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:	**2023/60/92215/E**
Site Address:	land off, Woodside Lane, Fixby, Huddersfield, HD2 2HA
Description:	Outline application for erection of residential development
Recommending Officer:	Tom Hunt

DECISION – REFUSE OUTLINE PLANNING PERMISSION

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.

Teresa Harlow

AUTHORISED OFFICER

Date: 31-May-2024

Officer Report

Site Description

2023/92215 – land off, Woodside Lane, Fixby, Huddersfield, HD2 2HA

The 904sqm site is within the residential suburb of Fixby, surrounded by large detached two and one storey dwellinghouses to its northwest, southeast and to the southwest. The dwellings are generously proportioned buildings of significant width within spacious plots; few have relatively small property gaps to boundaries however this is balanced by the spacious plots providing a sense of openness with attractive mature trees. Neighbouring properties have a strong building line as demonstrated by their width and similarly consistent set back from the highway with the southeast neighbours set back further than the northwest neighbours.

The plot is shown to be part of the residential curtilage of No. 25 from Historic maps in 1965 and appears as an attractive landscape feature within the leafy lane as demonstrated by its trees to the front and within. It is of a narrowly rectangular footprint at 10.5m width x 47.8m depth.

To its north/northeast boundary, is Urban Green Space designated land Upper Fell Greave Wood & Church of St Francis, Fixby which is Ancient Woodland and a strip of land to the northeast boundary is overlapped by a Wildlife Habitat Network and Strategic Green Infrastructure Network.

The northern part of the site is dominated by mature tree coverage in the immediate vicinity. Access to the northeast is via Woodside Lane, which is unadopted and is a Public Right of Way serving as a bridleway (HUD/26/10), and connected to the busily trafficked Bradford Road designated A641. To the western boundary a footpath which links Woodside Lane to The Dell. The site itself is within a 250m buffer zone for a Historic Landfill Site (Brackenhall Dam).

Description of Proposal

Outline application for erection of residential development

All figures are approximate and in metres. The application has Access, Appearance and Scale as relevant matters to be considered.

The proposal is supported by a Location Plan, Proposed Site, Block, Elevation, Streetscene Elevation and Floor Plans, a Design and Access Statement, Preliminary Ecological Appraisal, Phase 1 Desktop Study by Geoenviro Solutions ltd and a Climate Change Statement.

The proposal is for a bungalow mainly set back 17.6m from the highway. The indicative layout shows it to be positioned on the southwest flank boundary and have a separation distance of 2.7m from the northeast flank boundary. There would be a 14.5m separation distance to the rear garden boundary.

The scale of the main body of the bungalow would be 12.1m depth x 9.5m width. It would have a hipped roof with an overall height of 4.7m and 2.5m eaves height from ground level. Its front entrance would appear with a small, hipped roof canopy. The main body would have a single-storey flat roof projection extending 3.3m from the rear with 5.1m width to match the eaves height of the building positioned to the southwest flank boundary. This would have a property with an overall depth of 15.6m closely matching the overall depth of no. 3 when taken with its large main body and its various extensions.

Proposed materials (taken from the Design and Access Statement) indicate that this would be natural stone with slate or tiled roof.

Access arrangements would have there be two parking spaces to the front with a turning potential (demonstrated by a swept path analysis) within a hardsurfaced area. Around the property, a small landscaped section is presented to the front with permeable paving extending to the rear, and a lawned area would serve as the proposed rear garden.

History of negotiations/amendments received.

The case officer considered the application on review and notified that the original proposal would be unlikely to be supported. A modified proposal was received following Officer reiteration of the pre application advice. Further submission included an updated PEA assessment with correct plans for the Ecology Officer to review for their response. The proposal was assessed on the resubmitted plans and determined as such.

Relevant Planning History

2021/21252 25, The Dell, Fixby, Huddersfield, HD2 2FD
Pre application advice for erection of bungalow.
Advice given.

