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**Report of the Head of Strategic Investment**

**HUDDERSFIELD PLANNING SUB-COMMITTEE**

**Date: 06-Jun-2019**

**Subject: Planning Application 2018/93326 Demolition of existing dwelling and erection of 5 detached dwellings with garages Corby, Birkby Road, Birkby, Huddersfield, HD2 2DR**

**APPLICANT**

Armitage Developments  
UK Ltd

**DATE VALID**

09-Oct-2018

**TARGET DATE**

04-Dec-2018

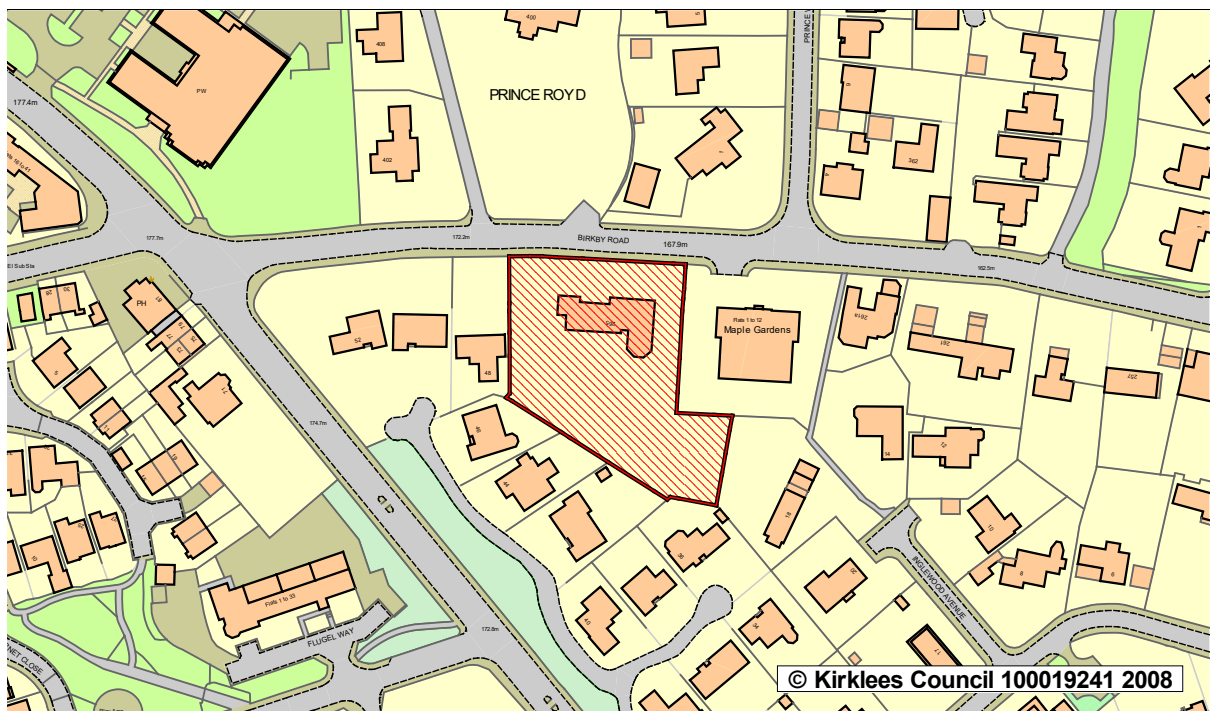
**EXTENSION EXPIRY DATE**

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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**

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**Electoral Wards Affected: Lindley**

No

Ward Members consulted

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**RECOMMENDATION:** REFUSE, for the following reasons;

1. By virtue of its density combined with the scale and mass of the proposed dwellings and their layout within the site, the proposal would result in an incongruous and cramped form of development which would fail to integrate with the existing built environment or to reflect the pattern of development in its immediate surroundings. It is therefore deemed to represent poor design and the proposal would represent an overdevelopment of the site. The development would unduly detract from the character of the surrounding area and cause harm to visual amenity, contrary to Policy LP24(a) of the Kirklees Local Plan as well as guidance within Chapter 12 of the National Planning Policy Framework.

2. The proposed layout, due to a combination of the proximity of dwellings to the southwestern (rear) boundary, their mass and scale, would result in an overbearing impact upon properties and their rear gardens adjacent to the site on Inglewood Avenue. This would also result in a poor standard of amenity for future occupiers. As such, the proposals would be harmful to residential amenity and contrary to Policy LP 24(b) of the Kirklees Local Plan as well as the aims of Chapter 12 of the National Planning Policy Framework, which seeks to, amongst other things, ensure that developments function well and provides a suitable standard of amenity for existing and future residents.

## **1.0 INTRODUCTION**

1.1 The application seeks the demolition of one dwelling and the erection of five detached dwellings, with garages.

1.2 In accordance with the Delegation Agreement, the application was first brought to the Huddersfield Planning Sub-Committee at the request of Cllrs Burke and Eastwood who opposed the development, including amendments, considering it constitutes overdevelopment of the site, despite being reduced in scale (in regards to the original scheme for 6 dwellings).

