
Report of the Head of Planning and Development

DISTRICT-WIDE PLANNING COMMITTEE

Date: 21-Mar-2024

Subject: Planning Application 2023/90547 Erection of 9 dwellings Land at, Forest Road, Dalton, Huddersfield, HD5 8EU

APPLICANT

P S Carey

DATE VALID

25-Apr-2023

TARGET DATE

20-Jun-2023

EXTENSION EXPIRY DATE

24-Jan-2024

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[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Almondbury

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 in order to complete the list of conditions including those contained within this report and to secure a S106 agreement to cover the following matters:

1. To provide as a community benefit five x 3no. bedroom affordable housing units.

In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Planning and Development shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Planning and Development is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

1.0 INTRODUCTION:

- 1.1 The application is brought to committee at the request of Ward Councillor Bernard McGuin for the following reasons:

“To consider access problems;
To consider drainage problems;
To consider the steepness of the land”

- 1.2 The Chair of District Planning Committee has confirmed the reasons are valid have regard to the Protocol for Planning Committee and Sub-Committees.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site relates to an area of land equating to approximately 0.18ha located off Forest Road. Land levels within the site rise sharply from the road frontage in a southerly direction towards the rear of the site. Several trees that form part of a wider woodland overhang the rear of the application site. The site is bordered by residential properties and roads to three sides with woodland to the rear along the southern boundary. The woodland is designated as Urban Green Space within the Kirklees Local Plan.
- 2.2 The site is currently used as grazing land, accommodating a number of dilapidated structures.
- 2.3 Forest Road is a street which features predominantly residential development either side, with the site being the only part of the street which remains undeveloped. The dwellings opposite the site are of a single storey design, two storey terraced properties are to the northwest and north / northeast of the site. Two storey semi-detached properties are immediately adjacent to the site to the southwest. To the northeast of the site are three storey dwellings which are of a similar design to those for which consent is being sought.

3.0 PROPOSAL:

- 3.1 The application is seeking full planning permission for the erection of 9 no dwellings. The proposed layout sets out that there would be 4 no. pairs of semi-detached dwellings and one detached dwelling. These would all front onto Forest Road incorporating an area of parking to the front, with soft landscaping to the front and sides of the proposed dwellings. The proposal would see 5 no of the units being affordable housing (and subject to a legal agreement to secure this).
- 3.2 A high level patio area would be to the rear of the dwellings, with a 3m high gabion basket retaining structure within the rear amenity space of the dwellings to allow for the creation of the level patio area to rear. Stepped access is shown to the side of the properties to the rear patio area. The hard standing areas shown on the site plan indicate an area 6m x 5.5m (depth from back of the footway) would be provided which could be utilised for vehicle parking.
- 3.3 The patio area would be approx 20m² per dwelling with the amenity spaces to the side being approx 40m² (although on sloping land). The proposed dwellings would be three-storey, of a gable roof design with quoin features to the corners of the dwellings. Solar panels are indicated to be incorporated into the design of the dwellings, to the rear roof slopes.
- 3.4 At the ground floor level would be a bin and cycle storage area for each dwelling, with pedestrian access door within the front elevation. The cycle storage and bin storage area would be within a recessed section of the ground floor, and an opening would be within the front of the recessed section serving a bedroom. To the front of each dwelling is an area of hard surfacing to allow for off street parking.
- 3.5 At the first-floor level an open plan living area is proposed, served by openings to the front and rear of the of the dwellings with a patio door to the rear providing access to the rear patio area. At the second-floor level two bedrooms, an office room and a bathroom are proposed, served by openings to the front and rear. Within the side elevations windows are proposed to serve a toilet and landing windows for the stairs.
- 3.6 The dwellings would be 8.1m in height to the eaves, 10.1m in height to the ridge and have a depth from the front to rear of 6.2m. Each dwelling would have a width fronting the street of 6.7m. The floorspace of the dwellings would be 90m². The layout of the dwellings sets out that there would be a 14m² double bedroom at the ground floor, an ensuite and separate toilet would also be at the ground floor level. A lounge / open plan kitchen at first floor and two single bedrooms (9m²) at the second floor is proposed, with a small room annotated as an office space and also a bathroom also at the second-floor level.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 The planning history for this site relates to the outline approval of 9.no dwellings, the details being as follows:

2017/60/90955 - Outline application for residential development with details of layout and access only – Conditional outline permission (subject to S106 agreement) granted 8th August 2018

4.2 The S106 agreement referred to above required 5.no three-bedroom affordable dwellings to be provided as part of the development.

4.3 As the 2018 grant of permission was in outline, the finalised ‘appearance’ of the dwellings was not provided. This was required by the S106 agreement to be to “Homes and Community Agency” design and quality standards.

4.4 It is noted that layout and access were considered as part of the 2017 application, and that the layout and access arrangements approved by the outline consent were broadly the same as those sought as part of this application.