Officer note: This included advice to supply a tree survey to adequately assess impacts to protected trees and ancient woodland amongst other considerations.

2000/93404 Outline application for erection of 1 detached dormer bungalow. *Refused on 28/12/2000.*
Appealed under Appeal Ref; APP/Z4718/A/01/1060350.
Appeal Dismissed on 01/06/2001.

Officer note: The application was refused on highway safety, residential and visual amenity grounds.

90/02734 Outline application for erection of detached dwelling.
Refused.

Representations

We are currently undertaking statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. As such, we have publicised this application via neighbour notification letters and site notice which had a final expiry date of 06/10/2023.

Two representations have been received; a summary of the comments received is set out below:

Comment:

- Page 10 of the application states two properties are being built within the plot not one.

Officer note: This appears to be an input error in the form; the application relates to one dwellinghouse with 2 bedrooms not two dwellinghouses.

Objection:

- Plot is extremely narrow, difficult to construct a dwellinghouse without compromising boundaries; property gap to boundary would not be representative of local development
- This would appear overcrowded/overdevelopment
- Dwellinghouse (original proposal) would overshadow
- Loss of privacy
- Artificial light would cause a nuisance
- Biodiversity would be harmed including damage to beech hedging through loss of habitat and harm to protected species
- Trees Preservation Orders will be affected
- Vehicles would not be able to turn in and out of the site safely within the narrow plot affecting highway safety
- The refusal for planning application 90/02734 was quoted to illustrate that the site itself was considered fundamentally constrained:
    - *'The application site, because of its size and shape would be incapable of accepting and form of residential development ,of a comparable size to that which surrounds the plot without causing undue detriment to the surrounding amenity'*

Amended plans were received however they were not readvertised as they did not change the description of development and did not materially have a detrimental impact on planning considerations.

Consultation Responses

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

- Highways Development Management – No Objections. Discussed further in the Highway Safety section of the report.
- Trees – Discussed in the Planning History and Biodiversity and Trees sections of the report under Other Matters.

- Ecology – Objection. Discussed in the Biodiversity and Trees section of the report.
- Environmental Health – Confirmed that they had no objections or concerns subject to inclusion of a condition and an informative note relating to unexpected land contamination.
- Public Right of Way – No Objections.

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 unallocated within the Kirklees Local Plan. The site is within an area at low risk of ground movement due to former mining activity as identified by the Coal Authority. The site does fall within an area which may contain contaminated land and is in flood zone 1. The site is within a bat alert layer and bordering Kirklees Wildlife Habitat Network and ancient woodland.

Kirklees Local Plan (LP):

- **LP 1 – Presumption in favour of sustainable development**
- **LP 2 – Place shaping**
- **LP 3 – Location of new development**
- **LP 7 – Efficient and effective use of land and buildings**
- **LP 21 – Highways and access**
- **LP 22 – Parking**
- **LP 24 – Design**
- **LP 28 – Drainage**
- **LP 30 – Biodiversity & Geodiversity**
- **LP 31 – Strategic Green Infrastructure Network**
- **LP 32 – Landscape**
- **LP 33 – Trees**
- **LP 34 – Conserving and enhancing the water environment**
- **LP 51 – Protection and improvement of local air quality**
- **LP 52 – Protection and improvement of environmental quality**
- **LP 53 – Contaminated and unstable land**

Supplementary Planning Guidance and other considerations

- Highways Design Guide SPD
- Housebuilders Design Guide SPD (2021)
- Nationally Described Space Standards
- Waste Management Design Guide for New Developments (Oct 2020, v.5)
- Biodiversity Net Gain in Kirklees Technical Advice Note (2021)
- Kirklees Climate Change Guidance for Planning Applications (2021)

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th December 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.

