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:	2021/62/90888/W
Site Address:	29, Gernhill Avenue, Fixby, Huddersfield, HD2 2HR
Description:	Demolition of existing dwelling and erection of detached dwelling with integral garage
Recommending Officer:	Stuart Howden

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: 09-Jul-2021

Officer Report

Site Description

29 Gernhill Avenue, Fixby, Huddersfield, HD2 2HR

No.29 Gernhill Avenue comprises a detached bungalow dwelling constructed from stone, brick and render under a tile roof, set within a relatively spacious plot. The dwelling is set back from the highway of Gernhill Avenue, which it faces, and there is a driveway to the front of the dwelling which is accessed off Gernhill Avenue. The site benefits from a relatively sizeable front and rear garden. To the front of the site is a dwarf wall with planting screening parts of the site from the highway. A spring runs under the rear garden of the property.

The site is sited towards the end of a residential cul-de-sac comprising detached dwellings, ranging from single storey to two storey in height. Dwellings tend to be set back from the road, but dwellings vary in terms of form and detailing. The surrounding land slopes down from west to east. To the rear of the site is a woodland (Gernhill Wood) which is designated as part of the Kirklees Wildlife Habitat Network and is within the Green Belt.

The site is not within a conservation area and is not within close proximity to any listed buildings.

Description of Proposal

Planning permission is sought for the demolition of the existing dwelling on the site and the erection of a replacement detached dwelling with an integral garage.

The main body of the dwelling is proposed to have a front wall in a relatively similar position to that of the front wall of the existing dwelling, and the footprint of the dwelling would cover almost the entire width of the plot, being approximately 23 metres in width. The dwelling is proposed to be arranged over 3 storeys, with the 3rd storey in the roofspace. The dwelling is proposed to have maximum height of ~9.6 metres. The main body of the dwelling is proposed to have a hip to gable roof, but with a gable proposed on the front elevation of the dwelling and 3 gables protruding from the rear elevation of the building. An integral single storey double garage is proposed to project from the front wall of the dwelling. The dwelling is proposed to be constructed from a mixture of stone and render, under a tile roof. The floor plans display that the dwelling is proposed to accommodate 5 bedrooms.

A new access is proposed off Gernhill Avenue, whilst the existing one is proposed to be closed off. The new access would be centrally located and would lead to an external parking area and the integral garage.

History of negotiations/amendments received

Officers requested amended plans reducing the height of the dwelling and moving the dwelling further forward into the site, especially given a representation raised by a neighbouring occupier regarding the siting of the dwelling. Amended plans with a dwelling moved further forward and of a reduced height were provided and this addressed these officer concerns. Further to this, the Council's Ecology Officer requested a bat scoping survey and the Council's Lead Local Flood Authority requested a culvert survey, and such reports have been provided by the applicant and these internal consultees have raised no objections to the application. Officers have also requested a culvert protection plan and tree protection plan in relation to the demolition and development stage and this has been provided by the applicant.

Relevant Planning History

2020/93759 – Demolition of existing dwelling and erection of detached dwelling with integral garage – Withdrawn on 10th December 2020 due to Officer concerns with the scale and design of the development. Pre-application discussions took place after this and prior to the submission of this application.

97/91915 – Erection of Sun Lounge Extension and New Pitched Roof to Existing Garage – Approved on 15th August 1997.

94/91089 – Erection of Ground Floor Extension – Approved on 27th May 1994.

Representations

Final publicity date Expires:
First round of neighbour letters expired on 16th April 2021. However, following the submission of amended plan, adjacent neighbours were re-consulted and these letters expired on 18th May 2021.

2 representations objecting to the application have been received as a result of the above publicity. The comments raised are available to view in full on the Council's planning website, but the concerns raised are summarised below:

- Dwelling too large – not in keeping with other dwellings within street.
- More than 5 bedrooms capable given room in roof space therefore larger than other dwellings.
- On-site parking insufficient.
- Loss of outlook/creation of overbearing effect.
- Loss of private view.
- Loss of privacy/overlooking.
- Dwelling is too far back on the plot - Dwelling should be sited further into plot.

