety.
- Shepley is too full
- The design & access statement says that an outline application was approved in 99/91477 for 4no detached houses. Subsequently 129, Marsh lane was built under approval 2002/90734 and therefore 99/91477 became extant. We do not agree, 99/91477 was never implemented and 129, Marsh Lane was built under permission

02/91477, therefore the erection of 129, Marsh Lane did not implement permission 99/91477, which has lapsed.

- We consider that the only application which is extant and relevant is 2017/90272. It gave outline permission with layout as one of the elements to be considered at reserved matters. A reserved matters application is awaited. There is concern that approval of this application would pre-determine the layout of 2017/90272, as the only part of 17/90272 site which would be left available to build the two permitted houses, would be to the rear of their property. The developable area of 17/90272 would be significantly reduced if the application were approved and lead to unacceptable over-development of both the 17/90272 site and the current site.
- The erection of three dwellings on the site would not contribute positively to the built environment. Being back land development it would also not promote safety and would encourage crime due to lack of natural surveillance.
- It would not allow sufficient space around buildings and fail to promote a healthy environment. It would not respect the scale, density and layout of the surrounding area.
- The erection of tree dwellings to the rear of other dwellings would have negative impact on residential amenity of existing occupiers.

Kirkburton Parish Council:- No comments

Consultation Responses

The following is a brief summary of Consultee advice (more details are contained in the Assessment section of the report, where appropriate):

KC Highways Development Management: No objections subject to conditions.

K C Environmental Health: response to extant outline permission 2017/90272 for 2 dwellings. Recommended conditions relating to provision of facilities for charging plug-in electric vehicles; and reporting unexpected contamination, together with footnote about construction noise.

K C Arboricultural officer: Following receipt of additional information, withdrew initial objection subject to a tree protection condition.

K C Policy: Response to extant outline permission 2017/90272 for 2 dwellings. The green belt boundary is proposed to remain in the same position as it is in the UDP on the PDLP. Until adoption of the Local Plan, the statutory position of the Green belt remains as shown on the UDP.

Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within

the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 48 of the National Planning Policy Framework (2018). In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2018), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

The site is without notation on the UDP Proposals Map and unallocated on Kirklees Publication Draft Local Plan.

Kirklees Unitary Development Plan:

- D2 – Land without notation on the UDP
- BE1 – Design principles
- BE2 – Quality of design
- BE12 – Space around dwellings
- G6 – Contaminated land
- NE9 – Trees on development sites
- T10 – Highway safety
- H1 – Meeting the housing needs of the district

Kirklees Publication Draft Local Plan (PDLP):

- PLP1 – Presumption in favour of sustainable development
- PLP3 – Location of new development
- PLP21 – Highway safety and access
- PLP24 – Design
- PLP28 - Drainage
- PLP30 – Biodiversity and geodiversity
- PLP33 – Trees
- PLP51 – Protection and Improvement of local air quality
- PLP53 – Contaminated and unstable land

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 24th July 2018, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 9 – Promoting sustainable transport

- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 15 - Conserving and enhancing the natural environment

Assessment

Principle of development:

Sustainable development:

NPPF Paragraph 11 and PLP1 outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation.

The dimensions of sustainable development will be considered throughout the proposal.

Further to the above, the Council are unable to demonstrate a 5 year supply of housing land. Therefore relevant policies for the supply of housing should not be considered up to date. Notwithstanding this the site is not subject to policies which restrict the supply of housing.

Land allocation:

The site is without notation on the UDP Proposals Map and Policy D2 (development of land without notation) of the UDP states;

'Planning permission *for the development … of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice* [a specific set of considerations]'

All these considerations are addressed later in this assessment.

Consideration must also be given to the emerging local plan. PLP2 states that;

> All development proposals should seek to build on the strengths, *opportunities and help address challenges identified in the local plan, in order to protect and enhance the qualities which contribute to the character of these places, as set out in the four sub-area statement boxes below...*

The site is within the Kirklees rural sub-area. The listed qualities will be considered where relevant later in this assessment.

