
Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 08-Feb-2024

Subject: Planning Application 2023/90116 Outline application for erection of residential development rear of, 135, Heckmondwike Road, Dewsbury Moor, Dewsbury, WF13 3NT

APPLICANT

Abdul Ali

DATE VALID

03-Feb-2023

TARGET DATE

31-Mar-2023

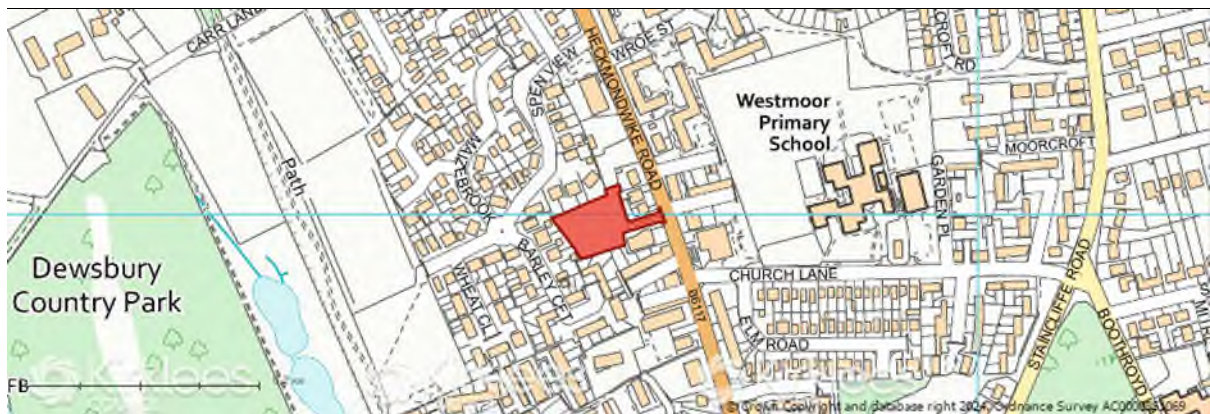
EXTENSION EXPIRY DATE

12-Feb-2024

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

Electoral wards affected: Dewsbury West

Ward Councillors consulted: No

Public or private: PUBLIC

RECOMMENDATION:

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

1.0 INTRODUCTION

1.1 The application is brought to the Heavy Woollen Planning Sub-Committee for decision due to the significant volume of local opinion received over the lifetime of the application (26 public comments received). This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS

2.1 The application relates to an irregularly-shaped parcel of land approximately 0.25ha in size, located to the rear of 135, Heckmondwike Road, Dewsbury Moor, Dewsbury. The site is surfaced in hardstanding and permission was granted in 2021 for the use of the site for parking commercial vehicles (minibuses). The site slopes downhill to the west. The existing site access from Heckmondwike Road (B6117) runs between 125 Heckmondwike Road (St Johns Under 5s Pre School) and 135 Heckmondwike Road.

2.2 The site is located in a predominantly residential area and is surrounded by residential properties on all sides. The surrounding dwellings are predominantly brick-built two-storey semi-detached dwellings, although there is some variation. St Johns Under 5s Pre School is directly to the south of the site access. There are commercial uses to the south and southeast of the site.

2.3 The site is not within a conservation area, nor are there any listed buildings or Public Rights of Way within close proximity to the site.

3.0 THE PROPOSAL

3.1 The applicant is seeking outline permission for the erection of residential development. The only matter to be determined at this stage is access. All other matters are reserved.

3.2 The application form and indicative site layout plan show seven dwellings (two pairs of semi-detached dwellings and one terrace of three dwellings). This, however, is not subject to determination at this stage.

3.3 Access, which is to be considered at this stage, would be provided from the existing access between nos. 125 and 135 Heckmondwike Road which serves the existing commercial vehicle (minibus) parking area.

4.0 RELEVANT PLANNING HISTORY

4.1 At the application site:

87/00169 – Outline application for residential and retail development. Granted conditionally.

2021/90635 - Engineering works to level site and change of use to park commercial vehicles (Minibuses). Conditional full permission.

4.2 At neighbouring properties:

89/03209 – Erection of 134 no. dwellings and associated garages. Granted conditionally. (Heckmondwike Road).

90/03088 – Revised layout in respect of Plots 6-10 inclusive and 81-122 inclusive. Reserved Matters approved. (Heckmondwike Road).

2001/92369 – Change of use of vacant land to domestic garden. Full permission unconditional.

2001/93871 – Change of use of vacant land to domestic gardens. Conditional full permission. (Land to rear and side of 135-141 Heckmondwike Road).

2008/92597 – Erection of 5 no dwellings. Withdrawn, (Land adj. The Woolpack).

