Kirklees COUNCIL

Originator: Liz Chippendale

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Report of the Head of Development and Master Planning

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 05-Sep-2019

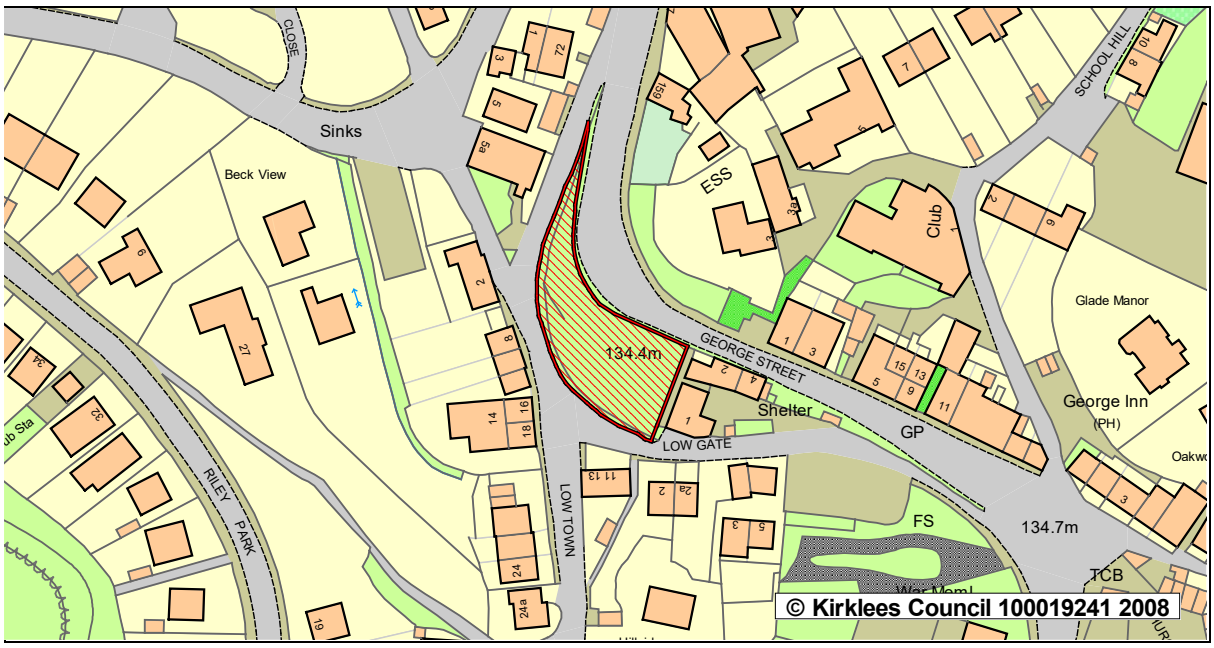
Subject: Planning Application 2019/90190 Erection of 3 dwellings (within a Conservation Area) adj, 1, Lowgate, Kirkburton, Huddersfield, HD8 0SE

APPLICANT
Hirst Properties Ltd

DATE VALID	TARGET DATE	EXTENSION EXPIRY DATE
04-Feb-2019	01-Apr-2019	

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.
http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Kirkburton

Yes

Ward Members consulted
(referred to in report)

RECOMMENDATION:

REFUSE

1. The application site currently forms a prominent and important space within the Kirkburton Conservation Area; its development for residential purposes would subsequently result in its loss as open space. Furthermore, the proposed development, by reason of its scale, design and prominence would appear out of keeping with the established character of the street scene and Conservation Area. The development would offer no benefit to the public to outweigh such impact. As such, to permit the erection of 3 no. dwellings in this position would cause undue harm to the visual amenity and character of the Conservation Area, contrary to Policies LP24 and LP35 of the Kirklees Local Plan and Chapters 12 and 16 of the National Planning Policy Framework.

2. The proposed development, by reason it its scale, siting and design would result in significant overlooking of the occupants of the adjacent dwellings at nos. 8 to 18 Low Town, which would be unduly detrimental to their living conditions. To permit the proposal, which would not maintain appropriate distances between buildings and provide a high standard of amenity for future and neighbouring occupiers, would be unduly harmful to residential amenity, contrary to Policy LP24 (b) of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

3. The proposed development has failed to demonstrate the safe manoeuvre of vehicles in and out of Plots 1 and 2 from the junction of Low Gate and Low Town. Furthermore, it is not considered that safe and suitable access to each plot can be achieved due to inadequate visibility splays onto Low Town and Low Gate for the future occupants of the proposed dwellings, thereby giving rise to unacceptable harm to highway safety. In addition, a substandard footway has been proposed. To permit the proposal as submitted would severely prejudice highway and pedestrian safety, contrary to Policies LP21 and LP22 of the Kirklees Local Plan.

1.0 INTRODUCTION:

1.1 This application is reported to the Heavy Woollen Planning Committee as the application has been requested by Ward Councillor Bill Armer. The reasons for the request by Councillor Armer are as follows:

"I refer to application 2019/90190, Lowgate Kirkburton. This is a contentious application on which I have no settled position at this time. I have in the recent past been approached by nearby residents expressing opposition on a number of grounds and requesting that I refer the matter to HWP Committee, and have now also been approached by the applicant similarly requesting that I so refer the application.

Because of the nature of these representations I believe that the interests of openness and democratic accountability are best served if the issue is put to HWP. In making this request I have also considered the following points:
(a) the NPPF has a presumption in favour of sustainable development. The applicant believes that he satisfies this test, the objectors disagree;
(b) there are concerns about Highway Safety in the Low Gate/Low Town area should the development go ahead;
(c) there are disputed questions about whether or not the proposed development is appropriate in a Conservation Area;
(d) objectors fear that the development would significantly increase the risk of flooding in the area;
(e) there are serious questions raised about the potential for building work to destabilise the banking which supports the adjoining highway North Road/George Street.
I believe that these are material planning considerations sufficient to support referral.

I am further swayed by the relatively unusual situation in which both applicant and objectors have requested referral. Thus I request that the application be referred to HWP for determination".

1.2 The Chair of Sub-Committee has confirmed that Councillor Armer's reason for making this request are valid having regard to the Councillor's Protocol for Planning Committees.

1.3 In addition, the application also received 53 representations following the period of public consultation, which is considered to constitute significant representation.