In terms of the PDLP land allocation, the site is unallocated, although it was rejected as safeguarded land for housing, and so this is not a material consideration.

Residential development:

Policy H1 of the UDP, PLP11 of the PDLP and Chapter 5 of the NPPF establish a general principle in favour of residential development. Furthermore the council is unable to demonstrate a five year housing land supply. Therefore additional weight is afforded to the provision of housing at a time of general shortage, which provides a social and economic role.

Policy PLP11 of the PDLP makes reference to the appropriate use of land. This includes seeking a dwelling density of 35 dwellings per hectare. Based on the 3 units shown on the proposed layout plan and the site's area of 0.16ha, this would equate to approximately 19 units per hectare which is around half the density mentioned in PLP11. However, in this instance the character of the area is of relatively large detached or semi-detached houses with outdoor amenity space to the front and rear of various size and shape. The proposed layout would achieve something similar to the established pattern of development and so is considered acceptable albeit that it does not satisfy the dwelling density rate in PLP11 which in these site specific circumstances would be considered inappropriate.

Previous permissions:

The current application site together with land at 129, Marsh Lane was granted planning permission for the erection of 4 houses (reference 99/91477). It was not implemented however, subsequent planning permission was granted for the house that is now 129, Marsh Lane (reference 2002/90734) and the rest of the proposed development has a very similar layout to that currently being considered.

Notwithstanding the above, approximately 2/3rd of the current application site already has extant outline planning approval for the erection of two dwellings (reference 2017/90272) with point of access only being considered and larger site area incorporating a rectangular piece of adjacent land.

This is a material planning consideration and given the above it is considered that the principle of the proposed development is acceptable. An assessment of the current proposal on the local area is given below.

<u>Impact upon visual amenity:</u>

Whilst the application is for outline permission with scale and appearance reserved matters, layout is for consideration at this stage. The site plan indicates a layout very similar to that previously approved (ref: 99/91477) whereby the footprint and curtilage of plot 1 would be almost the same as that at 129, Marsh Lane which is on adjacent land. Plots 2 and 3 have 'handed' footprints parallel to each other and located on land to the rear of 129, Marsh

Lane and plot 1. The size and shape of their curtilages together with their position behind properties which front onto Marsh Lane are also comparable with others (particularly at nos. 103a, 105a & 105b Marsh lane and Dob Royd) which line Marsh Lane. In these circumstances it is considered that the proposal would maintain and enhance the established character of development in this part of Shepley.

It is also thought that it would be possible to build houses on the submitted layout that would have design and external materials in keeping with or complimentary to the character of the local area, and not preventing matters reserved for future consideration adhering to Policies D2, BE1, BE2 and BE12 of the UDP, policies PLP2 and PLP24 of the PDLP and Chapter 12 of the NPPF.

Impact upon residential amenity:

Policy D2 of the UDP, and PLP24 of the PDLP seek to protect residential amenity. Policy BE12 of the UDP sets out the normally recommended minimum distances between habitable room windows. As the application is at outline stage with all design related matters (except access and layout) reserved, the impact the proposed development would have on the amenities of neighbouring dwellings and the future occupiers of the proposed development cannot be fully considered at this stage.

However, the submitted site plan showing layout is for consideration at this stage and on the assumption that habitable room windows would be predominantly in the front (looking directly onto Marsh Lane) and opposing rear elevations of plot 1, and on a north east / south west axis for plots 2 & 3, with mainly blank side elevations parallel to the rear elevations of 129, Marsh Lane and Plot 1, the layout would largely meet the requirements of policy BE12 of the UDP for distances around houses. There would be a small shortfall of less than half a metre between the rear of plots 2 & 3 to the adjacent land to the south west, but given that there is potentially no direct relationship between habitable room windows and a distance of around 18m between the main part of plot 2 to the nearest part of 131, Marsh Lane, it is considered that there would be very limited prejudicial impact upon residential amenity of the occupiers of this property.

