

**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: 2020/62/91337/W

Site Address: adj, 1A, Mount Pleasant Lane, Fenay Bridge,
Huddersfield, HD8 0AT

Description: Erection of detached dwelling and formation of parking
spaces with associated works

Recommending Officer: William Simcock

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.**

Teresa Harlow

AUTHORISED OFFICER

Date: 19-May-2021

Officer Report 2020/91337

Adjacent to 1A Mount Pleasant Lane, Fenay Bridge

Site Description

The site comprises a garden plot to the side of a detached dwelling which is located near the southern or lower end of Mount Pleasant Lane, a narrow unsurfaced track leading up from the northern side of Penistone Road and serving 3 other properties. The site is steeply sloping, being higher at its eastern end and lower at the western end where it meets Mount Pleasant Lane – at this point there is a double garage built into the banking, serving 1A. The upper, or eastern boundary, is marked by a footpath and cyclepath which is not a Public Right of Way but forms part of the Proposed Core Walking and Cycling Network and was secured by Section 106 Agreement for a previous development scheme. Surrounding development is of mixed ages and styles, with small terraced houses to the west and modern townhouses above on the other side of Fenay Bridge Road.

Description of Proposal

The proposal is for full planning permission for the erection of a single detached dwelling and formation of two car parking spaces.

The dwelling is to be sited near the western end of the plot (i.e. close to the Mount Pleasant Lane frontage) and is to be four storeys in height with a double-pitched roof, with an integral garage at understorey level, and a total of 5 bedrooms, two of these in the attic. Overall ridge height would be 94.89m AOD compared with 95.49m AOD for the existing house. The integral garage would project 6m forward of the main front wall and there would be a small single-storey projecting element above this at ground floor level coming out 3m. Both structures would have a rooftop terrace. The land at the rear would be terraced to form a garden for the occupants.

The new parking spaces would be provided to serve the existing dwelling (to compensate for the loss of the existing garage) off Fenay Bridge Road. The spaces would be formed partly within an existing area of land which is at highway level, and partly by constructing a raised platform within the applicant's garden. The land-raising work has already commenced.

History of negotiations/amendments received

14-Dec-2020: Amended site plan / location plan including the proposed parking spaces in the red line boundary (change for access arrangements) and subsequent re-routing proposed walking and cycling network (this was deemed necessary so as to ensure that all land relating to the application was included in the red line boundary).

01-Mar-2021: Further amendment showing re-routing of proposed walking / cycling network around the front of the site instead of the rear, and contextual elevation

22-Mar-2021: Proposed section through parking spaces.

09-Apr-2021: Amended block plan showing fencing and refuse collection details.

The above plans were not re-advertised as they were not considered to raise substantial new planning issues.

Relevant Planning History

2020/91755 – Tree work application (Woodland no. W2, Sycamores, crown lift removing small diameter branches only (less than 15 cm) and prune back branches to a suitable side branch, to give 4-5 metres ground clearance and 2-3m clearance from adjacent structures). Granted.

Representations

Final publicity date expired: 7th August 2020 (Advertised by neighbour notification letter only in accordance with the Development Management Procedure Order and by Table 1 of the Kirklees Development Management Charter. It would have been classed as a departure from the adopted plan, and therefore required a site notice and press advertisement, had it not incorporated a proposal for re-routing of the proposed Core Walking & Cycling Network – see section 4A of Assessment.)

Kirkburton Parish Council – No comment.

6 representations have been made from other third parties.

1. New access to Fenay Bridge Road would be dangerous because it is a busy road and near a bend with poor visibility, conflict with cycle track.
2. Headlights would shine into lounge opposite which would affect amenity.
3. Loss of habitat, including for bats and owls, from clearance of trees and vegetation. There should be re-planting
4. Notices not posted and the properties directly opposite the site of the new parking spaces were not notified.
5. Form misleadingly claims there is no new access to the highway and there is lack of detail on access for heavy vehicles

6. Comment: Does not object but requests that a 2m fence is erected by the developer in advance of any building work, so as to maintain and secure privacy. The fence should also be windproof.

The amended plans were not re-advertised due to the limited alterations proposed.

