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**Report of the Head of Strategic Investment**

**HEAVY WOOLLEN PLANNING SUB-COMMITTEE**

**Date: 13-Jun-2019**

**Subject: Planning Application 2019/90269 Erection of detached dwelling and associated site works adj, 93, Stocks Bank Road, Mirfield, WF14 9QB**

**APPLICANT**

Mr & Mrs Knibbs

**DATE VALID**

29-Jan-2019

**TARGET DATE**

26-Mar-2019

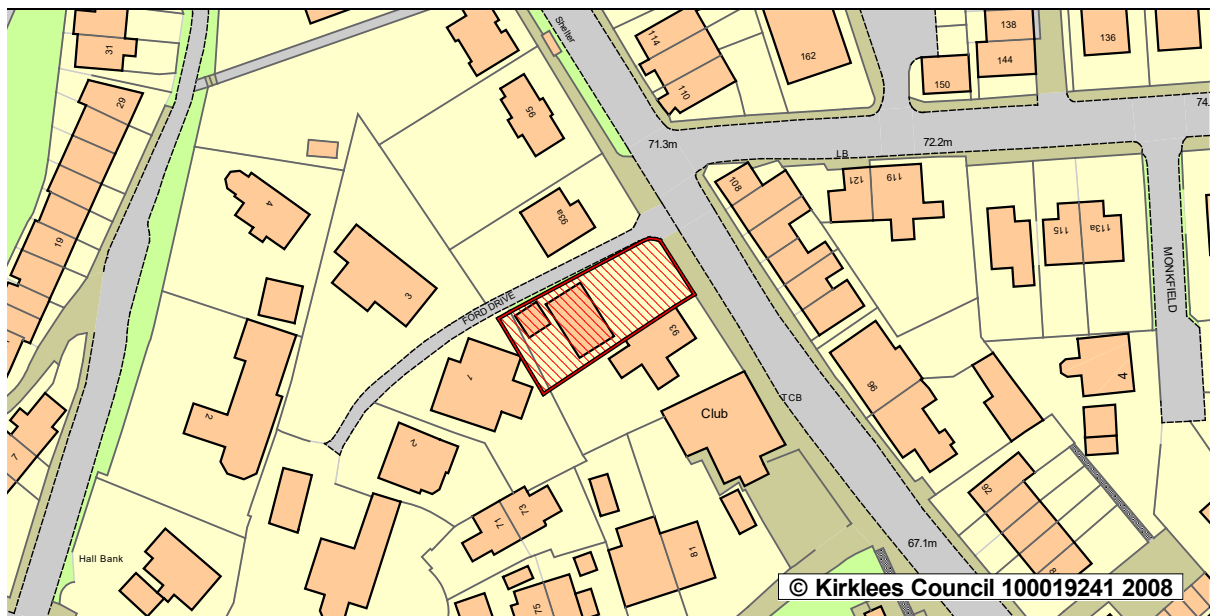
**EXTENSION EXPIRY DATE**

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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: Mirfield**

No
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Ward Members consulted  
(referred to in report)

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**RECOMMENDATION:**

**DELEGATE approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions including those contained within this report.**

**1.0 INTRODUCTION:**

- 1.1 This application is reported to the Heavy Woollen Planning Sub-Committee due to the previous committee involvement in this site. The site was deferred at the previous committee on 25<sup>th</sup> April 2019 in order for the applicant to engage with their planning consultant and for amendments to be made to the proposal to take on board comments made by objectors.
- 1.2 Due to the previous committee interest in the application site, it is advised by officers that this application be reported back to members. The Chair of the Planning Committee has confirmed that this is appropriate and would comply with the Councillor's Protocol for Planning Committees.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The site relates to land adjacent to no. 93 Stocks Bank Road, Mirfield which currently has a single storey brick double garage on it and is on a slightly lower level than Stocks Bank Road itself. The site is accessed from Stocks Bank Road and is currently hardstanding which is used as a parking area for no. 93. The site has a stone wall and hedging as a front boundary treatment and there is access to Ford Drive to the northwest of the site.
- 2.2 Surrounding the site there is a mixture of house types. To the northeast (front) of the site, there is a row of two storey terraced properties constructed of stone, to the northwest of the site is a detached dwelling constructed of artificial stone, with detached dwellings on a lower level to the southeast and northwest. To the southeast of the site is no. 93 which is a detached two storey dwelling constructed of render and brick with a conservatory to the rear. There is a variety of dwellings of different appearances and materials, including recently approved modern dwellings at no. 97 Stocks Bank Road.

### 3.0 PROPOSAL:

3.1 Planning permission is sought for the erection of one detached dwelling. The proposal also includes a new access for the existing dwelling off Stocks Bank Road. The existing garage is to be retained and incorporated into the proposed dwelling.

3.2 The dwelling will have a bungalow appearance with the following dimensions:

- Overall height – 5.5 metres
- Eaves height – 3.5 metres
- Width – 10.4 metres
- Length (including existing garage) - approx 15.9 metres

3.3 The table below provides a comparison between the dimensions of the previously refused scheme and the current proposal.

Comparison between previously refused scheme (dismissed at appeal) and current proposal		
	Refused scheme	Current proposal
Overall height (and eaves height)	7.4m (4.4m)	5.5m (3.5m)
Width	10.3m	10.4m
Length	11.1m	Approx 15.9m

3.4 The dwelling would be of a contemporary design, constructed of brick for the external walls, timber cladding for part of the external walling material, with large expanses of glazing. The roof will be covered in roofing tiles.

3.5 There will be trees on the rear boundary of the site and a fence at two metres in height surrounding the site.

3.6 The proposed development would also include an access from Stocks Bank Road to serve no. 93 which is the existing dwelling, as well as the proposed dwelling.

