



**Land off Netherley Drive
Marsden**

Erection of 10 Dwellings

Introduction

This statement has been prepared by AKPlanning in support of a planning application for the erection of 10 dwelling on land off Netherley Drive, Marsden. It will identify and address the relevant planning policy and other material planning matters.

Site Location and Description

The site is shown on the aerial view below (red line for identification purposes only). It is approximately 0.78 Ha.



As can be seen it is an open area of land. The only access point is off Netherley Drive. The submitted topographical survey also shows that the site slopes upwards to the west.

Planning History

2015/93926 – Outline application for erection of residential development. Withdrawn.

2018/92216 – Erection of 5 dwellings. Refused for the following reasons

1. The site is allocated as Provisional Open Land within the Kirklees Unitary Development Plan and Safeguarded Land within the emerging Kirklees Publication Draft Local Plan. While the Council is unable to demonstrate a five year housing land supply, because the site has been through Appropriate Assessment the tilted balance through the presumption in favour of sustainable development does not apply. The benefits of the proposal, including the housing provision, does not in this situation justify the loss of Provisional Open Land. To approve the development would be in breach of Policy D5 of the Kirklees Unitary Development Plan and Policy PLP6 of the Kirklees Publication Draft Local Plan.

2. The proposed dwellings, by virtue of their mass, scale and height, would fail to respect the character of the surrounding area. Furthermore the proposal proposes significant retaining works and walls which would also fail to harmonise with the surrounding built environment. To approve the development would be in breach of Policies BE1 and BE2 of the Kirklees Unitary Development Plan, Policy PLP24 of the Kirklees Publication Draft Local Plan and Chapter 12 of the National Planning Policy Framework.

3. The proposed development seeks the pumping of surface water as a drainage solution. Insufficient justification has been provided to evidence that alternative methods of drainage have been appropriately explored and discounted. To approve the scheme would be contrary to Policy PLP28 of the Kirklees Publication Draft Local Plan and the aims and objectives of Chapter 14 of the National Planning Policy Framework.

4. There is no information supporting the application relating to requirements to support local infrastructure. A S106 agreement is required to ensure contributions towards Public Open Space and play equipment. The proposed development, therefore, fails to achieve the requirements of Policy H18 of the Kirklees Unitary Development Plan, Policies PLP4 and PLP47 of the Kirklees Publication Draft Local Plan and the aims and objectives of Chapter 8 of the National Planning Policy Framework.

Commentary on the historic reasons for refusal.

With the ongoing housing land shortfall, the position on provisional open land has changed (there is also an adopted Local Plan now). The loss of the open space will be covered in detail later in this report.

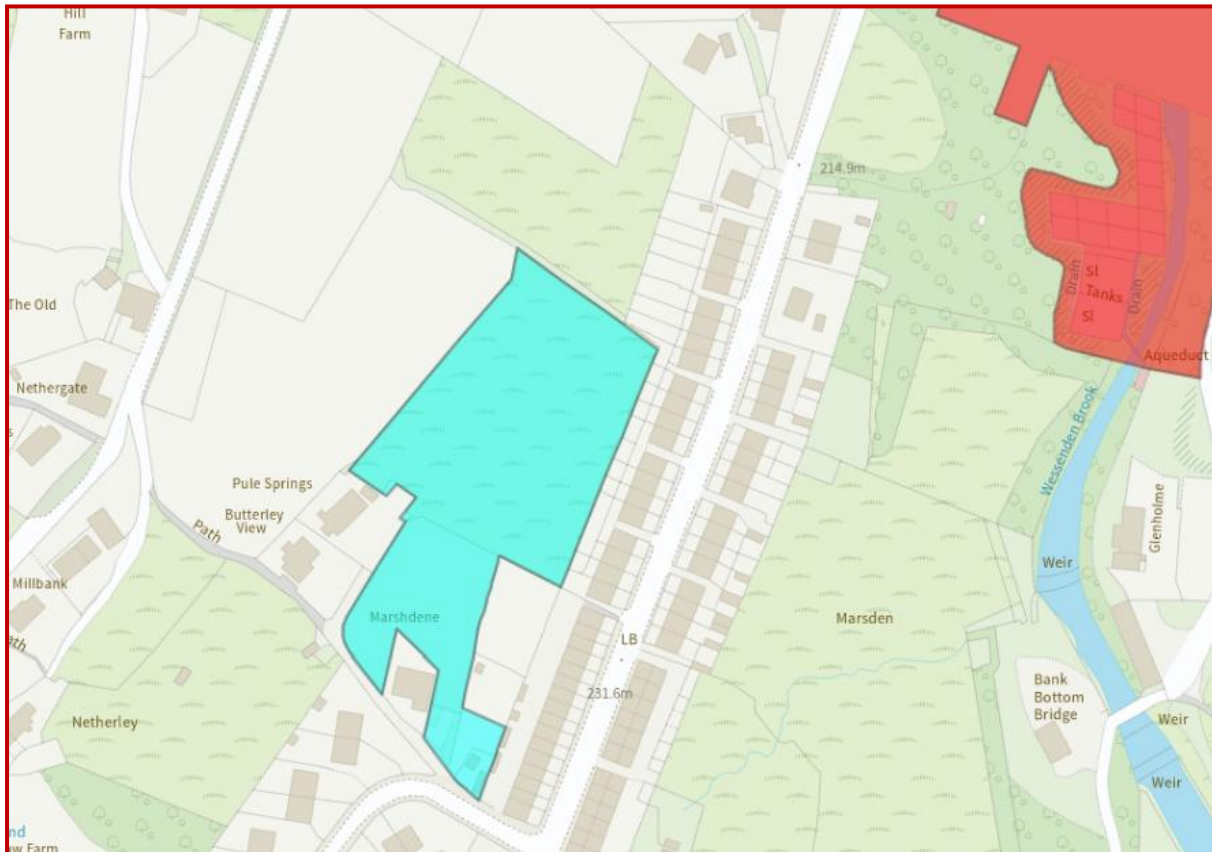
Designs are much changed from the refusal and have followed advice in the Housebuilders Design Guide SPD.

