

**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:** 2020/62/93329/W

**Site Address:** adj, 42A, Station Road, Fenay Bridge, Huddersfield,  
HD8 0AD

**Description:** Erection of one dwelling and associated works

**Recommending Officer:** Neil Bearcroft

**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: 11-Feb-2021**

## **Officer Report**

### **Site Description**

Adj 42a, Station Road, Fenay Bridge, Huddersfield, HD8 0AD

The site comprises an area of hard surfacing that is used for parking and turning associated with No.42a Station Road, along with a garden area and soft landscaping belonging to this property. No.42a is served by a long driveway that is accessed off Station Road. The dwelling of 42a Station Road, which is set behind the dwellings of No.44 and No.46 Station Road, is a split level (1 to 2 storey) detached house.

The site and surrounding land slopes downwards from east to west, with the properties to the south east of the site, No's.44 and 46 Station Road, sitting above the application site, and the land to the rear being below the site. The locality is characterised by residential development with an eclectic mix of dwellings in terms of type and design.

The site is not within a Conservation Area and there are no listed buildings within close proximity to the site.

### **Description of Proposal**

Planning permission is sought for the erection of detached dwelling at the site. The 4 bedroom dwelling, which is proposed to be rectangular in shape, would be split level due to the topography of the site, being single storey at the front and two storey at the rear. The dwelling is displayed to measure 7.5 metres by 10 metres. The dwelling would be sited back from Station Road, behind No's.40 and 46 Station Road and would be roughly sited in between No's.42a and 42 Station Road. The dwelling is proposed to be constructed from natural stone under a blue slate roof.

The access off Station Road is proposed to be shared with No.42A Station Road, and it is proposed to widen this access. A parking area to serve the property is proposed to the front and north side of the dwelling. Engineering works would be undertaken to provide a relatively level driveway to the north side of the dwelling, with walls being constructed to support this part of the driveway. Visitor parking is proposed off the lane from Station Road. It is proposed to subdivide the garden area of No.42a and provide the proposed dwelling with a private garden to the rear.

### **History of negotiations/amendments received**

The proposal was subject to pre-application advice and a number of the concerns raised at this stage have been addressed. During this planning application, Kirklees Council Highways Development Management stated that the access should be widened to allow vehicles to pass at the entrance and

internal turning should be provide to allow vehicles to turn within the site. Following this, amended details were provided by the applicant's agent, and whilst these did not fully address the concerns raised by Highways Development Management, it was considered that an adequately worded condition could resolve outstanding matters in this instance.

### **Relevant Planning History**

- 2018/92860 – Erection of detached dwelling – Refused (March 2019) & Appeal Dismissed (June 2019).
- 2017/91544 – Outline for erection of one dwelling with details of access – Approved (March 2018).
- 2016/91893 – Outline application for erection of one dwelling – Refused (November 2016) & Appeal Dismissed (March 2017)

Outline permission for a detached dwelling at the site was approved in March 2018 (2017/91544). In March 2019, a full application for a dwelling at the site was refused by the Local Planning Authority (2018/92860) for the following reasons:

1. *“The proposed dwelling by reason of its design, scale and massing would appear as an incongruous and discordant form of development, creating an overly prominent structure in the context of this site and street scene. The proposals as such would not improve the character and quality of the area, fail to respect and create a sense of local identity and the way it functions, conflicting with Policy PLP24 (a) (as modified) of the Kirklees Local Plan and paragraph 127(a &b) of the National Planning Policy Framework.*
1. *The proposed dwelling due to its scale and massing in close proximity to neighbouring properties, particularly no. 44 Station Road, would be dominant in terms of outlook from the rear and side of this property. In addition the close relationship with this property would result in an undue overbearing impact and harm the living conditions of the future occupants of the proposed property. This would not promote health and well-being and fail to provide a high standard of amenity for occupants of both the existing and proposed dwellings, contrary to Policy PLP24 (as modified) of the Kirklees Local Plan and paragraph no. 127(f) of the National Planning Policy Framework.”*

The proposed dwelling under this refused application was a two-storey detached house in an 'L' shape. It had a hipped roof to one side and gable to the other and facing materials of render and stone with concrete tiles to the roof.