Whilst a culvert survey and amended ecology report have been received following consultation, as well as a culvert protection plan and tree protection

plan, these have not changed the siting, appearance or height of the dwelling therefore it was not considered necessary to re-consult again following the receipt of such information.

Consultation Responses

KC Lead Local Flood Authority: Following the submission of a culvert survey, no objections (provided measures are taken to avoid damage to the culvert during construction operations and there are no landscaping proposals to reduce the depth of the cover of the pipe).

KC Ecology: No objections following submission of revised bat scoping survey report subject to mitigation and compensation measures within report being implemented into the development.

KC Environmental Health: No objections subject to conditions.

KC Highways Development Management: No objections subject to conditions.

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 27th 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 27** – Flooding
- **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

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

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

- **Chapter 2** – Achieving Sustainable Development
- **Chapter 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

Other Material Considerations

- Kirklees Highways Design Guide (2019)
- Housebuilders Design Guide SPD (2021)
- Biodiversity Net Gain Technical Advice Note (2021)

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 (e.g. bats)
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.

Policy generally seeks to support residential development upon unallocated sites and there is no policy which restricts residential development in the residential curtilage of existing properties. However, LP7 establishes a desired target density of thirty-five dwellings per hectare. Regardless of the target density, in this instance one dwelling on the site is considered acceptable given that it is replacing an existing dwelling on the same site and that more than one dwelling has the potential to result in the overdevelopment of the site, especially given the linear pattern of development and relatively spacious plots along Gernhill Avenue. Therefore the quantum of development with respect to Policy LP7 is considered to be acceptable.

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 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…"

Principle 2 of the Kirklees Housebuilders Design Guide SPD states that new residential development proposals will be expected to respect and enhance the local character of the area by:

- Taking cues from the character of the built and natural environment within the locality.
- Creating a positive and coherent identity, complementing the surrounding built form in terms of its height, shape, form and architectural details.
- Illustrating how landscape opportunities have been used and promote a responsive, appropriate approach to the local context.

In relation to the proposed siting, development along the south side of Gernhill Avenue tends to be set back slightly from the road, but there is no strong building line. The front wall of the main body of the proposed dwelling would be set back a relatively similar distance from the road than the existing dwelling on the site, and the set-back from the road would be roughly in between the next door neighbouring dwellings of No's.27 and 31 Gernhill Avenue. The siting of the dwelling is considered to be acceptable, especially with regard to advice with buildings lines within the Kirklees Housebuilders Design Guide SPD.

Like existing development along Gernhill Avenue, the dwelling would face the street and there would be a spacious private garden to the rear of the dwelling. Further to this, whilst there would be space to the front for vehicular parking as with other development along Gernhill Avenue, the proposed development would not be dominated by hard landscaping to the front of the dwelling given the amount of garden retained in this location, which would help to retain the suburban character of the area and would be in line with guidance contained within the Housebuilders Design Guide SPD

In relation to the scale, the immediate context to the application site is of 1 to 2 storey detached dwellings, but there is variation in the overall volume of these buildings, with No.23 Gernhill Avenue being a relatively large two storey

dwelling that almost covers the entire width of the plot, as well as dwellings more modest in scale and massing. The properties on the south side of Gernhill Avenue tend to have wider plots and this has allowed for dwellings of a greater footprint than those on the north side of Gernhill Avenue.

The dwelling subject of this application is proposed to appear two storeys in height with accommodation at third floor level in the roofspace. From a visual amenity point of view, the principle of a dwelling two storeys in appearance on this site is considered acceptable when taking into account existing development along this street, even though the next door dwelling of No.27 is a bungalow. It is worth noting that No.31 next door was also a bungalow property which was demolished and replaced with a two storey dwelling (see 2012/90159).

