

**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: 2018/62/92806/E

Site Address: rear of, 9, Riley Lane, Kirkburton, Huddersfield, HD8
0RZ

Description: Erection of detached dwelling with integral garage

Recommending Officer: Josh Kwok

DECISION – CONDITIONAL FULL PERMISSION

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

Julia Steadman

AUTHORISED OFFICER

Date: 11-Feb-2019

Officer Report

Site Description

This application relates to a plot to the rear of no.9 Riley Lane, Kirkburton. It appears to be part of the garden associated with no.9 Riley Lane. The land level drops considerably from 132 AOD to the south-west of the site to 124 AOD to the north-east of the site. There is currently a pedestrian access presented to the north-east boundary abutting Riley Lane, which is a classified C Road on the Highways Register. The site consists of a mix of mature trees and bushes. The boundary treatment comprises dry stone walls, garden fences and trees.

The site and its surrounding area are purely residential characterised by stone built detached properties of various scale and design. To the east of the application site is the boundary of the Kirkburton Conservation Area.

Description of Proposal

The development proposal is for the erection of a detached dwelling with an integral garage. The dwelling would be 12.0m wide, 5.8m deep and 9.8m high and the finished floor level of which would be 126 AOD. It would have three storeys and four bedrooms in total; one on the first floor and three on the second floor. The dwelling would have a traditional appearance. It is proposed to be constructed in Yorkshire stone and grey interlocking tiles.

There would be a garage measuring 4.9m by 5.1m located on the ground floor level. A hardstanding area would be provided to the front of the dwelling for parking and turning as well. The vehicle access would be located off Riley Lane with the bin storage area to the side of the proposed dwelling. There would be amenity space provided to the front as well as the rear of the proposed dwelling. The boundary treatment would comprise a mix of mature trees, stone retaining walls and close-boarded fencing.

History of negotiations/amendments received

The applicant was requested to produce a visibility splay drawing in light of the comments received from KC Highways DM.

The dwelling was set back from its original position by 1.6m to mitigate the overbearing impact on the occupants of no.7a Riley Lane. The revised drawings and plans were received on 02-Nov-2018. They were re-advertised by site notices and neighbour letters, which expired on 21-Nov-2018.

Further to the above, a Coal Mining Risk Assessment was submitted on 17-Jan-2019 in order to address the concerns of the Coal Authority. No further details or amendments were requested thereafter.

Relevant Planning History

2000/90234 – Outline application for erection of residential development (two dwellings) (Land to rear of 27, Riley Park off Riley Lane) – OP granted

2007/90647 – Erection of two detached dwellings with integral garages (Land off Riley Lane) – Approved

2007/90048 – Demolition of existing house and erection of detached dwelling with integral garage (within a Conservation Area) (5, Low Town) – Approved

2007/93355 - Demolition of existing bungalow and erection of 1 detached dwelling with integral garage (within a Conservation Area) (5, Riley Lane) – Approved

2008/91617 – Demolition of bungalow and erection of detached dwelling (modified proposal) (5, Riley Lane) – Approved

2018/20091 – Pre application enquiry for erection of dwelling (9, Riley Lane) – Comments made

Representations

This application was advertised by site notices, neighbour letters and press advert, which expired on 21-Nov-2018. As a result of the initial publicity, 9 written representations were received from 7 households in the vicinity of the application site. The following concerns were raised in those representations.

- Obstruction to the flow of traffic (e.g. buses) due to parked vehicles presented on both sides of Riley Lane
- No vehicle access to the south side of Riley Lane
- Application site forms part of the front garden of no.9 Riley Lane
- No details about how surface runoff (sewers) to be collected
- Loss of trees and plants as a result of proposed development
- Proposed access being too close to that of Netherfield Close
- Development not in keeping with the character of the surrounding area and would cause the overdevelopment of site
- Increase in flood risk as a result of the proposal
- Dry stone retaining walls acquired by Kirklees Council through CPO
- Proposed vehicle access overlaps with that of neighbouring property
- Development being presented in close proximity of dining kitchen windows of neighbouring property (in short of 12m)
- Unacceptable overbearing and overshadowing impact on neighbouring property

Additional publicity was undertaken following the submission of revised drawings, which were received on 02-Nov-2018. There were 8 representations received from 4 households, who raised the following issues:

- Overshadowing and overbearing impacts on the kitchen and the bedroom windows of the neighbouring property
- Access arrangement not acceptable due to poor visibility
- Scale of development shall be reduced
- Street lighting column presented to the front of the site
- To create an additional access on this part of Riley Lane may cause highway safety issues
- Detrimental to the view of the neighbouring properties
- Loss of fine trees

Kirkburton Parish Council – Confirmed ‘no comment’.