The refusal by the LPA was appealed, but in June 2019 the Planning Inspectorate dismissed the appeal. The Inspector agreed with the LPA that the dwelling under that proposal would cause harm to the character and appearance of the area and would cause undue harm to No.44 and future occupants of the proposed dwelling in terms of overlooking and overbearing impact.

## **Representations**

Final publicity date Expires:

Neighbour letters expired on 1<sup>st</sup> December 2020.

In relation to the initial submitted plans, 3 representations have been received objecting to the initial proposal. The comments raised are summarised below (full comments are available to view on the Council's Planning Website):

- There have been refused applications at the site as well as dismissed appeals
- Overdevelopment of the site
- Garden grabbing
- Overlooking/loss of privacy
- Loss of light
- Creation of an overbearing effect
- Unsuitable external amenity area for No.42a and the proposed dwelling
- Concerns boundary treatment would be imposing
- Noise
- Construction nuisance
- Air pollution
- Highways safety concerns
- Lack of adequate off-street parking
- Ground instability issues

An amended block plan has been received, but it was not considered necessary to re-consult in relation to the revised plan given that this specifically relates to the widening of the access and turning areas, and this is not considered to materially alter the impact upon neighbouring properties.

## **Consultation Responses**

Kirkburton Parish Council: No comments received.

The Coal Authority: No objections subject to pre-commencement conditions.

KC Highways Development Management: To be considered acceptable to HDM the access should be widened to 5m to allow two vehicle to pass at the entrance and internal turning should be provided to allow vehicles at 42A and any visitors to turn within the site.

The above is a summary of the consultation responses received. Full responses from consultees can be viewed on the Council's Planning Webpage.

## **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 27<sup>th</sup> February 2019).

The site is unallocated on the Kirklees Local Plan Proposals Map.

#### **Kirklees Local Plan (LP):**

- **LP 1** – Achieving Sustainable Development
- **LP 2** – Place Shaping
- **LP 3** – Location of New Development
- **LP 7** – Efficient and Effective Use of Land and Buildings
- **LP 20** – Sustainable Travel
- **LP 21** – Highway Safety
- **LP 22** – Parking Provision
- **LP 24** – Design
- **LP 28** – Drainage
- **LP 30** – Biodiversity and Geodiversity
- **LP 33** – Trees
- **LP 51** – Protection and Improvement of Local Air Quality
- **LP 52** – Protection and Improvement of Environmental Quality
- **LP 53** – Contaminated and Unstable Land

#### **National Policies and Guidance:**

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 19<sup>th</sup> February 2019, the Planning Practice Guidance Suite (PPGS) first launched 6<sup>th</sup> 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 4** – Decision-Making
- **Chapter 5** – Delivering a Sufficient Supply of Homes
- **Chapter 9** – Promoting Sustainable Transport
- **Chapter 11** – Making Efficient Use of Land
- **Chapter 12** – Achieving Well-Designed Places
- **Chapter 14** – Meeting the Challenge of Climate Change, Coastal Change and Flooding
- **Chapter 15** – Conserving and Enhancing the Natural Environment

#### **Assessment**

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Impact on visual amenity

- 2) Impact on residential amenity
- 3) Impact on highway safety
- 4) Other matters – e.g. trees/ecology
- 5) Representations
- 6) Conclusion

### **1 – Principle of development:**

NPPF Paragraph 11 and LP1 outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation.

The dimensions of sustainable development will be considered throughout the proposal. Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be explored.

The site is without notation on the KLP Policies Map. Policy LP2 states that:

*“All development proposals should seek to build on the strengths, opportunities and help address challenges identified in the local plan, in order to protect and enhance the qualities which contribute to the character of these places, as set out in the four sub-area statement boxes below...”*

The site is within the Huddersfield sub-area. The listed qualities will be considered where relevant later in this assessment.