### 4.0 RELEVANT PLANNING HISTORY:

4.1 2017/93470 – Erection of detached dwelling and associated site works REFUSED by members of the Heavy Woollen Planning Sub-Committee (appeal dismissed)

4.2 2007/92341 – Erection of conservatory APPROVED (no. 93 Stocks Bank Road)

4.3 91/01747 – Erection of two storey extension REFUSED (no. 93A Stocks Bank Road)

4.4 91/05186 – Erection of double garage extension APPROVED (no. 93A Stocks Bank Road)

4.5 2017/92887 – Demolition of dwelling and erection of three dwellings with associated works APPROVED (no. 97 Stocks Bank Road)

## **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 No amendments have been secured as the proposed development is considered, by Officers, to be acceptable in its current form, taking into account the Planning Inspectorate's decision on app ref. 2017/93470, which was dismissed. The applicant has however, through the course of the application, further reduced the scale of the dwelling and removed an opening in the rear elevation. The amended plans have been advertised to neighbours and further comments summarised in the representations section of the report.

## **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 statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

The site is unallocated on the Kirklees Local Plan.

### **6.2 Kirklees Local Plan**

**LP1** – Achieving sustainable development  
**LP2** – Place Shaping  
**LP3**– Location of new development  
**LP21**– Highway Safety and Access  
**LP22** - Parking  
**LP24**– Design  
**LP27** – Flood Risk  
**LP28**– Drainage  
**LP33**– Biodiversity and geodiversity  
**LP51**– Protection and improvement of local air quality

### **6.3 National Planning Policy Framework (NPPF):**

**Chapter 5** – Delivering a sufficient supply of homes  
**Chapter 12** – Achieving well designed places  
**Chapter 14** – Meeting the challenge of climate change, coastal change and flooding  
**Chapter 15** – Conserving and enhancing the natural environment

## **7.0 PUBLIC/LOCAL RESPONSE:**

- 7.1 8 neighbour representations have been received relating to the original scheme. The comments raised are summarised as follows:
- Property is not in keeping with any of the houses in the immediate area – modern property that would look unsightly
  - House will remove view
  - New property would look directly into front room and bedroom window
  - Parking is already limited
  - Issues with construction traffic (and consequences) from development up the road including at a T-junction on the bus route and when delivery vehicles come. Causes visibility issues – Highways DM should do a site visit

- Dwelling moved front of property closer to Stocks Bank Road (reduce space for parking)
- Sewage system queries including noises
- Site area is wrong – boundary with no.1 Ford Drive was altered and this is not shown on the site plan
- Description wrong but has been amended
- Tree and hedge crucial to application – Design & Access Statement and planning application form are not consistent
- Insufficient attention paid to congested nature of junction of Nab Lane
- Building will fill entire width of plot – scale of building was rejected by Committee and Inspector previously due to overbearing impact
- Footprint is now bigger and previously was turned down for over-development
- Discrepancies in Design & Access Statement – how can we be sure that these calculations are accurate?
- Can requirement for new windows and constructions be guaranteed not to take place?
- Concerns about the amenity of no. 93 due to closeness and massing to proposed property – what if it is owned by someone else at a later stage?
- Maintenance of guttering at no. 93 will be difficult ... due to small gaps between houses. This could cause health and safety issues (Construction Design and Management Regulations)
- Drainage queries – will not allow connection to private drainage system (access and drainage rights)
- Fail to see any material changes to original reasons for refusal – covers more square metres than before
- Overlooking and overbearing, closeness to boundary will dominate properties
- Foundations will be close to Ford Drive and will cause subsidence
- Modern materials been approved at dwellings on Stocks Bank Road but this should not set a precedent
- Dwelling is larger than a single storey dwelling as the roof level is higher to include two large rooms upstairs
- Dubious to say sunlight or overshadowing will not occur at any time
- Significant impact on surroundings
- Up to date highways report (strong concerns relating to vehicular access at a very busy and accident prone junction)

7.2 As a result of the extended publicity period, three further representations has been received raising the following points:

- Bought house as has space around the property and all neighbouring plots have been developed
- Existing garage currently has no direct impact on outlook or looks out of place on the current properties on Stocks Bank Road
- Significant visual impact as it will be squeezed onto the plot
- Size of dwelling is larger than any of the surrounding properties
- References made to previous planning application which was refused by planning committee and also a subsequent appeal.
- Drawing insufficient to enable height/size of dwelling to be checked post planning as it relies on scaled drawings which often proved to be inaccurate.

- No detailed construction section – cannot be proved that accommodation can adequately be achieved (allowing for joist depths, roof covering etc) – in practice, we believe developer would likely lift the building height post planning.
- Kitchen window will be looking out on a brick wall and entrance door of proposed property (9 metres and 6 metres away respectively). 3 roof windows also face this way
- No more than a path's width between no. 93 and the proposed property
- Footprint larger than previously rejected application and it is classed as a bungalow, however it still retains a second floor.
- No access will be given to Ford Drive, including any site vehicles which need access.
- Junction makes it difficult to see approaching traffic (road itself is close to a T junction which is on a bus route)
- Currently problems with delivery vehicles – parking on the pavement outside the house – this can make exiting Ford Drive hazardous.
- Planning application limits space for parking – site visit to visual manoeuvring 3 cars in limited space
- New property shows 2 parking spaces - implications for manoeuvring and highway safety
- Building and development regulations – risk of subsidence
- Drive privately owned and paid for by the residents of Ford Drive
- Number of dimensions of UDP policy BE12 contravened.
- Meeting on site with planning officer would be of benefit to all parties
- Plans at no. 93a Stocks Bank Road for a two story extension on the rear of the house were turned down due to overbearing
- Discrepancies raised with the submitted Design and Access Statement
- Reference to Calderdale planning regulations is irrelevant
- Existing garage structure not being overbearing would be true if proportions of the garage were not to be extended (front wall of the garage will be moved in front of our kitchen window and roof height will almost double).
- Distances fall short of distances set out in UDP Policy BE12
- Privacy is not really an issue as the existing window of no. 93 is a side window which is not near enough to overlook
- Without a full year of assessing the sunlight or overshadowing, it is dubious to say that we will not lose sunlight or be overshadowed at any time – proposed property is larger than existing properties, I cannot see this will be the case at all times of the year.
- No overbearing is not true, large development will be close enough to have a significant impact on our surroundings
- Elevation facing no. 93a will have three windows in the main block including bedroom windows which will overlook no. 93a.
- Inaccuracies of site area and description of proposed works including description is incorrect
- Cherry tree and boundary hedge stated to be retained – how can this be ensured?
- No indication of how foul sewerage will be considered
- Revisions to planning drawings not shown in D and A – inconsistencies
- Parking insufficient to manoeuvre and park vehicles safely and easily
- Insufficient attention paid to congested nature of nab lane – main bus route and for access to local primary school
- Hazard during construction
- Documents refer to bungalow – in fact, it is a two storey dwelling
- What is proposed boundary treatment?

