

**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:	2023/62/91768/W
Site Address:	land off, Netherley Drive, Marsden, Huddersfield, HD7 6HL
Description:	Erection of 2 dwellings
Recommending Officer:	William Simcock

DECISION - REFUSE

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

Julia Steadman

AUTHORISED OFFICER

Date: 30 Jan 2024

Officer Report – 2023/91768
Land off, Netherley Drive, Marsden, Huddersfield,

Site Description

The site comprises an area of steeply sloping rough pasture situated just outside the built-up part of Marsden which lies to the south-east or lower boundary of the site. Roughly rectangular in shape, and with a south-west / north-east orientation, the site is approached by means of a metalled, but unadopted access track that passes it on its north-eastern side. From here, there is a wooden gateway giving access into the field and a small timber garage next to it, neither of which have any formal access track or hardstanding associated with them. Above the site, the track becomes a footpath only. The north-eastern and north-western (or upper) boundaries are marked by a stone boundary or retaining walls with a wire fence above. Above the site is more undeveloped land with scattered dwellings and other buildings.

Description of Proposal

The proposal is a full application for the erection of two detached dwellings. Each is to be two-storey and set near the centre of its plot. A new 4.5m width access track is to be formed leading into the site from the south-eastern corner, with a turning circle at the entrance.

External materials are to be primarily random natural stone. House type 1 is to be provided with a double garage, house type 2 with a single garage.

Each would have a substantial garden but there would also be land set aside for ecological enhancement near the upper and lower boundaries of the site, that would not form part of any new residential curtilage.

It should be noted that the plans and elevations indicate that “House Type 1” will occupy Plot 2, and “House Type 2” will be placed on Plot 1. The labelling of the plots in this way is likely to have been a clerical error, but it is considered that the submitted plans are clear enough to allow a full assessment to be made.

Relevant Planning History

2021/91302: Erection of seven detached dwellings (full application). Refused at Committee, in accordance with officer recommendation. No appeal.

Reasons for refusal:

1. Green Belt. No very special circumstances.

2. Access track substandard, it carries the route of a Public Right of Way (COL/207/40 and 60) and would not be accessible by a standard refuse collection vehicle.

3. Plots 1-3, owing to their scale and layout, would appear visually jarring when seen in a rural context and close to the small vernacular dwellings, 1-4 Manor House Farm. The development as a whole would negatively affect local landscape character and views towards the Peak District National Park.

3. House types 1 & 2 are substandard in internal floor space.

5. The presence of trees adjacent to the south-western and north-western boundaries of the site, which are large enough to provide public amenity and enhance the setting of the area, has not been acknowledged on the submitted plans, nor has an Arboricultural Report or Impact Assessment been submitted.

6. The site is within land designated as Wildlife Habitat Network within the Local Plan and the development proposal is not supported by a baseline ecological survey or impact assessment.

Representations

Final publicity date expires: 25-Dec-2023 (publicity by site notice and press advertisement in addition to neighbour letter since the proposed would affect a Public Right of Way as well as being a departure from the Development Plan).

29 representations made of which 28 are opposed to the development.

- Green belt
- Trees
- Public right of way
- Inadequate access, including for construction traffic and subsequent emergency vehicles
- Traffic and parking
- Wildlife
- Light pollution
- Drainage (including concern about use of septic tanks)
- How will they gain access to power network without unsightly overhead cables?
- Offers an unacceptably harsh contrast in visual form with the Pennine vernacular style of building
- Negative impact on the nearby listed buildings

One in favour / comment (ref 1019474)

- This bare and barren field with few shrubs or vegetation is surrounded by residential properties on all four sides;
- Vehicle access to the field is possible as there is currently a garage with a car inside. there is additional vehicle access above the proposed access route which allows a full sized refuse vehicle to service these properties. A fire engine (or similar) would be able to use this access.
- There has been no livestock in the field for many years.
- There has been property development at the top/right of the field and further development ongoing in the surrounding area;
- The addition of two new residential properties would brighten up the area including landscaped gardens which will provide wildlife habitats.
- The current footpath 'goes through' the middle of a property on Mount Road as the plans have not been amended following a compulsory purchase order from the then owner. This provides an opportunity to resolve the mapping of the public footpath which is currently incorrect.
- As the contactor who disconnected the water supply to the properties in the field, I can assure you that there is no well in the field; it is a natural surface spring which constantly flows and drains naturally into the ground; this is the reason for some of the properties below the field having wetter than expected gardens. This would be addressed if the proposed planning applications were to go ahead via mains and field drainage, helping to resolve the issue.