1.3 The application was first reported to Huddersfield Planning Sub-Committee on 7<sup>th</sup> March, 2019. Members resolved to defer the application to allow the applicant to reduce the number of units sought from five to four or less units. This was due to concerns of five units causing an overdevelopment of the site, which led to harmful impacts upon visual amenity and neighbouring dwellings.

- 1.4 The applicant has not reduced the number of units, retaining five. In response to member's concerns, the applicant has amended the plans to show fencing 3.0m along the south-west boundary and indicated additional soft planting along the boundary.

## **2.0 SITE AND SURROUNDINGS**

- 2.1 Corby is large a detached two storey dwelling faced in stone with red tile roofing. The dwelling fronts onto Birkby Road, with a high stone wall and iron gate along the frontage. The house has a generous garden that includes several protected and non-protected trees, although many have been felled recently.
- 2.2 This section of Birkby Road is predominantly characterised by large detached dwellings. To the east of the site is a three storey apartment building. To the south and west of the site are dwellings served off Inglewood Avenue. This are also typically large detached dwellings.

## **3.0 PROPOSAL**

- 3.1 The existing dwelling is to be demolished. Five detached, two-storey five-bed dwellings are to be erected. Each has an attached garage, with the exception of unit 3 which has a detached garage.
- 3.2 The dwellings are to be faced in natural stone with blue slate roofing. Each plot is individually designed, although they share a number of common features.
- 3.3 Plots 1 and 2 would front onto Birkby Road. A private drive is to run between them to serve plots 3, 4 and 5. All plots, bar plot 1, are to be accessed from the private drive. Each plot has a minimum of 3 off-road parking spaces, with one visitor parking space provided off the access drive. On-site turning is provided for plot 1, which connects straight to Birkby Road.
- 3.4 External works include soft landscaping to the site's boundary alongside the erection of timber boundary fencing to rear boundaries. The fencing is to be 1.8m in height, with exception to the south-west boundary where it is to be 3.0m in height. Plots 3 and 4 are to have a 1.0m stone front boundary wall. The stone boundary wall alongside Birkby Road is to be lowered to 1.0m where required to enable sightlines, where else it will be retained as existing.

## **4.0 RELEVANT PLANNING HISTORY**

### **4.1 Application Site**

88/00472: Outline application for 1 no. dwelling – Refused

89/05986: Outline application for erection of residential development – Refused

90/01022: Outline application for residential development – Refused

99/93513: Erection of swimming pool extension – Conditional Full Permission (Implemented)

2016/94066: Work to TPO(s) 46/90 – Granted

#### 4.2 Surrounding area

*263, Birkby Road*

2004/91796: Demolition of dwelling and erection of 12 no. apartment – Conditional Full Permission

2005/92990: Demolition of dwelling and erection of 12 no. apartment (revised scheme) – Conditional Full Permission

*18, Inglewood Avenue*

2003/95139: Erection of extension to existing detached garage to form double garage – Conditional Full Permission

2009/91245: Erection of single storey extension to side – Permitted Development

*44, Inglewood Avenue*

2009/91420: Erection of rear sun lounge and first floor extension over garage (Within a Conservation Area) – Refused (Appeal upheld)

2014/90101: Erection of ground and first floor extensions (within a Conservation Area) – Conditional Full Permission

2014/90107: Works to TPO(s) 17/85 within a Conservation Area – Granted

*46, Inglewood Avenue*

2002/92514: Erection of two storey extension (within a Conservation Area) – Conditional Full Permission

*48, Inglewood Avenue*

2015/93269: Erection of single storey extensions to rear, first floor extensions to front and side, conversion of existing garage and new attached garage to front (within a Conservation Area) – Conditional Full Permission

2018/92244: Erection of single storey rear extension, two storey front and side extensions and car port (within a Conservation Area) – Conditional Full Permission

#### 4.3 Planning enforcement

None on site and none within the area considered relevant to this specific application.

## **5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme)**

- 5.1 The application initially sought six dwellings. This raised concerns with officers regarding overdevelopment, impact on the visual character of the area and the residential amenity of future occupiers and neighbours. Other concerns included the proposed boundary treatment, impact on protected trees and ecology.
- 5.2 The above concerns were expressed to the applicant. This led to a reduction to five plots, reducing the scale of the dwellings, repositioning and the submission of further ecological and arboricultural details which were considered to overcome officer concerns. A culvert crosses the site, which required negotiations on securing appropriate enhancements to ensure appropriate safeguarding and no material greater risk from flooding being caused by the proposal.
- 5.3 Following the committee on the 7<sup>th</sup> of March, where members advised that they could not support five units and the applicant should consider four or less units, further discussions took place between the applicant and officers. The applicant was unwilling to reduce the numbers proposed, however sought to alleviate member concerns on density by improving the boundary treatment.
- 5.4 Because the applicant has not reduced the number of units from five to four or less, notwithstanding the amendments made, officers consider the scheme has not satisfactorily addressed the resolution of Committee. Furthermore when assessed against the adopted Policies of the Local Plan, which has now removed the technical 'space around buildings' standards set out by Policy BE12, officers consider that the development would not represent good design. This has led to the recommendation to refuse the application.

