

**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:** 2021/62/91795/W

**Site Address:** Manashay Cottage, Upper Brow Road, Paddock,  
Huddersfield, HD1 4UP

**Description:** Erection of 7 dwellings with formation of associated  
access and parking

**Recommending Officer:** William Simcock

**DECISION – Full Conditional 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.**

Neil Bearcroft

***AUTHORISED OFFICER***

**Date:** 3/12/2021

## **Officer Report – 2021/91795**

### **Manashay Cottage, Upper Brow Road, Paddock**

#### **Site Description**

The site comprises a detached dwelling, an associated piece of undeveloped land extending westward a further 80m and approximately 35m in width, and a further small plot of steeply sloping undeveloped land located to the east of the dwelling adjacent to the highway boundary. The northern boundary of the western undeveloped land is formed by a high retaining wall, partly stone and partly gabion baskets, and there is a footpath adjacent to the southern boundary. The northern part of this plot is near level; the southern part is steeply sloping and wooded.

The existing dwelling and associated land take access to Upper Brow Road via an unsurfaced track. There is residential development on Upper Brow Road above the site but the land below is wooded and undeveloped.

#### **Description of Proposal**

The proposal is for the erection of 7 no. dwellings and formation of associated access and parking.

Plots 4-7 are to be detached dwellings, two-storey with living accommodation in the roof space, located in the western part of the site on the levelled ground, along an informal, roughly south-east to north-west axis. The remaining three are to be placed on the smaller, roughly triangular piece of land east of the existing dwelling, 4m from the highway boundary in the case of Plot 1 at the eastern end of the site, and approximately 9m in the case of Plots 2 & 3.

The dwellings on Plots 1-3 would form a block of three townhouses and set back approximately 9m from the highway boundary in the case of Plots 2-3 and 5.4m in the case of Plot 1. They would be three storeys high at the rear and 1-2 storey (two-storey in the case of Plot 1) when viewed from the Upper Brow Road aspect. All would have their main outlook to the rear, with secondary and non-habitable rooms to the sides, and Plot 1 would also have two front-facing bedrooms.

Internal floor space would be:

Plot 1: 135sqm

Plot 2: 135sqm

Plot 3: 135sqm

Plots 4 & 6: 151sqm

Plot 5: 151sqm

Plot 7: 170sqm

Description of proposed materials is as shown on the drawings is stone, concrete tiles, cladding and render.

### **History of negotiations/amendments received**

26-Oct-2021: Amended plans showing 1-3 as a block of townhouses instead of 3 detached dwellings. This was essentially the same as the proposal approved under 2017/90169 and was therefore not considered to raise substantial new issues that would require new publicity.

28-Oct-2021: Amended plans clarifying width of access, and reducing height / floorspace in dwellings 4-7. This was not readvertised because the design changes represented a reduction overall and was not considered to raise significant new issues.

09-Nov-2021: Further amendments and clarifications to plans.

The above plans were not re-advertised as they were not considered to raise significant new planning issues.

### **Relevant Planning History**

2010/93133 – Extension to time limit for previous application 2007/93887 for outline application for erection of 14 dwellings. Approved.

2017/90169 – Erection of 3 no townhouses. Approved.

2017/92229 – Erection of 4 no. detached houses with associated roadway and parking. Approved.

The 2017 permissions are not known to have been commenced and therefore are presumably lapsed.

2021/91604 – Erection of retaining wall [adjacent to northern boundary of current site]. Ongoing.

### **Representations**

Final publicity date expires: 15-Jun-2021 (publicity by site notice and press advertisement in addition to neighbour notification letters since the proposal was deemed to potentially affect a public right of way or its setting)

5 representations have been made (3 classed as comments, 2 objections).

### *Comments*

- The wall on the southern perimeter of the application is in a very poor state of repair and any ground movement may cause it to collapse onto the public footpath running below it.
- wild life such as deer, badgers, hedgehogs, pheasant plus other diverse species are seen in the area of the application
- Stability of land above site
- Fuel tanks associated with former garage on site may still be there
- I hope that the first plan not the second will be accepted for Plots 1-3 as it is less visually intrusive, set further back, and more attractive to look at.

### *Objections*

- This land has had repeated planning permission applied for, granted then lapsed as potential developers have realised the enormity of trying to stabilise what on Victorian maps is shown as a quarry and tip.
- This land borders Gledholt woods nature reserve and is a haven for local wildlife, including dozens of species of birds and a large bat population, also foxes, stoats hedgehogs and partridge.
- This new planning application alters the house types to 2 1/2 story and increases the roof ridge heights considerably, which will greatly impact our light and view.
- From the plans we note that should we stand in our garden we will be able to see directly into plot 4s windows. The plans submitted show a mature screen of trees and shrubs between our property and the development which does not exist. there is nothing between our windows and the proposed houses windows, there will be next to no privacy for all parties.
- I am concerned about any construction or excavation near to the 3m gabion wall to the rear of my garden as this wall has been proven to be unstable. Part of this wall has suffered a collapse recently, behind a neighbour's house and they are currently having to have it rebuilt conforming to current regulations (application 2021/91604)
- I have no objections to the application regarding plots 1 to 3, which is actually an improvement from the previous lapsed application. My main concern is plots 4 to 7 Which are crammed onto an unstable, sloping site, with poor access and are higher than the 2 story properties previously permitted.
- I would strongly urge a site visit from Kirklees planning prior to a decision, to see just how steep, unstable and completely unsuitable for building on it is. Perhaps also a requirement for an up-to-date geotechnical environmental survey rather than regurgitating one produced in 2015.

- Upper brow road is a narrow road which is a no through road, so lots of people delivery vans etc need to turn round. Johnny Moore lane is the area that very large vehicles use to turn round including the area where property No1 is proposed. You need to put signs up on the road indicating narrow road no through road and no turning, otherwise there will be incidents and arguments

## **Consultation Responses**

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

- Network Rail – No objection
- KC Highways Development Management – Acceptable in principle to some revisions and clarifications including over the number of parking spaces (relates to the originally submitted version of the plans).
- KC Environmental Health – Acceptable subject to condition (including full contaminated land conditions)
- KC Arboricultural Officer – Acceptable subject to condition.
- KC Ecology – were consulted but did not respond.