Consultation Responses

KC Highways DM – The proposal would provide greater visibility than that currently experienced by the existing dwellings at nos.7 and 7a Riley Lane. It is worth noting that the safety record at this location is very good. There are a number of examples of access points with poor visibility in the vicinity of the site. Given the above, it is reasonable to take a balanced view in this case and the proposal is considered acceptable from a highway perspective. The lighting column will need to be relocated as a result of the development. This will be achievable via planning condition.

KC Arboricultural officer – The trees on the application site are of a moderate amenity value that is worthy of protection. As the Sycamore tree near the access and the Spruce tree within the site are shown to be retained, there are no objections to the proposal.

KC Ecology – No issue with the proposed development as it is not considered to affect the habitat of bats. A bat survey is not necessary in this case.

KC Conservation & Design – No issues with the design of the proposal as it is not considered to be harmful to the setting of the Kirkburton Conservation Area. However, a pre-commencement condition is recommended to ensure a satisfactory appearance of the proposed dwelling as well as the proposed boundary treatment.

The Coal Authority – No objections to the proposed development subject to a condition requiring a site investigation to be undertaken to properly assess the ground conditions on the site and establish the risk prior to the commencement of the proposed development.

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 Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council’s Local Plan was submitted to the Secretary of State for Communities and Local

Government on 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 48 of the National Planning Policy Framework (2018). In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2018), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

The site is unallocated on the UDP Proposals Map and the PDLP Policies Map. It is however immediately adjacent to the designated Kirkburton Conservation Area.

Kirklees Unitary Development Plan:

- **D2** – Unallocated land
- **BE1** – Design principles
- **BE2** – Quality of design
- **BE11** – Materials
- **BE12** – Space about buildings
- **T10** – Highway safety
- **T19** – Parking
- **NE 9** – Trees

Kirklees Publication Draft Local Plan (PDLP):

- **PLP 1** – Achieving sustainable development
- **PLP 2** – Place shaping
- **PLP 3** – Location of new development
- **PLP 21** – Highway safety
- **PLP 22** – Parking
- **PLP 24** – Design
- **PLP 28** – Drainage
- **PLP 33** – Trees
- **PLP 35** – Historic Environment

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 24th July 2018, 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 9** – Promoting sustainable transport

- **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
- **Chapter 16** – Conserving and enhancing the historic environment

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 2) Impact on visual amenity
- 3) Impact on residential amenity
- 4) Impact on highway safety
- 5) Other matters
- 6) Representations
- 7) Conclusion

1 – Principle of development:

The site is without notation on the UDP Proposals Map and Policy D2 (development of land without notation) of the UDP states “planning permission for the development ... of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]”. Subject to these not being prejudiced, this aspect of the proposal would be acceptable in principle in relation to policy D2.

The NPPF stresses the importance of achieving sustainable development through the planning system.

For decision taking this means approving development proposal that accord with an up-to-date development plan without delay or grant planning permission where the policies which are most important for determining the application are out of date unless (i) the application of policies in the NPPF 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 the NPPF.

The development plan for Kirklees is the Kirklees Unitary Development Plan. There is currently a lack of 5 year housing land supply in Kirklees and as such the housing policies in the UDP are considered out-of-date. Given the above, the proposal shall be permitted except in those circumstances identified in paragraph 11(di) and (dii) of the NPPF.

It is the intension of the NPPF to support the government’s objective of significantly boosting the supply of homes. The NPPF recognises the importance of small and medium sized sites in meeting the housing requirement of an area. It follows that local planning authorities shall support the development of windfall sites as well as give great weight to the benefits

of using suitable sites within existing settlements for homes. In this case, the application site is a windfall site situated in Kirkburton; an existing settlement that benefits from well-connected highway network and good quality public transport. There are easily accessible local services available in the town centre of Kirkburton as well. Furthermore, given the site and its surrounding area are purely residential in character, there is unlikely to be any significant conflict with the nearby residential properties as a result of the development proposal. Policy PLP3 of the PDLP stipulates that development proposals shall be located in such a way that they help deliver housing and employment growth in a sustainable way. It is considered that the location of the proposed development is acceptable when assessed against the criteria in policy PLP3 of the PDLP. It has the potential of contributing to the delivery of housing as well as the creation of local employment opportunity.

For the reasons already outlined above, I consider the development proposal to be consistent with the aims of policy D2 of the UDP, policies PLP1, PLP2, PLP3 of the PDLP and chapters 2 and 5 of the NPPF in respect of achieving sustainable development as well as delivering a sufficient supply of homes. In terms of other aspects of the development proposal, these shall be assessed in the following sections in this report.

