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

**HUDDERSFIELD PLANNING SUB-COMMITTEE**

**Date: 31-Mar-2022**

**Subject: Planning Application 2021/94645 Erection of detached dwelling with parking and division of existing garden to provide amenity, parking and bin storage adj, 84, Dalton Green Lane, Dalton, Huddersfield, HD5 9UQ**

**APPLICANT**

Chris Langford, Leverlang  
Developments Ltd

**DATE VALID**

17-Dec-2021

**TARGET DATE**

11-Feb-2022

**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.

[Public speaking at committee link](#)

**LOCATION PLAN**



**Map not to scale – for identification purposes only**

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**Electoral wards affected: Dalton**

**Ward Councillors consulted: No**

**Public or private: Public**

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<p><b>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.</b></p>
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**1.0 INTRODUCTION:**

- 1.1 This application is brought to committee at the request of Ward Cllr Musarrat Khan, who states:
- 1.2 *"...concerns in relation to loss of amenities for 18 Higson Court, in terms of overlooking, overshadowing and the creation of an overbearing effect, with loss of privacy. I notice from the plans that the line of 21m from habitable window at no: 18 Higson Court is marked and proposed application falls short of this 21 metres.*
- 1.3 The Chair of the Sub-Committee has confirmed that Cllr Khan's reasons for the referral to the committee are valid having regard to the Councillor's Protocol for Planning Committees.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The site comprises land to the east of No.84 Dalton Green Lane, and no. 84 Dalton Green Lane itself. The house and land is currently only accessible via an unadopted highway off the main highway of Dalton Green Lane. This unadopted highway also serves a number of other dwellings. The site is set between the street frontages of Dalton Green Lane and Albany Road, the latter of which runs to the south of the site. The site is bounded to the eastern and southern elevation by trees/shrubbery. To the north are dwellings fronting Higson Court. At present, the site forms the dwelling and garden of 84 Dalton Green Lane. The open land is laid to grass and other forms of natural vegetation and a hard surface.
- 2.2 The site is located within a residential area, with other properties of a variety of ages, designs and sizes located north, south and west. Located to the east of the site are several buildings forming Oxfield Court Day Centre.
- 2.3 The application site is Unallocated in the Kirklees Local Plan.

### **3.0 PROPOSAL:**

- 3.1 The applicant is seeking planning permission for the erection of a detached dwelling with parking in the garden area of no. 84 and the subdivision of the existing garden to provide amenity, parking and bin storage for both the existing property and the proposed property.
- 3.2 The proposed dwelling would have a maximum height of 7.7 metres, with the eaves of the building being 5.2m in height and would have a footprint of 10m x 9m. The external walls of the dwelling would be faced in coursed natural stone and the gable roofing forms would be laid with interlocking concrete tiles.
- 3.3 To the front elevation of the dwelling, there would be a projecting single storey porch. This would have a projection of 0.9 metres, a height of 3.7 metres and a width of 2.9 metres. The porch would be faced in coursed natural stone and have a pitched roofing style, laid with interlocking concrete tiles.
- 3.4 Fenestration detailing would consist of predominantly regular windows, with bi-folding and patio doors to the ground floor of the rear elevation. All of the windows would be UPVC double-glazed, and the bi-folding doors will be powder coated aluminium. Standard access doors will be installed to the front elevation and western side elevation.
- 3.5 Vehicular access to the site would be obtained from Albany Road, with a new driveway leading from the highway to the site across part of the existing garden area to no. 9 Albany Road. There would be three on-site parking spaces located to the eastern part of the site. Associated bin storage facilities are also located within this area of the driveway. All areas of driveway would be surfaced with permeable surfacing (honeycomb grids, infilled with gravel).
- 3.6 Garden amenity space would be provided to the front and rear elevations of the dwellinghouse.
- 3.7 To accommodate this new dwelling, some works will be carried out to No. 84 Dalton Green Lane. This includes the subdivision of the existing garden amenity space, to have only a rear garden following the erection of the new property. In addition, the existing windows and openings to the eastern side elevation of Number 84 will be infilled. Two parking spaces will be created to the eastern side elevation of 84 Dalton Green Lane.

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

- 4.1 2021/93793 – Erection of detached dwelling with parking and division of existing garden to provide amenity, parking and bin storage – Withdrawn.
- 4.2 The application (above) was withdrawn on the basis there were matters relating to access to the site which needed to be addressed. This application now under consideration has been submitted with alternative access arrangements proposed in response to the issues raised within application 2021/93793.