2008/93892 – Erection of 4 dwellings. Conditional full permission. (Land adj. The Woolpack).

2017/92271 – Erection of 6 no. dwellings with associated roadway and parking, demolition of existing bungalow. Conditional full permission. (151 Heckmondwike Road).

2020/92309 – Erection of 6 dwellings with associated parking. Conditional full permission. (151 Heckmondwike Road).

2021/91801 – Outline application for erection of petrol filling station. Conditional outline permission. (151 Heckmondwike Road).

2022/92230 – Reserved matters application pursuant to outline permission 2021/91801 for erection of petrol filling station. Not yet determined.

5.0 HISTORY OF NEGOTIATIONS

- Description of proposal changed to reflect minibus operation and then removed following amended plans.
- Noise assessment requested and received – assessed by KC Environmental Health and considered acceptable subject to condition.

- Following initial KC Highways Development Management (HDM) response – amended indicative layout and location plan received. Re advertised. Secondary KC HDM response given.
- Following secondary KC HDM response – Technical Note and Access Proposals plan submitted.

6.0 PLANNING LEGISLATION AND 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 Kirklees Local Plan. The Kirklees Local Plan was adopted on 27 February 2019 and comprises the strategy and policies document, allocations and designations document and associated proposals map.

6.2 The following legislation, policies, and guidance are considered relevant to the determination of this application:

Kirklees Local Plan (February 2019)

The site is unallocated on the Kirklees Local Plan.

- Policy LP1 – Presumption in favour of sustainable development
- Policy LP2 – Place Shaping
- Policy LP3 – Location of new development
- Policy LP7 – Efficient and effective use of land and buildings
- Policy LP20 – Sustainable travel
- Policy LP21 – Highways and access
- Policy LP22 – Parking
- Policy LP24 – Design
- Policy LP30 – Biodiversity & Geodiversity
- Policy LP51 – Protection and improvement of air quality
- Policy LP52 – Protection and improvements of environmental quality
- Policy LP53 – Contaminated and unstable land

Supplementary Planning Documents

- Biodiversity Net Gain Technical Advice Note (June 2021)
- Planning Applications Climate Change Guidance (June 2021)
- Highway Design Guide SPD (November 2019)
- Housebuilders Design Guide SPD (June 2021)

National Policies and Guidance

6.3 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published in 2012 and updated most latterly in December 2023, 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 planning applications.

National Planning Policy Framework (NPPF) (July 2019)

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed and beautiful places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

Climate Change

- 6.4 The Council approved Climate Emergency measures at its meeting of full Council on the 16th of January 2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.
- 6.5 On the 12th of 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 would use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

7.0 REPRESENTATIONS (PUBLIC)

- 7.1 We are currently undertaking statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. As such, we have publicised this application via neighbour notification letters which expired on 21st March 2023.
- 7.2 As a result of the above publicity, a total of 26 representations have been received from 12 individuals (all in objection).
- 7.3 15 representations were initially received (all in objection). The following is a summary of the material planning considerations which were raised as concerns:
- Site is not in a sustainable location.
 - Noise
 - Artificial lighting
 - Air quality

- Highway safety
- Contaminated land
- Trees
- Ecology
- Overshadowing
- Overlooking / loss of privacy
- Proximity of proposed dwellings to existing dwellings
- Drainage / flooding
- Loss of green space

7.4 Amended plans were advertised by neighbour notification letters giving until 1st June 2023 to comment. 7 further representations were received (all in objection). The following is a summary of the material planning considerations which were raised as concerns:

- Overbearing
- Loss of minibus parking

7.5 Five additional comments (all in objection) were raised following the close of public consultation period, submitted by 2 individuals. Under Paragraph 034 of the National Planning Policy Guidance (NPPG) on Consultation and Pre-Decision Matters, dated 23/07/2019 (Reference ID: 15- 026-20190722), the Council has – at its discretion – accepted public comments made after the close of the consultation period for due consideration. The following is a summary of the material planning considerations which were raised as concerns:

- Overshadowing
- Overlooking
- Highway safety
- Drainage concerns
- Impact on operation of adjacent pre-school
- Prevention of vehicle access for pre-school students, particularly those who have limited mobility.
- Bus stop has previously been moved, causing overlooking to the adjacent pre-school

8.0 CONSULTATION RESPONSES

8.1 A summary of consultee responses is set out below. Where appropriate, these are expanded on within the main appraisal:

8.2 **Statutory:**

KC Highways Development Management (HDM) – object to the proposal (detailed further within the report) for seven dwellings (as this would result in an intensification of the access). Residential development could however be submitted provided that there would be no intensification in the use of the access to the site.

KC LLFA – no objection subject to conditions and a S106 agreement (to be detailed within the report).