## **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 statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

The site is within a Strategic Green Infrastructure Corridor on the Kirklees Local Plan and adjoins a Local Wildlife Site and Wildlife Habitat Network.

It is considered that the scale and nature of the development does not raise access or Equality Act considerations.

### **Kirklees Local Plan (LP):**

- **LP 1:** Presumption in favour of sustainable development
- **LP 7:** Efficient and effective use of land and buildings
- **LP 21:** Highways and access
- **LP 22:** Parking
- **LP 24:** Design
- **LP 28:** Drainage
- **LP 30:** Biodiversity and geodiversity
- **LP 31:** Strategic Green Infrastructure Network
- **LP 33:** Trees
- **LP 52:** Protection and improvement of environmental quality

- **LP 53:** Contaminated Land

### **Supplementary Planning Documents:**

- KC Highways Design Guide 2019

The following SPDs were adopted on 29<sup>th</sup> June 2021 can be viewed on the council's website at <https://www.kirklees.gov.uk/beta/planning-policy/adopted-supplementary-planning-documents.aspx>:

- Housebuilders Design Guide Supplementary Planning Document,
- House Extensions and Alterations Supplementary Planning Document
- Open Space Supplementary Planning Document

These are now a material consideration in the determination of planning applications.

The following two documents have also recently been approved by Cabinet and these can be viewed at: <https://www.kirklees.gov.uk/beta/planning-applications/guidance-and-advice-notes.aspx>

### **National Policies and Guidance:**

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20<sup>th</sup> July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6<sup>th</sup> 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 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flood risk and coastal change
- Chapter 15 – Conserving and enhancing the natural environment.

### **Assessment**

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Impact on visual amenity (including any heritage considerations)
- 2) Impact on residential amenity
- 3) Impact on highway safety
- 4) Other matters – e.g. trees/ecology (e.g. bats)
- 5) Representations
- 6) Conclusion

1 – Principle of development: Policy LP1 of the Local Plan states that when considering development proposals, the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. LP1 goes on further to stating that:

“The council will always work pro-actively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.”

As set out in the Authority Monitoring Report (AMR), the assessment of the required housing (taking account of under-delivery since the Local Plan base date and the required 5% buffer) compared to the deliverable housing capacity, windfall allowance, lapse rate and demolitions allowance shows that the current land supply position in Kirklees is 5.88 years supply. The 5% buffer is required following the publication of the 2020 Housing Delivery Test results for Kirklees (published 19<sup>th</sup> January 2021).

As the Kirklees Local Plan was adopted within the last five years the five year supply calculation is based on the housing requirement set out in the Local Plan (adopted 27th February 2019). Chapter 5 of the NPPF clearly identifies that Local Authority’s should seek to boost significantly the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development.

Paragraph 68 of the NPPF recognises that “small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should... support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes”.

Although the Local Planning Authority can demonstrate a five year land supply, it is noted that the development of this plot would be contribute to the housing supply in the district. However the provision of housing needs to be balanced against all policies and material planning considerations considered below.

There are two very recent permissions for housing on this site, which would, if implemented, also result in 7 dwellings in all, and would be broadly similar in terms of scale and siting. At the time of the case officer’s site visit there were no visible signs of development having been commenced and they are therefore presumed to be lapsed. Being very recent permissions, they can still be afforded moderate weight as a material consideration. They do however predate both the adoption of the Local Plan and the Housebuilders’ Design Guide SPD, so the new application will still need to be assessed in detail against the requirements of all currently adopted policies.

Under Policy LP31, development proposals should ensure:

- i. The function and connectivity of the green infrastructure network is retained or replaced;
- i. New or enhanced green infrastructure is designed and integrated into the development scheme where appropriate;
- ii. The scheme integrates into existing and proposed cycling, bridleway and walking routes, particularly the Core Walking and Cycling Network, by providing new connecting links where opportunities exist;
- iii. The protection and enhancement of biodiversity and ecological links, particularly within and connecting to the Kirklees Wildlife Habitat Network.

Since the development would be built predominantly on land that is hard-surfaced and artificially levelled, and would not intrude into the adjacent woodland (see Trees and Ecology). It is considered that it would not affect the function or connectivity of the network. The scale and layout of the development would not be conducive to providing new green infrastructure or new connecting links to the Core Walking and Cycling Network. The development is therefore considered to be appropriate in principle under LP31. Implications for trees and biodiversity will be considered in detail later in the Assessment.

The proposal will be further assessed according to the following policies:

- LP7 - encourages the efficient use of previously developed land in sustainable locations provided that it is not of high environmental value and appropriate housing densities to ensure that land is used efficiently.
- LP21 – that proposals must ensure the safe and efficient flow of traffic and safe access.
- LP22 – appropriate parking to be provided given the type of development and the accessibility of the site.
- LP24 – the form, scale, layout and details of development must respect and enhance the character of the townscape and landscape, provide a high standard of amenity for future and neighbouring occupiers including appropriate distances between buildings and a high level of sustainability.
- LP28 – Sustainable urban drainage systems to be used where possible.
- LP30 – Development to incorporate biodiversity enhancement measures.
- LP33 – Trees and woodlands of significant amenity should be protected.
- LP52 – Protection and improvement of environmental quality
- LP53 – Potential contamination should be remediated or measures incorporated to ensure it does not cause harm.

Under Chapter 11 of the NPPF, planning decisions should support development that makes “efficient use of land” taking into account the need

for different types of housing, local market conditions, infrastructure, the prevailing character of the area, the desirability of promoting regeneration or change, and the importance of securing well-designed, attractive and healthy places. The advice in Chapter 12, “Achieving well-designed places”, should also be taken into account, in particular that planning decisions should aim to ensure that developments will function well, add to the overall quality of the area, optimise the potential of the site to accommodate development and create safe and accessible environments.

