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**Report of the Head of Planning and Development**

**HEAVY WOOLLEN PLANNING SUB-COMMITTEE**

**Date: 02-Sep-2021**

**Subject: Planning Application 2020/94345 Erection of 5 dwellings Land at, St Luke's, Bierley Marsh, East Bierley, BD4 6PL**

**APPLICANT**

Stephen Owens, Owens  
Developments Ltd

**DATE VALID**

21-Dec-2020

**TARGET DATE**

15-Feb-2021

**EXTENSION EXPIRY DATE**

07-Sep-2021

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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: BIRSTALL & BIRKENSHAW**

**Ward Councillors consulted: NO**

**Public or private: PUBLIC**

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**RECOMMENDATION:**

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

**1.0 INTRODUCTION:**

1.1 This planning application is being referred to the Heavy Woollen Planning Sub-Committee due to the significant number of representations received in relation to the scheme. This is in accordance with the Council's Scheme of Delegation set out in the Constitution.

**2.0 SITE AND SURROUNDINGS:**

2.1 The site is that of a parcel of land in the settlement of East Bierley. The site is immediately east of Bierley Marsh, an unadopted road with access to the public highway, South View Road, to the north. Bierley Marsh carries a public right of way (PROW), SPE/6/20. The site is characterised by self-seeded semi-dense shrubland behind St. Luke's Church and Hall. The site borders, but is not included in, the East Bierley Conservation Area.

**3.0 PROPOSAL:**

3.1 This is an application for full planning permission for the erection of 5 no. dwellings in two groupings; one terrace of 4no. two storey dwellings, with a single storey dwelling to the east of the site; known as 'House Type B' on the submitted drawings. Each dwellinghouse would have space within its curtilage for 2no. parking spaces.

3.2 The two storey houses would have a maximum height of 7.5m and eaves height of 4.5m, with the single storey dwellinghouse having a maximum height of 5m and eaves height of 2.8m, notwithstanding the mono pitched element.

**4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

4.1 2020/90996 Erection of 6 dwellings – Withdrawn 16/DEC/2020

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

5.1 This planning application has been assessed based on the plans as originally submitted, save for amended site plans depicting alterations such as the re-siting of bollards to take place outside the common land boundary, as well as a revised site layout plan and highways detail. Green hatched annotation has been added to plans indicating common land. No further amendments have been sought thereafter.

## **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).

### 6.2 Kirklees Local Plan (2019):

- **LP 01** – Achieving sustainable development
- **LP 02** – Place shaping
- **LP 07** - Efficient use of land
- **LP 21** – Highways and Access
- **LP 22** - Parking
- **LP 24** – Design
- **LP 30** - Biodiversity
- **LP 33** - Trees
- **LP 35** – Historic Environment
- **LP 52** – Protection and improvement of environmental quality
- **LP 61** – Urban Green Space

### Supplementary Planning Guidance / Documents:

6.3 The Kirklees Open Space Study (KOSS) 2015 (Revised 2016)  
Highways Design Guide SPD  
Housebuilders Design Guide SPD

### National Planning Guidance:

6.4 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

Chapter 2 – Achieving sustainable development  
Chapter 6 – Building a strong competitive economy  
Chapter 8 – Promoting healthy and safe communities  
Chapter 11 – Making effective use of land  
Chapter 12 – Achieving well-designed places  
Chapter 15 – Conserving and enhancing the natural environment  
Chapter 16 – Conserving and enhancing the historic environment

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

7.1 This application was publicised by neighbour letters and a site notice which expired on 25-Feb-2021. Following this publicity 31no. letters of representation was received.

7.2 31no. separate representations have been lodged against this planning application, 30 of which are in objection, 1 of which is a general comment. Comments raise points relating to trees, flooding, design and a non-material concern relating to land ownership and the boundary of the adjacent village green.

