

Comments on Planning Application 2023/61/93714/E

Application number

[2023/61/93714/E](#)

Location

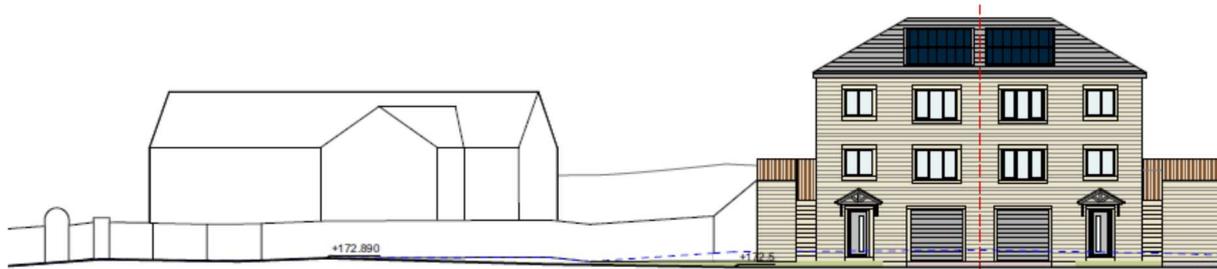
Land off, Cumberworth Lane, Denby Dale, Huddersfield, HD8 8RU

Description / Development

Reserved Matters application (including the consideration of access, appearance, landscaping layout, and scale) for the erection of 10 dwellings pursuant to outline permission 2019/93906 for erection of residential development up to 10 dwellings, and discharge of condition 20 (waste arrangements)

Overshadowing

The latest plans show two houses (Units 3 and 4) sited very close to the garden fence of Cruck Cottage. (In the previous 2019 plans, there was parking for two cars in between.) Additionally, the height of these new properties has been increased from two storey to three storey (at the front and side, two storey at the back due to the slope). It looks like this building would now dwarf the adjacent single storey cottage, blocking morning sunlight and general daylight from the garden, the living room windows and the conservatory.



From 2023-93714_Plan General_1031057

Morning sunlight and general daylight from open aspects to the east and south of Cruck Cottage has been enjoyed by the current residents of Cruck Cottage for more than 20 years (26 years to date) and is therefore considered to be a right under the Prescription Act 1832.

Overlooking

The plans also show the addition of a first floor terrace to House Type 2 including Units 3 and 4, with access from French windows at the rear and by outside stairs at the sides of the properties. It appears that the terrace of the nearest house to Cruck Cottage (Unit 3) would overlook the private garden, the living room windows and the conservatory of this existing property.

Cruck Cottage would also be overlooked by two windows shown on the side elevation of the new house, which would be close to the existing garden fence and facing towards the private garden, the living room windows and the conservatory of the cottage. (A small third window at a lower level is for the downstairs WC.)

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From 2023-93714_ Grouped Plans and Elevations_1022345