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed and beautiful places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

Assessment

The following matters are considered in the assessment below –

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

1 – Principle of development:

1.1 Sustainable Development

Policy LP1 of the Local Plan states that when considering development proposals, the council will take a positive and proactive approach that reflects the presumption in favour of sustainable development contained in the NPPF.

Policy LP2 sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan.

Both Policy LP24 of the Kirklees Local Plan and Chapter 12 of the NPPF stress the importance of good design. Of note, Policy LP24a outlines that to promote good design, the form, scale and layout and detail of development should respect and enhance the character of the townscape. Importantly, the Government has recently placed further emphasis on high quality design. Paragraph 131 of the NPPF stresses that *"the creation of high quality, beautiful and sustainable buildings and places is fundamental"* to what the planning development process should achieve. Paragraph 138 of the NPPF also sets out guidance for Local Planning Authorities in relation to the design of development to make use of the National Design Guide (2019) and Kirklees Council Housebuilders Design Guide (2021) which have been considered as follows.

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 5 Year Housing Land Supply
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 February 2024 update of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land. As the Council is currently unable to demonstrate a five-year supply of deliverable housing sites, it is necessary to consider planning applications for housing development in the context of NPPF paragraph 11 which triggers a presumption in favour of sustainable development. This means that for decision making *"Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (NPPF Footnote 8), granting permission unless: (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (NPPF Footnote 7) ; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."*

The Council's inability to demonstrate a five-year supply of housing land weighs in favour of housing development but has to be balanced against any adverse impacts of granting the proposal. Housing applications should be considered in the context of the presumption in favour of sustainable development. The judgement for application, where applicable, will be set out in the officers' assessment.

Chapter 5 of the NPPF clearly identifies that Local Planning Authorities should seek to boost significantly the supply of housing. The site is unallocated land for development.

Paragraph 70 of the NPPF recognises that *"small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should… support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes".*

Policy generally seeks to support residential development upon unallocated sites. Policy LP7 establishes a desired target density of 35 dwellings per hectare unless the individual site characteristics dictate a lower density of development could only be considered compatible with its surroundings. This

is further clarified by Principle 4 of the Housebuilders Design Guide which states that densities lower than 35 per hectare are only permitted in line with Local Plan Policy LP7. As the application site is narrow and long with an unadopted road, it is considered that a higher density would lead to issues in relation to parking / amenity space provision and in this case the density of the development could be considered to be suitable: if a dwelling could be accommodated on the site at all.

The conclusion section of this report sets out the conclusions in relation to the principle of the development in light of all other material considerations.

2 –Impact on visual amenity:
In terms of visual amenity, general design considerations are set out in Policy LP02, and LP24 of the Local Plan, the Principles in the Housebuilders Design Guide SPD and Chapter 12 of the NPPF, which seeks to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, respecting and enhancing the character of the townscape, heritage assets and protect amenity.
Paragraph 134 of the NPPF sets out that design guides and codes carry weight in decision making. Of note, Paragraph 139 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.
Principle 2 of the Kirklees Housebuilders Design Guide SPD states 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."

Principle 5 of this SPD states that: "*Buildings should be aligned and set-back to form a coherent building line and designed to front on to the street, including corner plots, to help create active frontages. The layout of the development should enable important views to be maintained to provide a sense of places and visual connections to surrounding areas, and seek to enable interesting townscape and landscape features to be viewed at the end of streets, working with site topography."*
Amongst other considerations, Principle 6 sets out that *"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."*
In addition to this, Principle 15 states that the design of the roofline should relate well to site context. Further to this, Principle 13 states that applicants

should consider the use of locally prevalent materials and finishing of buildings to reflect the character of the area, whist Principle 14 notes that the design of openings is expected to relate well to the street frontage and neighbouring properties.

The tree lined development in the locality, notably the residential properties adjacent to the site, consists of relatively large two storey dwellings within spacious plots with front and rear gardens. These properties, and others on the south side of Woodside Lane also tend to benefit from relatively wide plots. This creates a spacious, leafy and attractive character to the locality.