7.3 Ward Member Councillor Smaje has commented: *“This development lies along the line of the conservation area in East Bierley within the centre of the village. Along the lane of Bierley Marsh are a number of historical features mentioned in the Conservation Area Appraisal for East Bierley – Cross House, Cross Base – and the War Memorial is immediately next to this land which was a nursery field. Any development should fit into the conservation landscape in both size, design and materials. The lane is well used by families for walks to see the pond and the school uses the Common Land.*

*The parking that is shown at the side of St Luke’s rather than at the front I assume is for the former Church building. This needs to have some parking for users as they currently have in order for this to be sustainable into the future. There are concerns about the number of vehicles that could be parked on the front of the properties and how this impacts on the lane around the common land.*

*In the Highways information there is an assumed speed limit of 30 mph. I am assuming that this is an assumed speed limit of 30 mph on South View Road for provision of sight lines and not on the lane around the Marsh as this would be totally inappropriate. We are looking to put a 20mph zone into the centre of East Bierley because of concerns of the speed of vehicles and would also like no parking from the lane to the school markings as there is a problem with parking vehicles at school times and accessibility for the buses. Visibility splays need to account for parked vehicles at school times.*

*The common land is an important feature of East Bierley and I would ask that there is no encroachment of common land to be used for this development. I note that there is a revised highway diagram for this and would ask that, if the committee are minded to approve, that no use of the Common Land be part of conditions. The public footpath rights also need to be maintained at all times.*

*I would also ask that flooding issues raised by several existing residents be considered and measures taken to ensure that problems are remedied and not exacerbated.*

*The setting of the war memorial needs to be preserved but what I cannot find is a detailed layout for the boundary between the field and the war memorial. Currently from the war memorial you can see straight across the field. There needs to be an appropriate boundary that fits into the environment of the war memorial and gardens and the village. “*

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

**The Coal Authority** – no objection subject to conditions.

**KC Highways Development Management** – no objection following submission of revised site layout.

**KC Environmental Health** – no objection subject to conditions.

## 8.2 **Non-statutory:**

**KC Strategic Waste** – comments provided with information relating to landfill.

**KC Conservation and Design** – no objection in principle. Comments raised in relation to the overall scheme, but conditions suggested which would help to ensure harm to heritage assets is reduced should the application be approved.

**KC Planning Policy** – Comments that the application site was identified as a small open space in the Local Plan based on its apparent use for allotment purposes and recommended for retention as allotments in the Kirklees Open Space Study due to existing deficiencies in the quantity of allotment provision in the ward. Consideration will need to be given to whether the circumstances that the site does not, and has not, performed an open space function as allotments constitutes a material consideration in this instance which outweighs the development plan.

**KC Trees** - no objections subject to conditions

## 9.0 **MAIN ISSUES**

- Principle of development
- Urban design issues
- Residential amenity
- Housing issues
- Highway issues
- Representations
- Other matters

## 10.0 **APPRAISAL**

### Principle of development

- 10.1 Chapter 2 of the NPPF introduces the presumption in favour of sustainable development, which is the focus of policy LP1 of the Kirklees Local Plan (KLP). This policy stipulates that proposals that accord with policies in the KLP will be approved without delay unless material considerations indicate otherwise. Policy LP24 of the KLP is the overarching policy in relation to the design of all proposals, requiring them to respect the appearance and character of the existing development in the surrounding area as well as to protect the amenity of the future and neighbouring occupiers, to promote highway safety and sustainability. These considerations, along with others, are addressed in the following sections in this report.
- 10.2 The application site is identified as a small open space to be protected/considered under Local Plan policy LP61 (Urban Green Space) on the Kirklees Local Plan Strategy and Policies document at Appendix 4. The size threshold for allocation as urban green space in the Local Plan is 0.4 hectares. The application site is 0.14 hectares in size and was identified as a small open space to be considered/protected under policy LP61 based on evidence from the Kirklees Open Space Study 2015 (Revised 2016) as set out in the consultation response of Kirklees planning policy.

