
Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 09-Nov-2017

Subject: Planning Application 2017/93319 Erection of 6 apartments rear of, 8, Crowles Road, Mirfield, WF14 9PJ

APPLICANT

Property Enquiries Ltd

DATE VALID

26-Sep-2017

TARGET DATE

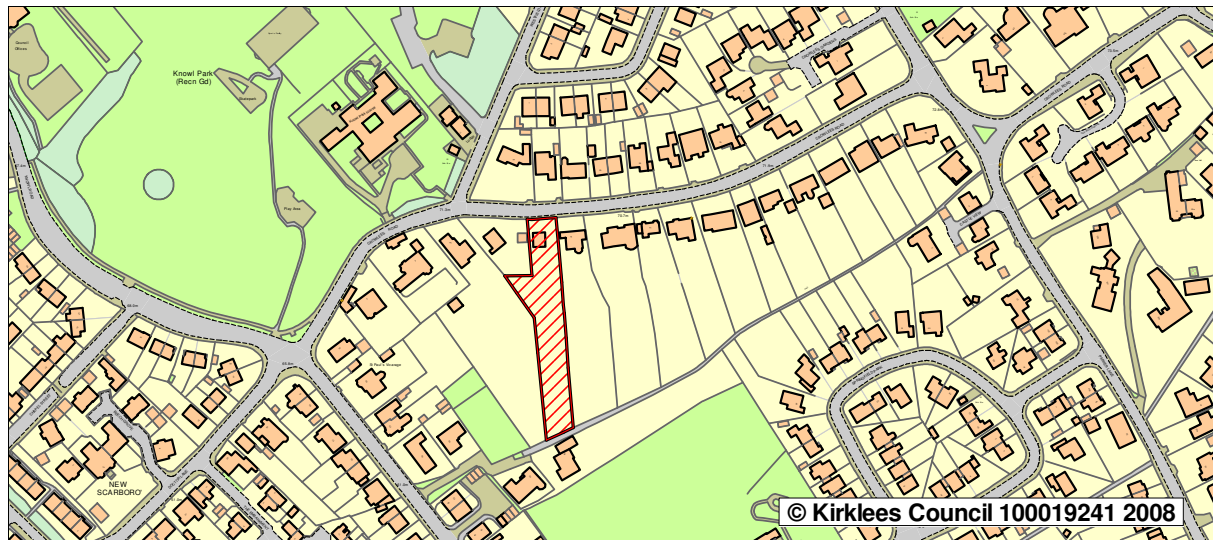
21-Nov-2017

EXTENSION EXPIRY DATE

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Mirfield Ward

No

Ward Members consulted
(referred to in report)

RECOMMENDATION:

Refusal

1. The proposed apartment block would be out of character along Crowlees Road being substantially larger in scale and massing than neighbouring properties which flank the site. The building would dominate the site and surrounding area, and the difference in land levels between the highway and the garden area is not sufficient to mitigate against the visual impact. Likewise the use of a dual pitch roof and dormers on the front elevation does not sufficiently alleviate the dominating height and mass of the building. The requirement for a proposed parking court to the front of the building would also be out of character with neighbouring properties which have extensive undeveloped garden areas. The proposed building in respect of its scale and massing would be incongruous as infill development, failing to retain a sense of local identity or be keeping with surrounding development.

As such, the development would not achieve good design because it does not seek to promote or reinforce local distinctiveness, or respond to the local character of the area. To permit the development would be contrary to Policies D2, BE1, and BE2 of the Kirklees Unitary Development Plan, Policy PLP24 of the Publication Draft Local Plan, as well as the aims of the National Planning Policy Framework.

2. The proposal would lead to an intensification of use of the access for both vehicular and pedestrian traffic and the application fails to illustrate vehicular visibility splays for the safe and efficient use of the proposed access. To permit the development without providing adequate visibility, taking into account the increase in traffic movements which would occur, would not be in the interest of highway safety. Furthermore, the proposal fails to demonstrate safe and efficient access of the parking bays and how the site would be serviced, including refuse collection. As such, the proposal would be contrary to Policies D2 and T10 of the Kirklees Unitary Development Plan which states that highway safety should not be prejudiced and that new development will not normally be permitted if it will create or materially add to highway safety.