2 –Impact on visual amenity:

The proposed development would be three storey in scale and the footprint of which would be comparable to the surrounding development in this area. Whilst the development would appear to be large in scale, it would not be inappropriate from a visual amenity perspective when taking into account the scale of the adjoining detached properties at nos.5, 7 and 7A Riley Lane. It is also apparent that the density of development increases gradually from the west to the east of Riley Lane. This in turn contributes to the existing townscape of Kirkburton. In this regard, I do not consider the scale of development to be discordant with the prevailing character of the surrounding area.

Policy BE12 of the UDP is also relevant in determining this application as it sets out the minimum physical separation recommended between new dwellings and adjacent dwellings. Based on the submitted site plan, I consider that the development to be compliant with criteria (i) (ii) and (iv) of policy BE12 of the UDP. In terms of criterion (iii), it shall be discussed in detail in the residential amenity section in this report.

The development would be constructed in Yorkshire stone and grey interlocking tiles. These materials would be similar to those already evident in the surrounding area. Therefore, it would be in keeping with the local vernacular of nearby development as well as the character of the area. There would not be any conflicts with policy BE11 of the UDP as a result of the development proposal. The proposal in question would have a traditional design, which would be reflected in its architectural as well as fenestration detail. Given a wide variety of designs are already evident in the vicinity of the application site, the proposed design is unlikely to result in any additional

impact on the visual amenity and the street scene. In the interest of visual amenity and to ensure of satisfactory appearance of the proposed development, a condition shall be attached to the decision notice to require details of all facing materials be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development.

It is acknowledged that the application site is situated in a prominent location, being at the edge of the Kirkburton Conservation Area as well as being elevated from Riley Lane. The proposal is capable of causing some impact on the character of the street scene and the adjacent conservation area. The submitted cross section indicates that that the site would be excavated considerably to bring the land level in alignment with that of the neighbouring sites e.g. nos.7 and 7A Riley Lane. In other words, the proposed development would only be slightly elevated from the adjoining highway and the nearby development. This would appropriately reduce its prominence when viewed from Riley Lane and thus limit its impact upon the adjacent conservation area. Furthermore, the dwelling itself would be set back from the highway by at least 10m with an appropriate boundary treatment in between. Taking all the above factors into account, I do not find the impact on the street scene and adjacent conservation area to be unduly detrimental in this particular case. To avoid any significant impact on the appearance of the development in the future, a condition shall be added to the decision notice to withdraw the permitted development rights for the erection of extensions and outbuildings within the application site marked in red on the submitted location plan.

For the reasons already given above and subject to the imposition of the recommended conditions, it is concluded that the development as proposed would be of a satisfactory quality in terms of its scale, materials (subject to condition) and design that would be in keeping with the surrounding development as well as the prevailing character of the area. There would not be any harm to the amenity of the street scene as a result of the development proposal or on the setting of the adjacent conservation area. Therefore, the development would comply with the aims of policies D2, BE1, BE2, BE5, BE11 and BE12 of the UDP, policies PLP24 and PLP35 of the PDLP and chapters 12 and 16 of the NPPF.

3 – Impact on residential amenity:

The application site adjoins the curtilage of nos.7a, 9 and 11 Riley Lane and nos.1 and 2 Netherfield Close. It may therefore have the potential of affecting the living conditions of these neighbouring occupants to some extent. The impact on these properties are addressed as follows.

In relation to no.7a Riley Lane

In terms of no.7a Riley Lane, it is a three storey stone-built detached property to the south-east of the application site. It has a number of windows in the side elevation facing this direction. There is a concern raised in terms of the development being in close proximity of the windows of this neighbouring property and thereby resulting in an overbearing impact and an

overshadowing impact on its occupants. Based on the information held by the Local Planning Authority as well as the observations during the site meeting, I consider that the front window in the side elevation is a secondary habitable room window of a dining/living room. The middle window and the back window in the side elevation appear to serve a dining kitchen with the former being a primary habitable room window and the latter a secondary habitable room window. There is also a small window located in the rear elevation serving the dining kitchen.

The dwelling proposed in this application would not be within 12.0m from the front window and the middle window when measured perpendicular from them. It would still be visible from the middle window but would not obstruct its outlook to such an extent that would cause an unacceptable overbearing impact on the occupants of this property. The back window is next to the sink and the worktops in the dining kitchen. It does not serve the habitable part of the dining kitchen, which is adjacent to the middle window. The purpose of this window is primarily to admit light as well as to facilitate ventilation. For the above reasons, it is considered to be a non-habitable room window in accordance with the pre-ambles guidance set out in the UDP in association with policy BE12.

