

**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:	<b>2023/60/91406/W</b>
Site Address:	Land south of, 98, Burn Road, Birchencliffe, Huddersfield, HD2 2EG
Description:	Outline application for erection of residential development
Recommending Officer:	Katie Chew

**DECISION – CONDITIONAL OUTLINE PERMISSION**

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

John Holmes

***AUTHORISED OFFICER***

**Date: 26-Jan-2024**

## **Officer Report**

### **Site Description**

Land south of, 98, Burn Road, Birchencliffe, Huddersfield, HD2 2EG

The application site currently comprises of a large residential garden area belonging to no. 98 Burn Road. The application site is split into 2 separate parcels of land, one of which to the (east) contains a large tennis court, both pieces of land are separated by mature hedging. The site is bounded by dry stone walling to the south and west and contains mature trees and planting, some of which are protected by TPO.

The application site is not within a Conservation Area but is located in close proximity to a Grade II Listed building to the north-east.

### **Description of Proposal**

The application seeks outline approval for the erection of residential development. All other matters such as access, scale, layout, appearance and landscaping are reserved.

The submission is supported by a Location Plan, Indicative Site Plan, Ecological Impact Assessment, Heritage Impact Assessment, Phase 1 Desk Study Report & Coal Mining Risk Assessment, Climate Change Statement, Tree Survey, Arboricultural Method Statement, Arboricultural Impact Assessment, and a Planning Statement. These documents outline that 3 detached dwellings are to be proposed, with parking shown to the front of the properties and within integral single/double garages. Gardens/amenity areas are proposed to the side and rear for Plot 1, rear for Plot 2, and front and rear for Plot 3. 2 of the proposed dwellings will utilise an existing access to no. 98 Burn Road, with Plot 3 requiring the creation of a new access to the south onto Burn Road (public byway). Within the submitted Planning Statement it is stated that it is anticipated that plots 1 and 2 would be two-storey 4-bed dwellings and plot 3 would be a two-storey 5-bed dwelling.

No details have been provided in respect of the proposed materials.

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

Following discussions with the applicant's agent and Conservation & Design Officers it was agreed that the proposals be amended to remove 1 of the dwellings from the scheme, this is in the interests of protecting views towards the adjacent heritage asset Middle Burn Farm. Further discussions were also had in respect of the need for the archaeological condition proposed by the WYAAS. Following several conversations with the applicant's agent and Officers at WYAAS it was agreed that this condition is necessary and shall remain.

### **Relevant Planning History**

2016/90073 – Outline application for erection of residential development. Approved 22<sup>nd</sup> August 2016.

It is noted that since this decision the Council has adopted the Kirklees Local Plan with the land forming part of a wider housing land allocation.

99/91374 – Erection of double garage and family room extension. Approved 13<sup>th</sup> July 1999.

95/90364 – Erection of chain link fence to enclose tennis court. Approved 10<sup>th</sup> April 1995.

93/04943 – Erection of detached dwelling with integral garage. Refused 7<sup>th</sup> December 1993.

### **Representations**

Final publicity date expires:

Neighbour Letters – Expired 22<sup>nd</sup> June 2023.

Site Notice – Expired 13<sup>th</sup> July 2023.

Press Notice – Expired 30<sup>th</sup> June 2023.

1 objection has been received; comments are summarised below.

- The condition of the road surface along that stretch of Burn Road has deteriorated, such that there are no serious differential in the road surface levels, a variety of depressions and potholes, which presents a potential hazard for pedestrians, cyclists, vehicles and mobility scooters. A condition should be imposed to require the byway to be left open at all times and that the road surface is brought up to a better standard than exists at present.

**Officer note:** Noted. The Council's Highways and PROW team were consulted on the proposals and raised no objections in respect of the surfacing of this road. It is noted that one property would be accessed via this stretch of road, with the other 2 plots being accessed by a private drive to the north.

**Officer note:** The application has been advertised by site notice and press notice in line with the legal statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. This is due to the site being located in close proximity to a Grade II Listed Building to the north-east and that the site would be accessed via a Public Byway to the south. As amended plans were received over the course of this application, re-consultation with neighbours was undertaken, with neighbour letters expiring on the 11<sup>th</sup> October 2023.

## **Consultation Responses**

**The Coal Authority** – Comments received 27<sup>th</sup> October 2023. The Coal Authority records indicate that within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this application, specifically a recorded mine entry (shaft) is within, or within 20m of, the planning boundary. The applicant has provided up-to-date coal mining information which has been used to inform the Phase 1 Desk Study Report & Coal Mining Risk Assessment. This report is able to discount any undue stability risks posed by shallow coal mine workings however, the report confirms that the mineshaft is located beyond the northern boundary of the site and is physically marked on the ground. The report confirms that a 5m stand-off distance should be maintained and that an investigation of the depth to rock head should be undertaken to determine any implications on the development site, most notably the access. Furthermore, it should be noted that wherever coal resources or coal mine features exist at shallow depth or at the surface, there is the potential for mine gases to exist. Conditions are recommended by the Coal Authority in relation to the undertaking of an agreed scheme of intrusive site investigations, submission of a report of findings arising from the intrusive site investigations and any remedial and/or measures necessary, and the implementation of such remedial works.

**KC Policy** – Comments received 7<sup>th</sup> June 2023. Object as the proposed development would not accord with the development principle for housing allocation HS35 that no development shall take place in the area of high significance, as set out in the Council's Heritage Impact Assessment for Land Adjacent to Burn Road, Prince Royd.

**KC Trees** – No comments received within statutory timescales.

**KC Environmental Health** – Comments received 26<sup>th</sup> May 2023. No objections subject to conditions and informatives relating to contaminated land, electric vehicle charging points and construction noise.