We have carried out drainage investigations, and a drainage report is submitted with the application. The drainage report addresses the drainage issue confirming there is a watercourse on site being a 100mm (4inch) clay pipe which has been tracked and discharges into the 225mm public combined sewer in Mount Road.

Planning Policy

Matters of Principle

The site is shown as safeguarded land (as shown below) on the Kirklees Local Plan (adopted February 2019).



The open land to the west is Green Belt.

The following local plan policy applies: -

Policy LP6

Safeguarded land (land to be safeguarded for potential future development) Areas identified as safeguarded land will be protected from development other than that which is necessary in relation to the operation of existing uses, change of use to alternative open land uses or temporary uses. All proposals must not prejudice the possibility of long term development on safeguarded land sites. The status of safeguarded land sites will only change through a review of the Local Plan.

Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions. The starting point in assessing any planning application is therefore to ascertain whether or not a proposal accords with the relevant policies within the development plan, in this case,

the Kirklees Local Plan. If a planning application does not accord with the development plan, then regard should be had as to whether there are other material considerations, including the NPPF, which indicate the planning permission should be granted.

The 2023 update of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land, and the 2022 Housing Delivery Test (HDT) measurement which was published on 19/12/2023 demonstrated that Kirklees had achieved a 67% measurement against the required level of housing delivery over a rolling 3-year period (the “pass” threshold is 75%).

As the council is currently unable to demonstrate a five-year supply of deliverable housing sites, and delivery of housing has fallen below the 75% HDT requirement, 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, or pass the Housing Delivery Test, weighs in favour of housing development, however this has to be balanced against any adverse impacts of granting permission for a proposal.

In this instance, the site is designated as safeguarded land, where Local Plan Policy LP6 states that the status of safeguarded land will only change through a review of the Local Plan. This is currently in progress.

In the absence of a five-year housing land supply, the most relevant policies to this application are deemed out of date. As the Local Plan safeguarded land policy (LP6) relates to the supply of land for development, including for housing, this policy is out of date. As such, safeguarded sites provide potential development opportunities that could be facilitated through their early release for housing where development constraints can be overcome.

In these circumstances, substantial weight should be given to the presumption in favour of sustainable development (applying the ‘tilted balance’) unless there are any adverse impacts that would significantly and demonstrably outweigh the benefits. constraints can be overcome.

When allocating this land as safeguarded the Local Planning Authority will have carried out a sustainability appraisal and if that failed, they would not have allocated the site as land for development.

The site is within the urban envelope, albeit on the edge of the settlement, within a location considered sustainable for residential development. It is accessible, lying within an existing established settlement and close to various local amenities and facilities. It is accessible to bus stops and a train station. All the daily, economic, social and community needs of residents of the proposed development can be met within the area surrounding the application site, in Marsden village centre, which further indicates that residential development at this site can be regarded as sustainable.

This policy position on housing land supply was considered within an advice note which was approved by Kirklees cabinet in December 2023 and is issued with a date of February 2024.

Within this guidance it is stated: -

Presumption in Favour of Sustainable Development

3.5 As the council is unable to demonstrate a five-year supply, and delivery of housing has fallen below the 75% HDT requirement, the presumption in favour of sustainable development (the tilted balance) is triggered as set out in paragraph 11d of the NPPF and the corresponding footnote 8 (shown in Appendix 1). This presumption means that planning applications for housing development should be considered favourably unless the site is protected under national planning policy or the negative impact of approving the development outweighs the benefits.

Principle 2 – Safeguarded Land

4.5 The Kirklees Local Plan identifies some sites as 'safeguarded land' which are protected from development during the lifetime of the Local Plan but are intended to be reassessed in any future update to determine their suitability for housing or employment development.

4.6 In the absence of a five-year housing land supply, the most relevant policies are deemed out of date. As the Local Plan safeguarded land policy (LP6) relates to the supply of land for development, including for housing, this policy is considered to be out of date. As such, these sites provide potential development opportunities that could be facilitated through their early release for housing where development constraints can be overcome.