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

- 5.1 The submission of this scheme addresses the highways concerns raised under the original application of 2021/93793, moving highway access from Dalton Green Lane, using the existing private drive, to Albany Road.
- 5.2 The proposed driveway to the dwelling from Albany Road was amended to reduce the extent of hard surfacing, originally proposing three parking spaces to the front elevation of the dwelling. The three parking spaces are now proposed to the eastern side elevation of the dwelling. Kirklees Council Highways Development Management has confirmed this amendment to be acceptable.
- 5.3 The case officer sought several amendments with regard to the design of the proposed dwellinghouse, seeking to reduce the height of the projecting front gable to be single storey and removing the quoin detailing from the external facings. Amendment to the front bedroom window (moving to the east side elevation and amending the front window to obscure glazed of the same proportions of the bathroom window) was also requested. This was so that the proposal better harmonised with the other properties along the row off the unadopted drive and reduced the potential overlooking impact of the development to surrounding property.
- 5.4 The amendments to the scheme were not considered to significantly alter the nature of the development. Given this, the application was not re-publicised as the original round of publicity provided interested parties the opportunity to comment on the proposed development.

## **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 The site falls within an area which is unallocated in the Kirklees Local Plan, although does fall within an area with a known presence of bats, and area identified as being at low risk of ground movement as a result of former mining activity and within the Outer Zone of a hazardous materials site as identified by the Health and Safety Executive (HSE) in relation to Syngenta complex.
- 6.3 Kirklees Local Plan (2019):
  - LP1** – Achieving Sustainable Development
  - LP2** – Place Shaping
  - LP3** – Location of New Development
  - LP7** – Efficient and Effective Use of Land
  - LP21** – Highways and Access
  - LP22** – Parking
  - LP24** – Design
  - LP30** – Biodiversity and Geodiversity
  - LP33** - Trees
  - LP53** - Contaminated and unstable land

#### 6.4 Supplementary Planning Guidance/Document:

On 29<sup>th</sup> June 2021, Kirklees Council adopted its Housebuilders Design Guide SPD. The document indicates how the Council will interpret its policies regarding such built development, with the advice aligning with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), requiring development to be considerate in terms of the character of the host property and the wider street scene.

Kirklees Highways Design Guide (2019)

#### 6.5 National Planning Guidance:

National planning policy and guidance is set out in National Planning Statements, primarily the National Planning Policy Framework (NPPF) published 20<sup>th</sup> July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6<sup>th</sup> March 2014 together with Circulars, Ministerial Statements and associated technical guidance. In this case the Technical Housing standards – nationally described space standard guidance document (dated March 2015) is considered to be of relevance

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

- **Chapter 2** – Achieving Sustainable Development
- **Chapter 5** – Delivering a Sufficient Supply of Homes
- **Chapter 9** – Promoting Sustainable Transport
- **Chapter 11** – Making Effective Use of Land
- **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 The application was advertised in accordance with the Kirklees Development Management Charter. Final publicity expired 24/01/2022.

7.2 Three representations were received, they raised the following objections:

- The addresses of the application site, named 84A Dalton Green Lane when the access point for the property is off Albany Road
- Overlooking
- Overshadowing and blocked views
- Tree was cut down before planning permission applied for / in place
- Possibility of removal of more trees
- Noise as a result of construction
- Potential for large vehicles blocking access requirements and damaging neighbouring vehicles during construction
- The proposal will increase potential for damage to vehicles on Dalton Green Lane

- The proposal doesn't meet the space about buildings separation distances, in particular the 21-metre separation distance between habitable room windows.

7.3 Ward Councillor Musarrat Khan has commented on the scheme and requested that the application be determined by the Huddersfield Planning Sub-Committee for the reasons outlined at paragraph 1.2 of this report.

## 8.0 Consultation Responses:

Below is a summary of the consultee responses. Where appropriate, these are expanded on in the main assessment.

### 8.1 Statutory:

**KC Highways Development Management** – upon the submission of amended plans, KC Highways Development Management confirm that the proposal is acceptable from a highway's safety perspective.

**Health and Safety** – HSE does not advise, on safety grounds, against the granting of planning permission in this case.

### 8.2 Non-Statutory:

**KC Trees** – support the application, outlining that it meets the expectations of policies LP24 and LP33 of the Kirklees Local Plan.

## 9.0 Main Issues

- Principle of development
- Impact on visual amenity
- Impact on residential amenity
- Impact on highway safety
- Biodiversity
- Trees
- Other matters
- Representations

## 10.0 Appraisal

### Principle of Development

10.1 The site is without notion on the Kirklees Local Plan (KLP).

10.2 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. This policy stipulates that proposals that accord with policies in the Kirklees Local Plan 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 of this report.