- 10.3 The proposed development of 5 dwellings should therefore be considered against policy LP61 which protects small valuable green spaces from development unless specific exceptions can be met. These exceptions include where:
- a. an assessment shows the open space is clearly no longer required to meet local needs for open space, sport or recreation facilities and does not make an important contribution in terms of visual amenity, landscape or biodiversity value; or
  - b. replacement open space, sport or recreation facilities which are equivalent or better in size and quality are provided elsewhere within an easily accessible location; or
  - c. the proposal is for an alternative open space, sport or recreation use that is needed to help address identified deficiencies and clearly outweighs the loss of the existing green space.
- 10.4 Criteria (b) and (c) are not relevant in this case. In terms of criteria (a) the Kirklees Open Space Study assessment did not identify the site as surplus to requirements based on its classification as allotment provision.
- 10.5 The application site was included in the Kirklees Open Space Study 2015 (revised 2016) (KOSS) on the basis that it appeared to be used for growing purposes as an allotment site. As part of the study, an open space assessment of the site was carried out and the site was assessed as having low value as open space and medium quality. In assessing whether sites are potentially surplus to requirements as part of the KOSS, sites scoring a low rating on the open space site assessment were considered further taking into account the level of open space provision within the ward and specific site considerations. In this case, the further analysis of the application site identified a quantity deficiency in allotments in the Birstall and Birkenshaw ward at 0.22 hectares per 1,000 households compared to the Local Plan quantity standard for allotments of 0.5 hectares per 1,000 households.
- 10.6 However, contrary to the rationale behind placing this land under the designation of Urban Green Space less than 0.4 hectares, there is significant evidence to suggest the site has not been continuously used as allotment land. Evidence has been put forward by the applicant to this effect and investigation by the LPA corroborates this. Planning history indicates that the land, together with land to the south, was historically used in connection with Whinfield Nurseries. Aerial photography from the c.1950s and historical photography indicates that this north field, the site subject of this application, was used to grow chrysanthemums for commercial purposes.
- 10.7 The policy exception to LP61 furthermore is considered to comply given the current use of the land, as relatively overgrown and not currently used for allotments as would reasonably be said to be required for local needs for open space.
- 10.8 It is acknowledged that, as evidenced by local representations, the site has been used sporadically for allotment purposes at various points. It has not however been used continuously as such as can be demonstrated by the current state of the land as well as historical photography indicating its use as associated with the nurseries.

- 10.10 It is considered that the designation as small open space under the Urban Space policy allows for development in this location given the policy exception of the site clearly no longer being required to meet local needs for open space, sport or recreational facilities (i.e. allotments), and that it does not make an important contribution in terms of visual amenity, landscape or biodiversity value.
- 10.11 The site's historic use as a market garden, together with the cessation of this use and current overgrown state, is considered, on balance, to provide the justification in respect of the purposes of policy LP61 of the KLP to deem the principle of development acceptable in this location.

#### Urban Design issues

- 10.12 Policy LP24 of the KLP, consistent with chapter 12 of the NPPF, states, *inter alia*, that the form, scale, layout and details of all development respects and enhances the character of the townscape.
- 10.13 The proposed dwellings have been revised in comparison to those submitted under application 2020/90996 to assume a more traditionally articulated appearance. The terrace of houses in respect of form is reasonably congruent with such building types in the locality, with the massing and scale of the proposed dwellings typical of West Riding of Yorkshire terraced housing stock. It is considered that the form, scale and massing would be broadly commensurate with the surrounding townscape and would not detract from the character of the village of East Bierley.
- 10.14 The proposed bungalow, aka house type B, would be of a more contemporary design scheme. There is no policy restriction on this approach per se and it is considered furthermore that the form would be of an appropriate massing to negate any visually overbearing effect or incongruous appearance in respect of design and character. Furthermore, in the context of the proposed development of houses in its entirety, the bungalow would, in the opinion of officers, compliment the proposed terrace in providing for a range of house types and ensuring visual interest and reflecting the existing mix of housing stock that characterises East Bierley.
- 10.15 The proposed palette of materials; particularly the proposed natural stone facing materials, would assimilate admirably into the wider townscape. This would be secured by recommended condition.
- 10.16 Policy LP35 of the KLP on the historic environment states, *inter alia*, that development proposals affecting a designated heritage asset should preserve or enhance the significance of the asset. The heritage assets for the purposes of this assessment would be the Grade II listed war memorial to the north, and the Conservation Area to the north and western boundaries. The site is, at the area of proposed housing itself, not within the East Bierley Conservation Area. The point of access along Bierley Marsh to the public highway is within the Conservation Area, however. As there would be a making good of Bierley Marsh here, with no significant built form proposed, it is not considered that the character or significance of the Conservation Area would be negatively affected in any material way by the development at the part of the site within the Conservation Area. No part of the application site would impinge on the war memorial gardens.