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.

Whilst concerns have been raised by third parties about development within the garden of an existing residential property, the Development Plan does not look to resist such development in principle.

It is relevant to note that outline permission (with all matters reserved apart from access) for one detached dwelling at the site has previously been granted at the site in March 2018 under 2017/91544. This outline permission is, just, still extant.

In principle, the quantum of development is considered acceptable although a more detailed assessment of the proposal's design and its impact on the surrounding environment, assessed against LP24 of Kirklees Local Plan amongst other Policies, is undertaken below.

## **2 – Impact on visual amenity:**

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby 124 provides a principal consideration concerning design which states:

*“The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”*

Kirklees Local Plan policies LP1, LP2 and significantly LP24 all also seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity.

LP24 states that proposals should promote good design by ensuring:

*“a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape...”*

In terms of the siting of the proposed development, the dwelling is proposed to the rear of No's.44 and 46 Station Road, and within a relatively similar line to No.42a. Officers consider there is not a particular uniform pattern of built development in the locality and there is a mixture in plot sizes. Whilst the proposal would reduce the openness of the site, it is considered that the proposal would result in adequate garden space for both No's.42 and 42a. Given the above, Officers consider that the proposal would not appear unduly at odds with the pattern of development. This conclusion was been reached by the Planning Inspector for a dwelling in a similar location under 2018/92860

Moving to scale and massing of the proposed dwelling, there is a mixture of house sizes within the immediate locality. Previously a dwelling two storeys in height was proposed at the site under application 2018/92860, but this was refused by the LPA and dismissed at appeal by the Planning Inspectorate. The Planning Inspector raised significant concerns with the scale and massing of the proposal and in their decision letter stated:

*“I consider that the dwelling’s two-storey form, its large scale and substantial massing would be unduly prominent on the townscape when viewed from Station Road. In addition, it would be very dominant on the skyline at the edge of the slope high above Fenay Drive. Combined with the uncommon gable and hipped roof design, the proposed dwelling would visually conflict with adjacent properties and would not integrate well into the townscape. In these respects, it would harm the character and appearance of the area.”*

Whilst outline permission has been granted at the site for a dwelling (2017/91544), the scale was a reserved matter and Officers noted that a single storey building could be acceptable at the site in the delegated report for this previous application. This outline permission is extant and is a material consideration in the assessment of this application.

In this current application, a rectangular split level dwelling is proposed, being single storey on the front elevation and two storey at the rear, and the proposed dwelling works with the topography of the site, unlike the dwelling previously proposed at the site (and refused). Officers consider that the proposed dwelling would appear single storey in height from Station Road, and would therefore appear more in keeping with the scale of the dwellings to the side, these being No’s.42 and 42a Station, from this highway. Whilst the dwelling is proposed to be two storey to the rear, it would be set lower down than the refused two storey dwelling at the site given that the dwelling would be split level, thereby helping to reduce its overall scale, especially when viewed from Fenay Drive. The simple rectangular form of the dwelling would also help to reduce the bulk of the dwelling. Given the above, it is considered that the scale and massing of the proposed dwelling would be appropriate.

In terms of the appearance of the building, there is an eclectic mix in terms of finishing materials in the locality, but stone and slate, as proposed, are not uncommon in the area (with No.42a having natural stone walls). The appearance of the dwelling is therefore considered to be acceptable from a visual amenity perspective.

In terms of landscaping, the heights of means of enclosure have not been disclosed, and details regarding the hard surfaces are limited. This information can be conditioned to ensure the creation of a pleasant environment.

It is therefore considered that, subject to conditions, the proposal would not result in the overdevelopment of the site, nor would it cause detrimental harm to the visual amenities of the locality. The proposed development is therefore considered to comply with Local Plan Policy LP24 and Chapter 12 of the National Planning Policy Framework.