Councillor Comments:

Ward Councillor Alison Munro:

Comments made July 2020:

- There has been substantial clearance of trees and vegetation on and adjacent to the site, and potential loss of bat habitat and biodiversity, which isn't acknowledged;
- There are other trees close by that could influence the development;
- Concerned about the implications of forming new parking / access off Fenay Bridge Road;
- Access from the rear will also be difficult for builders;
- Lack of clarity about the amount of living accommodation to be provided;
- Access to parking spaces will cut across cycle way;

January 2021:

- Would like it to be a Sub-Committee decision.

Updated comments 25-Jan-2021:

- I am now clearer about what is being proposed
- On balance the new access point is acceptable and will not interfere with the cycle way.
- Withdraw request for a Sub-Committee decision.

Ward Councillor Bernard McGuin

- I am registering a concern about this application
- Access on Mount Pleasant Lane is impossible, the applicant is giving his garage to the new dwelling and giving up his access, I believe he is trying to create an access from Fenay Bridge Road very close to the cycle way.

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 Development Management – Acceptable subject to condition.

- KC Public Rights of Way – Do not object in principle but have concerns about interaction with footpath.
- KC Transport Strategy and Policy – No objections to re-routing of proposed Core Walking and Cycling Network as shown on plan Revision B.
- KC Arboricultural Officer – No objections.
- The Coal Authority – No objections.

NOTE – No part of the site falls within a Coal Referral Area.

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 within a Strategic Green Infrastructure Corridor on the Kirklees Local Plan. The upper part of the site is within a Wildlife Habitat Network.

Part of the Core Walking and Cycling Network traverses the site. Mount Pleasant Lane carries the route of a Claimed Path KIR/dmno app143/10.

It is considered that the scale and nature of the development does not raise access or Equality Act considerations.

Kirklees Local Plan (LP):

- **LP 1:** Presumption in favour of sustainable development
- **LP 7:** Efficient and effective use of land and buildings
- **LP 21:** Highways and access
- **LP 22:** Parking
- **LP 23:** Core walking and cycling network
- **LP 24:** Design
- **LP 28:** Drainage
- **LP 30:** Biodiversity and geodiversity
- **LP 31:** Strategic Green Infrastructure Network
- **LP 33:** Trees

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 5 – Delivering a sufficient supply of homes
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flood risk and coastal change
- Chapter 15 – Conserving and enhancing the natural environment.

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 2) Impact on visual amenity (including any heritage considerations)
- 3) Impact on residential amenity
- 4) Impact on highway safety
- 5) Other matters – e.g. trees/ecology (e.g. bats)
- 6) Representations
- 7) Conclusion

1 – Principle of development: Policy LP1 of the Local Plan states that when considering development proposals, the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. LP1 goes on further to stating that:

“The council will always work pro-actively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.”

As set out in the Authority Monitoring Report (AMR), the assessment of the required housing (taking account of under-delivery since the Local Plan base date and the required 5% buffer) compared to the deliverable housing capacity, windfall allowance, lapse rate and demolitions allowance shows that the current land supply position in Kirklees is 5.88 years supply. The 5% buffer is required following the publication of the 2020 Housing Delivery Test results for Kirklees (published 19th January 2021).

As the Kirklees Local Plan was adopted within the last five years the five year supply calculation is based on the housing requirement set out in the Local Plan (adopted 27th February 2019). Chapter 5 of the NPPF clearly identifies that Local Authority's 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 an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should... support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes”.

Although the Local Planning Authority can demonstrate a five year land supply, it is noted that the development of this plot would be contribute to the housing supply in the district. However the provision of housing needs to be balanced against all policies and material planning considerations considered below.

Under Policy LP31, development proposals should ensure:

- i. The function and connectivity of the green infrastructure network is retained or replaced;
- ii. New or enhanced green infrastructure is designed and integrated into the development scheme where appropriate;
- iii. The scheme integrates into existing and proposed cycling, bridleway and walking routes, particularly the Core Walking and Cycling Network, by providing new connecting links where opportunities exist;
- iv. The protection and enhancement of biodiversity and ecological links, particularly within and connecting to the Kirklees Wildlife Habitat Network.