Consultation Responses

Statutory:

- Natural England – Refer the Local Planning Authority to standing advice. Do not raise any specific concerns.

Non-statutory:

- KC Highways Development Management – Object.
- KC Public Rights of Way – Did not respond in the time available.
- KC Arboricultural Officer – Object.
- KC Ecology – Object.
- KC Landscape – Did not respond in the time available.

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 27th February 2019).

The site is within land designated as Green Belt, Strategic Green Infrastructure Network, and Wildlife Habitat Network on the Local Plan proposals map. There is also a Public Right of Way within the red line boundary.

Kirklees Local Plan:

- **LP 7:** Efficient and effective use of land and buildings
- **LP 20:** Sustainable travel
- **LP 21:** Highways and access
- **LP 22:** Parking
- **LP 24:** Design
- **LP 28:** Drainage
- **LP 30:** Biodiversity and geodiversity
- **LP 33:** Trees
- **LP 35:** Historic environment
- **LP 52:** Protection and improvement of environmental quality
- **LP 53:** Contaminated and unstable land

Supplementary Planning Documents:

- KC Highways Design Guide 2019
- KC House Extensions and Alterations SPD 2021.(SPD)

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 5th September 2023, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

- Section 12 – Achieving well-designed places.
- Section 13 – Protecting Green Belt land.
- Section 14 – Planning for climate change, flood risk and coastal change.
- Section 15 – Conserving and enhancing the natural environment.
- Section 16 – Conserving and enhancing the historic environment.

Assessment

The following matters are considered in the assessment below –

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

1 – Principle of development:

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. National planning policy requires local planning authorities to demonstrate five years supply of deliverable housing sites against their housing requirement.

The 2023 update of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land. Paragraph 76 of the NPPF states that 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.

At this time, both criteria are met (the Local Plan will be five years old on 27th February this year). Furthermore, even where a development plan is out of date, the presumption in favour of sustainable development does not apply where the application of policies in this Framework that protect areas or assets of particular importance (paragraph 11(d)(i), footnote 7) provides a clear reason for refusing the development proposed. This includes Green Belt land. The Council's inability to demonstrate a five-year housing land supply is therefore not a material consideration in this instance.

The site is within the Green Belt on the Kirklees Local Plan Proposals Map. As such the proposal will be assessed having regard to NPPF chapter 13. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The erection of new buildings within the Green Belt forms inappropriate development unless it falls within one of the exceptions set out in paragraphs 154 and 155 and these will be considered as part of the Green Belt assessment. Chapter 13, paragraph 153,

states that local planning authorities should ensure that very substantial weight is given to any harm to the Green Belt, especially to its openness.

The other LP policies listed above, covering design, amenity, highway and environmental issues, will be considered in this assessment.

2 – Appropriateness within Green Belt:

The development of new build housing is classed as an inappropriate form of development in principle unless it consists of “limited infilling within villages” (154e) or the redevelopment of previously developed land (154g). The land is greenfield, not previously developed, so 154(g) does not apply.

In terms of “limiting infilling within villages”, the Local Plan does not have a specific policy on infill development but paragraph 19.31 of the Local Plan highlights that limited infilling can be permitted under national planning guidance and states: “If it is established that the site is within a village the plot should be small, normally sufficient for not more than two dwellings and within an otherwise continuously built-up frontage.”

The starting point however is to consider whether the site itself is “in a village”. It was established in assessing the previous application that the site is not “in a village” and therefore cannot legitimately qualify as infill development. For the sake of completeness, the analysis that led to this conclusion will be repeated here.

As a general principle, where a village is inset within the Green Belt, the Green Belt boundary will be treated as the edge of the village. Following this principle, if the site is on the edge of an inset village but on land designated as Green Belt, as is the case here, it is outside the village, and therefore cannot qualify as infill development. Appeal decisions (such as the Coppull Moor Lane Nurseries case, 2016), have however held that any boundary as it appears on the proposals map is not necessarily decisive, and that the decision maker must take a balanced view based on the pattern of development on the ground.