### **3 – Impact on residential amenity:**

Section B and C of LP24 states that alterations to existing buildings should:

*“...maintain appropriate distances between buildings’ and ‘...minimise impact on residential amenity of future and neighbouring occupiers.”*

Further to this, Paragraph 127 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

#### No.42a Station Road

No.42a would be located to the side of the dwelling, and both dwellings would follow a relatively similar line. Give this, the northern siting of the proposed dwelling to No.42a and that the proposed dwelling would be set off from the side wall of No.42a, it is considered that the proposed dwelling would prevent undue harm to No.42a in terms of loss of light or the creation of an overbearing effect.

It is considered that views from rear facing windows within the proposed dwelling would be extremely oblique views of the very rear garden of No.42a. A ground floor window is proposed in the south side elevation of the dwelling, but suitable boundary treatment on the shared boundary will help to prevent clear views into the side windows within No.42a and the rear garden. This can be conditioned, and subject to this, it is considered that the proposal would not cause undue harm to No.42 in terms of loss of privacy or overlooking.

#### No.42 Station Road

The dwelling at No.42 is located to the north east of the site, and whilst it has a similar orientation to the proposed dwelling, the proposed dwelling would be set further back with the front wall being in similar line to the rear wall of No.42. Whilst set back further than the dwelling at No.42, given the set off of the dwelling from the side wall of No.42, the intervening landscaping on the shared boundary and that the proposed dwelling would not be on significantly higher land than the dwelling at No.42, Officers consider that the proposal would not cause undue harm to No.42 in terms of loss of light or overshadowing to this dwelling or the loss of outlook from this dwelling. The set off of the proposed dwelling from this neighbouring property and its overall height is also considered sufficient to prevent undue harm to the rear garden of No.42 in terms of overshadowing and the creation of an overbearing effect.

No windows are proposed in the side elevation facing this neighbouring property. Views from the first floor rear facing windows would be oblique ones of the rear garden of No.42 and this relationship is considered acceptable. It is therefore considered that the proposal would not cause undue harm to No.42 in terms of loss of privacy or overlooking.

#### No's.44 & 46 Station Road

The proposed dwelling would be located to the north west of No's.44 and 46 Station Road, and this is a two storey semi-detached building with No.44 being closest to the proposed siting of the dwelling. The front elevations of these neighbouring dwellings face towards the access into the site, and the front elevation of the proposed dwelling would be at an oblique angle to the front elevation of No's. 44 and 46 and the side elevation of No.44.

In relation to the previous proposal at the site for a two storey dwelling (2018/92860), which was refused and dismissed at appeal, in the appeal decision letter the Planning Inspector stated:

*"I acknowledge that there would be no direct window to window views and no views would be fully blocked. However, due to the limited separation distance between the elevations and the relationship of habitable rooms, I believe that there would be an unacceptable level of overlooking and some overbearing impact to both the occupants of No 44 Station Road and future occupants of the proposed dwelling."*

However, under this application, the front elevation of the dwelling would be single storey in height and the dwelling would be situated on a lower level to No.44 and No.46, and this would help prevent clear views into the first floor windows within these neighbouring dwellings and prevent undue harm to these properties in terms of the creation of an overbearing effect. These factors and the existing boundary treatment around No.44 and 46 would also help to prevent clear views into the ground floor windows of these neighbouring dwellings. Given the above, it is considered that the proposal would not cause undue harm to No's. 44 and 46 Station Road in terms of loss of light, loss of privacy or overlooking, or the creation of an overbearing effect.

#### No's.19, 21 and 23 Fenay Drive

The rear boundary of the site backs on to No's.21 and 23 Fenay Drive, with No.19 being sited to the side of No.21. These neighbouring dwellings are significantly set down from the site. The rear wall of the proposed dwelling would be approximately 7.1 metres from the rear site boundary, and the rear wall of No's.21 and 23 is approximately 9m from this shared boundary.