It is considered that the erection of a single dwelling on this plot would not affect the function or connectivity of the green infrastructure network. The development is therefore considered to be appropriate in principle under LP31. Implications for the Core Walking and Cycling Network, trees and biodiversity will be considered in detail later in the Assessment.

The proposal will be further assessed according to the following policies:

- LP7 - encourages the efficient use of previously developed land in sustainable locations provided that it is not of high environmental value and appropriate housing densities to ensure that land is used efficiently.
- LP21 – that proposals must ensure the safe and efficient flow of traffic and safe access.
- LP22 – appropriate parking to be provided given the type of development and the accessibility of the site.
- LP23 – Core walking and cycling network to be maintained.
- LP24 – the form, scale, layout and details of development must respect and enhance the character of the townscape and landscape, provide a high standard of amenity for future and neighbouring occupiers including appropriate distances between buildings and a high level of sustainability.

- LP28 – Sustainable urban drainage systems to be used where possible.
- LP30 – Development to incorporate biodiversity enhancement measures.
- LP33 – Trees and woodlands of significant amenity should be protected.

Under Chapter 11 of the NPPF, planning decisions should support development that makes “efficient use of land” taking into account the need for different types of housing, local market conditions, infrastructure, the prevailing character of the area, the desirability of promoting regeneration or change, and the importance of securing well-designed, attractive and healthy places. The advice in Chapter 12, “Achieving well-designed places”, should also be taken into account, in particular that planning decisions should aim to ensure that developments will function well, add to the overall quality of the area, optimise the potential of the site to accommodate development and create safe and accessible environments.

Also of relevance is Chapter 14 (opportunities to be taken to prevent development contributing to flooding) and 15 (any potential pollution impacts should be assessed at the planning stage, and biodiversity should be enhanced where possible.)

The application would result in one dwelling in an application site of approximately 364sqm in area. This would result in a density of development equivalent to about 27 per hectare. Policy LP7 attempts to achieve 35 dwellings per hectare. It is considered that the proposal would make efficient use of land having regard to prevailing densities in the surrounding area and can be considered to comply with the aims of LP7 and Chapter 11.

The development is therefore considered appropriate in principle subject to an assessment of amenity, highway safety, environmental and other criteria, to be examined in detail below.

2 –Impact on visual amenity: The immediate visual context of the site is formed mainly by the existing dwelling, 1A, which is two-storey and of modern appearance, and the other dwellings in the row which comprise a pair of old (probably 19th Century) semi-detached houses with some modern additions on medium-sized plots, and a detached two-storey dwelling of late-19th Century appearance at the end of the row. The rear elevations of 3-17 Penistone Road, a terraced row of mostly residential properties, can be seen from Mount Pleasant Lane. The site is not clearly visible from the A629 below or from Mount Pleasant Lane above, owing to the limitations of the topography and trees.

The proposed dwelling would be of greater overall bulk than no. 1A but would be set lower in the ground, and the main front elevation would also be set back from it. The projecting elements at understorey and first floor would

break up the flatness of the façade and thereby make it less imposing. It would be rather close to the plot boundaries to both sides (approximately 1.5m to the north and 800mm to the south), which would put it in marked contrast to nos. 1-2 which have more substantial space between their respective outer side walls and boundaries. In general however it is not unusual for substantial modern dwellings to be built very close to the side boundaries. Furthermore, Mount Pleasant Lane lacks a single dominant house style or consistent layout, and it would be seen also in the context of relatively dense development on Penistone Road below.

The overall amount of landscaping within the site is considered satisfactory in relation to the size of the dwelling and its context.

Taking the above factors into account it is considered that the new dwelling would not amount to overdevelopment and that it would respect and harmonise with the character of its surroundings.

The standard condition on materials – that samples be submitted for inspection and approved – should be imposed. So as to avoid the possibility of future overdevelopment given the size of the plot, and to ensure that future outbuildings do not result in the loss of ecological enhancements and landscaping (see Section 5, Ecology, below) it is recommended that permitted development rights for extensions, and outbuildings, are removed by condition.

Subject to this it would accord with the aims of LP24a.

3 – Impact on residential amenity: The proposed dwelling would have its main outlook to the west and east where it would not have an impact on any established residential development. The distance combined with the sharp levels difference would mean there would be minimal opportunity for overlooking of windows in the terraced houses below (which do not appear to have their main aspect in this direction anyway) – they could be overlooked from the new outdoor terraces but this could happen to some degree with the existing garden and is therefore not a serious concern.