The Coal Authority – no objection subject to conditions (to be detailed within the report).

8.3 **Non-Statutory.**

KC Ecology – no objection subject to conditions (to be detailed within the report).

KC Environmental Health – no objection subject to conditions (to be detailed within the report).

9.0 **MAIN ISSUES**

9.1 Taking into consideration the site allocations and constraints, the main issues for consideration as part of the appraisal of the application are:

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

10.0 **OFFICER ASSESSMENT**

Principle of Development

10.1 The site is without notation on the Kirklees Local Plan. Policy LP1 of the Kirklees Local Plan states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in Chapter 2 of the National Planning Policy Framework. Policy LP2 sets out that, in order to protect and enhance the character of places, all development proposals should seek to build on the opportunities and help address the challenges identified in the Local Plan.

10.2 The proposal is required to accord with Policy LP3 of the Kirklees Local Plan, which requires new development to be situated in a sustainable location that provides access to arrange of transport choices and access to local services. This site is within walking distance of bus stops on Heckmondwike Road and Church Lane. There is a convenience store, pharmacy, childcare facilities, and a café/bakery adjacent to the site entrance. Therefore, the site is considered to be in a sustainable location close to public transport and local services. Officers consider the site is in a sustainable location for residential development.

10.3 The Local Plan identifies a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum. National planning policy requires local planning authorities to demonstrate five years supply of deliverable housing sites against their housing requirement.

10.4 The NPPF was updated on 20th December, paragraph 76 states:

Local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision making purposes if the following criteria are met:
a) *their adopted plan is less than five years old; and*
b) *that adopted plan identified at least a five year supply of specific, deliverable sites at the time that its examination concluded.*

10.5 The Council's Local Plan was adopted in February 2019 and is currently less than 5 years old.

10.6 Chapter 5 of the National Planning Policy Framework clearly identifies that Local Authorities 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. Paragraph 70 of the NPPF recognises that:

"Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should... support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes".

10.7 Policy generally seeks to support residential development upon unallocated sites. Thus, residential development at the site could be acceptable in principle. Policy LP7 of the Kirklees Local Plan establishes a desired target density of 35 dwellings per hectare. By that standard, this site (measuring ~0.25ha gross), in theory, could accommodate 8 to 9 dwellings.

10.8 Policy LP7 states the target density of 35 dwellings per hectare should be "where appropriate" and in the policy justification set out in paragraph 6.40 notes that the policy allows for lower "densities where a site would not be compatible with its surroundings". Should outline planning permission be granted, consideration should be given to the density of development to ensure that it sympathetically integrates with existing development in the locality.

10.9 In terms of design, Policy LP24 of the Kirklees Local Plan is relevant, in conjunction with Chapter 12 of the National Planning Policy Framework. Policy LP24, together with the Housebuilders Design Guide SPD, suggests that proposals should promote good design by ensuring *inter alia* that the form, scale, layout, and details of all development respects and enhances the character of the townscape, heritage assets and landscape. Furthermore, it requires that proposals protect the amenity of future and neighbouring occupiers and promote highway safety and sustainability.

10.10 In this case, the principle of development is considered acceptable, and the proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety. These issues along with other policy considerations will be addressed below.

Impact on Visual Amenity

10.11 The National Planning Policy Framework offers guidance relating to design in Chapter 12 (achieving well designed and beautiful 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.”

10.12 Kirklees Local Plan Policies LP1, LP2, and significantly LP24 all also 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.

10.13 LP24 states that proposals should promote good design by ensuring:

“a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape...”

10.14 Paragraph 134 of the National Planning Policy Framework sets out that design guides and codes carry weight in decision making. Of note, paragraph 139 of the National Planning Policy Framework 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, which aims to ensure future housing development is of high-quality design.