## **6.0 PLANNING POLICY**

### Kirklees Local Plan (KLP)

- 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 statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).
- 6.2 The site is Unallocated on the LP Policies Map, adjacent to the Edgerton Conservation Area
- **LP1** – Presumption in favour of sustainable development
  - **LP2** – Place shaping
  - **LP3** – Location of new development
  - **LP7** – Efficient and effective use of land and buildings
  - **LP11** – Housing mix and affordable housing
  - **LP21** – Highway safety and access
  - **LP24** – Design
  - **LP28** – Drainage
  - **LP30** – Biodiversity and geodiversity
  - **LP33** – Trees
  - **LP35** – Historic environment
  - **LP51** – Protection and improvement of local air quality

## National Planning Guidance

6.3 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF), published 19th February 2019, and the Planning Practice Guidance Suite (PPGS), first launched 6th March 2014, together with Circulars, Ministerial Statements and associated technical guidance.

6.4 The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- **Chapter 2** – Achieving sustainable development
- **Chapter 4** – Decision making
- **Chapter 5** – Delivering a sufficient supply of houses
- **Chapter 11** – Making effective use of land
- **Chapter 12** – Achieving well-designed places
- **Chapter 14** – Meeting the challenge of climate change, flooding and coastal change
- **Chapter 15** – Conserving and enhancing the natural environment
- **Chapter 16** – Conserving and enhancing the historic environment

6.5 Supplementary Planning Guidance / Other Documents

- DCLG: Technical housing standards – Nationally Described Space Standard
- Kirklees Local Plan Supplementary Planning Document Consultation Draft: Highway Design Guide

## **7.0 PUBLIC/LOCAL RESPONSE**

7.1 The application has been advertised via site notice, press notice and through neighbour letters to addresses bordering the site. This is in line with the Councils adopted Statement of Community Involvement.

7.2 The end date for the previous period of publicity was 22 February, 2019. 32 representations were received to the proposal up to that date.

7.3 Following the committee on 7 March the plans were amended by the applicant. These amendments have been re-advertised by neighbour letter. The current period of publicity is not due to expire until the 4<sup>th</sup> of June. As such the period of publicity will not expire until after the committee agenda has been published. Representations received to the initial periods of publicity, and those in response to the current publicity received at the date the report was compiled, are summarised below. Any further representations received will be reported to members in the update.

- 6 houses are too many and will result in overdevelopment that harms the area's visual amenity, road safety issues, local ecology and flooding.
- The dwellings are too large, being in essence three storeys.
- The site is too small for five units and will be out of keeping with the surrounding building plots.
- Note that the LLFA objects to the development and that they recommend it is improved in 3<sup>rd</sup> party land.

- Reducing the development to five units does not overcome previous concerns. Five units is still an overdevelopment.
- The proposal (amended) harms the amenity of neighbouring residents through overbearing and overlooking.
- The proposal (amended) detracts from the visual amenity of the area.
- Planning applications on site have been refused in the past. One was refused as it represented back land development and would harm the amenity of neighbours.
- Another was refused due to the culvert on site and flooding concerns.
- The developer felled trees before seeking planning permission. These benefitted from an area TPO. This has harmed local ecology.
- While there is a housing shortage, the approval of five units will not change that.
- The proposal will result in an unacceptable increase in traffic in the area. A past application was refused as suitable sightlines could not be achieved.
- Any new planting should benefit from a TPO.
- The development should be considered in the context of Halifax Road improvements. More traffic will cause more noise and pollutant.
- The council should not consider an application just in the name of greed.
- The proposal will cause odour pollution.
- 1.8m high timber fencing does not provide sufficient privacy. Hedging would be more welcomed.
- One was refused as it represented back land development and would harm the amenity of neighbours.
- The proposal will lead to parking on Birkby Road, which has numerous drives / roads connecting in close proximity. The garages are too small.
- There are insufficient services, inc. doctors and schools, in the area.
- The existing house is fine and does not need to be demolished. It complements the Edgerton Conservation Area.
- Loss of trees and green space in the wider area.
- The proposal would harm the Edgerton Conservation Area.
- There is a covenant on the land preventing additional dwellings.
- The survey was done at the wrong time of year.
- The proposal will lower local house prices and affect their views. Construction will cause noise and dirt pollution.
- Note the latest comments from the LLFA. Seek reassurances that their assessment was undertaken very recently, as there appears to be marsh-type grass growing on site following the removal of trees last year. Wanting reassurance that the new culvert does not pose a risk of water seepage.

#### *Local member interest*

- 7.4 Cllrs Burke and Eastwood expressed concern early within the application process and wished to be kept informed. They were appraised of the initial amendments secured by officers; however, the members did not consider them to overcome their concerns of overdevelopment of the site, resulting in the committee request.
- 7.5 Following the post-committee amendments, officers notified Cllrs Burke and Eastwood of the amendments and that, as the alterations did not conform with the resolution of the committee, the recommendation was now likely to be for refusal. The Councillors confirmed they would support this recommendation, and suggest a maximum of three units would be acceptable to them.