SITE AND SURROUNDINGS:

2.1 The site is identified as land adjacent Low Gate, Kirkburton. The site extends to 0.077 hectares and at present is open land which tapers to a point to the North. The site is bounded to the North by George Street (B6116) which runs to the East of the site at a higher level. To the South and West of the site is Low Gate and Low Town which holds a mixture of terraced and semi-detached, two storey residential dwellings.

2.2 The site is elevated from Low Gate and bounded by a dry stone wall to the West boundary and the retaining wall for the B6116 George Street to the North East. There is a footpath and steps which leads from Low Gate to George Street along the East boundary of the site.

2.3 There appears to be an existing vehicular access to the site from Low Town to the North of the site.

2.4 The site was occupied by a number of mature trees that were removed in 2018 following the approval of two Tree Work applications (reference 2018/92306 and 2018/93260).

2.5 The site is Unallocated within the Kirklees Local Plan and is within the designated Kirkburton Conservation Area.

3.0 PROPOSAL:

3.1 The application is for the erection of 3 no. dwellings. A pair of semi-detached dwellings and a detached dwelling are proposed with off-street parking to the frontage.

3.2 <u>Plots 1 and 2</u>

Plots 1 and 2 are 4 no. bedroom semi-detached dwellings with attached garage to the side located to the South of the application site. The dwellings are two storey to the frontage (West) and drop to single storey to the rear (East) due to the difference in land levels of the site. The proposed dwellings have a height of 6.7m to the front elevation, dropping to 4m to the rear of a pitched roof with a width of 5.9m and depth of 7.9m. The height of the garage to the side of the dwellings is 2.6m on top of which is a proposed terrace.

3.3 The front elevation holds an entrance door and windows at both ground and first floor. Two roof lights are proposed within the roof form of each dwelling. The rear elevation hold an entrance door to access a steeply terraced garden and window with a balcony roof light within the roof form.

3.4 Each dwelling will provide 2 no. off-street parking spaces to the frontage broken up by an area of low level planting.

3.5 <u>Plot 3</u>

Plot 3 is a 2 no. bedroom detached two storey dwelling set to the North West of the application site. The dwelling is two storey to the front (West) and drops to single storey to the rear (East) due to the difference in land levels. The proposed dwelling has a width of 6.9m and depth of 7m with a height of have a height of 7m to the ridge and 5m.

3.6 The front elevation holds an entrance door and integral garage door at ground floor with 2 no. windows at first floor. The rear elevation will hold a set of doors and window. Doors within the side (North) elevation will hold doors to access a patio area.

3.7 The dwelling will provide 2 no. off-street parking spaces.

3.8 The proposed dwellings will be constructed from natural coursed stone with stone slate roof.

4.0 RELEVANT PLANNING HISTORY:

4.1 2018/92306 Tree Notification Conservation Area
Granted

2018/93260 Tree Notification Conservation Area
Granted

5.0 HISTORY OF NEGOTIATIONS:

5.1 The Officer provided feedback to the agent on the submitted proposal when all consultation responses were received. It was advised that the application could not be supported due to the impact of the development on visual amenity and character and heritage of the Kirkburton Conservation Area.

5.2 Following the initial feedback, the applicant submitted revised plans and further information requested by highways to support the application. The amended plans were reviewed and feedback provided to the applicant.

5.3 The applicant was informed that the application was to be taken to Planning Committee at which point the applicant opted to use the original plans for three dwellings with some minor design amendments.

6.0 PLANNING POLICY:

6.1 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 statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is Unallocated within the Kirklees Local Plan however it is within the designated Kirkburton Conservation Area.

6.2 Kirklees Local Plan (LP)

LP 1 – Sustainable Development
LP 11 – Housing mix and affordable housing
LP 21 – Highway Safety and Access
LP 22 – Parking
LP 24 – Design
LP 27 – Flood Risk
LP 28 - Drainage
LP 30 – Biodiversity and Geodiversity
LP 33 – Trees
LP 35 – Historic Environment
LP 51 - Protection and improvement of local air quality
LP 52 – Protection and improvement of environmental quality
LP 53 – Contaminated and unstable land

6.3 National Planning Policy Framework (NPPF):

Chapter 12 – Achieving well-designed places
Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
Chapter 15 – Conserving and enhancing the natural environment
Chapter 16 – Conserving and enhancing the historic environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been advertised by means of neighbour notification letter, press notice and site notice.

7.2 53 Representations were received following the period of public consultation. A summary of the comments received is set out below:

Kirkburton Parish Council:

The Parish Council strongly objects to this proposed development on the following grounds:

Highways Safety:
There is already a problem due to the narrowness of the roads, the sharp bends and the high level of parking, with which this area has to cope. As well as offering parking spaces for residents, local business owners and shoppers, it is also used by parents taking children (and sometimes their pre-school siblings) to Kirkburton First School. The area cannot cope with any more traffic.
Kirklees Highways has already commented on the inappropriateness of the proposed garages, which would result in even more parked cars in this very tight area.
Poor access: The driveways would converge onto the road directly by the bend at the bottom of the hill, so the sightlines would be very poor.

The design and materials proposed are inappropriate for the Conservation Area and out-of-keeping with the existing dwellings. There is also a danger of overlooking into neighbouring properties, which is contrary to planning policy guidelines.

The proposed location of the new houses currently serves as a means of absorbing some of the excess water which runs from the higher areas surrounding Low Gate. Building on this area would increase the frequency of flooding, which already happens due to the low-lying situation of the land.

There are also concerns about the stability of the banking adjacent North Road, which was previously supported by the trees before they were removed.