10.15 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.”*

- 10.16 Further to this, Principle 13 states that applicants should consider the use of locally prevalent materials and finishing of buildings to reflect the character of the area, whilst Principle 14 notes that the design of openings is expected to relate well to the street frontage and neighbouring properties. Principle 15 states that the design of the roofline should relate well to site context.
- 10.17 The application is submitted in outline form, with access being the only matter to be determined at this stage. The indicative site layout plan shows seven dwellings, comprising two pairs of semi-detached dwellings and one terrace of three dwellings, laid out in a roughly linear form, along with a private driveway and parking to the northern part of the site. The size, design, and layout are purely indicative; thus, the details are not being assessed or determined at this time. The indicative site plan also shows two parking spaces for each dwelling to the front, along with two parking spaces for the existing dwellings (nos. 135 – 141 Heckmondwike Road), and gardens for all proposed dwellings to the rear. However, these details are also purely indicative, given this is an outline application.
- 10.18 In this instance, the application site is within an established residential area surrounded by dwellings on all sides. The surrounding dwellings are predominantly brick-built two-storey semi-detached dwellings, although there is some variation. Whilst all matters other than access are reserved, the size, shape and location of the development indicatively proposed would be in keeping with the formation of existing development. It is noted that there is no defined street pattern in the surrounding area. As such, the indicative “backland” cul-de-sac development would not appear out of character with the street scene or townscape.
- 10.19 No details have been submitted in respect of the proposed design or materials, it is acknowledged that care would need to be taken at reserved matters stage to reflect the local vernacular and use materials that are currently present within the local area, in accordance with Principles 13, 14, and 15 of the Council’s Housebuilder’s Design Guide SPD.
- 10.20 Consideration should also be given at reserved matters stage to ensuring adequate soft landscaping is provided throughout the site in the interest of visual amenity and to comply with Principle 7 and 8 of the Housebuilders Design Guide SPD.
- 10.21 In conclusion, it is considered that, subject to the details provided within the reserved matters application, the site could be designed so as to contribute positively to the local character of the area. As scale, layout and landscaping are reserved matters, care would need to be taken to ensure that any future development does not appear overbearing in relation to neighbouring residential dwellings or to constitute overdevelopment of the site. Appropriate landscaping should also be provided to enhance the area and not detract from its character and appearance. As such, it is considered that the development would meet the aims of Chapter 12 of the NPPF by contributing positively to the surrounding area and would be in accordance with Kirklees Local Plan Policy LP24 and the Housebuilder’s Design Guide SPD.

Impact on Residential Amenity

10.22 Section B and C of Policy LP24 state that alterations to existing buildings should:

“...maintain appropriate distances between buildings’ and ‘...minimise impact on residential amenity of future and neighbouring occupiers.”

10.23 Further to this, Paragraph 135 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.

10.24 Principle 6 of the Kirklees Housebuilders Design Guide SPD states 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.”* The SPD also provides advised separation distances for two storey dwellings:

- 21 metres between facing windows of habitable rooms at the backs of dwellings;
- 12 metres between windows of habitable rooms that face onto windows of a non-habitable room;
- 10.5 metres between a habitable room window and the boundary of adjacent undeveloped land; and
- 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 metres distance from the side wall of the new dwelling to a shared boundary.

10.25 The current submission is an outline application with all matters reserved (other than access), therefore the impact the proposed development would have on the amenities of the occupants of the neighbouring properties cannot be fully assessed at this stage. However, an indicative layout has been provided. This layout is considered to provide a reasonable indication as to how the site might be developed, should it be proposed that seven dwellings (along with a private driveway) are provided on the site.

10.26 The indicative site plan shows the following separation distances would be maintained:

- ~25.4m between the rear elevation of 10 George Street (two-storey dwelling) and the indicative Plot 1. The indicative proposed layout shows 10 George Street would not have a direct relationship to this new dwelling.
- ~23.4m between the rear elevation of 12 George Street (two-storey dwelling) and the indicative Plot 1. The indicative proposed layout shows 12 George Street would not have a direct relationship to this new dwelling
- ~22m between the rear elevation of 14 George Street (two-storey dwelling) and the indicative Plot 1. The indicative proposed layout shows 14 George Street would not have a direct relationship to this new dwelling.

- ~8.6m between the rear elevation of 25 Barley Croft (two-storey dwelling) and the indicative Plot 1. However, the indicative proposed layout shows 25 Barley Croft would not have a direct relationship to this new dwelling.
- ~10.9m between the rear elevation of 23 Barley Croft (two-storey dwelling) and the indicative Plot 1. 23 Barley Croft would look over the garden area of Plot 1. As such, there would not be a direct relationship to this new dwelling.
- ~25.7m between the rear elevation of 11 Barley Croft (two-storey dwelling) and indicative Plot 1.
- ~27.3m between the rear elevation of 9 Barley Croft (two-storey dwelling) and indicative Plots 1, 2 & 3.
- ~27.5m between the rear elevation of 7 Barley Croft (two-storey dwelling) and indicative Plots 3 & 4.
- ~29.2m between the rear elevation of 5 Barley Croft (bungalow) and indicative Plots 4 & 5.
- ~28.7m between the rear elevation of 3 Barley Croft (bungalow) and indicative Plot 6.
- ~32.8m between the rear elevation of 1 Barley Croft (bungalow) and indicative Plot 7.
- ~28.7m between 35 Spen View (bungalow) and indicative Plot 7 (between corners of dwellings).
- ~19.6m between the rear elevation of 33 Spen View (two-storey dwelling) and the indicative Plot 7. 33 Spen View would look over the garden area of Plot 7. As such, there would not be a direct relationship to this new dwelling.
- ~17.7m between the rear elevation of 31 Spen View (two-storey dwelling) and the indicative Plot 7. 31 Spen View would look over the garden area of Plot 7. As such, there would not be a direct relationship to this new dwelling.
- ~15.2m between the rear elevation of 29 Spen View (two-storey dwelling) and the indicative Plot 7. This is acceptable for windows of habitable rooms that face onto windows of a non-habitable room.
- ~15.2m between the rear elevation of 27 Spen View (two-storey dwelling) and the indicative Plot 7. This is acceptable for windows of habitable rooms that face onto windows of a non-habitable room.
- ~16m between 25 Spen View (bungalow) and indicative Plot 7 (between corners of dwellings).
- ~41.5m between 143 Heckmondwike Road (bungalow) and indicative Plot 7.
- ~39.3m between 139 & 141 Heckmondwike Road (two storeys to front/three storeys to rear) and indicative Plots 5, 6 & 7.
- ~38.5m 135 & 137 Heckmondwike Road (two storeys to front/three storeys to rear) and indicative Plots 3 & 4.
- ~24.5m to St Johns Under 5s Pre School. However, this is not a residential property.