However, whilst a two storey appearing dwelling could be acceptable, it is noted that the dwelling would be relatively high, deep and wide and would therefore has a large volume. The main body of the dwelling would have a ridge height of ~9.6 metres and an eaves height of ~5.7 metres. This eaves height would not be too dissimilar to other dwellings within the locality, but the ridge height would be relatively high in comparison to other two dwellings on the street (so as to achieve another storey in the roof space). Further to this, the dwelling would be a width of approximately 23 metres and depth of approximately 11 metres, and whilst it is considered that this would not be unusually wide or deep for a dwelling along the south side of Gernhill Avenue, it would add to the overall scale and mass of the proposed dwelling when taking into account the proposed height. The pitch of the roof would also be relatively steep in comparison to other dwellings on Gernhill

The above being noted about the relatively large scale and massing of the main body of the dwelling, it would be set back some distance into the plot (~15 metres), and it is considered that this would help prevent it from appearing an overly dominant or materially larger feature within the streetscene. In addition, whilst a relatively wide dwelling, there would still be set off from the side boundaries and room for spacious front and rear gardens, and it is not considered the dwelling would appear cramped on the site, especially with regard to the gaps between other dwellings along Gernhill Avenue.

Gable protrusions would add to overall bulk of the building, but 3 of these would be contained to the rear of the building, away from Gernhill Avenue. A wide projecting gable is proposed to the front of the dwelling, and whilst it does add to the volume of the building, such elements are not uncommon within the streetscene.

In relation to the integral garage to the front of the site, such a structure has the potential to be visually jarring and it adds to the overall amount of built development on the site, but given its single storey scale, the set back of the proposed dwelling into the site and that Gernhill Avenue has a number of similar types of structures (integral garages and detached garages) to the front of dwellings, it is considered that this element would be acceptable.

Given the above, whilst it is acknowledged that the proposed dwelling would be relatively large in scale and mass, on balance, it is considered that the scale and massing of the dwelling is acceptable from a visual amenity perspective.

In terms of the appearance, there is an eclectic mix of dwellings within the locality in terms of form, design and materials. A dwelling with a largely linear main body, with projecting elements from this would not appear out of character with other dwellings within the locality, including the garage (as alluded to above). Further to this, the finishing materials of stone and render, and the use of these would be relatively similar to the dwelling at No.23 Gernhill Avenue. The external materials are considered to be acceptable in principle. Further details of materials can be conditioned in the interest of the visual amenities of the locality.

Detailing regarding hard landscaping is relatively limited (including details of boundary enclosures, and this matter can be conditioned should be permission be granted so as to preserve the visual amenities of the locality.

On balance, it is therefore considered that, subject to conditions, the proposal would not cause detrimental harm to the visual amenities of the locality. The proposed development is 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.
Further to this, Principle 6 of the Kirklees Housebuilders Design Guide SPD states that residential layouts must ensure adequate privacy and maintain high standards of residential amenity, to avoid negative impacts on light, outlook and to avoid overlooking.

The properties most likely to be impacted by the proposed development are those sharing a boundary with the site, these being the next door properties of No's. 27 and 31 Gernhill Avenue. An assessment of the impact on neighbouring properties will be undertaken below, but it is considered that the dwelling would be sufficiently sited so as to prevent undue harm to the amenities any other neighbouring properties in terms loss of light, overlooking or loss of privacy, or the creation of an overbearing effect.

No. 31 Gernhill Avenue

No.31 is a recently constructed detached two storey dwelling (2012/90159) to the west of No.29. This neighbouring dwelling is currently set in front of the existing dwelling at No.29, thereby the dwelling at No.29 protrudes beyond the rear wall of this neighbouring dwelling by approximately 9 metres.

The main body of the proposed replacement dwelling would also be set beyond the rear wall of this neighbouring dwelling. However, it will be greater in height therefore there is more potential for harm to this neighbouring property in terms of loss of light, loss of outlook, overshadowing and the creation of an overbearing effect. Initially, the nearest part of the main body of the dwelling was proposed to be sited ~9 metres beyond the rear wall of No.31, but following reservations held by Officers, the dwelling was moved further forward. As a result of this revision, the side wall of the proposed dwelling would still clearly be a visible feature from within the garden of No.31 and windows within No.31, and some harm to this neighbouring property is envisaged.