Public representations

Objections (34)

Highway Safety

- The development will increase the amount of traffic in the area from the narrow area of North Street from George Street to Low town. It is already difficult to pass due to the amount of parked cars.
- Low Gate is used a short cut and cars have a tendency to come at speed. This is worrying for the proposed dwellings which would reverse onto the blind bend.
- The cars would not be parked in the garages and so would be more cars parked on Lowgate.
- The location of the driveway of plot 3 is questioned as to the safety due to the close proximity to the narrow and busy part of Low Town.
- The dwellings will bring increased visitor parking on the highway.
- It is unclear from the plans as to whether the current footpath will remain which is frequently used.
- The dwellings will have a total of 11 bedrooms with only six parking spaces. It is likely that more than six cars will be owned by the occupiers so where would the other vehicles be parked?
- Delivery vehicles experience problems accessing low gate
- The traffic issue is compounded at the start and end of the school day as parents park where space is available.
- The garage sizes are too small to park a car
- Low Town is used by farm traffic which requires additional space to pass

Visual Amenity

- The proposed dwellings will impact on the character of the area
- Is this overdevelopment of the site as there appears to be a lot of houses for the size of the plot.
- Low Lane is suffocating with houses being squeezed in everywhere.
- The majority of the houses within the conservation area are stone built, two storey dwellings and not three storey as stated.
- From George Street there is a view to the South across Low Town towards All Hallows Church. If the dwellings are built this view will be lost.
- The loss of trees has already resulted in a loss of amenity
- The majority of existing dwellings are cottage style.
- The proposed dwellings do not reinforce the tight street line which defines he area
- The use of glass balustrades on top of flat roof garages are alien to the area
- The use of tone quoins on the detached dwelling looks out of place on a property of this size.
- The development will dominate due to the height and density.
- Discrepancy with materials stated.

Residential amenity

- The dwellings will be in close proximity to existing dwellings adjacent. This will impact on overshadowing and a loss of view.
- As the dwellings will be elevated they will overlook the adjacent dwellings.
- The dwellings will be closer than the advised 22m separation distance to adjacent properties.
- The distance between habitable rooms of existing dwellings is not sufficient.

Trees, landscape and ecology

- The site was once covered in mature trees which offered much pleasure. Last year the trees were all cut down in one day without any prior warning to the neighbours.
- There has already been a marked decrease in the number of birds and wildlife following the loss of the trees
- The proposed development will not include trees to replace those removed.
- The removal of the trees has already increased the level of noise from the B6116

Drainage

- Low Gate/Low Town becomes a river during heavy rainfall. The change of use of the site from undeveloped land will increase the volume of water into the highway and the potential for flooding will increase.
- The area has been subject to flooding in the past.
- The additional homes will increase the pressure on the sewage and foul water network
- The Environment Agency should be consulted in relation to flood risk.
- It is questioned that the stream is not within 20m of the application site.

Other Matters

- There has been no thought to the provision of affordable houses.
- The plans are unclear as to the height of the dwellings above road level.
- The noise will be unbearable for those living close to the site in addition to the dust and grime.
- The site backs onto a major road and supports the structure by means of an embankment.

Representations submitted following initial amendment submitted 26.03.2019

Support (6)

- From 1930 – 1950 there were 6 dwellings on the land.
- The land is currently unused and has not been maintained
- The development will strengthen the walls on all boundary walls and ensure that a new additional path is installed at the bottom of the public steps.
- The land will be smarter and better kept.
- The buildings will be built in keeping with surrounding properties.
- The 8 no parking space in addition to the new parking permits will help parking issues.
- There is a similar approved development at no. 42 Low Town
- The design improves the area and adds value to the village.

- The new plan includes improvements to the paths and steps to and from Low Town. Low Gate and George Street
- The amended plan has increased parking spaces, increased garage space, extra tree planting and altered design elements
- The increased benefits to the local area with sight from Low Gate to Low Town should be considered
- No consideration has been made to the previous planning permission for 2 and 3a Low Gate which have to also reverse in or out onto the road.
- The difference in design from 11 Low Town to 2a, 2, 3 and 1 Low Gate including 'newish' house is unsubstantial.
- There are more birds etc on the land now than there was previously.
- Kirklees Council recommended and approved the application for the removal of the trees on the site.
- The perimeter wall to the side of Low Town and Low Gate has previously had access to the land. There are also dropped curbs.
- The land is private with no 'right of way' for pedestrians. The land does not have safe access points to the stairs/step area. This will be improved by the new project. New lighting and hand rail will also be added.
- There are clear signs of previous footings/cellars of the properties on the land at the North Road level. The current retaining wall is in good condition.
- No wildlife of protected creatures have officially been sighted or located previously on the land.
- The amended plans incorporate comments from conservation to keep the houses within the materials and look of current properties on Low Town and Low Gate.
- Kirklees is full of villages that have tight roads, small potential building plots and unusual circumstances. Some common sense has to be taken with site visits to consider the surrounding properties, area and previous property situations.
- Garages on Low Town all lead directly to the road also.
- The land is not green space. It is within a conservation area but it unallocated land.
- Why should the trees be replaced on this project when the council approved the application for them to be removed?
- The road wall was strengthened in the 1930's. The Council should take responsibility for this if works are still needed.
- The new dwellings will help local businesses and more houses in Kirkburton which are needed.
- The site area is not affected by flooding.
- The Parish Council have commented on the project but have not been to look or discuss the finer proposals of the layout
- The guidance has been met for the parking requirements on the site
- No objections or comments were submitted with regards to the removal of the trees

Objections (7)

Highway safety

- Since the parking permit was introduced on Low Town, parking on the surrounding streets has not improved.
- The new plans do not confirm that the dimensions of the garages have altered to be able to park a car
- Removing the wall will not improve visibility as the view is blocked by an existing house.
- The residents of Low Fold are now parking on Low Town on a daily basis.
- The Council need to take action and make local business owners and employees park elsewhere. This is the real issue with parking in the village.
- The development will have an impact on the structural walls
- The plans show parking for 8 no. cars but the supporting statement talks of only 6 additional cars.
- The area is already congested and line of sight are made worse because of parked cars.
- The footpath running from west to east has been in use and this will be removed. This path is in regular use and is maintained by number of residents and should be retained.
- Vehicles frequently exceed 20mph and some in an aggressive manor.

Visual amenity

- The land is now unkept and the outlook is worse.
- Infilling and over development could ruin the character of the town which seems to draw so many in to visit.
- The protection of the historic areas should be retained

Drainage

- There is a culverted stream running under the adjacent road (Low Gate). This development will further increase the risk of flooding to homes in the area.

Other matters

- The site was previously kept tidy by the Burton Environmental Group as a Green space. It was not an eyesore.