- 10.3 Policy LP3 of the LP is also of relevance insofar as it requires development to deliver homes in a sustainable way. In addition to the above, Kirklees Council has adopted a Housebuilders Design Guide Supplementary Planning Document (SPD). This document sets out what the Council considers to be good residential design, to raise the quality of housing that is delivered in the district, supporting the Local Plan Vision. To help deliver quality places, the SPD consists of 19 Principles relating to both the broader and immediate context of the site with regard to landscape, culture, nature and heritage.
- 10.4 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 to the deliverable housing capacity, windfall allowance, lapse rate and demolitions allowance shows that the current land supply position in Kirklees is 5.17 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).
- 10.5 As the Kirklees Local Plan was adopted within the last five years, the five-year supply calculation is based on the housing requirement set out in the Local Plan (adopted 27<sup>th</sup> February 2019). Chapter 5 of the NPPF clearly identifies that Local Authority's should seek to boost significantly the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development.
- 10.6 Chapter 11 of the NPPF requires local planning authorities to make effective use of land through policies and decisions. Policy LP7 of the Kirklees Local Plan states that should encourage the efficient use of previously developed land in sustainable locations provided that it is not of high environmental value and a net density of at least 35 dwellings per hectare should be provided. Principle 4 of the Housebuilders Design Guide seeks to ensure a density of 35 dwellings per hectare or more is achieved. The site is approx 500m<sup>2</sup> which provides a housing density of 20 dwellings per hectare. The site, being previously developed land which forms part of the garden space, is considered to be brownfield land where redevelopment is sought to take place.
- 10.7 Whilst the density is less than that recommended, in this case it is considered other factors dictate that a lower density of development is suitable, notably access arrangements, relationship with other dwellings and proximity of large trees on neighbouring land. In summary, the principle of a detached dwelling on the site and the associated alterations to the existing dwelling are considered to be acceptable subject to other matters relating to the site and surrounding land, and discussed within the following sections of this report, being concluded as acceptable.

#### Impact on Visual Amenity

- 10.8 The NPPF offers guidance relating to design in Chapter 12 (Achieving Well-Designed Places) whereby paragraph 126 provides a principal consideration concerning design which states:

*“The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.*

- 10.9 Kirklees Local Plan policies LP1, LP2 and significantly LP24 all seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity. Policy LP11 sets out that all proposals for housing, including those affecting the existing housing stock, will be of high quality and design and contribute to creating mixed and balanced communities.
- 10.10 Principle 5 of the Housebuilders Design Guide states, amongst other things, that buildings should be aligned and set-back to form a coherent building line and designed to front on to the street. To avoid dominating the street, principle 12 states parking to the front will need creative design solutions to be incorporated. Consideration of the use of locally prevalent materials is required by principle 13. The design of windows and doors to relate well to the street frontage and neighbouring properties is required by principle 14. Principle 15 sets out that the design of the roofline should relate well to the site context, including topography, views, heights of buildings and the roof types.
- 10.11 Principle 2 of the Kirklees Housebuilders Design Guide SPD states that: *“New residential development proposals will be expected to respect and enhance the local character of the area by:*
- *“Taking cues from the character of the built and natural environment within the locality.*
  - *Creating a positive and coherent identity, complementing the surrounding built form in terms of its height, shape, form and architectural details.*
  - *Illustrating how landscape opportunities have been used and promote a responsive, appropriate approach to the local context.”*
- 10.12 Paragraph 129 of the NPPF sets out that design guides and codes carry weight in decision making. Of note, Paragraph 134 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Relevant to this is the Kirklees Housebuilders Design Guide SPD 2021, which aims to ensure future housing development is of high-quality design.
- 10.13 The application site is of a sufficient size to support a dwelling as proposed with a parking area and modest amenity space. The external appearance of the dwelling, as amended, is considered to harmonise appropriately with neighbouring properties located along the undeveloped drive off Dalton Green Lane, including being detached and of a two-storey height. In addition, the front elevation of the dwelling will be in line with the existing line of residential development along Dalton Green Lane of which it would be visually part. The scale of development is therefore considered to be acceptable.
- 10.14 The dwelling is proposed to be constructed using coursed natural stone for the walling, with concrete interlocking tiles for the roof. This is in line with the appearance of properties surrounding the site, which are predominantly faced in stone with tiled roofing forms.