The proposed property would be accessed off a lane stemming from Bradford Road with the dwelling appearing closely associated with the southeast neighbouring properties as demonstrated by its similarly consistent proposed building line. There would be a separation from the northwest neighbours provided by the footpath to this boundary, as such it might be perceived as a cornerplot development.

The proposal would lead to a single-storey, detached, bungalow dwelling with a modest single-storey projection with an overall depth of 15.6m. This would appear to be of considerably elongated and narrow appearance to those present within the two neighbouring large detached two-storey neighbours. It is indicatively shown to be positioned on the northwest boundary with 1.8m height from ground, close boarded timber fencing to the boundary; the lack of a separation distance and its depth would lead to an overly close, contrived and cramped appearance leading to a visually overbearing feature to the users of the footpath. Whilst layout is a reserved matter, the illustrative site plan and the details of scale and appearance applied for shows that this dwelling could not be sited within the plot without appearing cramped and contrived.

Whilst the proposed pitch roof design and its single-storey scale would reduce some of the bulk and massing to the boundary, this would appear overly narrow and of an incongruous scale in between the wider two-storey dwellings as demonstrated by its contrasting reduced roofline, narrowly proportioned width and excessive depth. This would appear even more visually jarring with the lack of an adequate separation distance to the northwest boundary eroding the attractive and visual sense of openness in the locality.

Whilst it could be considered that the footpath would allow a visual sense of openness to the northwest boundary, the placement of the dwellinghouse on the flank boundary/close thereto would appear visually contrived, over engineered and uncharacteristic with built development in the locality benefiting from an adequate property gap to flank boundaries.

As such, it is considered that it would appear as a detached and standalone feature that would not sympathetically integrate with its surrounding existing development’s more spacious character and setting within generous wider plots.

The dwellinghouse would have an adequate set back from the lane to retain some sense of openness within its setting. It is proposed to have a large area of hardstanding for parking and the turning area adjacent to the highway with some landscaping immediately to the front of the property. This extensive

area of hardstanding would create a visually stark, car dominated and uncharacteristic appearance to the front. This would appear to contrast significantly with the established characteristic appearance of its neighbouring properties with landscaping to the front and side of their driveways softening the visual impact of the hardstanding. The indicative landscaping proposed would not adequately soften the visual starkness of the hardstanding to the frontage and be contrary to Principle 12 of the SPD.
The proposed materials and front and rear fenestration to the dwelling would appear of adequate quality and domestic in keeping with the locality.
Principle 5 requires cornerplots to have active frontages to provide visual interest. The placement of windows to its northwest elevation fronting onto the footpath would appear visually jarring encroaching on the footpath and would introduce an uneasy and alien relationship between users and occupants with privacy. Even as this could be conditioned to be obscurely glazed to mitigate its effects on privacy, this would still appear to be a contrived and uneasy solution. An alternate solution to a windowless side elevation would contribute towards the excessive depth of the dwelling to appear more visually overbearing. The lack of defensible space or separation to the boundary on the indicative siting emphasises that standard design solutions would not be in keeping with the character and appearance of the locality. As such, whilst materials are acceptable the design would not be sufficient to outweigh Officers concerns regarding the incongruous scale and appearance of the proposed dwellinghouse.
As such, the proposed scale, appearance and access arrangements of the development, by virtue of the limited width of the plot in comparison to the spatial and verdant character of the surroundings, would appear as a cramped and incongruous visual intrusion, detrimental to the visual amenities and overall character and appearance of the area. The proposal would fail to reinforce or enhance local distinctiveness. The proposal is therefore considered contrary to Policies LP02 and LP24a of the Kirklees Local Plan, Principle 2 of the Housebuilders Design Guide SPD and Chapter 12 of the National Planning Policy Framework.

