

RESIDENTIAL DEVELOPMENT AT CLAY WELL

GOLCAR, METROPOLITAN BOROUGH OF KIRKLEES

APPEAL HERITAGE STATEMENT

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NOVEMBER 2023

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Heritage Consultancy

Crosby House, 412 Prescott Road, Eccleston Hill, St Helens, Lancashire WA10 3BT

Telephone: 01744 739675

garrymillerhbc@gmail.com

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GARRY MILLER HERITAGE CONSULTANCY

Garry Miller is a heritage consultant, architectural historian and published author who has spent more than 40 years studying and working with buildings of town and countryside, in particular those of North West England. His career as a consultant began in the mid-1980s with the Preston-based Nigel Morgan Historic Building Consultancy, of which he became a partner in 1992 upon its rebranding as Datestone. In 1997 he was commissioned by the Heritage Trust for the North West, a buildings preservation trust based at Barrowford, Lancashire, to produce an in-depth regional study of vernacular houses in southwest Lancashire: the result, *Historic Houses in Lancashire: The Douglas Valley, 1300-1770* was published in 2002. The book was described as 'scholarship as its best' by *Country Life* (June 2003), and 'well analysed and presented' in *Transactions of the Ancient Monuments Society* (Vol 48, 2004); and was widely cited in the 2006 Buildings of England volume on Liverpool and Southwest Lancashire. Extensive research on the houses of Georgian and Regency Liverpool has also been undertaken, with a view to future publication. Following the success of his Douglas Valley book, Garry Miller established his own consultancy, producing analytical and interpretive reports on historic buildings, in particular the heritage assessments required to support planning applications affecting the historic environment. His area of operation encompasses the North West, Midlands, North Wales and parts of Cumbria and North and West Yorkshire. Several local authorities have cited his assessments as examples of best practice, and reports on more than 150 buildings or sites are produced annually.

THIS STATEMENT

Date of issue: November 2023

Text: Garry Miller

1: SUMMARY/PURPOSE OF THIS STATEMENT

Garry Miller Heritage Consultancy has been instructed to produce this heritage statement to support an appeal against Kirklees Metropolitan Borough Council's issue of an enforcement notice regarding a residential development at Clay Well in the village of Golcar. The notice follows refusal of a Section 73 Minor Material Amendment application (reference 2022/70/92334/W) to vary the condition as to the details of the properties, which were not built in accordance with the plans approved in 2022.

The site is within the Golcar Conservation Area, on land allocated for housing. Close to the site is a terrace of Grade II listed cottages at 17-25 Clay Well, along with a Grade II former factory/warehouse and dwellings at 27-29 Clay Well and a further listed building at 54,54A, 56 and 58 Brook Lane, also II.

The amendment application was refused on the grounds that the proposed changes are considered unacceptable from a design perspective, as they would diminish the design quality of the scheme, located in a highly prominent hillside site, within Golcar Conservation Area and adjacent to the listed buildings. The enforcement notice states the properties should be built according to the approved scheme or else demolished.

This statement examines the heritage significance of the affected heritage assets and concludes that any harm resulting from the omission/alteration of the approved details could only be minor and clearly outweighed by the public benefit of providing sustainable new homes, a benefit which the approval of the original application duly recognised.