- 10.15 The porch projection to the front elevation of the proposed dwelling is considered to be an appropriate subservient design feature, with several similar projections established to neighbouring properties, including to 76A Dalton Green Lane. The porch is to be of a single storey height and simple form, therefore, not giving rise to any undue bulking/massing to the front elevation of the dwellinghouse. The proposed porch will not be obtrusive and is considered to be an appropriate design feature.
- 10.16 The proposed fenestration detailing is considered to be appropriate, predominantly consisting of regular windows, with two contemporary glazed bi-folding doors set to the ground floor of the rear elevation. These forms of fenestration are considered standard forms of detailing for modern dwellings and are in keeping with the forms erected to the other properties along Dalton Green Lane. The windows will be framed in UPVC, acceptable visually and in keeping with the appearance of fenestration to surrounding properties.
- 10.17 The extent of hard surfacing is considered to be acceptable and it is concluded that an appropriate balance is achieved in terms of the entire extent of curtilage and the provision of naturally surfaced garden amenity space. Furthermore, usable off street parking areas and amenity spaces would be retained by no.84. The driveway to Albany Road would not appear out of place within the street frontage.
- 10.18 The proposed works to Number 84 Dalton Green Lane also need to be taken into consideration, as they fall within the curtilage of the application site. These alterations are considered not to detract from the original architectural style of the dwellinghouse, amending existing design features to better accommodate the new dwelling. It should also be noted that these amendments help to ensure the residential amenity, of the occupiers of no.84 would not be detrimentally affected. Visually, the proposed external alterations are considered to be acceptable, taking account of the reconfigured garden amenity space, vehicular parking to side and the infilling of windows to the eastern side elevation.
- 10.19 The design, scale and materials are all considered to be acceptable and would result in an appropriate form of residential development in this location, with respect to the character of the wider streetscene. On this basis any grant of permission is recommended to include conditions requiring details of materials, boundary treatments and finished floor levels to be submitted to the LPA for written approval. Subject to this, the proposals are considered to comply with LP24 (a) of the Kirklees Local Plan, Principles 2, 5, 12, 13, 14 and 15 of the Kirklees Council's Housebuilders SPD and policies within chapter 12 of the NPPF

#### Residential Amenity

- 10.20 A core planning principle as set out in the NPPF is that development should result in a good standard of amenity for all existing and future occupiers of land and buildings. This is also reinforced within part (b) of Policy LP24 of the Kirklees Local Plan. Principle 6 of the Housebuilders Design Guide SPD sets out that residential layouts must ensure adequate privacy and maintain high standards of residential amenity, to avoid negative impacts on light, outlook and to avoid overlooking. Specifically, it outlines that for two storey dwellings the following, typical minimum separation distances between existing and proposed dwellings, are advised: -

- 21 metres between facing windows of habitable rooms at the back of dwellings.
- 12 metres between windows of habitable windows that face onto windows of non-habitable room.
- 10.5 metres between a habitable room window and the boundary of adjacent undeveloped land.
- For a new dwelling located in a regular street pattern that is two storeys or above, there should normally be a minimum of a 2 metre distance from the side wall of the new dwelling to a shared boundary.

10.21 In addition to this, Paragraph 130 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

10.22 Principle 17 of the Council's adopted Housebuilders Design Guide SPD requires development to ensure an appropriately sized and useable area of private outdoor space is retained. Principle 16 of the Housebuilders Design Guide seeks to ensure the floorspace of dwellings accords with the 'Nationally Described Space Standards' document (March 2015).

10.23 Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out:

10.24 *Impact on 84 Dalton Green Lane*: located west of the site.

Within the submitted planning statement submitted alongside this application, it states that the windows to the side elevation of No. 84 Dalton Green Lane will be infilled in conjunction with the development of a new dwelling to the east. Therefore, given that no windows will serve habitable rooms internally on the side elevation of this neighbouring property, the development poses no detriment of overbearing or overshadowing, with a predominantly solid wall created to the eastern side elevation of No. 84 (only one en-suite window will be present which will be obscurely glazed). This reconfiguration of the windows of No. 84 does not require planning permission and can be done under Permitted Development. However, to ensure compliance with the thrust of the SPD so that future occupiers of no. 84 are not adversely affected by the new dwelling, it is recommended that a condition be imposed requiring the works to be undertaken before the superstructure of the new dwelling is commenced.

The proposed dwelling will retain a separation distance of one metre from the shared boundary of No. 84 Dalton Green Lane. Although this falls short of the 2 metres as recommended within the SPD, this is considered to be acceptable in this instance, reflecting the existing pattern of residential development along Dalton Green Lane, which is typically terraced with only small gaps present between properties that are not attached. In turn, it is not considered that there would be any significant design benefit or benefit to the amenity of neighbouring occupiers from an increased separation distance in this case.

The new dwelling will align with the front and rear footprint of No.84 Dalton Green Lane and therefore, no significant overlooking, overbearing impact or overshadowing is considered to be caused to this neighbouring property on the basis of the amendments as set out in the planning statement, and controlled by planning condition, being undertaken.

It is recommended that any grant of permission requires a scheme to be submitted to the LPA and approved in writing which relates to the alterations to no.84 and requires them to be completed before the superstructure of the new dwelling is commenced. The recommended condition is considered to be necessary to ensure the works set out in the planning statement are completed and that a suitable reconfiguration of no.84 is undertaken to retain a good standard of amenity for the occupiers of this property.

#### 10.25 *Impact on 18 Higson Court:* located north of the site.

A separation distance of approximately 15 metres will be achieved between the front elevation of the proposed dwelling (the front elevation of the porch) and the maximum rear projection of No. 18 Higson Court, measured from the rear elevation of the single storey rear extension. Excluding the front porch, a separation distance of 15.8 metres will be present from the same maximum rear projection at No. 18 and the main part of the new dwelling.

