

In late 2021, CPRE objected to planning application number 2021/62/91302, which related to development of five “eco homes” on the same site as the current proposal. Kirklees Council refused planning permission for that development on 11 February 2022 and had previously refused planning permission for planning application number 2018/92216, relating to housing development on an immediately adjoining site.

In our view the Council’s reasons for refusal of previous planning permissions were well-founded, on both occasions. If the Council were to approve this current proposal it would show a level of inconsistency which would be extremely hard to justify and could possibly be challenged in law. We therefore strongly oppose the grant of planning permission for this latest (albeit slightly modified) application. In our view the modifications the applicant has now made are not sufficient to overcome the fundamental problems associated with housing development on this site.

Our arguments against the grant of planning permission for this latest planning application (2023/91768) are largely the same as our arguments against the previous application for this site. For consistency and completeness, we have therefore attached a copy of the full text of our previous objection as Appendix A, at the end of this document. The arguments we made then should be taken to apply to the current application. However our comments on the changes the applicant has made to the proposals are as follows:-

Green Belt. The fundamentals of planning policy remain the same, whether it is five dwellings or two. The proposal still relates to housing development on designated green belt land. It does not, constitute “infill green belt development”, despite the applicants extraordinarily brief, rather hidden and patently wrong assertion on the application form. (see previous arguments based on the definitions of infill development in the Local Plan and National Planning Policy Framework). We are not aware of any “very special circumstances” which would allow this green belt development to proceed.

Passivhaus Design. The applicant has proposed using “passivhaus” designs for the two dwellings. In the right place this type of sustainable development might be welcomed, but sustainable design is not sufficient to overcome the very clear bar on green belt development in this location. Passivhaus design may place high emphasis on sustainability, but it also offers an unacceptably harsh contrast in visual form with the Pennine vernacular style of building and the open landscape in this location. Please see our previous objections relating to “harm to the green belt”.

Drainage. The applicant has attempted to “side-step” previously identified drainage problems by taking foul drainage to septic tanks and surface water run-off to soakaways. However, we have not seen any evidence that the site and underlying geology are capable of absorbing the outflow from septic tanks and soakaways. Pennine hillsides are typically riddled with land drains and at this stage we cannot be certain that there will not be unacceptable impacts on downstream properties, on Netherley Drive and Mount Road. In our experience soakaways are not effective or acceptable on Pennine hillsides. This is a generally accepted principle of SUDS design.

Ecological and Tree Surveys. The applicant has conducted ecological and tree surveys for this current application which, as is quite common with applicant funded surveys, do not identify any issues which would prevent development of this site. However, we note that the surveys say that *“The site is situated close to South Pennine Moors SSSI and Dark Peak SSSI (and the Special Protection Areas, as well as the SSSIs). The site is considered to be well connected to surrounding protected sites. Habitats on-site are not considered to be an extension of this site (presumably meaning the SPA protected sites). However, species utilising the protected sites may make use of the site as a stepping*

stone habitat". Overall, we find the submitted survey reports to be rather surprising and in some respects contradictory. They also ignore the fact that, under the Habitats and Species Regulations an applicant "**MUST PROVE** THAT THE DEVELOPMENT WILL NOT HAVE AN ADVERSE IMPACT ON THE SPECIAL PROTECTION AREAS". It is not sufficient to merely assert that the on-site habitats are not considered to be an extension of the Special Protection Areas, especially when the applicant's ecological report says that they are "well connected". In our view the applicant and the ecological survey consultants may not have fully understood the very strict requirements of the Habitats and Species Regulations.

Appendix A

Previous CPRE Objection to application number 2021/62/91302

In our view a refusal of planning permission would be consistent with a recent refusal of planning permission for 5 dwellings on land adjacent to the currently proposed development site (application number 2018/92216). Were the Council minded to grant permission for this current development proposal, it would undoubtedly encourage other developers to bring that refused development back to the planning table, alongside other new applications for "infill" development in the immediate vicinity (especially perhaps for the remnant area between the proposed site, Netherley Farm & Shaw Farm. While this application must clearly be determined on its merits, the Council must also take in to account the wider strategic perspective and oppose any development of this hillside on principle.

Harm to the green belt

The site is designated as green belt and was confirmed as such in the recent green belt review, which provided supporting evidence for the 2019 Local Plan. If approved, this development would have a significant harmful impact on the openness of the green belt over a very wide area.

The National Planning Policy Framework (NPPF) is clear that development should not be permitted in the green belt, except in very special circumstances. We are not aware of any special circumstances related to this planning application and the developer has not formally claimed any.