- 10.17 As set out previously, the site comprises an over-grown plot of land, indicated as part of Bierley Marsh on the historic maps once used as a market garden.
- 10.18 The site borders East Bierley Conservation Area, the listed war memorial to the north-west, as well as St. Luke's Church. St. Luke's Church is a prominent stone building, and a positive contributor to the street-frontage and designated conservation area. It was constructed around 1900 in the arts and craft style and in 1907 it is shown on historic maps as a club. It became a Church and church hall in 1961. The rear of the church comprises a rather poor-quality brick-faced addition which appears to date from the 1970s which compromises its architectural form. However, the townscape focus of the building remains on the original front element of the building which remains an attractive, well designed feature which contributes to the character and historic interest of the conservation area and the church is consequently considered to be merit the status as a non-designated heritage asset.
- 10.19 The proposed development, therefore, may potentially impact on the setting, character and appearance of a range of heritage assets, comprising the designated conservation area, listed war memorial, the church and the village green. Fundamentally, the Planning requirement is that the development should demonstrate that it will function well and add to the overall quality of the area (due to good architecture, layout and appropriate and effective landscaping) while being sympathetic to the character and historic interest of the surrounding built environment and landscape setting.
- 10.20 In spite of the high-quality form and materials scheme when assessed per se, the proposed development would introduce built form and massing which would be visible from public vantage points in the Conservation Area and about the listed War Memorial; and as such there may be the potential for a degree of harm to the character and appearance of the conservation area, in particular the setting of the listed war memorial and Memorial Gardens. It is important therefore to reasonably ensure that any potential harm is adequately mitigated to meet the requirements of NPPF paragraphs 130 & 134 (Design), and 199, 200, 202 (Historic Environment), as well as KLP policies LP24 (Design) and LP35 (Heritage). It is considered therefore that any remaining impact on the heritage assets of this scheme should be dealt with by conditions as set out further on in this section of the report.
- 10.21 As stated above, the application site, save for a small section of access track at the junction with the public highway, is adjacent to but not included within the Conservation Area. The site does though form a backdrop to the war memorial when viewed from public vantage points along South View Road.
- 10.22 The application proposal has been revised from a previously withdrawn scheme to reconfigure the detached dwelling to a bungalow, lowering its ridge height and subsequent massing.
- 10.23 The configuration of the houses within the plot, allows for open space when viewed from South View Road towards the middle of the site and to the right of the War Memorial. The bungalow would now, by virtue of its single storey nature, be more sensitively massed than the previous proposal and would form a backdrop to the War Memorial.



- 10.24 Mature trees would be retained at the boundary of the site with the War Memorial. The Council's Tree Officer has confirmed that given that plot 5 of the proposal is a single storey dwelling and taking account of the arboricultural method statement that has been provided, along with the tree protection fencing and ground protection that it specifies, the higher quality trees located on adjacent land, within the conservation area, should not be adversely impacted on by the proposal. This allows for a further visual assimilation of the proposed built form into the townscape in respect of the listed War Memorial and public vantage points in the Conservation Area.
- 10.25 It is important to ensure that the proposed development, if approved and implemented, contributes positively to the surrounding townscape in respect of its materials, form, density and massing. As stated above any potential harm to the heritage assets needs to be appropriately mitigated. To this end it is considered that several conditions are necessary and reasonable to attach to the Decision Notice, should the application be approved, to ensure that the setting of the heritage assets – namely the adjacent Conservation Area and War Memorial – are preserved and enhanced, in respect of chapter 16 of the NPPF or the objectives of KLP policies LP24 and LP35.
- 10.26 Conditions relating to submission of detail, including attention to the selection of natural stone, coursing and coping design would strengthen the ability of the proposed built form to assimilate well into the surrounding context. In addition, a condition requiring the frontage of the terraced units to include hedges, tree planting, permeable surfaces and some green enclosure to maintain the visual connection with the nearby village green is considered reasonable and necessary in light of the increase in built form visible from vantage points in the Conservation Area and about the listed War memorial.
- 10.27 With the inclusion of the suggested conditions, together with the retention of high-quality trees depicted on the submitted drawings and as confirmed by the Tree Officer, it is considered that, on balance, the degree of harm to the heritage assets would be mitigated.
- 10.28 The proposal is accordant with the principles set out in the Kirklees Housebuilder Supplementary Planning Guidance. In particular, in accordance with Principle 4, the space allocated to parking is proportionate and not excessive vis-à-vis that of the housing itself. Furthermore, the terrace is set back in a coherent building line from Bierley Marsh, as set out in principle 5.
- 10.29 In light of this the development therefore would, on balance, be acceptable in terms of visual amenity and heritage perspective, would comply with policies LP24 and LP35 of the KLP as well as chapters 12 and 16 of the NPPF.