Also of relevance is Chapter 14 (opportunities to be taken to prevent development contributing to flooding) and 15 (any potential pollution impacts should be assessed at the planning stage, and biodiversity should be enhanced where possible.)

The development would give rise to an average density of 16 per hectare, although it would of course be higher on the part of the site fronting the adopted highway. This is considered to amount to an appropriate and efficient use of land which would be in keeping with its surroundings.

It is considered that the proposal would comply with the aims of LP7 and Chapter 11.

The development is therefore considered appropriate in principle subject to an assessment of amenity, highway safety, environmental and other criteria, to be examined in detail below.

2 –Impact on visual amenity: The following Principles within the Housebuilders’ Design Guide SPD are highlighted as being particularly relevant for the purposes of this report:

*Principle 2*

New residential development proposals will be expected to respect and enhance the local character of the area by: Taking cues from the character of the built and natural environment within the locality; Creating a positive and coherent identity, complementing the surrounding built form in terms of its height, shape, form and architectural details; Illustrating how landscape opportunities have been used and promote a responsive, appropriate approach to the local context.

*Principle 5*

Buildings should be aligned and set-back to form a coherent building line and designed to front on to the street, including corner plots, to help create active frontages. The layout of the development should enable important views to be maintained to provide a sense of places and visual connections to

surrounding areas, and seek to enable interesting townscape and landscape features to be viewed at the end of streets, working with site topography. The arrangement of buildings should consider maintaining privacy and residential amenity. Effective boundary treatments should be used to form defensible space and delineate between public and private realm. Buildings should be arranged to take account of weather and microclimates

*Principle 8*

The transition from urban to open land should be carefully considered where development is located on the edge of the urban area. Proposals should demonstrate how the new development makes a positive contribution to the character and function of the landscape through sensitive siting and good design. For all sites in elevated areas, the appearance in the wider landscape should be considered and with applicants demonstrating how development respects the topography of the site and its surroundings.

*Principle 14*

The design of windows and doors is expected to relate well to the street frontage and neighbouring properties and reflect local character in style and materials. Innovation for energy efficiency is encouraged, particularly for maximising solar gain to allow for passive solar construction.

The adjacent development on the northern side of Upper Brow Road is varied in terms of house type, position within regard to the road frontage, and elevation above the highway. West of no. 118 and east of no. 110a, and also on the southern side of the road east of the application site, is more undeveloped and steeply sloping land.

The original plans for this application showed three detached dwellings on plots 1-3. Officers were not minded to accept this proposal since, even though the cumulative footprint would have been very similar to the three townhouses previously approved, they would have been set further forward in the streetscene and would have lacked visual coherence, and it was considered that the overall impact would have given rise to the appearance of overdevelopment.

The new plans for Plots 1-3 represent, in effect, a reversion to the previous approval. It is considered that the relatively dense form of development would be balanced by providing soft landscaping front and rear and being set back from the highway boundary by a similar degree to the dwellings opposite; furthermore, since they would present a single or two storey aspect to the highway, it is considered that they would not be excessively prominent. Both natural and artificial stone are used in the vicinity of the site and the choice of materials – coursed natural stone with a tiled roof – is considered appropriate.

The 4 houses on the lower part of the plot would in some ways differ from the established development in the vicinity, including that their roof pitches would be steeper, and would be arranged so as not to form a continuous frontage or building line. However, they have been amended during the application process – roof pitch is now 40 degrees when previously it would have been about 45 degrees. The sharp change in levels and the retaining wall would provide a clear visual break between the new development and the established development above (specifically the two detached dwellings which are themselves individually designed), and it is considered that in terms of scale, built form, arrangement within the site and design details for 4 new dwellings would provide a visually coherent and pleasing whole that would respect the topography and the transition from developed to undeveloped land, and would harmonise with its surroundings.

Subject to the standard condition on materials – that samples be submitted for inspection and approved – and that finished floor levels be no higher than those shown on the site plan – should be imposed. Subject to this it is considered that it would conserve the townscape, landscape and visual amenity and accord with the aims of LP24a.

3 – Impact on residential amenity: Principle 6 states that residential layouts must ensure adequate privacy and maintain high standards of residential amenity, to avoid negative impacts on light, outlook and to avoid overlooking. Principle 17 requires that outdoor amenity space that is functional and proportionate to the size of the dwelling.

#### *Plots 1-3*

The new development would be, at its closest, about 18m from the nearest facing habitable room window in established development across the road, and as the two houses would be offset this is regarded as acceptable. The facing distance would be 21m in relation to Plot 3 and the dwelling it directly faces. There would be no overlooking issues at the rear. The side-facing windows to Plot 1 would look out into space. For Plot 3, there would be a small side-facing upper-floor window and two secondary habitable room windows, these being lower-floor lounge and living room windows. These would face land that is within the applicant's ownership and would not face towards any existing habitable room windows, but as they would be very close to the boundary with the existing dwelling to the west, it is recommended that they be non-opening and obscurely glazed to prevent mutual overlooking.

It is considered that the scheme would provide adequate levels of natural light and privacy for future residents. Ideally a greater amount of amenity space might be preferred for the amount of living accommodation provided for future occupants but again a very similar scheme has been the subject of a recent (2017) approval and is therefore judged acceptable. In conclusion it is considered to support the aims of LP24(b).