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

5.1 The applicant’s agent was advised about changes in policy since the grant of outline permission which is no longer an extant consent. They provided updated plans in light of the Council’s adopted Housebuilders SPD and confirmed they would be willing to enter into a S106 agreement which had the same requirement as that of the 2018 consent (provision of 5.no affordable units).

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 27th February 2019).

6.2 The site is designated as Urban Green Space and forms part of the Wildlife Habitat Network within the Kirklees Local Plan. The site falls within an area with a known presence of radon gas and also with a known presence of bats. The following policy is therefore considered to be relevant in the consideration of this application.

6.3 Kirklees Local Plan:

- LP1 Achieving Sustainable Development
- LP2 Place Shaping
- LP3 Location of Development
- LP7 Efficient and effective use of land and buildings
- LP11 Housing Mix and Affordable Housing
- LP21 Highway Safety
- LP22 Parking Provision
- LP24 Design
- LP28 Drainage

LP30 Biodiversity and Geodiversity
LP33 Trees
LP51 Protection and Improvement of Local Air Quality
LP52 Protection and Improvement of Environmental Quality
LP53 Contaminated and Unstable land
LP61 Urban Green Space

6.4 Supplementary Planning Guidance / Documents:

Kirklees Highway Design Guide (adopted November 2019)
Housebuilders Design Guide SPD (adopted June 2021)
The Biodiversity Net Gain Technical Advice Note
Planning Applications Climate Change Guidance (2021):
West Yorkshire Low Emissions Strategy and Air Quality and Emissions
Technical Planning Guidance (2016)
Kirklees Open Space Study 2016 (KOSS)
Affordable Housing and Housing Mix SPD (March 2023)

6.5 National Planning Policy Framework:

Chapter2 Achieving sustainable development
Chapter9 Promoting sustainable transport
Chapter5 Delivering a sufficient supply of homes
Chapter11 Making effective use of land
Chapter12 Achieving well-designed and beautiful places
Chapter14 Meeting the challenge of climate change, flooding and coastal
change
Chapter15 Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been advertised by site notice, newspaper advertisement and neighbour notification letter(s). The publicity period expired on 3rd June 2023. Seven objections have been received raising the following concerns:

- Disruption during construction including use of machinery and associated noise
- Construction traffic and parking
- Impact of road closures and access issues during construction
- Parking is an issue already on Forest Road in general
- The proposal will lead to significant parking pressures
- Removal of an area of the street used for parking
- Impact upon ground water and surface water flow through the site
- The development could potentially cause subsidence
- Effects of the proposal upon trees and wildlife in the wooded area above the development
- A tree survey accompanied the previous application
- No mention of affordable housing is included in this proposal
- There has been 6 months of disruption from works to roads and pavements, which would be undone as part of the development to re access the services
- The appearance of the development would be cramped
- Impact upon neighbouring occupiers as a result of the proposal in relation to light and overbearing
- Overlooking caused by the proposal.

7.2 The concerns raised within third party representations are taken into account within the 'Appraisal' section of this report. The amended plans sought to better align the development in accordance with the Council's Housebuilders Design Guide SPD with the layout and scale of the dwellings remaining unaltered, as such the scheme as initially publicised was considered to suitably alert the public of the nature of the development and further advertisement was not considered to be necessary in this case.

8.0 CONSULTATION RESPONSES:

8.1 The following consultations were undertaken as part of this application:

KC Trees: Advice provided in relation to relevant considerations for this site.

KC Policy: Provided policy advice, they confirm that the development proposal constitutes a departure from the development plan.

KC Ecology: Advice provided in relation to relevant considerations for this site.

KC Crime Prevention: Recommends security measures be incorporated and secured by inclusion of a condition upon any grant of permission.

KC Environmental Health: No objection subject to conditions

KC Highways DM: No objection subject to conditions

KC Highway Structures: No objection subject to conditions

KC Lead Local Flood Authority: The response provided during the consideration of the previous application (ref: 2017/90955 is considered relevant in this case).

8.2 The response(s) of the above consultees is discussed in greater detail in the 'Appraisal' section of this report.

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Effect on Highways and Road Safety
- Landscape, trees and ecological issues
- Other matters
- Representations

10.0 APPRAISAL

Principle of development

10.1 Paragraph 47 of the National Planning Policy Framework (the Framework), which is a material consideration in planning decisions, confirms that planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate

otherwise. This approach is confirmed within Policy LP1 of the Kirklees Local Plan, which states that when considering development proposals, the Council would take a positive approach that reflects the presumption in favour of sustainable development contained within the Framework. Policy LP1 also clarifies that proposals that accord with the policies in the Kirklees Local Plan would be approved without delay, unless material considerations indicate otherwise. In this case the proposed development would form a departure from Policy LP61 of the Local Plan. Thus, whether the principle of a development which is a departure from the Local Plan can be accepted, or what material considerations indicate otherwise is the first matter to address.