Amended plans submitted 1.08.2019

Support (3)

- The parking is a problem now and will not be made worse by the development. It is made worse already by the parking permit scheme
- The loss of trees is a different application which there were no objections
- There is no official pathway. A new pathway will be added as part of the development
- There are no official sightings or protection of wildlife on the site.
- The site is not designated land
- 8 no parking spaces are adequate for the development
- There are 6-7 different designs of houses in the immediate area
- Several other homes have drive's/garages that back onto or reverse into the road.
- The flood risk assessment shows no risk of flooding on the site

- The houses will not be higher than the existing properties adjacent on George Street/North Road.
- New plans have taken into account the Council's comments and are in keeping with guide lines.

Objections (4)

Visual and Residential Amenity

- The designs are not sympathetic to the surrounding areas.
- There is a question of the distance between the new and existing dwellings on Low Gate.
- The proposed development is within the Kirkburton Conservation Area. The only changes that have been made have merely tinkered with the original application.
- Reducing the height of the ground level does not mitigate the closeness of the development to the adjacent dwellings.
- The design is not in keeping with the area are of a style more suited to an estate setting.
- The garden provision for the properties is woefully inadequate for a family living in a four bedroom property.

Highway Safety

- The development will impact the infrastructure of Low Town and Low Gate.
- The risk of accidents will be increased.
- Concerns over the structure of George street should excavations take place
- Nothing substantive has been proposed to mitigate the risk to vehicles.
- The parking provision for the detached dwelling is insufficient to accommodate the two vehicles.

Flood risk and drainage

- There is real concern that the development will increase flood risk. The combined impacts of floor risk from recently approved developments and those awaiting decision should be considered.
- Previous floods were very significant and affected properties on Low Town and further along the river in the village.
- There is no permit from the Environment Agency for the development
- The sewer drain has recently failed caused untreated sewage and waste water to flow down Low Gate into surface water drains and into the stream.

Trees, Landscape and ecology

- No emails, letters or signs were erected to notify neighbours of the removal of trees on the site and so no objections were received.
- The loss of natural wildlife habitats
- Although trees are shown on the latest plan to the rear of the dwellings given the civil engineering required to prevent George Street subsiding there will be no soil to support them.

8.0 CONSULTATION RESPONSES:

8.1 The following is a brief summary of consultee advice (more details are contained within the assessment section of the report, where appropriate):

8.2 **Statutory Consultees:**

K.C Highways Structures – No objection subject to condition to secure details of the work impacting the B6116 George Street.

The Coal Authority – No objection subject to condition to secure details of instructive site investigations.

The Environment Agency – No Objection, the site is in flood zone 1 and the three properties are located more than 20m from the main river.

K.C Environmental Health – No objection subject to condition to secure the reporting of unexpected land contamination and the installation of 1 charging point per dwelling.

K.C Highways Development Management – Object, following receipt of amended plans, the works to construct the extended footway along with the provision of the sight lines shown cannot be provided because they are not within the red line boundary of the application site. In terms of the sight lines for plot 1, they are over third party land; access to plots 2 and 3 is at an acute angle across the Low Gate/Low Town junction; existing on-street parking on the opposite side of Low Town and the existing width of Low Gate would result in difficult turning and manoeuvre into and out of the proposed driveways.

8.3 **Non-statutory Consultees:**

K.C Conservation and Design – Object, the loss of this land is substantial harm as described by the NPPF and due to the impact does not preserve or enhance the setting of the conservation area as required by Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The NPPF requires that great weight is afforded to the retention of the heritage asset and it is not considered that this application complies with that requirement.

K.C Ecology – No objection subject to the condition to secure an Ecological Design Strategy.

K.C Trees – No objection subject to a condition to secure soft landscape details and further details of the proposed trees in terms of species, size and maintenance.

9.0 MAIN ISSUES

- Principle of development
- Visual amenity/local character
- Residential amenity
- Highway issues
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

10.1 Policy LP1 of the Kirklees Local Plan states that the Council will take a positive approach that reflects the presumptions in favour of sustainable development contained within the National Planning Policy Framework to secure development that improves the economic, social and environmental conditions in the area. Proposals that accord with policies in the Kirklees Local Plan will be approved without delay, unless material considerations indicate otherwise.

10.2 The application has no specific allocation within the Kirklees Local Plan. As such, Policy LP24 of the KLP is relevant in that it states that proposals should promote good design in accordance with a specific set of considerations. All the considerations are addressed within the assessment. Subject to these not being prejudiced, this aspect of the proposal would be considered acceptable in principle.

10.3 The application site is situated within the Kirkburton Conservation Area, as such Policy LP35 of the KLP applies which outlines that any development within the Conservation Area must either preserve or enhance the significance of the Conservation Area. Where the significance is harmed then public benefit should occur to such an extent that the balance of the harm is outweighed.

10.4 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paragraphs 201 and 196 of the National Planning Policy Framework also reiterate this guidance.

10.5 The application site follows the road layout of George Street, gently following the curve of the road from North West to South East which relatively steeply drops to the West onto Low Street. The site was once heavy with mature trees which sat behind stone walls which act as retaining walls and are a positive feature of the Conservation Area. The properties on Low Gate are domestic in scale and are considered to contribute to the significance of the area in terms of the nature of this part of the village. Notwithstanding the loss of trees on the site (subject to approved Tree Work applications) the openness of the site allowing views across and down to Low Gate with the walls allowing a strong sense of enclosure along with the topography, is a significant feature of the conservation area which would be lost if the site was developed for residential purposes.

10.6 It is considered by Officer's that in light of the above, the proposed development does cause significant harm to the Conservation Area which is not considered to offer any public benefit and as such does not comply with Policy LP 35 of the Kirklees Local Plan and paragraphs 201 and 196 of the NPPF. The principal of built form within this location would not be considered to be acceptable against guidance within the Policies LP24 and LP35 of the KLP and Chapters 12 and 16 of the NPPF.

Impact on visual amenity

10.7 Policy LP24 of the KLP states that good design should be at the core of all proposals. Proposals should incorporate good design by ensuring that the form, scale, layout and details of all development respects and enhances the character of the townscape and landscape. This is supported by the National Planning Policy Framework (NPPF) which sets out that, amongst other things, decisions should ensure that developments are sympathetic to local character ….while not preventing or discouraging appropriate innovation or change (para.127 of the NPPF).

10.8 The application site is situated within the Kirkburton Conservation Area, as such Policy LP35 of the KLP applies which outlines that any development within the Conservation Area must either preserve or enhance the significance of the Conservation Area. Where the significance is harmed then public benefit should occur to such an extent that the balance of the harm is outweighed.