3 – Impact on residential amenity:

Section B and C of Policy LP24 of the Kirklees Local Plan states that proposals should:

"…maintain appropriate distances between buildings' and *'…minimise impact on residential amenity of future and neighbouring occupiers."*

Further to this, Paragraph 135f) of the National Planning Policy Framework 2023 states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

Principle 6 of the Housebuilders Design Guide SPD seeks to ensure that housing maintains high standards of residential amenity by setting the relevant recommended separation distances:

- 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;
- 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

As previously stated, the indicative details of layout would not comply with the minimum 2m to both flank boundaries for two-storey dwelling however careful design for a one storey dwelling in some instances could ameliorate the potential impact on residential amenity.

The proposed development is assessed upon whether they would have a detrimental effect on residential amenity, adjoining dwellings or any occupier of adjacent land by way of overshadowing, overbearing or overlooking and also in terms of its design, size and visual amenities. The closest properties to be affected by the development are no. 7 (northwest), no. 3 (southeast) and No. 25 The Ghyll (south). An
assessment of the impact on neighbouring properties will be undertaken below. It is considered that the proposed development would be sited a sufficient distance away from any other neighbouring properties not referred to above so as to prevent undue harm to these properties in terms of loss of light, loss of privacy or overlooking, or the creation of an overbearing effect.

No. 7 Woodside Lane
It is noted that the northwest fenestration would be positioned behind the rearmost elevation of the property and be screened by mature and dense green trees and shrubs to this neighbour's boundary. The proposed development would remove the attractive landscaping to the side of the plot however the neighbour's landscaped boundary would have a reasonable likelihood to remain to maintain privacy levels regarding the footpath. This would sufficiently prevent significant overlooking or loss of privacy to this neighbour's garden. The separation distance of 8.6m to no. 3 and the low rise design of the dwellinghouse positioned to the southeast of no. 3 would be screened by this hedging and trees to have acceptable impacts on overbearing and overshadowing for excellent residential amenity.

No. 3 Woodside Lane
It is noted that the two-storey property would be separated from the proposed development by 3.9m to its closest side elevation, the single-storey design and hipped roof would reduce its bulk and massing to an acceptable degree, with this separation, that would avoid undue overbearing to this neighbour. Its position northwest of the neighbour would have very limited overshadowing impact to no. 3. To the first floor, there is a clearly paned, bay window to its side elevation which appears prominently visible over the shared dense hedging to the boundary and introduces a strong sense of overlooking the

garden plot. There is glazing to the side elevation at ground floor. The proposed development would have one obscurely glazed window to this southeast side elevation which would face the green hedging; there is potential for this screening to be damaged by the construction of the property removing this beneficial impact on privacy so close to the boundary. Should the proposal be considered acceptable, landscape is a reserved matter which may ameliorate this issue. Also, if deemed necessary, it is possible to remove Permitted Development Rights on new openings to be formed to the southeast elevation of the property to maintain current levels of privacy to this close boundary.

The development would have no rooflights to be overlooked on the southeastern roof plane this would have an acceptable relationship between neighbours in terms of privacy and overlooking between properties. The closeness of the bedroom bay window would overlook in part the private rear garden amenity space of the dwelling and allow oblique views from the garden into the bedroom. The immediate issue might be resolved by boundary treatment under a 'landscape' reserved matter.

No.25 The Ghyll
The separation of the property as indicatively shown on plan would be ~26m from the rear elevation of no. 25. Given the single storey nature of the dwelling, this would be adequate to avoid a material loss of amenity to existing occupiers and provide a good standard of amenity for future occupiers.

Future Occupiers

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."*

The development would satisfactorily meet NDSS requirements in relation to daylighting and internal floor space for good standards of residential amenity. As noted previously, the garden area could have an unacceptable degree of overlooking from no. 3's bay window on the first floor but, on balance, future occupiers would retain a good standard of amenity.