3. The proposed apartment block by reason of its footprint and height would have a detrimental impact on the residential amenity of occupiers of neighbouring properties which flank the site. The proposed apartment block would be overbearing leading to a detrimental loss of outlook to neighbouring occupants to the north and north-west of the site, and would result in a detrimental loss of privacy to their garden areas. To approve the application would be contrary to policy D2 of the Kirklees Unitary Development Plan which stipulates development should protect the residential amenity of neighbouring residential properties.

1.0 INTRODUCTION:

- 1.1 The application seeks planning permission for the erection of a block of six apartments in the rear garden area of No.8 Crowlees Road. It is intended the dwellings would be restricted to occupiers aged 60 and over. It is considered the proposed building in respect of its scale and massing would be incongruous as infill development, failing to retain a sense of local identity or be keeping with surrounding development. The application also fails to illustrate acceptable visibility splays for the safe and efficient use of the proposed access and taking into account the increase in traffic movements which would occur, this would not be in the interest of highway safety. In addition the proposed apartment block by reason of its footprint and height would also have a detrimental impact on the residential amenity of occupiers of neighbouring properties. It is acknowledged the proposal could meet the accommodation needs of persons aged 60 and over, however this does not lend sufficient weight to outweigh the harm which would arise.
- 1.2 The application has been referred to Heavy Woollen Sub Committee at the request of Councillor Vivien Lees-Hamilton as detailed below:

Regarding the above planning application, I have been in several talks over many months regarding this issue. If you are minded to refuse this application I should like to request that the application be heard at Heavy Woollen Planning Committee and would also request a site visit. Mirfield has a great need for this type of accommodation.

I do believe that this development is sustainable and has adequate parking facilities. The development sits in a large plot of land and we have need of such adaptable accommodation in the Mirfield area.

- 1.3 The Chair of Heavy Woollen Sub-Committee has confirmed that Councillor Lees-Hamilton's reasons for making this request is valid having regard to the Councillor's protocol for planning committees.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site comprises the garden area of No.8 Crowlees Road at Mirfield. The garden area is predominately grassed with some former footings, now largely overgrown, pertaining to a previous planning approval for the erection of 1no. detached dwelling which has never been built. In the southern end of the garden is a wooded area with mixed deciduous and coniferous trees protected by a group Tree Preservation Order. Public footpath MIR/53/100 follows a route to the far south of the site. The site is bordered by neighbouring properties and their amenity spaces to the south, east and west. The site is unallocated on the Kirklees Unitary Development Plan Proposals Map.

3.0 PROPOSAL:

- 3.1 The application seeks planning permission for the erection of a block of six apartments in the rear garden area of No.8 Crowlees Road. It is intended the dwellings would be restricted to occupiers aged 60 and over.

- 3.2 The apartment block would be three storeys in height with a total height of 10.3 metres to the ridge. The design of the block proposes a dual pitched roof with three dormers on the front elevation. Habitable room windows are proposed on the front and rear elevations. On the application form it states the proposed walling materials will be a mix of brick and stone, although the proportions of each are not detailed on the elevational drawings. It is proposed the roof would be constructed of concrete roof tiles.
- 3.3 It is proposed to extend the existing vehicular access off Crowlees Road into the site and construct a parking court to the north of the building with nine parking spaces.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 2010/90508 – Outline application for residential development – Withdrawn
- 2011/92144 – Outline application for erection of detached dwelling – Conditional Outline Permission
- 2012/91218 – Reserved Matters application for erection of detached dwelling – Approval of Reserved Matters
- 2012/93126 – Works to TPO(s) 01/12 – granted
- 2014/90203 – Discharge of conditions on previous permission 2011/92144 for outline application for detached dwelling
- 2014/90201 – Discharge of Condition(s) on previous permission 2014/90203 for reserved matters application for erection of detached dwelling – Withdrawn
- 2014/93042 – Works to TPO(s) 01/12 – Withdrawn
- 2015/90155 – Works to TPO(s) 01/12 – Granted
- 2015/90362 – Erection of 6 age restricted apartments – Withdrawn
- 2017/91953 – Erection of 6 apartments – Refused

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 The application is a resubmission of a previous application Ref 2017/91952 which was refused in August 2017. In the covering letter the planning agent has stated the following “ Unfortunately, the application was refused before we had an opportunity to discuss the matter with Ward Councillors who were supportive of the proposals and would have sought to have the matter determined by Councillors at Planning Sub Committee”. Accordingly no amendments have been requested.