4.7 In these circumstances, substantial weight should be given to the presumption in favour of sustainable development (applying the 'tilted balance') unless there are any adverse impacts that would significantly and demonstrably outweigh the benefits. In all circumstances, careful consideration should be given to the relevant planning considerations, Development Plan policies and appropriate national planning policies.

Principle 2 – Safeguarded Land

Substantial weight will be given to the presumption in favour of sustainable development for housing development on land identified as safeguarded land in the Kirklees Local Plan, where constraints to development can be overcome.

Planning permission will be expected to be granted if proposals constitute sustainable development and accord with other relevant policies set out in:

- *the National Planning Policy Framework*
- *the Kirklees Development Plan*
- *Kirklees Supplementary Planning Documents and other planning guidance.*

The council will continue to consider planning applications on their individual merits.

It will be expected that proposals on safeguarded land are capable of being brought forward and built out in a timely manner.

The advice note confirms the policy principle, that in accordance with national and local plan policy, development of safeguarded land for residential purposes is acceptable.

It is now, therefore, necessary to consider all other material considerations in detail.

Matters of Detail

Density

The proposed layout is shown below: -



The proposal is for a cul-de-sac of 6 detached properties and 4 semi-detached properties (10 in total).

There is a large area of open space at the end of the cul-de-sac.

Local Policy (LP7) and National Planning Policy require a net housing density of 35 dwellings per hectare. The proposal does not achieve this, it provides a net housing density of 12.5 dwellings per hectare. Policy LP7 states: -

lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or to secure particular house types to meet local housing needs;

The reasons for the lower housing density at this site are as follows: -

1. There are areas of the site, near the access and at the end of the cul-de-sac, that are undeveloped.
2. Levels across the land are difficult and more dwellings would require significant retaining structures that would impact far more on design and appearance as this was previously identified as a problem.
3. Adjoining the site are 3 detached properties to the west, the layout has the proposed detached properties next to these with the denser semi-detached properties next to the terraces to the east.
4. The access is a single point and it is not wished to overload this access. Previous advice has stated that a proposal for 18 dwellings would not be supported on highway grounds, but, that 5 would be. The proposal is for 10 (this brings the density up) and a supporting highway statement has been submitted that indicates that this number is acceptable.

Given the context and the restrictions it is concluded that the density is reasonable and on balance accords with Policy LP7.

Design

There are no heritage assets affected by the proposals.

Adjacent to the site to the east are Victorian terraces on Mount Road,



...more modern detached properties



...and Netherley Drive itself, brick built semi-detached properties.



As can be seen there is a varied mix of materials, designs and sizes.



The new dwellings have been designed by a local architectural practice with great experience of developing sloping sites. They have chosen a simple palette of natural materials, with mullions and ashlar detailing, all of which are taken from the local vernacular.

They have utilised the sites slope by creating 2/3 storeys, a design which is very common in the Colne and Holme valleys.

The example adjacent shows the use of the materials, design features and slope with the final design being of the local colne valley vernacular.

Other house types are submitted but all follow a similar palette of materials and features.

The Kirklees Housebuilders design guide encourages developers to create dwellings that respect the local topography and make use of materials, proportions and design features that sit well in the local area. The proposals do all of these things.

By utilising 2/3 storey buildings we avoid large stark retaining walls, the houses themselves act as retaining structures. This vastly improves the overall appearance of the site with well designed dwellings dominating the streetscene and not large retaining walls.

As previously noted the site lies adjacent to the Green Belt (to the west). The orientation of the dwellings allows for the location of gardens to be adjacent to the Green Belt Boundary. Thus maintaining a visual openness to the boundary.

Drainage

A drainage strategy has been submitted with the application. The conclusions of which are that drainage can be achieved (after considering all other methods) by: -

...it is proposed that the development will either utilise this existing verified outfall, where suitable, or provide a new gravity connection to the existing 225mm diameter public combined sewer in Mount Road. Surface water flows will be attenuated on site and restricted to a proposed discharge rate of 3.0 litres per second, subject to agreement.

This strategy provides a gravity-based solution for both foul and surface water, avoids pumping, reflects the historic and verified drainage regime of the site, formalises the existing drainage pathway, provides attenuation and flow control, and reduces the risk of uncontrolled runoff affecting neighbouring land or property.

This complies with planning policy

Highway Matters

A transport statement has been submitted. It concludes that the erection of 10 dwellings would have no material impact on highway safety. It also concludes that the site is in a sustainable location.

Amenity Issues

The proposed layout has been designed in accordance with the space about building policies in the housebuilders design guide and all are complied with.

Conclusions

The Local Planning Authority has a significant housing land shortfall. In these circumstances, substantial weight should be given to the presumption in favour of sustainable development (applying the 'tilted balance') unless there are any adverse impacts that would significantly and demonstrably outweigh the benefits.

Both AKPlanning and Paragon Highways (Transport Statement) have concluded that the site is on a sustainable location being near to public transport and all of the services in Marsden centre.

The design of the properties is appropriate to the area, 10 dwellings do not harm highway safety and drainage can be achieved. Ecological reports have been submitted and are acceptable and there are no residential amenity issues. All material considerations are satisfactorily dealt with.

It is therefore concluded that this proposal should be granted planning permission.

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