

**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:	2022/62/90203/W
Site Address:	1 , Una Place, Birkby, Huddersfield, HD2 2BQ
Description:	Demolition of existing bungalow and erection of two semi-detached dwellings
Recommending Officer:	William Simcock

DECISION - REFUSED

I hereby authorise the refusal 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: 23rd March 2022

Officer Report – 2022/90203

1 Una Place, Birkby

Site Description

The site comprises a detached bungalow and its curtilage sited on the eastern side of the highway. The plot measures approximately 19m from side to side and 21m from front to back. The bungalow, sited near the middle of the plot, measures 14.3m by 5.9m and has a hipped roof. It is within a high-density residential area consisting of mixed house types. There is a gentle downward gradient from north to south along the street. The bungalow is timber-framed and clad, and has a roof made of felt shingles.

Description of Proposal

The proposal is for the demolition of the existing bungalow and the erection of two semi-detached dwellings.

The dwellings would have a simple rectangular plan with a gabled roof, footprint would be 17.1m by 8.4m. They would have a combined living-kitchen area and integral single garage at ground floor 4 bedrooms at first floor.

They would be placed near the centre of the site, an average of 7m from the rear boundary. A single-width driveway would be provided to the front.

Proposed materials would be stone and tiles.

History of negotiations/amendments received

None.

Relevant Planning History

None.

Representations

Final publicity date expires: 01-Mar-2022

Three representations made in opposition. Summary of concerns raised:

- The proposed dwellings do not fit in well owing to their design and height and the materials look too modern;

- The existing bungalow contributes positively to local character;
- The gates will cause disruption to traffic flow;
- The walls are too high and will block light;
- Impact on privacy;
- Impact on light;
- Loss of view;
- Loss of a tree with no replacement, also general loss of soft landscaping with negative effects on wildlife and local drainage;

One representation made in support, with some caveats. Summary of points made:

- The design represents the neighbourhood and would replace an eyesore;
- However, the boundary treatment should be changed as it looks like a stockade. An open frontage would be better because there is not room for gates to open if a car is parked on the drive and would encourage on-street parking and disrupt traffic flow on a busy street. Fixed boundary fences should be limited to one metre.

Consultation Responses

The following is a brief summary of Consultee advice (more details are contained in the Assessment section of the report, where appropriate):

KC Highways Development Management – Recommend refusal.

KC Arboricultural Officer – No objection.

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 without designation on the Local Plan Proposals Map.

Kirklees Local Plan (LP):

- **LP 1:** Presumption in favour of sustainable development
- **LP 7:** Efficient and effective use of land and buildings
- **LP 21:** Highways and access
- **LP 22:** Parking
- **LP 24:** Design
- **LP 28:** Drainage
- **LP 30:** Biodiversity and geodiversity
- **LP 33:** Trees

Supplementary Planning Documents:

- KC Highways Design Guide 2019

The following SPDs were adopted on 29th June 2021 can be viewed on the council's website at <https://www.kirklees.gov.uk/beta/planning-policy/adopted-supplementary-planning-documents.aspx>:

- Housebuilders Design Guide Supplementary Planning Document, (HGD SPD)
- Open Space Supplementary Planning Document

These are now a material consideration in the determination of planning applications.

The following two documents have also recently been approved by Cabinet and these can be viewed at: <https://www.kirklees.gov.uk/beta/planning-applications/guidance-and-advice-notes.aspx>

- Biodiversity Net Gain Technical Advice Note
- Climate Change Guidance for Planning Applications

These documents can also be viewed in [G:\Planning\SPDs & Guidance Notes](#).

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

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

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Impact on visual amenity (including any heritage considerations)
- 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: Policy LP1 of the Local Plan states that when considering development proposals, the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. LP1 goes on further to stating that:

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

As set out in the Authority Monitoring Report (AMR), the assessment of the required housing (taking account of under-delivery since the Local Plan base date and the required 5% buffer) compared to the deliverable housing capacity, windfall allowance, lapse rate and demolitions allowance shows that the current land supply position in Kirklees is 5.17 years supply. The 5% buffer is required following the publication of the 2020 Housing Delivery Test results for Kirklees (published 19th January 2021).