The windows in the front elevation and the rear elevation of no.7a (including a number of bedroom windows) would not be affected by the development proposal. The dining kitchen as well as the living/dining room of this neighbouring property would still receive a reasonable amount of daylight and sunlight, primarily through the windows in the front elevation. All windows at the second floor level would be non-habitable room windows and as such would not be unduly affected by the development proposal either. Having regard to all the above circumstances, the proposal would not result in any undue overbearing and overshadowing impacts on the occupants of this property.

The development could potentially limit the amount of light received from the garden of this property but the impact of it is not deemed to be significantly greater than the current situation, taking into account the substantial boundary treatments already located at the shared boundary as well as the significant difference in land level between no.7a Riley Lane and no.27 Riley Park. The occupants of this property would still have a relatively open aspect to the south-west (rear) and it would still therefore receive a sufficient amount of daylight and sunlight.

The proposed development would not have any openings facing this neighbouring property. The existing fencing at the shared boundary would be retained as well. Thus, the proposal would not cause any overlooking impact on this property and its associated curtilage. In the interest of residential amenity and so as to protect the privacy of these neighbouring occupants into the future, the permitted development rights for the insertion of openings in the south-east (side) elevation of the proposed development shall be withdrawn. This shall be secured through a planning condition.

In relation to no.9 Riley Lane

The application site is part of the garden of no.9 Riley Lane. It is set at a considerably lower level than no.9 Riley Lane. To allow the development proposal would reduce the amenity space provision available to the occupants of this property. However, the living conditions of these occupants would not be substantially prejudiced by the proposed development because there would still be sufficient amenity space for the occupants of this property.

Turning to overlooking and overshadowing impacts, these would not be unduly detrimental as the proposed development would be positioned at a much lower level than this property (i.e. 8m in difference). Furthermore, it would be at least 20m from the external rear wall of no.9, complying with the policy aims of BE12 of the UDP. There would be 1.1m close-boarded fence erected to the rear boundary of the site, which would further reduce the overlooking impact on the garden of this adjoining property. Taking these factors into account, there are considered to be no significant effect on the living conditions of these residents.

In relation to no.11 Riley Lane

No.11 Riley Lane is a brick built detached bungalow to the south-west of the application site and it is situated at a higher land level. The proposed development would adjoin part of the garden of this property, but it would not give rise to any serious impact on the amenity of these neighbours. This is because the property would remain unaffected and only a small proportion of its garden would be overshadowed by the proposal. The overlooking impact of the proposed development would be mitigated by the boundary fencing at the shared boundary. To avoid any significant loss of privacy, a condition shall be attached to the decision notice to remove the permitted development rights for the insertion of openings in the north-west (side) elevation of the dwelling in this application.

In relation to nos. 1 and 2 Netherfield Close

Nos.1 and 2 Netherfield Close are two storey stone built detached properties located on the opposite side of Riley Lane. These properties are set back from Riley Lane by at least 20m and they are partially screened from Riley Lane by mature trees, which are protected by a Tree Preservation Order (TPO). For the above reasons, I do not find the proposal to be materially harmful to the living conditions of these neighbouring occupants.

There are no residential properties that adjoin the front boundary of the application site. No other properties in the vicinity of the application site would be affected by the development proposal.

Conclusion

The proposed development has been carefully considered with respect to policy BE12 of the UDP, as well as all other relevant UDP and PDLP policies

in respect to residential amenity, along with other site-specific factors. In this case, the proposal is not considered to be significantly harmful to the living conditions of any neighbouring occupants for the reasons already given above. I have had careful regard to the concerns raised in the written representations when assessing the impact on residential amenity. However, I do not consider these substantiate a reason for refusal in this instance when taking into account all relevant material planning considerations. In summary, the proposal would comply with the aims of policies D2, BE1, BE2 and BE12 of the UDP and policy PLP24 of the PDLP.

4 – Impact on highway safety:

The proposed dwelling would have an integral garage of 4.9m by 5.1m. This would be in short of the recommended space standard of a double garage. However, I consider on the basis of the submitted details shown on the proposed site plan that there would be sufficient off-street parking provision in line with the maximum parking standard, policy T19 of the UDP as well as policy PLP22 of the PDLP. No significant parking issues are expected to arise as a result of the proposed development.

