

Report of the Chief Planning Officer

NORTH AND EAST PLANS PANEL

Date: 21st December 2017

Subject: Appeal by Mr Darren Hirst (Just Design Ltd) against a refusal to grant planning permission (Ref: 16/07555/FU) for the construction of 13 dwellings at the Former site of Stanks Fire Station, Sherburn Road, Swarcliffe, LS14.

The appeal was dismissed.

Electoral Wards Affected:

Cross Gates and Whinmoor

Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

☐

Community Cohesion

☐

Narrowing the Gap

☐

RECOMMENDATION:

Members are asked to note the following appeal decision.

1.0 BACKGROUND

- 1.1 This planning application was considered at North and East Plans Panel on 11th May 2017. Members resolved to accept the officer recommendation that planning permission be refused. The reasons for refusal were:

'The Local Planning Authority considers the proposed development would represent an overdevelopment of the site as evidenced by its layout design and off-street parking arrangements resulting in the creation of large areas of frontage parking and an internal parking court which provides a poor quality environment and is not well overlooked. Furthermore, the proposal fails to adequately resolve bin storage arrangements, demonstrate it will not be detrimental to prominent protected trees on site or that the ground level changes required as part of the development would not result in overbearing retaining structures or issues of overlooking, boundary treatments and relationships with adjacent plots, prejudicial to the residential amenity of occupants and the site appearance. Accordingly, the proposed development is contrary to the Core Strategy (2014) policies P10, P12 and T2, the saved UDP Review

(2006) policies GP5, BD5, N23, N25 and LD1 and the design guidance contained within the Neighbourhoods for Living (SPG), Street Design Guide (SPD) and the NPPF.'

'In the absence of a signed Section 106 agreement the proposed development fails to provide necessary contributions and/or obligations for the greenspace, without which would result in an unsustainable form of development that fails to meet the identified needs of the city and prospective residents, contrary to the requirements of the saved UDP Review (2006) policy GP5 and related Supplementary Planning Documents and contrary to Core Strategy (2014) policies G4 and ID2 and guidance in the National Planning Policy Framework.'

2.0 ISSUES IDENTIFIED BY THE INSPECTOR

- 2.1 Firstly, the Inspector confirmed that the appellant had submitted a Unilateral Undertaking (UU) in respect of a contribution towards the provision of greenspace. The Inspector was advised that the UU addressed the second reason for refusal and consequently, the Inspectors did not consider the issue of the provision of greenspace further.
- 2.2 The main issues highlighted by the Inspector were:
- Whether the proposed development would be likely to increase opportunities for crime and antisocial behavior and provide a safe or secure environment;
 - The effect of the proposal on the character and appearance of the area; and
 - Whether future occupiers would be likely to experience acceptable living conditions in terms of privacy, outlook and outdoor amenity space.

3.0 SUMMARY OF COMMENTS

- 3.1 The appeal Inspector noted the evidence of a higher than national average crime figures for the local area (incl. anti-social behavior and criminal damage) and that efforts have been made to remove remote and non-overlooked parking courts and replace them with alternative parking solutions elsewhere on the Swarcliffe estate.
- 3.2 The Inspector commented that the proposed rear parking court would be enclosed by boundary fences and retaining structures preventing passive surveillance from grounds floors of the dwellings or rear gardens and give rise to secluded areas within the courts. Passive surveillance from first floor windows would be limited and the design and layout of the court is such that it would not give rise to a safe and secure environment. The Inspector was unconvinced that proposed measures, such as lighting, CCTV and the absence of landscaping (to avoid hiding places being created) would be sufficient to adequately deter crime and antisocial behaviour. In addition, the Inspector was not convinced that alternative boundary treatments to increase passive surveillance would be beneficial given impacts on secure rear gardens.
- 3.3 The Inspector noted that the site is subject to a Tree Preservation Order and whilst having regard to the stated condition of the trees considered the group of trees has considerable amenity value in an area where there are relatively few trees. The Inspector considered that the proposed replacement tree planting would not be adequate in the long term as they would be in relative close proximity to the proposed dwellings and parking areas and would be likely to come under pressure to lop, top, or fell as the trees mature.

- 3.4 The Inspector considered that the proposed dwellings would not appear out of character or that the frontage parking proposed would be excessive. To conclude this issue, the Inspector found the proposal to have an unacceptable effect on the character and appearance of the area where concerned with landscape matters and referred to the retention of existing features (i.e. existing trees) which make a positive visual contribution.
- 3.5 The Inspector did not consider that the gradients across the proposed development would render the garden areas unusable and that the layout, boundary treatments and separation distances would not be unacceptable in terms of privacy of future occupiers.
- 3.6 The Inspector also had regard to the appellant's query to the size of appeal site, that the proposal provide sufficient parking, use of local materials/ craftsmen, delivery of housing and density targets.