**Officer note:** Whilst it is acknowledged that ENVH Officers have requested the provision of electric vehicle charging points, this is not considered reasonable or necessary to condition on this occasion as all new dwellings are to provide these features as standard under building control regulations and therefore a condition is not required at this time.

**KC Highways Development Management** – Comments received 2<sup>nd</sup> August 2023. No objections in principle but Officers do require the submission of additional details such as the inclusion of sight lines at 2.4m x 43m from the proposed site access to Plots 1 and 2 and access at Plot 3 on to the byway. They also note that given the access proposed on the byway, this road should be widened to provide a passing place as approved by the 2020/91976 permission. Finally, any gates should be set back 6.0m from the highway to give space for a vehicle to pull off the highway.

**Officer note:** Amended plans were received alongside information provided within an email from the applicant's agent dated 18<sup>th</sup> September 2023. The Council's Highways Officers assessed the amended/additional information and note that the scheme as proposed now shows suitable visibility splays and gates set back 6.0m. Highways Officers therefore have no objections to the proposals subject to conditions relating to access sightlines, areas to be surfaced and drained and that gates are to be set back a minimum of 6m from the carriageway edge.

**KC Ecology Unit** – Comments received 13<sup>th</sup> June 2023. No objections subject to conditions requiring no site clearance to take place between 1<sup>st</sup> March and 31<sup>st</sup> August, and the submission of an Ecological Design Strategy to ensure that a biodiversity net gain is achieved post development.

**KC Conservation & Design** – Comments received 20<sup>th</sup> July 2023. Conservation & Design Officers initially raised concerns with the proposals due to their location and details contained within the Council's Heritage Impact Assessment which notes that land to the south and west of Middle Burn Farm and Lower Burn Farm are areas of high significance being part of the immediate setting of these listed farmhouses. Nevertheless, following discussions with the applicant's agent it was concluded that should the proposals be revised to remove 1 of the proposed dwellings from the scheme, removing development within the portion of land to the east which is closer to adjacent heritage assets and most likely to impact on the views and setting of the adjacent Listed Buildings, C&D Officers may be able to support the proposals.

**Officer note:** Following receipt of revised plans in line with the above comments, the Council's Conservation & Design Officer confirmed via email on the 27<sup>th</sup> September 2023 that they were now happy to support the outline application.

**KC PROW** – No comments have been received within statutory timescales.

**West Yorkshire Archaeology Advisory Service** – Comments received 13<sup>th</sup> June 2023. No objections subject to a condition requiring a suitable programme of observation and recording to be undertaken prior to works commencing on site.

#### **Parish/Town Council**

N/A.

#### **Local Ward Members**

None.

#### **Planning Policy Background**

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 application site is allocated for housing (HS35) and is partially located within a Bat Alert Area. There are also protected trees located along the southern and western boundaries. To the north-east of the site is a Grade II Listed Building known as 'Middle Burn Farm'. It is also important to note that a Public Byway is located to the south of the site and does form part of the access to 2 of the proposed dwellings. Furthermore, part of the site is located within a Coal Referral Area to the north.

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

- LP1 – Achieving Sustainable Development
- LP2 – Place Shaping
- LP3 – Location of New Development
- LP11 – Housing Mix and Affordable Housing
- LP20 – Sustainable Travel
- LP21 – Highways and Access
- LP22 – Parking
- LP23 – Core Walking and Cycling Network
- LP24 – Design
- LP26 – Renewable and Low Carbon Energy
- LP30 – Biodiversity & Geodiversity
- LP33 – Trees
- LP35 – Historic Environment
- LP51 – Protection and Improvement of Local Air Quality
- LP52 – Protection and Improvement of Environmental Quality
- LP53 – Contaminated and Unstable Land
- LP65 – Housing Allocations

### **Other Guidance Documents:**

- Kirklees Highways Design Guide SPD (2019)
- DCLG: Technical Housing Standards – Nationally Described Space Standard
- MHCLG: National Design Guide
- Housebuilders Design Guide SPD (2021)
- Waste Management Design Guide for New Developments (Version 5, October 2020)
- Biodiversity Net Gain Technical Advice Note (2021)
- Planning Applications Climate Change Guidance (2021)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)

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

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) updated 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. Most specifically in this instance, the below chapters are of most relevance:

- Chapter 2 – Achieving Sustainable Development
- Chapter 4 – Decision-making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 9 – Promoting sustainable transport
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, coastal change and flooding
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment

### **Summary of Principal Planning Issues**

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Scale, design and visual impact of the proposed development
- 2) Impact of the proposed development upon the privacy and amenity of neighbouring properties
- 3) Impact on highway safety
- 4) Other matters
- 5) Conclusion

#### **1 - Principle of Development:**

##### **1.1 – Sustainable Development**

NPPF Paragraph 11 and Local Plan Policy LP1 outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation.

The dimensions of sustainable development will be considered throughout the proposal. Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be explored.

##### **1.2 – Land Allocation (HS35)**

This site forms part of housing allocation HS35 in the Local Plan's proposals map, this allocation has a gross site area of 16.8ha. However, the net site area comprises of 11.39 ha. This developable area has been lowered to reduce impact on Grade II Listed Buildings, and due to the presence of UK BAP

habitats which are mostly covered by protected trees. It is noted within the other site-specific considerations section of this allocation that:

*'In order to safeguard the setting of the Grade II listed buildings known as Middle Burn Farm and Lower Burn Farm, no development shall take place on the field/area marked as high significance in Council's Heritage Impact Assessment to the south of the listed buildings.'*

Within the Heritage Impact Assessment for Land adjacent to Burn Road, Prince Royd (Site Reference Number: H706) it is noted that the application site is located within the High Significance area discussed above and therefore would be inappropriate development that would not accord with Local Planning Policy LP65.