However, the side wall of the main body of the dwelling would be set off the side boundary by approximately 3.5 metres, would be set off the side wall of No.31 by approximately 6.5 metres and would be set lower down to this neighbouring property due to the topography of the area. In addition to this, the proposed dwelling would not breach a horizontal 45 degree line when measured from the nearest rear facing windows within No.31. Further to this, whilst there would be some overshadowing as a result of the proposed development, this is only likely in the earlier hours of the morning given the orientation of the proposed building to No.31. It is therefore considered that the proposed set back of the dwelling would not cause undue harm to No.31 in terms of loss of light, loss of outlook, overshadowing or the creation of an overbearing impact.

The Housebuilders Design Guide SPD recommends a minimum 12 metre separation distances between windows of a habitable room that faces onto windows of a non-habitable room. Whilst there are two side windows within No.31 facing towards the site, one of these is a secondary source of light to a front room, whilst the other serves a non-habitable room (bathroom), therefore it is considered that the loss of light or outlook to these windows would be acceptable.

First floor side windows are proposed which would directly overlook the garden of No.31 given the set back of the proposed dwelling at No.31, therefore it is considered necessary to attach a condition that these side windows are obscurely glazed and fixed shut to prevent such views. Views from the side facing ground floor windows would likely be adequately screened by the existing means of enclosure on the side boundary and the fact the proposed dwelling is on lower land to No.31.

It is noted that the existing dwelling is single storey which does prevent views from rear windows into the neighbouring garden of No.31, whilst views of the rear garden of No.31 would be achievable from the rear facing windows above ground floor level. However, in such an instance it is considered that it

would not be reasonable to restrict rear facing windows above ground floor level. Firstly this is because of similar relationships along Gernhill Avenue where rear windows achieve oblique views into neighbouring rear gardens. It is important to note that No.29 was not previously overlooked by first floor windows of next door neighbouring properties until the bungalow at No.31 was recently replaced with a two storey dwelling which included a rear balcony. In addition to this, dormers could be added to the existing roof of No.29 without planning permission.

In principle, the rear facing windows above ground floor level would only achieve oblique views of No.31 which is considered acceptable. That said, a rear facing bay window is proposed at first floor window near to the boundary with No.31 and a pane of this this would angle towards to the garden of No.31, but the applicant has outlined that this pane of the window would be obscurely glazed to restrict the views into this garden and this solution is considered acceptable, and this matter can be conditioned. Concerns have been raised by the proposed rear balcony at first floor level, but by being centrally located to the rear of the dwelling it would be set off the side boundary shared with No.31, and this would only be a Juliet balcony, therefore it is considered that the views from this balcony would be oblique ones of the neighbouring garden. Thus, it is considered that the proposed dwelling would not cause undue harm to No.31 in terms of loss of privacy or overlooking.

No.27 Gernhill Avenue
No.27 is a detached bungalow dwelling, and the proposed dwelling would be set in front of this neighbouring dwelling.

As the proposed dwelling would not be set beyond the rear wall of No.27 and would be located directly to the west this neighbouring dwelling, it is considered that the dwelling would not result in undue loss of light to rear facing windows in No.27, nor would it unduly overshadow the rear garden of No.27.

It is noted that the proposed dwelling would be on higher land to No.27 and given its height and depth, it will likely have an overbearing impact on the side of this neighbouring property and will result in a loss of outlook and light to windows on this side elevation of the dwelling facing the site. However, the area between the dwelling at No.27 and the site mainly serves a relatively narrow means of access to the rear garden of No.27 therefore it is considered this relationship is acceptable. Further to this, the windows on the side elevation of No.27 serve a non-habitable room (a utility room) and a secondary source of light to a living room (which also has a window facing to the rear therefore this room would still receive adequate light), therefore the loss of light and outlook to these windows is considered acceptable in this instance.

No first floor side facing windows are proposed. As noted above, the existing dwelling is single storey which does help prevent views from rear windows into the neighbouring rear gardens, including No.27, which is not well

overlooked. As a result of the proposal, views of the rear garden of No.27 would be achievable from the rear facing windows above ground floor level. However, in such an instance it is considered that it would not be reasonable to restrict rear facing windows above ground floor level and the reasoning for this is discussed further above (i.e. similar relationships established in the area and that dormers could be added to the existing roof of No.29 without planning permission).