6.0 PLANNING POLICY:

6.1 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 Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

6.2 The application site is unallocated on the UDP proposals map as well as on the Draft Local Plan.

6.3 Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

D2 – Unallocated Land
BE1 – Design principles
BE2 – Quality of design
BE12 – Space about buildings
T10 – Highway Safety
NE9 – Retention of mature trees

6.4 Kirklees Draft Local Plan

PLP1 – Presumption in favour of sustainable development
PLP2 – Place shaping
PLP 11 – Housing Mix and Affordable Housing
PLP 24 – Design
PLP 33 – Trees

6.5 Supplementary Planning Guidance / Documents:

Mirfield Design Guidance

6.6 National Planning Policy Framework:

- **Chapter 6** – Delivering a wide choice of high quality homes
- **Chapter 7** – Requiring good design
- **Chapter 10** – Meeting the challenge of climate change, flooding and coastal change
- **Chapter 11** – Conserving and Enhancing the Natural Environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 Fifteen objections have been received. The concerns raised are précised below:

Highway Safety

- The proposed apartments will most likely be occupied by couples downsizing. It is unlikely thine car parking spaces will be sufficient to avoid increased on-street parking on Crowlees Road.
- Parking is restricted to permit holders during daylight hours. Concerned over-sixties residents will be visited by relatives in evenings and weekends. This will lead to increased congestion on a well used link between Sunny Bank/Dunbottle and the town centre.
- Highways Services found the previous proposal 'unacceptable' as the development would be in excess of the normal carry distance/fire hose distance and did not have required sight lines of 2.4m x 43m in both directions along Crowlees Road. It concluded that the proposal was 'prejudicial to highway' safety.
- The traffic problems in this area, particularly with it being in close proximity to Castle Hall School as well as the junction with Westfields Road are well known and will be exacerbated by the development.
- The plans show nine parking spaces for six apartments (twelve residents). The additional traffic (plus visitors) will cause congestion and significant safety concerns to Crowlees Road.
- Compared to the single dwelling for which outline permission was given in 2011, drainage, refuse disposal and vehicular use are greatly magnified, with up to 9 times as many residents' cars, visitors, deliveries etc. The access is extremely narrow for large vehicles including emergency vehicles and cannot be extended.
- A refuse area is shown near the footpath on Crowlees Road further restricting access. Will this be visible? Are elderly residents intended to walk uphill to this area with their waste? Are these bins to stand on the pavement on collection day? This is unclear.
- Vehicular and pedestrian traffic on Crowlees Road, whilst generally moderate, is heavy during the morning and late afternoon/early evening particularly as pupils go to and leave Castle Hall Academy and Crowlees Primary School. Construction would severely compound problems. Lorries have struggled to reverse into and exit from the site, temporarily blocking the road and pavements and nearly touching the wall at the front of No. 21. What happens to the existing tenants' two cars?
- Potential for a possible 12 more vehicles coming out of the access which is currently used by No.8 Crowlees Road who have three vehicles parked in the drive.
- Query whether the access is wide enough to take two cars side by side and concerns about additional traffic queuing on the road.
- The reference to traffic movements being less than that of a 5 bedroom family dwelling does not make sense. A family house is just 1 family, a block of 6 apartments will be occupied by 6 individual families.
- The access will be dangerous watching out for people at number 8, looking for pedestrians on the road and moving traffic on a blind bend. This is a busy road with the main routes to 2 local schools.
- The properties can't be serviced by dustbin waggons / ambulances without putting residents at number 8, pedestrians and oncoming traffic at risk.

Bins near the road will cause blind spots, and pedestrians to walk in the road.

- The traffic along Crowlees Road is a concern especially at peak times, as motorists use Crowlees Road as a 'rat run' via Parker Lane and Doctor Lane, to avoid congestion through Mirfield. There are no provisions for visitor parking, which would result in visiting cars parking on Crowlees Road. Any on-road parking would violate parking restrictions as well as causing a danger to drivers and pedestrians.
- The single width access is likely to result in stationary vehicles reversing and turning on to the road. The road provides pedestrian access to schools. Queuing and stationary traffic would present a hazard to children.
- For older, retired occupants there will be an increased need for care staff and/or extended family to attend to their needs. It is unreasonable to assume that care workers/family would not need access at peak hours. Parking needs of any visitors are not adequately accommodated.
- The increase in traffic will present an unacceptable hazard to school children. The access allows only for single file traffic. This will result in queues on a busy road.
- Crowlees has an extended peak hour during term time; it supports commuters and is on the main route to two schools. It is used as an alternative route when there is heavy traffic on Huddersfield Road.
- It is probable occupants in their sixties will be working and need private transport. This flow of traffic would be at peak times.