### 1.3 – Housing Delivery

The Local Plan identifies a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum. The NPPF was updated on 20th December, with paragraph 76 setting out the following:

*'Local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision making purposes if the following criteria are met:*

- a) their adopted plan is less than five years old; and*
- b) that adopted plan identified at least a five year supply of specific, deliverable sites at the time that its examination concluded'.*

The Council's Local Plan was adopted in February 2019 and is currently less than 5 years old.

Policy LP7 of the Kirklees Local Plan states that should encourage the efficient use of previously developed land in sustainable locations provided that it is not of high environmental value and a net density of at least 35 dwellings per hectare should be provided. Principle 4 of the Housebuilders Design Guide seeks to ensure a density of 35 dwellings per hectare or more is achieved. Where a density of 35 dwellings per hectare cannot be achieved, policy LP7 sets out that lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or to secure particular house types to meet local housing needs.

As the site measures around 2576sqm, it has a potential density of 9 dwellings. However, it is considered a higher density of development of the site would likely lead to issues in terms of design, impact on the setting and significance of adjacent heritage assets, neighbouring amenity and parking/access problems. The size of the site is further restricted due to protected trees which are located along the southern and western boundaries. As such, in this case, there are considered to be circumstances which justify the proposed density of

development. It is therefore considered that the principle of redevelopment of the site for three dwellings is acceptable with regard to the proposed density of development.

#### 1.4 – Conclusion of Principle of Development

Taking the above into consideration, it is concluded that the proposals would appear in principle to be inappropriate development that would not accord with Local Planning Policy LP65 due to the site being located within a High Significance area within the Heritage Impact Assessment for Land adjacent to Burn Road, Prince Royd (Site Reference Number: H706). However, following discussions with the Council's Conservation & Design team it was concluded that the original conclusions drawn by Conservation & Design in respect of the application site, the Local Plan and HS35 allocation does state that '*No development shall take place on the field/area marked as high significance in the Councils Heritage Impact Assessment to the south of the listed buildings*'. It was understood by Conservation & Design Officers that this related to the whole area marked as high significance on the plan shown within the Farrell & Clark Heritage Impact Assessment, as the reference to 'field/area' suggests that this could extend beyond a single field immediately to the south of the Listed Buildings. Therefore, the stance was taken that in line with the Council's adopted HIA, the application site as a whole should not be developed as it would result in having substantial harm to the setting of adjacent heritage assets. However, following a further review by the Council's C&D team and wider discussions with colleagues, based upon the evidence on site and the information submitted within the application, it is concluded that any development **directly** to the south of Middle Burn Farm would cause a higher level of harm but would be considered to be less than substantial harm to its setting as per the requirements of the NPPF. Furthermore, it is considered that the areas adjacent to this, whilst still located within an identified area of 'high significance' could be assessed as having a lesser degree of harm the further away from the assets, any development is located.

In relation to the submitted plans, it is concluded that proposed development towards the west of the application site on the tennis courts (plots 1 and 2) will lead to a low level of harm and therefore could be deemed to be acceptable in this location. It is considered that the level of harm increases towards the east of the site, where the wider setting of the listed farmhouse is better understood/appreciated and where the listed asset is potentially more visible from Burn Road, and this would in Officers view be adversely impacted by the current proposed layout. If four dwellings were constructed as per the indicative layout, this would lead to cumulative harm and further erosion of the historic setting, already exacerbated by the recent construction of two dwellings to the south/east of the farmhouse. Notwithstanding this, officers note that this recent development site resulted in one less dwelling than originally approved and retention of the key views/open setting to the south of the heritage asset following more sensitive siting of the two constructed dwellings to the eastern most side of the site. Therefore, to enable development of the site and to reduce the harm to an acceptable level, it was recommended that the small parcel of land (bounded by mature hedging to the east) is retained as is and therefore

was omitted from the scheme. This resulted in the originally submitted plot 4 to be omitted from the plans altogether. By removing this section of land, it is ensured that open land to the south of the Listed Building Middle Burn Farm is retained in the interests of preserving the wider setting and views of the asset from Burn Road.

Furthermore, whilst the Council's current position is that it is in accordance with paragraph 76 of the NPPF as outline above, the development of this site (whilst small) for housing would also help contribute to the housing supply in the district, and this is welcomed.

Taking the above into account, it is considered that the proposals would be considered, on balance, to be acceptable in principle in this location and would accord with Policies LP1, LP7 and LP65 of the Kirklees Local Plan.

## **2 - Impact on Visual Amenity and Heritage Assets:**

Under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Local Planning Authorities must, in considering the impact of a development on Listed Buildings have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 66 of the Planning (Listed Building & Conservation Areas) Act (1990) is mirrored in Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.

Furthermore, Policy LP35 states that: *“development proposals affecting a designated heritage asset...should preserve or enhance the significance of the asset. In cases likely to result in substantial harm or loss, development will only be permitted where it can be demonstrated that the proposals would bring substantial public benefits that clearly outweigh the harm”*.

Paragraph 205 of the NPPF states: *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation...”*. This is further supported by paragraph 208 of the NPPF outlines that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this weight should be weighed against the public benefits of the proposal.

The NPPF does offer guidance relating to design in Chapter 12 (achieving well designed places) whereby paragraph 131 provides a principal consideration concerning design which states:

*“The creation of high-quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”*.

Paragraph 135 of the NPPF is of relevance, in particular the following parts:-

*'b) Planning policies and decisions should ensure that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.*

*c) Planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, whilst not preventing or discouraging appropriate innovation or change'.*

Kirklees Local Plan Policies LP1, LP2 and significantly LP24 all also seeks to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity.

LP24 states that proposals should promote good design by ensuring:

*"a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape..."*

Policy LP11 of the Kirklees Local Plan sets out that all proposals for housing, including those affecting the existing housing stock, will be of high quality and design and contribute to creating mixed and balanced communities.