Whilst scale is a reserved matter, the footprints shown on the site plan indicate ground floor area of around 115 sqm for plot one and 69.5 sqm for plots 2 & 3. These areas would be doubled for 2-storey houses and although floor plans and bedroom numbers are not provided, this floor space would be considered reasonable for 3 or 4 bedroomed dwellings with relatively clear outlooks and suitably sized private garden.

In summary, at this stage the proposed residential development is not anticipated to cause undue harm to the amenity of neighbouring residents or the amenity of future occupants of the dwellings, which would be assessed further at reserved matters stage with the submission of a details relating to scale, appearance and landscaping.

However, at this stage the proposal in principle is capable of complying with policy D2 of the UDP, policy PLP24 of the PDLP and chapter 12 of the NPPF.

Impact upon highway safety:

Access is a consideration of this proposal.

In terms of vehicular access to the proposed dwellings, the proposed site plan shows that this would be an access road taken from Marsh Lane and between the north eastern side of plot 1 and the grounds of 127, Marsh Lane. This would lead to a turning area to the rear of plot 1 and in front of plots 2 & 3.

The point of access is in the same position as that already approved with extant outline approval 2017/90272.

The Council's Highways DM officers have been consulted and commented that these proposals are acceptable from a highways point of view subject to conditions relating to nothing within 2.0m deep measured from the carriage edge of Marsh Lane that exceeds 1.0m high, and surfacing and drainage of areas to be used by vehicles and pedestrians.

In terms of off street parking the highways officer points out that the design and access statement says that units one and 2 have three off street spaces and unit 3 has two spaces. They comment that unit 3 would be restricted to being a 3 bed house unless a third space can be provided. Given that units 2 and 3 have 'handed' footprints it implies that they would be the same design with the same number of bedrooms, so all the units would need 3 parking spaces. With appearance and scale being reserved matters it is uncertain at this stage how the off street parking spaces would be arranged, however it is considered that this would be possible within the boundary of each site.

It is considered that traffic generated by the proposal can be safely accommodated within the local highway network and the development is unlikely to result in any undue highway safety implications. The only highway conditions relate to areas to be surfaced and drained, and ensuring adequate visibility along the road frontage onto Marsh Lane.

Similar conditions were also applied to the extant permission 2017/90272 which covers approximately 2/3rd of the current application site. The access road and turning shown on the site layout plan under consideration would also allow access to the remaining part of land which was granted outline planning permission for two dwellings with the extant permission referred to above.

To conclude, in terms of highway safety, the proposal is considered to be acceptable and would comply with Policies T10 and T19 of the UDP as well as policy PLP21 of the PDLP.

Other matters:

Pollution and noise:

Approximately 2/3rd of the application site has recent outline permission (ref: 2017/90272). When it was being assessed, Kirklees pollution and noise were consulted and raised no objections subject to conditions relating to reporting unexpected contamination and providing facilities for sustainable transport via charging plug-in points for electric vehicles, together with footnote relating to construction site noise.

Provided that these are repeated, the proposal would comply with policies BE1 and G6 of the Kirklees Unitary Development Plan, policies PLP21(g), PLP51 and PLP53 of the Kirklees Publication Draft Local Plan and chapters 9, 12 and 15 of the National Planning Policy Framework.

Ecological consideration:

When the recently approved outline planning permission (ref: 2017/90272) was assessed the Council's Ecologist raised no objections subject to condition requiring preliminary ecological appraisal and any follow up work or assessment. Provided that this is applied, the proposal would comply with the aims of the NPPF.

Trees considerations:

UDP policies BE2 and NE9 seek to ensure that mature trees in or adjacent to development sites are retained for their amenity.

In this instance there are several mature trees subject to Tree Preservation Orders adjacent to the south eastern boundary of the site. The Council's Arboricultural officer has been consulted and initially raised concerns that no details regarding the adjacent protected trees had been submitted, and plot 3 would be constructed within their root protection area, with no information provided to demonstrate why plot 3 should be allowed to be constructed so close to the protected tree. They recommended that plot 3 should be omitted or significantly altered, and a tree survey (including a plan showing the tree constraints such as crown spread, root protection area and shade patterns) should be submitted.