Access

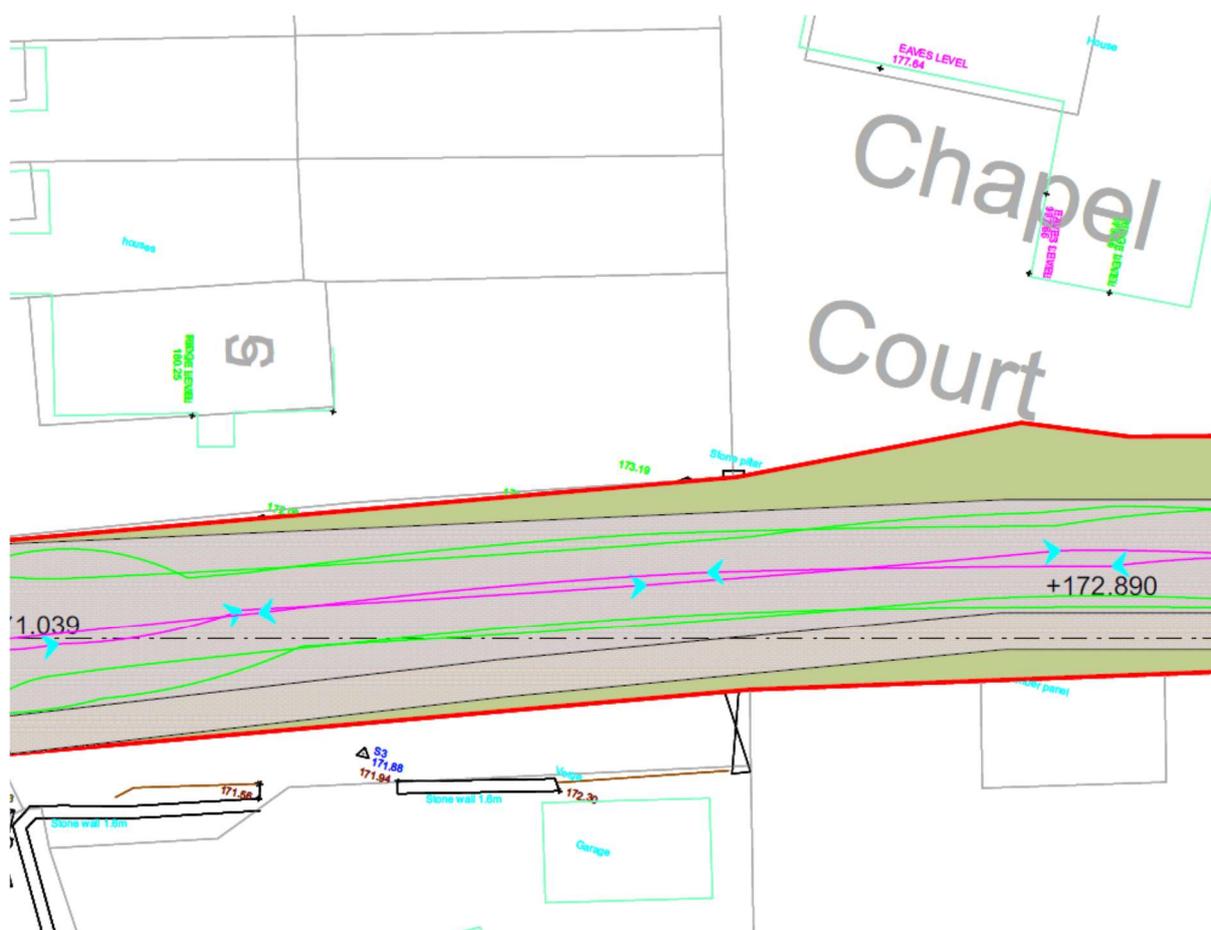
It is stated in 2023-93714_ General_1031059 "Planning and Design and Access Statement", that the access road, "is designed to be to adoptable standards" and this is supported. However, it appears from various documents in the 2019 and 2018 submissions, to be uncertain whether this can be achieved or whether the road will be adopted. 2018-93309_ Appeal Document_781332 Appeal Decision paragraph 16 stated: "the proposed road might not achieve the standard required for adoption by the Council". 2019-93906_Delegated Report_846809 repeats this Planning Inspector statement and adds:

the Section 38 engineer has confirmed that due to the anticipated gradients and restricted width, the proposed road would be unlikely considered suitable for adopting as highway maintainable at public expense

Revised road details are proposed with the 2023 submission which appear to show a Shared Surface type street from Cumberworth Lane and into the new development, which is more aligned with what was described by the Planning Inspector in 2018-93309_ Appeal Document_781332 Appeal Decision paragraph 15 and in 2018-93309_ Transport Assessment_714393 Highway Statement paragraph 3.2.2, which included:

The overall width of the access and track thereafter is approximately 7.0m which would allow for the provision of the shared surface type 3 layout, consisting of a 5.5m wide carriageway and two minimum width 600mm wide hard margins. Such road layouts due to their shared nature have a limited design speed of around 15mph.

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From 2023-93714_ Proposed Site Block Layout_1031055

Kirklees Highway Design Guide SPD (Nov 2019) Table 1 includes the following guidelines for Shared Surface Streets to be acceptable for adoption: 5.5 m width carriageway; 0.6 m hard margin on both sides; on-street parking to be provided by laybys and/or localised carriageway widening.

No dimensions have been provided with the latest 2023 plans other than occasional spot heights. 2023-93714_ Proposed Site Block Layout_1031055 shows 600 x 600 mm paving only to the south side of the carriageway, the remainder of which is specified as red permeable resin / brick paviors, with a grass verge on the north side. This replaces a 4.8 m wide carriageway with 1.2 m footpath along the north side and 0.6 m hardstanding on the south side, shown on the 2019 plans.

In order for this planning application to be approved, the revised road detail will need to meet the council's adoptable standard and be duly adopted for public maintenance. If the road is not deemed to meet adoptable standards or until such time that it is adopted, who would be responsible for maintenance of the road and how would this be managed?

Maintenance of the existing private drive (un-adopted road) is currently the responsibility of the residents of the adjoining properties. This seems reasonable when there is minimal vehicular use (access to two properties plus a separate garage, and parking for visitors and other residents). The existing private drive (un-adopted road) is not accessed by the refuse collection vehicle. It would be entirely unreasonable for this responsibility to continue if the lane is used firstly by construction traffic and then by a relatively large number of cars, delivery vans, the refuse collection vehicle and other vehicles associated with the new properties.