Conclusion

- 3.7 The Inspector concluded that the proposal is likely to increase opportunities for crime and antisocial behaviour and would have an unacceptable effect on the character and appearance of the area where the landscape is concerned.

4.0 DECISION

- 4.1 The appeal was dismissed.

5.0 IMPLICATIONS

- 5.1 The appeal decision reinforces the importance for layouts of development proposals to provide safe and secure environments as well as safeguarding landscape features which contribute positively to the character and appearance of an area. Achieving high quality design is advocated within the City Council's policies and supplementary design guidance.

Background papers:

Application file: 16/07555/FU

Appeal Decision

Site visit made on 2 October 2017

by Philip Lewis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date:

Appeal Ref: APP/N4720/W/17/3178647

Former site of Stanks Fire Station, Sherburn Road, Swarcliffe, Leeds LS14 5DW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Darren Hirst, Just Design Homes Ltd against the decision of Leeds City Council.
 - The application Ref 16/07555/FU, dated 25 November 2016, was refused by notice dated 12 May 2017.
 - The development proposed was originally described as '*construction of 14 dwellings*'.
-

Decision

1. The appeal is dismissed.

Procedural matters

2. During the Council's consideration of the application the proposed development was changed to the construction of 13 dwellings and a number of detailed amendments made to the scheme. The Council determined the application on that basis and so shall I.
3. The appellant has submitted an additional plan with the appeal¹ showing site cross sections. This plan does not change the appeal scheme and I am satisfied that no interests would be prejudiced by me considering it and so I have taken it into account in making my decision.
4. The Council refused the appeal for two reasons. One of the reasons related to the absence of a planning obligation in respect of contributions towards the provision of greenspace. During the appeal, the appellant submitted a planning obligation in the form of a Unilateral Undertaking (UU). I wrote to the Council seeking their views on the UU and it was confirmed that it's provision addresses the reason for refusal. Consequently I shall not consider the issue of the provision of greenspace further. Additionally, as I am dismissing the appeal I shall not consider the adequacy of the UU in my decision.

Main Issues

5. Having had regard to the issues set out within the Council's remaining reason for refusal, I consider that the main issues for the appeal are:
 - Whether the proposed development would be likely to increase opportunities for crime and antisocial behaviour and provide a safe or secure environment;

¹ Proposed site sections Revision S

- The effect of the proposal on the character and appearance of the area; and
- Whether future occupiers would be likely to experience acceptable living conditions in terms of privacy, outlook and outdoor amenity space.

Reasons

Crime and antisocial behaviour

6. Policy P10 of the Leeds Core Strategy 2014 (Core Strategy) is concerned with design and amongst other things sets out that proposals will be supported where they accord with listed key principles including that car parking should be designed in a positive manner and be integral to the development and development creates a safe and secure environment that reduces the opportunities for crime without compromising community cohesion. Saved Policy GP5 of the Leeds Unitary Development Plan 2006 (UDP) sets out that development proposals should resolve detailed planning considerations, include the prevention of crime.
7. The National Planning Policy Framework (the Framework) in paragraph 58 includes amongst other things that planning decision should aim to ensure that developments create safe and accessible environments where crime and disorder and the fear of crime do not undermine the quality of life.
8. The appeal site has frontages onto Sledmere Place, Sherburn Road and Stanks Drive, with the proposed dwellings arranged so that each would have a road frontage. To the rear of the dwellings and accessed from Stanks Drive would be a parking court. This would be bounded by the rear garden boundary fences and retaining walls of a number of the proposed dwellings and an existing footpath linking Sledmere Place and Stanks Drive.
9. Whilst I have had regard to the appellants Crime Prevention Strategy, I have also had regard to the evidence regarding the higher than national average crime figures for the local area, including anti-social behaviour and criminal damage and that efforts have been made to remove remote and non-overlooked parking courts and replace them with alternative parking solutions elsewhere on the Swarcliffe estate.
10. I have had regard to the appellant's comments that internal garage court is overlooked by all the houses and so meets national guidelines. However, the proposed rear parking court would be enclosed by boundary fences and retaining structures which would prevent any passive surveillance from the ground floors of the dwellings or rear gardens and give rise to secluded areas within the courts. Whilst several first floor bedroom windows would overlook the parking court, any such passive surveillance would be limited and the design and layout of the court is such that it would not give rise to a safe or secure environment.
11. The appellant proposes that the parking court is lit, that CCTV monitored by each household would assist in deterring potential criminal activity and that there would be no landscaping which could create hiding places and secluded areas. Additionally, it is suggested that different boundary treatments could be used. However, there are no details of the proposed CCTV scheme before me, and the design of the court is such that there would be areas secluded by the boundary treatments. I am not convinced that the proposed measures would be sufficient to adequately deter crime and antisocial behaviour. Furthermore,

on the balance of evidence, I am not convinced that the use of alternative boundary treatments to increase passive surveillance would be beneficial overall, given the implications for the provision of secure rear gardens.