- Inconsistencies with plans including lack of dimensions on plans
- How will it be possible to check it is being correctly built on site – no dispute with a written dimension
- Floor levels and outside areas not clearly indicated as required by NPPG
- Scale of building was previously rejected by Committee and PINS – dwelling will fill entire plot
- Footprint larger than no. 93 and larger than dwelling turned down by Planning Inspectorate on overdevelopment
- Dimensions in table now wrong as plans changed – no evidence to indicate where dimensions came from, or their accuracy
- Residents of Ford Drive have a right of way. Has ground area of road been included in calculations/ concerns raised about boundaries and calculations
- Structure of garage to be used – new house only 10m from Ford Drive is different
- Concern relating to window to window distances. Angle and screening in the summer acknowledged.
- What legal enforceable guarantee can be given that the boundary hedge will be retained at the same height? Can this be the case with the cherry tree?
- Ground level of the sloping site steps down with a retaining wall about 1 metre from the hedge/fence facing Ford Drive- not seen on plans. Hedge can be seen over
- What measures can be taken to ensure that no decking/ ground raising measures will be taken – privacy concerns
- Can it be guaranteed that no windows or constructions can be installed in the future?
- Boundary line between 1 Ford Drive and 93 Stocks Bank Road is incorrectly drawn
- Former garage area to be extended 2.3 metres further towards the Stocks Bank Road – is the minimum distance to the site boundary achieved?
- Amenity of no. 93 affected by closeness of the boundary/ massing of the proposed dwelling
- Roof overhang of guttering hanging into plot of proposed new dwelling. Concern about maintenance of guttering for no. 93
- Health and safety issues should be designed out
- Access for ladders will be required from outside of the site
- Should planning regulations not take into account future occupiers' needs and prevent new builds being close to existing buildings?
- Drains privately owned and maintained and unadopted by YW. How can drains for new sewerage drains be achieved?
- Cannot be assumed by applicant that connection to sewers can be achieved/ consideration of LP28
- Presumption of SUDS used to serve surface water requirements – whole part of the site is hardstanding for parking

7.3 Officer comments will be made in Section 10.41 of this report in response to the concerns raised above.

7.4 Mirfield Town Council have been consulted but have made no comments.

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

**K.C Highways Development Management** – no objection.

### **8.2 Non-statutory:**

None

## **9.0 MAIN ISSUES**

- Principle of development
- Visual amenity/local character
- Residential amenity
- Highway issues
- Representations
- Other matters

## **10.0 APPRAISAL**

### **Principle of development**

- 10.1 The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. Policy LP24 of the KLP is relevant and states that “good design should be at the core of all proposals in the district”.
- 10.2 In this case, the principle of development on the application site is considered acceptable and shall be assessed against other material planning considerations below.
- 10.3 A previous application (2017/93470) was submitted on the site which was refused on residential amenity grounds by the Heavy Woollen Planning Sub-Committee and subsequently dismissed at Appeal by the Planning Inspectorate. The principle of developing the site for a dwelling was considered by the Planning Inspectorate to be acceptable and furthermore, under paragraph 15 of the Inspector’s decision, he states that “*I see no objection in principle to a contemporary design approach for this site and in this regard the dwelling would sit comfortably within its residential surroundings*”.

### **Visual amenity/local character:**

- 10.4 The impact on visual amenity is considered to be acceptable by officers. The Stocks Bank Road area is characterised by a variety of dwelling types with varying levels of density.



- 10.5 The dwelling itself is located in a plot which is an acceptable size for the proposed dwelling which has been significantly reduced in size since the previous refused application which was dismissed at appeal. The development will retain an area of separation between the neighbouring dwellings which is considered to be an important characteristic of this stretch of Stocks Bank Road. Although there are terraced houses on the opposite side of the highway, there are gaps between the dwellings on Stocks Bank Road, creating a spacious character. The distance between the new built form and the neighbouring dwellings has been increased from the previous application that was refused, and further reduced since the submission of the original plans for this application. Whilst the footprint of the dwelling will be increased from the previously refused scheme in terms of the length of the proposed dwelling, the overall bulk and massing has been significantly reduced, thus creating a more spacious development. Given the significant reduction in overall height and re-design of the dwelling, it is considered by officers that the dwelling is acceptable in this location and will fit satisfactorily within the plot.
- 10.6 The features of the area would be retained and the dwelling is not considered to constitute a cramped form of development. The proposed dwelling would have a reasonable amount of amenity space surrounding it, with the main emphasis of bulk and massing coming from the garage structure that currently exists on site. This part of the dwelling (the existing garage) has been changed from a gable roof to a hipped roof which is an acceptable design.
- 10.7 The proposed roof design further reduces the bulk of the dwelling and visually increases the separation distance between no. 1 Ford Drive and the proposed dwelling.
- 10.8 It is acknowledged that the style of the dwelling would be modern and of a contemporary design approach due to the materials and fenestration detail. Consideration has to be given to Paragraph 127 (c) of the National Planning Policy Framework which states that planning decisions should be sympathetic to the local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.
- 10.9 In this instance, the design of the dwelling and the context in which it will be read in is considered to be acceptable and the proposed dwelling, in the view of officers, will be read harmoniously in its context. There are a variety of property styles within the area, with a range of materials used. For example, no.93 Stocks Bank Road is constructed of render and brick for the external walls, with no. 93a Stocks Bank Road being constructed of artificial stone.
- 10.10 As well as this, at no. 97 Stocks Bank Road, planning permission has been granted for the erection of 3 dwellings as shown in the planning history section of this report. These dwellings are of a contemporary style. At the time of the officer site visit, these dwellings were under construction.