Principle 2 of the Housebuilders Design Guide SPD stats that 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.

Firstly, looking at layout and siting of the proposed dwelling, Principle 5 of the Housebuilders Design Guide SPD states, amongst other things, that buildings should be aligned and set-back to form a coherent building line and designed to front on to the street.

Principle 6 of the Housebuilders Design Guide SPD highlights that *'the space between buildings can help maximise residential amenity in terms of maintaining privacy, reducing overlooking and ensuring natural light is able to penetrate the buildings...normally new build development should seek appropriate separation distances for servicing, accommodating future adaptations and creating attractive street scenes. These should be in keeping with the character and context of the site and proportionate to the scale of the dwellings'.*

The application is seeking outline planning permission with all matters reserved, whereby limited indicative detail has been provided. However, it is noted that the application site is located off Burn Road, which has several existing residential dwellings located along it, there are also a couple of new housing estates currently being constructed adjacent to/just off Burn Road. All of these properties vary in age, scale and design. With the majority of properties being two-storey in height, with a mix of detached, semi-detached and terraced dwellings.

In respect of principles 5 and 6 of the above SPD, the indicative plans submitted show the proposed dwellings creating their own new coherent building line, stepped back from the existing building line which fronts onto Burn Road. Whilst Plots 1 and 2 are to face away from the public highway given their utilisation of an existing shared access, Plot 3 is to be orientated to face onto Burn Road to the south and therefore is considered to accord with Principle 5 of the above SPD.

In terms of separation distances, Plots 1 and 2 would provide separation distances from the side boundaries of around 1.9m, this is considered to be sufficient in this instance. Plot 3 however, would provide a separation distance of around 1.7m along the western boundary and just 1m on the eastern boundary. Officers would recommend that within any reserved matters application, the separation distances provided for Plot 3 are slightly increased, more in line with the above Plots 1 & 2. This will help improve the space around the dwelling, to avoid overdevelopment, and will also help improve any impacts on residential amenity in terms of light and outlook.

The layout of the site, in relation to visual impact, would be assessed in more detail during the reserved matters stage but given the size/scale of the plot, it is considered that the provision of three dwellings in this location could be undertaken without the site appearing cramped or contrived.

Principle 15 of the Housebuilders Design Guide SPD sets out that the design of the roofline should relate well to the site context, including topography, views and heights of buildings and roof types. The application has not been submitted with any indicative elevation plans however, it is indicated within the submitted Planning Statement that it is anticipated that plots 1 and 2 would be two-storey 4-bed dwellings and plot 3 would be a two-storey 5-bed dwelling. The provision of two-storey dwellings in principle is considered to be acceptable and reflective of other two-storey properties within the immediate area. It is considered reasonable to attach a condition should outline permission be granted which restricts the height of the new builds to a maximum of two-storeys, this is in the interests of both residential and visual amenity. Whilst no details are provided in respect of the design of the roofs of these buildings, dwellings in this area typically benefit from a pitched roof design and therefore Officers recommend that this is referred to within any reserved matters application.

With regard to materials and fenestration detailing, Principles 13 and 14 of the Housebuilders Design Guide SPD are relevant and state:

- Principle 13 – seeks to ensure consideration is given to use locally prevalent materials and finishings to reflect the locality.
- Principle 14 – the design of windows and doors are expected to relate well to the street frontage and neighbouring properties and reflect local character in style and materials.

Details of external materials and the location, style and size of windows and doors to the new dwellings have not been provided within the submission. However, it is recommended that natural stone and slate roof tiles are used within the properties, with traditional and simple window and door arrangements provided. This is to ensure that the proposed dwellings are in keeping with, and sympathetic to adjacent neighbouring properties. Furthermore, no details on boundary treatments have been provided however, these elements should also be reflective of materials found within the vicinity and not appear overbearing or overly imposing in this prominent location. The above will all be assessed further within any future reserved matters application.

Garden/amenity areas are indicated to the front, side (Plot 1), and rear of the new dwellings. It is considered that a useable amenity space should be able to be achieved for both the new properties and host dwelling Burn House located to the north of the site.

As the application site is located adjacent to Grade II Listed Building known as 'Middle Burn Farm' (located to the north-east of the site), it is important to assess whether there would be any impacts arising from the proposals and whether the public benefits would outweigh the harm.

To the north-east of the site is the Grade II Listed Middle Burn Farm, an 18<sup>th</sup> Century farmhouse with a stone slate pitched roof and ranges of mullioned windows. Some alterations have been carried out to this building, with extensions and rendered elevations, but it is still legible as a simple vernacular rural building which makes a strong contribution to the local character. The land to the south of Middle Burn Farm was historically rural open space with clear views of the farmhouse across the fields from Burn Road. The setting has been eroded by the domestic nature of the land to the south-west, with mature garden hedges that currently obscure the farmhouse from this aspect but given their temporary nature the impact of these features should not be taken into consideration. Directly south of the farmhouse is a strip of open land which still retains views of the farmhouse, and to the east of this are two detached dwellings which have recently been constructed; as the outline consent for these pre-dated the adoption of the local plan they do not set an acceptable precedent for further development and erosion of this setting.