10.27 Whilst the site plan is indicative, this demonstrates that appropriate separation distances can be maintained when design and layout is agreed at reserved matters stage. Site sections should be submitted at reserved matters stage, due to elevation differences, in order to assess scale and height within context.

- 10.28 The site access would run past 135 Heckmondwike Road and St Johns Under 5s Pre School. The latter property is not a residential property. However, the impact of the site access on the residential amenity of no.135 can and should be assessed at this stage.
- 10.29 The proposed access road runs approximately 1.6m from the side elevation of no.135. There are no windows in this side elevation, although there is an entrance door (not the main access to the dwelling. The boundary treatment is currently partly timber fencing with concrete posts and partly brick wall (between 1m and 1.5m high). A 0.6m footway would be provided between the boundary of no.135 and the proposed access road.
- 10.30 Officers note the existing use of the site for minibus parking (for up to seven vehicles), which would result in some vehicle movements (although a condition was included restricting vehicle movements to 7.30 – 17.30 Mon-Fri and 8.00-13.00 Sat). Seven dwellings are indicatively proposed, with the indicative plan showing two parking spaces per dwelling as well as formalised parking for nos. 135 – 141 Heckmondwike Road (two spaces each). As such, there would be an increase in trips generated as a result of the proposal, as well as a lack of restriction on the hours in which those trips could take place (it would not be reasonable to restrict by condition the hours of vehicle movements on this type of application).
- 10.31 Given the lack of windows to the southern elevation of no.135 and the existing approved use of the site, it is likely at reserved matters, that impact on residential amenity is considered acceptable on balance.

Noise

- 10.32 KC Environmental Health were consulted. Their response highlights that noise from existing sources such as the nearby road, the children's nursery and the minibus operation could affect the amenity of the proposed residential properties. It is noted that since the response, the minibus operation has been removed from the scheme.
- 10.33 A noise assessment report was requested prior to determination. The applicant chose to submit a Noise Impact Assessment (NIA) authored by Clover Acoustics dated 8th July 2021 (ref: 4570-R1), which was used to support application 2021/90635. KC Environmental Health reviewed this submitted information report and consider that the findings of the submitted report are accepted in relation to the impact upon the existing residential properties. However, it does not consider the occupiers of the proposed development and whilst it is possible there would be a similar impact upon them, a condition for an addendum report to be submitted is recommended (should planning permission be granted) to ensure there is no loss of amenity to future occupiers. A condition is also recommended for a noise assessment report and mitigation scheme to be submitted (should planning permission be granted), specifying the measures to be taken (if any) to protect the proposed residential development from noise from all significant noise sources by which it is likely to be affected. These would be pre-commencement conditions which are considered necessary to ensure measures to protect the existing and proposed residential properties from noise pollution are incorporated at an appropriate time.

- 10.34 It is noted that application 2021/90635 was conditioned to limit the maximum number of minibuses and to control the hours of use. KC Environmental Health therefore recommended these conditions are carried over (should planning permission be granted). As the minibus operation has been removed from the scheme following the submission of revised plans, this is not considered necessary in this instance.

Artificial lighting

- 10.35 The KC Environmental Health response notes that no information has been provided regarding external lighting to the minibus compound. Due to the close proximity of nearby existing residential dwellings and the new residential properties proposed KC Environmental Health recommended a condition (should planning permission be granted) to protect the amenity of nearby sensitive receptors from stray light and glare associated with external artificial lighting. As the minibus operation has been removed from the scheme following revised plans, this is not considered necessary in this instance.