## **8.0 CONSULTATION RESPONSES**

### **8.1 Statutory**

K.C. Highways: No objection subject to condition.

### **8.2 Non-statutory**

K.C. Conservation and Design: No objection.

K.C. Ecology: No objection subject to condition.

K.C. Lead Local Flood Authority (LLFA): Have provided feedback on the surface water drainage and guidance for the applicant. Expressed concerns due to the details provided and flood risk, however following further details being provided and assessed, do not object to the proposal subject to conditions.

K.C. Trees: No objection subject to condition.

## **9.0 MAIN ISSUES**

- Principle of development
- Urban Design
- Residential Amenity
- Highway
- Other
- Representations

## **10.0 APPRAISAL**

### Principle of development

#### *Sustainable Development*

- 10.1 Sustainable Development NPPF Paragraph 11 and LP1 outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation. The dimensions of sustainable development will be considered throughout the proposal. Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be explored.

#### *Land allocation*

- 10.2 The site is without notation on the LP Policies Map. LP2 of the LP states that;

*All development proposals should seek to build on the strengths, opportunities and help address challenges identified in the local plan, in order to protect and enhance the qualities which contribute to the character of these places, as set out in the four sub-area statement boxes below...*



The site is within the Huddersfield sub-area. The listed qualities will be considered where relevant later in this assessment.

### *Residential development*

- 10.3 In the recently adopted Local Plan the council have demonstrated 5.51 years supply of deliverable housing capacity (including incorporation of the required 20% buffer). As the Local Plan was adopted within the last five years the five year supply calculation is based on the housing requirement set out in the Local Plan (adopted 27<sup>th</sup> February 2019) and takes account of shortfalls in delivery since the Local Plan base date (1<sup>st</sup> April 2013).
- 10.4 Recent amendments to National Planning Practice Guidance have revised the Housing Delivery Test measurement for local planning authorities and a technical note on the process used in its calculation. Results for 2018 (published 19<sup>th</sup> February 2019) show that housing delivery in Kirklees over the period 2015-2018 was 75% of the number of homes required by the test. This means that the council must produce an Action Plan within six months of the test results being published and continue to apply a 20% buffer to the five year housing land supply requirements. In summary the council can currently demonstrate a 5-year supply of deliverable housing sites, with appropriate buffer. Notwithstanding this, windfall sites contribute to housing delivery and there is no objection to the redevelopment of this site for housing in principle.
- 10.5 LP7 establishes a desired target density of thirty-five dwellings per hectare. By that standard, this site could accommodate twelve dwellings. Five are sought, which represents a clear shortfall. However, LP7 states this target should be 'where appropriate' and in the policy justification set out in para 6.40 that the policy allows for lower densities "densities where a site would not be compatible with its surroundings, applicants should refer to the design policy for further guidance" (Policy LP24). This area is characterised by large detached dwellings, set in generous curtilages. Therefore, a higher number of smaller plots would not respect the local character. It is also noted that the site is domestic garden; the redevelopment represents a net gain of four plots. Therefore, in principle, the quantum of development is considered acceptable although a more detailed assessment of the proposal's design and its impact on the surrounding environment, assessed against LP24 amongst other Policies, is undertaken below.

### Urban Design

- 10.6 First considering the loss of the existing building, it is neither listed nor deemed to be a non-designated heritage asset. Whilst not unattractive, it is not of significant architectural merit and does not meaningfully contribute to the aesthetic of the area: its demolition is not opposed.
- 10.7 Assessing the proposed development's layout and density, it is acknowledged that LP7 establishes minimum density targets for the district that this development falls well below. However, an important aspect of the policy is the stipulation of 'where appropriate', and that 'Housing density should ensure efficient use of land, in keeping with the character of the area and the design of the scheme'. Residential development surrounding the site is prominently large, detached dwellings set in generous curtilages. This forms a verdant and spacious character that defines the surrounding built environment.