In the assessment of the previous application, officers determined that the rear plot boundaries to the existing development on the north-western side of Netherley Drive form a clear-cut visual boundary to the village of Marsden as well as being the Green Belt boundary on the proposals map and that the undeveloped application site itself forms a clear visual break and separation between the densely built-up 15-59 Netherley Drive and the older, informal development higher up the hillside.

It is therefore concluded that the site does not fall within the village of Marsden. Even if the site were to be accepted as “within a village” the proposal could not reasonably be described as infill because it does not constitute a small gap in an otherwise built-up frontage, nor is it largely surrounded by development. There is further open land to the south-west, and

again, the development above the site to the north-west is fragmented and not continuous. There have not been any changes in planning legislation or guidance since the time of the previous application that would justify a contrary view.

The development therefore represents inappropriate development within the Green Belt and should not be approved unless very special circumstances are demonstrated. Paragraph 152 states that “‘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.”

The applicant has not submitted a supporting statement that explicitly sets out a case for “very special circumstances”.

The high environmental performance of the dwellings (which, according to the Climate Change Statement would surpass Passivhaus standards) is a positive point. But whilst the development of homes with zero (or negative) net carbon emissions is to be strongly encouraged, this factor alone, it is considered, is not sufficient to outweigh the harm to the openness of the Green Belt and the undermining of the aims of Green Belt policy that this would represent.

In term of Green Belt impact, it is noted that the quantum of development, and the aggregate footprint of the new build, has been reduced relative to the 2021 scheme. It is still considered that the proposal would adversely impact on the openness of the site with the proposed built form both physically reducing openness and having a detrimental visual impact. Furthermore, the proposal would lead to an encroachment into open countryside one of the five purposes of including land within the Green Belt. The proposed detached dwellings would represent a less intensive form of development than that proposed in the 2021 application, in that the cumulative footprint of built development would be smaller, and because some of the land located within the site close to the north-western and south-eastern boundaries would be reserved as semi-natural land which is to be improved by tree and shrub planting. However, the erection of two new dwellings and the creation of two large residential gardens, in addition to the access works, would still have a very pronounced impact upon the openness of the Green Belt.

There are no very special circumstances that clearly outweigh the harm the development would cause to the Green Belt by reason of inappropriateness or other harm. The new proposal has therefore not overcome the first reason for refusal of the 2021 application. The development is therefore contrary to Policies set out in Chapter 13 of the NPPF.

3 –Impact on visual amenity:

General design considerations are set out in Policies LP7 and LP24 of the Local Plan and Chapter 12 of the NPPF, which seek to secure good design in all developments by ensuring that they respect and enhance the character of

the townscape and protect amenity and make an efficient use of the available land. The House Builders Design Guide SPD also sets out a number of design principles which should be considered to achieve good design.

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”.

Paragraph 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 applicant has provided three-dimensional drawings (topographic models) to show how the proposed development would appear. These do not give consideration to how views into the Peak Park would be affected, and in the absence of evidence to the contrary, officers' assessment is that this impact would be negative. Moreover, it is considered that the topographic models fail to demonstrate that the development would have anything other than a negative impact on the landscape and visual amenity. Despite the reduced density of development, it is considered that it would be just as visually jarring as the refused, seven-unit scheme. The large gardens would accentuate the suburban appearance of the development. The built form, density, layout and detailed design of the two new dwellings would not relate well either to the two-storey flats to the south-east, or the more informal, vernacular development to the north-west, higher up the hillside. It would furthermore be seen in the context of largely open, undeveloped land to the north-east and south-west, to which it would provide a very striking contrast.

The built form, proportions and design details of the proposed dwellings would bear little relation to the local vernacular. Particularly notable are the use of green oak and glazing, the window proportions (some of which are either exceptionally tall and narrow, or nearly square) and the overhanging first-floor lounge with a void below. The Housebuilders' Design Guide expresses qualified support for the use of “innovative designs”, paragraph 8.3 stating that “Contemporary and innovative approaches will be welcomed where they are of high quality and complement the existing context.” It is considered that the design is of high quality but does not complement the existing context, for the reasons set out above.