12. To conclude on this matter, the appeal proposal is likely to increase opportunities for crime and antisocial behaviour and would not provide a safe or secure environment contrary to Core Strategy Policy P10, saved UDP Policy GP5, saved UDP Policy N25 which includes that boundaries of sites should be designed in a positive manner and with the Framework. It would also fail to accord with the guidance contained in the Council's Neighbourhoods a Guide for Residential Design in Leeds (Design Guide) and Street Design Guide Supplementary Planning Document in respect of safer places and car parking.

Character and appearance

13. The appeal site is subject to a Tree Preservation Order (TPO) relating to 7 trees. Whilst I have had regard to the appellant's Arboricultural Impact Assessment (AIA) and the stated condition of the trees, I consider that the group of trees has considerable amenity value, in an area where there are relatively few trees.
14. Whilst most of the trees on the Sherburn Road frontage would be retained, the appeal scheme requires the removal of a sycamore, which the AIA indicates is in good physical condition and of moderate quality. This tree is significant within the context of the immediate area. Additionally, there is a cherry tree also in good physical condition, which is stated to be of a low quality. The appeal scheme also requires the removal of a cheery tree which is stated to be unsuitable for retention. Two of the retained trees would be close to and would overhang proposed parking spaces which might lead to future pressure to lop, top, or fell the trees and few details are provided as to the effect of changes to ground level upon the retained trees.
15. Although the appeal scheme includes the planting of 16 new trees, I note that these would be in relative close proximity to the proposed dwellings and parking areas and consider that these would also be likely to come under pressure to lop, top, or fell as the trees mature. Consequently, I do not consider that the replacement planting would be adequate over the long term.
16. The proposed dwellings would be arranged in short terraces along the street frontages and the design of the dwellings proposed would not appear out of character with nearby dwellings. Whilst curtilage parking does not appear to be a typical feature of the area, I nevertheless do not find that the frontage parking proposed to be excessive, nor consider that parking would dominate the frontages. It is proposed that bin stores are provided to the front of a number of some dwellings. Should I be minded to allow the appeal, I could specify a planning condition requiring the submission of the details of the appearance of the bin stores for approval.
17. I find that the appeal scheme would have an unacceptable effect on the character and appearance of the area contrary to Core Strategy Policies P10 and P12, which are concerned with landscape and saved UDP Policy GP5. In addition it would conflict with saved UDP Policy LD1 which is concerned with landscaping and includes amongst other things that sufficient space is allowed around buildings to enable existing trees to be retained in a healthy condition and new trees to grow without significant adverse effect on amenity or

structural stability of buildings. Furthermore, the proposal conflicts with saved UDP Policy N23, which includes amongst other things, that existing features which make a positive visual contribution should be retained where possible.

Living conditions

18. Each of the proposed dwellings would be provided with enclosed rear gardens of a length in excess of 10 metres and whilst garden slopes are indicated as being up to 1:10, this would not be so steep so as to render them unusable. Due to the layout of the dwellings, boundary treatments and the separation distances the appeal scheme should not be unacceptable in terms of privacy for future occupiers. The submitted cross section plans indicate that the combined height of boundary treatments and retaining walls would be no more than about 2.15 metres which I do not consider to be excessive. Consequently, I find that future occupiers would be likely to experience acceptable living conditions in terms of privacy, outlook and outdoor amenity space. In this regard the appeal proposal does not conflict in part with Core Strategy Policy P10 or with the relevant guidance in the Council's Design Guide. This does not however outweigh my findings in respect of the other main issues.

Other matters

19. I have had regard to the outline planning permission² granted for the appeal site and the comments by the appellant regarding an error in the original planning application regarding the size of the appeal site. I take taken into account that the appeal scheme was designed so as to meet the Councils Design Guide and that the density of development accords with relevant Council policy.
20. I have also taken into account that the scheme provides for sufficient parking spaces to meet Council policy and has been designed so to minimise the carbon footprint of the works and that it is intended as far as possible, that local craftsmen and materials would be used for the development. I have also had regard to the need to provide more housing and the references to the Housing White Paper 2017 regarding the need to reach certain density to avoid loss of Green Belt and greenfield sites. Additionally I have had regard to the comments made in support of the appeal scheme by interested persons, that it would provide much needed housing with nice sized gardens and parking and would bring an unattractive cleared site back into use. I have also had regard to the comments that the scheme would use the potential of the site to the full unlike the previous scheme approved and that the scheme would look like a recent development nearby. These other matters do not however lead me to a different conclusion.