Highway safety

The application site is adjacent to a classified C road. Therefore, it must provide a suitable turning facility to allow vehicles entering and exiting the site in forward gear. The proposed site plan indicates a hardstanding area to the front of the dwelling, which could be used for parking as well as turning. It would not cause disruptions to the flow of traffic nor would it give rise to unacceptable risk to highway safety in this respect. It is acknowledged that the visibility splay as shown on the submitted plan is substandard when assessed against guidance in Manual for the Streets. However, there are already a number of examples of access points with poor visibility in the vicinity of the application site including nos.7, 7a and 12 Riley Lane and nos.1, 2, 3 and 4 Netherfield Close.

In this instance, the proposed access would only serve a single dwelling, which would not result in a marked increase in traffic generation. The proposal is not considered to result in any adverse impact on highway safety and efficiency over and above what is already caused as a result of the development approved at nos.7 and 7a in 2002.

KC Highways DM confirms that the safety record at this location is very good. Further to these considerations, the development proposal would reduce the height of the existing dry stone boundary wall to 1.0m, which would in turn improve the substandard visibility of nos.7 and 7a Riley Lane. For the above reasons, it is considered that the impact on highway safety is, on balance, acceptable in this particular case.

Highway structure

There is an issue raised with regard to the ownership of the dry stone boundary wall, with some suggesting it to be owned by the Council. With reference to the Council's Land Disposals and Acquisitions record, the wall in question does not appear to be part of the Council's asset. KC Highways Registry confirms as well that there are no plans for road improvements on this part of Riley Lane in the foreseeable future. Accordingly, I do not consider the proposal to jeopardise any planned road improvement schemes in this area nor do I find it inconsistent with the procedural requirement in Section 13 of Part 3 of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Given the dry stone boundary wall is greater than 1.4m in height and adjacent to a highway, it constitutes a highway structure, which cannot be altered without the consent of the Highways Authority; in this case KC Highways Structure. The Council's Highways Structure Engineer, having reviewed the details in the application documents, recommends that a pre-commencement condition be added to the decision notice to require further details of the retaining wall to be submitted to and approved in writing. Subject to this condition, there are no objections in principle to the development proposal.

Parked vehicles

There has been a concern raised in representations in relation to parked vehicles being located to both sides of Riley Lane. This is however the existing situation and not a direct consequence of permitting the development proposal. It is noted that the majority of properties along this part of Riley Lane already have sufficient off street parking provision. They are not therefore expected to park on Riley Lane. In addition, there is already a communal car park located in very close vicinity to the application site. Further to the above, to create a vehicle access in the suggested location could actually discourage on street parking to the south side of Riley Lane. Taking all these factors into account, the proposal would not substantially prejudice highway safety and efficiency.

Highway conditions

To ensure sufficient parking provision for the future occupants of the development, a condition shall be added to the decision notice to require that the area shown to be used for parking and turning shall be laid out with a hardened and drained surface in accordance with the relevant guidance and that the garage as shown in the submitted plans and drawings shall be retained for the garaging of vehicles. Furthermore, the existing street lighting column and the existing boundary wall shall be relocated and reduced respectively to avoid any significant obstructions to visibility. These shall be secured via planning conditions.

Highways conclusion

Having regard to the abovementioned circumstances and on balance, I consider the development proposal to be acceptable in terms of highway safety, efficiency and parking when assessed against the policies in the development plan as well as all other material considerations already discussed above. It would not conflict with the aims of policies D2, T10 and T19 of the UDP and policies PLP21 and 22 of the PDLP.

5 – Other matters:

Flood Risk and Drainage

The application site is located in Flood Zone 1, which implies the lowest risk associated with fluvial flooding. Furthermore, given the size of the site is smaller than a hectare, a site-specific flood risk assessment is not required in this instance. In terms of drainage, the applicant states in an email that the surface water is to be disposed to a soakaway. There is no evidence before me to suggest soakaway as a viable drainage solution for the application site. It is also unclear whether soakaway can appropriately reduce the surface water runoff to no greater than the existing level in accordance with policy PLP28 of the PDLP. In light of the above situation, a condition shall be added to require details or testing to be submitted to ensure that its use is viable for the site. The condition shall be worded flexibly in order to allow for an alternative scheme to be submitted if testing rules out soakaway as a viable drainage solution. With the inclusion of this condition, the proposal is considered to be in compliance with policy PLP28 of the PDLP and chapter 14 of the NPPF.

Kirkburton Conservation Area

The site is not situated within the Kirkburton Conservation Area but in close proximity to its boundary. A heritage statement has been submitted along with this application for consideration. The statement concludes that the impact on the setting of the Conservation Area is negligible because it would be located approximately 20m from the edge of the Conservation Area and is to be constructed predominately from stone. Although I have no significant issues with the conclusion of the statement, I am aware that the proposed development is large in scale and is situated in a prominent location. This is capable of having a more than negligible impact on the setting of the Conservation Area. Nonetheless, it is recognised that a number of similar scale development already exist in this area including nos.5, 7 and 7a Riley Lane. Hence, the development proposal would not give rise to any adverse impact on the setting, appearance or character of the Conservation Area over and above the existing situation. The proposal is considered to be in accordance with the aims of policy PLP35 of the PDLP and chapter 16 of the NPPF.