There is a Listed Building 25m west of the site, but it is considered that as the development would be to the side of it rather than directly facing, its setting would not be adversely affected.

In conclusion it is considered that the new application does not overcome the third reason for refusal of the 2021 application. The overall impact on landscape, local visual character, and views towards the Peak Park, would be detrimental, and therefore not in accordance with the above Policies including

policy LP24(a) of the KLP, and Principles 1-3 of the Housebuilder Design Guide.

4 – Impact on residential amenity:

The House Builders Design Guide SPD sets out a number of design principles which will need to be considered when assessing a proposals impact on residential amenity. These are:

Principle 6 – Residential layouts must ensure privacy and avoid negative impacts on light, having regard to the following standards:

- 21 metres between facing windows of habitable rooms at the backs of dwellings;
- 12 metres between windows of habitable rooms that face onto windows of a non-habitable room;
- 10.5 metres between a habitable room window and the boundary of adjacent undeveloped land; and
- for a new dwelling located in a regular street pattern that is two storeys or above, there should normally be a minimum of a 2 metres distance from the side wall of the new dwelling to a shared boundary.

Principle 16 – all new dwellings to have sufficient floor space to meet basic lifestyle needs, having regard to the Nationally Described Space Standards. The Council recognises the nationally described space standards as best practice to ensure that new homes are able to meet basic lifestyle needs and provide high standards of amenity for future occupiers.

Principle 17 – All new houses should have adequate access to private outdoor amenity space that is functional and proportionate to the size of the dwelling and the character and context of the site.

The proposed dwellings, it is considered, would each be positioned in such a way as to receive adequate natural light and enjoy a good outlook. A generous amount of private amenity space would be provided. Internal floorspace would comply with the Nationally Described Space Standards.

The siting in relation to existing dwellings would be such that they would not give rise to an overbearing impact or result in a loss of privacy.

In conclusion, the scheme is considered to accord with the aims of LP24(b) and (c) and the applicable parts of the Housebuilders' Design Guide SPD.

5 – Impact on highway safety:

Access is proposed off Netherley Drive via private driveway which currently serves four existing dwellings. This proposal would increase the number of dwellings being served by the private drive to six.

There is an existing Public Right of Way (PROW no 207) running along its length and connects to Old Mount Road.

In line with the Councils Supplementary Planning Document (SPD) – Highway Design Guide, roads serving more than 5 dwellings should normally be built or upgraded to adoptable standards.

The site is served by a narrow and steeply sloping track that in its present condition is unsuitable for the development proposed, and the applicant has not demonstrated that it will be possible to improve this to meet adoptable standards. There has been no acknowledgement of the PROW which follows the line of the existing track, and which the new development would share for a distance of about 60m before joining the adopted highway. The narrowness of the track would make it impossible for two vehicles to pass, which would mean that if two vehicles met each other on the track, one might have to reverse a considerable distance. The steep gradient of the track would also give rise to an increased risk of drivers losing control of their vehicles in icy or snowy conditions. The fact that the track would be shared with PROW users, and the scheme contains no proposals to protect their safety, would give rise to an increased risk of conflicts between motorists and walkers, and consequent accidents.

The site plan does not explicitly acknowledge the presence of PROW COL/207/50 crossing the site. The plan appears to show a pathway extending from the end of the driveway to the western corner of the site which roughly corresponds to the line of the footpath. It is clear that a Diversion Order would also have to be obtained for the changes to the line of the footpath, including for the re-routing of part of the footpath along the shared driveway. The incorporation of satisfactory provision for PROW users would, it is expected, not prove to be an insurmountable problem, and further details could be sought if officers were generally supportive of the scheme.

A turning circle is shown within the site which is adequate for a standard car. It would not be sufficient for a standard refuse collection vehicle. It is unclear how refuse disposal would be undertaken, but it is probable that collection would have to be from the end of the track, where it meets Netherley Drive, or on Netherley Drive itself. This would be highly inconvenient for future occupants and would result in either a temporary obstruction to the public footway, or a temporary narrowing of the access track, on collection days.