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The council are reminded of Kirklees Local Plan Policy LP21, justification 10.81:

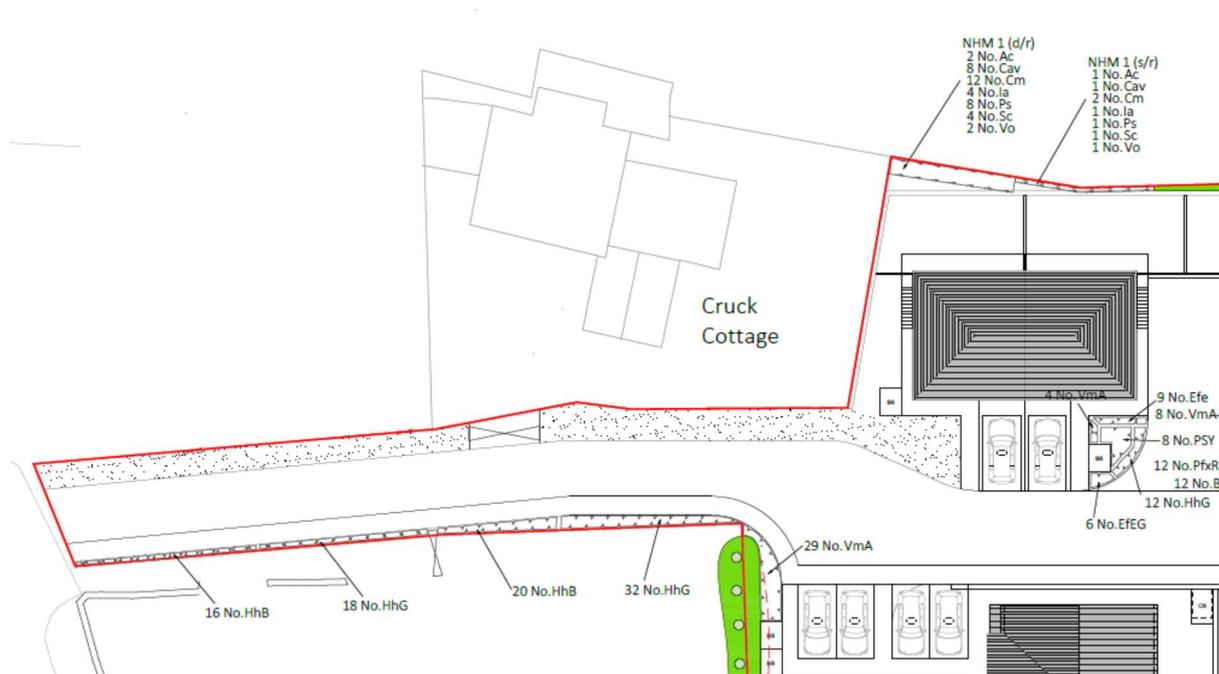
The council will ensure that new estate roads and streets particularly those designed encompassing the design solution in Manual for Streets are of a standard that can be adopted.

Vehicular and pedestrian access to the private drive of Cruck Cottage is not shown on 2023-93714_Proposed Site Block Layout_1031055. As shown, it would be necessary to drive across the grass verge. The gateway to this property does however appear on 2023-93714_Plan General_1031058 Detailed Landscape Proposals.

Access to/from the private drive of Cruck Cottage needs to be tied into the new roadway. If the 0.6 m wide hardstanding is to be provided only on the south side, pedestrian crossing points, suitable for the elderly, those with reduced mobility and for families with young children, should be provided to/from properties on the north side.

On the same drawings, vehicular access to No. 6 Chapel Court and to the separate garage on the south side of the lane appears to be either directly from Cumberworth Lane on part of the existing unmade road, to the right hand side of beds of shrubs, or by driving across these shrubs?

Who would be responsible for maintaining the new grass verges and the shrubs? How would this be managed?



From 2023-93714_Plan General_1031058 Detailed Landscape Proposals

Another important consideration which should be addressed at this stage, is how safe pedestrian and vehicular access can be maintained to the existing properties including Cruck Cottage, No. 6 Chapel Court and the separate garage, during construction of the new development.

Is it intended to provide street lighting for the new development? No details of roadside lighting have been provided. Also, no information has been provided on how utilities/services (water/sewerage, electricity and telephone/broadband) will be provided to the new properties or where these will be routed.

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Also, please confirm (and provide evidence) that the residents of the proposed new properties and the developer's construction vehicles for that matter, will have a Right of Way from Cumberworth Lane via the existing private drive (un-adopted road). For existing residents of the adjoining properties, this Right of Way is defined in the Title Deeds to the properties.