#### *Plots 4-7*

The direct window to window distance between Plot 4 and the existing dwelling 109 Upper Brow Road would be approximately 17.5m. The section indicates that the line of sight would be blocked by a fence and wall, and it cannot be guaranteed that this would be retained. Under the SPD, 21m should normally be maintained between habitable room windows at the rear of dwellings. Paragraph 7.19-19 states that these are “advised”, not mandatory. Any assessment should take into account the characteristics of the site and the relationship with its neighbours, including those due to the local topography. In this instance it is considered that owing to the large difference in levels, which would mean that the accommodation within no. 109 would be considerably higher even than the first-floor accommodation in the new dwelling (Plot 4), the effect on the existing dwelling would not be perceived as intrusive and would not lead to privacy being unacceptably compromised for the new dwelling. The second-floor accommodation would only have rooflights, and it is recommended that permitted development rights be withdrawn to ensure that dormers cannot be constructed without planning permission, as these could be intrusive. The relationship between the new development and no. 115 is not considered problematic since it would be set further away (approximately 21 between the nearest facing windows).

As for how the 4 dwellings would relate to each other and the site boundaries, it is noted that the layout has been designed to avoid mutual overlooking as far as possible by having the main elevations offset from each other. Outlook for bedroom 3 in Plots 6 and 7 would be somewhat compromised by facing the retaining wall (to the north) and a gable end (to the south east) respectively at a distance of 8m; for plot 4 the equivalent distance would be 10m. All other bedroom windows would have an outlook maintaining 12m from buildings or built structures, and the main ground floor habitable room, the living room, would have an outlook in two directions (three in the case of plot 5). Whilst it is acknowledged that light and outlook would be somewhat affected by the mature trees on the banking below the site, it is considered that overall the living environment would be acceptable, and it is noted that the Arboricultural Officer has not expressed the view that the development would be likely to lead to subsequent pressure to fell the trees.

The amount of formally landscaped garden space (especially for Plot 6) is less than would normally be provided for dwellings of this size, but the banking and natural vegetation is shown as forming part of the plot and can be considered as contributing to private amenity space, and could be adapted to future owners' needs subject to any constraints imposed by the landscaping and ecological management plan (see below).

It is considered, in conclusion, that the development of Plot 1-7 as shown would provide an acceptable standard of living for future occupants whilst not harming the amenities of neighbouring properties, thereby according with the aims of LP24(b).

*Potential for noise disturbance:*

The development site sits from the junction of Upper Brow Road and Johnny Moores Hill Road rising north to within 30m from the train line and

consideration must be given to any road traffic and/or train noise affecting the amenity of the occupiers of the proposed development.

A noise report was requested under application no. 2017/90169 and this was submitted under application no. 2017/92229, - Environmental Noise Survey authored by Paul Horsley Acoustics Ltd (PHA) dated 20 June 2017 Ref J2624. Although this was in relation to the proposal to erect 4 no. dwellings and is a number of years old, it can still be deemed applicable to this site.

Section 11 of the report analyses the results of the monitoring undertaken and the table shows the noise levels which meet with the standard. Section 12 lists 3 areas to consider during construction to ensure the buildings protect the amenity of the future occupiers.

A condition is recommended to ensure that the construction meets at least with the minimum standard of construction detailed in the report and would thereby comply with the aims of LP52 and NPPF Chapter 15.

4 – Impact on highway safety: The proposed Plots 4-7 would utilise the existing access point, for which site lines have been shown. Plots 1-3 would take access direct to the highway and vehicles would not be able to turn within the plot, but given the low traffic volumes this is not considered to be problematic. Parking spaces have been provided at the ratio of two per dwelling, which is acceptable for a dwelling of up to three bedrooms, and two visitor spaces, which is considered an adequate level of provision. The originally-submitted version of the plans was considered unacceptable since the amount of living accommodation in Plots 4-7 would have necessitated 3 parking spaces unless the shortfall could be clearly justified. The amendments mean that parking spaces per dwelling are now acceptable.

The access track (variable in width but 3.0m at its narrowest) is narrower than is ideally preferred since its width would not allow two vehicles to pass for the majority of its length. But given the number of units it would serve, and its length, it is considered acceptable in this instance. In the event of two vehicles approaching each other and one having to reverse it is considered that this would not lead to any material safety hazard. The layout is in any case the same as shown for the 2017 development proposal on the site, which was approved.

It is considered that safe access to the highway can be achieved and that the local highway network is of a sufficient standard to take on the traffic generated.

Bin stores are shown for all dwellings and a refuse vehicle swept path is also shown, indicated that for Plot 4-7 refuse bins could be collected within the site from the frontage of the new dwellings.

Subject to the areas to be used by vehicles being provided before first occupation and thereafter retained, which can be conditioned, the

development would avoid any impact on the free and safe use of the highway and accord with LP21-22.

#### 4A - Public Right of Way:

The development would not directly affect the adjacent Public Right of Way or result in future conflicts between pedestrians and vehicles. The PROW runs parallel to the line of the access road but is outside the site boundary. There is however no clear demarcation between the track and the PROW. It is recommended that a condition is imposed to the effect that before development commences, a scheme shall be submitted demonstrating how the safety of PROW users would be safeguarded during construction.

#### 5 – Other matters:

##### *Climate Change:*

On 12<sup>th</sup> November 2019, the Council adopted a target for achieving ‘net zero’ carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target; however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

In this instance the applicant has added a few paragraphs to the design and access statement to explain how the proposed development would help to address or combat climate change effects, including “7.04 - The properties will be highly insulated in excess of SAP and EPC minimums” and also pledging to use local builders. Further details have been submitted which can be conditioned.

The site is approximately 400m by road from the nearest bus stop with a regular service to Huddersfield Town Centre and about 260m from Paddock Local Centre, which provides a range of shops and services. The site is judged to be at least moderately sustainable and it is considered that future residents would be able to fulfil at least some of their daily and weekly needs without being dependent on the use of a private car.

In particular, adequate provision for an electric vehicle charging point would be secured by condition should planning permission be granted.

It is therefore considered that the development demonstrates acceptable levels of sustainability from the point of view of promoting carbon reduction.

##### *Land contamination and instability:*

The site is recorded as potentially contaminated owing to its previous use as a quarry. A Report on a Geo-Environmental Investigation by Rogers Geotechnical Services Ltd dated November 2015 (ref: J3220/15/E) has been received in support of the application. The report includes geo-technical information, which is outside the remit of Environmental Health, whose advice therefore only relates to the land contamination aspects of the report.