#### Residential Amenity

- 10.30 Policy LP24 of the KLP require of developments, inter alia, a good standard of amenity for future occupants and neighbouring occupiers, as well as a minimising of the impact on residential amenity of future and neighbouring occupiers.

- 10.31 The space about the proposed dwellings allows for an adequate retention of privacy and daylight to neighbouring dwellings. There would be no habitable room windows in either the terrace or the bungalow that face directly opposite neighbouring habitable room windows. There would be some interface between the neighbouring dwellinghouse to the south, Thornfield, and the terrace. The distance retained would be though, some 13.4m to the extension of that property, 15m to the kitchen window, and some 13.4m to the hall. It is noted that the hall and kitchen are not habitable room windows for the purposes of planning amenity assessments, however in any case these distances are considered acceptable, having regard to the arrangement of dwellings in the wider area, the levels of the site, as well as the guidance contained in principle 6 of the Kirklees Housebuilder Supplementary Planning Guidance and policy LP24c of the KLP.
- 10.32 Due to the orientation of the houses at the neighbouring north-east and south-east plots and the fact the east facing windows of the proposed bungalow do not directly overlook habitable rooms, it is not considered that no. 16 South View Road nor no. 15 Moorside View would experience any material loss of privacy or sunlight such that a refusal would be warranted. The single storey nature of the building also allows for this east facing fenestration in amenity terms.
- 10.33 The terrace would provide for 4no. 3 bed dwellinghouses. Table 1 of the Nationally Described Space Standards states a guideline minimum of 93m<sup>2</sup> for two storey dwellings with 3 bed spaces for 5 persons (in this case 2 double bedrooms and 1 single). The proposed dwellings in the terrace would achieve some 91m<sup>2</sup> floorspace, broadly in line with this figure. The proposed single storey dwellinghouse in the plot would be a two-bedroom property for 4 persons (2 double bedrooms). Table 1 outlines a guideline minimum of 74m<sup>2</sup>. The proposed bungalow would have an floorspace (excluding the porch) of some 160m<sup>2</sup>.
- 10.34 It is considered necessary and reasonable to restrict hours of construction to reasonable times given the residential setting of the area. This can be dealt with by condition.
- 10.35 All told therefore, notwithstanding design considerations above, the development would comply with KLP policy LP24c in terms of residential amenity.

#### Housing issues

- 10.36 As set out in the Authority Monitoring Report (AMR), the assessment of the required housing (taking account of under-delivery since the Local Plan base date and the required 5% buffer) compared with the deliverable housing capacity, windfall allowance, lapse rate and demolitions allowance shows that the current land supply position in Kirklees is 5.88 years supply. The 5% buffer is required following the publication of the 2020 Housing Delivery Test results for Kirklees (published 19<sup>th</sup> January 2021).

- 10.37 As the KLP 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 27th February 2019). Chapter 5 of the NPPF clearly identifies that Local Authority's should seek to significantly boost the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development.

#### Highway issues

- 10.38 Bierley Marsh is an un-adopted road that carries public footpath Spenborough 6 and links South View Road and Hunsworth Lane.
- 10.39 East Bierley Primary school is located at the junction of South View Road and Hunsworth Lane approximately 50m to the west of the site. East Bierley conservation area and pond is located opposite Bierley Marsh currently serves Saint Luke's Church and Hall, East Bierley Methodist Church, and around 7 residential dwellings. This proposal will increase the number of dwellings to around 13.
- 10.40 Kirklees Highway Design Guide recommends that new development serving more than 5 dwellings (or any existing private road which will serve more than 5 dwellings after completion of new development) should be laid out to an adoptable standard. The applicants have submitted indicative proposals to improve the section of Bierley Marsh Road between the site and South View Road to adoptable standards.
- 10.41 The proposed development consists of 5 new dwellings comprising a block of four 3 bedroomed terrace houses fronting onto Bierley Marsh with a 3 bedroomed detached bungalow to the rear of the site served by a private driveway. Each of the proposed houses is shown to have 2 off-street parking spaces either to the front of the dwellings for the terrace houses or within an integral garage for the proposed bungalow.
- 10.42 Vehicle swept paths are provided to show how a standard car, emergency and refuse vehicle can potentially access the site. Highways Development Management (HDM) have requested the advice of the section 38 road adoption team regarding the proposals to make-up part of Bierley Marsh Road to adoptable standards and the possibility of its formal adoption as highway maintainable at public expense.
- 10.43 This however would be a matter for consideration beyond the scope of this planning application. Matters relating to land ownership are not material considerations in the determination of a planning application. Ownership certificates have been served on relevant landowners – Certificate C as well as a public notice in the press as confirmed by the certificates attached to the submitted. application form
- 10.44 HDM have recommended that internal vehicle turning for the proposed bungalow does not rely on the use of garage space. The applicants have been asked to amend their proposals to show that a vehicle can turn without the use of the proposed garage. The applicant has now submitted these drawings and this matter is considered to have been addressed.