There are no windows in the side elevations, other than the garden room elevation facing towards 1A, which is not considered problematic as it would not be very close to the boundary. The upper terrace is shown as having high obscure-glazed screening on its north side, with a 1m glass balustrade to the southern side. The lower terrace would also have a 1m glass balustrade on all sides. It is considered that the screening to the upper terrace is adequate to protect third-party land from overlooking and that overlooking from the lower terrace is not a serious concern given its position relative to neighbouring land.

There is a window in the neighbouring property to the north which may be a primary habitable room window but given the separation distance of approximately 12m, it is considered the impact would not be overbearing.

Whilst the new dwelling would have some impact on light to the side-facing bedroom window in 1A, this is considered acceptable since both properties are in the same ownership and 1A has its principal outlook to the front and rear not the side.

At over 200sqm gross floorspace, the dwelling would be in excess of that required by the Nationally Described Space Standards. The amount of outdoor amenity space is also considered satisfactory.

It is considered that the development would provide an acceptable standard of living for future occupants whilst not harming the amenities of neighbouring properties, thereby according with the aims of LP24(b).

This should be subject to the balustrading being installed as shown on the approved plans before the property is occupied, and no side-facing windows being formed at ground floor since they might not be fully screened by the fencing.

4 – Impact on highway safety: The unadopted Mount Pleasant Lane has limited visibility at its junction with Penistone Road. But it takes access over a parking lay-by rather than direct to the carriageway itself. Whilst Mount Pleasant Lane is substandard in width and surfacing, it is a cul-de-sac, shared with only a small number of existing properties, and the overall speed and volume of traffic on the lane is expected to be very low. The proposal would result in one substantial new dwelling taking access to the Mount Pleasant Lane, but at the same time the existing dwelling would no longer take access to the lane. It would therefore be difficult to demonstrate that the development would result in a material intensification of the lane, and any minor intensification that might result owing to the size of the dwelling and number of occupants is not considered to be of a level that would create or materially add to highway safety problems.

The proposed development would result in 2 spaces being provided for the original dwelling and 3 for the new dwelling, which is considered an appropriate number for a 5-bedroom house in this location. The 2 new spaces for the existing dwelling would take access to Fenay Bridge Road, an adopted but non-classified road. The parking spaces, which would be of standard width and approximately 5.8m in depth, would be on the outside of the bend. Visibility is good in both directions, the road is considered to be adequate in terms of width and alignment to take on the additional vehicle movements, and owing to the absence of any adverse comments by the Highway Officer, it is considered that the principle of taking access here is acceptable.

The proposal involves significant excavation but would not involve the interference with existing retaining walls, the garden terracing is considered to be relatively minor in scale and would not affect the stability of the existing raised cycleway, and whilst there would be substantial excavation close to Mount Pleasant Lane, the space would be infilled by the new dwelling not by new retaining walls. So it is considered that it does not raise land stability

issues affecting the public highway and accordingly the Highways Structures team were not consulted. In these circumstances, in accordance with para 179 of the NPPF the responsibility of ensuring a safe development rests with the landowner/developer.

Given the lack of parking space within the site (other than the garage which will be demolished) and to avoid the possibility of construction vehicles blocking Mount Pleasant Lane during excavation or construction, it is considered advisable to require a construction management plan by condition, even though Highways Development Management have not requested one. The agent has agreed to this in principle. This would also avoid conflict with the claimed path.

Subject to the above and provided that the all parking areas are formed before first occupation, retained and kept clear of obstructions, which can be conditioned, the development would avoid any impact on the free and safe use of the highway and accord with LP21-22.

4A: Impact on walking and cycling route: Part of the proposed Core Walking and Cycling Network, a Local Plan designation, crosses the site. If fully implemented it would connect Deighton in the north with Highburton in the south. Under Policy LP23, the core walking and cycling network must be safeguarded and any proposals that may prejudice its function, continuity or implementation will not be supported.