In principle, the rear facing windows above ground floor level would only achieve oblique views of No.27 which is considered acceptable. However, a rear facing bay window is proposed at first floor window near to the boundary with No.27 and a pane of this would angle towards to the garden of No.27, but the applicant has outlined that this pane of the window would be obscurely glazed to restrict the views into this garden and this solution is considered acceptable, and this matter can be conditioned. In addition, it is considered that views of the rear garden from the balcony would be oblique ones given it would be a Juliet balcony that would be set some distance off the shared boundary with No.27. Thus, it is considered that the proposed dwelling would not cause undue harm to No.27 in terms of loss of privacy or overlooking.

Amenity of future occupiers of proposed dwelling

It is considered that the proposed dwelling would benefit from adequate internal space when referring to the Nationally Described Space Standards and is therefore in compliance with Principle 16 of the Kirklees Housebuilders Design Guide SPD. The amount of private amenity space for the proposed dwelling is also considered acceptable. Given the above, it is considered that the proposal would provide an adequate standard of amenity for the future occupiers of the proposed dwelling, and would be in compliance with Principle 17 of the Housebuilders Design Guide SPD

Permitted development rights

Given the overall scale of the proposed dwelling, that being a storey greater than No.27 which is on lower ground, and that the proposed dwelling would be set beyond the rear wall of No.31, it is considered appropriate to remove permitted development rights for extensions and outbuilding so as to protect the amenities of the occupiers of neighbouring residential properties. It is worth noting that permitted development rights for extensions were removed for the replacement dwelling at No.31 to protect the visual amenity of the locality (under application 2012/90159).

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:

Paragraph 109 of the NPPF states that: *"Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."*

Kirklees Highways Development Management (HDM) has referred to the Kirklees Highways Design Guide with regard to on-site parking and noted that for a 5 bedroom dwelling (as is proposed here), 3 on-site parking spaces would be expected. HDM has stated that more than sufficient parking is proposed here, with a double garage and area in front of the garage for 2 additional spaces on the driveway. A third party has noted that the space in the roof could be used as bedrooms and that this may result in more vehicles and street parking. Whilst this point is acknowledged and understood, the Kirklees Highways Design Guide does not provide recommended parking standards for dwellings over four bedrooms. That said, Officers consider that there is likely to be space on the site to accommodate up to 5 cars. Further to this, the site is within a sustainable location close to services and bus stops. The on-site parking provision is therefore considered acceptable. A condition will be attached stating that this parking area and garage shall be provided prior to the first occupation of the dwelling in the interest of highway safety. The matters of surfacing and drainage will also be captured under this condition.

A new access is proposed, but this is proposed in a not too dissimilar location to the existing access and it is considered that is acceptable from a highways safety point of view.

HDM have noted that no details have been provided to show bin storage or waste collection arrangements therefore they have requested details of this are conditioned. Officers consider that there is sufficient space on the site to store bins without causing undue harm to the visual amenities of the locality or highway safety and that it is not necessary to condition this. The matter of collection is considered to be similar to the existing scenario in relation to the current dwelling.

Given the above, Officers consider that the proposal would not cause detrimental harm to the safe and efficient operation of the highway network. The proposal is therefore 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:

Trees
The proposals are not significantly closer to the adjacent woodland and therefore unlikely to cause any significant harm either direct or indirect. In relation to the previous application at the site for a replacement dwelling in a not too dissimilar position (2020/93759), the Council's Arboricultural Officer noted that they had no objections, but raised concerns of accidental damage to trees during works. That is, the work to demolish the existing property and construct a replacement dwelling could put the adjacent trees at risk of accidental damage; from storage of materials; tracking of machinery; cement mixing etc. The Arboricultural Officer has therefore requested a Tree Protection Plan prior to works commencing on the demolition of the property.

Such a plan detailing exclusion zones for materials and machinery with heras fencing has been submitted and Officers are satisfied that adherence to this will protect trees along the side and rear boundaries.

Ecology
Initially, KC Ecology requested a bat scoping survey prior to the determination of this application given that the site is within a bat alert zone and adjacent to woodland (also designated as part of the Kirklees Wildlife Habitat Network), and as a consequence the demolition of the building has the potential to disturb bats.

Following this, a Bat Scoping Survey by a qualified Ecologist was submitted. The survey concluded that the existing dwelling has negligible roost potential and that the application is unlikely to impact the local bat population.