In terms of the impact on the setting and significance of the adjacent Listed Building 'Middle Burn Farm', initial concerns were raised by the Council's C&D Officers who noted that Middle Burn Farm is currently obscured from view to the south-west by a mature hedge, as this is of a temporary nature and could be removed either as part of a new development scheme or at any point in the future, Officers afforded this some weight in their assessment in terms of the overall value and significance of the wider farmstead setting, and also in key

views of the heritage asset. They consider that the conclusions drawn within the applicant's site-specific Heritage Impact Assessment has taken this hedge into consideration when forming their conclusion of no harm. However, if this hedge was to be removed, the two (originally) proposed units towards the east of the site would interrupt views of the heritage asset, further eroding and impacting upon the wider setting of the assets and therefore C&D Officers concluded that there would be less than substantial harm. In relation to the submitted plans, it is concluded that proposed development towards the west of the application site on the tennis courts (plots 1 and 2) will lead to a low level of harm and therefore could be deemed to be acceptable in this location. It is considered that the level of harm increases towards the east of the site, where the wider setting of the listed farmhouse is better understood/appreciated and where the listed asset is potentially more visible from Burn Road, and this would in Officers view be adversely impacted by the originally proposed layout. If four dwellings were constructed as per the initially submitted indicative layout, this would lead to cumulative harm and further erosion of the historic setting, already exacerbated by the recent construction of two dwellings to the south/east of the farmhouse. It was therefore proposed, following discussions with the Conservation & Design team and the applicant's agent that the originally submitted scheme for 4 detached dwellings would be reduced to 3, removing a portion of land to the east to help limit any impacts on the views and setting of this adjacent heritage asset, freeing up the space directly adjacent to the Listed Building. Following receipt of the amended plans C&D Officers confirmed that they were willing to support the outline application, and subject to the details submitted in a reserved matters application, including the design, scale and materials of the dwellings, development of this site could be acceptable.

In this case, having afforded weight to the removal of the portion of land to the east, and that 3 new dwellings are to be provided which will contribute towards delivery of housing, it is considered that the public benefits of this scheme would outweigh the less than substantial harm identified as being caused by the proposals.

In conclusion, it is considered that subject to the details provided within the reserved matters application, the application site may be able to accommodate three new dwellings without causing visual harm or harm to the setting and significance of adjacent heritage assets, however, for the avoidance of doubt, it is considered reasonable to include a condition should planning permission be granted to ensure that no more than 3 dwellings be provided at the site to ensure the site does not become overdeveloped or contrived. As scale, layout, appearance and landscaping are reserved matters, care would need to be taken to ensure that any future dwellings and designed sympathetically and do not appear overbearing in nature or constitute overdevelopment of the site. Appropriate landscaping should also be provided to enhance the area and to ensure that development does not detract from its character and appearance.

As such, it is considered that the development is capable of meeting with the requirements of Chapters 12 and 16 of the NPPF, as well as policies LP11, LP24 and LP35 of the Kirklees Local Plan, Section 66 of the Planning (Listed

Buildings and Conservation Areas) Act 1990 and Principles 2, 5, 6, 13, 14 and 15 of the Housebuilders Design Guide SPD subject to appropriately designed dwellings being proposed at reserved matters stage.

### **3 - Impact on Residential Amenity:**

Sections B & C of the Kirklees Local Plan Policy LP24 which states that alterations to existing buildings should:

“Maintain appropriate distances between buildings’ and ‘...minimise impact on residential amenity of future and neighbouring occupiers’.

Further to this, paragraph 135 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future occupiers.

Principle 6 of the Housebuilders Design Guide sets out 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.

#### *Impact on no. 98 Burn Road*

This neighbouring property is located to the north of the application site, approximately 23-27m away from the proposed dwellings. Given this large separation distance it is unlikely that Officers would have concerns in respect of overlooking. Furthermore, as the proposed dwellings are to be two-storeys in height and will be stepped back a sufficient distance away from no. 98 Officers have no concerns in regard to the dwellings appearing overbearing. However, should the dwellings be any more than two-storeys in height this may raise concerns at reserved matters stage, therefore it is considered reasonable to impose a condition restricting the height of the dwellings should planning permission be granted. Finally, whilst there would be some additional overshadowing towards no. 98 Burn Road, this would not be for a prolonged period of the day and would fall mainly across the existing access into the site, therefore not impacting upon any habitable room windows or useable garden/amenity spaces.

#### *Impact on no. 88 Burn Road*

This neighbouring property is located to the south of the application site, approximately 28-37m away from the proposed dwellings. Given the large separation distances and the dwellings southern location, Officers have no concerns with regards to overshadowing, overlooking or the proposals appearing overbearing in nature.

#### *Impact on no. 25 Forest Court*

This neighbouring property is located to the south of the application site, approximately 28-39m away from the proposed dwellings. Given the large separation distances and the southern location of this neighbouring property,

Officers have no concerns in respect of overshadowing or the loss of light. In addition, as no. 25 has no windows within its northern elevation, there are also no concerns with regard to overlooking. Finally, in terms of the proposals appearing overbearing in nature, given the large separation distances, lack of windows within the northern elevation of no. 25, and that the dwellings are to be two-storeys in height Officers have no concerns of the dwellings appearing dominant or overbearing on no. 25.

#### Impact on no. 27 Forest Court

This neighbouring property is located to the south-east of the application site, approximately 22-63m away from the proposed dwellings. Given the large separation distances and this properties southern location, Officers have no concerns with regards to overshadowing, overlooking or the proposals appearing overbearing in nature.

#### Amenity of future occupiers of the proposed dwellings

In terms of the amenities of the proposed occupiers, Principle 16 of the Kirklees Housebuilders Design Guide SPD states that: *“All new build dwellings should have sufficient internal floor space to meet basic lifestyle needs and provide high standards of amenity for future occupiers. Although the government has set out Nationally Described Space Standards, these are not currently adopted in the Kirklees Local Plan.”* Further to this, Principle 17 of the Kirklees Housebuilders Design Guide SPD outlines that: *“All new houses should have adequate access to private outdoor space that is functional and proportionate to the size of the dwelling and the character and context of the site. The provision of outdoor space should be considered in the context of the site layout and seek to maximise direct sunlight received in outdoor spaces.”*

It is also important to assess the future amenity of occupiers of the proposed residential development. Officers would wish to draw the applicant’s attention to the Government’s ‘Technical Space Standards’, which outlines the minimum gross internal floor areas that dwellings of different sizes should achieve. The Council would wish to see the proposals to meet or exceed these minimum floorspaces within any future reserved matters application. It is also noted that should any living accommodation be provided within the roof space of the dwelling(s) any area with a headroom which is less than 1.5m high will not be counted as useable internal floor area.