As the Kirklees Local Plan was adopted within the last five years the five year supply calculation is based on the housing requirement set out in the Local Plan (adopted 27th February 2019). Chapter 5 of the NPPF clearly identifies that Local Authority's should seek to boost significantly the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development.

Paragraph 68 of the NPPF recognises that “small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should... support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes”.

Although the Local Planning Authority can demonstrate a five-year land supply at the present time (5.17 years), it is noted that the development of this plot would be contribute to the housing supply in the district. The provision of housing needs to be balanced against all policies and material planning considerations considered below.

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

- LP7 - encourages the efficient use of previously developed land in sustainable locations provided that it is not of high environmental value and appropriate housing densities to ensure that land is used efficiently.
- LP21 – that proposals must ensure the safe and efficient flow of traffic and safe access.
- LP22 – appropriate parking to be provided given the type of development and the accessibility of the site.
- LP24 – the form, scale, layout and details of development must respect and enhance the character of the townscape and landscape, provide a high standard of amenity for future and neighbouring occupiers including appropriate distances between buildings and a high level of sustainability.
- LP28 – Sustainable urban drainage systems to be used where possible.
- LP30 – Development must incorporate biodiversity enhancement measures.
- LP33 – Trees and woodlands of significant amenity should be protected.

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

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

The application would result in two dwellings in a site of 418 sqm. This is equivalent to 48 per hectare and is considered to make efficient use of the site. As such it would in principle support the aims of Policy LP7 and NPPF Chapter 11. As previously stated, it is in an area of high-density housing. The acceptability of the proposed development will however depend upon a comprehensive assessment of all aspects of visual amenity.

2 – Impact on visual amenity: The proposal will be considered having regard to the aims of LP24a, and also those of the Housebuilders' Design Guide, in particular:

Principle 2 – New development should take cues from the character of the natural and built environment and complement the surrounding built form.

Principle 5 – Development should maintain open space and residential amenity.

Principle 13 – Materials should be appropriate to the site's context.

Principle 14 – Design of windows and doors should relate well to the street frontage and other neighbouring properties.

Principle 15 – The design of the roofline should relate well to the site context.

Una Place is a very short residential street that does not have a clearly defined character. However, looking at a somewhat wider area including George Avenue, the site lies within an area of high-density housing in which most dwellings are set back a similar distance from the highway boundary and with only a short offset from the side boundaries. The area is dominated by two-storey houses not bungalows. The proposed development would represent a net increase in footprint as well as height, but the placement of the dwellings within the site in relation to front and rear site boundaries would resemble that of nos. 3-5 adjacent and neighbouring dwellings on George Street to the south. The dwellings would have a simple rectilinear plan and flat frontage (except for a small canopy porch). Roof style and pitch, and the proportion and distribution of windows, would also resemble that of nos. 3-5. The dwellings would each have an integral garage, which is not a typical feature of the area, but the garages would not dominate the front elevation and would not have an adverse impact on their appearance.

Boundaries on Una Street and George Avenue are typically formed by stone walls, sometimes with a privet hedge behind, and with either a single or double width driveway. Only the adjoining property to the north has a timber fence boundary. Whilst it is noted that the layout has been designed to avoid having a frontage dominated by parking, the choice of boundary treatment is not typical of the locality. If officers were minded to approve, an alternative could be sought.

It is concluded that the scale, layout, built form, design detail and palette of materials would respect the appearance of its surroundings, with alternative boundary treatment, and would accord with the aims of LP24a in addition to the relevant parts of the SPD.