Conclusion

21. For the above reasons and having considered all matters raised, I conclude that the appeal should be dismissed.

Philip Lewis

INSPECTOR

² 16/01766/OT

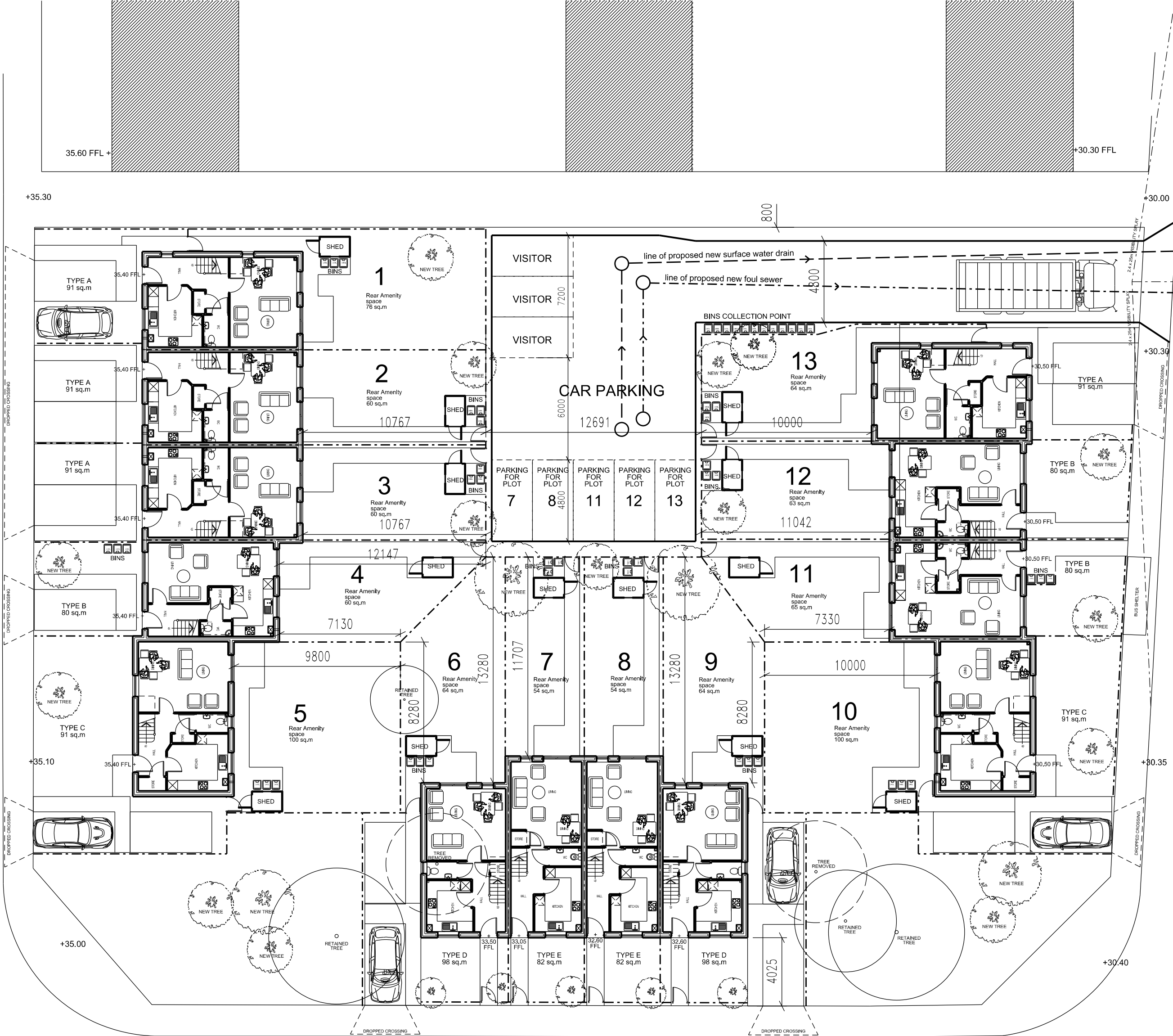
DO NOT SCALE

NOTE:
ALL DIMENSIONS/LEVELS
TO BE VERIFIED ON SITE
PRIOR TO COMMENCEMENT

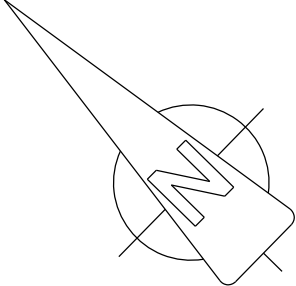
SLEDMERE PLACE

STANKS DRIVE

SHERBURN ROAD



Note:
Connections to existing
foul and surface water
drains. Final positions
to be agreed



Revision J
PROPOSED SITE LAYOUT
SCALE - 1:100 @ A0 - 1:200 @ A2