Visual Amenity

- The development is completely out of scale by reason of its size and shape to adjoining properties. It is over dominant
- The building design is incompatible, resembling an institutional building totally out of character in this location.
- The proposal is an overdevelopment and a "garden grab", a practice discouraged by the NPPF. The visual impact is at odds with existing development on Crowlees Road, which is predominantly detached houses built in the 1930s. The development does not have the general aspect of a dwelling, appearing like a professional facility such as a health or day care centre, or managed office space. This is exacerbated by the cramming of nine car parking spaces across the entire front of the building and the need for a separate waste storage area. The frontage will be clearly visible to anyone moving along Crowlees Road due to the wide gap between number 8 and number 10.
- A three storey apartment block would appear incongruous considering that the nearby properties are either two storey detached properties or bungalows
- An apartment building is not appropriate to the setting on Crowlees road; especially as there are no other apartment buildings of this type on this road. The large building is oversized for the plot and is taller than previously granted.
- The proposed building is visually completely out of keeping with the neighbourhood.
- There are no other buildings like this on Crowlees Road, and the site and apartments are clearly visible from both the road and footpath and from the public footpath that runs to the rear.
- The cumulative effect of high density building on this scale in back gardens in this area should be considered and impact minimised by building a single family dwelling.

- The property will be a total eye sore out of character with all other properties. The build cannot be screened.
- The development is totally out of keeping with the other properties in this part of Crowlees Road. All other properties on this road are detached or semi-detached one or two storey houses, this type of multiple accommodation structure is totally incongruous with the rest of the road.
- The proposed development is completely out of context with the existing topography of Crowlees Road, especially in that this large 3 story block would rise above the tree line.
- The south side of Crowlees Road consists of single family detached homes with a wide open aspect. The view is a key feature maintained by covenants on properties which prohibit boundary fencing.
- The rear gardens have public amenity value. The tree preservation orders endorse this.
- Gardens of existing properties are quiet and not overlooked. The proposed development will irrevocably modify the character of the street.
- A block of flats built beyond the recognised building line will have an effect on view and character of the road. The development is a full 3 stories high and is not consistent with the other properties and will change the character of the road significantly.
- A development of this size and density over develops the rear garden.

Residential Amenity

- Its 6 dining rooms and 6 kitchens directly overlook residents rear gardens and their habitable rooms.
- The 9 car parking spaces are located immediately to the rear of the Crowlees properties. This is unreasonable as undoubtedly disturbance will be created at all times.
- Nine or more vehicles sharing a single driveway with a further two at the existing property, together with up to twelve additional residents will lead to an increase in general noise and disturbance to the adjacent and facing properties and their previously peaceful garden spaces.
- The three story structure will dominate the largely undeveloped garden space to the rear of Crowlees Road, overlook currently private garden space and obscure views over the valley enjoyed by several existing properties. It will also overshadow them, being to the south of the existing development. The density of the development is too high.
- The complete rear garden of the property at 6 Crowlees Road will be overlooked by residents at the proposed apartments, leaving no privacy for the occupants of 6 Crowlees Road
- It will overlook No.4a Crowlees Road and have a negative impact upon privacy and access to light.
- This development would result in a loss of privacy to all the properties on the same side of the road.
- The easterly facing windows would overlook and spoil the privacy of the private balcony of No.16 Crowlees Road.

Other Matters

- It is virtually identical to the previously rejected applications.
- Do not object to the erection of a single family dwelling but robustly oppose the erection of an apartment dwelling.
- The Coal Authority deemed the development to be in a high risk area; and numerous local residents raised strong objections.