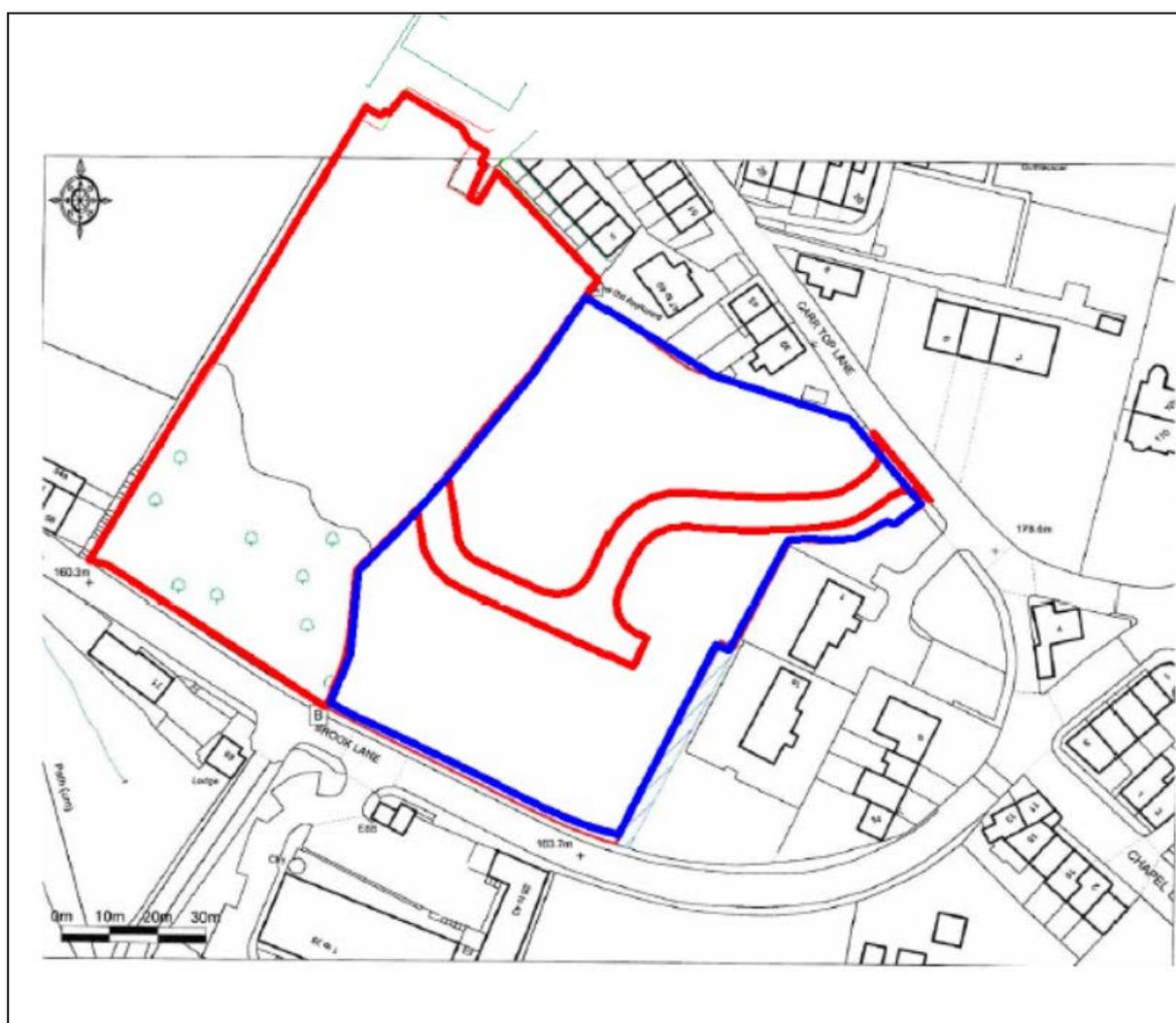
It is therefore respectfully requested that the appeal is upheld.

2: REASON FOR ENFORCEMENT

Permission for 13 new homes on the site was granted under application reference 2021/62/91384W. The enforcement action has occurred as the appellant has not built the development in accordance with the approved plans, which is in breach of condition 2 of that application. The alterations are mainly to details of fenestration and stonework. An attempt was made to regularise the situation by submitting a Section 73 Material Minor Amendment application to vary the condition relating to the approved plans (reference 2022/70/92334/W) but this was refused by Kirklees MBC. The subsequent enforcement notice requires that the approved scheme is reverted to, or the 11 dwellings that have been built so far are demolished.

3: THE SITE - BACKGROUND

The appeal site is located on the southwestern edge of the village of Golcar in the Metropolitan Botough of Kirklees, West Yorkshire. It is a greenfield site to the south of numbers 5-25 Clay Well that has been allocated for housing under the Kirklees Local Plan, approved 2019. Access is via an estate road off Carr Top Lane that serves an existing new residential development to the east of the site. Permission for the 13 houses on the appeal site was granted in 2022 under application 2021/91384.