The impact of the development on the use of the highway would be less severe than in the previous proposal because the number of units, and resultant vehicular trips, would be less. It is considered however that the track is inherently unsuitable to serve even a two-unit development. The submitted

plans and documents do not demonstrate that the second reason for the refusal of the 2021 has been, or can be, overcome.

In conclusion, it would fail to provide safe or satisfactory access to the site and would materially increase risks to other highway users, including users of the adjoining PROW, contrary to the aims of policies LP20, LP21(a, b, e & f) of the Kirklees LP and Principles 11 and 19 of the Housebuilders' Design Guide SPD.

6 – Other matters:

Drainage:

The application form states that surface water drainage is to be by means of a sustainable urban drainage system or soakaway. In principle the use of methods other than mains drainage are to be encouraged, but the requirement to show compliance with the drainage hierarchy principle is generally not treated as mandatory for small minor developments.

Disposal of foul sewage is to be by septic tank. Further details of this would be required if officers were minded to approve, in order to safeguard amenity and the natural environment.

Land contamination:

The site has been identified as potentially contaminated owing to its proximity to a former landfill site, meaning that a Phase 1 preliminary risk assessment is necessary to ensure it can be developed safely. It is considered that in this instance the level of risk is such that it could be dealt with by a set of pre-commencement conditions if officers were otherwise minded to approve, and would thereby comply with the aims of LP53.

Biodiversity:

The site is designated as part of the Kirklees Wildlife Habitat Network. It also forms part of the Twite buffer zone and is unusually sensitive since it is located within 200m of the South Pennine Moors SSSI (placing it within the Impact Risk Zone, or IRZ), Special Area of Conservation and Special Protection Area.

A preliminary ecological survey has been submitted. The report was completed in July 2022. Given the sensitive nature of the site, in line with CIEEM guidance (2019) the submitted report is considered to be both invalid and inadequate in scope. The report lacks the required level of information to determine the value of the site for ecological receptors and potential impacts arising as a result of the proposed development, on designated sites.

The conclusions within the report are not considered sufficient enough to determine if the proposed development will result in impacts to these nationally and internationally designated sites. The comments within the report state that the species utilising the protected site may make use of the site as a stepping stone habitat, but then goes on to state that there will be no

impact. Clarification regarding whether the site is functionally linked to the South Pennine Moors SSSI, SAC, SPA should be provided, in order for the LPA to undertake a stage 1 (screening) Habitat Regulations Assessment (HRA).

In conclusion, the submitted report fails to demonstrate LP30 (ii) which requires development to “minimise impact on biodiversity and provide net biodiversity gains through good design”.

To grant permission, without further detailed survey work being undertaken, would therefore not be accordance with Policy LP30 of the Local Plan and Principle 9 of the SPD.

Trees:

There are no significant trees within the boundaries of the site. Adjacent, there is one mature tree close to the north-western boundary and a group of trees on the south-western boundary. The latter group of trees are not at present covered by a Tree Preservation Order but are large enough to provide public amenity and enhance the setting of the area. They are close enough to the boundaries to be influenced directly by any development of the site and should be considered in designing the layout, as required by Policy LP33 of the Local Plan. The Arboricultural Officer has confirmed that if the development were to be granted permission, it would be expedient to serve a Tree Preservation Order.

A tree survey and Arboricultural Impact Assessment (AIA) have been submitted. The AIA however, is considered inadequate, in particular, in its assessment of the proposed ground level changes to facilitate plot 2 and the surrounding land that could encroach into the Root Protection Areas (RPA)s of the neighbouring trees.

A realistic assessment of the probable impact of any proposed development on the trees (and vice versa) should take into account the characteristics and condition of the trees, with due allowance and space for their future growth and maintenance requirements.

The position and orientation to the woodland/group of trees along the southern boundary of the site could be perceived as having a negative impact on Plot 2 once occupied (owing to shading, seasonal debris, or fears that their size and proximity would lead to structural issues or damage in the event of failure), which will lead to pressure from residents to prune or selectively remove trees. If a Tree Preservation Order were to be served, the Council’s consent would be required before carrying out such works, but in deciding whether to grant or withhold permission, the Council would have to take into account the presence of the proposed dwelling and the ongoing implications of the trees for its occupants.