The footpath and cycleway that passes adjacent to the eastern boundary, turns to the east and emerges on to Fenay Bridge Road, is not a Public Right of Way but was is recognised as a cycle route having been so designated by application 2007/90537 (formation of path for cycling and walking) and by a Section 106 Agreement associated with a residential development further north (2001/90629).

The parking spaces do not encroach on to the existing cycle track. Whilst it is noted that the path of vehicles emerging from the proposed parking spaces may intersect with the path of cyclists and walkers emerging from the cycle track on to Fenay Bridge Road, it is considered that this is unlikely to give rise to a significant risk of collisions if all parties show due care and attention, and provided that the land immediately to the north of the parking spaces is kept clear of obstructions to visibility. The latest plan states in an annotation that there is to be no walling or planting in excess of 1m in height at this point, but it does not specify what area or what length of the boundary this would apply to. It is recommended that the condition should specify that it applies to all land edged in blue measured 2m back from the boundary of the site with the existing footway.

This path also forms part of the route of the proposed Core Walking and Cycling Network, which it is intended would continue southwards over the applicant's property and other private land, rejoining the adopted highway near the junction of Station Road and Penistone Road. There would be

severe practical difficulties in implementing such a scheme, not only because of fragmented land ownership but because of the very steep gradient down from the existing cycleway to the relevant garden land. The likelihood of this part of the Network being implemented in the near future would appear to be low. However, it is a statutory plan allocation and any development proposal that is contrary to LP23 would therefore be classed as a departure from the adopted plan.

The applicant has sent in two proposals for re-routing. KC Transport Strategy and Policy accepted that the earlier version (Rev B) would be acceptable as it would keep the continuity of the Network. The applicant subsequently sent in an alternative re-routing scheme so as to better protect the privacy of the existing or future occupants of no. 1A. This makes use of a few metres of the existing footway fronting the proposed parking spaces. KC Transport Strategy and Policy have been consulted on this new version but have not responded.

Planning Officers' view is that the proposed re-routing would not have any adverse impact on pedestrian safety since it would only affect the extreme northern end of the public footway, which does not continue north of the junction with the existing cycleway. If the route were to be implemented, this part of the footway could be designated a "shared surface". More generally the proposal would involve a very minor re-routing (it would affect only about 11m of the proposed Core Walking and Cycling Network). In addition, this application would provide an indicative extension of the cycleway where none currently exists over this private land.

It is considered therefore that it would be compatible with the aims of Policy LP23 and is not a departure from the Local Plan.

Permission should however be subject to a condition to ensure that the route of the cycle path, where it crosses the raised parking area, is kept open to ensure that the development does not prejudice its future implementation.

Meanwhile, Mount Pleasant Lane itself is a "claimed path" (an application has been made to add it to the PROW network) but it does not have the status of a Public Right of Way at present and it is considered that the development should not pose any threat to pedestrians using this route as there is no material intensification.

5 – Other matters:

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.

In this instance the applicant has not submitted any supplementary statement or other information to explain how the proposed development would help to address or combat climate change effects.

It is however noted that the development would make efficient use of land within a built-up area, that it would be approximately 200m from a bus stop on Penistone Road offering a frequent service to Huddersfield Town Centre, and that there is a small convenience store close to the site.

It is therefore considered that the development is compatible with the Council's carbon reduction aims.

Trees:

There are no protected trees affected by this proposal and none that meet the criteria for a new TPO to be served. Therefore, there are no objections to the proposal from the point of view of Policy LP33.

Ecology:

Part of the site is within the Kirklees Wildlife Habitat Network. At the time of the case officer's site visit this part of the site consisted mainly of bare earth and therefore has little ecological value in its present form. It is recommended that no survey work needs to be done before determination, but that the submission of an ecological design strategy (EDS) should be conditioned so as to ensure a suitable level of enhancement in accordance with the aims of policies LP30-31 and NPPF Chapter 15.

Boundary treatments:

The latest plan clarifies the extent of new boundary treatments (2m screen fence to side boundaries). This should be conditioned in the interests of maintaining the privacy of existing and future occupiers.

Refuse collection:

The plan shows a bin storage area just in from the boundary with Mount Pleasant Lane, and a bin collection point within the red line boundary just before the junction with Penistone Road. This is not ideal since the bins would further narrow the carriageway when placed there, but as the existing dwellings in the row are serviced in this way it is considered that one more would not make a material difference. The arrangements are judged acceptable and can be conditioned.