The separation distances between windows within the rear elevation of no. 18 Higson Court and the amended plans for the new dwelling are considered as follows. In the first-floor front elevation of the new dwelling there is a bathroom and landing window and, as part of recent amendments to the scheme, a secondary obscurely glazed bedroom window. The separation distance between the dwellings at first floor is approximately 19.7 metres. Two of the windows serve non-habitable rooms and the bedroom window is now a secondary, obscurely glazed window (which can be controlled by condition). The principal window to the bedroom is now in the eastern elevation. Although the separation distance between the secondary bedroom window falls short of the 21 metres as set out in the SPD, it is to be obscured glazed and is not the principal window serving this room. In addition, it is not directly facing the first-floor windows of 18 Higson Court; it is slightly offset and orientated towards the single storey garage of this neighbouring property, rather than having a face on relationship with no.18, these properties are a slight oblique angle to one another.

Furthermore whilst the window to front serving the bedroom would serve a habitable room, it would be obscure glazed and have the same appearance as a bathroom or other non habitable room. As such it is considered that the design of this upper storey window would minimise any potential loss of privacy, in accordance with guidance in paragraph 7.20 of the SPD. It is considered reasonable and necessary to require the first floor north facing windows to be obscurely glazed and for no additional first floor windows in the northern elevation to be installed. This is to retain a good standard of privacy for existing and future occupiers.

It is also important to note that the new property will reflect the existing relationship established between previously erected properties along Dalton Green Lane and Higson Court, which share the same separation distance between one another to that proposed between the new dwelling and properties on Higson Court.

Turning to the relationship between ground floor windows between the properties, Paragraph 7.20 of the Council's Housebuilders Design Guide SPD states that 'appropriate screening and boundary treatments...' are an appropriate design solution for allowing reduced separation distances to those set out earlier in the document. The separation distance between the rear ground floor windows of No. 18 Higson Court and those to the front elevation of the proposed dwelling would be 15.75 metres. Although there is a stone boundary wall between the application site and no 18 Higson Court, this would not provide screening of ground windows and the separation distance is less than 21m. To overcome this it would be necessary for additional boundary treatment to be erected along the northern boundary of the application site of 2m in height to provide appropriate privacy to existing and future occupiers of dwellings. There is a variety of boundary treatments between properties along Higson Court and Dalton Green Lane and, in this context, screen fencing would not look out of place or be unduly overbearing / oppressive. It is recommended that boundary treatments are required to be submitted to the LPA for written approval prior to the proposal being occupied to ensure this is the case. This is considered to satisfy the space about buildings between the proposed dwelling and no. 18.

The size and scale of the dwelling (7.7m to ridge and 5.2m to the eaves) is considered not be unduly overbearing or have a detrimental impact upon the outlook for the occupiers of 18 Higson Court. It is two-storeys in height and is reflective of the existing 'building line' between properties on Dalton Green Lane and Higson Court. It should also be noted that an area of front garden amenity space will be formed to the north of the new dwelling, of a length of 7.15 metres from the principal elevation and built form..

The new dwelling would be due south of no. 18 Higson Court. Sunlight calculator software has been used to assess the impact the new dwelling would have on this property. This indicates that it would cause no overshadowing in the summer months, when the sun is higher in the sky. In the winter, some overshadowing would occur. This would typically be between the hours of 11:00-14:00. It is acknowledged that this would have some impact on the enjoyment of no. 18. However, the impact is considered to be proportionate in the planning balance of all material considerations taken into account in the assessment of this application. It is concluded that unduly detrimental level of overshadowing would occur as a result of the development for the occupiers of 18 Higson Court, taking into account the overshadowing impact over the course of a year.

#### 10.26 *Impact on 9 Albany Road:* located south of the site.

The proposed position of the new dwelling relative to the adjacent neighbour is such that there would be no significant impact on the amenities of the occupiers of the neighbouring no.9. A separation distance of approximately 18 metres will be present between this neighbouring property and the proposed dwelling, with the rear elevation of no.9 facing to a north-western angle from the site, which reduces any potential of overlooking between 1<sup>st</sup> floor windows.

Sub-paragraph 7.20 of the Council's Housebuilders Design Guide SPD sets out that 'the angles of facing elevations and the orientation of the buildings' is a design solution to allow for reduced separation distances between dwellings. Given the orientation of the proposal and no.9 and also the size and scale of the proposal, as well as the distance it would be sited from no.9 it is concluded that there would be no significant impacts of undue overbearing, overshadowing or to the neighbouring privacy of this property.

In addition, it is important to acknowledge that trees and shrubbery are present to the rear elevation of 9 Albany Road, these further reduce overlooking between these properties.

Although some amenity space at no.9 will be lost for the creation of the driveway to the proposed dwelling, this is a small proportion of the amenity space available within curtilage of no.9. Therefore, the loss to outdoor amenity space is considered to be minor and will not result in a detrimental loss, with both the front and rear gardens and a sufficient extent of driveway amenity space remaining for this property.