- 10.11 Considering the approved application at no. 97, the proposed materials would not be the first introduction of such materials in the immediate streetscene. It is considered by officers that the palette of materials which predominantly features timber cladding and brick, along with the glazing would contribute to a contemporary style and would be appropriate when taking into account the mixed character of the area. The proposed dwelling is acceptable in its layout, materials and scale in relation to neighbouring buildings and the local area more generally, thus reinforcing local distinctiveness in accordance with paragraph 127 of the NPPF.
- 10.12 As well as the above, the Planning Inspector concurs with Officers' opinion that the principle of a contemporary design on this site is acceptable and would sit comfortably within its residential surroundings.
- 10.13 Within the streetscene, the dwelling would not be read as an incongruous feature. To the northwest, the land slopes downwards. From the streetscene plan submitted by the agent on drawing reference (35) 001, it is clear that the proposed dwelling would not be incongruous in height and scale with the dwellings in which it would sit close to. It would have a lower height than no. 93A Stocks Bank Road and a lower height than no. 93 Stocks Bank Road and would sit in its proposed location harmoniously. In summary, the proposed dwelling would not exceed the height of the surrounding dwellings and would not therefore be an unduly incongruous or prominent feature. The height of the dwelling is consistent with the surrounding houses and the dwellings are not closely spaced so as to appear cramped.

### Summary

- 10.14 Taking into account the Inspectors appeal decision, which raised no objection to a dwelling on this site and nor did it raise any objection to a contemporary design approach, officers consider that the proposal is satisfactory from a visual amenity perspective and complies with Chapter 12 of the NPPF, as well as Policy LP24 of the Kirklees Local Plan.

### **Residential Amenity:**

- 10.15 The impact on residential amenity is, in the opinion of officers, acceptable. Eight objections have been received as a result of the publicity for this application. The impact on each of the surrounding residential properties will be assessed below, taking into account all material considerations, including the Inspectors appeal decision.

### Impact on no. 93A Stocks Bank Road

- 10.16 The Planning Inspector's Appeal decision states in paragraph 7 that the side wall of no. 93A includes a secondary kitchen window and a landing/office window; these were considered by the Planning Inspector to constitute habitable room openings for the purpose of assessing the proposal. Taking the appeal decision into account, this report shall be consistent with this approach taken by the Inspector.

- 10.17 The existing garage structure is 6.3 metres from the side elevation of no. 93A Stocks Bank Road, with the main additional bulk of the new dwelling being set back to 9.9 metres from the side elevation of no. 93A Stocks Bank Road. This distance, along with the fact that the main room windows are within the front and rear elevations of no.93A Stocks Bank Road, there would be no harmful impact on these openings as a result of overbearing. A condition has been recommended to remove permitted development rights for extensions and outbuildings to ensure a satisfactory level of amenity in the future.
- 10.18 The Planning Inspector's report makes reference to a shortfall in the distances recommended for the development to comply with UDP Policy BE12. However, since the appeal decision, the Kirklees Unitary Development Plan has been replaced with the Kirklees Local Plan (2019), which is now the starting point for decision -making. The Local Plan does not specify recommended distances. In this case, there is a two metre high fence proposed along the boundary.
- 10.19 In terms of overlooking and/or loss of privacy to this dwelling, there will be no harmful impact. There will be an en-suite bathroom window and an entrance opening facing this site at ground floor, with no openings proposed at first floor level. As well as this, it has also been confirmed that these openings will be obscurely glazed. Considering the above, there will be no overlooking to this existing dwelling. It is also noted that no. 93a and the ground floor windows would be overlooked from the private driveway and could currently be overlooked from this area as well as the driveway area of no. 93 Stocks Bank Road. Any overlooking from the dining room windows would not lead to a loss of privacy over and above the existing situation.
- 10.20 A condition is recommended to ensure that the bathroom window facing this neighbouring site is obscurely glazed.
- 10.21 If the Planning Inspector's stance is taken, where the windows within this neighbouring dwelling are habitable (a door, a kitchen and a landing/home office), there would be no overbearing impact as a result of the proposed dwelling which is well over 6 metres from this side elevation. The roof of the dwelling is also hipped away from the boundary, further reducing its bulk and massing and reducing this impact.

#### Impact on no. 93 Stocks Bank Road

- 10.22 There is a distance of 1.8 metres between the proposed dwelling and no. 93 which is within the applicant's ownership (as shown in the blue line on the site location plan). In the side elevation of no. 93 Stocks Bank Road, there are two openings at first floor level and an opening at ground floor which has been described in the Planning Inspector's report as serving a lounge and bedrooms. The applicant has confirmed that this opening serves a secondary kitchen/dining room and secondary bedroom windows at first floor level.

- 10.23 The proposed development has been amended to overcome, in the view of officers, the concern raised by the Planning Inspectorate in terms of outlook from these openings being severely curtailed by the new house. The new proposal shows the ground floor window to be blocked up. A condition has been recommended that the applicant provides a scheme detailing how the window will be controlled - i.e. through blocking up the window. The agent has also reduced the width of the dwelling during the course of the current planning application, thus further increasing the distance between the proposed dwelling and no. 93 Stocks Bank Road, the existing dwelling that is within the applicant's ownership.
- 10.24 Through the blocking up of this window and a significant reduction in the scale of the dwelling, which will result in the eaves of the new dwelling being much lower than the first floor windows of no.93, the proposed development will not impact on these openings in terms of a significant amount of bulk and massing close to these windows. As well as this, the windows are secondary, thus not having the main outlook from the rooms.
- 10.25 There are windows proposed within the side elevation of the proposed dwelling which serve a kitchen and an en-suite. Given that a kitchen is a non-habitable room which is significantly set back from the main bulk and massing of the proposed dwelling, and there is a timber fence proposed on the side boundary between these dwellings, there will be no loss of privacy as a result of the proposal. The en-suite window can be conditioned to be obscurely glazed.
- 10.26 If an additional window is inserted at ground floor, it could serve a habitable room and therefore consideration has to be given to any overlooking or loss of privacy that may occur as a result of the proposal. However, as stated above, there will be a fence between the sites and this will restrict any overlooking into the private amenity space of no. 93 Stocks Bank Road. Any first floor openings would be controlled by the Town & Country Planning (General Permitted Development) Order (the 'GPDO').
- 10.27 Given the nature of the side ground floor opening in no.93, which is proposed to be blocked up, there will be no overbearing impact as a result of the proposal.