10.9 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paragraphs 201 and 196 of the National Planning Policy Framework also reiterate this guidance.

10.10 The design of the proposed dwellings add features in the form of integral garages and roof terraces that are not in-keeping with the architectural style of the low key cottages that are within the immediate surroundings and which are an indicator of the history of Kirkburton. As such, the features would, in the view of officers, appear out of place. It is taken into consideration that a similar proposal for the erection of 2 no. dwellings was approved to the South of the site at 42-44 Low Town which introduced similar features. However, it is considered that due to the prominent location of this application site at a higher level than the existing dwellings, the dwellings would appear dominant and incongruous within the street scene. In the location of the application site, the proposed design and features would be not considered acceptable.

10.11 The site is set behind stone walls which are a positive feature of the Conservation Area which create a sense of enclosure. The access driveways will remove the walls onto Low Gate and remove the sense of enclosure and create a gap which will cause harm to the setting of this part of the Conservation Area.

10.12 In summary, there would be harm to the visual amenity enjoyed by occupiers of neighbouring properties and harm the setting and character of the Conservation Area. As such, the application is considered to not comply with Policies LP1, LP24 and LP35 of the KLP and guidance contained within Chapters 12 and 16 of the NPPF.

Impact on residential amenity

10.13 A core planning principle set out in the NPPF is that development should result in a good standard of amenity for all existing and future occupiers of land and buildings. Policy LP24 of the KLP states that proposals should promote good design by ensuring that they provide high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings.

10.14 The closest neighbouring dwellings which could be impacted by the development are 1 Low Gate; 2 George Street; 11 Low Town; 2 – 18 Low Town and 3 School Hill.

10.15 1 Low Gate is a three storey detached dwelling located to the South East of the application site. The dwelling is directly adjacent to a pathway/stairs which connects Low Gate to George Street. The West elevation of the neighbouring dwelling has a number of windows, none of which appear to be serving habitable rooms. Plot 1 is proposed to the West of the dwelling with a terrace above the proposed side garage and set of doors to access the terrace. It is considered that due to the difference in levels of the dwellings, separation provided by the pathway and no habitable room windows within the adjacent elevations there would be no undue impact on residential amenity.

10.16 2 George Street is a two storey dwelling located to the North East of the application site to the rear of 1 Low Gate. The dwelling has a window within the West elevation which appears to serve a non-habitable room. As the proposed dwellings are set to the South of the site at a much lower level, there is considered to be no impact on residential amenity of the neighbouring dwelling.

10.17 11 Low Town is a two storey cottage style dwelling set to the South of the application site. The dwellings will be at a lower level than the proposed dwellings. There is a proposed separation distance of 18m between the front elevations which are at an angle to one another. Due the elevated position of the proposed dwelling and close proximity to the existing dwelling, the dwelling will create a dominant feature. However, due to the orientation of the dwellings there is considered to be minimal impact on overlooking and overshadowing.

10.18 Property nos. 8 to 18 are two storey semi-detached and terraced dwellings directly adjacent to the site on Low Town. No's 16 and 18 have a proposed separation distance of 17m to plot 2 where numbers 2 to 12 have a separation distance of 12.3m from plot 3. The proposed dwellings will also be at a much higher level than the existing dwellings. Due to the close proximity and difference in land levels it is considered that the existing dwellings will be impacted by overlooking to the detriment of the established level of residential amenity because, in the opinion of officers, the proposal would not maintain appropriate distances between buildings, contrary to policy LP24 (b) of the KLP.

10.19 3 School Hill is a two storey detached dwelling set to the North East of the application site on George Street. The proposed dwellings will be located at a much lower land level than the existing dwelling which is divided by George Street and excessive planting and trees. As such it is considered that there would be no impact to the residential amenity of these occupants.

10.20 In summary, there would be harm caused to the residential amenity enjoyed by occupiers of neighbouring properties. As such, the application is not considered to comply with Policies LP1 and LP24 of the Kirklees Local Plan and guidance contained within Chapter 12 of the NPPF.

Highway Safety

10.21 The application site is located between Low Town to the East, Low Gate to the South and B6116 George Street to the North. The B6116 links A629 Penistone Road with Kirkburton, Shelley, Skelmanthorpe and the A636 Wakefield Road at Scissett.

10.23 The proposed development includes the erection of a pair of semi-detached houses (Plots 1 and 2) with attached single garages and a detached dwelling with integral garage. Each of the proposed dwellings has two off-street parking spaces to the frontage with access onto Low Gate and Low Town.

10.24 There is a considerable level difference between George Street and Low Town and Low Gate. As such structural engineering measures will be required to ensure that the public highway above is not compromised, this can be secured via condition should the application be approved.

10.25 The proposed access to Plots 2 and 3 are at an acute angle across the Low Gate and Low Town junction. As a result of the existing parking on the opposite side of Low Town and the existing width of Low Gate, vehicles will experience difficulty turning and manoeuvring into and out of the proposed driveways. The proposed access across the existing Low Gate and Low Town Junction is not considered to be in the interests of highways safety.

10.26 The proposed footway to the frontage is not considered to be to an acceptable width. Highways DM would require the footway to be 2.0m in width so as to be of an appropriate width, in the interest of pedestrian safety.

10.27 The original comments received by the K.C Highways DM Officer requested the red line boundary plan to be amended to include the steps to the Eastern side of the site. The amended plan fails to include these steps. As the steps are not included within the red line of the application site, this means that the sight lines shown cannot be provided as those for Plot 1 would need to go over third party land, which cannot be controlled.

10.28 For the reasons outlined above in that the proposed access is across an existing junction; existing footways are narrow and have not been shown to be sufficiently widened, turning and manoeuvre will be difficult and sight lines into Low Gate and Low Town will be sub-standard the proposed development is considered to not comply with guidance within Policies LP21 and LP22 of the KLP.

Coal Mining Legacy

10.29 The application site falls within the defined high risk development area, therefore, the application site and surrounding area there are coal mining features and hazards which would need to be considered. As required, the applicant submitted a Coal Mining Risk Assessment (dated 1st February 2019) by Beam Consulting Engineers Ltd. The report considers there to be moderate risk to the proposal from historic unrecorded coal mining at shallow depth. Accordingly, appropriate recommendations are made that intrusive ground investigation works are considered necessary.