- Construction and operation will negatively impact on the local environment, pedestrian and traffic issues and local services.
- Cannot see that the three storey block could be built on previously constructed, weathered footings and question their structural suitability.
- How many apartment sites do we need in Mirfield? There are at least four residential homes for elderly, sheltered housing and we have lost count of the number of new apartments.
- If there was no demand from over 60s, it would be difficult to prevent the applicant applying to remove the age restriction as the applicant could dispute they were being stopped from earning.
- Concern about setting a precedent for development in the back gardens of neighbouring properties.
- There is a legally binding covenant on the gardens to protect the area and residents and the plots of land were sold in accordance with this agreement so the owner has signed a contract. Any building other than to the main building at number 8 will be an infringement.
- Local services, already at capacity, will have to be dug up causing issues with traffic and danger to school children and pedestrians.
- A protection order was in place over the wooded area that once covered the garden. These trees were all felled upon the strict agreement that these would be re-planted. These trees have not been re-planted and the applicant is in breach of this agreement.
- Surface water from gardens drains into the school field. In serious rains this can cause flooding in neighbouring gardens and to the footpath. Any changes to flows could potentially put neighbours at risk of flooding.
- This is a coal mine area and it is not safe to build on a site that potentially has mines underneath.
- Concern about the impact on wildlife.
- The application states surface water drainage will be directed to the existing storm drain. The drains in front of 16 Crowlees Road regularly overflow in heavy rain which results in water running down the driveway and flooding the garage. Number 14 is also affected, the basement floods and the water has to be pumped out by the council.
- The existing gardens on this side of Crowlees Road are subject to a restrictive covenant dated 29th September 1961, (an original copy can be provided on request). This states that purchasers must 'keep the plot of land...open and unbuilt upon'. These plans require close scrutiny in respect of this covenant
- It is unclear how occupancy based on an age limit would be controlled/enforced. The layout would cater for the change of use of the dining room and/or lounge to a further bedroom.

Mirfield Town Council – Cllr Lees-Hamilton Proposed MTC uphold the previous motion in support of 2017/91953 and the Clerk resend supporting comments to Kirklees in favour of 2017/93319. Cllr Bolt Proposed Mirfield Town Council welcomes the opportunity for homes for life to be built in Mirfield, giving elderly Mirfield residents the option of living within the local community. MTC supports and endorses the application which would see elderly residents downsizing and releasing 6 dwellings onto the housing market.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

- **K.C Highways Development Management** – Object
- **The Coal Authority** – No objections

8.2 Non-statutory:

- **K.C Arboricultural Officer** – No objections
- **Public Rights of Way** – No objections

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Highway issues
- Drainage issues
- Impact on Protected Trees
- Health and Safety Matters
- Representations

10.0 APPRAISAL

Principle of development

- 10.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise. The development plan is made up of the saved policies within the UDP and the policies set out earlier in the report are relevant to the determination of the application. An assessment of other 'material considerations' and their consequences is also required in order to weigh any social, environmental, resource or economic considerations resulting from the development.
- 10.2 The site has no specific allocation in the UDP. Policy D2 of the UDP states "planning permission for the development ... of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]". All these considerations are addressed later in this assessment. Subject to these not being prejudiced, this aspect of the proposal would be acceptable in principle in relation to policy D2.
- 10.3 Looking at the principle of housing development on this site, this is a private garden space where planning permission has previously been granted for the erection of a detached dwelling, pursuant to application Ref 2011/92144 (outline application) and 2012/91219 (reserved matters).

- 10.4 The principle of housing development in the rear garden area of this property may be acceptable in accordance with the sustainability principles of the NPPF and well as policy PLP1 of the PDLP. However, the proposal to erect an apartment block of the size proposed for 6 dwellings in the rear garden area of this property, which would be in-keeping with the layout of the surrounding area, relate satisfactorily with surrounding properties and have suitable access arrangements, is unlikely to be achievable.

Urban Design issues

- 10.5 Policies BE1 and BE2 of the UDP are considerations in relation to design, materials and layout. UDP policy D2 seeks to avoid an overdevelopment of a site and policy BE1 stipulates all development should be of good quality design which promotes a healthy environment, including space and landscaping about buildings. Paragraph 60 of the National Planning Policy Framework (NPPF) stipulates that planning policies and decisions should not attempt to impose architectural styles or particular tastes and should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is however, proper to seek to promote or reinforce local distinctiveness. Policy PLP24 of the PDLP is consistent with the above.
- 10.6 The site is bordered by residential development to the north, east and west. Crowlees Road comprises a mix of detached and semi-detached properties, single storey and two storey properties. The properties to the south of Crowlees Road are predominately detached properties with expansive garden areas.
- 10.7 The proposal seeks permission for infill residential development, to introduce into the rear garden area an apartment block of 6 dwellings.