The proposal would introduce a harmful erosion of existing privacy which would have an unacceptable impact on residential amenity for no.3 Woodside

Lane however subject to ‘landscape’ as a reserved matter, this could be overcome satisfactorily.

The proposal, subject to landscape and layout being addressed suitably within reserved matters, could be compliant with Policy LP24 of the Kirklees Local Plan, Principle 6 of the Housebuilders Design Guide SPD and Government guidance contained within Chapter 12 of the NPPF.

4 – Impact on highway safety:

Turning to highway safety and parking, policies seek to ensure that new developments have an acceptable impact on highway safety and provide sufficient parking. The Highways Design Guide SPD advises that new development should have sufficient off street parking spaces to meet need and to ensure on street parking impact is limited. Highway Development Management and the PROW team was formally consulted and provided their responses.

For a 2-3 bedroom dwelling it should have a minimum of 2 off street parking spaces to achieve this aim and the design would satisfactorily comply with this requirement. Whilst bins have not been set in the layout, there remains sufficient space to have bins stored at a reasonable distance to the highway to allow bin presentation to be easily achieved without detriment to the highway.

The Manual for Streets states that for a 30mph speed limit sight lines of 2.4m x 43m should be achievable and demonstrated on a suitable plan. Any shortfall of this requirements should be in accordance with 85%ile wet weather speed readings (if below 30 mph).

There is potential to obstruct the narrow unadopted lane, also a PROW (bridleway), and so a construction access management plan would be required to be reviewed by the LPA, indicating details of delivery and contractor access and parking and storage or materials and welfare facilities within the site and how all this will avoid obstruction or damage to the PROW or cause safety concerns to its users.

A condition survey along Woodside Lane prior to commencement has been recommended so that any damage caused by construction can be identified and repaired after construction. Officers concur that if permission is granted, those identified issues could be satisfactorily conditioned to suitably address the safe and unimpeded functioning of the highway and PROW in this regard.

The proposal would make use of an existing opening, within stone boundary walls, into the highway, whilst details of the boundary have not been provided, this can be addressed within ‘landscape’ as a reserved matter. Officers concur that a condition to have any gates open inwardly and set back 1m from the highway would allow the access to be used without impediment to the highway through obstruction satisfactorily; if the application were to be approved, this could be imposed by condition.

As previously stated, the hard surface to the front would lead to a car dominated appearance. The narrowness of the plot and the requirement to have a turning point for its parking would limit opportunity to have a suitably landscaped plot to be in keeping with its locality and be contrary to Principle 12 of the SPD. Nonetheless, subject to conditions, the proposal could achieve a satisfactory and limited impact to highway safety which would comply with Policies LP21 and LP22 of the Kirklees Local Plan, Principle 12 of the Housebuilders Design Guide SPD, the KC Highway Design Guide SPD and Chapter 9 of the National Planning Policy Framework.

5 – Other matters:

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.

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.

When determining planning applications, the Council will use the relevant Local Plan policies, the NPPF and guidance documents/SPDs to meet targets to achieve net zero carbon emissions. A Climate Change Statement has been supplied. Due to the limited nature of the development proposed, it is not considered that specific mitigation measures are required to facilitate this development. In the event that permission is granted for a residential development, an informative would be attached setting out Building Regulation requirements to have EVCPs installed for new residential development which would satisfy the aims of LP51 and LP52 of the Kirklees Local Plan and Chapter 14 of the NPPF.

Drainage

Policy LP28 of the Kirklees Local Plan & Chapter 14 ('Meeting the challenge of climate change, flooding and coastal change') of the National Planning Policy Framework and the National Planning Policy Framework technical guidance document are considered to be relevant in terms of foul / surface water drainage.

The site is within a low probability Flood Risk Zone and therefore if Officers are so minded to approve the application, a condition would be placed to ensure that the additional parking spaces/turning areas would be drained

sufficiently and/or made permeable in accordance with Policy LP28 of the Kirklees Local Plan and the Highways Design Guide SPD.