Map 1. Location of the appeal site

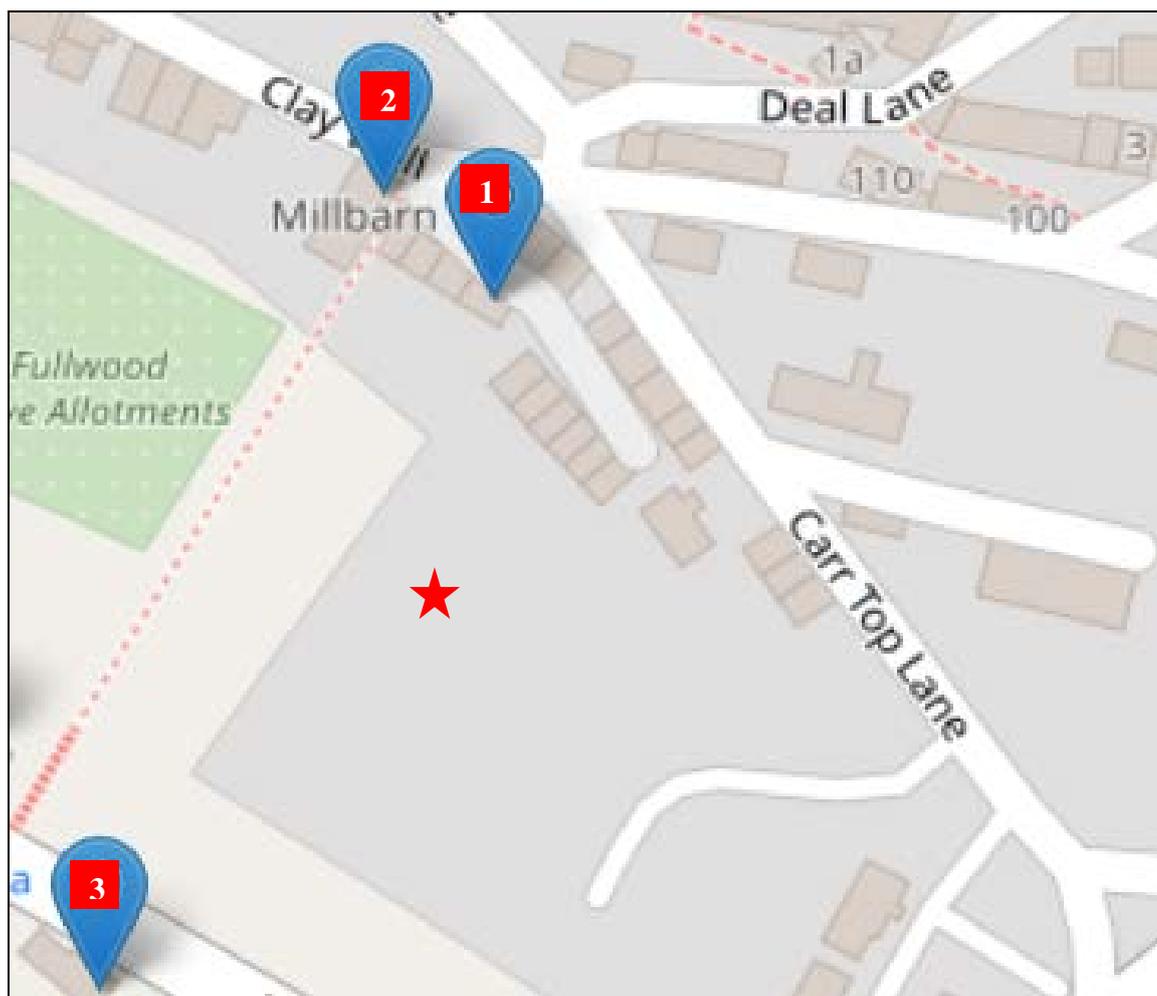
4: THE LISTED BUILDINGS

4.1 Context

The officer's report for 2022/70/92334/W identifies the following Grade II listed buildings in proximity to the site:

- **Numbers 17 to 25 Clay Well (odd),** five 19th century cottages
- **Numbers 27 and 29 Clay Well and adjoining factory building,** a mid-19th century factory/warehouse and dwellings
- **Nos 54, 54A, 56 and 58 Brook Lane,** back-to-back houses dated 1843

A further listed building, numbers 71-73 on Brook Lane, has not been referred to in the report.