Land Stability

The site in question is situated in a development high risk coal mining area. The Coal Authority having reviewed the submitted Coal Mining Risk Assessment and considers the development proposal to be acceptable in terms of land stability. However, it recommends that site investigation should be undertaken to assess the ground conditions on the site and establish the risk prior to the commencement of the development. This condition should also require a report setting out all the necessary remedial works and / or mitigation measures to address the risk identified in the site investigation and how these are to be implemented before the commencement of the proposed development. Subject to this pre-commencement condition (which has been agreed within the applicant), the Coal Authority confirms the proposed development to be compliant with paragraphs 178 and 179 of the National Planning Policy Framework.

Mature Trees

As already highlighted in the site description section above, the application site does consist of a number of mature trees, of which some are considered to be of moderate amenity value. The Council's Arboricultural officer has been consulted on this application and has raised no objection. This is because the Sycamore tree as well as the Spruce tree are shown to be retained on the submitted tree removal drawing. For these reasons, the proposal would protect the viability of the mature trees within the site and not conflict with the aims of policy NE9 of the UDP and policy PLP33 of the PDLP.

Ecology

The application site is located within the bat alert layer on the Council's GIS systems; this indicates a likelihood of bats or suitable bat habitats being present at or within close proximity to the site. KC Ecology has been consulted and has not raised any concerns from an ecology perspective. The trees at the application site are unlikely to provide a suitable habitat for bats. As such, there is considered to be no need to submit a bat survey in this case. An advice note shall be added to the decision notice to give the applicant further guidance on this matter. The proposal is considered to comply with the aims of chapter 15 of the NPPF.

Air Quality

Paragraph 35 of the NPPG states that 'plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Development should be located and designed where practical to incorporate facilities for charging plug-in and other ultra-low emission vehicles.' As such, a condition shall be added requiring an electric vehicle charging point to be installed for each property. This is in accordance with the aims of policy PLP24 of the PDLP and chapters 9, 14 and 15 of the NPPF.

There are no other matters considered relevant to the determination of this application.

6 – Representations:

As a result of the initial publicity and the further publicity, the following concerns were raised in the written representations received and are addressed as follows:

- Obstruction to flow of traffic (e.g. buses) due to parked cars located on both sides of Riley Lane
Response: This has been addressed in the highway safety section in this report.
- No vehicle access to the south side of Riley Lane
Response: There is already a vehicle access to the south side of Riley Lane serving nos.7 and 7a Riley Lane
- Application site forms part of the front garden of no.9 Riley Lane
Response: The impact of the development proposal is considered to be acceptable from a visual amenity perspective. Whether the application constitute the front garden or the back garden of no.9 Riley Lane is inconsequential to the determination of this application. Furthermore, as set out in the main assessment, a reasonable curtilage would be retained in association with no.9.
- No details about how surface runoff (sewers) to be collected
Response: This information is made available on the application form. The assessment is made on the basis of this information in the flood risk and drainage section in this report.
- Loss of trees and plants as a result of proposed development
Response: This has been addressed in the mature tree section in this report.
- Proposed access too close to that of Netherfield Close
Response: This has been addressed in the highway safety section in this report.
- Development not in keeping with character of surrounding area and cause overdevelopment of site
Response: This has been addressed in the visual amenity section in this report
- Increase in flood risk as a result of proposal
Response: This has been addressed in the flood risk and drainage section in this report.
- Dry stone retaining walls acquired by Kirklees Council through CPO
Response: KC Highways Registry confirms that there is no record of any highway improvement schemes planned nor is there any Council owned property located in this area.
- Proposed vehicle access overlaps with that of neighbouring property
Response: The proposed access is situated within the application site, which is indicated to be within the ownership of the applicant on the application form.
- Development being located in close proximity to kitchen and dining windows of neighbouring property (in short of 12m)

Response: This has been addressed in the residential amenity section in this report and is concluded to be acceptable.

- Unacceptable overbearing and overshadowing impact on neighbouring property

Response: This has been addressed in the residential amenity section in this report and is concluded to be acceptable.

The above comments have been afforded careful consideration when assessing the impacts of the development proposal. However for the reasons provided in the main assessment, the proposals are considered to comply with relevant planning policy and the concerns raised would not substantiate a refusal of the scheme.