In addition, the applicant should ensure that all habitable rooms have access to at least 1 window. It is considered that dormer windows would not be appropriate in this location. Nonetheless, Officers consider that a dwelling which is compliant with the NDSS could be achieved of the site.

In terms of external amenity space, it is considered that should 3 dwellings be provided on the site (as indicated within the submitted plans), the proposed garden spaces are likely to be appropriate in scale and size and would have areas which are private. Although Officers may raise concerns in future in respect to loss of sunlight/overshadowing arising from the mature trees located

along the boundaries of the site. However, as these proposals have been made in outline, this would need to be assessed further within a reserved matters application at a later date, but it is considered that an acceptable amenity area could be devised at a later stage.

In conclusion, based on the details held, it is likely that development could be designed to retain an acceptable level of amenity to both surrounding residential properties and future occupiers, the proposal is therefore considered in principle to be capable of complying Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties, Principles 6, 7, 16 and 17 of the Housebuilders Design Guide SPD and Chapter 12 of the National Planning Policy Framework.

#### **4 - Impact on Highway Safety:**

Turning to highway safety, Local Plan Policies LP21 and LP22 of the Kirklees Local Plan are relevant and seek to ensure that proposals do not have a detrimental impact on highway safety and provide sufficient parking. Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Principle 12 of the Housebuilders Design Guide sets out, amongst other things that parking to serve dwellings should not dominate streets and should be to the side/rear. In this instance, parking spaces are shown to the front of the dwellings and within the proposed integral garages. Whilst this isn't necessarily in accordance with Principle 12, given the context of the area and that this arrangement is common within the area, the proposals are not considered to appear alien or overly dominant in this instance and therefore are deemed to be acceptable.

Principle 19 of the above guide states that provision for waste storage and recycling must be incorporated into the design of new developments in such a way that it is convenient for both collection and use whilst having minimal visual impact on the development. Bin storage areas are shown on plan to the end of the proposed driveways, Highway Officers have raised no concerns in respect of this element of the scheme and therefore this location appears to be acceptable and in accordance with Principle 19 of the above SPD.

The application seeks outline planning permission for the erection of residential development of 3 dwellings with all matters reserved on land adjacent to 98 Burn Road, Birchencliffe, Huddersfield. The application site is an area of land at the junction of Burn Road and the public byway that runs between Burn Road and Reap Hurst Road (HUD/396/40). This byway is approximately 4.5m in width without footways or street lighting and will provide access to Plot 3.

Plots 1 and 2 are shown to be accessed via the existing access point off Burn Road. The planning statement confirms that it is envisaged that the existing access drive will be widened to a minimum of 4.8m over 10m with a refuse collection point adjacent to the highway. No internal service vehicle access or

turning is shown to be provided. Plot 3 is shown to be accessed via byway (HUD/396/40) along the southern boundary. It is envisaged that each plot would have its own automatic gates which would be set back from the highway by a minimum of 4.5m with refuse collection points adjacent to the highway.

Highway Officers were consulted on the proposals and conclude that the scheme as proposed shows suitable visibility splays, with gates set back 6.0m from the public highway ensuring a safe development. The proposals also appear to provide sufficient off-street parking however, this will need to be assessed in more detail within any reserved matters application.

It is therefore concluded that subject to conditions, the scheme would not represent any additional harm in terms of highway safety and as such complies with Local Plan Policies LP21 and LP22, Chapter 9 of the National Planning Policy Framework and Principles 12 and 19 of the Housebuilders Design Guide SPD.

## **5 - Other Matters:**

### Biodiversity & Geodiversity

Paragraphs 180, 186, 187 and 188 of Chapter 15 of the National Planning Policy Framework are relevant, together with the Conservation of Habitats and Species Regulations 2017 which protect, by law, the habitat and animals of certain species including newts, bats and badgers.

Principle 9 of the Housebuilders Design Guide highlights that net biodiversity gains should be provided through good design and considered at an early stage to ensure biodiversity enhancements and habitat creation are incorporated and the function of the wildlife habitat network is safeguarded and enhanced.

Notwithstanding the above, Policy LP30 of the Kirklees Local Plan sets out that development should provide a biodiversity net gain.

The majority of the application site falls within a Bat Alert Area. The application is supported by an Ecological Impact Assessment, this assessment provides a comprehensive ecological baseline for the proposed development through desk study, field surveys and assessments. In the absence of mitigation, significance effects to trees, bats and nesting birds at site level were concluded. Standard mitigation practices can be applied to avoid all significant effects. Such mitigation is largely precautionary only and will reduce potential effects to negligible levels without any significant residual effects upon completion. Ecological enhancement measures can be secured through a planning condition using the details provided in section 9 of the submitted Ecological Impact Assessment.

The Council's Ecologist was consulted on the proposals who raises no objections to the scheme subject to a condition which will seek to ensure that the development is able to be brought forward in line with national and local planning policies pertinent to biodiversity.

Taking the above into consideration, subject to conditions, the proposals are considered to accord with LP30 of the Kirklees Local Plan, Chapter 15 of the NPPF and Principle 9 of the Housebuilders Design Guide SPD.

### Contaminated Land

With regard to land quality, paragraphs 180, 189 and 190 of the National Planning Policy Framework and policy LP53 of the Kirklees Local Plan which seeks to ensure land quality is maintained as part of new development.

The Council's Environmental Health Officers were consulted on the application, whereby they highlighted that their records indicate that the site is close to land identified as potentially contaminated due to its former use (ref: 7/9 Burn Colliery, 5/9 Burn Quarry, 58/9&62/9 former landfill sites).