10.30 Following consultation with the Coal Authority, a condition is recommended for the results of the site investigations to be submitted to the Local Planning Authority to evidence that the site can be made safe and stable for the proposed development, in accordance with Chapter 15 of the NPPF.

Contaminated Land

10.31 The application is not identified as being within an area which could be impacted by land contamination. However, it is recommended that, should planning permission be granted, a condition be added for any contamination not previously identified by the developer to cease works and notify the Local Planning Authority, in accordance with Policy LP52 of the KLP and Chapter 15 of the NPPF.

Trees and Ecology

10.32 Until recently the application site provided considerable tree cover. Following two Tree Work applications, the trees were removed due to their poor condition preventing the serving of a Tree Preservation Order (although a number of the trees were still protected by virtue of the Conservation Area setting).

10.33 The proposed plan proposes replacement tree planting within the scheme. The plans evidence that the planting can be achieved to a reasonable amount. Officers would request however, that further details are submitted by way of a condition to secure a soft landscaping scheme which provides full details of the proposed planting (species, size etc.) and proposed maintenance, should the application be approved.

Representations

10.34 53 representations were received following the period of public consultation for the application. In so much as the point have not been addressed above, officers respond as follows:

Objections (34)

Highway Safety

- The development will increase the amount of traffic in the area from the narrow area of North Street from George Street to Low town. It is already difficult to pass due to the amount of parked cars.
  Response: A full assessment of the impact on highway safety is addressed in the above report
- Low Gate is used a short cut and cars have a tendency to come at speed. This is worrying for the proposed dwellings which would reverse onto the blind bend.
  Response: A full assessment of the impact on highway safety is addressed in the above report
- The cars would not be parked in the garages and so would be more cars parked on Lowgate.
  Response: A full assessment of the impact on highway safety is addressed in the above report
- The location of the driveway of plot 3 is questioned as to the safety due to the close proximity to the narrow and busy part of Low Town.
  Response: A full assessment of the impact on highway safety is addressed in the above report

- The dwellings will bring increased visitor parking on the highway.
  Response: A full assessment of the impact on highway safety is addressed in the above report
- It is unclear from the plans as to whether the current footpath will remain which is frequently used.
  Response: The proposed plans will retain and improve the footpath.
- The dwellings will have a total of 11 bedrooms with only six parking spaces. It is likely that more than six cars will be owned by the occupiers so where would the other vehicles be parked?
  Response: A full assessment of the impact on highway safety is addressed in the above report
- Delivery vehicles experience problems accessing low gate
  Response: A full assessment of the impact on highway safety is addressed in the above report
- The traffic issue is compounded at the start and end of the school day as parents park where space is available.
  Response: A full assessment of the impact on highway safety is addressed in the above report
- The garage sizes are too small to park a car
  Response: A full assessment of the impact on highway safety is addressed in the above report
- Low Town is used by farm traffic which requires additional space to pass
  Response: A full assessment of the impact on highway safety is addressed in the above report

<u>Visual Amenity</u>

- The proposed dwellings will impact on the character of the area
  Response: The impact of the proposed development on visual amenity has been addressed fully in the above report.
- Is this overdevelopment of the site as there appears to be a lot of houses for the size of the plot.
  Response: The impact of the proposed development on visual amenity has been addressed fully in the above report.
- Low Lane is suffocating with houses being squeezed in everywhere.
  Response: The impact of the proposed development on visual amenity has been addressed fully in the above report.
- The majority of the houses within the conservation area are stone built, two storey dwellings and not three storey as stated.
  Response: The impact of the proposed development on visual amenity has been addressed fully in the above report.
- From George Street there is a view to the South across Low Town towards All Hallows Church. If the dwellings are built this view will be lost.
  Response: The impact of the proposed development on visual amenity has been addressed fully in the above report.
- The loss of trees has already resulted in a loss of amenity
- **Response:** The impact of the proposed development on visual amenity has been addressed fully in the above report.
- The majority of existing dwellings are cottage style.
- **Response:** The impact of the proposed development on visual amenity has been addressed fully in the above report.

- The proposed dwellings do not reinforce the tight street line which defines the area
  Response: The impact of the proposed development on visual amenity has been addressed fully in the above report.
- The use of glass balustrades on top of flat roof garages are alien to the area
  Response: The impact of the proposed development on visual amenity has been addressed fully in the above report.
- The use of tone quoins on the detached dwelling looks out of place on a property of this size.
  Response: The impact of the proposed development on visual amenity has been addressed fully in the above report.
- The development will dominate due to the height and density
- **Response:** The impact of the proposed development on visual amenity has been addressed fully in the above report.
- Discrepancy with materials stated.
  Response: The impact of the proposed development on visual amenity has been addressed fully in the above report.

<u>Residential amenity</u>

- The dwellings will be in close proximity to existing dwellings adjacent. This will impact on overshadowing and a loss of view.
  Response: The impact of the proposed development on residential amenity of neighbouring dwellings is addressed fully in the above report.
- As the dwellings will be elevated they will overlook the adjacent dwellings.
  Response: The impact of the proposed development on residential amenity of neighbouring dwellings is addressed fully in the above report.
- The dwellings will be closer than the advised 22m separation distance to adjacent properties.
  Response: The impact of the proposed development on residential amenity of neighbouring dwellings is addressed fully in the above report.
- The distance between habitable rooms of existing dwellings is not sufficient.
  Response: The impact of the proposed development on residential amenity of neighbouring dwellings is addressed fully in the above report.