7 – 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 would constitute sustainable development and is therefore recommended for approval.

Recommendation

Approve

Decision Authorisation - Delegated Powers

Application Number: 2018/92806

Officer Recommendation: Approve

Conditions and Reasons

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, to preserve the setting and historic character of the adjacent Kirkburton Conservation Area and in accordance with Policies D2, BE1, BE2, BE5, BE11, BE12, T10 and T19 of the Kirklees Unitary Development Plan, Policies PLP21, PLP22, PLP24 and PLP35 of the Kirklees Publication Draft Local Plan as well as the aims of Chapters 12 and 16 of the National Planning Policy Framework.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) no development included within Classes A, B, C, D and E of Part 1 of Schedule 2 to that Order shall be carried out within the red line boundary in the submitted location plan (*drawing no.710-P02*) without the prior written consent of the Local Planning Authority.

Reason: In the interest of visual amenity and so as to preserve the setting and historic character of the adjacent Kirkburton Conservation Area, the character of the dwelling and the privacy of the occupants of the adjoining properties at nos.7a and 11 Riley Lane in accordance with Policies D2, BE1, BE2, BE5, BE11 and BE12 of the Kirklees Unitary Development Plan, Policies PLP24 and PLP35 of the Kirklees Publication Draft Local Plan and Chapters 12 and 16 the National Planning Policy Framework.

4. No development shall take place until samples of all facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details and thereafter maintained as such.

Reason: To ensure that the proposed development safeguards visual amenity and does not adversely affect the setting and historic character of the adjacent Kirkburton Conservation Area in accordance with Policies D2, BE2 and BE5 of the Kirklees Unitary Development Plan, Policies PLP24 and PLP35 of the Kirklees Publication Draft Local Plan and Chapters 12 and 16 of the National Planning Policy Framework. This is a pre-commencement condition in order to ensure that appropriate facing and roofing materials are approved at an early stage of the development due to its prominent and sensitive location, immediately adjacent to the boundary of the Kirkburton

Conservation Area.

5. The areas to be used for parking and turning shall be laid out with a hardened and drained surface in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or any successor guidance before the dwelling is first occupied. Thereafter these areas shall be retained free of any obstruction.

Reason: To ensure adequate space within the site for vehicular movements and parking, to reduce flood risk and to accord with Policies D2, T10 and T19 of the Kirklees Unitary Development Plan, Policies PLP21 and PLP22 of the Kirklees Publication Draft Local Plan and Chapter 14 of the National Planning Policy Framework

6. The integral garage as shown on the submitted ground floor plan (drawing *no.711-P09*) shall be made available for the garaging of vehicles at all time without any obstructions.

Reason: In the interest of highway safety and so as to ensure that sufficient parking provision is retained and made readily available for the existing and the future occupants of the dwelling hereby approved for parking in accordance with Policies D2 and T19 of the Kirklees Unitary Development Plan and Policy PLP22 of the Kirklees Publication Draft Local Plan.

7. Notwithstanding the submitted plans and information, the vehicular crossing to serve the new driveway shall not be brought into use until the existing street lighting column no. 40 has been relocated to a location which has first been submitted to and approved in writing by the Local Planning Authority. The new location shall not obstruct vehicular turning movements into / out of the proposed driveway or any other existing driveways.

Reason: So as to achieve a satisfactory layout in the interests of highway safety and in accordance with Policies D2 and T10 of the Kirklees Unitary Development Plan and Policy PLP21 of the Kirklees Publication Draft Local Plan.

8. Notwithstanding the submitted plans and information, a scheme detailing the location and cross sectional information together with the proposed design and construction for all new retaining walls adjacent to the C565 Riley Lane including any proposed modification to the retaining wall on the C565 Riley Lane shall be submitted to and approved in writing by the Local Planning Authority before development commences. The approved scheme shall be implemented prior to the commencement of the proposed new dwelling and thereafter retained.

Reason: In the interest of visual amenity and highway safety and to preserve the setting and historic character of the adjacent Kirkburton Conservation Area in accordance with Policies D2, BE1, BE2, BE5 and T10 of the Kirklees Unitary Development Plan, Policies PLP21, PLP24 and PLP35 of the Kirklees Publication Draft Local Plan as well as Chapters 12 and 16 of the National Planning Policy Framework. This is a pre-commencement condition in order to ensure that any necessary engineering works required adjacent to the

highway are carried out at an early stage of the development and that the site is fit and safe to receive new development.