Background / Summary of Previous Applications and Enquiries:

- 10.8 The site has been subject to a refused application. Subsequent to this there was a previously withdrawn application for six apartments Ref 2015/90362, and a subsequent pre-application enquiry. Officers concerns at the time of the 2015 application were that the proposed design and scale of the apartment block, by virtue of its height, bulk and overall massing, would result in an overly dominant feature which would fail to respect the scale, massing, density and layout of surrounding development. As such, the development would not achieve good design because it does not seek to promote or reinforce local distinctiveness, or respond to the local character of the area. There was also concern there would be insufficient visibility when exiting the site onto Crowlees Road and that the proposal failed to demonstrate adequate internal turning for service, refuse and fire vehicles. The application was proposed to be refused, but was withdrawn by the applicant.
- 10.9 In July 2016 Orange Design Studios on behalf of the applicant engaged with Council officers regarding a revised scheme for six apartments. The advice given by officers was that the alterations that had been made were not sufficient to address previous officer concerns and the applicant needed to look at further reducing the bulk and massing of the building.

Current Scheme

- 10.10. The proposal is for the erection of six (age restricted 60+) apartments with nine associated parking spaces. The proposed building would be three storeys in height. It is noted that the scale of the proposed building has not been reduced following the advice given by officers in July 2016.
- 10.11 In support of the application, the applicant has made the following points:
- The apartments are to be occupied by people aged 60. The apartments would meet Homes for Life Standard.
 - The scale, height and location is comparable with the approval for a detached dwelling, and provides the same two storey development with rooms in the roof space. The scale of the approved dwelling provides accommodation for a three storey five bedroom house with a dormer.
 - The proposed development is for 6no 1 bed apartments to be occupied by people aged 60 and over and the level of accommodation will be comparable with that of a 5 bed family.
 - Nearly 21% of the population in the Mirfield Ward is aged 65 plus.
 - The apartments have been designed with advice from Kirklees Accessible Homes team
 - Retirement Homes are in short supply in Mirfield. The development would meet the long term needs of an elderly population wanting to downsize, providing quality accommodation in a sustainable location close to doctor's surgeries, Mirfield town centre and all its amenities.
- 10.12 The applicant makes two key points, firstly that the development is comparable to the previously approved dwelling, and secondly that it would provide much needed accommodation for the elderly population in Mirfield.
- 10.13 In respect of the first point, the dwelling previously approved on the site was large in scale (five bed) and occupied a similar footprint within the site. The approved dwelling was two storeys in height, with additional accommodation in the roof space, to be lit by roof lights on the front elevation and dormers to the rear. Externally a detached double garage was proposed.
- 10.14 Existing development to the south of Crowlees Road is characterised by detached dwellings with extensive garden areas. Neighbouring properties off Crowlees Road predominantly comprise two storey and single storey detached dwellings. The proposed apartment block would have a similar footprint to the previously approved dwelling. It would however be of a greater scale and massing being three storeys in height. The proposed apartment block would be out of character along Crowlees Road being substantially larger in scale and massing than the existing properties, and that of neighbouring properties which flank the site. The building would dominate the site and surrounding area, and the difference in land levels between the highway and the garden area is not sufficient to mitigate against the visual impact. Likewise the use of a dual pitch roof and dormers on the front elevation does not sufficiently alleviate the dominating height and mass of the building. The requirement for a proposed parking court to the front of the building would also be out of character with neighbouring properties which have extensive undeveloped garden areas. There are no three storey buildings or apartment blocks within the vicinity of the site, and it is considered the proposed building in respect of its scale and massing would be incongruous as infill development, failing to retain a sense of local identity or be keeping with surrounding development.

10.15 The second key point raised is that the development would provide much needed accommodation for the over 60s. The Kirklees Market Position Statement (May) highlights that there is a growing demand for older people's accommodation, and it is acknowledged the proposed development may meet the needs of an older population. This does not however lend sufficient weight to outweigh the harm which would arise from the proposed development. The applicant has not attempted to revise the scheme following the previous refusal and it is considered the proposed development would have a detrimental impact on visual amenity and would fail to accord with policies BE1 and BE2 of the UDP, policy PLP24 of the PDLP, and the aims of the NPPF.

Residential Amenity

10.16 A core planning principle set out in the NPPF is that development should result in a good standard of amenity for all existing and future occupiers of land and buildings. Policy D2 of the UDP stipulates that development should protect the residential amenity of neighbouring residential properties and policy BE12 sets out the normally recommended minimum distances between habitable and non-habitable room windows. The nearest neighbouring properties to the site which would be affected by the development include No.4a, No.6, No.8 and No.10 Crowlees Road.