Parking

The existing private drive (un-adopted road) is currently used for resident and visitor parking for the adjoining properties. In the wider part of the lane, vehicles are typically parked on both sides leaving only a narrow through way (see photo below). Use of this lane by the adjoining properties is granted in the Title Deeds of these properties and use for parking by visitors and residents has been enjoyed for a very long time (26 years to date in the case of the current residents of Cruck Cottage), so again might be considered a right under the Prescription Act 1832.

How will parking for visitors (including carers, family members, friends, delivery vans and workmen) and residents of the properties adjoining the existing private drive continue to be provided as existing, during and after construction of the new development?

2019-93906_Delegated Report_846809 includes the following, which does not answer the question:

Where will visitors of the existing houses park

Response: KC Highways DM have assessed the application in terms of highway safety. It has been concluded within their assessment, as well as the assessment of the Planning Inspectorate that the impact on highway safety is acceptable.



From 2018-93309_Transport Assessment_714393

Casual on street parking might be maintained along the existing part of the proposed Shared Surface access road (on the north side). However, this would need to leave sufficient width for the refuse collection vehicle, delivery vans and other vehicles to pass and not impede pedestrian access. In addition or alternatively, additional parking spaces could be provided within the new development.

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The 2019 plans provided parking for two cars per new three bedroom house but no visitor parking (20 spaces for 10 houses). The latest 2023 plans show parking for one car per three bedroom house (plus a garage) for Type 2 and 3 properties, and for two cars (no garage) for Type 1 properties. 5 additional spaces are shown as visitor parking (17 spaces plus 8 garages for 10 houses). It is well known that garages are often not used for parking (but rather storage) and it seems likely that at least some of the “visitor” parking spaces would be taken up by residents.

Boundary Protection

It appears that the ground elevation will be substantially lowered next to the garden fence of Cruck Cottage. How will the existing garden, fence and boundary be protected?

The existing ground elevation at the rear of Units 3 and 4 is approximately 175.4 m. With the base of these proposed properties given as 172.9 m, it appears that the ground immediately adjacent to the fence of Cruck Cottage would be excavated to 2.5 m depth (not including foundations).

Size and Style

The size and style of the proposed new houses is not in keeping with the adjacent single storey traditional stone built Cruck Cottage.

Additional information

The proposed layout and scale breaches the normal rules of thumb with regard to overshadowing, i.e. the 25 degree rule (for new development directly facing existing windows) and the 43 degree rule (at the boundary). See BRE Site layout planning for daylight and sunlight (3rd edition 2022).

On some of the 2023 plans (as in the 2019 and 2018 submissions), the living room and second bedroom of Cruck Cottage are not shown, only the smaller older part of the house. This applies in particular to 2023-93714_ Grouped Plans and Elevations_1031054 “Site Plans As Existing”. These extensions have been part of the footprint of the property for 34 years to date. The east and south facing conservatory of this property does not appear on any of the plans or elevations.

The heights of the eaves and ridge of Cruck Cottage and other neighbouring properties are shown on the plans, see 2023-93714_ Proposed Site Block Layout_1031055, but no roof heights have been provided for the new properties (only the ground elevations are shown). From the scaled elevation drawing 2023-93714_ Grouped Plans and Elevations_1022345, it appears that the Type 2 houses are approximately 10.5 m tall. With the ground elevation given on 2023-93714_ Proposed Site Block Layout_1031055 as 172.9 m, this allows the ridge height for Units 3 and 4 to be calculated. It is around 183.4 m, some 3.3 m above the top of Cruck Cottage.

The first floor terrace is at a height of around 175.6 m which is a little above the highest point of the neighbouring garden and it is only 1.7 m from the boundary fence. The side wall of Unit 3 is around 12.5 m from the living room windows of the adjacent existing property and only 2.6 m from the boundary fence.

The pdf of drawing 2023-93714_ Proposed Site Block Layout_1031055 appears to be corrupted, with some text, such as existing house numbers and spot heights, apparently overwritten with the same text upside down, making these items almost impossible to read.

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Conclusion

2019-93906_Delegated Report_846809 includes:

Residential Amenity

Careful consideration will be required when designing the proposed development to ensure that harmful relationships with existing residential properties are avoided.

It appears that this requirement has not been met by the plans submitted with the 2023 application.

Units 3 and 4 should be removed from the plans and the space used for additional parking or, as a minimum, this building should be reduced in height (to single storey at the rear) and moved away from the boundary fence of the existing property.

The 2023 application should be rejected if the access road does not meet adoptable standard or if it does not maintain safe and convenient access and parking for the existing adjoining properties.