Biodiversity and Trees

Whilst considering Biodiversity, Principle 9 of the Housebuilders Design Guide SPD, LP 30, LP31 and LP 33 of the Kirklees Local Plan and Chapter 15 of the NPPF is relevant. The Ecology Officer was formally consulted.

A Preliminary Ecological Appraisal (PEA) has been submitted with the application. The PEA details that the site comprises a small parcel of woodland and other neutral grassland. The habitats are likely to provide some opportunities for limited numbers of protected faunal groups, which could be adequately addressed through appropriately worded conditions to support biodiversity should permission be granted.

The site is located 7m from a parcel of ancient woodland (Upper Fell Greave) with nearby Tree Preservation Orders. It is within the bat alert layer and partially within the Strategic Green Infrastructure Network. The Ecology Officer response set out that the PEA has failed to fully address the potential impacts on the adjacent ancient woodland and biodiversity.

In addition to the above, the preapplication response from trees detailed that a tree survey was required in order to support the application. The proposals include new hardstanding for parking and the turning point which could cause damage to roots that are likely to be growing under this area and compaction of the rooting area. This was not supplied.

It is therefore considered that, in the absence of the necessary information, to assess the impacts upon the protected woodland/trees, wildlife and enhancement of habitats, the application cannot be fully assessed – in particular regarding access but, taking into account the limitations of the plots, also the scale and indicative layout of the development. For the reasons given above, the proposals are not considered to meet policies LP24h) and (i), LP30, LP31 and LP33 of the Kirklees Local Plan, Principle 9 of the Housebuilders Design Guide SPD and Chapter 15 of the National Planning Policy Framework therefore the proposals are not supported.

Contaminated and unstable land

The Local Planning Authority's policies and decisions are required to consider land stability under the Planning Practice Guidance 'Land Stability' and under paragraph 189 of the NPPF to ensure that:

> *"a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation); and*
>
> *c) adequate site investigation information, prepared by a competent person, is available to inform these assessments."*

Kirklees Council Environmental Health were formally consulted and the Phase 1 Report by Geoenviro Solutions Ltd, Ref: 2825-22 PI, dated November 2022 has been submitted in support of the application. The report includes geo-technical information, which is outside the remit of Environmental Health. The

consultation response only relates to the contaminated land aspects of the report.
The Phase I report provides a basic appraisal of the site history and previous surrounding land uses, since the 1800s. No site walkover was undertaken at the site, the site has been identified using google maps as largely grassed. There are records of Made ground and Worked Ground between 120 and 136 m to the southeast of the site and Infilled Ground between 229 and 241m southwest of the site. The report informs in section 4.4 that the Groundsure report states that "underground mining is known or considered likely to have occurred within or close to the area. But fails to expand on this or refer to the potential risk in the conceptual site model. Kirklees Council mapping indicates three potentially contaminated sites within 250m of the proposed development; site ref: 33/9 circa 100m SE, site ref: 22/9 a sandstone quarry circa 230m SW and site ref:35/9 High Park Colliery circa 100m N.
In light of the above, increasing the potential for land contamination, Officers concur that contaminated land conditions would be attached to any permission to demonstrate that all potential contaminated land and ground gas risks have been fully assessed at the proposed site.
6 – Representations:

Two representations had been received and considered within the report.

7 – Conclusion:

This application has been assessed against relevant policies in the development plan and other material considerations.

As previously discussed within Principle of Development, the tilted balance is in effect following Kirklees Council's published housing position in relation to the 5 Year Housing Land Supply and Housing Delivery Test in February 2024. The proposal would provide one market housing development which would have a positive contribution towards meeting the housing undersupply and be of limited benefit. However, the assessment of the proposal within this report sets out that the adverse impacts of granting permission in this instance would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF taken as a whole.