<u>Trees, landscape and ecology</u>

- The site was once covered in mature trees which offered much pleasure. Last year the trees were all cut down in one day without any prior warning to the neighbours.
  Response: The application site was subject to an approved tree work application to remove the trees
- There has already been a marked decrease in the number of birds and wildlife following the loss of the trees
  Response: The impact of the proposed development on trees and ecology has been addressed fully in the above report
- The proposed development will not include trees to replace those removed.
  Response: An amended plan was submitted which shows that a number of trees will be planted as part of the scheme

- The removal of the trees has already increased the level of noise from the B6116
  Response: The impact of the proposed development on trees and ecology has been addressed fully in the above report

Drainage

- Low Gate/Low Town becomes a river during heavy rainfall. The change of use of the site from undeveloped land will increase the volume of water into the highway and the potential for flooding will increase.
  Response:
- The area has been subject to flooding in the past.
  Response:
- The additional homes will increase the pressure on the sewage and foul water network
  Response:
- The Environment Agency should be consulted in relation to flood risk.
  Response:
- It is questioned that the stream is not within 20m of the application site.
  Response:

Other Matters

- There has been no thought to the provision of affordable houses.
  Response: The level of proposed housing in under the threshold to provide affordable housing as part of the development
- The plans are unclear as to the height of the dwellings above road level.
  Response: The dimensions of the proposed dwellings are documented in the above report
- The noise will be unbearable for those living close to the site in addition to the dust and grime.
  Response: The impact of the development during the construction phase is not a material consideration.
- The site backs onto a major road and supports the structure by means of an embankment.
  Response: The impact of the proposed development in highway structures is addressed fully in the above report

Representations received following initial amendment submitted 26.03.2019

Support (6)

- From 1930 – 1950 there were 6 dwellings on the land.
  Response: The comment in support is noted and has been considered in the above report. It is however acknowledged that there is no evidence of such houses on the site.
- The land is currently unused and has not been maintained
  Response: The comment in support is noted and has been considered in the above report
- The development will strengthen the walls on all boundary walls and ensure that a new additional path is installed at the bottom of the public steps.
  Response: The comment in support is noted and has been considered in the above report
- The land will be smarter and better kept.
  Response: The comment in support is noted and has been considered in the above report

- The buildings will be built in keeping with surrounding properties.
  Response: The comment in support is noted and has been considered in the above report
- The 8 no parking space in addition to the new parking permits will help parking issues.
  Response: The comment in support is noted and has been considered in the above report
- There is a similar approved development at no. 42 Low Town
  Response: The comment in support is noted and has been considered in the above report
- The design improves the area and adds value to the village.
  Response: The comment in support is noted and has been considered in the above report
- The new plan includes improvements to the paths and steps to and from Low Town. Low Gate and George Street
  Response: The comment in support is noted and has been considered in the above report
- The amended plan has increased parking spaces, increased garage space, extra tree planting and altered design elements
  Response: The comment in support is noted and has been considered in the above report
- The increased benefits to the local area with sight from Low Gate to Low Town should be considered
- **Response:** The comment in support is noted and has been considered in the above report
- No consideration has been made to the previous planning permission for 2 and 3a Low Gate which have to also reverse in or out onto the road.
  Response: the application has been assessed in light of up-to-date highway safety guidance and, for the reasons set out in the 'highway safety' section of this report and, when taking into account the position of the application site, the parking layout is not considered to be in the interest of highway safety or efficiency.
- The difference in design from 11 Low Town to 2a, 2, 3 and 1 Low Gate including 'newish' house is unsubstantial.
  Response: the recent planning permission has been taken into account when assessing this proposal. A full assessment in relation to the impact on visual amenity and the historic significance of the conservation has been set out in the report above. Officers have significant concern regarding the design of the new dwellings.
- There are more birds etc on the land now than there was previously.
  Response: Noted
- Kirklees Council recommended and approved the application for the removal of the trees on the site.
  Response: Noted
- The perimeter wall to the side of Low Town and Low Gate has previously had access to the land. There are also dropped curbs.
  Response: Noted and a full assessment in relation to highway safety is set out in the main report above.
- The land is private with no 'right of way' for pedestrians. The land does not have safe access points to the stairs/step area. This will be improved by the new project. New lighting and hand rail will also be added.
  Response: Noted and this has been addressed in the 'highway safety' of this report.

- There are clear signs of previous footings/cellars of the properties on the land at the North Road level. The current retaining wall is in good condition.
  Response: Noted however, the land has predominantly reverted back to natural, open land and its loss as a valuable open space within the conservation area is not supported by officers.
- No wildlife or protected creatures have officially been sighted or located previously on the land.
  Response: Noted and officers are not objecting to the scheme on ecology matters.
- The amended plans incorporate comments from conservation to keep the houses within the materials and look of current properties on Low Town and Low Gate.
  Response: Noted
- Kirklees is full of villages that have tight roads, small potential building plots and unusual circumstances. Some common sense has to be taken with site visits to consider the surrounding properties, area and previous property situations.
  Response: Each application is considered on its own merit and assessed against the development plan and national planning policy. In this instance, for the reasons set out in this assessment, the proposals are not considered acceptable from a number of reasons.
- Garages on Low Town all lead directly to the road also.
  Response: Noted however, none has the same specific relationship as the application site.
- The land is not green space. It is within a conservation area but is unallocated land.
  Response: Noted; the land does not have any specific allocation as open land however, as referred to, it is within the designated conservation area and, in the opinion of officers, does have significance within the conservation area and should be retained as an area of open land.
- Why should the trees be replaced on this project when the council approved the application for them to be removed?
  Response: the trees that were removed were in a poor state and their removal was approved via a Tree Works application which has a different set of criteria for consideration than a planning application. In regard to the planning application, careful consideration has to be given to matters such as ecological or visual enhancements, and therefore, should planning permission be granted, a condition is recommended regarding the landscaping of the site.
- The road wall was strengthened in the 1930's. The Council should take responsibility for this if works are still needed.
  Response: Noted. As set out in the main report, consultation has been carried out with the Council's Highways Structures section. Furthermore, it is set out in paragraph 179 of the NPPF that "*where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner*".
- The new dwellings will help local businesses and more houses in Kirkburton which are needed.
  Response: Noted however, in the opinion of officers, this does not outweigh the recommended reasons for refusal.

- The site area is not affected by flooding.
  Response: Noted and there are no objections from officers in regard to flood risk or drainage.

- The Parish Council have commented on the project but have not been to look or discuss the finer proposals of the layout
  Response: Noted
- The guidance has been met for the parking requirements on the site
  Response: For the reasons set out in the 'Highway safety' section of this report, this is not the view of officers.
- No objections or comments were submitted with regards to the removal of the trees
  Response: Noted and, as part of the Tree Work application, the removal of the trees was agreed.