- 10.8 LP24(a) requires that 'Proposals should promote good design by ensuring: the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape'. By the standards established by the surrounding townscape, the proposal is considered an overdevelopment.
- 10.9 Whilst the dwellings sought are large and detached akin to those in the area, the proposed units are proportionally larger in their plots. This results in less open space between units within the site and to existing neighbours, resulting in a cramped form of development. As an example, plots 3, 4 and 5 have separation distances of 3m to each other, compared to typical distances of 4-7m at adjacent properties. Particular reference is made to plot 5, which is located in a narrow section of the site exacerbating concerns of overdevelopment, with the rear elevation of this plot being particularly closely spaced to existing buildings to the north, east and south.
- 10.10 In response to these concerns, the applicant has provided a study of nearby residential development and their respective densities. These include Birchwood Close, Plots 30 – 40 of Inglewood Avenue, Prince Wood Lane and the adjacent apartment block to the east of the site. Excluding the flats, as a different form of development, only one site has a higher density (Prince Wood Lane). However, this example was part of a larger estate of 40 units and therefore considered under a different context compared to this small scale windfall site. Turning to the examples of equivalent density to the application site, density of development is a consideration of unit numbers compared to site area. It does not reflect the scale of dwellings, their spacing to other properties and the proportionate size of their surrounding curtilage as has been considered above. The equivalent density sites are deemed to have more appropriate scale and spacing, both within the site and to neighbouring dwellings, compared to that sought.
- 10.11 Turning to the specific design of each of the proposed dwellings, each are broadly unique with shared architectural features and appearances resulting in an acceptable and interesting mixture of dwellings which suitably harmonises with each other. Dwellings are visually two storeys, with some rooms in roof spaces served by roof lights. Primary openings are predominantly arranged front / rear, with fenestration being traditionally designed. The design of the dwellings is considered to correspond well with Inglewood Avenue and Birkby Road, which likewise host large dwellings of varied designs that form a coherent whole however the acceptability of the appearance of the dwellings does not overcome the concerns about the scale and massing combined with the density on site resulting in a poor form of development and therefore bad design.
- 10.12 Some initial concerns were held over the development being close to Birkby Road, which is defined by its verdant character and dwellings being set back in their plots. This did lead to amendments, specifically to plot 2 and its garage. Following discussions, the garage's projection and height were reduced and further details on the front boundary were provided that limit its prominence. These amendments, plus that its set back 8m from the site boundary, lead to the conclusion that it would not harm the character of Birkby Road. Plot 1, while in line with the garage, has a more traditional design which with its separation distance is also not deemed harmful.

- 10.13 Facing materials are to be natural stone with blue slate roofing. These are welcomed and considered acceptable within the area, although samples are to be condition ensure suitable end products.
- 10.14 In response to concerns of overdevelopment of the site, the applicant proposes a 3.0m high timber boundary fence to the southwestern boundary of the site. While there is noted to be some variance in levels, this is not considered an appropriate response to address the concerns (relating to residential amenity, addressed below) and a 3.0m high boundary fence would be an incongruous and imposing feature that is out of keeping with the predominant boundary treatments of the area. Given the large scale of dwellings and their curtilages, boundary treatments are mostly open and low level.
- 10.15 The site is on the edge of the Edgerton Conservation Area, with the site's west and south boundary to the properties on Inglewood Avenue forming the Conservation Area boundary. While not within the Conservation Area, development can affect its settings. Nonetheless, consultation has been undertaken with K.C. Conservation and Design. The heritage value can be considered its attractive architecture, style of design and verdant character. Notwithstanding the above concerns in relation to density, given the site is outside the Conservation Area, would not materially interfere with an existing prominent public viewpoint into the Conservation Area and would not interfere with the identified heritage significance of the area, officers and K.C. Conservation and Design do not consider the proposal harmful to the Conservation Area's setting, having a neutral impact. Planning Officers share this assessment, and do not consider the development to conflict with LP35 or Chapter 16 of the NPPF.
- 10.16 In conclusion, the proposed development is considered to represent an overdevelopment of the site. While taken in isolation the design of individual dwellings are visually acceptable, given the scale and massing of the proposals the cramped form of development therefore fails to respect the established urban grain and character of the wider area. In response to officer concerns regarding overdevelopment, the use of a 3m high boundary fence raises concerns regarding its impact on visual amenity. The proposal would result in an incongruous form of development which would harm visual amenity, The NPPF and Local Plan put good design at the heart of development, with LP24 stating 'good design should be at the core of all proposals in the district'. The application is considered to be contrary to the aims and objectives of LP24 of the LP and Chapter 12 of the NPPF.

#### Residential Amenity

- 10.17 The surrounding area is predominantly residential, with existing dwellings surrounding the site. Consideration is required as to whether the proposal would cause undue harm to the amenity of occupiers of these existing dwellings, followed by an assessment of the amenity of future occupiers. The policy context includes LP24(b) and paragraph 127 of the NPPF. LP24 states;

*Proposals should promote good design by ensuring:*

*b. they provide a high standard of amenity for future and neighbouring occupiers; including maintaining appropriate distances between buildings and the creation of development-free buffer zones between housing and employment uses incorporating means of screening where necessary;*

The dwellings to the north, across Birkby Road, are separated to plots 1 and 2 by a similar distance to the existing dwelling and no concerns are raised as to the effect on residential amenity.