KC Ecology reviewed the Survey noting that the findings of the survey are acceptable and therefore no further activity surveys are necessary. However, the report did not include any consideration of the potential indirect effects on the adjacent woodland such as new lighting as a result of the proposal and therefore KC Ecology requested an addendum to the report to include prescriptions to avoid impacts to bats as a result of any lighting to be installed.

An amended report was provided which outlines measures when installing security or recreational lighting to the south elevation of the house, including no luminaires to be angled upwards and all luminaires to have anti-spill cowls. KC Ecology has reviewed this updated information and has raised no objections provided that these measures are implemented into the development, as well as the measure to include a bat box on a tree to the west of the site to provide biodiversity net gains in accordance with Policy LP30 of the Kirklees Local Plan. Officers see no reason to disagree with the conclusions of KC Ecology.

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 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 larger replacement residential dwelling within the site, it is considered that at least one electric vehicle charging point should be provided to aid in the contribution to climate change.

Drainage
On site it was apparent that a culvert/underground stream ran through the rear garden of the site, as well as through the next door neighbouring properties. Given this, Kirklees Lead Local Flood Authority were made aware and requested a survey of the culvert prior to the determination of the application, including details of the location, size and depth below. A survey was later provided by the applicant and after assessing this the LLFA stated that the information indicates that there is sufficient easement to the culvert and the foundations of the new building will not affect the existing pipe. The LLFA have therefore raised no objections, provided measures are taken to avoid damage to the culvert during construction operations and there are no landscaping proposals to reduce the depth of cover above the pipe.

Following this Officers requested a Culvert Protection Plan and such a plan has been provided by the applicant. This displays a ground protection mat over the culvert and this would also act as an exclusion zone for the storage of plant, machinery and materials, and this is considered acceptable. The presence of the culvert across the site is another reason to remove permitted development rights to outbuilding as these could disrupt or damage the culvert or lead to the flooding of land downstream.

Construction Practices
The Council's Environmental Health Officer has requested that construction site working times are conditioned. Given that construction practices are covered by other regulations it is not considered necessary or reasonable to attach such a condition for a development of this scale, but an informative regarding such practices can be attached instead.

6 – Representations:

2 representations have been received objecting to the application. The majority of the comments raised have been addressed in the above assessment. Any other comments will be addressed below:

Third Party Comment: Loss of private view
Officer Response: This matter is not a material planning consideration.

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, that on balance and subject to conditions, the proposed development would constitute sustainable development and is therefore recommended for approval.

Recommendation **Approve**

Decision Authorisation - Delegated Powers
Application Number: 2021/90888
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 with Policies LP3, LP7, LP21, LP22, LP24, LP28, LP30, LP33, LP51 and LP52 of the Kirklees Local Plan and Chapters 4, 5, 9, 11, 12, 14 and 15 of the National Planning Policy Framework.

3. Prior to construction of the dwelling hereby approved above slab level, details of all the external facing and roofing materials shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details and retained as such.
Reason: In the interests of visual and to comply with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

4. Prior to the first occupation of the dwelling hereby approved, and notwithstanding the hard landscaping details in Drawing No. P-3 received on 27th April 2021 from the applicant, 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 including privacy screens.

The hard landscaping elements 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.

5. Prior to the first occupation of the dwelling hereby approved, the areas indicated to be used for parking and private driveway on Drawing No. P-3 received on 27th April 2021 from the applicant 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 visual amenity and traffic safety, to mitigate flood risk arising from surface water run-off, to ensure adequate space within the site for vehicle movements and parking and to comply with Policies LP21, LP22, LP24 and LP28 of the Kirklees Local Plan and Chapters 9 and 12 of National Planning Policy Framework.

6. Prior to the first occupation of the dwelling hereby approved, one electric vehicle recharging point shall be installed within the dedicated parking area. 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.