- 10.45 It is, therefore, considered that the application proposal would be acceptable from a highway safety and parking perspective and, thus, would comply with policies LP21 and LP22 of the KLP.

### Representations

- 10.46 31no. separate representations have been lodged against this planning application, 30 of which are in objection, 1 of which is a general comment. Comments raise points relating to trees, flooding, design and a non-material concern relating to land ownership and the boundary of the adjacent village green. For clarification, the revised plans remove any part of this land from the application site entirely. It is considered that the revised plans satisfy this concern raised by several objecting third parties.
- 10.47 In terms of flooding, the site is not in a flood zone as defined by the Environment Agency.
- 10.48 Comments relating to trees are noted and the proposal has been assessed by the Council's Tree Officer who has no objection. The design has been carefully scrutinised, as has the interface between nearby dwellings.
- 10.49 Concerns raised in representations relate also to highways. The proposal has been reviewed by Kirklees Highways DM who have no objection subject to revised detail relating to turning areas for the bungalow. Revised drawings provide this detail depicting the turning areas and as such, officers are satisfied that the application would be compliant with KLP policies LP21 and LP22.
- 10.50 Concerns raised in the letter of representation pertaining to coal mining are noted. The Coal Authority have been consulted and their recommended conditions relating to investigation requirements will be carried through to the Decision Notice should planning permission be approved.

### Other Matters

- 10.51 On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target. However, it includes a series of policies, which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.
- 10.52 A condition regarding provision of electric vehicle charging points is considered reasonable and necessary to attach to the Decision Notice in the event of approval to ensure the environmental sustainability of the development, given the above.

10.53 Further extensions that may otherwise be compliant with Permitted Development Right regulations, such as porches, dormers, rear extensions and outbuildings may cumulatively lead to an undermining of the principle of development in this sensitive location in respect of the built form to plot ratio and the built form's impact on the heritage assets nearby. Design features such as rooflights and landscaping features such as fences may also undermine the design rationale for approval of this finely balanced application proposal. As such, it is considered necessary and reasonable to remove permitted development rights of class A-E of Part 1, inclusive, as well as Class A of Part 2 of the Town & Country Planning (General Permitted Development) Order by way of condition in the event of a grant of planning permission.

## **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 application proposal would be acceptable in principle, meeting the policy exception in KLP policy LP61. The proposal would contribute to the housing stock in the order of 5no. dwellings. These are material considerations attracting significant weight in favour of the proposed development.

11.3 The proposal would, subject to the imposition of the conditions as recommended be, on balance, of an appropriate form, massing and design in terms of the character of the area and would be acceptable in regard to residential amenity of neighbours and future occupants. These are further material considerations attracting weight in favour of the proposed development.

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 constitute sustainable development and it 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 Planning and Development)**

1. Time limit (3 years)
2. Development to be completed in accordance with approved plans and specifications
3. Submission of materials schedule/samples
4. Arboricultural Method Statement Compliance
5. Electric Vehicle Infrastructure
6. Removal of Permitted Development Rights Classes A-E, Part 1 and Class A, Part 2 of the Town & Country Planning (General Permitted Development) Order
7. Soft Landscaping Scheme
8. Shallow Coal Mining Activity Investigation
9. Coal Mining Declaration
10. Further Tree Works require approval
11. Submission of Phase II Ground Report
12. Submission of Remediation Strategy

13. Implementation of Remediation Strategy
14. Submission of Validation Report
15. Construction Management Plan, to include liaison between the applicant and local residents
16. Accordance with highways drawings
17. Bin collection point drawing to be submitted

**Background Papers:**

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f94345>

Link to previous, withdrawn, application:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f90996>

Certificate of Ownership – Notice served on/ or Certificate A signed