Drainage:

The site has not been identified as being at risk of flooding. The application form states that mains drainage is to be used for the disposal of surface water. This is in general the least sustainable form of drainage but given the constraints of the site a soakaway is unlikely to be effective and as it is for a

single dwelling it is considered disproportionate to require the installation of a sustainable drainage system or flow restriction technology. It is therefore considered acceptable in this instance.

Coal mining legacy:

The site is not within an area identified as being at high risk of coal mining subsidence and no conditions on this are required.

Air quality:

To promote sustainable means of transport in accordance with government guidance on air quality mitigation and reducing greenhouse gas emissions, in accordance with the aims outlined within Planning Practice Guidance, Policy LP204 and LP51 of the Local Plan and Chapter 15 of the National Planning Policy Framework, it should be conditioned that one new electric vehicle charging point be installed before the dwelling is occupied.

6 – Representations: Concerns relating to highway safety have been examined at length in the main part of the Assessment but are highlighted here together with other issues raised and officer responses.

1. New access to Fenay Bridge Road would be dangerous because it is a busy road and near a bend with poor visibility, conflict with cycle track.
Response: For the reasons set out in section (4) above, and given the lack of concerns raised by Highways Development Management, it is considered that the arrangement is acceptable and would not endanger highway safety.
2. Headlights would shine into lounge opposite which would affect amenity.
Response: It is considered that it would be difficult to substantiate a refusal on such grounds since it is normal for parking spaces and driveways to be placed directly opposite dwellings on the other side of the street and it is therefore not considered to raise a significant amenity concern.
3. Loss of habitat, including for bats and owls, from clearance of trees and vegetation. There should be re-planting.
Response: An ecological design strategy can be imposed as a condition as previously stated.
4. Notices not posted and the properties directly opposite the site of the new parking spaces were not notified.
Response: At the present time, due to the Covid pandemic, publicity is being undertaken in accordance with Table 1 of the Kirklees Development Management Charter. Site notices are not being posted except in those cases where it is a statutory requirement – in this instance it was deemed not to be necessary, for the reasons set out in “Publicity” above. The two properties referred to were not notified by letter because they were not directly adjacent to the site as defined by

the original red line boundary, The site boundary was subsequently amended to include the two new parking spaces. Under the terms of the Kirklees Development Management Charter the definition of adjoining owner/occupier (for neighbour notification letters to be sent) means any owner or occupier of land contiguous (touching the boundary) of the site. No. 6 & 8 Rushfield Vale do not share a boundary with the site, they are on the opposite side of the road. Nonetheless, the occupants of these properties were subsequently made aware of the application and made representations, which are summarised and taken into account here. It is therefore considered that no third party has been disadvantaged by the way that publicity was undertaken.

5. Form misleadingly claims there is no new access to the highway and there is lack of detail on access for heavy vehicles.

Response: The claim that there is no new access to the highway was understood to mean that the new dwelling in itself would not give rise to a new means of access. The implications of access to the new parking spaces has been carefully considered. A construction management plan (i.e. a schedule of means of access, parking, storage, etc, during construction) is considered an appropriate measure in the circumstances and will be imposed as a condition.

6. Comment: Does not object but requests that a 2m fence is erected by the developer in advance of any building work, so as to maintain and secure privacy. The fence should also be windproof.

Response: It is not standard practice to require a fence to be erected before building commences. The condition will instead require that the fence is erected before the dwelling is first occupied. Again, it is not a standard requirement that a fence has to be windproof – this is normally left to the discretion of the developer. If a fence is blown down, it can be rebuilt, and again it can be made part of the condition that the fence is retained at all times.

Ward Councillor Alison Munro:

Original comments.

- There has been substantial clearance of trees and vegetation on and adjacent to the site, and potential loss of bat habitat and biodiversity, which isn't acknowledged;
- There are other trees close by that could influence the development;

Response: Whilst it is not possible to gain an accurate idea of the biodiversity value of the site before clearance began, the opportunity exists for delivering enhancement, which can be conditioned. Some tree works were granted (consent 2020/91755 for the pruning of protected sycamores) but the development now proposed would appear to have no further impact on protected or mature trees, and the Arboricultural Officer has not raised an objection.