7. The development shall be carried out in strict accordance with the ecological measures outlined Section 11 (Mitigation and Compensation Measures) of the Bat Scoping Survey by John Gardner dated 23rd March 2021, and shall be retained as such thereafter**.**
Reason: To prevent disturbance of protected species and retain ecological functions of the Kirklees Wildlife Habitat Network and to ensure a biodiversity net gain, in accordance with Policy LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

8. Prior to the commencement of development hereby approved (including demolition), on site protective fencing in accordance with BS5837 shall be erected in accordance with the Tree Protection Plan (Drawing No. T-1) received on 23rd June 2021. The red dashed area contained by the protective fencing as displayed on this plan will be a construction exclusion zone where no machinery, soil, materials or equipment will be stored during the development. The fencing shall remain in place throughout the construction phase and only be removed once construction is complete.
Reason: This is a pre-commencement condition to protect trees during the whole demolition and construction period in the interests of visual amenity and to accord with the Policy LP33 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

9. Prior to the commencement of development hereby approved (including demolition), a culvert ground protection mat shall be laid out in accordance with the Culvert Protection Plan (Drawing No. C-1) received on 23rd June 2021. The mat will be a construction exclusion zone where no machinery, soil, materials or equipment will be stored during the development. The mat shall

remain in place throughout the construction phase and only be removed once construction is complete.
Reason: To prevent the risk of flooding on the site and elsewhere arising from damage to the culvert, in the interests of amenity and environmental well-being, and to accord with Policy LP28 and 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, 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, to mitigate flood risk through potential damage to the culvert crossing the site to comply with Policy LP24 of the Kirklees Local Plan and Chapters 12 and 14 of the National Planning Policy Framework.

11. Prior to the first occupation of the dwelling hereby approved, any windows above ground floor level in the west side elevation of the development hereby approved shall be fixed shut (unless parts of the windows which can be opened are more than 1.7 metres above floor level), and obscure glazed (Level 3 or above), and shall be retained as such thereafter.
Reason: To restrict overlooking, to preserve the amenity of future occupiers and neighbouring residents and to comply with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

12. Prior to the first occupation of the dwelling hereby approved, the first floor bay windows on the rear elevation detailed as to be obscurely glazed on Drawing No. P-2 received from the applicant on 27th April 2021 shall be fixed shut (unless parts of the windows which can be opened are more than 1.7 metres above floor level), and obscure glazed (Level 3 or above), and shall be retained as such thereafter.
Reason: To restrict overlooking, to preserve the amenity of future occupiers and neighbouring residents and to comply with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

NOTE: The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer, Flint Street, Fartown, Huddersfield (Kirklees Street Care: 01484 221000) with regard to obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution.

NOTE: It is the applicant's responsibility to find out whether the work approved by this planning permission requires written approval from the

Highways Structures section for works near or abutting highway and any retaining structures. Contact Highways Structures Section on Tel No. 01484-221000 who can advise further on this matter.

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

- 07.30 and 18.30 hours Mondays to Fridays.
- 08.00 and 13.00hours, Saturdays.
- With no working Sundays or Public Holidays.

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

NOTE: 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.

Plans and specifications schedule:-

Plan Type	**Reference**	**Version**	**Date Received**
Application Form	-	-	3rd March 2021
Location Plan	P-4	-	3rd March 2021
Proposed Floor Plans	P-1	-	27th April 2021
Proposed Elevations	P-2	-	27th April 2021
Proposed Site Layout Plan	P-3	-	27th April 2021
Culvert Report	-	-	24th May 2021
Culvert Location Plan	-	-	28th May 2021
Bat Scoping Survey by John Gardner dated 23rd March 2021	-	-	24th May 2021
E-mail from applicant on 11th June 2021 detailing proposed roofing materials	-	-	11th June 2021
Tree Protection Plan	T-1	-	23rd June 2021
Culvert Protection Plan	C-1	-	23rd June 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.

Officers requested amended plans reducing the height of the dwelling and moving the dwelling further forward into the site, especially given a representation raised by a neighbouring occupier regarding the siting of the dwelling. Amended plans with a dwelling moved further forward and of a reduced height were provided and this addressed these officer concerns. Further to this, the Council's Ecology Officer requested a bat scoping survey and the Council's Lead Local Flood Authority requested a culvert survey, and such reports have been provided by the applicant and these internal consultees have raised no objections to the application.

Report Dated: 08.07.2021