9. Notwithstanding the provision of the Town and Country Planning General Permitted Development Order 2015 as amended (or any Order revoking or re-enacting that Order), nothing shall be planted or erected within a strip of land 2.4 metres deep measured from the carriageway edge of Riley Lane along the full frontage of the site which exceeds 1.0m in height above the level of the adjoining highway at any time.

Reason: To ensure adequate visibility in the interests of highway safety in accordance with Policies D2 and T10 of the Kirklees Unitary Development Plan and Policy PLP21 of the Kirklees Publication Draft Local Plan.

10. A scheme detailing surface water and land drainage shall be submitted to and approved in writing by the Local Planning Authority before development on the superstructure of the new dwelling commences. Where soakaways are proposed, the submitted scheme shall demonstrate an adequately designed soakaway as an effective means of drainage of surface water on the site. Where a septic tank is proposed, details shall be submitted to demonstrate that this is sufficient to meet the requirements on the site. The dwelling shall not be occupied until such approved drainage scheme has been provided on the site to serve the development. The development shall be thereafter retained in accordance with the approved details.

Reason: In the interests of satisfactory and sustainable drainage to accord with Policy D2 of the Kirklees Unitary Development Plan, Policy PLP28 of the Kirklees Publication Draft Local Plan and Chapter 14 of the National Planning Policy Framework.

11. Prior to occupation of the dwelling, one electric vehicle recharging point shall be installed. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps.

Reason: To promote the use of ultra-low emission forms of transport in the interests of achieving sustainable development and to accord with Policy PLP24 of the Kirklees Publication Draft Local Plan and Chapters 9, 14 and 15 of the National Planning Policy Framework.

12. No development shall commence until the following has been submitted to and approved in writing by the Local Planning Authority:

- A scheme of intrusive site investigations designed by a competent person and adequate to properly assess the ground conditions on the site and establish the risk posed to the development by past coal mining activity;
- A report of findings arising from the intrusive site investigations and any remedial works and / or mitigation measures considered necessary;
- A scheme detailing how the remedial works and / or mitigation measures are to be implemented

Reason: So as to ensure that the site is, or can be made, safety and stable for the proposed development in accordance with Paragraphs 178 and 179 of

Chapter 15 of the National Planning Policy Framework. This is a pre-commencement condition in order to ensure that, should any mitigation be required, it is implemented at the appropriate stage of the development.

NOTE: The granting of planning permission does not overrule private legal rights of ownership and it is your responsibility to ensure you have the legal right to carry out the approved works as construction and maintenance or parking of vehicles may involve access to land outside your ownership or subject to private rights of way.

NOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of:

07.30 and 18.30 hours - Mondays to Fridays

08.00 and 13.00hours - Saturdays

With no working Sundays or Public Holidays

In some cases, different site specific hours of operation may be appropriate.

Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which work may be carried out.

NOTE: It is the applicant's responsibility to find out whether any works approved by this planning permission, which involve excavating or working near public highway and any highway structures including retaining walls, will require written approval from the Council's Highways Structures Section. Please contact the Highways Structures Section on Tel No. 01484-225397 for further advice on this matter.

NOTE: Due to its location, a bat roost may be present on site. Bats are a European protected species under regulation 41 of the Conservation of Habitats and Species Regulations 2010. It is an offence for anyone intentionally to kill, injure or handle a bat, disturb a roosting bat, or sell or offer a bat for sale without a licence. It is also an offence to damage, destroy or obstruct access to any place used by bats for shelter, whether they are present or not.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Site plan	711	P09	02-Nov-2018
Visibility splay	714	P03	02-Nov-2018
Design and access statement			02-Nov-2018
Proposed site sections	712	P06	06-Dec-2018
Proposed tree removal	716	P01	02-Nov-2018

Plan Type	Reference	Version	Date Received
Site plan (with visibility line from no.7a Riley Lane)	715	P02	25-Oct-2018
Location plan	710	P02	14-Sep-2018
Heritage statement			13-Sep-2018
Floor plan	720	P06	28-Aug-2018
Mine entry interpretive report	51001424330002		28-Aug-2018
Topographic survey	4120JA		28-Aug-2018
Street scene	713	P02	06-Dec-2018
Mining Report	51001895164001		14-Dec-2018
Coal mining risk assessment	CCG-C-18-10746		17-Jan-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. In this case, the applicant was requested to amend the scheme as well as to provide additional information in order to address the residential amenity and the highway safety concerns. The revised drawings were re-advertised. The applicant also submitted a Coal Mining Risk Assessment in order to address the concern of the Coal Authority. The application has been assessed on the basis of this additional / revised information. Pre-commencement conditions have been agreed prior to the issuing of this decision notice.

Report Dated: 08-Feb-2019