An undated Planning Statement by Robert Halstead, Titled Planning Statement: Land adj. to 98 Burn Road, Birchencliffe, Huddersfield informs that a Phase I Contaminated Land Desk Study Report and Coal Mining Risk Assessment has been carried out by Abbeydale Building Environment Consultants Ltd and accompanies the application. The Phase I Contaminated Land Desk Study Report and Coal Mining Risk Assessment by Abbeydale Building Environment Consultants Ltd, ref Report: 632004DS, dated March 2023 includes a Groundsure report and a Coal Authority Consultants Coal Mining Report.

Whilst Officers recognise the submission of the Phase I report and agree with some of the findings, past coal mining and former landfill/quarries present a probable risk at the site which must be examined. Dwellings are a sensitive end use, ENVH Officers therefore disagree with conclusions of the report and recommend full contaminated land conditions. Furthermore, Officers conclude that it is unclear at this stage if imported materials will be required at the site, and therefore in order to protect the amenity of future occupiers they recommend a condition to control this matter.

### Climate Change

On 12th 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 predates 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.

Principle 18 of the Housebuilders Design Guide sets out that new proposals should contribute to the Council's ambition to have net zero carbon emissions by 2038, with high levels of environmental sustainability by ensuring the fabric and siting of homes, and their energy sources reduce their reliance on sources of non-renewable energy. Proposals should seek to design water retention into proposals.

Furthermore, Local Plan Policy LP26 refers to renewable and low carbon energy and states that:

*'renewable and low carbon energy proposals (excluding wind) will be supported and planning permission granted where the following criteria are met:*

*a. the proposal would not have an unacceptable impact on landscape character and visual appearance of the local area, including the urban environment;*

*b. the proposal would not have either individually or cumulatively an unacceptable impact on protected species, designated sites of importance for biodiversity or heritage assets;*

*c. the statutory protection of any area would not be compromised by the development;*

*d. any noise, odour, traffic or other impact of development is mitigated so as not to cause unacceptable detriment to local amenity;*

*e. any significant adverse effects of the proposal are mitigated by wider environmental, social and economic benefits'.*

A Climate Change Statement supports the application, this statement notes that the proposed dwellings would have smart energy metering, LED lighting both internally and externally, wall and roof insulation, solar panels and air source heat pumps, thermostatic valves and temperature regulated thermostats to prevent unnecessary energy consumption, and whilst the application is only in outline it is anticipated that where possible, materials will be sourced locally and will be long lasted.

Given the above, it is not considered reasonable to expect any additional information to be submitted in respect of meeting the Council's climate change agenda in this instance. The development would have its energy sources to reduce resilience on sources of non-renewable energy.

There are no other matters for consideration.

## **6 - 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.

The application has been assessed against relevant policies in the development plan and other material considerations. It is considered, on balance, the proposed development would constitute sustainable development and is therefore recommended for approval.

**Recommendation: Approve.**

Decision Authorisation - Delegated Powers

Application Number: 2023/91406

Officer Recommendation: Approve with conditions.

**Conditions & Reasons:**

1. The development hereby permitted shall be begun before the expiration of two years from the date of the last of the reserved matters to be approved.  
**Reason:** Pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. Application for approval of any reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.  
**Reason:** Pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990.
3. Development shall not commence until details of the following reserved matters have been submitted to and approved in writing by the Local Planning Authority: - Access, Scale, Layout, Appearance and Landscaping.  
**Reason:** Pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
4. The residential development hereby approved shall not exceed a maximum of three dwellings that are no more than 2 storeys in height.  
**Reason:** For the avoidance of doubt as to what is authorised by this permission to ensure that the development conforms to the approved outline planning permission as well as the impact upon residential amenity of neighbouring occupiers and visual amenity of the wider locality to accord with Policy LP24 of the Kirklees Local Plan, policies within Chapter 12 of the National Planning Policy Framework, Principles 6 and 15 of the Housebuilders Design Guide SPD.
5. Prior to the development being brought into use, the approved vehicle parking areas shall be surfaced and drained in accordance with the Communities and Local Government; and Environment Agencies

'Guidance on permeable surfacing of front gardens (parking areas)' published 13<sup>th</sup> May 2009 (ISBN 9781409804864) as amended or superseded; and thereafter retained through the lifetime of the development.

**Reason:** In the interests of highway safety and to achieve a satisfactory layout and to accord with Policies LP24 and LP28 of the Kirklees Local Plan and policies within Chapter 14 of the National Planning Policy Framework.

6. No development shall take place within the site outlined in red on the hereby approved (22135) 1\_Location Plan until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological recording. This recording must be carried out by an appropriately qualified and experienced archaeological organisation or consultant, in accordance with a written scheme of investigation which has been submitted to, and approved in writing by, the Local Planning Authority.

**Reason:** This is a pre-commencement condition to ensure that an appropriate level of archaeological investigation has been carried out at the site which has potential for prehistoric remains to be present on the site. This is in accordance with Policy LP35 of the Kirklees Local Plan and Paragraph 200 of the National Planning Policy Framework.

7. Before development commences, the sightlines of 2.4m x 43m to the Burn Road access and 2.4 x 43 west and 2.4 x 33 east to the byway HUD/396/40 accesses as shown on plan number (22135)2 titled 'Scheme as proposed' shall be cleared of all obstructions to visibility exceeding 1 m in height and these shall be retained free of any such obstruction for the lifetime of the development.

**Reason:** In the interests of highway safety and to achieve a satisfactory layout, to accord with Policy LP21 of the Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), (or any order revoking and re-enacting that order any gates or barriers for or over a vehicular access or egress shall be set back a minimum of 6m from the carriageway edge of both Burn Road and byway HUD/396/40 and shall be hung as to only open inwards. So long as such gates or barriers are in position, they shall be retained to only open inwards.