Given that the proposed route of access from Albany Road to the site is not a through route and will provide access only to the proposed dwelling, it is not likely that there will be a significant material loss of amenity for the occupiers of no.9 Albany Road as a result of vehicular movements to the side of their boundary. It is considered the proposal would not have a significant impact in relation to increases in traffic levels and associated noise.

**10.27 *Impact on Oxfield Court Day Centre, including Crossroads Creche:*** Located to the east of the site

There is a separation distance between the new dwelling and Oxfield Court Day Centre, including Crossroads Creche, to the east of the site of 19m. The dwelling and Oxfield Court Day Centre do not directly face one another with the eastern elevation of the proposed dwelling being at an oblique angle in relation to Oxfield Court Day Centre.

As previously set out, Sub-paragraph 7.20 of the Council's Housebuilders Design Guide SPD sets out that 'the angles of facing elevations and the orientation of the buildings' is a design solution to allow for reduced separation distances. In this case, given the distance and orientation of the proposed dwelling to Oxfield Court Day Centre it is concluded there would be no significant impacts with regard to overbearing, overshadowing or neighbouring privacy, including the re-sited bedroom window in the eastern elevation of the property.

It should also be noted that the boundary treatment between the two sites is a stone wall and a fence which is approximately 2m in height which screens the amenity space of the proposal from Oxfield Court Day Centre. There are tall, mature and dense trees in the grounds of Oxfield Court Day Centre which further work to further mitigate potential overlooking. Although a window is proposed to the first floor of the eastern side elevation, this will be set 21m from elevation of Oxfield Court Day Centre facing the proposal. In turn, this is not considered to impact negatively upon privacy, with overlooking further mitigated by the presence of tall/dense trees.

- 10.28 Having considered the above factors, the proposals are considered not to result in any unduly adverse impact upon the residential amenity of any surrounding neighbouring occupants, complying with Policy LP24 (b) of the Kirklees Local Plan in terms of the amenities of neighbouring properties and Paragraph 127 (f) of the NPPF. Where the scheme doesn't comply explicitly with the advised distances within the Council's Housebuilders SPD, it is considered sufficient justifications are evident as to why the scheme is acceptable from a residential amenity perspective in accordance with paragraph 7.20 of the SPD which sets out when reduced distances between buildings would be appropriate.
- 10.29 Noise as a result of construction has been raised as an objection to the proposal. Given the scale of the development, the construction phase of the development would be unlikely to be undertaken over a significant period. Notwithstanding this, it is recommended that any grant of permission requires the hours of construction to be restricted to ensure the starting and finishing times are not unreasonably early / late and not at unacceptable hours during weekends.
- 10.30 In terms of the amenities of the proposed occupiers, and requirements of principle 16 of the Housebuilders Design Guide SPD the proposed new dwelling would comfortably exceed the minimum recommended internal floor space standards as specified in the NDSS, therefore internally, Officers consider that the proposed dwelling would provide a good standard of amenity for future occupiers.
- 10.31 Further to this, and amenity space provision detailed in principle 17 of the Housebuilders Design Guide SPD. The property will benefit from private external amenity space to the front and rear, which would be of a suitable size for activities associated with the host property such as child's play to be undertaken.
- 10.32 Therefore, the proposal is considered to appropriately comply with LP24(b) of the Kirklees Local Plan, principles 6, 16 and 17 of the Housebuilders Design Guide SPD and policies within Chapter 12 of the NPPF with regard to the amenities of future occupiers of the new dwelling.

#### Highways

- 10.33 Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF relate to access and highway safety and are considered to be relevant to the consideration of this application. The Council's adopted Highway Design Guide and Principles 12 and 19 of the Housebuilders Design Guide which seek to ensure acceptable levels of off-street parking, adequate waste storage facilities are provided, are also considered to be of relevance. Within an email dated 2<sup>nd</sup> February 2022 the Council's Highways Team confirm the concerns raised in their initial consultation response of 17<sup>th</sup> December 2021 have been suitably addressed and recommends conditional approval.