3 – Impact on residential amenity: The following principles within the Housebuilder Design Guide are of particular importance:

Principle 6 – Residential layouts must ensure privacy and avoid negative impacts on light, having regard to the following standards:

- 21 metres between facing windows of habitable rooms at the backs of dwellings;
- 12 metres between windows of habitable rooms that face onto windows of a non-habitable room;
- 10.5 metres between a habitable room window and the boundary of adjacent undeveloped land; and
- for a new dwelling located in a regular street pattern that is two storeys or above, there should normally be a minimum of a 2 metres distance from the side wall of the new dwelling to a shared boundary.

Principle 16 – all new dwellings to have sufficient floor space to meet basic lifestyle needs, having regard to the Nationally Described Space Standards.

Principle 17 – All new houses should have adequate access to private outdoor amenity space that is functional and proportionate to the size of the dwelling and the character and context of the site.

The standards in Principle 6 above do not explicitly give a recommended minimum distance that should be maintained between habitable room windows and neighbouring gardens. “Undeveloped land” is normally understood to mean land with development potential, but it can also be taken to include residential gardens even if these do not have the potential to accommodate new dwellings, and the 10.5m standard can therefore be treated as a guideline. The dwellings, as previously stated, would face the boundary with the garden of 59 George Avenue at a distance of about 7m. This is only 2m closer than the existing bungalow, but the new houses would be two-storey with primary bedroom windows facing the rear. At present there is at least one rear-facing habitable room window and, whilst in a somewhat elevated position compared to no. 59, the line of site is at least partly obstructed by the privet hedge. The erection of a pair of two-storey dwellings, it is considered, would not result in an unacceptable degree of window-to-window overlooking because of the angles between the new and existing dwellings. But they would result in a materially greater degree of overlooking of the neighbouring garden than exists at present, and it is considered that the effect would be an unacceptable loss of privacy for the existing dwelling, despite being slightly mitigated by the presence of mature trees near the boundary. It would also result in sub-standard privacy for occupants of the rear-facing bedrooms in the new dwellings.

The window of bedroom 3 in the right-hand dwelling would also look towards the rear garden of no. 10 George Avenue at a distance of 6.5m. It would however only overlook the lower part of this property’s garden, which is already overlooked by the rear windows of 3 Una Place, so it is doubtful that the impact on privacy would be material.

It is noted that 3 Una Place has a similar relationship with 10 George Avenue as the application site does with 59 George Avenue. But neither of these are recent approvals – 3-5 Una Place are shown on the 1955 historic map held by Kirklees. In some circumstances, the established pattern of development may provide an argument for allowing sub-standard separation distances,

especially at the front – for instance, where two parallel rows of terraced houses face each other across a street at a distance of substantially less than 21m. Close to the site it is possible to find examples of habitable room windows facing the rear gardens of neighbouring dwellings at distances of 7m or less (especially on or near street corners), but these are the exception not the rule. It is considered that they do not provide justification for allowing a proposal that would materially compromise privacy.

Under Principle 6, reduced distances may be appropriate taking into account angles and orientation, the use of off-set windows, and screening, whereas longer distances should be considered if there are differences in levels or building heights between adjacent plots. The Design & Access Statement says that the proposal is “set at a considerable distance away from the immediate rear neighbour and allowing adequate privacy distances” but it does not explicitly address the fact that overlooking would be increased on what occurs now, or propose design solutions. It is considered that reducing the distances substantially from the guideline of 10.5m would not be justified here.

61 George Avenue is located to the north of the site, close to the common boundary. According to the plans approved under application 2001/90389, the two south-facing windows that would potentially be affected are a kitchen and living room. The living room however has an alternative outlook to the front or north. Whilst it is acknowledged that the replacement of a single-storey with a two-storey dwelling would have some impact on light and outlook, these are already severely limited by the presence of the existing dwelling and the boundary hedge, which the windows face across a narrow strip of garden about 2m wide. There is more useable amenity space at the front. The other bedroom window in no. 61 would overlook the new dwellings’ rear gardens thus compromising privacy for future occupants, but as this situation already occurs it would be difficult to justify a refusal on the basis of this factor.