- 10.18 To the east of the site are Flats 1 to 12 of Maple Gardens. The application site is on a notably higher ground level, however the two closest plots, 1 and 5, each have side elevation facing the flat complex. The side elevations of both dwellings do not host primary habitable room windows. Plot 1 has a separation distance of 19.0m (with intervening TPO'd trees) while plot 5 18.75m. As narrow side elevations hosting non-habitable room windows, despite the land levels, officers are satisfied there would be no harmful overbearing, overshadowing or overlooking upon the residents of Maple Gardens.
- 10.19 To the west is no.48 Inglewood Avenue. Plot 2 would be located to the side and rear of no.48. Plot 2's two storey section would project 7.2m beyond no. 48's rear, however due to the separation, angle of layout and level differences it would not be prominently visible to cause overbearing. While the single storey front section would be visible, being single storey and on a lower level it too is not considered detrimental to no.48's residents through overbearing. Being to the north-east overshadowing is not a concern. While plot 2 has no primary habitable room windows facing towards no.48's land, all windows that do are to be obscure glazed via condition.
- 10.20 To the south and south-west of the site are the rear elevations of nos. 18, 36, 42, 44 and 46 Inglewood Avenue. These dwellings currently face into the large garden space of Corby. It is noted, via representations, that there was previously mature trees along the south boundary which have recently been felled. The proposed dwellings would be erected in their place. It is acknowledged the trees would have likely been a pleasant view, however there is no right to a view in planning. Consideration must be given to whether the development would harm occupier's amenity through overbearing, overshadowing or overlooking.
- 10.21 LP24(b) has no set recommended separation distances. However it does establish that separation distances should be 'appropriate' within the context of the application. To establish this, consideration is required to the proposed distances compared to the establish separation distances within the area. Dwellings in the area have sizable curtilages leading to generous spacing between dwellings. Predominantly, separation distances (on flat ground), are typically in excess of 27m with shared boundaries being approximately half way.

- 10.22 Plot 3 to no.46 would have a separation distance of 19.5m between ground floors or 21.5m between first floors. While these dwellings have an approximately central shared boundary line, plots 4 and 5 are relatively closely spaced to the shared boundaries with their neighbours. At its closest, plot 4 would be 10m from the shared boundary with no.44. Nos 5 has three neighbours; nos.18, 36 and 42. Respectively, plot 5 would be 5.2m, 6.7m and 7.5m from the boundary of these dwellings. These separation distances are consistently lower than that of surrounding dwellings. The need for appropriate separation distances is, in this case, exacerbated given the large scale of the dwellings sought and the limited space between the dwellings, which leads to a greater impact through their mass and scale.
- 10.23 Being well below the separation distances established by the surrounding development, officers consider that the proposed development consisting of large dwellings with limited spacing to their neighbours (in the context of surrounding development) would cause material harm, through overbearing impact, to residents of the aforementioned dwellings (both within their dwellings and their respective rear private amenity areas).
- 10.24 Being located to the north of the aforementioned dwellings, overshadowing is not a concern. Considering privacy and overlooking, window to window separation distances are consistently in excess of 21m. Window to garden distances are lower, however boundary treatment and planting will mitigate opportunities for overlooking. Furthermore, existing residents fronting onto Inglewood Avenue have limited boundary treatments between one another, resulting in an open environment where screening is limited. Accordingly, on balance, officers do not consider material harmful overlooking would take place. This is not considered to prejudice the comments relating to overbearing, which is caused by virtue of the large mass, scale and density and layout of the proposed units, but the separation being sufficient to prevent harmful invasion of privacy.
- 10.25 It is noted that there are topographical differences between the site and neighbouring dwellings. Nos.42 – 46 Inglewood Avenue are on higher ground level. The higher level is not sufficient to overcome these concerns. Conversely, no.18 is on a lower ground level and as plot 5 is only 5m from the shared boundary at its closest point, this level difference exacerbates the concerns. The mature vegetation between plot 5 and no.18 is subject to removal without planning permission and limited weight can be attributed to it as screening.
- 10.26 The concerns relating to overdevelopment and the impact on neighbouring residents were discussed by members at the committee held on the 7<sup>th</sup> of March. Following this the applicant has amended the plans to show additional indicative planting along the south boundary and shown the boundary fencing being increased to 3m in height to attempt to alleviate concerns. Officers do not consider this sufficient to overcome the above concerns.
- 10.27 Consideration must also be given to the amenity of future occupiers. Each dwelling is a suitable size, based on the number of bedrooms sought, with garden spaces being commensurate to the dwellings they serve (in relation to amenity value). All habitable rooms would be served by windows that would provide an acceptable level of natural light. Conversely, as identified above, because of the scale of the proposed dwellings (and correspondingly the

number of windows per elevation) the proximity of plots 3 – 5 to nos. 46, 44, 42, 36 and 18 Inglewood Avenue would result in harmful overbearing between dwellings and gardens for future occupiers. This is partly mitigated by the proposed 3.0m high boundary fence, but this in itself would cause detrimental overbearing and overshadowing, within garden spaces, for occupiers of the new dwellings.

- 10.28 Concluding on the above, the proposed development is considered to be an overdevelopment of the site which, by virtue of the density, scale and mass of the development would result in a cramped form of development which would result in harmful overbearing of neighbouring dwellings, while not securing an acceptable standard of amenity for future occupiers. This is in breach of the aims and objectives of LP24(b) and paragraph 127(f) of the NPPF.