Housing supply and density

- 10.2 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.
- 10.3 The 2023 update of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land, and the 2022 Housing Delivery Test (HDT) measurement which was published on 19th December 2023 demonstrated that Kirklees had achieved a 67% measurement against the required level of housing delivery over a rolling 3-year period (against a pass threshold of 75%). Therefore, the relevant Local Plan policies for the supply of housing land are out-of-date. This now triggers the NPPF presumption in favour of sustainable development.
- 10.4 As set in NPPF paragraph 11d, this means that for decision making “Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (NPPF Footnote 8), granting permission unless: (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (NPPF Footnote 7) ; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 10.5 In this case 11(d)(i) is relevant as the site is within Urban Green Space, discussed further at paragraphs 10.8 – 10.18.
- 10.6 Policy LP3 of the Kirklees Local Plan is also of relevance insofar as it requires development to deliver homes in a sustainable way.
- 10.7 Policy LP7 of the Kirklees Local Plan states that developments 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 density of development in this case is considered to exceed this level and accord with the aforementioned policies.

Urban Green Space

10.8 Of relevance in this case are the requirements of policy LP61 which sets out the following:

‘Development proposals which would result in the loss of urban green space (as identified on the Policies Map) will only be permitted where:

- a. an assessment shows the open space is clearly no longer required to meet local needs for open space, sport or recreational facilities and does not make an important contribution in terms of visual amenity, landscape or biodiversity value; or*
- b. replacement open space, sport or recreation facilities which are equivalent or better in size and quality are provided elsewhere within an easily accessible location for existing and potential new users; or*
- c. the proposal is for an alternative open space, sport or recreation use that is needed to help address identified deficiencies and clearly outweighs the loss of the existing green space. The protection set out in this policy also applies to smaller valuable green spaces not identified on the Policies Map.’*

10.9 Paragraph 103 of the NPPF sets out the approach to assessing development which is proposed upon existing open space, and sets out the same criteria as outlined within LP61.

10.10 Green spaces of identifiable open space value within the towns and villages of Kirklees are allocated as urban green space on the Policies Map where they are 0.4 hectares or above in size. This includes sites in public and private ownership.

10.11 The site in this case exceeds 0.4ha in size, is in private ownership and is a semi natural green space. In this case, the site relates to an open space which has been designated as urban green space for purposes other than sport and recreation whereby there is no public access. These include urban green spaces important for their visual amenity, landscape and biodiversity benefits which are close to where people live and can help promote the health and well-being of local residents and contribute significantly to the quality and local character of the built-up areas in Kirklees.

10.12 Within the consideration of application 2017/90955 it was identified that the application site alone has been assessed independently from the larger Urban Green Space in the Kirklees Open Space Study (KOSS) and has been identified as having low value open space but is recognised as an integral part of the wider Urban Green Space.

10.13 The Council’s Planning Policy Team have provided a response to consultation in relation to this proposal, setting out that when assessed against the criteria set out in the Local Plan Policy LP61 (a), the land is not identified as surplus to requirements in the Kirklees Open Space Study 2016 (KOSS), although the application site was assessed in the KOSS as a natural/semi-natural greenspace having low value as open space.

- 10.14 They further advise that the methodology for determining potential surplus open spaces is set out in the KOSS at paragraphs 4.6.6 and 4.6.7 and relates to those sites assessed as having low value as open space. The KOSS assessment concludes this site should be retained as open space as it forms an integral part of the adjacent open space (woodland).
- 10.15 The Policy Team note that the Urban Green Space Statement which accompanies this application states that the site does not function as urban green space as it is in private ownership and constitutes urban fringe land with poor amenity value. Urban green spaces can be in private ownership and are not necessarily required to be accessible to the public provided they perform an urban green space function as a valuable open space, sport or recreation facility.
- 10.16 The Policy Team notes that the previous approval was considered under the development plan prior to the adoption of the Kirklees Local Plan, whereby the applicable urban greenspace policy (policy D3 of the Kirklees Unitary Development Plan) set out a provision in policy that providing community benefit as a means of justification for the loss. They further advise that policy D3 is no longer part of the adopted development plan and that there is no provision in policy which specifies that providing community benefit as a means of justification for the loss is in place as part of policy LP61. There is no such provision in Chapter 8 of the NPPF either.
- 10.17 It is therefore concluded that, for there to be any recommendation for approval in this case, material considerations would need to be present which clearly indicate the circumstances which justify development which is not in accordance with the Development Plan.
- 10.18 Whether such circumstances are considered to be present in this case is discussed in the following section.