Given the significant difference in the levels, and through the use of suitable screening along the rear boundary, it is considered that harmful overlooking into the gardens of these properties and clear views into the windows of these dwellings could be avoided. Furthermore, given the separation distances involved and the orientation of the site to these neighbouring properties, it is considered that the proposal would prevent undue harm to these neighbouring properties in terms of loss of light, loss outlook or the creation of an overbearing effect.

#### Other dwellings

The proposed dwelling is considered to be sufficiently sited so as to prevent undue harm to any other dwellings in terms of loss of light, loss of privacy or overlooking, or the creation of an overbearing effect.

#### Amenity of future occupiers of proposed dwellings

Internally, the proposed dwelling would have a GIA of approximately 128 metres squared and the Nationally Described Space Standards (NDSS) recommends that the minimum GIA for a two storey four bedroom dwelling should be 97 metres squared. Therefore Officers are content that the proposed dwelling would provide an adequate standard of amenity for future

occupiers. In addition to this, Officers are content that the amount of private amenity space provided for the proposed dwelling would be adequate, as would the private amenity space of No.42a as a result of the subdivision of the garden area.

#### Noise

Concerns have been raised that the proposal would cause noise.

The site is already in a residential use, within a predominantly residential area, therefore it is considered that this proposed use of the site is unlikely to result in a material increase in the level of noise experienced by neighbours.

Concerns have been raised in relation to increased vehicular movements. However, given that the access is an existing one which serves an existing dwelling, it is considered that the use of this access to serve another dwelling is also unlikely to result in a material increase in the level of noise experienced by neighbours.

The matter of construction nuisance is not a material consideration, but is covered by other regulations. An informative in relation to construction practices shall be attached should permission be approved.

Given the above, it is considered that the proposed development complies with Local Plan Policy LP24 and Chapter 12 of the National Planning Policy Framework.

#### **4 – Impact on highway safety:**

This application is for a detached dwelling with 4 bedrooms. The Kirklees Highways Design Guide 2019 advises that such development requires 3 parking spaces, unless there are circumstances to suggest otherwise. Officers are content that at least 3 off-street parking spaces could be achieved on site. Further to this, 2 parking spaces are retained for No.42a, and visitor parking is also proposed on the site.

Kirklees Council Highways Development Management (HDM) have raised concerns regarding the width of the proposed access/driveway and a lack of internal vehicle turning on the initial block plan submitted with the application. Kirklees HDM stated that to be considered acceptable, the access should be widened to 4.5 metres to allow two vehicles to pass at the entrance and that internal turning should be provided to allow vehicles at No.42a and any visitors to turn within the site. This is to prevent vehicles needing to stand in Station Road, waiting to turn into the site or vehicles needing to reverse on the Station Road.

Following these comments, the applicant's agent provided an amended drawing displaying vehicular turning within the site, but the access is shown as less than 4.5 metres in width (being 4.2 metres). Despite this, Officers are confident an access at a width of at least 4.5 metres can be achieved in this

instance therefore this matter can be conditioned should permission be granted.

Thus, subject to conditions, it is considered that the proposed development would not cause detrimental harm to highways safety and that the proposed development is considered to comply with Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework.

## **5 – Other matters:**

### *Coal Mining*

The site is identified as being within a defined Coal Mining Development High Risk Area. The planning application is accompanied by a Coal Mining Risk Assessment Report (May 2017, prepared by Earth Environmental & Geotechnical Ltd). This report was also submitted in support of previous proposals for residential development at the site, which were considered by the LPA under planning applications, including 2018/62/92860/W, to which the Coal Authority raised no objection.

Based on a review of relevant sources of coal mining and geological information, the submitted report concludes that there is a potential risk posed to the development from possible past shallow coal mining activity. Accordingly, it goes on to make recommendations for the carrying out of intrusive ground investigations, in the form of boreholes drilled to 30.0m bgl, in order to investigate the shallow coal mining situation and to inform any necessary remedial measures.