### Highways

- 10.29 First considering the impact on the local network, there was no trip generation information supplied with the application, however using an acceptable trip rate of 0.8 two way trips per dwelling, this would generate an average of 5 trips in the peak hours. This is not expected to have a severe impact on the operation of the local highway network.
- 10.30 Two new accesses to the site are to be formed onto Birkby Road (via S184 Agreement). The first, to replace the dwelling's existing access, is to be a private road serving units 2 – 5. The second is to serve plot 1 only and be a private driveway; the driveway has on-site turning, allowing plot 1's vehicles to leave in a forward gear. Each access has acceptable sightlines, which can be secured and protected via condition.
- 10.31 Vehicle parking is policy compliant for all dwellings, with each unit having three on-site parking spaces. One visitor parking space is indicated within the site, which is acceptable. This parking provision is securable via condition. Swept path analysis has been provided internally on the private road serving plots 2 – 5, confirming acceptable access for refuse and emergency service vehicles, although a waste collection point is shown to the site's front allowing refuse services to not need to access the site. Its provision could be secured via condition.
- 10.32 Given the busy nature of Birkby Road, officers would seek a construction management plan via condition to ensure appropriate arrangements are in place during the construction period.
- 10.33 The application has been reviewed by Planning and Highways Development Management officers, who conclude subject to conditions the proposal would not harm the safe and efficient operation of the Highway, in accordance with LP21.

### Other

#### *Trees*

- 10.34 Several un-protected young trees are to be removed on site, which is not opposed by officers of K.C. Trees.

- 10.35 There is a grouping of TPO'd Trees along the east boundary of the site. These are to be preserved, with minor pruning works, and not removed via the proposal. An Arboricultural Method Statement has been submitted with the application that has been reviewed by K.C. Trees. K.C. Trees support the details submitted and, subject to a condition ensuring works are done in accordance with the Arboricultural Method Statement, do not object to the proposal. The development is deemed to comply with LP33.

#### *Drainage*

- 10.36 Waste drainage is to be via sewer, which is acceptable.
- 10.37 Surface water is to be discharged into a culvert crossing the site which is considered acceptable in principle. The culvert, which is currently in a poor state of repair within the site, is to be rerouted and improved through the site which is welcomed; there are recorded past flood events involving this culvert within the application site and its environs. The proposal includes mitigating the potential impacts which could arise through increased water flow through the culvert - which would occur through the additional impermeable areas created by the development.
- 10.38 The mitigation measures include the installation of an attenuation tank within the site to reduce the flow of water through the culvert. As a result of this mitigation the increase in water into the culvert, would be limited to 3litres a second in extreme weather events. As the culvert as improved is anticipated to currently accommodate 400 litres a second, this is considered to be a very limited increase. On balance, considering the improvement works proposed to the culvert and the minor flow rate increase of 3litres a second, officers and the LLFA do not object to the proposed arrangement, which is deemed to comply with LP28.

#### *Ecology*

- 10.39 The site is within a bat alert area and the nature of development has the potential to impact on any local protected species. Accordingly, the application was supported by an Ecological Appraisal. The appraisal summarised that the site had 'moderate' roosting potential.
- 10.40 The Ecological Appraisal has been reviewed by K.C Ecology, who concur with its findings and recommend conditions for further investigation works be imposed should permission be granted. They also support the proposed enhancement strategies, however note they will need updating within the further investigation works' report. Accordingly, subject to conditions, officers are satisfied that the proposed development would not harm local ecology and would provide a net benefit, in accordance with LP30 and Chapter 15 of the NPPF.

#### *Air Quality*

- 10.41 In accordance with government guidance on air quality mitigation, outlined within the NPPG and Chapter 15 of the NPPF, and local policy contained within LP24 and the West Yorkshire Low Emission Strategy Planning Guidance seeks to mitigate Air Quality harm.

- 10.42 Given the scale and nature of the development officers would seek the provision of electric vehicle charging points, one per dwelling, on new development that includes car parking if the application was to be approved. The purpose of this is to promote modes of transport with low impact on air quality.

### Representations

- Six houses is too many and will result in overdevelopment that harms the area's visual amenity, road safety issues, local ecology and flooding.
- Reducing the development to five units does not overcome previous concerns. Five units is still an overdevelopment.
- The site is too small for five units and will be out of keeping with the surrounding building plots.

**Response:** Officers shared the opinion that six units, as initially sought by the proposal, was an overdevelopment. Therefore, to attempt to overcome this concern, the number of units was reduced to five and their scale lowered. Nonetheless, when presented to members at the committee on the 7<sup>th</sup> of March they considered five units remained an overdevelopment, as outlined in this assessment. This led to further discussions between the applicant and officers, however as this has not been reduced in line with the committee's request, officers now recommend refusal.

- The dwellings are too large, being in essence three storeys.
- The proposal (amended) detracts from the visual amenity of the area.

**Response:** The dwellings are two storeys, with rooms in the roof space served by Rooflights and therefore are not considered three storeys. Nonetheless, as outlined in this assessment's report on visual amenity officers concur that the development would detract from the visual amenity of the area by virtue of the scale, mass and density of the development sought.

- The proposal (amended) harms the amenity of neighbouring residents through overbearing and overlooking.
- 1.8m high timber fencing does not provide sufficient privacy. Hedging would be more welcomed.

**Response:** An assessment of the proposal's impact on neighbouring residents has been undertaken within the residential amenity section of this report. It was concluded that the proposal would cause material harm to the amenity of neighbouring residents, specifically via overbearing. This forms a reason for refusal. On balance, materially harmful overlooking is not anticipated.