Map 2. The listed buildings in relation to the appeal site: 1 = 17 to 25 Clay Lane, 2 = 27 and 29 Clay Lane, 3 = 54, 54A, 56 and 58 Brook Lane

4.2 List descriptions

The National Heritage List for England descriptions of the listed buildings are:

- **Numbers 17 to 25 Clay Well (odd)**

Early to mid C19. Terrace of 5 cottages. Hammer dressed stone. Pitched stone slate roof (part bitumen covered). Coped gables. Part of terrace has stone brackets to gutter. 2 storeys. South east elevation: ground floor; three 3-light stone mullioned windows (two have 1 mullion removed). Two 4-light stone mullioned windows (both have 2 mullions removed). First floor; seven 3-light stone mullioned windows (one has 1 light blocked) (two have 1 mullion removed). No 25 has one 5-light stone mullioned window. North west elevation: blocked loading door. Two 2-light stone mullioned windows. Modern window to No 23. West elevation (No 25): one 3-light stone mullioned window (one light blocked). Included for group value.

- **Nos 27 & 29 Clay Well and adjoining factory building**

Mid C19. Factory/warehouse and internal dwellings. Hammer dressed stone. Stone slate roof with gable copings and stone brackets to gutter. 3 storeys. The main house has central door, in recent porch, with single light to each floor area. To left and right, all floors, are large 2-light windows. Its left gable to road, has loading door to 1st and 2nd floors. To right is the tall barn-like factory building with carriage entrance on west side, 4 industrial casements to upper floor, to both sides and 3 small semicircular lights with radial glazing bars to both sides. To rear of main house is dwelling with 2 and 3-light stone mullioned windows.



View from Clay Lane towards 17-25(left) and 27 and 29. Appeal site is to the rear

- **Nos 54, 54A, 56 and 58 Brook Lane**

1843 (datestone). Back to back group. Hammer dressed stone (part rendered). Pitched stone slate roof. Coped gable. Stone brackets. Two gable stacks and 1 central stack with large blocks, copings and water tabling. Two storeys and basement. South East elevation: Ground floor: doorway with stone surround and small cornice over. One 2-light stone mullioned window. First floor: three single lights; one 2-light stone mullioned window. North West elevation: Ground floor: three entrances with stone surrounds. Two 3-light stone mullioned windows; one 4-light stone mullioned windows. First floor: three 5-light stone mullioned windows. South West gable: Basement: two doorways; one 3-light stone mullioned window; one 2-light stone mullioned window. First floor: one 2-light stone mullioned window. Attic: 3-light Venetian window with stone surrounds and glazing bars to 2-lights. Small stone plaque over. North East gable: 3-light Venetian window to attic. Chimneys have square stone pots with triangular tops and moulded sides. Stone plaque to south west gable apex reads:

A
I & M
NEW YORK
HOUSE
1843

4.3 Significance of the listed buildings and their setting

Paragraph 195 of Chapter 16 (*Conserving and Enhancing the Historic Environment*) of the National Planning Policy Framework (July 2021 revision) states local planning authorities should identify and assess the particular significance of a heritage asset, including its setting, and take this into account when considering the impact of a proposal in order to avoid or minimize conflict between the asset's conservation and any aspect of the proposal. The Grade II designation of the listed buildings essentially derives from the intrinsic special architectural and historic interest that has warranted their designation, and which individually is as follows:

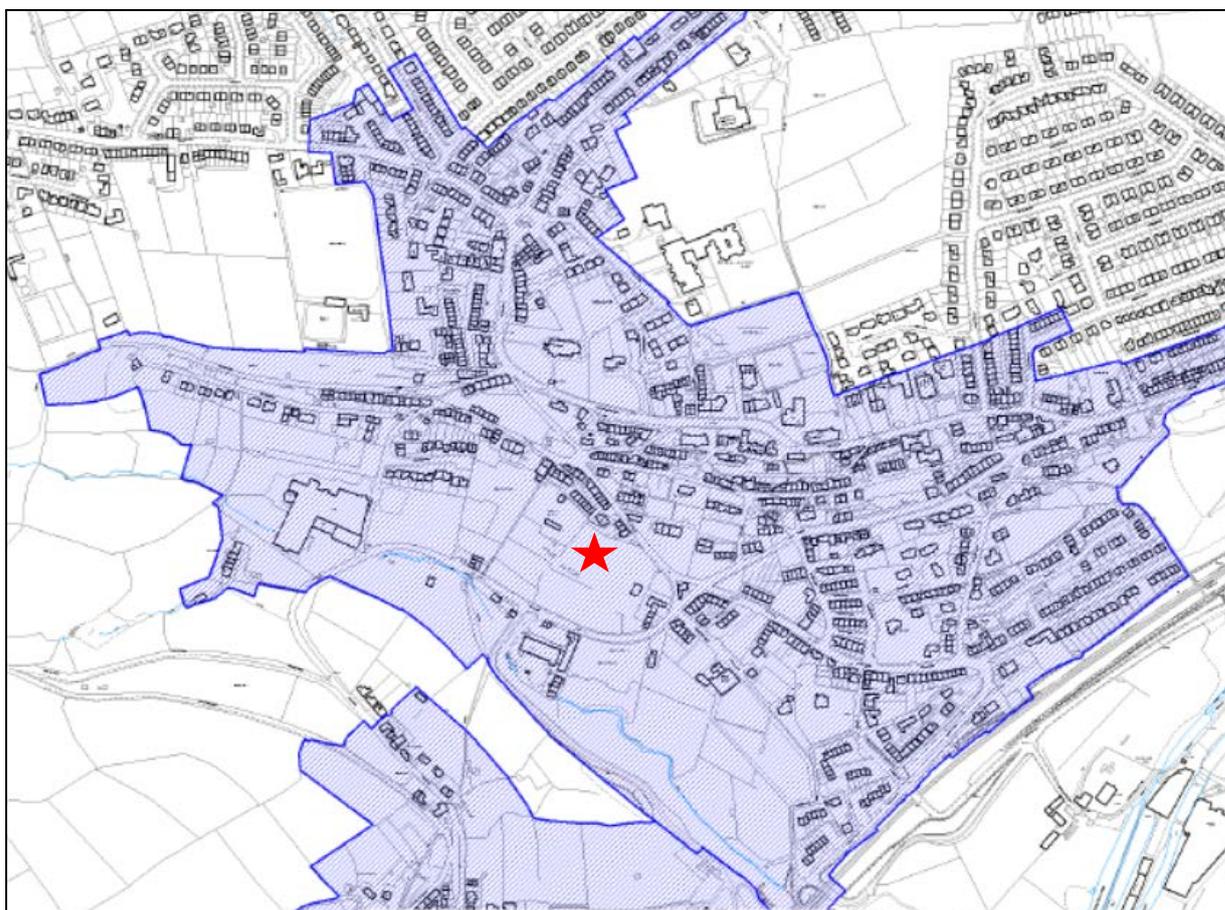
- **Numbers 17 to 25 Clay Well:** a terrace of five early-mid 19th century cottages, designated for their group value
- **Numbers 27 and 29 Clay Well:** a mid-19th century factory/warehouse and internal dwellings
- **Numbers 54, 54A, 56 and 58 Brook Lane:** a block of back-to-back houses dated 1843

As regards their setting, the listed buildings stand on the edge of the historic village settlement, overlooking moorland beyond. The built character of this setting is mixed, with new development present among its traditional buildings, as exemplified by the appeal site and the existing estate to its east..

5: GOLCAR CONSERVATION AREA

5.1 Summary

- a. Overview.** The conservation area, first designated in 1974, covers the historic core of the village and surrounding open space. The appeal site stands on the southwest edge of the village centre.



Map 2. Location of the appeal site within the conservation area

- b. Special interest.** The special interest of the conservation area has been identified in the character appraisal (undated) adopted by Kirklees MBC. The key elements of this are:
- Golcar is a settlement in the Colve Valley, recorded in Domesday
 - By the 16th century the woollen cloth trade had developed as a cottage industry
 - The village subsequently expanded with the arrival of the canals, turnpike roads and railways in the 19th century

- Essentially it is a hill village which has developed organically, with little formal planning
- Historically, it was entered by three lanes which today act as key visual gateways
- The traditional buildings of the village are mainly 19th century and characterised by stone walls and slate roofs
- Some 96 buildings are listed but there are also many unlisted buildings which contribute to the conservation area's character

The conservation area also includes a notable element of new build, in particular the residential estate built to the east of the appeal site along with the new development that is the subject of the present appeal. The granting of consent for these schemes confirms that they were not considered detrimental to the conservation area, and hence they have now become embedded in its character and appearance.

5.2 Significance

The significance of the conservation area derives from its character and appearance as an isolated hill village of stone and slate buildings surrounded by moorland. This significance is therefore embodied in its buildings – both traditional and modern – and spaces and the relationship between them as experienced in public views. While 96 of these buildings are listed as being of national importance but the majority of its buildings are non-designated but help to shape the character of the conservation area.