The report includes a limited appraisal of the site history, previous surrounding land uses and a limited assessment of the environmental setting. Environmental Health have identified several shortcomings both in the Phase 1 and Phase 2 aspects of the report, and their assessment is that in this case the level of risk does not in itself amount to a reason to refuse permission, but nonetheless the full set of contaminated land conditions will need to be imposed on any permission.

Under paragraph 174(f) of the NPPF, local planning authorities should prevent new development from contributing to or being put at unacceptable risk from land instability. The Geotechnical report finds made ground of variable depth, less than 1m at the north-eastern edge of the site, up to 2m at the south-western edge and the northern tip – make traditional methods of foundation construction inadvisable but it does not reach any final conclusion about what the best methods of construction would be. The applicant now proposes to use piled foundations as a means of overcoming concerns about impact on tree root systems (see “Trees” below). The engineer has confirmed in a separate letter that piled foundations would be practicable for this site.

The report does not explicitly consider the effect of the works on the PROW below or the retaining wall supporting the land above it. However, the new dwellings would be approximately 10m away in horizontal distance at their closest, it would not involve any building or other works within the banking and it is considered that as the report demonstrates that the development can be built on a secure foundation, it is not anticipated it would have implications for this structure.

The report also states that: “In regard to the retaining walls on the north-eastern and eastern edge of the site i.e. the gabion basket wall and the blue brick and stone retaining wall, it should be appreciated that these structures have been present at the site for a substantial time. Whilst it is noted that no structural distress or movement is obvious with these walls, a detailed assessment of the condition of these structures has not been considered during this investigation.” Whilst three of the new dwellings are situated a considerable distance from this retaining structure, the furthest (Plot 7) is about 1m from it. As a precautionary measure, and in accordance with the aims of paragraphs 174(e) and 183, it is recommended that further evidence that the development will not endanger this land be conditioned.

#### *Trees and ecology:*

The western and southern part of the site is designated as Wildlife Habitat Network and the site as a whole is within the bat alert layer. Much of this designation is wooded and steeply sloping. It is not covered by an area Tree

Preservation Order but the trees within the site are considered worthy of preservation for their contribution to the site's biodiversity value as well as general amenity. The area that is to be developed, however, is mostly outside the Wildlife Habitat Network, and the new dwellings would only overlap it by about 2m at most. As with the previous applications for 7 and 4 dwellings, 2017/92229, the development would take place mostly on the existing levelled hard-surfaced area with minimal intrusion into the banking.

The Arboricultural Officer initially expressed concerns on the grounds of the development's proximity to the trees, but following confirmation that piled foundations would be used thus eliminating or minimising any disturbance to tree roots, has confirmed that the proposal is acceptable and in accordance with the aims of LP33 subject to protective fencing being in place throughout the construction process. The use of piled foundations can also be conditioned.

The Ecological Officer recommended at the time of the previous application that the proposal should not be determined without a full Ecological Impact Assessment including a bat emergence and bird nesting survey, and in particular expressed a concern that the erection of 4 dwellings may be over-intensive as it would lead the loss of bat foraging grounds on the existing plateau. Officers concluded that this would be unnecessary and that the erection of 4 dwellings would ensure that biodiversity and habitat value are at least conserved, if not enhanced, provided that (a) a suitable landscaping and ecological design strategy is employed, and (b) permitted development rights are removed for structures and buildings within the curtilages (Class E) and also for new hardstandings.

A new Ecological Appraisal was submitted, dated April 2021. As before it identified the woodland (to be retained) as having the principal ecological value, the scrub to the north of the woodland was also deemed to have some ecological value, principally for nesting birds, and some would have to be removed. It recommends that clearance is not undertaken during the nesting season. It makes several other recommendations including walls and fences to incorporate hedgehog holes, and ecological clerk of works to hand-search each section of vegetation of hedgehogs.

It is recommended that this should be conditioned along with a full Landscape and Ecological Management Plan.

Subject to this it would accord with the aims of LP30-31 and NPPF Chapter 15.

*Drainage:*

The site has not been identified as being at risk of flooding. The application form states that surface water disposal would be by means of an existing watercourse, but no details are given. The only watercourse on or adjacent to the site is a culverted one. In principle this is one of the more sustainable methods of surface water disposal, but this does not exempt the proposal from the need to achieve a net run-off restriction as set out in LP28 (if classed

as a brownfield site, a 30% reduction, or not to exceed typical greenfield rates if there is no existing connection). Whilst this is not always imposed for single dwellings or other very small sites (fewer than 5 dwellings), it is recommended owing to the scale of the development it should be imposed here.

*Network Rail land:*

There is Network Rail land close to the north of the site. Network Rail were consulted and had no objections to the development. They requested that a construction method statement be submitted and that trespass-proof fencing be installed at the boundary of the site. Whilst the risk of excavations on site affecting Network Rail land would appear to be low, it would seem reasonable to add the former as a condition since again it has not been explicitly covered in the submitted reports. The installation of trespass-proof fencing would, it is considered, serve no useful purpose since Plot 7, which is the nearest on to Network Rail land, does not have any of its main frontages bordering Network Rail land, it is bounded by a retaining wall on one side and by the Public Right of Way on the other. Drainage will also be covered by a condition.

The developer should be made aware of the standard informatives and any implications these might have including for drainage.

6 – Representations: Concerns relating to residential amenity, highway safety and ground conditions have been examined in the main part of the report but are highlighted here together with other issues raised.