We note that, in section 6 of the application form, the applicant has described the existing use of the site as "Infill Green belt site - unused field". This is an inappropriate place to raise this point, as "infill Green Belt site" is certainly NOT AN EXISTING USE. We also note that the applicant does not provide any evidence or argument to support this rather "hidden" suggestion. Nevertheless, to counter any argument on the subject, we feel it is important to state categorically that the proposals do not constitute "limited infilling" as envisaged in section 145 of the NPPF and they do not meet the requirements of Section 19.31 of the Local Plan. Section 19.31 of the Local Plan states:-

"Any application for infill development within the Green Belt will therefore be judged in the first instance on whether the settlement is a village for the purposes of Green Belt policy. If it is established that the site is within a village, the plot should be small, normally sufficient for not more than two dwellings, within an otherwise continuously built-up frontage".

In this context, the first question to ask is therefore whether the site is within a village, in terms of Kirklees Council's Green Belt policy. We argue that it is not. Marsden is named as a Tier 3 District

Centre in Policy LP13 of the Local Plan and is not “over-washed by the green belt”. Marsden is in fact a sizeable urban area, albeit surrounded by green belt and other designated areas with an even higher level of protection against inappropriate development, notably the South Pennines SPA and Peak District National Park. The proposed development site is clearly situated in the green belt, outside the long-established settlement / urban boundary of Marsden. We also note that the proposed dwellings do not form part of a continuously built-up frontage with existing adjacent properties and the proposal for seven dwellings exceeds, by a factor of 3.5, the two dwelling limit set out in the Local Plan. The proposals cannot therefore be classified as “infill green belt development”.

Clauses 144 and 145 of the NPPF say:-

144. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. “Very special circumstances” will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations”.

145. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

- a) buildings for agriculture and forestry;*
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments*
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;*
- e) limited infilling in villages;*
- f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites);.....*
- g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development; or not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.*

In our view the proposals certainly do not meet any of the “exceptional circumstances” described in clause 145 of the NPPF and the applicant has failed to provide evidence of any other exceptional circumstances which would allow this green belt development to proceed.

Due to the scope, scale and design of the development, we are also adamant that the proposals do not remotely meet the strict requirements for “Entry Level or Rural Exception Housing” set out in paragraphs 71 and 77 of the NPPF. We do not believe that any sort of “exception housing” can be justified in this location due to the nature and spatial distribution of Marsden as a settlement.

Harmful Landscape Impact

The proposed development site is at an elevation of 245 rising to about 265 metres AOD, on an open, steeply sloping, Pennine hillside. On plan, it is shown to be in a narrow “V” shaped protrusion, of mainly green belt land and urban development, into the Special Protection Areas. The site is therefore almost surrounded by the South Pennines Special Protection Area (200 metres away to the West and North), the Peak District National Park (350 metres away to the South and South-East) and their contiguous Sites of Special Scientific Interest. Consequently, the proposed development site is prominently visible from many miles away in both the SPA and the Peak District National Park. It is in an incredibly sensitive location where any significant new development would have a deeply damaging and widespread impact on the perceived openness of a much valued and nationally important green belt and protected landscape.

A key strategic objective of the adopted Local Plan is to *“Protect and enhance the characteristics of the built, natural & historic environment, and local distinctiveness which contribute to the character of Kirklees, including the South Pennine Moors, Moorland fringe and the area’s industrial heritage”*. Section 11.4 of the Local Plan also says *“The topography across much of the district, particularly towards the Pennines in the west of the district, means that **views and vistas should be given particular consideration, especially towards the Peak District National Park**”*.

The proposals for development of seven eco dwellings off Mount Road are clearly in harsh, brutal conflict with both Strategic objectives and specific Local Plan requirements. In our view this development would have a massive detrimental impact on the landscape and long-distance views into and out of the SPA, the Peak District National Park, Marsden Moor Estate, the Pennine Way and the Wessenden Valley. It would certainly be highly inappropriate to grant planning permission without calling for a full independent Landscape and Visual Impact Assessment (LVIA).

Harm to the local environment

As noted in the previous section, a key strategic objective of the adopted Local Plan is to *“Protect and enhance **the characteristics of the built, natural & historic environment, and local distinctiveness which contribute to the character of Kirklees, including the South Pennine Moors, Moorland fringe and the area’s industrial heritage**”*. This objective relates as much to the immediate surrounding area, as it does to the wider landscape.