Planning balance

- 10.19 Within the consideration of the previous approval (application 2017/90955) the scheme largely replicates that now subject of this application. The proposal would secure 5no. dwelling as affordable units and the Council is unable to demonstrate a 5-year housing land supply, these factors remain unchanged from how the application was assessed in 2017.
- 10.20 Since the original outline planning permission was granted, the Local Plan was adopted in February 2019, with Policy LP61 the adopted Policy for Urban Greenspace. The Housebuilders Design Guide Supplementary Planning Document has also been adopted providing more details as to the principles of good design for housing development. There have also been several revisions to the NPPF. These are material changes to adopted policy the determination of the previous application.

- 10.21 In relation to the consideration of the proposal in light of the site designation, the following was stated within the consideration of the previous application (2017/90955)

'The proposals are for residential development where no alternative provision of greenspace is included within the scheme. The proposals would not be a continuation, enhancement of established uses nor an alternative open land use and would not provide any opportunities for sport and recreation. With regards to visual amenity and wildlife value, the application site although forming an integral part of the larger area of UGS, due to the topography and the obvious physical separation from the wider area of UGS, it is reasoned that it is viewed separately from the larger area of UGS but more importantly due to its current condition officers are of the opinion it holds limited amenity and wildlife/ecological value.'

'The Strategic Housing Market Assessment identifies a clear need for affordable 1- 2 bedroom homes and a greater need for affordable 3+ bedroom properties and affordable 1-2 bedroom homes for older people, specifically in the area of Huddersfield south.... The site is sustainably located being close to a number of local services and facilities and could provide local construction, employment opportunities.'

- 10.22 The fact the site did not progress to development/reserved matters being submitted for approval (or a lawful start being made) was raised with the applicant, whereby it was advised several factors prevented this from taking place which were partially linked to the impact of the Covid pandemic.
- 10.23 The proposal would see the provision of affordable housing as part of a development. For a scheme of this size (9 dwellings) an affordable housing contribution is not required by Policy LP11 or within the adopted affordable housing and housing mix SPD. This is a material consideration which would not usually weigh in the balance for a scheme of this size and scale and is afforded weight in favour of the principle of development.
- 10.24 The fact the site is designated Urban Green Space within the adopted local plan weighs against the principle of development. The application of the tilted balance, given the lack of a 5-year housing land supply, does not apply as set out in the NPPF paragraph 11d.
- 10.25 The site is considered to have a positive visual impact and to have a small scale positive impact for ecological / biodiversity considerations. Notwithstanding this point, as set out in the previously approved application, the site is sustainably located close to a number of local services and facilities.
- 10.26 It is considered, very finely balanced, that the previous conclusion drawn on the basis the site is of low amenity value forming part of a wider Urban Green Space designation which is of greater value, and on the basis conditions ensure a level of biodiversity net gain measures are secured together with the significant provision of affordable housing (more than 50% of the total development) the principle of developing this part of the UGS are considered in this most isolated case to outweigh the harm caused by the loss of this low valued part of the wider UGS.

Principle of development – conclusion

10.27 The development is considered to lead to a high-density residential redevelopment of the site. There are considered to be factors which constitute material considerations which exist that justify departing from the development plan, in this case these are considered to be the following:

- Provision of a significant element of affordable housing as part of the development
- A lack of a five year housing land supply within the district
- The sustainable location of the site
- Conclusion the urban green space which would be lost is not of a particularly high value and would not reduce 'public' open space provision.

10.28 Having regard to these factors, it is considered these form material considerations that outweigh the fact the development would be contrary to the development plan in relation to the designation of the site and that the principle of residential development of the land is concluded to be acceptable in this most isolated case. Once again, this is a finely balanced argument which solely relates to this small element in Urban Greenspace which is otherwise contained within an established street frontage.

Urban Design issues

10.29 Local Plan Policies LP1, LP2 and most importantly LP24, are all also relevant. All the policies seek to achieve good quality design that retains a sense of local identity, which is in keeping with the scale of development in the local area and is visually attractive.

10.30 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.

10.31 Local Plan Policy LP24(a) states that all proposals should promote good design by ensuring the following: *'the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape'*.

10.32 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.

10.33 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.

