KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 70

DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS

Reference No:	2018/62/92720/E
Site Address:	Land Adj, 245, Heckmondwike Road, Dewsbury Moor, Dewsbury, WF13 3NF
Description:	Erection of 2 pairs of semi-detached dwellings
Recommending Officer:	Emma Thompson

DECISION - REFUSE

I hereby authorise the refusal of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

Sarah Longbottom

AUTHORISED OFFICER

Date: 03-Feb-2020

Officer Report

Site Description

Land adjacent to 245 Heckmondwike Road, Dewsbury Moor, Dewsbury

The application site includes an area of 3284 sq metres of land set down from Heckmondwike Road which bounds the site to the north east. A number of mature trees occupy the site providing screening from adjoining areas. Beyond which are open aspects to the south west and existing residential development to the north-west. Access to the site exists from Heckmondwike Road which passes a gatehouse at the entrance.

The site is set on the boundary with existing residential development but occupies a more semi-rural position.

Description of Proposal

Erection of 2 pairs of semi-detached dwellings

The application proposes the erection of 2 pairs of semi-detached dwellings. These are located reasonably central to the site. Each dwelling proposes accommodation set over 4 floors. The accommodation comprises of swimming pool, cinema room, sauna, gymnasium and changing/shower room at lower ground floor level, family room/kitchen, bedroom/snug with en-suite, living room, hallway, dining room and wc at ground floor, third bedrooms with en-suites at first floor level and a fourth bedroom and en-suite at second floor level.

The dwellings mirror each other in terms of accommodation and layout.

The materials of construction proposed are natural stone and white render.

Access is shown along the existing track into the site.

History of negotiations/amendments received

The original submission for 4 large detached dwellings was revised following consultation and discussion with Officers. A series of revised plans have been received.

Other outstanding concerns, including access, coal mining risk, trees and biodiversity, have also been highlighted to the agent.

Further information has been received to address matters above, in part.

An amended scheme has been submitted that proposes 2 pairs of semi-detached dwellings. These details were assessed and the agent was further advised that the proposals were unacceptable. A set of revised plans was

received on the 16th January 2020. Officer concerns have not been addressed and as such the application has been progressed to decision.

An extension to time was agreed to 3rd February 2020.

Relevant Planning History

2016/91932 – Demolition notification – prior notification for demolition of existing building – details approved

Representations

Final publicity date Expires: Site notice expired 5th November 2019; Neighbour Notification expired 4th November 2019.

- No comments received

Consultation Responses

The following is a brief summary of Consultee advice (more details are contained in the Assessment section of the report, where appropriate):

- KC Highways DM: Concerns remain
- KC Environmental Health: No objections
- KC Arboricultural Officer: Concerns remain
- KC Biodiversity Officer: Cannot support the proposals
- Coal Authority: No objections subject to conditions

Policy

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).

The site is unallocated on the Kirklees Local Plan.

Kirklees Local Plan (LP):

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP7** – Efficient and effective use of land and buildings
- **LP21** – Highway safety and access
- **LP22** – Parking
- **LP24** – Design
- **LP30** – Biodiversity and geodiversity
- **LP33** – Trees
- **LP52** – Protection and improvement of environment

- **LP53** – Contaminated and unstable land

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 19th February 2019, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

- Chapter 2 – Achieving sustainable development
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

Other:

National Design Guide

Assessment

Principle:

At the heart of the National Planning Policy Framework (NPPF) is a presumption in favour of sustainable development, Paragraph 11 of the NPPF sets out what this means for decision taking as follows:

c) approving development proposals that accord with an up-to-date development plan without delay; or
d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date , 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; 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. Furthermore Chapter 11 of the NPPF promotes the effective use of land in meeting the need for homes whilst safeguarding and improving the environment. Paragraph 122 states that planning decisions should support development that makes efficient use of land. It is stipulated that the development should continue to contribute to the area's prevailing character and setting (including residential gardens). Development should be well designed, attractive and secure healthy places (para 122 (e) of the NPPF)). The development of the site for a single dwelling

would make a modest contribution to the supply of housing where there currently is an overall insufficient supply.