It is therefore considered that to grant permission would conflict with the aims of Policy LP33, which states that the Council will not grant planning permission for developments that directly or indirectly threaten trees or

woodlands of significant amenity, and Principle 7 of the Housebuilders' Design Guide SPD.

Climate Change:

When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda. The submitted Climate Change Statement contains the following proposals:

- The new dwellings will surpass "Passivhaus" standards.
- The principle of structure of the properties will be constructed off site (factory built) using a high performance SIPS panel.
- Natural stone facing materials to be reclaimed or sourced locally.
- Use of concrete is limited, substituted by steel and the sips panels system for ground floor slabs, etc.
- The superstructure sips panel is a high performance MGO SIPS panel system (Floor, walls & roof) offering insulation values higher than the minimum stated in Part L.
- A minimum 65% of heat and electricity consumption will be self-generated.

The development would be supportive of the Council's Net Zero target and the aims set out in LP24(d) NPPF Chapter 14. This, it is considered, does not provide sufficient justification for approving a scheme that is contrary to Green Belt policy.

7 – Representations:

Many of the concerns raised in letters of representation, including those relating to the principle of building on Green Belt land and to highway safety, have been examined above, but are highlighted here with other issues raised and officer responses.

- i. Green belt
- ii. Trees
- iii. Public right of way
- iv. Inadequate access, including for construction traffic and subsequent emergency vehicles
- v. Traffic and parking
- vi. Wildlife

Response: Points (i) to (vi) are considered to be matters of substantial concern which the application has not resolved satisfactorily.

- vii. Light pollution
Response: It is considered unlikely that it would be possible to substantiate a refusal on this factor alone, but officers would be justified in seeking further information on outdoor lighting (if any) and in seeking to control it by condition in the event of an approval.
- viii. Drainage (including concern about use of septic tanks)
Response: The impact of a development upon existing land drainage is generally held to be a private civil matter, at least in the case of minor residential development. Details of non-mains drainage arrangements would need to be clarified, or sought by condition, if officers were minded to approve.
- ix. How will they gain access to power network without unsightly overhead cables?
Response: Access to utilities is not usually treated as a material consideration for minor developments (except for very isolated sites where practical difficulties are likely to occur).
- x. Offers an unacceptably harsh contrast in visual form with the Pennine vernacular style of building
Response: It is considered that the appearance of the development would be visually jarring in this context, and not solely owing to design details.
- xi. Negative impact on the nearby listed buildings
Response: It is considered that no Listed Building is near enough to be affected.

Comments in support:

- This bare and barren field with few shrubs or vegetation is surrounded by residential properties on all four sides;
Response: It is not accepted that the site gives the impression of being surrounded by development.
- Vehicle access to the field is possible as there is currently a garage with a car inside. There is additional vehicle access above the proposed access route which allows a full sized refuse vehicle to service these properties. A fire engine (or similar) would be able to use this access.
Response: The above has not been demonstrated to officers' satisfaction.
- There has been no livestock in the field for many years.
Response: This is not a material consideration.
- There has been property development at the top/right of the field and further

development ongoing in the surrounding area;

Response: No details have been provided. However, each case has to be judged on its own merits and in this instance there are clear reasons for refusal based on Green Belt policy.

- The addition of two new residential properties would brighten up the area including landscaped gardens which will provide wildlife habitats.
Response: It is not accepted that the development would improve the visual amenity of the area. Biodiversity net gain, where demonstrated, is not considered to outweigh harm to the Green Belt.
- The current footpath 'goes through' the middle of a property on Mount Road as the plans have not been amended following a compulsory purchase order from the then owner. This provides an opportunity to resolve the mapping of the public footpath which is currently incorrect.
Response: If officers were otherwise minded to approve, further details of public footpath provision could be incorporated into the plans.
- As the contactor who disconnected the water supply to the properties in the field, I can assure you that there is no well in the field; it is a natural surface spring which constantly flows and drains naturally into the ground; this is the reason for some of the properties below the field having wetter than expected gardens. This would be addressed if the proposed planning applications were to go ahead via mains and field drainage, helping to resolve the issue.
Response: The site is not known to be at risk from flooding. Impact of development upon water drainage on to neighbouring land is in general treated as a private civil matter, but suitable arrangements could be incorporated into the development if approval were granted.