- 10.34 The proposed dwellings would follow the established building line within the street. Whilst the sloping nature of the site would require extensive engineering operations to accommodate the proposed nine dwellings, with significant retaining structures internally within the site, this arrangement is not too dissimilar from the properties to the north-east where limited amenity area is available to the rear of properties.
- 10.35 All plots are shown to provide off road parking to the front of the dwellings with enclosed garden areas, retaining structures (gabions) would be included to ensure land stability as part of the development. The gabion structures would be mainly hidden from the street view by the proposed dwellings. In relation to the retaining walls to the proposed driveways, it is considered appropriate to impose a condition to agree the details (facing materials & height) in the interests of visual amenity.
- 10.36 The elevation design, layout and height of the proposed dwellings is considered to provide a coherent design with window proportions and layout, as well as the roof type and design being in keeping with the existing street scene.
- 10.37 In visual amenity terms, the layout is considered to follow the urban grain and general pattern of development along this side of the road. All plots provide off road parking with enclosed garden areas. Provision for waste bins is demonstrated as well as cycle parking within an open sided part of the dwelling at the ground floor level, along with off street parking. This would assist in avoiding a proposal that would be completely parking dominated, including through the incorporation of areas of soft landscaping at the front / sides of the dwellings.
- 10.38 Conditions to secure the hard and soft landscaping, including boundary treatments, and ensure suitable vehicular parking areas are provided are therefore recommended for inclusion upon any grant of permission.
- 10.39 In addition, to ensure the visual impact of the development is acceptable, it is recommended that conditions requiring the submission of a scheme of finished floor and land levels of the site and external construction materials (including retaining structures) are included upon any grant of permission. This would ensure no visual harm would arise as a result of the building up of land levels or the inclusion of large boundary treatments which are out of character.
- 10.40 To allow for a greater and more usable off street parking provision, a condition is recommended which requires an increased size to the off street parking areas. Given the size of the frontage and the small scale additional space recommended to be provided (detailed in the 'Effect on Highways and Road Safety' section below) it is considered the additional area of hardstanding would not have a significant impact visually, or in terms of 'amenity space' and this would be controlled by the requirement of the condition that a scheme be submitted to the LPA for written approval.

10.41 Taking account of the submitted details, and on the basis of the inclusion of the recommended conditions, it is considered that the proposal would have an satisfactory impact upon visual amenity in this case and would be acceptable, having regard to the principles of the Housebuilders Design Guide set out in this section of the report, policy LP24 of the Kirklees Local Plan and policies within Chapter 12 of the NPPF.

Residential Amenity

- 10.42 A core planning principle as set out by policies within Chapter 12 of 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 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.
- 10.43 Principle 17 of the Council's adopted Housebuilders Design Guide requires development to ensure an appropriately sized and useable area of private outdoor space is retained.
- 10.44 Principle 16 of the Housebuilders Design Guide seeks to ensure the floorspace of dwellings provides a good standard of residential amenity, such as that set out in the 'Nationally Described Space Standards' document (March 2015).
- 10.45 Paragraph 191 of the NPPF, contained within Chapter 15, sets out that proposals should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development Policy LP52 of the Kirklees Local Plan seeks to ensure that, amongst other things, the impact from noise for new development is acceptable.
- 10.46 The Council's Environmental Health Team have been consulted regarding the proposed development and recommend a condition restricting the hours of construction of the development be included upon any grant of permission. Given the scale of the proposal and also level of works likely to be required to be undertaken during the construction phase, it is considered appropriate in this case for any grant of permission to include a condition restricting the hours of construction to 07.30 to 18.30 hours Mondays to Fridays & 08.00 to 13.00 hours, Saturdays with no noisy activities on Sundays or Public Holidays.
- 10.47 Concerns have been raised by third parties, regarding impact of the proposed development upon light serving neighbouring properties and also overlooking arising from the proposed dwellings.

- 10.48 In terms of the distance of the proposal from the nearest neighbouring occupiers, plots 6, 7 and 8 would be at a distance of 21m from properties to the north (nos.51 – 57 Forest Road), plots 1 and 2 would be 18m from properties to the north (nos.35 – 43 Forest Road), plot 3 would be 19m from properties to the north (nos.43 & 45 Forest Road), plots 5 would be 20m from the property to the north (no.49 Forest Road) and plot 9 would be 20m from the property to the north (no.57 Forest Road).
Plot 1 would be at a distance of 5m from the eastern elevation of no.32 Forest Road and plot 9 would be at a distance of 5m from the side of no.56 Forest Road.
- 10.49 Taking account of the distances of the proposed dwellings from neighbouring occupiers and the orientation of dwellings to the south west and east of the site, it is concluded that the impact of the development due to resultant overlooking and the impact in terms of oppressiveness and impact upon light serving neighbouring dwellings would not be so severe as to warrant refusal of the proposed development on such grounds, in this case. This also takes into account the existing pattern of development in the area.
- 10.50 Turning to the level of external amenity areas, an adequate area would be achieved around the dwellings. To the rear a 2m wide patio area is shown with an elevated area beyond to retain the existing land levels to ensure development is restricted outside the root protection zones of the mature trees on the adjacent woodland, beyond the southern boundary.
- 10.51 It is considered that the level of amenity space provision would be acceptable given it ensures private and usable space to the rear for activities such as drying clothes, child play and sitting out. To the side of each dwelling is a sloping area of amenity space which would be soft landscaped and allows scope for further use of the external areas.
- 10.52 A condition is recommended to increase the size of the hardstanding to the front to create a more usable off street parking area to the properties. Despite this, the level of increase considered necessary is not significant and therefore it is considered that the resultant impact of this would not see a detrimental reduction in amenity space provision.
- 10.53 The proposed development would see three bed properties which have a total floorspace of 90m². The submitted plans indicate the dwellings would consist of two single and one double bedroom, which leads to the conclusion they would have up to four occupants. Nationally Described Space Standards set out that a three bedroom, four person, dwelling should achieve a space standard of 90m². As such the proposal is considered to be acceptable in this regard given it would achieve this standard.
- 10.54 It is considered that the proposed development would not have a significant impact upon the amenity of neighbouring / future occupiers in this case and the development accords with the aforementioned policy in this regard.