In the recently adopted Kirklees Local Plan the Council have demonstrated 5.51 years supply of deliverable housing capacity (including incorporation of the required 20% buffer). As the Kirklees Local Plan was adopted within the last 5 years the five year supply calculation is based on the housing requirement set out in the Local Plan (adopted 27th February 2019) and takes account of shortfalls in delivery since the Local Plan base date (1st April 2013). The delivery of residential development of the site would be in accordance with Policy LP11 of the Kirklees Local Plan.

Chapter 5 of the NPPF clearly identifies that Local Planning Authorities should seek to boost significantly the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 68 of the NPPF recognises that "small and medium sized sites can make a 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.

The site forms a reasonable size area of land on the edge of a residential area. The site is constrained by its topography and protected trees but could, subject to location, scale and design, offer the opportunity for some form of residential development. As such, although the Local Planning Authority can demonstrate a five year land supply the development of this windfall site, could contribute to housing delivery and as such could be supported in principle.

Visual Amenity:

New development should sit comfortably within its surroundings and respect the prevailing pattern of existing development responding to local character and design standards. Chapter 12 of the NPPF emphasises the importance of good design. Paragraph 124 states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Further, the National Design Guide illustrates how well-designed places can be achieved in practice.

Since its original submission the application has been revised to show 2 pairs of semi-detached properties (4 dwellings in total). The location of the dwellings is such that the trees within the site would be removed with those located along the boundary with Heckmondwike Road retained. The loss of the trees is assessed further below. Notwithstanding matters concerning the trees the site can accommodate the four dwellings comfortably within the site. There is no uniformity in terms of character for adjoining development. Existing buildings appear, generally, to follow the linear format of the road with additional built form extending westerly. Whilst the layout of development

does not follow this format it is considered that, as the site is separate to neighbouring development, the format proposed can be accommodated.

The accommodation proposed in each dwelling is set over four floors with three storeys being visible due to use of a lower ground floor. New development should respect the scale, height and design of adjoining buildings and be in keeping with the predominant character of the area. The form and scale does not relate to existing nearby development or any building in the vicinity of the site. The dwellings do not integrate into their surroundings, failing to relate to local character. The architectural detailing and materials appear ill informed appearing incongruous in its setting. The materials proposed compound matters further raising concerns regarding the development.

Whilst it is recognised that well-designed places do not need to copy their surroundings in every way they should still be sensitive to their context. It may be possible to design a more contemporary scheme that relates well to the local vernacular however this is not achieved under the submitted details.

Paragraph 131 of the NPPF states that “in determining applications, great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.” It is not considered that these are innovative nor could they be justified due to them promoting high levels of sustainability.

The proposals are unacceptable and would not respect the character of the area contrary to Local Plan Policies LP2 and LP24 and Chapter 12 of the NPPF.

Residential Amenity:

Policy LP24 is relevant when assessing the impact of development. Proposals should promote good design, providing a good standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances for between buildings.

The dwellings have been designed so as to incorporate main habitable windows in the front and rear of each building. The site is set down from Heckmondwike Road and as such does not have any direct relationship to existing development. The layout of the dwellings would provide adequate privacy to the occupants. Notwithstanding this it should be noted that there are habitable room windows proposed in the side elevations of the dwellings that would be in reasonably close proximity to those on the neighbouring dwelling proposed. The staggered layout mitigates to a degree. The space and juxtaposition is considered adequate to outweigh any concerns. The accommodation provided will provide a satisfactory level of privacy to future occupants. In any event as the four plots are new and occupants will be aware of the relationship when purchasing any of the properties it is considered the distances can be supported in this instance.

As the dwellings are located away from any existing development there will be no loss of amenity to any adjoining occupants due to the development being overbearing or overshadowing.

Each dwelling sits comfortably within its own plot with adequate space to the side and front. The rear garden areas offer limited private amenity space and the protected trees that are shown to remain overshadow this. The dwellings are large with four bedrooms and as such adequate external space should be provided. There are concerns in respect of Plots 3 and 4 particularly regarding the degree of tree coverage that would remain overshadowing the garden areas proposed and making the space unusable with the likelihood of future pressure to prune or fell the remaining trees. The scale of development could be reduced to allow more space to Plots 3 and 4 thereby achieving adequate amenity space in addition to providing more space to the remaining trees.