- 10.34 This application is for the erection of a four-bed detached dwelling with parking and a new access on to Albany Road. Albany Road is a 30mph two-way dual carriageway of approximately 5.6 metres width, with a footway on both sides of the highway and some street lighting present. The access to serve this dwelling would be new and any dropped crossing would need to be constructed in accordance with the requirements of the Highway Act, which could be added as an advisory note to any planning permission (s184). The new access, as indicated on the amended site layout plan, includes visibility splays which meet the visibility requirements of 2.4m x 43m at the site access. A condition would be required to ensure that sightlines are cleared of all obstructions to visibility exceeding 0.9 metres in height prior to development commencing and be retained as such. This is to ensure that adequate visibility onto Albany Road is created for the construction phase and future occupation of the property.
- 10.35 To meet the parking standards of The Council's adopted Highway Design Guide 3 parking spaces are required to be provided. These are shown on plan to be accommodated to the eastern side elevation of the dwelling. The applicant has also provided information regarding the surfacing of the driveway and parking spaces, to be surfaced in honeycomb grids, infilled with gravel. This is considered to be acceptable with regard to drainage however, a prescriptive condition will be included if the proposals are approved, to ensure that all surfacing and drainage accords with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) and to ensure that this surfacing is retained thereafter. This would be to ensure the hardsurface did not materially increase surface water run-off. This would be in accordance with guidance in Chapter 14 of the NPPF.
- 10.36 A bin storage and separate bin collection presentation point is shown on the proposed block plan and considered to be an appropriate area of waste storage and collection to serve the new dwelling without adversely affecting highway safety or amenity. The bin storage area is considered to be in an unobtrusive part of the site and is considered to have an acceptable visual impact. Taking account of the submitted detail and response of the Highways Team the proposal is concluded acceptable in this regard.
- 10.37 The access for Number 84 Dalton Green Lane will remain the same as existing, with two parking spaces accessible from the same route and located to the side of no.84 being indicated upon the plans. In addition is it considered likely a third vehicle could park to the front of no.84. The parking spaces are considered to provide adequate parking for this property, bin storage for no.84 is proposed to be at the rear and would not be stored on the street or to the front as a result of the proposal. The bin storage is considered to be suitable given it is to the rear.
- 10.38 Concerns have been raised regarding the construction phase and impact upon the highway; it is recommended that any grant of permission is subject to condition requiring a Construction Management Plan be submitted to the LPA for written approval to ensure appropriate arrangements are put in place for the construction period. Given the above, subject to conditions, Officers consider that the proposal would prevent detrimental harm to highways safety in accordance with Policies LP21 and LP22 of the Kirklees Local Plan, the Highways Design Guide SPD, principles 12 and 19 of the Housebuilders Design Guide and Chapter 9 of the NPPF.

## Biodiversity

- 10.39 Chapter 15 of the NPPF relates to conserving and enhancing the Natural Environment. Paragraph 179 of the NPPF outlines that decisions should promote the protection and recovery of priority species, and identify and pursue opportunities for securing net gains for biodiversity. Paragraph 180 goes on to note that significant harm to biodiversity resulting from development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
- 10.40 Policy LP30 of the Kirklees Local Plan echoes the NPPF in respect of biodiversity. Policy LP30 outlines that development proposals should minimise impact on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist. Principle 9 of the Housebuilders Design Guide SPD provides further detail.
- 10.41 The application site lies within the Bat Alert layer on the Council's GIS system. Although the proposal is for a new dwelling, an existing built garage is to be demolished within the curtilage of the site. Careful attention has been paid when looking for any evidence of potential bat roosting, with the garage structure appearing well sealed around the eaves and roof area, judged unlikely to contain roosting bats. Even so, as a cautionary measure, if the application is approved, a footnote will be added to the decision notice; stating that if bats are found, development shall cease, and the advice of a licensed bat worker sought.
- 10.42 Given the site is within an area with a known presence of bats, and to provide net gain in relation to biodiversity it is recommended any grant of permission requires a scheme of measures to improve biodiversity of the site, such as through the provision of bat bricks within the new property and boundary treatments which allow the passage of wildlife. With the inclusion of the recommend informative note and conditions, the proposal would appropriately comply with LP30 of the Kirklees Local Plan, Chapter 15 of the NPPF and Principle 9 of the Council's Housebuilders Design Guide SPD.

## Trees

- 10.43 Chapter 15 of the NPPF seeks to conserve / protect the environment and for developments to have a net gain in terms of biodiversity. With regard to trees, Policy LP33 of the KLP sets out that developments which directly or indirectly threaten trees or woodlands of significant amenity should not be supported. There are several mature trees to the eastern boundary of the site on neighbouring land. Although the dwelling and new access would not directly impact these trees, they could indirectly impact on the root system; principally through the formation of the new access. An Arboricultural Method Statement and Arboricultural Impact Statement have been submitted in consideration of these factors. These highlight that no trees will require removal or pruning as part of this project. The statement also highlights that the trees will be adequately protected throughout the development, with the use of tree protection fencing where required and a no-dig cellular confinement system for the surface of the access.



10.44 KC Trees were formally consulted as part of this application, concluding that the proposals (with the supporting documents) meet the expectations of LP24 and LP33 of the Kirklees Local Plan and therefore support the application from a tree's perspective. KC Trees did advise that, if approval were to be granted, a condition of compliance should be included, to ensure that the Arboricultural Method Statement is adhered to during construction. Subject to inclusion of the recommended condition the proposal is considered acceptable in this regard.