Effect on Highways and Road Safety

- 10.55 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.
- 10.56 The Council's Highways DM and Highways Structures Team have been consulted regarding the proposed development. The Highways Structures Team state they have no objection to the proposed development subject to the following conditions:
- Details of all retaining wall structures adjacent the public highway to be submitted to, and approved by the LPA
 - Submission of a scheme assessing the adequacy of the embankment which slopes towards Forest Road and any remedial measures required to deal with instability issues to be submitted to, and approved by the LPA.
 - Submission of a scheme detailing the location and cross-sectional information together with the proposed design and construction details for all new surface water attenuation tanks/pipes/manholes within the highway or its zone of influence to be submitted to, and approved by the LPA.
- 10.57 The Council's Highways DM Team have raised no objection to the proposal, recommending conditions are appended to any grant of permission which relate to surfacing of the parking areas.
- 10.58 It is noted that the properties, being three-bedroom dwellings, should provide off street parking for 2.no cars and one visitor space per four dwellings (to meet the recommended standard within the Highways Design Guide SPD).
- 10.59 The proposal would see an area to front of each dwelling which is 4.7m x 5.21m deep. It is considered there is scope to extend the width of the parking area to 6m (an additional 1.3m distance). This would sufficiently allow two vehicles to sit side by side, whilst the depth at 5.21 is a shortfall in terms of the recommended distance, it is considered the parking areas would be usable for the majority of vehicles and the proposed development would be acceptable in this regard.
- 10.60 It is recommended that any grant of permission is subject to condition requiring a scheme relating to parking areas and surfacing to be provided, to ensure the additional parking areas within each plot are provided whilst also ensuring suitable soft landscaping is incorporated as part of the development.
- 10.61 The proposal would lead to a loss of parking which is undertaken on street, and it is noted that a number of dwellings upon Forest Road have no off street parking provision (or a shortfall when assessed against current standards). However, it is considered that an over concentration of on street parking being undertaken has an undue impact upon the free flow of traffic along the highway and can cause issues in itself. It is considered that the proposed development of this part of Forest Road, whilst reducing the levels of frontage along which off street parking could be undertaken, would not have a significant impact upon access and highway safety as a result.

- 10.62 The impact of the development during construction has the potential to be significant should it not be undertaken in a controlled manner, it is therefore recommended that any grant of permission is subject to conditions which require the submission of a construction environmental management plan (CEMP) which details (amongst other things) Parking provision for site operatives and visitor vehicles, the location(s) for the loading and unloading of plant and materials, proposed access routes for construction traffic and how such traffic will be managed, the location(s) for the storage of all construction plant, equipment and materials, the enclosure of the parts of the site associated with each phase of development and the erection and maintenance of security hoarding, Signage (types and location) for directing construction traffic, access/egress by emergency vehicles and Construction lighting (type and location).
- 10.63 Whilst no dedicated visitor vehicle parking is provided within the site, the likely scenario that would occur would relate to on street vehicular parking taking place to the front of amenity spaces serving the dwellings. As it currently functions as on street parking to the whole frontage can take. Whilst this would be reduced it is considered this would not have a significant impact given the reduction would likely assist in the flow of traffic along Forest Road given there would likely be additional areas of the highway free from on street parking as a result of the proposal.
- 10.64 As such, it is considered that in this case the impact of the proposal upon access and highway safety, including as a result of the off-street parking provision, would not be of such significance as to warrant refusal. This conclusion is drawn on the basis of inclusion of the recommended conditions upon any grant of permission.

Landscape, trees, and ecological issues

- 10.65 Chapter 15 of the National Planning Policy Framework together with The Conservation of Habitats and Species Regulations 2017 which protect, by law, the habitat and animals of certain species including newts, bats and badgers are material to the consideration of the application. Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance.
- 10.66 Principle 7 of the Housebuilders Design Guide Supplementary Planning Document is also of relevance. This seeks to ensure existing features such as trees, habitats and landscape features are retained. Principle 9 requires that net gains in biodiversity are provided.
- 10.67 The Biodiversity Net Gain Technical Advice Note sets out that minor developments are subject to the mitigation hierarchy outlined within Chapter 2.2 and will still be required to demonstrate a net gain for biodiversity. Chapter 2.2 of the advice note details a mitigation hierarchy of avoid, mitigate, compensate, offset and finally enhance.
- 10.68 The site forms part of a wider urban green space allocation which includes an area of woodland which is to the south of the site, the proposal would see the loss of an area of grassland which includes some low-level shrubs and smaller trees. Within the submitted climate change statement the applicant's agent sets out the intention to develop the garden spaces such that their landscaping would encourage wildlife.