**Reason:** In the interests of highway safety and to avoid the need for vehicles to wait in the Highway. This is to accord with Policy LP21 of the Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework.

9. No development shall take place until an Ecological Design Strategy (EDS) to ensure that a biodiversity net gain has been submitted to an agreed in writing by the Local Planning Authority. It shall include the following:

- a) Purpose and conservation objectives for the proposed works.
- a) Review of site potential and constraints.
- b) Detailed design(s) and/or working method(s) to achieve stated objectives.
- c) Extent and location/area of proposed works on appropriate scale maps and plans.
- d) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- e) Persons responsible for implementing the works.
- f) Details of initial aftercare and long-term maintenance.
- g) Details for monitoring and remedial measures
- h) Details for disposal of any wastes arising from the works.
- i) A lighting design strategy for biodiversity.

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

**Reason:** This is a pre-commencement condition to ensure a scheme that provides ecological enhancement and habitat creation that provides a net biodiversity gain in line with Policy LP30 of the Kirklees Local Plan, Principle 9 of the Housebuilders Design Guide SPD and Chapter 15 of the National Planning Policy Framework.

10. No works shall take place between 1st of March and 31st of August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the site for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site and the timescale such works will take place. The written confirmation shall be submitted to the Local Planning Authority and works only undertaken upon issuing of the approval of the written confirmation by the Local Planning Authority.

**Reason:** To prevent significant ecological harm in respect of direct impacts to birds, their eggs, nests and young and to accord with policy LP30 and the requirements of Chapter 15 of the National Planning Policy Framework.

11. No development shall commence until a scheme has been submitted to, and approved in writing by, the Local Planning Authority which details intrusive site investigations and any remedial and/or measures necessary to ensure land stability have been carried out by a competent person, to adequately assess the ground conditions on the site and establish the risks posed to the development by past coal mining activity (mine entry). The submitted scheme shall include a proposed layout plan which identifies the location of any on-site mine entry (if found to be present), including appropriate zones of influence of all mine entries, and the definition of suitable 'no-build' zones. any remedial and/or measures necessary to ensure land stability shall be completed prior to the development being brought into use and retained thereafter.

**Reason:** This is a pre-commencement condition for the undertaking of remedial measures, prior to the commencement of development, which

is considered to be necessary to ensure the safety and stability of the development, in accordance with Paragraphs 189 and 190 of the National Planning Policy Framework and Policy LP53 of the Kirklees Local Plan.

12. 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 nos. 189 and 190 of the National Planning Policy Framework.

13. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition (12) groundworks (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation 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 nos. 189 and 190 of the National Planning Policy Framework

14. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition (13) further groundworks shall not commence until a Remediation Strategy by a suitably competent person 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 nos. 189 and 190 of the National Planning Policy Framework.

15. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition (14). 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 nos. 189 and 190 of the National Planning Policy Framework.

16. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Verification 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 the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Verification Report in respect of those remediation measures has been 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 nos. 189 and 190 of the National Planning Policy Framework.

17. Prior to materials being imported to the site, a strategy detailing the intended placement, the source, characterisation and the suitability of any imported material must be submitted to and approved in writing the Local Planning Authority. The testing to demonstrate suitability must then be carried out in accordance with the approved strategy. Following importation and placement of the materials as described in the approved strategy, a Verification Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time until a Verification Report has been 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 nos. 189 and 190 of the National Planning Policy Framework.

**NOTE:** All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2021. Reports must be prepared in accordance with the following guidance:

- *Land Contamination Risk Management (LCRM)*
- *BS 10175:2011+ A2:2017 Investigation of Potentially Contaminated Sites. Code of 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.*

The conditions relate to Planning Control only. Approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information. Any other necessary consent must be obtained from the appropriate authority. If the applicant commences work without discharging conditions, they will

be at risk of enforcement action and invalidating the permission if the planning condition is a pre commencement condition.

**NOTE:** Noisy construction related activities shall not take place outside the hours of:

07.30 to 18.30 hours Mondays to Fridays

08.00 to 13.00 hours, Saturdays

With no noisy activities on Sundays or Public Holidays

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:** The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer (Kirklees Street Scene: 01484 221000) regarding obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution.

**Plans and specifications schedule:-**

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
(22135) 1_Location Plan	-	A	18 <sup>th</sup> September 2023
(22135)2_Scheme as Proposed	-	B	18 <sup>th</sup> September 2023
Tree Survey – Supporting Information	230220a	-	15 <sup>th</sup> May 2023
Arboricultural Method Statement – Supporting Information	230219 MS	-	15 <sup>th</sup> May 2023
Arboricultural Impact Assessment – Supporting Information	230219 AIA	-	15 <sup>th</sup> May 2023
Planning Statement –	-	-	13 <sup>th</sup> October 2023

Supporting Information			
Heritage Statement Supporting Information –	-	-	13 <sup>th</sup> October 2023
Climate Change Statement Supporting Information –	-	-	15 <sup>th</sup> May 2023
Phase 1 Desk Study Report & Coal Mining Risk Assessment – Supporting Information	632004DS	-	24 <sup>th</sup> May 2023
Ecological Impact Assessment Report – Supporting Information	KSE 012 01	01	17 <sup>th</sup> May 2023

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 preapplication advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. Following discussions with the applicant's agent and Conservation & Design Officers it was agreed that the proposals be amended to remove 1 of the dwellings from the scheme, this is in the interests of protecting views towards the adjacent heritage asset Middle Burn Farm. Further discussions were also had in respect of the need for the archaeological condition proposed by the WYAAS. Following several conversations with the applicant's agent and Officers at WYAAS it was agreed that this condition is necessary and shall remain.

Report Dated:

23/01/2024