The proposed scale, appearance and access arrangements of the development, by virtue of the limited width of the plot in comparison to the spatial and verdant character of the surroundings, would appear as a cramped and incongruous visual intrusion, detrimental to the visual amenities and overall character and appearance of the area. The proposal would fail to reinforce or enhance local distinctiveness. The proposal is therefore considered contrary to Policies LP02 and LP24a of the Kirklees Local Plan, Principle 2 of the Housebuilders Design Guide SPD and Chapter 12 of the National Planning Policy Framework.

In addition, insufficient information has been submitted to fully assess the impacts of the development, should it be otherwise supported, with regard to

biodiversity and ancient woodland/Tree Preservation Orders (ref: 01/75/g1), and Chapter 15 of the National Planning Policy Framework.

Recommendation **Refuse Outline Permission**

Decision Authorisation - Delegated

Application Number: 2023/92215

Officer Recommendation: Refuse Outline Permission

Reasons

1. The proposed scale, appearance and access arrangements of the development, by virtue of the limited width of the plot in comparison to the spatial and verdant character of the surroundings, would appear as a cramped and incongruous visual intrusion, detrimental to the visual amenities and overall character and appearance of the area. The proposal would fail to reinforce or enhance local distinctiveness. The proposal is therefore considered contrary to Policies LP02 and LP24a of the Kirklees Local Plan, Principle 2 of the Housebuilders Design Guide SPD and Chapter 12 of the National Planning Policy Framework.

1. The development is within and well connected to significant wildlife habitats identified within the Kirklees Wildlife Habitat Network and within an area where bats roost and forage. The development has the potential to affect protected habitats and species. Notwithstanding the submission of the 'Preliminary Ecological Appraisal Report. JCA Ref: 19574/AD. Dated 21/11/22', it has not been sufficiently demonstrated that the development would protect, support, contribution or enhance biodiversity as required by Principle 9 of the Housebuilders Design Guide SPD, Policies LP24h), LP30 and LP31 of the Kirklees Local Plan, and Chapter 15 of the National Planning Policy Framework. Therefore, the proposals are not supported.

2. The development site is proximate to large, mature and significant amenity trees protected under Trees Preservation Order (ref: 01/75/g1) and nearby to irreplaceable ancient woodland (Upper Fell Greave) contributing significantly to the character and appearance of the area. In the absence of the submission of an Arboricultural Impact Assessment, it has not been demonstrated that the proposal would avoid direct or indirect impact on these trees' long term viability. The development would be contrary to Policies LP24h) and (i), LP30 and LP33 of the Kirklees Local Plan, Principle 9 of the Housebuilders Design Guide SPD and Chapter 15 of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Proposed Location, Block, Floor and Layout Plan.	Drawing No. UD-488-01.	Amended.	05/03/2024

Plan Type	Reference	Version	Date Received
Proposed Front and Rear Elevation with Streetscene Plans.	Drawing No. UD-488-03.	Amended.	05/03/2024
Proposed Side Elevation and Streetscene Plans.	Drawing No. UD-488-02.	Amended.	05/03/2024
Phase I Desktop Study and Preliminary Risk Assessment Report	Phase I Desktop Study and Preliminary Risk Assessment Report by Geoenviro Solutions Ltd. Ref: 2825-22 PI. Dated: November 2022.	Version 1.	31/07/2023
Preliminary Ecological Appraisal Report	Preliminary Ecological Appraisal Report. JCA Ref: 19574/AD. Dated: 21/11/22	Amended	28/03/2024
Design and Access Statement.	-	Original	24/07/2023
Climate Change Statement	-	-	24/07/2023

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 case officer considered the application on review and notified that the original proposal would be unlikely to be supported. A modified proposal was received following Officer reiteration of the pre application advice. Further submission included an updated PEA assessment with correct plans for the Ecology Officer to review for their response. The proposal was assessed on the resubmitted plans and determined as such.

Report Dated: 31/05/2024