10.17 In respect of the impact on the existing property No.8 Crowlees Road, this is a two storey detached property. There would be a distance of over 21 metres from the proposed front elevation of the apartment block to the existing rear elevation of this neighbouring property, which meets with the requirements of policy BE12 of the UDP for directly facing habitable room windows. There would however be a loss of outlook and furthermore, to order to facilitate the proposed development, it is proposed to significantly reduce the external amenity space available to serve No.8. There is also the potential for the remainder of this garden area to be overlooked from the proposed upper floor windows of the apartment block.

10.18 In respect of the impact on No.10 Crowlees Road this is a two storey detached property. There would be a distance of over 21 metres to this property in accordance with policy BE12 and furthermore there is a substantial hedge screen along the shared boundary which would mitigate against possible overlooking and overshadowing which would arise from the scale and height of the building and its proximity to the boundary. Subject to this screen being retained it is not considered there would be an undue detrimental impact on the amenity of occupiers of this neighbouring property.

10.19 In respect of the impact on No.6 Crowlees Road this is a two storey detached property whose rear elevation fronts south-east towards the application site. There would be a distance of 30 metres to this neighbouring property. The proposed first floor and second floor apartment windows have the potential to overlook part of the private amenity space of this neighbouring property leading to a loss of privacy that could not be mitigated against though boundary screening.

- 10.20 In respect of the impact on No.4a Crowlees Road this is a two storey detached property located to the west of the application site. Due to the orientation of this property it is considered the proposed apartment block would not have an undue impact on the amenity of the occupants of this neighbouring property through either overshadowing or loss of privacy.
- 10.21 The proposal will have the greatest impact on the amenity of occupiers of No.6 and No.8 Crowlees Road, arising from loss of outlook and the potential for overlooking of private amenity spaces. The proposed apartment block by reason of its height having three floors of accommodation and proximity to the boundaries would have a detrimental impact on the amenities of the occupiers of neighbouring property contrary to policy D2 of the UDP.

Highway issues

- 10.22 UDP Policy T10 sets out the matters against which new development will be assessed in terms of highway safety.
- 10.23 The application is accompanied by a supporting statement that purports to suggest that the likely traffic generation would be less of that of the approved detached single dwelling. There is no evidence presented to support this assertion and Highways Development Management would disagree that this would be the case. There is no empirical evidence to suggest that persons over the aged of 60 would not travel at peak times.
- 10.24 Access to the site is proposed via an extension of the existing vehicular access to No.8 Crowlees Road, itself a small detached dwelling. Concerns exist with regards to the achievable vehicular visibility splays at the site access. The introduction of this proposal would lead to an intensification of use of the access for both vehicular and pedestrian traffic and the submitted plans do not illustrate the vehicular visibility splays available or achievable. The proposal is unacceptable in this regard due to the detrimental impact upon the safety and efficiency of the proposed access for all users.
- 10.25 Concerns exist internally within the site. Nine parking spaces are proposed which would be considered sufficient in line with the adopted standards as prescribed within the UDP. It is unclear however as to the level of accessibility of space no.1 and the application is not supported by any swept path analysis demonstrating safe and efficient access of the parking bays in this regard. It is also unclear how the site would be serviced. The development would need to ensure that a supermarket delivery type vehicle would be able to access and egress the site in a forward gear. The application is not supported by swept path analysis vehicle tracking demonstrating that a vehicle of this size would be able to turn within the site in a safe and efficient manner. Additionally, it is unclear how the site is to be serviced in terms of refuse collection.
- 10.26 Highways Development Management objects to this proposal. In light of the concerns raised about the scale of the development, these matters have not been explored further. Accordingly they constitute a reason for refusal as it has not been demonstrated that the site can be accessed safely and therefore, the proposal is considered contrary to the aims of policies D2 and T10 of the UDP.

Drainage issues

- 10.27 Concerns have been raised in the representations received regarding existing flooding incidents on Crowlees Road. The proposal is to drain foul water and surface water by mains sewer. This is the least sustainable option and no evidence has been provided to demonstrate why sustainable methods of surface water drainage have not been explored. As the proposal is not considered to be acceptable in respect of other matters, this matter has not been explored further.

Impact on Protected Trees

- 10.28 In the southern end of the garden is a wooded area with mixed deciduous and coniferous trees protected by a group Tree Preservation Order. The arboricultural officer has assessed the plans and considers the proposals will not adversely affect the adjacent protected trees. There are no objections to the proposal in respect of the protected trees and the proposal is considered to be in accordance with the aims of policy NE9 of the UDP.