6: PLANNING POLICY CONTEXT

6.1 Statutory duty

Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires local planning authorities to give special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest. Section 72 (1) requires local planning authorities to pay special attention to the desirability of preserving or enhancing the character of a conservation area.

6.2 Relevant policies

Section 16 of the National Planning Policy Framework provides the guidance on how the statutory duties are to be put into practice. Paragraph 197 states that in determining applications, local planning authorities should take account of:

- *The desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation*
- *The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality, and*
- *The desirability of new development making a positive contribution to local character and distinctiveness*

Regarding designated heritage assets, paragraph 199 states that ‘*great weight*’ should be given to their conservation and the more important the asset, the greater that weight should be; and that significance can be lost through development within its setting. Paragraph 202 states that where harm is considered less than substantial, it should be weighed against the public benefit of the proposal, including securing the optimum use of the heritage asset.

In the local context, Policy LP35 of the Kirklees Local Plan, adopted February 27, 2019, requires development proposals affecting a designated heritage asset to preserve or enhance its significance; and also that proposals within conservation areas conserve those elements which contribute to their significance.

7: REBUTTAL OF REASON FOR ENFORCEMENT

7.1 Reason for enforcement

The enforcement notice results from the refusal of the Section 73 Minor Material Amendment application (2022/70/92334/W), the decision notice for which was dated March 30, 2023. The wording of the notice was:

The development would fail to provide a high quality design for the site, which is situated within a prominent hillside location, surrounded by heritage assets which include Golcar Conservation Area and a row of Grade II listed terraces. To permit such development would be contrary to Paragraph 135 and Chapters 12 and 16 of the National Planning Policy Framework, Policy LP24 and LP35 of the Kirklees Local Plan and the aims of the Housebuilders Design Guide Supplementary Planning Document.

While the wording of the decision notice does not specifically say so, it implies the proposals have an adverse effect on the character and appearance – and therefore the significance – of the conservation area, and also the setting (and hence the significance) of the listed buildings.

7.2 Officer/conservation comments

The officer's report on 2022/70/92334/W, which is dated the same day as the refusal notice, noted that the development would still provide the 13 homes (two 2-bedroom, six 3-bedroom and five 4-bedroom dwellings) as per the original permission 2021/62/91384W, and that the proposal remains an effective and efficient use of the housing allocation, as required by Local Plan policies LP7 and LP11. However the proposed changes were considered '*unacceptable from a design perspective, as they would diminish the design quality of the scheme, located in a highly prominent hillside site, within Golcar Conservation Area and adjacent to a number of Listed Buildings*'. The proposed changes essentially relate to details, and were listed as follows in the officer's report:

- **Plot 1:**
 - Gable window to study omitted
 - Eaves height to front elevation lifted
 - Chimney stack omitted
 - Vaulted ceiling omitted, altering the window to bedroom 1
 - Cill height to kitchen increased

- **Plot 2:**
 - Gable window added to first floor en-suite
 - Gable window added to first floor bedroom
 - Eaves height to front elevation lifted
 - Vaulted ceiling omitted, altering window to bedroom 1
 - Chimney stack omitted

- **Plot 3:**
 - Gable window added to first floor bedroom
 - Chimney stack omitted
 - Eaves height to the front elevation lifted
 - Vaulted ceiling omitted, altering window to bedroom 1
 - Recessed balcony omitted
 - Lounge french doors altered to window
 - Garage extended to rear building line

- **Plots 4 and 5:**
 - Gable windows removed from lounge on plot 4
 - Gable windows removed for bedroom 3 on both plots
 - Parapet verge detailing omitted
 - External chimney stacks amended to be roof only
 - Gable windows removed from bedroom 2 on both plots
 - Quoins on gable omitted
 - Lower ground floor area increased

- **Plots 6, 7 and 8:**
 - Gable windows removed from the guest room on plot 6
 - Parapet verge detailing omitted
 - Cill heights to kitchens increased
 - Quoins to gable omitted

- **Plots 9, 10, 11:**
 - Parapet verge detailing omitted
 - Unit 10 – front windows amended
 - Cill height to kitchens increased
 - Quoins to gable omitted

- **Plot 12:**
 - Parapet verge detailing omitted
 - Quoins to gable omitted
 - Feature window to front elevation amended
 - Detail band removed from gables
 - Roof pitch amended (increased in height by 1m)

- **Plot 13:**
 - Roof pitch re-designed (front to back as opposed to gable as granted)
 - Change to the window design to the study

- **Site layout alterations:**
 - External steps to the left hand side of plot 1 added as opposed to sharing with plot 2.