#### Impact on no. 1 Ford Drive

- 10.28 No.1 Ford Drive is on a lower level than the application site and has two elevations in relatively close proximity to it. At ground floor, there is a doorway and a window serving a habitable room along with a conservatory. The applicant has also confirmed that the small window in the front elevation at first floor serves a bedroom. However, this does not have a direct relationship with the proposed dwelling. There is also private amenity space to the side and rear of no. 1 Ford Drive.
- 10.29 There is a distance of approximately 13.2 metres between the window serving bedroom one and the south-eastern elevation of no.1 Ford Drive. Officers consider that, in this instance, this distance is acceptable. The relationship between the dwellings is indirect – the rear elevation of the proposed dwelling is not directly facing either of the elevations of no. 1 Ford Drive, but is located in between the two. This relationship, the level differences in which the proposed dwelling is on a higher level, the screening on the boundary and the

fact that the existing garage will be incorporated into the proposed dwelling, means that the impact of the proposed dwelling will not be significantly detrimental to residential amenity in terms of overbearing over and above the existing situation. The main bulk and massing currently exists through the garage structure. A condition has been recommended to remove permitted development rights for new outbuildings and extensions to ensure that any future development has to be assessed in relation to its impact on residential amenity.

- 10.30 There is a window serving bedroom 1 at ground floor and three openings serving non-habitable rooms all facing this site at ground and first floor. Given the screening on the boundary, the proposed dwelling being on a higher level, along with the fact that three openings at first floor would face onto the corner of the bungalow, there is not considered to be any undue overlooking over and above the existing situation from no. 93. The bedroom window would be set back significantly from the garage structure and given the land level differences, the views from this bedroom would be onto the roof of no. 1 Ford Drive, rather than their habitable spaces to the southeast.
- 10.31 Given the level differences and the bungalow nature of the proposed dwelling, the majority of the views would overlook the dwelling and therefore not cause harmful residential amenity issues. The main amenity space for this dwelling is located directly between no. 93 and therefore will not be detrimentally affected by the proposed development. A condition has been recommended to remove permitted development rights for new openings to avoid any potential future overlooking impact.

*Impact on properties to the front of the site – a row of terraced properties (nos. 108-98 Stocks Bank Road)*

- 10.32 The proposed dwelling would have habitable room windows at ground and first floor facing these terraced dwellings which also have habitable room windows in their main elevation facing the application site. There is a distance of approx. 17 metres between these dwellings. Given that the proposed dwelling would not extend beyond no. 93 which has an established relationship with these terraced properties to the north east, a precedent has been set for this relationship and therefore, it is considered by officers that there would be no undue overlooking compared to the existing situation.
- 10.33 Furthermore, given that there is a highway located between the sites and the relationship of the new dwelling with these terraced properties is the same as the relationship with no. 93, there would be no undue overbearing impact as a result of the proposed dwelling. Additionally, this relationship was not raised as a concern during the appeal decision by the Planning Inspectorate.

*Summary*

- 10.34 In all, for the reasons set out above and when taking into account the Inspectors appeal decision, subject to the inclusion of the conditions suggested in this report, the proposals are considered acceptable by officers in relation to residential amenity and would comply with the aims of as Policy LP24 of the KLP as well as the NPPF.

### **Highway issues:**

- 10.35 Following consultation with Highways Development Management (HDM), there is no objection to the proposal. The reasons for this are set out below.
- 10.36 Following a site visit by the case officer and the Highways Officer during the course of the previous application, there was no objection to the proposal. The proposed dwelling would use the existing access that currently serves no. 93 with a new access proposed to serve the existing dwelling.
- 10.37 The parking provision at the site is acceptable. The plan demonstrates that two parking spaces can be accommodated outside the proposed dwelling. At the front of the site, there is adequate space to turn on site, thus not impacting on highway safety and efficiency. The required manoeuvres are shown on the submitted block plan.
- 10.38 At the existing dwelling, the plan shows a new access with acceptable visibility splays and width to ensure that access and egress from the site would be acceptable without causing highway safety issues. There is also capacity to accommodate three spaces to the front of the existing dwelling.
- 10.39 Furthermore, it should also be acknowledged that at the appeal stage, no concerns were raised by the Planning Inspector in relation to highway safety and the arrangements at the site are similar to those proposed as part of the previous application.

### **Summary**

- 10.40 For the above reasons, there will be no highway safety issues over and above the existing situation. Taking into account the above, the proposal is considered to comply with Policy LP21 of the KLP. Furthermore, the proposal is also considered to be in accordance with policy LP22 of the KLP in relation to the parking provision to serve the existing and proposed dwellings.