- 10.69 During the consideration of the previous application (ref: 2017/90955) the Council's Arboricultural Officer was consulted and they confirmed some the trees shown to be felled to accommodate the proposals are of limited value. However, they did note that there are trees which form part of the wider woodland area and as such a tree survey was requested with details of root protection zones. The Arboricultural tree survey submitted as part of application 2017/90955 identified a number of trees to be felled and some to be pruned back to accommodate the proposals. These trees lie outside the application site and form part of the wooded area to the south. Consultation with the Forestry Commission was undertaken who raised no objections and provided standard advice which was included as an advisory note.
- 10.70 The conclusion during the consideration of application 2017/90955 was that Officers were satisfied development could be accommodated on the site, subject to a tree method statement demonstrating how the works are to be carried out without significant damage to the tree roots and so as not to compromise the embankment.
- 10.71 The response of the Arboricultural Team, consulted as part of this application, is also noted. They have stated it is possible that the significant excavations into the sloping site may impact on the root zones of the mature trees that are located at the top of the bank, directly adjacent to the site. It is noted this matter was investigated during the processing of the previous application, and that the design of the retaining structure was incorporated as it demonstrated how the works could be undertaken such that it ensures the ground conditions within the root protection areas of the trees to the south would be maintained.
- 10.72 The Council's Ecologist has been consulted regarding the proposal and has stated that how the ecological functions of the wildlife habitat network will be safeguarded and enhanced post-development.
- 10.73 During the consideration of application 2017/90955 it was concluded that biodiversity enhancement of the site could be achieved through the use of native species in a landscape scheme and the enhancement of habitat integral to the dwellings in the form of bat and bird boxes. Given the conclusion drawn during the assessment of the previous application and taking account of the response of the Council's Ecology Team in the consideration of this application, it is recommended that a suitably worded condition be included upon any grant of permission which requires such measures to be submitted to the LPA.
- 10.74 It is therefore concluded that it would be unreasonable of the LPA to require further information to be submitted at this stage, and subject to condition requiring further details to be submitted for written approval that relate to measures to protect trees during the construction phase of the development, and which require biodiversity enhancement measures and native species planting within the site the proposal is concluded to be acceptable in this regard.

Other Matters

Climate Change

- 10.75 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.
- 10.76 Principle 18 of the Housebuilders Design Guide sets out that new proposals should 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. Proposals should seek to design water retention into proposals.
- 10.77 It is noted that the Council's Environmental Health Team request the inclusion of a condition requiring the provision of electric vehicle charging infrastructure as part of any grant of permission. Given the fact this is now a requirement of gaining building regulations approval, this measure would be ensured by that process and such a condition is not considered to be necessary in this case.
- 10.78 As part of the application a Climate Change Statement has been submitted which sets out that solar panels and air source heat pumps are intended to be incorporated as part of the development. In addition, locally sourced materials are intended to be incorporated as part of the development. Having regard to these measures and taking account of the sustainable location close to existing amenities, which reduces the reliance of future occupants upon vehicular modes of transportation, and the requirements of building regulations which will see the properties insulated to reduce energy usage, the proposal is considered to be acceptable having regard to the requirements of the aforementioned policy.

Drainage

- 10.79 Policy LP28 of the Kirklees Local Plan & policies within Chapter 14 ('Meeting the challenge of climate change, flooding and coastal change') of the National Planning Policy Framework and the National Planning Policy Framework technical guidance document are considered to be relevant in terms of foul / surface water drainage.
- 10.80 During the consideration of the previous application, the LLFA was consulted and stated they had no objection to the proposed development subject to condition requiring a scheme to be submitted which detailed the rate of surface water discharge from the site and its restriction to a maximum of 5 litres per second. This may require attenuation measures to store water on the site.

10.81 On the basis of the inclusion of the same requirement in the instance of any grant of approval in this case, it is considered the proposal would have an acceptable impact upon drainage and would meet the requirements of LP28 of the Kirklees Local Plan and policies within Chapter 14 of the NPPF.

Land Stability

10.82 Policy LP53 of the Kirklees Local Plan and Chapter 15 of the NPPF are relevant which seek to ensure that a site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation.

10.83 Where a site is affected by land stability issues, responsibility for securing a safe development rests with the developer and/or landowner. Furthermore, these issues could form part of a Building Regulations application, in particular if any retaining walls would be supporting land and form part of the dwelling. Similarly, details of retaining walls would be required by the Council's Highway Structures team for retaining walls that would retain land adjacent to a highway, as in this case for the proposed retaining walls to the front adjacent to Forest Road. Other walls would be the primary responsibility of the landowner/developer.