*Comments:*

- The wall on the southern perimeter of the application is in a very poor state of repair and any ground movement may cause it to collapse onto the public footpath running below it.  
**Response:** The issue of ground stability has been examined earlier in the report and it is considered that the Geotechnical report demonstrates the site can be safely developed. On the basis of observations on site, the wall does not seem to be in a poor state of repair or in danger of imminent collapse.
- Wild life such as deer, hedgehogs, pheasant plus other diverse species are seen in the area of the application.  
**Response:** The potential for ecological impacts has been assessed in section (5) above. Again, it is noted that the development would involve only minor intrusion into the Wildlife Habitat Network / Local Wildlife Site and allow the retention of the high-value habitat on site, subject to suitable conditions on mitigation and enhancement.
- Stability of land above site  
**Response:** This specific concern is not addressed in the Geotechnical report and it is officers' recommendation that further information be conditioned.
- Fuel tanks associated with former garage on site may still be there.

**Response:** A Phase I Contamination Report has been submitted and has been assessed by Environmental Health as unsatisfactory. A new Phase I report will therefore have to be submitted which will investigate other possible sources of contamination not previously discovered.

- I hope that the first plan not the second will be accepted for Plots 1-3 as it is less visually intrusive, set further back, and more attractive to look at.

**Response:** The version recommended for approval is set further back. Whilst the alternative of three detached houses might be preferred by some local residents in that it would leave gaps allowing a view through rather than a continuous block, it is considered for the reasons set out in detail in Section (2) of this assessment, the option of three townhouses is aesthetically preferable.

### *Objections*

- This land has had repeated planning permission applied for, granted then lapsed as potential developers have realised the enormity of trying to stabilise what on Victorian maps is shown as a quarry and tip.

**Response:** The fact that repeated planning permissions have been granted but not implemented does not mean that the site is incapable of being developed. There are many possible reasons why a developer may obtain permission but not be able or willing to implement it.

- This land borders Gledholt woods nature reserve and is a haven for local wildlife, including dozens of species of birds and a large bat population, also foxes, stoats hedgehogs and partridge.

**Response:** As previously stated, the status of the site regarding biodiversity objectives has been given due consideration. Approval can be granted subject to a suitable condition.

- This new planning application alters the house types to 2 1/2 story and increases the roof ridge heights considerably, which will greatly impact our light and view.

**Response:** The latest version of the plans still shows accommodation within the roof space but has been reduced from the version as originally submitted.

- From the plans we note that should we stand in our garden we will be able to see directly into plot 4s windows. The plans submitted show a mature screen of trees and shrubs between our property and the development which does not exist. There is nothing between our windows and the proposed houses windows, there will be next to no privacy for all parties.

**Response:** The potential impact on privacy for existing and proposed residents has been assessed in depth in Section (3). Given the sharp change in levels the relationship is judged to be acceptable.

- I am concerned about any construction or excavation near to the 3m gabion wall to the rear of my garden as this wall has been proven to be

unstable. Part of this wall has suffered a collapse recently, behind a neighbour's house and they are currently having to have it rebuilt conforming to current regulations (application 2021/91604)

**Response:** This is a legitimate concern which is not covered in the Geotechnical report, and in officers' view should be the subject of a further condition.

- I have no objections to the application regarding plots 1 to 3, which is actually an improvement from the previous lapsed application. My main concern is plots 4 to 7 Which are crammed onto an unstable, sloping site, with poor access and are higher than the 2 story properties previously permitted.

**Response:** Again, the version of Plots 1-3 now recommended for approval is a return to the original approval. Instability and access issues have been considered earlier in the report.

- I would strongly urge a site visit from Kirklees planning prior to a decision, to see just how steep, unstable and completely unsuitable for building on it is. Perhaps also a requirement for an up-to-date geotechnical environmental survey rather than regurgitating one produced in 2015.

**Response:** The case officer visited the site before making an assessment. For the purposes of assessing contamination on site the report has some shortcomings, as advised by environmental health. It is however considered unlikely that ground conditions, e.g. the depth of made ground and the condition of the underlying rock, can have changed significantly in that time.

- Upper brow road is a narrow road which is a no through road, so lots of people delivery vans etc need to turn round. Johnny Moore lane is the area that very large vehicles use to turn round including the area where property No1 is proposed. You need to put signs up on the road indicating narrow road no through road and no turning, otherwise there will be incidents and arguments

**Response:** Highways Development Management have not concluded that the site is intrinsically unsuitable for development. The installation of additional signage within the public highway is not something that can be delivered through the planning process.

## 7. 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 FULL PERMISSION**

## Decision Authorisation - Delegated Powers

**Application Number:** 2021/91795

**Officer Recommendation:** CONDITIONAL FULL PERMISSION

### Conditions and Reasons

1. The development hereby permitted shall be begun within three years of the date of this permission.

**Reason:** Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

**Reason:** For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policy LP24 of the Kirklees Local Plan.

3. Samples of all facing and roofing materials shall be submitted to, or left on site for the inspection and approval in writing by, the Local Planning Authority, before work on the superstructure of any new dwelling commences. The development shall be implemented using the approved materials and finishes.

**Reason:** In the interests of visual amenity and to accord with the aims of Policy LP24(a) of the Kirklees Local Plan.

4. Before any of the new dwellings are first brought into use, all areas to be used for the parking and turning of vehicles, including refuse collection vehicles, as shown on the approved site plan shall be laid out with a hardened and drained surface, which shall be in accordance with the Communities & Local Government and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or any successor guidance before the dwelling is first occupied, unless arrangements have been made for run-off water to drain to a soakaway, sustainable drainage system or attenuation storage facility within the curtilage. Thereafter these areas shall be retained free of any obstruction.

**Reason:** To ensure a satisfactory layout in the interests of highway safety, to ensure that the development does not contribute to flood risk through increased run-off, and to accord with the aims of Policies LP21-22 and Policy LP28 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

5. Before any of the new dwellings on Plots 4-7 are occupied, the sightlines at the junction of the shared access with Upper Brow Road as shown on the approved site plan shall be cleared of all obstructions to visibility exceeding 1m in height above the adjoining carriageway and thereafter maintained as

such, and Plots 1-3 shall have sightlines of 2.4m x site frontage cleared of all obstructions to visibility exceeding 1m in height above the adjoining carriageway. The sightlines shall thereafter be retained as such.