In our view the proposed dwellings, by virtue of their mass, scale and height, would fail to respect the character of the immediate surrounding area and fail to harmonise with the surrounding built and natural environment. We particularly note that they are incompatible with the semi-detached dwellings on Netherley Drive, the stone terraced properties on Mount Road and the hillside farmsteads off Old Mount Road, many of which are listed buildings. To approve the development would therefore be in breach of Policy PLP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy

In our view the detailed layout and design of the dwellings also does not reflect the unique location of the development in National Character Area 36 (South Pennines) and little attempt has been made to incorporate even minor vernacular features into the building design. The Upper Colne Valley (West of Slaithwaite centre) is the ONLY part of Kirklees in NCA 36. As such the area has a distinctive character which MUST be preserved and enhanced. Instead, the proposed development has a “modern” style of architecture which is highly inappropriate for this location and conflicts with Section 11.4 of the Local Plan. Section 11.4 says *“Development in the Green Belt should wherever possible ensure the use of vernacular building styles and traditional materials.”*

Conflict with Habitats and Species Regulations

The site is in very close proximity to both the South Pennines SPA Phase 1 (Peak District National Park) and the South Pennines SPA Phase 2. It is therefore the applicant's responsibility to prove that there will NOT BE AN IMPACT on the Special Protection Areas; It is not up to local people or the Council to prove that there will be an impact. However, we note that the applicant has not conducted any bird surveys, ecological assessments or SPA impact assessments and has not presented any evidence to show that there will not be a negative impact on the SPA. Without that evidence it would be unlawful for the Council to grant planning permission.

Harm to the setting of listed buildings

We note that Shaw Farmhouse and Barn (**List UID:** 1221926 - immediately adjacent to the North West edge of the proposed development site) is a grade 2 listed building, as are Green Top Farmhouse and Cottage (on Old Mount Road - **List UID:** 1221743), Numbers 1 and 2 Gatehouse (on Old Mount Road **List UID:** 1274913), Bowser (on Old Mount Road **List UID:** 1221741), Clark Hill Farm (on Old Mount Road **List UID:** 1221742) and Bank Top Cottage (off Mount Road **List UID:** 1221376) All these are within 250 metres of the development site and other listed buildings are situated only a little further away. All were listed in the 1970's and 1980's, more to represent the Pennine vernacular style and scattered distribution of farmsteads & weavers' cottages than specific architectural features. Filling in the open field gaps between these listed buildings significantly affects the collective setting of these listed buildings and diminishes their historical value.

Surface water drainage problems

The plans do not show any drainage arrangements for either foul sewage or surface water run-off. Without those details of the drainage arrangements it would be inappropriate to grant either outline or full detailed planning consent. Nevertheless, our comments at this stage are:

- It should be possible to connect foul sewage to the existing public sewer in Netherley Drive, assuming that the applicant has the appropriate legal rights to lay a new adoptable sewer down the access track. The existing "drain / sewer" in the access track to the site may also offer a public sewer connection point for foul sewage, assuming that the detached properties on the eastern side of the track were built before 2011 and connect to common pipework.
- There is likely to be a significant problem with surface water run-off from the proposed site as the applicant has not provided any evidence of a viable receiving sewer or watercourse. Soakaways and / or storm attenuation tanks would not be appropriate on a steeply sloping hillside due to the serious risk of flooding the existing downstream properties in Netherley Drive. Connection of unattenuated surface water run-off to combined public sewers is not normally permitted.

Access Road problems

The applicant has indicated on his plans that new roads on the development will be constructed to adoptable standards but said little about the access track or its junction with Netherley Drive. As it stands the access track is clearly unsuitable throughout its length and does not appear to have been built to adoptable standards. It is also not clear who owns the access track and what rights the applicant has, or property purchasers will have, to improve or even use it. We acknowledge that land ownership is not a planning issue per se. However we do feel that some clarity needs to be given regarding the applicant's proposals for improving road access and in particular for improving the junction between the access track and Netherley Drive, before planning permission can be granted. The present plans are severely lacking in this respect.

Supplementary Note

We fully understand the specific planning reasons for the recent grant of planning permission for:-

- barn conversion adjacent to Netherley Cottage (Application number 2020/62/93371/W)
- infill development of one dwelling adjacent to and in the garden of Netherley Cottage.
(Application number 2019/62/94109/W)

We strongly argue that the specific arguments which applied in those two particular cases do not apply in the context of the current proposals for seven eco dwellings off Netherley Drive. They should therefore NOT be taken as a precedent in any shape or form.