Health and Safety Matters

- 10.29 The application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered.
- 10.30 The application is accompanied by a brief Coal Mining Risk Assessment Report (27 March 2015, prepared by Haigh Huddleston & Associates Ltd). The Coal Mining Risk Assessment Report correctly identifies that the site has been subject to past coal mining activity. In addition to the mining of a deep coal seam, The Coal Authority's information indicates that a thick coal seam outcrops at or close to the surface of the site which may have been worked in the past and that unrecorded, underground coal workings are likely to be present at shallow depth at the northern end of the site.
- 10.31 The Coal Authority considers the Coal Mining Risk Assessment Report has been informed by a limited range of information in the form of a Coal Authority Mining Report and the Coal Authority Interactive Map. Based on a review of these sources of mining information, the Report notes that it is possible that there is coal at shallow depth beneath the site that may have been worked historically. Accordingly, the Coal Mining Risk Assessment Report makes appropriate recommendations for the carrying out of an intrusive borehole investigation to ascertain the ground conditions and to establish the presence or otherwise of mine workings. If shallow mine workings are encountered, the Report recommends the installation monitoring stations to monitor mine gas.
- 10.32 The Coal Authority note that the applicant should ensure that the exact form of any intrusive site investigation, including the number, location and depth of boreholes, is designed by a competent person and agreed with The Coal Authority's Permitting Team. The findings of these intrusive site investigations should inform any mitigation measures, such as grouting stabilisation works, foundation solutions and gas protection measures, which may be required in order to remediate mining legacy affecting the site and to ensure the safety and stability of the proposed development.

10.33 In conclusion the Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment Report; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site. The Coal Authority recommends a condition requiring that the site investigation works be undertaken prior to commencement of development. If the development was considered to be acceptable in all other regards, coal mining legacy issues can be addressed by condition.

Representations

10.34 Fifteen objections have been received. In so far as they comments raised have not been addressed above:

10.35 Concern over an increase in noise and disturbance to adjacent properties and their garden spaces

Response: The proposal will result in a level of disturbance that does not currently exist as a result of the comings and goings of residents and visitors. The proposal is for residential development however and it is not considered there would be an undue disturbance to neighbouring properties arising from vehicular and pedestrian movements.

10.36 The Coal Authority deemed the development to be in a high risk area.

Response: The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment Report submitted; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site. The Coal Authority raises no objections subject to the inclusion of a condition requiring these site investigation works prior to commencement of development.

10.37 Cannot see the new block can be built on previously constructed, weathered footings and question their structural suitability.

Response: This is a building regulations matter.

10.38 If there was no demand from over 60s, it would be difficult to prevent the applicant applying to remove the age restriction as the applicant could dispute they were being stopped from earning.

Response: Any application to remove such a restriction would be assessed on its own merits.

10.39 Concern about setting a precedent for development in the back gardens of neighbouring properties.

Response: Every planning application is assessed on its own merits.

10.41 There is a legally binding covenant on the gardens to protect the area and residents and the plots of land were sold in accordance with this agreement so the owner has signed a contract. Any building other than to the main building at number 8 will be an infringement.

Response: The grant of planning permission does not override any restrictive covenants which is a separate matter not relevant to the determination of this application.

10.42 Local services, already at capacity, will have to be dug up causing issues with traffic and danger to school children and pedestrians.

Response: This is not a material planning consideration.

10.43 A protection order was in place over the wooded area that once covered the garden. These trees were all felled upon the strict agreement that these would be re-planted. These trees have not been re-planted and the applicant is in breach of this agreement.

Response: This refers to Tree Works application Ref 2015/90155 and to land to the south of the proposed siting of the apartment block. This will be enforced through separate process and is not a material consideration to the assessment of this application.

10.44 This is a coal mine area and it is not safe to build on a site that potentially has mines underneath.

Response: A Coal Mining Risk Assessment Report has been submitted. The Coal Authority concur with the recommendations of the report; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site.

10.46 Concern about the impact on wildlife.

Response: The site has no known biodiversity constraints.

CONCLUSION

11.1 To conclude, for the reasons set out in this assessment, the proposals are considered unacceptable from a visual and residential amenity perspective, as well as in relation to highway safety.

11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration.

Background Papers:

Website link

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f9331>

Certificate of Ownership – Certificate A signed and dated 05/09/2017

Link to previously refused application: 2017/91953

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f91953>