### **Representations**

- 10.41 Eight (8) neighbour representations were received as a result of the initial publicity period. The representations raise the following concerns which are addressed by officers as follows:
- Property is not in keeping with any of the houses in the immediate area – modern property that would look unsightly  
**Officer comment:** *this has been assessed in the visual amenity section of this report. There are other examples of modern style dwellings within the near vicinity.*
  - House will remove view  
**Officer comment:** *loss of view is not a material planning consideration.*
  - New property would look directly into front room and bedroom window  
**Officer comment:** *overlooking has been considered in the residential amenity section of this report.*

- Parking is already limited  
**Officer comment:** *Highways DM do not have an objection to the proposed development. The parking provision on the site is acceptable for the new dwelling and no. 93 Stocks Bank Road, the host dwelling.*
- Issues with construction traffic (and consequences) from development up the road including at a T-junction on the bus route and when delivery vehicles come. Causes visibility issues – Highways DM should do a site visit.  
**Officer comment:** *Issues arising from the construction period are not a material planning consideration. Highways DM have reviewed the proposed development and the proposed access is satisfactory, along with the suitable parking provision on the site.*
- Dwelling moved front of property closer to Stocks Bank Road (reduce space for parking)  
**Officer comment:** *there is still adequate parking provision demonstrated within the site.*
- Sewage system queries including noises.  
**Officer comment:** *the addition of one dwelling on the site will not cause undue pressure on the sewage systems. There will be no harmful impact as a result of the proposed drainage system.*
- Site area is wrong – boundary with no.1 Ford Drive was altered and this is not shown on the site plan  
**Officer comment:** *The case officer has queried this with the applicant who has confirmed that the red line is an accurate representation of the ownership. The correct certificate has been signed.*
- Description wrong but has been amended  
**Officer comment:** *The description that is put forward as the current description of development is an accurate representation of the proposed development.*
- Tree and hedge crucial to application – Design & Access Statement and planning application form are not consistent.  
**Officer comment:** *It is noted that the application form states there are no trees on the proposed development site. However, from a site visit, the case officer can confirm there are hedges on the boundaries on the application site and a condition has been recommended for these to be retained.*
- Insufficient attention paid to congested nature of junction of Nab Lane  
**Officer comment:** *Highways DM have reviewed the application and it is acceptable from a Highways safety perspective.*
- Building will fill entire width of plot – scale of building was rejected by Committee and Inspector previously due to overbearing impact/ footprint is now bigger and previously was turned down for over-development  
**Officer comment:** *See assessment of proposed development in the report. The proposed dwelling has been significantly amended from the previous planning application.*

- Discrepancies in Design & Access Statement – how can we be sure that these calculations are accurate?  
**Officer comment:** *the calculations and additional information have been considered as part of the application. Notwithstanding whether the calculations are correct, the proposal has been assessed on its merits against the relevant material planning considerations and is considered to be acceptable.*
- Can requirement for new windows and constructions be guaranteed not to take place?  
**Officer comment:** *consideration has been given in the assessment in relation to permitted development rights set out in the Town & Country Planning (General Permitted Development) Order.*
- Concerns about the amenity of no. 93 due to closeness and massing to proposed property – what if it is owned by someone else at a later stage?  
**Officer comment:** *a condition has been recommended that the ground floor window is blocked up and the amenity of the occupiers of this dwelling has been assessed in the residential amenity section of this report. The blocking up of the window has been annotated on the submitted plans.*
- Maintenance of guttering at no. 93 will be difficult --- due to small gaps between houses. This could cause health and safety issues (Construction Design and Management Regulations)  
**Officer comment:** *this is not a material planning consideration.*
- Drainage queries – will not allow connection to private drainage system (access and drainage rights)  
**Officer comment:** *access and drainage rights is a civil matter. A drainage plan/scheme can be conditioned.*
- Fail to see any material changes to original reasons for refusal – covers more square metres than before  
**Officer comment:** *the application proposal has been changed from the previous proposal as demonstrated on the submitted plans.*
- Overlooking and overbearing, closeness to boundary will dominate properties  
**Officer comment:** *the impact on residential amenity has been assessed in relation to each of the surrounding dwellings and, when taking into account the overall design of the scheme and its surroundings, is considered acceptable by officers.*
- Foundations will be close to Ford Drive and will cause subsidence  
**Officer comment:** *this is not a material planning consideration. This would be assessed at any subsequent building regulations application.*
- Modern materials been approved at dwellings on Stocks Bank Road but this should not set a precedent  
**Officer comment:** *the character of the area and streetscene is considered as part of the visual amenity section of this report. The proposed dwelling will fit in with its surroundings and will not be out of keeping given the other modern dwellings within the area. Furthermore, the Inspectors decision, in relation to the previous refusal, sets out that there is no objection to a contemporary design approach on this site.*



- Dwelling is larger than a single storey dwelling as the roof level is higher to include two large rooms upstairs  
**Officer comment:** *the proposed dwelling is smaller in overall height than the previously refused dwelling and the new proposal is assessed on its own merits in this regard. It is considered, by officers, to sit comfortably within the street scene and would not cause undue harm to visual or residential amenity.*
- Dubious to say sunlight or overshadowing will not occur at any time  
**Officer comment:** *considered in residential amenity section of this report.*
- Significant impact on surroundings  
**Officer comment:** *the development has been assessed in terms of residential amenity and visual amenity and the impact on surroundings is considered to be acceptable.*
- Up-to-date highways report (strong concerns relating to vehicular access at a very busy and accident prone junction)  
**Officer comment:** *Highways DM have reviewed the application and there is no concern relating to the proposed access and parking provision.*

10.42 As a result of the extended publicity period, two further neighbour representations has been received raising the following points:

- Bought house as has space around the property and thought all neighbouring plots have been developed  
**Officer comment:** this is noted.
- Existing garage currently has no direct impact on outlook or looks out of place on the current properties on Stocks Bank Road  
**Officer comment:** the garage structure is on site and will be incorporated into the proposed dwelling which has been assessed in the report above.
- Significant visual impact as it will be squeezed onto the plot  
**Officer comment:** see visual amenity section of this report
- Size of dwelling is larger than any of the surrounding properties  
**Officer comment:** the Planning Inspector stated that the principle of a dwelling in this location is acceptable. The dwelling is considered, by Officers, to fit into the plot and have an acceptable impact on the streetscene/ character of the area.
- References made to previous planning application which was refused by planning committee and also a subsequent appeal.  
**Officer comment:** this is a material planning consideration. It is considered by Officers that the Planning Inspectorate's reasons for refusal have been overcome.
- Drawing insufficient to enable height/size of dwelling to be checked post planning as it relies on scaled drawings which often proved to be inaccurate.  
**Officer comment:** the submitted plans are to scale and can be used to check that the dwelling is being constructed in accordance with the plans.