Updated comments 25-Jan-2021:

- I am now clearer about what is being proposed

- On balance the new access point is acceptable and will not interfere with the cycle way.
- Withdraw request for a Sub-Committee decision.

Response: Updated comments are noted.

Ward Councillor Bernard McGuin

- I am registering a concern about this application
- Access on Mount Pleasant Lane is impossible, the applicant is giving his garage to the new dwelling and giving up his access, I believe he is trying to create an access from Fenay Bridge Road very close to the cycle way.

Response: Concerns about proposed access arrangements have been examined extensively earlier in the report. Whilst Mount Pleasant Lane itself is not ideally suited to take on more development, it is not considered to amount to a material intensification as there would still be the same number of dwellings taking access to it. The proposed 2 new parking spaces to Mount Pleasant Lane are considered acceptable subject to conditions having regard to the position of the cycleway. Highways Development Management are supportive of both elements 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 – CONDITIONAL FULL PERMISSION

Decision Authorisation - Delegated Powers

Application Number: 2020/91337

Officer Recommendation: CONDITIONAL FULL PERMISSION

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, and to accord with Policy LP24 of the Kirklees Local Plan.

3. Samples of all facing and roofing materials shall be left on site for the inspection and approval in writing by, the Local Planning Authority, before work on the superstructure of the dwelling commences and the development shall be implemented using the approved materials.

Reason: In the interests of visual amenity and to accord with the aims of Policy LP24(a) of the Kirklees Local Plan.

4. Before the new dwelling is first brought into use, the integral garage as shown on the plans shall be provided and all areas to be used for the parking and turning of vehicles for the new dwelling shall be laid out with a hardened and drained surface, which shall be in accordance with the Communities & 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. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification), the garages shall be retained as such and shall not be converted to living accommodation.

Reason: To ensure a satisfactory layout and adequate parking in the interests of highway safety, to ensure that the development does not contribute to flood risk through increased run-off, and to accord with the aims of Policies LP21-22 and Policy LP28 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

5. Before the existing garage within the site is demolished, the two parking spaces to serve the existing dwelling, to be accessed off Fenay Bridge Road, shall be provided and laid out with a hardened and drained surface, which

shall be in accordance with the Communities & 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. Thereafter the parking spaces shall be retained as such and kept clear of all obstructions to their use by vehicles.

Reason: To ensure a satisfactory layout and adequate parking in the interests of highway safety, to ensure that the development does not contribute to flood risk through increased run-off, and to accord with the aims of Policies LP21-22 and Policy LP28 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

6. Before the existing garage within the site is demolished, all obstructions to visibility within the land adjacent to the new parking spaces referred to in condition (5) above, edged in blue on drawing number (20)002 Revision D, measured 2m back from the boundary between the new parking spaces and the existing public footway, shall be cleared of all obstructions to visibility exceeding 1.0m in height above the parking spaces. It shall thereafter be retained as such.

Reason: To ensure that adequate intervisibility is maintained between the new parking spaces and the adjacent footpath / cycleway in the interests of highway safety, and to accord with the aims of Policies LP21-22 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

7. Before the commencement of excavation or building works, other than works to form the new parking spaces off Fenay Bridge Road, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority, which shall describe the arrangements to be provided for the parking of contractors' and workers' vehicles, the storage of materials, the provision of workers' facilities, and details of how excavation and building works are to be undertaken whilst preventing or limiting obstruction to the public highway (in particular Mount Pleasant Lane). The approved Construction Management Plan shall be adhered to throughout the period of construction.

Reason: In the interests of preventing interference with the safe and convenient use of the highway, in accordance with the aims of Policy LP21 of the Kirklees Local Plan.

8. All areas for the storage of wastes as shown on drawing (20)002 Revision D shall be provided and laid out with a hardened and drained surface before the new dwelling is first occupied. These shall thereafter be retained at all times, free from obstructions and available for their use for the storage of wastes.

Reason: To ensure that suitable arrangements are provided and retained for the storage and collection of wastes in the interests of highway safety, sustainability and visual amenity and to accord with the aims of Policy LP24(d)(vi) of the Kirklees Local Plan.