- Planning applications on site have been refused in the past. One was refused as it represented back land development and would harm the amenity of neighbours.
- Another was refused due to the culvert on site and flooding concerns.
- One was refused as it represented back land development and would harm the amenity of neighbours.
- The proposal will result in an unacceptable increase in traffic in the area. A past application was refused as suitable sightlines could not be achieved.



**Response:** Each application is assessed on its own merits. The referred to applications are historic and carry limited weight. The issues raised have been addressed within the above report, with this proposal being materially different.

- The developer felled trees before seeking planning permission. These benefitted from an area TPO. This has harmed local ecology.

**Response:** The felled trees were determined not to benefit from a TPO by K.C. Trees officers.

- While there is a housing shortage, the approval of five units will not change that.

**Response:** This comment was received prior to the adoption of the Local Plan. As outlined in the principle of development section of this report, through the Local Plan the Local Authority can now demonstrate a 5-year housing land supply.

- The development should be considered in the context of Halifax Road improvements. More traffic will cause more noise and pollutant.
- The proposal will lead to parking on Birkby Road, which has numerous drives / roads connecting in close proximity. The garages are too small.

**Response:** The Halifax Road improvements are noted, and while close by will not be prejudiced or impacted upon via the proposed development. The works are to enhance capacity and efficiency on the Highway Network and will not conflict with the development. Each dwelling has three parking spaces, which is considered acceptable for their scale and should not lead to parking on Birkby Road. This is giving weight to the garage sizes.

- The proposal will cause odour pollution.

**Response:** As residential development, this is not anticipated by officers.

- There are insufficient services, inc. doctors and schools, in the area.

**Response:** As part of the development of the Local Plan evidence base, an ongoing infrastructure planning process has considered the impact of future growth on health infrastructure, summarised in the Infrastructure Delivery Plan (IDP) 2015 and IDP Addendum 2016. This is an on-going process and will be monitored and updated alongside the Local Plan. It acknowledges that funding for GP provision is based on the number of patients registered at a particular practice and is also weighted based on levels of deprivation and aging population, with direct funding provided by the NHS for GP practices/health centres based on an increase in registrations. Notwithstanding the above, given the small scale of the scheme it is not considered reasonable in this instance to require a contribution towards health infrastructure.

- Loss of trees and green space in the wider area.
- Any new planting should benefit from a TPO.

**Response:** While the loss of the garden is noted, it is not public green space. While officers could not impose TPOs on new Trees, newly planted vegetation would benefit from five years of protection via condition if the application was to be granted.

- The existing house is fine and does not need to be demolished. It complements the Edgerton Conservation Area.
- The proposal would harm the Edgerton Conservation Area.

**Response:** While it is noted that the existing house does not 'need' to be demolished, this is not a material planning consideration. Its removal, and the proposed development, are not considered to prejudice the special character and interest of the wider Edgerton Conservation Area, which they are adjacent to.

- The tree survey was done at the wrong time of year.

**Response:** The Survey has been reviewed by K.C. Trees who find the methodology and findings acceptable.

- The council should not consider an application just in the name of greed.
- There is a covenant on the land preventing additional dwellings.
- The proposal will lower local house prices and affect their views. Construction will cause noise and dirt pollution.

**Response:** The above are not material planning considerations, being private matters for the developer. Construction noise and dirt would principally be an issue for Pollution and Noise, although the Construction Management Plan would partly address this if permission was to be granted.

- Note that the LLFA objects to the development and that they recommend it is improved in 3<sup>rd</sup> party land.

**Response:** The LLFA did express initial objection to the proposal and advised that the applicant explore improvements on 3<sup>rd</sup> party land. While this recommendation remains, following further discussions and negotiations the LLFA on balance no longer object to the proposal, giving weight to the site wide improvements and the limited increase of flow of 3litres a second in extreme weather events

- Note the latest comments from the LLFA. Seek reassurances that their assessment was undertaken very recently, as there appears to be marsh-type grass growing on site following the removal of trees last year. Wanting reassurance that the new culvert does not pose a risk of water seepage.

**Response:** The LLFA have reviewed the proposal during the course of the application, including providing additional comments following the committee held on the 7<sup>th</sup> of March. The culvert would be installed in accordance with the relevant rules and regulations, and should water seepage take place it would be reviewed by the LLFA.

## 11.0 CONCLUSION

- 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.

- 11.2 The site is unallocated land and partly brownfield land. The redevelopment of the site for housing is acceptable in principle.
- 11.3 Notwithstanding this, in the context of the surrounding built environment, the development is considered an overdevelopment of the site. The application is considered detrimental to visual amenity, the character of the area and the amenity of neighbouring and future residents. It therefore fails to comply with the aims and objectives of the Local Plan and NPPF. It is acknowledged that concerns relating to drainage, ecology and Highways have been addressed. However, these have a neutral impact on the planning balance and do not outweigh the harm caused.
- 11.4 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would not constitute sustainable development and is therefore recommended for refusal.

## **Background Papers**

### *Application and history files*

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018/93326>

### *Certificate of Ownership*

Certificate B signed. Notification served on; Mr D. Taylor.