- No detailed construction section – cannot be proved that accommodation can adequately be achieved (allowing for joist depths, roof covering etc) – in practice, we believe developer would likely lift the building height post planning.  
**Officer comment:** if the development is not built in accordance with the approved plans, this would be an enforcement issue. The fact that the developer may not built in accordance with the approval, is not a material planning consideration.
- Kitchen window will be looking out on a brick wall and entrance door of proposed property (9 metres and 6 metres away respectively). 3 roof windows also face this way  
**Officer comment:** this has been considered in terms of residential amenity and visual amenity
- No more than a path's width between no. 93 and the proposed property  
**Officer comment:** the site layout is considered acceptable to allow sufficient distance between the proposed dwelling and existing properties.
- Footprint larger than previously rejected application and it is classed as a bungalow, however it still retains a second floor.  
**Officer comment:** the description of development is for the erection of a detached dwelling and therefore the application has been
- No access will be given to Ford Drive, including any site vehicles which need access.  
**Officer comment:** this is not a material consideration. It is a private legal matter. The applicant has confirmed in the Design and Access Addendum that no access will be required.
- Junction makes it difficult to see approaching traffic (road itself is close to a T junction which is on a bus route)  
**Officer comment:** see highway safety section of the report.
- Currently problems with delivery vehicles – parking on the pavement outside the house – this can make exiting Ford Drive hazardous.  
**Officer comment:** see highway safety section of the report.
- Planning application limits space for parking – site visit to visual manoeuvring 3 cars in limited space  
**Officer comment:** see highway safety section of the report.
- New property shows 2 parking spaces - implications for manoeuvring and highway safety  
**Officer comment:** see highway safety section of the report.
- Building and development regulations – risk of subsidence  
**Officer comment:** As stated in the National Planning Policy Framework, land stability is the responsibility of the developer.
- Drive privately owned and paid for by the residents of Ford Drive  
**Officer comment:** this is not a material planning consideration.

- Number of dimensions of UDP policy BE12 contravened  
**Officer comment:** the UDP is no longer relevant. The Kirklees Local Plan is the development plan that has been considered.
- Meeting on site with planning officer would be of benefit to all parties  
**Officer comment:** Several site visits have taken place over the course of the previous applications.
- Plans at no. 93a Stocks Bank Road for a two story extension on the rear of the house were turned down due to overbearing  
**Officer comment:** Each application is assessed on its own merits.
- Discrepancies raised with the submitted Design and Access Statement  
**Officer comment:** an assessment of the proposed plans has been undertaken. The applicant has provided a Design and Access Addendum which sets out the reasons for the revised scheme.
- Reference to Calderdale planning regulations is irrelevant  
**Officer comment:** this is noted. Calderdale planning regulations are not a
- Existing garage structure not being overbearing would be true if proportions of the garage were not to be extended (front wall of the garage will be moved in front of our kitchen window and roof height will almost double).  
**Officer comment:** a large element of the structure relates to the existing garage. Consideration has also been given to the impact of the proposed dwelling as a whole.
- Distances fall short of distances set out in UDP Policy BE12  
**Officer comment:** the UDP is no longer relevant. The Kirklees Local Plan is the development plan that has been considered.
- Privacy is not really an issue as the existing window of no. 93 is a side window which is not near enough to overlook  
**Officer comment:** this is noted.
- Without a full year of assessing the sunlight or overshadowing, it is dubious to say that we will not lose sunlight or be overshadowed at any time – proposed property is larger than existing properties, I cannot see this will be the case at all times of the year.  
**Officer comment:** given the nature of the existing openings in the side elevation and the location of the dwelling to the northwest of the application site, it is not considered that there would be a harmful impact on residential amenity as a result of the proposed dwelling.
- No overbearing is not true, large development will be close enough to have a significant impact on our surroundings  
**Officer comment:** given the windows in the side elevation of no. 93A and the fact that a large amount of bulk and massing of the dwelling will be
- Elevation facing no. 93a will have three windows in the main block including bedroom windows which will overlook no. 93a.  
**Officer comment:** this is not the case. The windows will serve the entrance and bathroom of the proposed dwelling which are non-habitable rooms.

- Inaccuracies of site area and description of proposed works including description is incorrect  
**Officer comment:** the description of development is correct and the proposed plans and elevations provide sufficient detail to allow the development to be assessed.
- Cherry tree and boundary hedge stated to be retained – how can this be ensured?  
**Officer comment:** a condition has been recommended to members to ensure that the existing boundary treatments are retained.
- No indication of how foul sewerage will be considered  
**Officer comment:** A condition has been recommended for a drainage plan to be provided.
- Revisions to planning drawings not shown in D and A – inconsistencies  
**Officer comment:** the description of development is correct and the proposed plans and elevations provide sufficient detail to allow the development to be assessed.
- Parking insufficient to manoeuvre and park vehicles safely and easily  
**Officer comment:** see highway safety section of this report. There is adequate parking on the site for the new dwelling and no. 93.
- Insufficient attention paid to congested nature of nab lane – main bus route and for access to local primary school  
**Officer comment:** Highways DM have assessed the proposed development and have no objection.
- Hazard during construction  
**Officer comment:** this is not a material planning consideration.
- Documents refer to bungalow – in fact, it is a two storey dwelling  
**Officer comment:** the description of development refers to a new dwelling which accurately reflects the proposed development.
- What is proposed boundary treatment?  
**Officer comment:** the plan shows a conifer hedge and timber fence at 2 metres in height along the boundary between the application site at no. 1 Ford Drive. There is also be a 2 metre timber fence located on the boundary between the application site and no. 93a Stocks Bank Road and no. 93.
- Inconsistencies with plans including lack of dimensions on plans  
**Officer comment:** there is no requirement for dimensions on the plans. The submitted plans are to scale and can therefore be assessed.
- How will it be possible to check it is being correctly built on site – no dispute with a written dimension  
**Officer comment:** the plans are to scale and can be scaled off the plans to check that the dwelling is being built correctly.