The applicant / agent supplied a proposed site plan with circles drawn to depict trees. This did not satisfy the concerns of the Arboricultual officer as a tree survey was not provided and it didn't appear that 3 plots could be satisfactorily accommodated in this site without significant alterations to the design.

Subsequently, an arboricultural impact assessment which included an arboricultural implications plan was submitted. The Council's Arboricultural officer has supplied further comments that they are content that plot 3 could be successfully built provided that it is designed around the trees in terms of foundations and tree protection. This would require a condition for an arboricultural method statement and tree protection plan in accordance with

BS5837. They retain concerns about shading of the plot and increased pressure to prune or fell the trees, and suggest that the viability of the plot depends upon suitable architectural design which maximises light in plot 3 to mitigate the light loss from proximity to protected trees.

It is also noted that the extant outline approval (ref: 2017/90272) which overlaps approximately 2/3rd of the current application site was granted with a footnote making the applicant / developer aware that an arboricultural method statement and tree survey would be required at reserved matters stage. In that instance a footnote was appropriate as layout was a reserved matter, however, with this application layout is under consideration and so it is appropriate to apply a condition. It is a pre-commencement condition, which given the circumstances described above the agent should be aware of and compliant with.

Subject to the provision of this condition, the proposal would be compliant with the aims of policies BE2 and NE9 of the UDP, as well as policy PLP33 of the PDLP.

Drainage:

The NPPF requires Local Planning Authorities to take account of climate change over the longer term, including factors such as flood risk and water supply. New development should be planned to avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure.

The application site is within Flood Zone 1 (ie the lowest risk) and as the site area is under 1ha and less than 10 houses, Yorkshire Water were not consulted. The application form also declares that surface water would be disposed to a sustainable drainage system and soakaway, whilst the foul water would drain to a mains sewer.

The standing advice from the Council's Strategic Drainage section is that soakaways cannot be agreed without evidence that they will work and must be located 5m from any property. If outline planning permission is granted it is recommended that a condition requesting details and footnote is attached for consideration at reserved matters stage.

This is consistent with the extant outline planning permission (ref: 2017/ 90272), which overlaps approximately 2/3rd of the site.

In relation to the extant outline permission ref: 2017/90272:

As stated before extant outline permission ref: 2017/90272 for two houses overlaps approximately 2/3rd of the current outline planning application site boundary. Layout is a reserved matter for 2017/90272, and no further reserved matters application has been submitted to date. However, layout for

three houses and access / turning space is under consideration with the current application, and considered acceptable subject to conditions.

In terms of visual and residential amenity, the scale, appearance and landscaping for both are reserved matters, however, it is considered that the current proposal with suitable reserved matters approval would not be prejudicial to the extant permission.

In terms of highway safety, the approved point of access for extant permission 2017/90272 and that proposed for this application are the same, and the access road and turning shown on the proposed site plan would not prejudice access to the adjacent land (within the site boundary of 2017/90272). It is also considered that the up to two further dwellings using the access road and new junction onto Marsh Lane, with the recommended conditions would not be unduly harmful to highway safety or the existing highway infrastructure.
As such, it is considered that the current proposal would not prejudice a reserved matters application for layout, scale, appearance and landscaping in association with 2017/90272.

Representations:

Representations received from or on behalf of the occupants of 7 residences.

A summary of the comments received is set out below, along with the officer response:

Area of land with outline approval is L-shaped and returns to Marsh Lane.
Response: It is acknowledged and understood that the red line application site boundary for the extant outline permission ref: 2017/90272, overlaps approximately 2/3rd of the site boundary for the application currently being considered. This is quite clear if they are compared and it is considered that there is no need for further clarification on the current submission.