8 – 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 adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration, and in particular would conflict with the site's status as part of the designated Green Belt, within which it is intended that development be tightly restricted.

Recommendation

Refuse permission

Decision Authorisation - Delegated Powers

Application Number: 2023/91768

Officer Recommendation: Refuse

Reason for refusal

1. The site is within land designated as Green Belt within the Kirklees Local Plan proposals map. The development of the site for new housing would be inappropriate in principle under paragraphs 154-155 of the National Planning Policy Framework (NPPF) and would cause harm to the Green Belt by extending built development into open land, thereby undermining the aims of the Green Belt as set out in paragraphs 142-143 of the NPPF. Very special circumstances showing that the harm to the Green Belt would in this instance be clearly outweighed by other considerations have not been demonstrated, as required by paragraph 152-153 of the National Planning Policy Framework.
2. The access track serving the site is severely substandard owing to its width and gradient, it carries the route of a Public Right of Way (COL/207/40 and 60) and would not be accessible by a standard refuse collection vehicle. It is considered that the development would fail to provide safe or satisfactory access to the site and would materially increase risks to other highway users, including users of the public footpath, contrary to the aims of Policies LP20 and LP21(a, b, e & f) of the Kirklees Local Plan, Principles 11 and 19 of the Housebuilders' Design Guide SPD, and Design Principles set out the Highways Design Guide SPD.
3. The proposed development, by introducing housing into an open and rural setting, would negatively affect local landscape character and views towards the Peak District National Park, contrary to the strategic objectives and Policy LP24(a) of the Kirklees Local Plan, Design Principles of the House Builders Design Guide SPD and Chapter 12 of the National Planning Policy Framework.
4. The trees adjacent to the south-western boundary of the site are considered to make a significantly positive contribution to the amenity of the area. The submitted plans, Arboricultural Report, Impact Assessment and Method Statement fail to demonstrate that the development would involve no groundworks within the root protection area of any these trees. Furthermore they fail to give consideration to possible conflict between the future retention of these trees and residential amenity, since they could be perceived as having a negative impact on Plot 2, which has its bedroom windows facing towards this boundary, owing to shading, seasonal debris, or fears that their size and proximity would lead to structural issues or damage in the event of failure, leading to pressure from residents to prune or selectively remove trees. It has therefore not been demonstrated that the development would ensure the retention of valuable trees and their continued viability, contrary to

the aims of Policy LP33 of the Kirklees Local Plan and Principle 7 of the Housebuilders' Design Guide SPD.

5. The site is designated as part of the Kirklees Wildlife Habitat Network and is located within the Impact Risk Zone of the South Pennine Moors SSSI and in close proximity to the South Pennine Moors Special Area of Conservation and Special Protection Area. The preliminary ecological survey report lacks the required level of information to determine the value of the site for ecological receptors and potential impacts on designated sites arising from of the proposed development. It has therefore not been demonstrated that the development would avoid negative impacts on biodiversity or could deliver a biodiversity net gain. To grant permission would therefore be contrary to Policy LP30 of the Local Plan and Principle 9 of the Housebuilders' Design Guide SPD.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Application form			08-Aug-2023
Site and location plan	A.01.01	C	20-Sep-2023
Proposed block plan	A.01.02	A	20-Sep-2023
Proposed site layout	A.01.03	A	20-Sep-2023
Landscaping plan	A.01.08	A	
House type 1 plans and elevations	A.01.08		19-Jul-2023
House type 1 plans and elevations	A.01.09		19-Jul-2023
House type 2 plans and elevations	A.01.10		21-Jul-2023
Topographic models (sheets 1-3)	A.01.09-11		31-Oct-2023
Climate Change Statement			19-Jul-2023
Tree survey, arboricultural method statement and impact assessment	22_5837_06_13		19-Jul-2023
Preliminary Ecological Appraisal Report	22_PEA_BNG_06_14		19-Jul-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 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 applicant was not approached regarding amendments to the scheme since it was considered unacceptable in principle and the reasons for refusal would not have been overcome by design

changes. For the reason set out in the reason for refusal the development would not improve the environmental conditions of the area.

Report Dated:

29-Jan-2024