In general matters regarding amenity are addressed in accordance with Policy LP24 (b) of the Local Plan, however, concerns regarding lack of useable space remain.

Highways:

The application details have been subject of discussion between the agent and KC Highways DM. Revised details have been submitted aimed at addressing concerns and referred to KC Highways DM for comment.

Although the gradients and turning movements from the driveways are acceptable, a number of concerns remain regarding the proposed layout. These are as follows:

- There doesn't appear to be any intention to provide a footway to the front of the site on Heckmondwike Road. This would be necessary to provide a link to the nearby bus stop.
- The distance from Plot 1 to the public highway is just under 100m, as such the maximum dragging distance for bins is exceeded.
- The driveway length is also a concern in terms of access by a fire tender. Manual for Streets states that there should be vehicle access for a pump appliance within 45m of a single family house, and Fire Service vehicles should not have to reverse more than 20m. A dry riser arrangement may overcome this issue, but otherwise internal turning for emergency vehicles will be required.
- As access will serve over five dwellings, it should be brought up to adoptable standard. Further advice should be sought from the council's Section 38 team in order to achieve this.

As such the application cannot currently be supported and would be detrimental to highway safety contrary to Policies LP21 and LP22 of the Local Plan.

Other:

Trees:
This site has many mature trees on all sides, most if not all, are protected by TPO 06/01.

Some of the mature trees are in a poor condition and require remedial work or replacement.

The submitted tree report identifies that many trees would be removed to facilitate the development proposed. The removal of so many trees would have a detrimental effect on the amenity value provided by the trees of this preservation order and should be resisted where appropriate. Some of the trees affected are in a poor condition and therefore their removal if suitably mitigated could be accepted.

The most important trees are those that border Heckmondwike Road and these should be retained, where possible, to preserve the tree lined edge of this road.

Access for the proposals may require changes to the existing driveway and this will need to be addressed within an Arboricultural Method Statement

Despite the submission of a revised site layout the dwellings remain too close to the protected trees which are located along Heckmodwike Road. Specifically plots 03 and 04 need to be moved further away from these trees. The crown spread of the trees and their root protection areas, as plotted on the tree survey plan, need to be taken account of. The layout then requires amending to allow clearance for any scaffolding and excavations during construction and to give adequate clearance from the fabric of the finished buildings.

In addition once the layout is finalised, an arboricultural method statement, in accordance with BS 5837 is necessary.

As such the proposals fail to adequately address concerns regarding the impact on the trees and would therefore be contrary to Policies LP24 (i) and LP33 of the Local Plan.

Ecology:
The application site is currently undeveloped with areas that support mature trees which show signs of damage that may create roosting opportunities for bats. Significant ecological effects, including effects on European protected species cannot be ruled out and no ecological information has been submitted to evaluate this. Furthermore a net biodiversity gain has not been demonstrated.

In order to address the above issues an Ecological Impact Assessment, including adequate bat survey, should be submitted. In the absence of any information the application does not accord with Policy LP30 of the Local Plan.

Coal Mining:
The application has been referred to the Coal Authority as records indicate that the application site is subject to historic recorded and likely unrecorded coal mine workings at shallow depth.

The planning application is supported by a Coal Mining Risk Assessment dated September 2018 and prepared by Demeter Environmental Ltd. This report supported by an appropriate range of geological and coal mining information from sources such as The Coal Authority and British Geological Survey.

The available geological and coal mining information has been reviewed and concludes that there is a risk from past coal mining activity and recommends that intrusive site investigations in the form of rotary boreholes to a depth of 30m and trial pits are undertaken to establish the exact situation in respect of coal mining legacy issues on the site. Consideration has also been given to the risks posed to the development by mine gas.

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 exact situation regarding coal mining legacy on the site.

Further site investigation works are required prior to the commencement of development and conditions would adequately deal with outstanding matters. The investigations are required prior to the commencement of development to enable appropriate remedial and migratory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 178 and 179 of the National Planning Policy Framework.

Land contamination:
The application has been referred to KC Environmental Health for comment. Due to the proximity of the site to the north east of the proposed development which is a former chemical works there are concerns in respect of potential contamination. As a consequence a Preliminary Risk Assessment (Phase I Report) is required. As this has not been submitted as part of the application conditions would be required on any approval.