Plots 2 & 3 will directly overlook 6 gardens to the south west of the development.
Response: Whilst details of scale and appearance are reserved matters, it is anticipated that the front and rear elevations of plots 2&3 would be on a north east / south west axis, with front elevation facing the access road and turning area. The rear elevations would be parallel to and approximately 10.0m from the mutual boundary to the garden at 131, Marsh Lane. This is largely in accordance with the minimum separation distance set out in policy BE12 of the Kirklees UDP for distances between habitable room windows and any adjacent un-developed land. Furthermore there would be no direct relationship between habitable room windows as it is anticipated that these windows would be perpendicular to each other, with a distance of at least approximately 19m at first floor level and appropriate boundary screening at ground level. It is considered that this would provide satisfactory space around dwellings to prevent undue prejudicial impact to the residential amenities of existing or future occupants.

They change the character of the area.
Response: Whilst scale and appearance are reserved matters, there are similar 'backland' type residential developments along this stretch of Marsh Lane (particularly nos. 103a, 105a and 105b, Marsh lane, and at Dob Royd). The site is also within the boundary of the built up area of Shepley on both the UDP and the PDLP. As such, it is considered that the layout details provided with this application for three houses is comparable with the established pattern of development.

The land is agricultural land not garden space.
Response: At the officer site visit there appeared to be some chippings laid to provide an informal access for vehicles to get from Marsh Lane to a gated entrance to a field at the back of 119 to 127, Marsh Lane. The rest of the area appears to be overgrown grassed area with some brambles or similar rough vegetation towards the western part of the site. Whilst it does not appear to be garden space, nor does it appear to be used for agricultural purposes at the moment apart from providing access to the field.

Impact upon TPOed trees has not been taken into account
Response: The impact upon trees subject to tree preservation orders has been fully assessed in the main body of this report under other matters and found to be acceptable subject to conditions.

Marsh Lane is too busy to support additional traffic.
Response: The impact of this proposal upon the local highway infrastructure has been assessed in the main part of this report under impact upon highway safety and is considered acceptable.

The sewage system is too old to support further usage.
Response: This is noted

It will lead to urban sprawl
Response: The site is within the boundary of the built up area of Shepley and abuts the Green Belt boundary to the south east on both the UDP and the PDLP. As such it is considered that it would not lead to urban sprawl.

Adjacent plot shows that it has outline planning permission, which is untrue, only access from the road was granted. The proposed access is not safe for 5 dwellings (2 from application 17/90272) and the proposal would have a significantly negative impact upon highway safety.
Response: the red line application site boundary for the extant outline permission ref: 2017/90272, overlaps approximately 2/3rd of the site boundary for the application currently being considered. Layout for 2017/90272 is a reserved matter, so is unknown at present, however, an indicative layout drawing was submitted for illustrative purposes only, with the footprint of two houses set back from the road frontage, as already occurs at 103a, 105a and 105b, Marsh Lane and at Dob Royd. A full assessment would be made upon receipt of any application for reserved matters. It is however, considered that the proposed access would also be safe for up to 4 houses set back form the

road frontage, with plot one of the current application having direct access onto Marsh Lane, like many others in the area.

Shepley is too full.
Response: This is noted.

The design & access statement says that an outline application was approved in 99/91477 for 4no detached houses. Subsequently 129, Marsh lane was built under approval 2002/90734 and therefore 99/91477 became extant. We do not agree, 99/91477 was never implemented and 129, Marsh Lane was built under permission 02/91477, therefore the erection of 129, Marsh Lane did not implement permission 99/91477, which has lapsed.
Response: Agreed.

We consider that the only application which is extant and relevant is 2017/90272. It gave outline permission with layout as one of the elements to be considered at reserved matters. A reserved matters application is awaited. There is concern that approval of this application would pre-determine the layout of 2017/90272, as the only part of 17/90272 site which would be left available to build the two permitted houses, would be to the rear of their property. The developable area of 17/90272 would be significantly reduced if the application were approved and lead to unacceptable over-development of both the 17/90272 site and the current site.
Response: As outline planning permission was granted (ref: 2017/90272) with layout a reserved matter and no subsequent reserved matters application has been received, the layout is unknown at present. However, it is considered that granting the current outline permission with the submitted layout would not necessarily pre-determine or prejudice the layout of 2017/90272, but it is considered that a scheme can be achieved on the two sites which would be in keeping with the character of the surrounding area.