The amount of external amenity space is sub-optimal for a 4-bedroom dwelling, but on balance is considered acceptable having regard to overall amount of floorspace and the prevailing character of the area. Internal floor area, at 128sqm, would be in excess of the minimum set out in the Nationally Described Space Standards and the advice provided in Principle 16 of the SPD.

In conclusion, it is considered that the development would cause material harm to the amenities of the adjoining property reason of loss of privacy, as well as failing to provide adequate privacy for future occupants, and would thereby fail to accord with the aims of LP24(b) and Principle 6 of the SPD.

4 – Impact on highway safety: Una Place is a short 30mph two-way single carriageway local access road of approximately 6.5m width with footways on both sides and street lighting present. Some of the properties opposite have no off-street parking and so there is evidence of some on street parking occurring.

It is unlikely that a development of this size and type would generate sufficient additional trips as to have a severe impact on the operation and efficiency of the local highway network. The development would involve forming a new access to the site. Given the nature of the surrounding highway network and the average traffic speeds and volumes, it is considered that safe access to the highway network could be obtained.

The plan shows a 3m-wide integral garage serving each dwelling, and a parking area in front of each new dwelling 4.4m wide, making it more than wide enough for one car but too narrow for two cars. The access to the highway would be wide enough for one car only.

The proposals are however for two 4-bed semi-detached dwellings, and local guidance set out in the Highway Design Guide suggests that three off-street parking spaces should be provided. Drawing No 100 "Proposed Ground Floor Site Plan" shows only two car parking spaces per dwelling. The site, according to Highway Officer's estimates, is approximately 90m to bus stops on a low frequency route and 700m to stops on a high frequency route. There is a convenience store within 410m. It is considered that the site is moderately accessible, but its accessibility is not such as to justify a reduction in car parking standards. It is considered that two spaces each would be insufficient for this size of dwelling, which is a concern given the limited width of Una Place and the existing on-street parking. Further on-street parking would cause additional disruption to the free flow of traffic and an increased risk of accidents. Principle 12 of the SPD states that the car parking standards in the Highways Design Guide should be treated as advisory, and that applicants should identify the need for car parking at the start of the process having considered a range of measures to reduce private car use. The Design & Access Statement does not provide a clear justification for a departure from normal standards in this instance, however.

It is noted that the existing dwelling has three bedrooms and no parking spaces, but aggregate floor space would be more than doubled, and being modern two-storey houses they would be more likely to be occupied by families with children rather than a retired couple, so there still is a risk that the situation would be made materially worse.

If no other planning concerns existed in relation to this application, highway concerns could be overcome by providing additional parking spaces. The total width of the parking spaces or driveway would only be about half the frontage, so it would not lead to the frontage being dominated by parking to an unacceptable degree. Since the proposal is considered unacceptable for other reasons, this amendment has not been sought.

In conclusion, it is considered that the parking provision, at two spaces per dwelling, would not be an appropriate number taking into account the local availability of public transport, the accessibility of the site, and the type and location of the development, as required by LP22, and would not ensure the safe and efficient flow of traffic as required by LP21.

5 – Other matters:

Climate Change:

On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target; however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance and Principle 18 of the SPD to embed the climate change agenda.

The site is in a moderately sustainable location, since it is situated about 850m from the nearest bus stop with a frequent service; there are bus stops closer which have only a few services per day. In the event of an approval, methods to reduce carbon emissions could be incorporated into the design.

Trees:

There is a mature tree near the site frontage which the Arboricultural Officer has identified as a hybrid Black Poplar. It is not covered by a Tree Preservation Order. It is not acknowledged on the plans and it is unlikely that it would be possible to retain it. The tree is considered to add some amenity value to the area. The Arboricultural Officer has advised that the long-term retention of the tree may not be possible in the long term, even with the existing bungalow, because Black Poplars have long-ranging root systems, and has therefore advised the case officer that he would have no objection to the development.