10.84 As the proposals would include retaining walls to the front of dwellings adjacent to a public highway (Forest Road) it is considered appropriate and necessary to condition details of such structures to be submitted to and approved in writing by the Local Planning Authority to ensure the proposals can be developed without causing harm to existing users of adjacent land and future users of the site and the environment.

10.85 It is considered that, on the basis of the inclusion of the recommended conditions of Highway Structures and informative note drawing the applicant's attention to the fact the responsibility for securing a safe development rests with the developer and/or landowner, the proposal would have an acceptable impact having regard to land stability.

Land Contamination

10.86 With regard to land quality, Chapter 15 of the NPPF and Policy LP53 of the Local Plan seeks to ensure land quality is maintained as part of new development.

10.87 The Council's Environmental Health Team have been consulted in relation to land quality and recommend that the submission of a phase 1 and 2 assessment of land quality, remediation measures to be undertaken and verification the remediation measures have been undertaken be secured by conditions.

10.88 It is considered that, on the basis of the inclusion of the recommended conditions, the impact of the proposal upon land quality can be suitably mitigated and would be acceptable having regard to policy LP53 and the National Planning Policy Framework.

Safety / Security

10.89 Section 17 of the Crime and Disorder Act 1998 places a duty on each local authority to '*do all that it reasonably can to prevent crime and disorder in its area*'. Section 8 ('Promoting healthy and safe communities') of the NPPF states that there should be an aim to achieve healthy, inclusive and safe places which: (b) are safe and accessible so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.

10.90 The KC Crime Prevention Officer has been consulted regarding the proposal and provides a number of recommendations in relation to incorporation of security measures. It is recommended that any grant of permission draws their response to the attention of the applicant / developer to allow for the consideration of the incorporation of such measures as part of the development.

Representations

10.91 Insofar as they are not addressed elsewhere within this report, the third-party representations received as a result of publicity of this application are addressed as follows:

- There has been 6 months of disruption from works to roads and pavements, which would be undone as part of the development to re access the services.

10.92 It is considered that limited weight can be afforded this matter as a consideration which is material to the determination of this application.

11.0 CONCLUSION

11.1 For the reasons set out in this report, the principle of developing this part the Urban Greenspace is considered acceptable, on a fine balance. The development would secure the provision of a significant level of affordable housing within the scheme, which weighs in favour of this application on this specific site.

11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

11.3 For the reasons set out in the previous sections of this report, the proposals are considered to be acceptable and recommended for approval subject to conditions and the entering into a S106 agreement between the Council and the applicant to ensure the provision of the affordable housing which forms part of the development proposal.

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

1. Time limit for the commencement of the development
2. Plans and specifications of the application
3. Hours of construction limited to 7.30 to 18.30 hours Mondays to Fridays, 08.00 to 13.00 hours Saturdays & with no noisy activities on Sundays or Public Holidays

4. Materials of external construction of the dwellings and retaining structures to be submitted to and approved by the LPA.
5. Boundary treatments to be submitted to and approved by the LPA.
6. Finished floor and ground levels to be submitted to and approved by the LPA.
7. Details of all retaining wall structures adjacent the highway to be submitted to and approved by the LPA
8. Submission of a scheme assessing the adequacy of the embankment which slopes towards Forest Road, and any remedial measures required to deal with instability issues to be submitted to and approved by the LPA.
9. Submission of a scheme detailing the location and cross-sectional information together with the proposed design and construction details for all new surface water attenuation tanks/pipes/manholes within or within the zone of influence of the public highway to be submitted to and approved by the LPA.
10. Notwithstanding the submitted plans, a scheme relating to parking and turning areas including their surfacing and widening to support 2no. parking spaces per dwelling to be submitted to and approved by the LPA.
11. Scheme detailing how the rate of surface water discharge from the site and its restriction to a maximum of 5 litres per second will be achieved and future maintenance of measures
12. Submission of a scheme of landscaping and biodiversity enhancement measures detailing retention of the existing trees shown to be retained along the southern boundary together with measures for their protection during the course of the development, biodiversity enhancement measures in the form bat roost and bird nesting opportunities and also soft landscape details to incorporate native species planting within the site to be approved in writing by the LPA.
13. Submission of suite of conditions regarding contamination and remediation: phase 1 and 2 assessment of land quality, remediation measures to be undertaken and verification the remediation measures have been undertaken to be approved in writing by the LPA.
14. Submission of a Construction Environmental Management Plan to be approved in writing by the LPA.

Background Papers:

Application and history files.

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Website link: <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023%2f90547>

Certificate of Ownership: Certificate A

Previously approved application 2017/90955:

Website link: <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f90955>