The erection of three dwellings on the site would not contribute positively to the built environment. Being back land development it would also not promote safety and would encourage crime due to lack of natural surveillance.
Response: A full assessment of the scale and appearance of the buildings would take place at reserved matters stage, however it is envisaged that three houses on the site could make a positive contribution to the built environment, and would not encourage crime in the area through lack of natural surveillance as plot one fronts directly onto Marsh lane and plots 2 & 3 are overlooked to a large extent by each other.

It would not allow sufficient space around buildings and fail to promote a healthy environment. It would not respect the scale, density and layout of the surrounding area.
Response: Back land development already occurs nearby along this stretch of Marsh lane at 103, 105a and 105b, Marsh Lane and at Dob Royd. It is considered that the proposed development shown on the submitted layout drawing is comparable with these and other existing properties in the area.

The erection of thee dwellings to the rear of other dwellings would have negative impact on residential amenity of existing occupiers.
Response: The proposal largely complies with space around dwellings requirements in policy BE12 of the UDP and as such it is considered that it would not be prejudicial to residential amenities of the occupants.

Conclusion

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

Recommendation – conditional outline approval

Decision Authorisation - Delegated Powers
Application Number: 2017/94299
Officer Recommendation: Grant outline permission
Conditions and Reasons

1. Approval of the details of the scale, appearance, and the landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development commenced.
Reason: No details of the matter referred to having been submitted they are reserved for the subsequent approval in writing of the Local Planning Authority.

2. Plans and particulars of the reserved matters referred to in Condition 1 above, relating to the scale, appearance, and the landscaping of the site, shall be submitted in writing to the Local Planning Authority and shall be carried out in full accordance with the approved plans.
Reason: No details of the matter referred to having been submitted they are reserved for the subsequent approval in writing of the Local Planning Authority.

3. Application for approval of any reserved matter shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
Reason: Pursuant to section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

4. The development hereby permitted shall be begun either before the expiration of two years from the final approval of reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
Reason: Pursuant to section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

5. Samples of all the external facing and roofing materials shall be submitted to and approved in writing by the Local Planning Authority before development commences on the superstructure of any of the new dwellings hereby approved. The development shall then be completed in accordance with the details so approved.
Reason: In the interests of the visual amenity and to accord with Policies D2, BE1 and BE2 of the Kirklees Unitary Development Plan, Policy PLP24 of the Kirklees Publication Draft Local Plan and Chapter 12 of the National Planning Policy Framework.

6. Nothing shall be permitted to be planted or erected within a strip of land 2.4 metres deep measures from the carriageway edge of Marsh Lane along the full frontage of the site which exceeds 1.0 metre in height above the level of the adjoining highway.
Reason: To ensure adequate visibility in the interests of highway safety in accordance with Policies D2, BE1, BE2 and T10 of the Kirklees Unitary Development Plan, Policies PLP21, PLP22 and PLP24 of the Kirklees

Publication Draft Local Plan and Chapters 9 and 12 of the National Planning Policy Framework.

7. The buildings shall not be occupied until the areas to be used by vehicles and/or pedestrians have been surfaced and drained in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.
Reason: In the interests of highway safety and to achieve a satisfactory layout, in accordance with Policies D2, BE1, BE2 and T10 of the Kirklees Unitary Development Plan, Policies PLP21, PLP22 and PLP24 of the Kirklees Publication Draft Local Plan and Chapters 9 and 12 of the National Planning Policy Framework.