**Reason:** To ensure adequate inter-visibility in the interests of highway and pedestrian safety and to accord with the aims of Policies LP21 and 22 of the Kirklees Local Plan.

6. Notwithstanding the submitted Geo-Environmental Report reference J3220/15/E, groundworks shall not commence until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study Report) by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.

**Reason:** To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph 183 of the National Planning Policy since the submitted report is considered insufficiently robust on account of its age, scope and level of detail. This information is required pre-commencement so as to ensure that pollution can be properly investigated and appropriate remedial measures incorporated into the construction at an early stage.

7. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition (6), groundworks (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the Local Planning Authority.

**Reason:** To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph 183 of the National Planning Policy Framework. This information is required pre-commencement so as to ensure that pollution can be properly investigated and appropriate remedial measures incorporated into the construction at an early stage.

8. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition (7), further groundworks shall not commence until a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

**Reason:** To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph 183 of the National Planning Policy Framework. This information is required pre-commencement so as to ensure that appropriate remedial measures incorporated into the construction at an early stage.

9. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition (8). In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report is identified or encountered on site, all groundworks in the affected area (except for site investigation works) shall cease immediately and the

Local Planning Authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

**Reason:** To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph 183 of the National Planning Policy Framework

10. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report by a suitably competent person shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as the remediation measures have been completed for (that part of) the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the Local Planning Authority. Where validation has been submitted and approved in stages for different areas of the whole site, a Final Validation Summary Report shall be submitted to and approved in writing by the Local Planning Authority.

**Reason:** To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph 183 of the National Planning Policy Framework.

11 Finished ground floor level in the approved dwellings shall be no higher than that shown on the approved site plan.

**Reason:** For the avoidance of doubt, and to ensure that the development respects the visual character of the area and does not detract from the amenities of existing or future residents, and to accord with the aims of Policy LP24(a&b).

12. Notwithstanding the details contained within the submitted Geotechnical Report, development on the lower part of the site (Plots 4-7 and associated areas to be used by vehicles) shall not commence until a construction methodology has been submitted to and approved in writing by the Local Authority. The construction methodology shall demonstrate consultation with the Asset Protection Project Manager at Network Rail. The development shall thereafter be carried out in accordance with the approved construction methodology.

**Reason:** To ensure that the development does not contribute to land instability endangering public safety, in particular of Network Rail land, and to accord with the aims of paragraphs 174 and 183 of the National Planning Policy Framework. This information is required pre-commencement to ensure that groundworks can be undertaken safely since the submitted Geotechnical Report has not attempted a detailed investigation of the condition of these structures or considered the implications of the development for their future stability.

13. Notwithstanding the details contained within the submitted Geotechnical Report, before development commences on Plots 4-7 or any associated areas to be used by vehicles, a report shall be submitted signed off by a competent person demonstrating that the works shown on the plan can be undertaken without endangering the stability of the retaining wall at the north-eastern boundary of the site or the land that it supports. If any additional works are required specific details of such works shall be provided within the said report, including plans, cross sectional information and structural calculations. Development shall proceed only in full accordance with the recommendations in the approved report.

**Reason:** To ensure that the development does not contribute to land instability endangering public safety and to accord with the aims of paragraphs 174 and 183 of the National Planning Policy Framework. This information is required pre-commencement to ensure that groundworks can be undertaken safely since the submitted Geotechnical Report has not attempted a detailed investigation of the condition of these structures or considered the implications of the development for their future stability.

14. Prior to development commencing, protective fencing in accordance with British Standard BS 5837 shall be erected along the edge of the woodland to be retained on the site adjacent the development plots 4-7 and shall be maintained throughout the construction period.

**Reason:** In order to protect visual amenity and the long-term viability of the trees and to accord with policy LP33 of the Kirklees Local Plan.

15. Development of Plots 4-7 shall be undertaken using piled foundations.

**Reason:** To protect the long-term viability of the trees within the site and to accord with policy LP33 of the Kirklees Local Plan.

16. Development shall not commence until a scheme detailing foul, surface water and land drainage, (including off site works, outfalls, balancing works, plans and longitudinal sections, hydraulic calculations, phasing of drainage provision, existing drainage to be maintained/diverted/abandoned, and percolation tests, where appropriate) has been submitted to and approved in writing by the Local Planning Authority. The site shall be developed with separate systems of drainage for foul and surface water on and off site. Construction works shall not start on the dwelling until the approved drainage arrangements have been provided on the site to serve the development and thereafter retained.

**Reason:** To ensure the provision of adequate and sustainable systems of drainage in the interests of amenity, environmental well-being and the reduction of flood risk and to accord with the aims of Policy LP28 and the National Planning Policy Framework. This is required as a pre-commencement condition to ensure that safe and sustainable drainage arrangements are incorporated into the construction of the scheme.

17. Before the development is first brought into use, all works which form part of the Environmental Noise Survey authored by Paul Horsley Acoustics Ltd dated 20 June 2017 Ref J2624 -

a) shall be completed; and

b) written evidence to demonstrate that the specified noise levels have been achieved shall be submitted to and approved in writing by the Local Planning Authority.

If it cannot be demonstrated that the noise levels specified in the aforementioned Noise Report have been achieved, then a further scheme shall be submitted for the written approval of the Local Planning Authority incorporating further measures to achieve those noise levels. All works comprised within those further measures shall be completed and written evidence to demonstrate that the aforementioned noise levels have been achieved shall be submitted to and approved in writing by the Local Planning Authority before the development is first brought into use.

**Reason:** To ensure that future occupants do not suffer loss of amenity arising from noise disturbance and to accord with the aims of Policies LP24(b) and LP52 of the Kirklees Local Plan.