- Floor levels and outside areas not clearly indicated as required by NPPG  
**Officer comment:** the site plan indicates the outside areas associated with the dwelling. Floor levels do not have to be indicated on the plans.
- Scale of building was previously rejected by Committee and PINS – dwelling will fill entire plot  
**Officer comment:** it is noted that the proposed dwelling is larger in footprint than the dwelling previously refused by the Planning Inspectorate, the overall scale and bulk has been significantly reduced. It is considered that the proposed dwelling has overcome the Inspector's reason for refusal.
- Footprint larger than no. 93 and larger than dwelling turned down by Planning Inspectorate on overdevelopment  
**Officer comment:** it is noted that the proposed dwelling is larger in footprint than the dwelling previously refused by the Planning Inspectorate, the overall scale and bulk has been significantly reduced. It is considered that the proposed dwelling has overcome the Inspector's reason for refusal.
- Dimensions in table now wrong as plans changed – no evidence to indicate where dimensions came from, or their accuracy  
**Officer comment:** the changes to the plans are minor. Notwithstanding this, the plans are accurate and provide enough information to make an informed assessment of the planning application.
- Residents of Ford Drive have a right of way. Has ground area of road been included in calculations/ concerns raised about boundaries and calculations  
**Officer comment:** the overall scale of the dwelling has been considered.
- Structure of garage to be used – new house only 10m from Ford Drive is different  
**Officer comment:** the existing garage structure will be incorporated into the scheme.
- Concern relating to window to window distances. Angle and screening in the summer acknowledged.  
**Officer comment:** see residential amenity section of this report.
- What legal enforceable guarantee can be given that the boundary hedge will be retained at the same height? Can this be the case with the cherry tree?  
**Officer comment:** a condition has been recommended to ensure that the boundary hedge will be retained at the same height, and if this is replaced, it shall be with a 2 metre high boundary fence.
- Ground level of the sloping site steps down with a retaining wall about 1 metre from the hedge/fence facing Ford Drive- not seen on plans. Hedge can be seen over  
**Officer comment:** a site visit has been undertaken and the proposed development considered in its context. Given the obscure angle at which the houses face each other, there would be no harmful overlooking/loss of privacy.

- What measures can be taken to ensure that no decking/ ground raising measures will be taken – privacy concerns  
**Officer comment:** Decking/ground raising measures will need planning permission in their own right after the dwelling is constructed.
- Can it be guaranteed that no windows or constructions can be installed in the future?  
**Officer comment:** See recommended conditions. Conditions have been recommended to remove PD rights for new openings and new extensions/structures.
- Boundary line between 1 Ford Drive and 93 Stocks Bank Road is incorrectly drawn  
**Officer comment:** this has been queried by the case officer and the agent has confirmed that all land within the red line boundary is within the applicant's ownership and that the boundaries are correct.
- Former garage area to be extended 2.3 metres further towards the Stocks Bank Road – is the minimum distance to the site boundary achieved?  
**Officer comment:** there is no minimum distance to the boundary that needs to be adhered to. The proposed development is an acceptable distance from neighbouring properties.
- Amenity of no. 93 affected by closeness of the boundary/ massing of the proposed dwelling  
**Officer comment:** the amenity of the future occupiers of no. 93 has been considered. See residential amenity section of this report.
- Roof overhang of guttering hanging into plot of proposed new dwelling. Concern about maintenance of guttering for no. 93  
**Officer comment:** this is not a material planning consideration.
- Health and safety issues should be designed out  
**Officer comment:** this is not a material planning consideration.
- Access for ladders will be required from outside of the site  
**Officer comment:** this is not a material planning consideration.
- Should planning regulations not take into account future occupiers' needs and prevent new builds being close to existing buildings?  
**Officer comment:** See residential amenity section of this report. The level of amenity for the future occupiers of the dwelling is considered to be acceptable – there is an acceptable level of amenity space and the size of the rooms is acceptable in respect of the National Space Standards.
- Drains privately owned and maintained and unadopted by YW. How can drains for new sewerage drains be achieved?  
**Officer comment:** this is not a material planning matter.
- Cannot be assumed by applicant that connection to sewers can be achieved/ consideration of LP28  
**Officer comment:** the applicant's connection to the sewers is not a material planning consideration. Consideration has been given to LP28 and the applicant has been advised that there is a presumption that a sustainable drainage system will be used. A condition has been recommended for a drainage scheme to be provided.

- Presumption of SUDS used to serve surface water requirements – whole part of the site is hardstanding for parking  
**Officer comment:** a condition has been recommended to ensure that all proposed parking areas are constructed from permeable surfacing in accordance with the Environment Agency’s guidance. This is in the interests of flood risk.

10.43 All of the concerns raised in the representations, as summarised above, have been carefully considered. However, it is the view of officers that, when taking into account all material considerations, including the previous appeal decision that the proposal would comply with relevant development plan and national planning policy.

## **11.0 CONCLUSION**

11.1 To conclude, the proposed dwelling, in terms of its layout, scale, and design, is considered acceptable by officers in this location. It would relate satisfactorily to the varied development within the vicinity of the site and, in the view of officers, would not result in any significant residential amenity implications. In addition, the proposal is not considered to result in any undue highway safety implications either.

11.2 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.

11.3 This application has been assessed against relevant policies in the development plan and other material considerations and it is considered that the development would constitute sustainable development and is therefore recommended for approval.

## **12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Strategic Investment)**

1. Three year time limit to commence development
2. Development carried out in accordance of approved plans
3. Materials
4. One charging point to be installed
5. Surfacing re parking area
6. En-suite opening to be obscurely glazed
7. Boundary treatments to the side and rear to be retained
8. Window in side elevation of no. 93 to be blocked up prior to the commencement of development of the new dwelling.
9. Drainage scheme

10. Permitted development rights removed for any outbuildings/extensions.
11. Permitted development rights removed for new openings in south western (rear) elevation.
12. Footnote re hours of construction
13. Footnote re access/ownership rights

### **Background Papers:**

Link to the application details:-

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019/90269>

Certificate of Ownership – Certificate A signed and dated 23<sup>rd</sup> January 2019

Previous planning application 2017/93470:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f93470>