The Coal Authority has noted that they welcomed the recommendation for the undertaking of intrusive site investigations. The Coal Authority go on to note that these should be designed by a competent person to properly assess ground conditions and to establish the exact situation regarding coal mining legacy which could pose a risk to the proposed development. The Coal Authority note that the findings of the intrusive site investigations should be interpreted by a competent person and should be used to inform any mitigation measures, such as grouting stabilisation works and foundation solutions, which may be required in order to remediate mining legacy affecting the site and to ensure the safety and stability of the proposed development.

### *Ecology*

The site is considered to be of limited ecological potential given that it comprises managed lawn and hard standing. As such it is considered that the proposal is unlikely to cause harm to protected species.

### *Climate Change*

On 12<sup>th</sup> November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan

predates the declaration of a climate emergency and the net zero carbon target. However, it includes a series of policies, which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

Due to the nature of the scheme, this being a proposal providing a new residential unit within the site, it is considered that one electric vehicle for the proposed dwelling should be provided to aid in the contribution to climate change.

#### *Permitted Development Rights*

Given the relatively modest scale of the garden to the rear of the proposed dwelling and the proximity of the proposed dwelling to existing neighbouring dwellings, it is considered necessary to remove permitted development rights for extensions and outbuildings in the in the interests of visual and residential amenity.

### **6 – Representations:**

In relation to the initial submitted plans, 3 representations have been received objecting to these. The majority of concerns raised have been addressed within the above assessment. Any remaining concerns raised will be addressed below:

Third Party Comment: Concerns the boundary treatment would be imposing.

Officer Response: A plan requesting details of the boundary treatments, including heights, will be conditioned should permission be granted to ensure that it does not cause undue harm to neighbouring properties.

Third Party Comment: Air pollution concern.

Officer Response: It is considered that the addition of a 4 bedroom dwelling in a residential area would not result in a material increase in air pollution levels in the area.

Third Party Comment: Ground instability issues.

Officer Response: The site is within a Coal Mining High Risk Development Area, but The Coal Authority has raised no objections to the proposal. Furthermore, Paragraph 179 of the NPPF states that where a site is affected by land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

An amended block plan has been received following the submission of the initial plans, but it was not considered necessary to re-consult in relation to the revised plan given that that this specifically relates to the widening of the access and turning areas, and this is not considered to materially alter the impact upon neighbouring properties.

### **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 proposed development would constitute sustainable development and is therefore recommended for approval.

**Recommendation**

**Approve**

## **Decision Authorisation - Delegated Powers**

**Application Number:** 2020/93329

**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, and to accord Policies LP3, LP7, LP21, LP22, LP24, LP28, LP30, LP33, LP51, LP52 and LP53 of the Kirklees Local Plan and Chapters 4, 5, 9, 11, 12, 14 and 15 of the National Planning Policy Framework.

3. Prior to the construction of the dwelling hereby approved above slab level, details of all the external facing and roofing materials of the dwelling shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the dwelling shall be carried out in accordance with the approved details and retained as such.

**Reason:** In the interests of visual amenity and to comply with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

4. No development shall commence until:

- a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and
- a) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

**Reason:** To identify and address coal mining legacy issues on the site and prevent risks to human health. This is to accord with Government guidance contained within the National Planning Policy Framework and Policy LP53 of the Kirklees Local Plan.

5. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works

and/or mitigation necessary to address the risks posed by past coal mining activity.

**Reason:** To ensure that coal mining legacy issues on the site have been fully addressed and remediated to prevent risks to human health. This is to accord with Government guidance contained within the National Planning Policy Framework and Policy LP53 of the Kirklees Local Plan.

6. Prior to the first occupation of the dwelling hereby approved, and notwithstanding the hard landscaping details in Drawing No.03 Revision A, a hard landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for hard landscaping the site shall include:

- details of the hard surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps; and
- the position, height and materials of means of enclosure/boundary treatments.

The hard landscaping elements so approved shall be completed in full before first occupation of the dwelling and shall be retained as such thereafter.