Objections (7)

<u>Highway safety</u>

- Since the parking permit was introduced on Low Town, parking on the surrounding streets has not improved.
  Response: Noted and the concern of officers has been set out in the Highway Safety section of this report.
- The new plans do not confirm that the dimensions of the garages have altered to be able to park a car
  Response: Noted and the concern of officers has been set out in the Highway Safety section of this report.
- Removing the wall will not improve visibility as the view is blocked by an existing house.
  Response: Noted and the concern of officers has been set out in the Highway Safety section of this report.
- The residents of Low Fold are now parking on Low Town on a daily basis.
  Response: Noted and the concern of officers has been set out in the Highway Safety section of this report.
- The Council need to take action and make local business owners and employees park elsewhere. This is the real issue with parking in the village.
  Response: Noted however, this is outside of the remit of the planning application.
- The development will have an impact on the structural walls
  Response: Noted and consultation has been carried out with Highway Structures.
- The plans show parking for 8 no. cars but the supporting statement talks of only 6 additional cars.
  Response: Noted however, there is sufficient information to assess the planning application.
- The area is already congested and line of sight are made worse because of parked cars.
  Response: Noted and the concern of officers regarding the impact on highway safety and efficiency is set out in the 'Highway Safety' section of this report.
- The footpath running from west to east has been in use and this will be removed. This path is in regular use and is maintained by number of residents and should be retained.

Response: Noted and, as set out in the 'Highway Safety' section of this report, officers would seek improvements to the footpath however, this cannot be achieved via the application as submitted.

- Vehicles frequently exceed 20mph and some in an aggressive manor.
  Response: Noted and the concern of officers regarding the impact on highway safety and efficiency is set out in the 'Highway Safety' section of this report.

Visual amenity

- The land is now unkept and the outlook is worse.
  Response: Noted and as assessment of visual amenity and the impact on the significance of the conservation area is set out in the report above.
- Infilling and over development could ruin the character of the town which seems to draw so many in to visit.
  Response: Noted and as assessment of visual amenity and the impact on the significance of the conservation area is set out in the report above.
- The protection of the historic areas should be retained
  Response: Noted and as assessment of visual amenity and the impact on the significance of the conservation area is set out in the report above.

Drainage

- There is a culverted stream running under the adjacent road (Low Gate). This development will further increase the risk of flooding to homes in the area.
  Response: Noted and, as set out in the main report, there has been no objection raised by the Environment Agency in regard to the application.

Other matters

- The site was previously kept tidy by the Burton Environmental Group as a Green space. It was not an eyesore.
  Response: Noted

Representations received following receipt of amended plans submitted 1.08.2019

Support (3)

- The parking is a problem now and will not be made worse by the development. It is made worse already by the parking permit scheme
  Response: Noted however, there is significant concern raised by officers regarding the impact on highway safety and efficiency.
- The loss of trees is a different application which there were no objections
  Response: Noted and addressed by above.
- There is no official pathway. A new pathway will be added as part of the development
  Response: Noted and addressed by above.
- There are no official sightings or protection of wildlife on the site.
  Response: Noted and addressed by above.
- The site is not designated land
  Response: Whilst the site is unallocated it is within the 'designated' conservation area.
- 8 no parking spaces are adequate for the development
  Response: Noted however, there is significant concern raised by officers regarding the impact on highway safety and efficiency.

- There are 6-7 different designs of houses in the immediate area
  Response: Noted however there is significant concern raised by officers in regard to the overall design of the proposed dwellings in this particular location.
- Several other homes have drive's/garages that back onto or reverse into the road.
  Response: Noted however there is significant concern raised by officers in regard to highway safety and efficiency because of the location of the site.
- The flood risk assessment shows no risk of flooding on the site
  Response: Noted and officers do not object to the proposal of flood risk grounds.
- The houses will not be higher than the existing properties adjacent on George Street/North Road.
  Response: Noted and there is significant concern raised by officers in regard to the impact of the proposals on residential amenity.

Objections (4)

Visual Amenity

- The designs are not sympathetic to the surrounding areas.
  Response: Noted and addressed previously

- There is a question of the distance between the new and existing dwellings on Low Gate.
  Response: Noted and, as set out in the 'residential amenity' section of this report, there is significant concern regarding the proximity to some neighbouring dwellings and the unacceptable impact this would have.

Highway Safety

- The development will impact the infrastructure of Low Town and Low Gate.
  Response: Noted and addressed previously
- The risk of accidents will be increased.
  Response: Noted and addressed previously
- Concerns over the structure of George street should excavations take place
  Response: Noted and addressed previously

Flood risk and drainage

- There is real concern that the development will increase flood risk. The combined impacts of floor risk from recently approved developments and those awaiting decision should be considered.
  Response: Noted and addressed previously
- Previous floods were very significant and affected properties on Low Town and further along the river in the village.
  Response: Noted and addressed previously
- There is no permit from the Environment Agency for the development
  Response: The Environment Agency have not stated that a permit is required.

- The sewer drain has recently failed causing untreated sewage and waste water to flow down Low Gate into surface water drains and into the stream.
  Response: Should planning permission be granted, the applicant would be required to seek separate consent from Yorkshire Water regarding drainage connection.

Trees, Landscape and ecology

- No emails, letters or signs were erected to notify neighbours of the removal of trees on the site and so no objections were received.
  Response: A Tree Work application follows a separate procedure to a planning application.
- The loss of natural wildlife habitats
  Response: Noted however, this has not been a matter of objection raised by officers.

10.35 It is apparent from the representations received that there is both support and objection to the proposals. Officers have carefully considered all of the representations received and, when assessed against the relevant policies set out in the Development Plan along with national planning policy guidance, the proposals raise significant concern. As such, the comments in support of the scheme do not outweigh the significant concern that officers have set out in the main assessment.

11.0 CONCLUSION

11.1 Taking all material considerations into account, for the reasons outlined above, the principle of the erection of 3 no. dwellings on the application site would adversely harm the visual amenity and character of the Kirkburton Conservation Area which would not be outweighed by any benefit to the public. The proposed development would also be considered to have an undue impact on the level of residential amenity of the dwellings adjacent at 11 and 2 – 18 Low Town due to overbearing and overlooking.

11.2 Furthermore, the proposed development is not considered by Officer's to be acceptable from a highway safety perspective as the proposed access is across an existing junction; existing footways are narrow and have not been shown to be sufficiently widened, turning and manoeuvre will be difficult and sight lines onto Low Gate and Low Town would be substandard.

11.3 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.

11.4 It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material considerations. The application is therefore recommended for refusal.

Background Papers:

Link to the application details:-

https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f90190

Certificate B signed and dated 28.01.2019