Construction

- 10.36 The KC Environmental Health response indicates that there is a potential for loss of amenity to the occupiers of nearby properties from noise, vibration, dust and artificial light from the construction phase of the development. KC Environmental Health therefore recommend a condition for a Construction Environmental Management Plan (should planning permission be granted).
- 10.37 Given the above, it is possible that something of a different design, layout or smaller in scale may be required to minimise impact of residential amenities on neighbouring and future occupiers. The proposal in outline form, does not give rise to any significant adverse impacts upon neighbouring residential amenity, as such, this aspect of the proposal is considered to be acceptable on balance. It is therefore concluded that the proposals comply with Policies LP24 and LP52 of the Kirklees Local Plan, Principles 6, 16, and 17 in the Council's Housebuilders Design Guide SPD, and Paragraphs 130 (f), 174 (e), and 185 (a) of the National Planning Policy Framework.

Impact on Highway Safety

- 10.38 Paragraph 115 of the NPPF states that: *“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*
- 10.39 Policy LP21 of the Kirklees Local Plan states that proposals shall demonstrate that they can accommodate sustainable modes of transport and be accessed effectively and safely by all users.
- 10.40 The proposal initially included an indicative site layout for 7 dwellings and the retention of the existing minibus parking within this site. The proposal would therefore result in significant intensification in the use of the site. KC HDM were consulted. Their initial response indicated that they had several concerns regarding this application which are as follows:

1. The application site is located along Heckmondwike Road next to a pre-school nursery and pharmacy and opposite a convenience store and children's centre. Nearby housing has no off-street parking provision and there is an existing bus stop between the site and pre-school nurse. All the above are likely to generate on-street parking along Heckmondwike Road at this location which will obstruct visibility and at times reduce the available road width to one lane.
2. Adoptable standards.
3. Swept paths.
4. Kerb radii.
5. Footways.
6. Sight lines from the proposed access onto Heckmondwike.
7. Parking and access to the existing house numbers 135 to 141.

10.41 KC Highway Safety comments were included in this initial KC HDM response, which are as follows:

"We have previously received several complaints about double parking at this location (hence the Keep Clears on both sides of the road). The parking is associated with the local businesses and the chemist and taking into consideration that some parents going to the nearby school (up Church Lane) also choose to park here along with the proximity of the crossing and the bus stop at the top of this road, it is especially busy at school times and peak times and any additional traffic would add to these issues, Highway Safety wouldn't support any further traffic here. The owner has already put up some signs always requesting access which suggests that other drivers would also park on the access road leading to the development blocking access and we would receive more complaints. These proposals could also put bus passengers at risk of they are waiting for a bus here".

10.42 Following these initial comments, a revised plan was received showing 6.0m kerb radii, footways, a traffic calming ramp at the site access, a turning head, parking for the existing dwellings (nos. 135 to 141) and removing the minibus parking area. The location plan has been amended to accommodate the changes to the access onto Heckmondwike Road.

10.43 KC HDM have assessed this submitted amended plan. They consider that, whilst the applicants have addressed some of the concerns raised in the previous consultation response, there are still outstanding concerns regarding servicing and the access from Heckmondwike Road. Officers note that the proposed removal of the minibus parking significantly reduces the number of trips made in and out of the site. However, the applicant had failed to demonstrate whether the proposed indicative 7 dwellings would result in less trips, into and out of the site, in comparison to the existing commercial use.

10.44 Following the additional comments from KC HDM, a technical note and plan detailing access proposal were submitted. The technical note provided trip generation of both the existing commercial use and the indicatively proposed 7 dwellings. KC HDM comment that the traffic generation from the proposed 7 dwellings can be verified using the TRICs data base and is considered reasonable. No evidence or surveys are provided to justify the traffic generation by the 7 mini-buses and the comment that this change is expected to positively impact the traffic flow and network efficiency in the area cannot therefore be accepted.