9. Before work commences on the superstructure of the dwelling, an ecological design strategy (EDS) addressing mitigation and enhancement

shall be submitted to and approved in writing by the local planning authority. The EDS shall include the following.

- a. Purpose and conservation objectives for the proposed ecological works.
- b. Location (shown on appropriate scale plans) of specific make and model, or design, of habitat boxes, such as bat boxes, bird boxes and hedgehog refuges. Habitat boxes to be integral to new structures where appropriate.
- c. Details of how the design of boundary treatments will not obstruct the movement of hedgehogs.
- d. Planting schedule and planting plan showing the inclusion of native species of tree and shrub to be included within/at the boundary of the application area, and how this achieves the stated purpose.
- e. timetable to undertake the mitigation and enhancement measures
- e. Details of maintenance.

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: To ensure the development hereby permitted provides ecological enhancement measures sufficient to provide a biodiversity net gain in accordance with Policy LP 30.

10. Along the full length of the northern side elevation of the first-floor terrace, a solid screen fence or glazed panel (fitted with obscure glazing to provide a grade 5 degree of obscurity) of 1.8m in height above the level of the terrace shall be installed before the dwelling is first occupied. This shall thereafter be retained.

Reason: So as not to detract from the amenities of adjoining properties by reason of loss of privacy and to accord with Policy LP24(c) of the Kirklees Local Plan.

11. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification) no new door or window openings other than those expressly authorised by this permission shall be constructed in the external side walls of the dwelling at ground floor level at any time.

Reason: So as not to detract from the amenities of adjoining properties by reason of loss of privacy and to accord with Policy LP24(c) of the Kirklees Local Plan.

12. A screen fence of 1.8m in height shall be erected to the full length of both side boundaries of the site (north and south) before the new dwelling is first occupied and shall thereafter be retained.

Reason: In order to protect the privacy of adjoining residential properties and to accord with Policy LP24(c) of the Kirklees Local Plan.

13. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification), no development

falling within Classes A, B, or E of Part 1 of Schedule 2 to the above Order may be carried out within the land edged red on the approved location plan at any time.

Reason: To ensure that inappropriate extensions or outbuildings do not give rise to harm to the townscape or visual amenity by reason of overdevelopment of the plot, or have an oppressive or overbearing impact on the occupiers of neighbouring properties, and to accord with the aims of Policy LP24(a&b) of the Kirklees Local Plan.

14. One electric vehicle recharging point shall be installed within the dedicated garage or parking area of the hereby approved dwelling before it is first occupied. 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. The electric vehicle charging point so installed shall thereafter be retained.

Reason: In accordance with the aims of Policy 24(d & v) of the Kirklees Local Plan and government guidance on air quality mitigation, outlined within the Planning Practise Guidance and Chapter 14 of the National Planning Policy Framework, so as to promote infrastructure which encourages modes of transport with low impact on air quality.

15. The hatched area within the site boundary annotated as “Core Walking and Cycling Network Route 2016” on plan (20)002 Revision D shall be kept clear of any obstructions to its future use by pedestrians or cyclists.

Reason: So as not to prejudice the future implementation of the Core Walking and Cycling Network and to accord with the aims of Policy LP23 of the Kirklees Local Plan.

Construction Site Working Times – Footnote

It is recommended that noisy construction related activities should not take place outside the hours of:

07.30 to 18.30 hours Mondays to Fridays

08.00 to 13.00hours Saturdays

With no noisy activities on Sundays or Public Holidays

Construction Sites working times – Footnote

Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists, or is likely to occur or recur. Failure to comply with a notices served using the above mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Application form			13-May-2020
Location plan	(EX)001	A	14-Dec-2020
Proposed floor plans	(20)001		07-May-2020
Proposed elevations	(30)001		07-May-2020
Proposed site sections	(30)002		07-May-2020
Contextual elevation	(30)002	A	01-Mar-2021
Block plan with fencing and refuse collection details	(20)002	D	09-Apr-2021
Proposed section showing new parking spaces	(30)003		22-Mar-2021

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. The case officer requested amended plans during the application process for the purposes of clarification regarding highway and access issues.

Report Dated:

19-5-2021