External steps to plot 3 moved to the right hand side
Steps to plots 4 and 5 amended
Drive to plot 5 amended
External steps to plots 6, 8, 9 and 11 amended
Plot 12's parking increased/amended
Plots 13's position amended
Plots 6 -8 moved south easterly

Kirklees MBC's conservation officer was consulted on the application, and his comments, dated November 11, 2022, stated that the amended designs '*raised concerns*'. He however acknowledged that some of the changes could be '*considered more minor*' but added that the plans were seeking to remove details which provide a better standard of design. His response apparently identified fewer issues than those present in the officer's report, making the following recommendations:

- **Plot 1**
Retention of chimney stack (instead of flue pipe)
Retention of original cladding to front window and also original door detail
Retention of original garage door detail
- **Plot 2**
As Plot 1
- **Plot 3**
As Plot 1, along with reinstatement of rear balconette
- **Plot 4 and 5**
Retention of water table stones
Removal of vent pipes to front roof plane
- **Plot 6, 7 and 8**
Retention of water table stones stack (instead of flue pipe)
Retention of door details to front and rear elevation
Retention of original garage door detail
- **Plot 9, 10 and 11**
As 6, 7 and 8
- **Plot 12**
Retention of water table stones
Retention of original stairwell window proportions
Retention of original garage door detail
- **Plot 13**
Retention of water table stones
Retention of original garage door detail

7.3 Rebuttal of the reasons for refusal/enforcement

The refusal notice does not state in as many words, but rather implies, that the scheme as built poses harm to the character, appearance and significance of the conservation area, along with the setting of the listed buildings. Additionally the conservation response, apart from recommending the various detail reinstatements, makes no assessment of how the amended designs impacted upon the conservation area or the setting of the listed buildings. Neither this nor the officer's report however mentions the specific matter of there being harm to the heritage assets, or – importantly – attempts to quantify any perceived harm in the final planning balance.

The refused changes all relate to matters of detail, primarily stonework and fenestration. These aside, the scheme still fulfills its approved task of providing 13 homes in a sustainable location, in accordance with local housing policy, as the officer's report duly acknowledges. The conservation response also acknowledges that some of these details are minor, before adding that the amendments were seeking to remove details which would have created a better design. If, on the basis of these comments, it were to be recognised that the loss of these details represented harm, then this harm must be quantified, as required by paragraph 199 of the NPPF. There is no such assessment in either the conservation response or officer's report.

Given that we are essentially dealing with decorative touches – and not radical alterations such as scale, massing, or the quantum of development – then the level of any harm must surely be no more than at the lowest end of the scale of less than substantial. In the extent of the conservation area as a whole, which covers a wide area encompassing the core of the village and surrounding open space – amounting to just under 50 hectares – their impact of these detail changes would be imperceptible. Its essential hill village character will remain unaffected. Similarly, they are unlikely to be noticeable in terms of the setting of the listed buildings, as the application site forms part of the wider background in which they are experienced; a background in which modern development, in the form of the estate to the east of the appeal site, is already established. In this context the absence of, for example, quoins or a change to garage door detail is hardly likely to impede the understanding or appreciation of any of the listed buildings, especially as they belong to a new housing development with which they have no aesthetic or historic connection. They will still be appreciated primarily for their intrinsic interest, and in a setting which includes both traditional and modern properties. To suggest therefore that the absence of these details represents anything other than the lowest level of harm to this setting would be an overstatement.

Considering the above in the final planning balance, where harm is less than substantial paragraph 202 of the NPPF requires it to be balanced against the public benefits arising from the proposal. The benefits in this case are the provision of new homes in a sustainable location, as duly recognised in the officer's report and by the original approval. However the report fails to make the balancing exercise on the changes that paragraph 202 requires. When this test is applied, the reasonable conclusion to arrive at is that the omission or alteration of the approved details is a minor matter that is clearly outweighed by the scheme's public benefits.

7.4 Concluding statement

For the reasons given above, it is considered that the houses as presently built satisfy the requirements of the paragraph 202 test in that the matter of the amended details is outweighed by the public benefits of sustainable new housing that the scheme delivers. To demolish the houses as per the enforcement notice would be entirely disproportionate in these circumstances and it is therefore respectfully requested that the appeal is upheld.