18. Before work commences on the superstructure of the new dwellings, a Landscaping and Ecological Management Plan (LEMP) addressing means of avoiding impacts to the adjacent Local Wildlife Site and the means of providing ecological enhancement has been submitted to and approved in writing by the Local Planning Authority. The LEMP, which shall use the submitted Preliminary Ecological Assessment as a basis, shall include the following:

- a) Purpose and conservation objectives for the proposed works.
- b) Review of site potential and constraints.
- c) Detailed design(s) and/or working method(s) to achieve stated objectives.
- d) Extent and location/area of proposed works on appropriate scale maps and plans.
- e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- f) Details of any new boundary treatments to be installed as part of the development and how these will avoid adverse biodiversity impacts.
- g) Details of any new outdoor lighting associated with the development, if applicable
- h) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- i) Persons responsible for implementing the works.
- j) Details of initial aftercare and long-term maintenance.
- k) Details for monitoring and remedial measures.
- l) Details for disposal of any wastes arising from works.

The LEMP shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

**Reason:** To ensure that the biodiversity value of the Strategic Green Infrastructure Network and the adjacent Local Wildlife Site and Wildlife Habitat Network are conserved and enhanced, to accord with the aims of Policies LP30 and 31 of the Local Plan and the National Planning Policy Framework – Conserving and enhancing the natural environment.

19. One electric vehicle recharging point shall be installed within the dedicated garage or parking area of each hereby approved dwellings before it

is first occupied. 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 charging points so installed shall thereafter be retained.

**Reason:** In accordance with the aims of Policy 24(d & v) of the Kirklees Local Plan and government guidance on air quality mitigation, outlined within the Planning Practise Guidance and Chapter 14 of the National Planning Policy Framework, so as to promote infrastructure which encourages modes of transport with low impact on air quality.

20. The insulation measures specified in the details submitted 22<sup>nd</sup> November 2021 shall be incorporated into all new dwellings at the construction stage and thereafter retained as such.

**Reason:** To ensure that the development contributes to the reduction of carbon emissions in order to facilitate the Council's net zero emissions target and to accord with the aims of Chapter 14 of the National Planning Policy Framework – Planning for climate change, flooding and coastal change.

21. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification including paragraph A.1(ea)), no extensions or outbuildings shall be erected, altered or constructed, and no new hard surfaces shall be formed other than those shown on the approved plans, within the land edged in red on the approved location plan, without full planning permission having been first obtained from the Local Planning Authority.

**Reason:** In the interests of ensuring the long-term maintenance of high-value wildlife habitats and biodiversity within the site which could be harmed by uncontrolled development, to ensure that the amenities of new or existing dwellings are not harmed by overbearing impact or loss of privacy resulting from inappropriate extensions or buildings, and to accord with the aims of Policy LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

22. Notwithstanding the details on the approved plans, all side-facing windows in the north-western elevation of the dwelling on Plot 3 shall be non-opening and shall be fitted with obscure glazing to give a minimum grade 5 degree of obscurity before the dwelling is first occupied. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification), windows of this type shall be retained at all times.

**Reason:** So as not to detract from the amenities of adjoining property by reason of loss of privacy and to accord with Policy LP24(c) of the Kirklees Local Plan.

23. Before development commences, a scheme shall be submitted to and approved in writing by the Local Planning Authority demonstrating how the safety of users of the adjacent Public Right of Way, HUD/318/20, would be

safeguarded during construction. Development shall be implemented in full accordance with the approved scheme at all times during the development process.

**Reason:** This is a pre-commencement condition to ensure that users of the public footpath are given adequate protection at all stages of the development process so as to accord with the aims of Policies LP20 and LP21 of the Kirklees Local Plan.

**Note – Public Right of Way.** The Public Right of Way that abuts the site, HUD/318/20, shall not be obstructed or unofficially diverted at any time before, during or after development works.

#### **Contaminated land – Footnote**

All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2019.

Reports must be prepared in accordance with the following guidance –

- Land Contamination Risk Management (LCRM)
- BS 10175:2011+ A2:2017 Investigation of Potentially Contaminated Practice
- Development on Land Affected by Contamination - Technical Guidance for Developers, Landowners & Consultants - (v11.2) June 2020 by the Yorkshire and Lincolnshire Pollution Advisory Group

#### **Construction Site Working Times – Footnote**

It is recommended that noisy construction related activities should not take place outside the hours of:

07.30 to 18.30 hours Mondays to Fridays

08.00 to 13.00hours Saturdays

With no noisy activities on Sundays or Public Holidays

#### **Construction Sites working times – Footnote**

Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists or is likely to occur or recur. Failure to comply with a notice served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

#### **Note: Network Rail land**

The developer's attention is drawn the following advisory notes concerning the development activity on land that lies close to the boundary with Network Rail Land:

[https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/filedownload.aspx?application\\_number=2021/91795&file\\_reference=873599](https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/filedownload.aspx?application_number=2021/91795&file_reference=873599)

[https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/filedownload.aspx?application\\_number=2021/91795&file\\_reference=873600](https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/filedownload.aspx?application_number=2021/91795&file_reference=873600)

Plans and specifications schedule:-

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Application form			
Proposed site plan	01	C	09-Nov-2021
Floorplans Plots 1-3	02	A	27-Oct-2021
Plots 1-3 proposed elevations	03	A	27-Oct-2021
Plots 4 & 6 proposed elevations and floorplans	04	A	28-Oct-2021
Plot 5 proposed elevations and floorplans	05	A	28-Oct-2021
Plot 7 proposed elevations and floorplans	06	A	28-Oct-2021
Section through Plot no. 4	08		28-Oct-2021
Design & access statement (amended)			09-Nov-2021
Noise report	J2624		23-Nov-2021
Preliminary ecological appraisal report	13734b/JE		06-May-2021
3D images comparing alternative designs			02-Aug-2021

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. The case officer requested amendments to house design in the interests of visual amenity and ensuring sufficient parking relative to the amount of accommodation provided, and also requested details relating to foundation type and reduction of greenhouse gas emissions as set out in the plans and specifications schedule.

**Report Dated:**

25-Nov-2021
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