8. No development of the superstructure of the dwellings hereby approved shall take place until details of the arrangements for the storage and access for collection of wastes have been submitted to and approved in writing by the Local Planning Authority. The approved storage and collection arrangements shall be provided on site before the new dwellings are first brought into use and thereafter retained.
Reason: To ensure that adequate provision is made for refuse storage and collection in the interests of visual amenity and highway safety and to accord with the aims of Policies BE1 and BE2 of the Kirklees Unitary Development Plan and Chapter 12 of the National Planning Policy Framework

9. Prior to occupation of the hereby approved dwellings 1no. electric vehicle recharging point shall be installed per dwelling. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. The electric vehicle recharging points shall thereafter be retained.
Reason: In the interest of promoting sustainable transport and to accord with Policy PLP21(g) and PLP51 of the Kirklees Publication Draft Local Plan and Chapter 9 of the National Planning Policy Framework.

10. Development shall not commence until a Preliminary Ecological Appraisal and any follow up work or assessment has been submitted to and approved in writing by the Local Planning Authority. The findings and recommendations shall be implemented in accordance with the approved Appraisal and assessment and thereafter retained.
Reason: In the interests of the biodiversity of the area and to accord with Chapter 15 of the National Planning Policy Framework. This is a pre-commencement condition in order to ensure that adequate mitigation and enhancement measures are incorporated at the appropriate stage of the development.

11. Notwithstanding the submitted plans and information, an Arboricultural Method Statement and Tree Protection Plan, in accordance with British BS 5837, shall be submitted and approved in writing by the Local Planning Authority before development commences. The submitted documents shall include details on how the construction work will be undertaken with minimal damage to the adjacent protected trees and their roots. Thereafter, the

development shall be carried out in complete accordance with the Arboricultural Method Statement and Tree Protection Plan.
Reason: So as to protect the viability of the protected mature trees within close proximity to the application site and to accord with Policies BE2 and NE9 of the Kirklees Unitary Development Plan and Policy PLP33 of the Kirklees Publication Draft Local Plan. This is a pre-commencement condition in order to ensure that adequate tree protection and mitigation measures are incorporated at the appropriate stage of the development.

12. In the event that contamination not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all works on site (save for site investigation works) shall cease immediately and the Local Planning authority shall be notified in writing within 2 working days. Works on site shall not recommence until either (a) a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority or (b) the Local Planning Authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy. Following completion of any measures identified in the approved Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as the whole site has been remediated in accordance with the approved Remediation Strategy and a Validation Report in respect of those works has been approved in writing by the Local Planning Authority.
Reason: To identify and remove unacceptable risks to human health and the environment and to accord with Policies BE1 and G6 of the Kirklees Unitary Development Plan, Policy PLP 53 of the Kirklees Publication Draft Local Plan and the aims in the National Planning Policy Framework.

13. Notwithstanding the submitted plans and information, full details of surface water disposal shall be submitted to and approved in writing before development commences. The approved surface water disposal scheme shall be implemented and thereafter retained.
Reason: This is a 'pre-commencement' condition, to ensure the provision of adequate and sustainable systems of drainage in the interests of amenity, environmental well-being and to accord with Policy BE1(iv) of the Kirklees Unitary Development Plan, Policy PLP28 of the Kirklees Publication Draft Local Plan and the aims of Chapter 14 of the National Planning Policy Framework.

NOTE It is brought to the applicant / developers notice that if the method of surface water disposal is by soakaway, this requires evidence that they will work and that they must be located 5m from any property.

NOTE: The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer (Kirklees Street Scene: 01484 221000) with regard to

obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution.

NOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of:

Monday to Friday: 0730 – 1830
Saturday: 0800 – 1300
With no working Sundays or Public Holidays

In some cases, different site specific hours of operation may be appropriate.

Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which work may be carried out.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan			5.7.2018
Proposed site plan	Dwg no 01	Rev A	5.7.2018
Design and access statement			3.1.2018
Arboricultural impact assessment by JCA ref: 14181 –A/AJB			22.6.2018

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. During the course of this application a tree impact assessment report (including an arboricultural implication plan) and amended site layout drawing were requested and received. This was to address concerns about the impact upon trees subject to protection orders.

Report Dated: 31.8.2018