Climate Change
On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability

of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

The application fails to address matters in respect of impact on biodiversity and trees raising concerns in respect of the development of the site. Whilst some form of sustainable development may be achievable the details have not addressed officer concerns. The details, as submitted, fail address matters further failing to fully address resilience to climate change.

Conclusion

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.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and that the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed.

Decision Authorisation - Delegated Powers

Application Number: 2018/92730

Officer Recommendation: Refuse

Reason for Refusal

1. The proposed development, by reason of its scale, design, materials and appearance, would not respond well to the local vernacular appearing incongruous within its setting. This would be detrimental to the character and appearance of the area and contrary to Policy LP24 (a) of the Kirklees Local Plan and Chapter 12 of the NPPF.

2. The development proposed would result in residential accommodation being located in close proximity to protected trees resulting in damage to their roots and an unacceptable relationship being established, to the detriment of residential amenity of future occupants due to the dwellings being heavily shaded. This in turn would result in pressure to prune or remove the trees in the future. The development would therefore prejudice the continued viability of the protected trees, contrary to Policies LP24 (i) and LP33 of the Kirklees Local Plan as well as the National Planning Policy Framework.

3. The development proposed has not demonstrated that adequate access and highway layout, including bin access/storage, can be provided. As such, the erection of four dwellings would be detrimental to highway safety as safe access cannot be provided contrary to Policies LP21 and LP24 of the Kirklees Local Plan as well as the aims of the National Planning Policy Framework.

4. Based on the nature of the habitats present on the application site and their ecological value, the proposed development would result in a loss of habitat that is considered as optimal as a foraging resource and roosting opportunity for bats. No survey work has been submitted in support of this application in order to demonstrate that there will be no significant ecological effects, including effects on European protected species. Furthermore a net biodiversity gain has not been demonstrated. As such, the application fails to comply with the aims of Policy LP30 of the Kirklees Local Plan as the proposal could result in a significant loss of and harm to biodiversity.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location Plan	IQ18.026.P		27th September 2018
Existing Site Plan	GA102		27th September 2018
Proposed Site Plan	GA103 REV C		3rd September 2019

Plan Type	Reference	Version	Date Received
Arboricultural Report and Arboricultural Impact Assessment	14082/ME		27th September 2018
Coal Mining Risk Assessment	18-08-09 Revision 0		27th September 2018
The Coal Authority Summary of Findings			27th September 2018
Image			27th March 2019
Proposed Type 1 – GA Basement	2000 REV B		16th January 2020
Proposed Type 1 – GA Ground Floor	2001 REV B		16th January 2020
Proposed Type 1 – GA Ground Floor	2002 REV B		16th January 2020
Proposed Type 1 – GA Second Floor	2003 REV B		16th January 2020
Proposed Type 1 – GA Roof Plan	2004 REV B		16th January 2020
Proposed Type 2 – GA Basement	2010		16th January 2020
Proposed Type 2 – GA Ground Floor	2011		16th January 2020
Proposed Type 2 – GA First Floor	2012		16th January 2020
Proposed Type 2 – GA Second Floor	2013		16th January 2020
Proposed Type 2 – GA Roof Plan	2014		16th January 2020
Image			27th March 2019
GA Elevation West	2100		3rd September 2019
GA Elevation North	2101		3rd September 2019
GA Elevation East	2102		3rd September 2019
GA Elevation South	2103		3rd September 2019
GA Elevation West	2110		3rd September 2019
GA Elevation North	2111		3rd September 2019
GA Elevation East	2112		3rd September 2019
GA Elevation South	2113		3rd September 2019
Site sections	(GA) 301		3rd September 2019
Long section	1911203		3rd September 2019
Kerbing	1911202		3rd September 2019
General arrangement	1912201		3rd September 2019
Swept Paths Analysis			3rd September 2019
Swept Paths Analysis			3rd September 2019

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development

Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. Officers worked with the applicant/agent to seek acceptable amendments and further details. Whilst revised plans have been received these fail to address concerns. For the reasons set out in the reason for refusal the development would not improve the environmental conditions of the area.

Report Dated: 16th January 2020