- 10.45 This is an outline application taking into consideration access only. The layout, scale, landscaping and appearance are reserved matters to be dealt with by a separate application.
- 10.46 On balance, given the indicative 7 dwellings would result in an intensification in the use of the site, and the highway safety concerns discussed above, it is considered that a proposal for 7 dwellings would not be acceptable from a highway perspective. Officers do however note that this application is an outline application for residential development, and the number of dwellings is indicative at this stage. Officers must take into consideration the existing use on the site for minibus parking. It is considered, on balance, that the principle of residential development could be acceptable, subject to the scheme proposing a reduced number of dwellings, which would not result in an intensification in the use of the access to the site.
- 10.47 The applicant would need to demonstrate at reserved matters stage that the proposed number of dwellings would result in less trips than the existing arrangements on site, and as such would cause no additional harm to highway safety, over and above the existing arrangements on site. As such, on balance, the proposal for an outline application for residential development is considered acceptable subject to the number of dwellings being reduced at reserved matters stage.
- 10.48 It is noted that the applicant has demonstrated the addition of a traffic regulation order. KC HDM have concerns that a proposed TRO is unlikely to be successful in this location as it is likely to receive representation. This element has been removed from the scheme by the applicant.
- 10.49 It is therefore considered, on balance, that subject to a reduced number of dwellings at reserved matters stage, the harm to the safe and efficient operation of the highway network would be no greater than the existing use on site. As such, the scheme would accord with policies LP21 and LP22 of the Kirklees Local Plan, guidance within the Council's Highways Design Guide SPD, and Chapter 9 of the National Planning Policy Framework.

Other Matters

Coal Mining Legacy

- 10.50 The Coal Authority were formally consulted. Their response highlights that the application site falls within the defined Development High Risk Area and notes that the planning application is accompanied by a Coal Mining Risk Assessment report (February 2023) prepared for the proposed development by RB Geotechnical. The report has been informed by geological and coal mining information. Having carried out a review of the available information, the report author considers that currently there is potential risk to the site from unrecorded shallow coal mining and recommendations have been made that intrusive ground investigations are required in order to confirm the exact ground conditions beneath the site. The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment report that coal mining legacy potentially poses a risk to the proposed development, and that intrusive

site investigation works should be undertaken prior to development in order to establish the coal-mining legacy present and the risks it may pose to the development and inform any mitigation measures that may be necessary. Conditions are recommended to be imposed to this effect, should planning permission be granted.

Contaminated land

- 10.51 The property has been highlighted as on potentially contaminated land due to its previous use as a Woollen Mill (our site ref: 383/5). Additionally, the Coal Authority response dated 20th February 2023 highlights that there is coal at or close to the surface, which may have been worked at some time in the past. Whilst geotechnical information is outside the remit of KC Environmental Health, they consider that possible ground gas and the contaminated land legacy at the proposed site must be considered and therefore recommend contaminated land conditions (should planning permission be granted). It is also recommended to add a condition (should planning permission be granted) requiring a verification report to be submitted for imported materials to demonstrate they are safe and suitable for use. With these conditions inserted into the decision notice, the development would comply with LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

Drainage

- 10.52 The LLFA were formally consulted on the proposed scheme. The development, consisting of 7 dwellings and associated driveways and access road is sited on land that is currently mostly undeveloped. The surface water run-off from the new roof and hardstanding areas should be restricted to 3.5 l/s (subject to a minimum flow control device outlet of 75mm) and attenuation storage provided to ensure that the critical 1 in 100 year rainfall event (plus climate change allowance) is contained within the site such that no flood water leaves the development into the surrounding properties and adopted highway. The attenuated flow should be connected to the Yorkshire Water Surface Water sewer in Heckmondwike Road (subject to YW acceptance). Conditions are recommended relating to drainage details, overland flow routing and a Construction Phase Surface Water Flood Risk and Pollution prevention plan should approval be recommended.
- 10.53 The LLFA have commented that in order for the LPA to fulfil their obligation to ensure the maintenance and management of surface water drainage systems for the lifetime of the site, a unilateral undertaking to set up a management company to carry out an approved maintenance and management scheme; including access to and into any structure in accordance with CDM regulations 2015; and an itinerary and schedule of maintenance and management tasks. Such an undertaking can cease if and when the infrastructure is formally adopted by the Statutory Undertaker and/or Highways Authority.
- 10.54 Officers have considered the LLFAs comments and consider on balance, given the scale of the application, the request for a S106 agreement is not proportionate or necessary in this instance. Particularly when, as discussed above, the application at reserved matters stage would need to be for a reduced number of dwellings.

Biodiversity

- 10.55 The application site is not located within a Bat Alert layer. The site is predominantly hardstanding, so it is considered that this site is likely to have low potential for ecological or protected species. Policy LP30 of the Kirklees Local Plan and Principle 9 of the Kirklees Housebuilders Design SPD set out that proposals should provide net gains in biodiversity. Given this, the provision of a bird boxes on the proposed dwellings is to be recommended as a condition should permission be granted.

Protected Trees

- 10.56 A number of representations make reference to the loss of trees as part of a site clearance that took place between 2018 and 2021. This site is not in a Conservation Area and from our records there were no trees covered by a Tree Preservation Order on this site. As such, although the loss of trees is unfortunate, in this instance the Council has no powers to prevent this.