### Other Matters

#### *Climate Change*

10.45 Principle 18 of the Housebuilders Design Guide SPD expects new proposals to contribute to the Council's ambition to have net zero carbon emissions by 2038, with high levels of environmental sustainability by ensuring the fabric and siting of homes, and their energy sources reduce their reliance on sources of non-renewable energy. Paragraph 9.8 of the Housebuilders Design Guide details that homes can take advantage of solar gain, typically with one elevation facing within 30 degrees of due-south and supporting the position of dual-aspect buildings to allow for the penetration of natural light at different times of the day. This paragraph goes on to state this needs to form part of an integrated house design that avoids overheating.

10.46 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 predates 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.

10.47 Officers also note the use of double-glazed windows within the design of the dwelling, a positive design feature with regard to reducing carbon dioxide emissions. Double-glazed windows act as a shield against cold weather, meaning less artificial heating is required inside the home. Building regulations would need to be gained for a development of this type and would require suitable insulation is undertaken to the dwelling. The proposal would have a dual aspect with openings to the north, south and eastern elevations serving habitable rooms which would take advantage of solar gain as set out in paragraph 9.8 of the Housebuilders Design Guide.

10.48 Due to the nature of the scheme, this being a proposal providing 1 additional residential unit within the site within an urban location, it is considered that one electric vehicle charging point should be provided to aid in the contribution to climate change. It is considered that, given the requirements of building regulations and scale of the proposal, it would be unreasonable of the LPA to require further measures to be undertaken as a condition of any grant of permission. Therefore, subject to this condition the application is considered to comply with Policy LP51 of the Kirklees Local Plan, Principle 18 of the SPD and Chapter 14 of the National Planning Policy Framework.

## *Health and Safety*

10.49 The site falls within the outer zone of a hazardous materials site which is identified by the Health and Safety Executive (HSE). The HSE do not advise against (on safety grounds) the granting of planning permission in this case. It is therefore considered the proposal would be acceptable in this regard and compliant with Policy LP53 of the Local Plan and Chapter 15 of the NPPF.

## Representations

10.50 Insofar as they have not already been addressed elsewhere within this report, the following objections are addressed as follows:-

- Tree was cut down before planning permission applied for / in place

10.51 There was no requirement for permission to remove this tree prior to submission of the application as it was not formally protected by Tree Preservation Order.

- The proposal will increase potential for damage to vehicles on Dalton Green Lane

10.52 It is considered that, in light of the response and conclusions of the Council's Highways DM Team, little weight can be afforded to this given separate legislation is in place to control this should any such damage occur and the existing width of Dalton Green Lane would not be altered. Furthermore, the proposal is for the erection of one detached dwelling which would not significantly intensify the use of Dalton Green Lane.

10.53 The concerns raised by Cllr Khan are addressed below:

- Loss of amenities for 18 Higson Court, in terms of overlooking, overshadowing and the creation of an overbearing effect, with loss of privacy.

*Response:* It is concluded that the proposed dwelling would not result in significant detrimental impacts to residential amenity for the occupiers of 18 Higson Court. The specific assessments of overlooking, overshadowing and overbearing are set out in paragraph 10.25 of this report. In summary, for reasons of separation distance, layout and fenestration detailing, it is considered that the proposal will not be detrimental with regard to these concerns.

- Proposal falls short of 21 metres with regard to the separation distance from 18 Higson Court.

*Response:* It is correct that the proposal does fall short of the 21 metres separation distance as set out under Principle 6 of the Council's Housebuilders Design Guide SPD. However, as set out in paragraph 10.25 of this report, the scheme incorporates design solutions that allow for reduced distances, including the siting of the dwelling and fenestration detailing with regard to design and orientation and also through the use of obscure glazing to the first-floor windows of the proposed dwelling. Furthermore, a condition can be imposed in respect of maintaining privacy between ground floor windows.

## **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 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 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. Timescale for the commencement of development
2. Development to be in accordance with the approved plans
3. Compliance with Arboricultural Method Statement
4. Hours of construction
5. Submission of Construction Management Plan
6. Provision of visibility splays in accordance with submitted site layout plan prior to commencement
7. Surfacing of parking and access area (surface water drainage)
8. Details of external facing and roofing materials
9. Details of boundary treatments (including 2m screen fencing to the northern boundary of the site)
10. Details of Finished Floor Levels
11. Details for biodiversity net gain (for example bat bricks, boundary treatment to allow the passage of wildlife)
12. Details of scheme relating to layout and external alterations to no.84, including parking spaces
13. First floor north facing windows to be installed with obscure glazing and retained as such
14. Removal of permitted development rights for new first floor windows in the north elevation
15. Electric vehicle charging point

### **Background Papers:**

### **Application Details:**

[Link to application details](#)

**Certificate of Ownership:** Certificate B completed 15<sup>th</sup> December 2021