**Reason:** To ensure the creation of a pleasant environment for the development, in the interests of residential amenity and to comply with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

7. Prior to the first occupation of the dwelling hereby approved, and notwithstanding the access and driveway details within Drawing No.03 Revision A, a plan displaying an access and driveway of at least 4.5 metres in width shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the occupation of the dwelling hereby approved, the access and driveway shall be carried out in accordance with the approved details and retained as such.

**Reason:** In the interests of highways safety and to comply with Policies LP21 and LP22 of the Kirklees Local Plan and Chapter of the National Planning Policy Framework.

8. The parking area as displayed for the dwelling hereby approved in Drawing No.03 Revision A shall be provided prior to the first occupation of the dwelling hereby approved. The parking area 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 as amended or any successor guidance. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking or re-enacting that Order) these areas shall be so retained, free of obstructions and available for parking thereafter.

**Reason:** In the interests of highways safety, to ensure adequate space within the site for vehicle parking, to mitigate flood risk arising from surface water run-off and to comply with Policies LP21, LP22 and LP28 of the Kirklees Local Plan and Chapters 9 and 14 of the National Planning Policy Framework.

9. Prior to the first occupation of the dwelling hereby approved, one electric recharging point shall be installed within the dedicated parking area of the dwelling hereby approved. 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 the interest of supporting low emission vehicles and to accord with the guidance contained in Policies LP24 and LP51 of the Kirklees Local Plan and Chapters 9 and 15 of the National Planning Policy Framework.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking or re-enacting that Order) no development included within Classes A, B, C, D or E of Part 1 of Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority.

**Reason:** To prevent further development of the site, which could materially harm the visual amenity of the site and the amenity of neighbouring residents, and to comply with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

**NOTE:** NOTE: Birds and their nests are fully protected under the Wildlife and Countryside Act 1981 (as amended), which makes it an offence to intentionally take, damage or destroy the eggs, young or nest of a bird whilst it is being built or in use. Disturbance to nesting birds can be avoided by carrying out vegetation removal or building work outside the breeding season, which is March to August inclusive.

**NOTE:** The changes to the access within the adopted highway fronting the property will need to be constructed under a section 184 agreement of the 1980 Highways Act (vehicle crossings over footways and verges). You are required to consult the Design Engineer (Kirklees Street Scene: 01484 221000) with regard to obtaining this permission and approval of the construction specification. Interference with the highway without such permission is an offence which could lead to prosecution.

**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.

Plans and specifications schedule:-

| Plan Type                                                                        | Reference | Version | Date Received                 |
|----------------------------------------------------------------------------------|-----------|---------|-------------------------------|
| Application Form                                                                 | -         | -       | 5 <sup>th</sup> October 2020  |
| Location Plan                                                                    | -         | -       | 5 <sup>th</sup> October 2020  |
| Proposed Elevations                                                              | 01        | -       | 9 <sup>th</sup> October 2020  |
| Proposed Floor Plans                                                             | 02        | -       | 9 <sup>th</sup> October 2020  |
| Proposed Site Layout Plan                                                        | 03        | A       | 1 <sup>st</sup> February 2021 |
| Cross Section of Side                                                            | 04        | -       | 9 <sup>th</sup> October 2020  |
| Cross Section – Across Site                                                      | 05        | -       | 9 <sup>th</sup> October 2020  |
| Coal Mining Risk Assessment by Earth Environmental & Geotechnical dated May 2017 | A2040/G/1 | -       | 19 <sup>th</sup> October 2020 |

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 proposal was subject to pre-application advice and a number of the concerns raised at this stage have been addressed. During this planning application, Kirklees Council Highways Development Management stated that the access should be widened to allow vehicles to pass at the entrance and internal turning should be provide to allow vehicles to turn within the site. Following this, amended details were provided by the applicant's agent, and whilst these did not fully address the concerns raised by Highways Development Management, it was considered that an adequately worded condition could resolve outstanding matters in this instance.

**Report Dated:** 11.02.2021