Carbon Budget

- 10.57 This is an outline application for the erection of residential development. In line with the Council's objectives for promoting sustainable methods of transport as well as helping to reduce carbon emissions, a condition relating to the provision of an electric vehicle charging point is recommended, should planning permission be granted. The proposal therefore complies with Policies LP20, LP21, LP24, LP47, LP51, and LP52 of the Kirklees Local Plan, Principle 18 of the Housebuilders Design Guide SPD, Chapter 9 of the National Planning Policy Framework, and the West Yorkshire Low Emission Strategy (WYLES).
- 10.58 There are no other matters considered relevant to the determination of this application.

Pre-Commencement Conditions

- 10.59 The recommendation proposes the inclusion of pre-commencement planning conditions. Therefore, in accordance with Section 100ZA of the Town and Country Planning Act 1990 and The Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the Local Planning Authority have made the agent aware of the recommended pre-commencement conditions and would ensure, if applicable, the agent agrees to the imposition of the relevant pre-commencement conditions prior to determination.

Representation

- 10.60 As a result of the publication of this application, a total of 26 representations have been received from 12 individuals (all in objection).

10.61 Initially 15 objections were received from 10 addresses. The following is a summary of the material planning considerations which were raised as concerns:

- Site is not in a sustainable location

Response: the principle of development has been carefully considered in the principle of development section of this report.

- Noise
- Artificial lighting
- Air quality
- Overshadowing
- Overlooking / loss of privacy
- Proximity of proposed dwellings to existing dwellings

Response: this has been carefully considered in the residential amenity section of this report.

- Highway safety

Response: this has been carefully considered in the highway safety section of this report.

- Contaminated land
- Trees
- Drainage

Response: this has been carefully considered in the other matters section of this report.

10.62 Following the amended plans publicity period, 7 further representations were received (all in objection). The following is a summary of the material planning considerations which were raised as concerns:

- Overbearing

Response: this has been carefully considered in the highway safety section of this report.

- Loss of minibus parking

Response: this was removed to address highway safety concerns and has been carefully considered in the highway safety section of this report.

10.63 Five additional comments (all in objection) were raised following the close of public consultation period, submitted by 2 individuals.

- Overshadowing
- Overlooking

Response: this has been carefully considered in the residential amenity section of this report.

- Prevention of vehicle access for pre-school students, particularly those who have limited mobility.
- Highway safety

Response: this has been carefully considered in the highway safety section of this report.

- Drainage concerns

Response: this has been carefully considered in the other matters section of this report.

- Impact on operation of adjacent pre-school
- Bus stop has previously been moved, causing overlooking to the adjacent pre-school

Response: this has been carefully considered during the assessment of this application.

11.0 CONCLUSION AND RECOMMENDATION

11.1 This application for outline permission for the erection of residential development to the rear of 135 Heckmondwike Road has been assessed against relevant policies in the development plan as listed in the policy section of the report, the National Planning Policy Framework and other material considerations.

11.2 The National Planning Policy Framework has introduced a presumption in favour of sustainable development. The policies set out in the National Planning Policy Framework 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. It is considered, on balance that the development would constitute sustainable development and is therefore recommended for **approval**, subject to the imposition of the conditions listed below.

12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)

It is considered appropriate to recommend the inclusion of the following conditions:

1. Approval of the details of appearance, landscaping, layout, and scale to be approved at reserved matters stage
2. Timescale for submission of reserved matters
3. Implementation following reserved matters
4. In accordance with submitted plans
5. Submission and approval of further noise assessment (pre-commencement)
6. Noise Assessment Report and Mitigation Scheme (pre-commencement)
7. Submission of a lighting scheme
8. Construction Environmental Management Plan (pre-commencement)
9. Intrusive site investigations and necessary remediation – coal mining (pre-commencement)

10. Submission of a statement or declaration confirming that the site is safe and stable for the approved development.
11. Submission of Phase 1 Preliminary Risk Assessment Report in relation to contaminated land (pre-commencement)
12. Submission of Phase 2 Intrusive Site Investigation Report in relation to contaminated land (pre-commencement)
13. Submission of Remediation Strategy in relation to contaminated land (pre-commencement)
14. Implementation of Remediation Strategy in relation to contaminated land
15. Verification Report in relation to contaminated land
16. Imported materials in relation to contaminated land
17. Provision of electric vehicle charging points
18. Provision of bird boxes
19. Removal of any obstruction within the visibility splay
20. Drainage details (pre-commencement)
21. Overland Flow Routing in relation to drainage (pre-commencement)
22. Construction Phase Surface Water Flood Risk and Pollution prevention plan (pre-commencement)

Background Papers:

Application and history files.

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<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023%2f90116>

Certificate of Ownership:

Certificate B signed.