Biodiversity:

The site is in the bat alert layer. Based on observations on site, the bungalow is unlikely to have bat roost potential in its present condition. If officers were minded to approve, biodiversity enhancement measures could be conditioned. This would be to accord with Policy LP30 of the Local Plan and Principle 9 of the SPD.

Refuse storage and collection:

The arrangements for the storage and collection of wastes are unclear from the submitted plans. Further details could be sought, or controlled by condition, if officers were minded to approve. This would be to accord with Policies LP21 and LP24 of the Local Plan and Principle 19 of the Housebuilders Design Guide.

Drainage:

It is proposed that disposal of foul sewage and surface water are to be by the main sewer. There are presumably existing connections, the proposal

represents only a modest increase in built footprint, so it is considered that it would not have major implications for drainage. In accordance with the approach generally taken for new developments of this scale, the applicant will not need to demonstrate net run-off reduction as it would be considered a disproportionate measure.

6 – Representations: Concerns relating to visual and residential amenity have been examined in depth in the main part of the report but are summarised below with other concerns raised and officer responses:

- The proposed dwellings do not fit in well owing to their design and height and the materials look too modern;
Response: The design has been assessed in part (2) and found to be visually acceptable.
- The existing bungalow contributes positively to local character;
Response: The existing bungalow is distinctive and fits in with the local character, but not to the extent that its removal would be a significant loss to the area.
- The gates will cause disruption to traffic flow;
Response: Owing to the lack of space it would be difficult to hang gates that would open inwards and an open frontage might be preferable, which could be conditioned in the event on an approval.
- The walls are too high and will block light;
Response: Boundary treatments could be conditioned, or an acceptable alternative agreed, if there were no other planning objections to the proposal.
- Impact on privacy;
Response: This has been assessed and found to be a significant concern.
- Impact on light;
Response: It is considered that the distance to the rear boundary would not lead to a severe loss of light to dwellings to the east, and while it has a close relationship with the property to the north, it is considered that it would be difficult to justify a refusal on the grounds of loss of light for the reasons set out in section 3.
- Loss of view;
Response: The loss of, or interruption to, a view, is considered to be a private interest and not a material planning consideration.
- Loss of a tree with no replacement, also general loss of soft landscaping with negative effects on wildlife and local drainage;

Response: The loss of the tree can be accepted, for the reasons set out above. Planting of native species could be conditioned if officers were minded to approve. It is considered that the overall impact on local drainage would be slight, as the scheme involves rebuild on only a slightly bigger footprint, and surfacing of parking spaces could be controlled by condition.

- The design represents the neighbourhood and would replace an eyesore;

Response: The existing bungalow is not of high architectural quality and is in a poor state of repair, but this does not amount to an argument for replacing it with something much larger.

- However, the boundary treatment should be changed as it looks like a stockade. An open frontage would be better because there is not room for gates to open if a car is parked on the drive and would encourage on-street parking and disrupt traffic flow on a busy street. Fixed boundary fences should be limited to one metre.

Response: Again, better and more practical boundary treatments could be the subject of negotiation if the scheme were generally acceptable.

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 adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration.

Recommendation – REFUSE PERMISSION

Decision Authorisation - Delegated Powers

Application Number: 2022/90203

Officer Recommendation: REFUSE PERMISSION

Reasons for refusal

1. The proposed new dwellings, by reason of their being two-storey with rear-facing bedroom windows and because of their closeness to the rear site boundary, would result in a materially greater degree of overlooking of the rear gardens of neighbouring properties, in particular no. 59 George Avenue, than exists at present. It is considered that this would lead to an unacceptable loss of privacy for existing occupants and would also compromise privacy for the occupants of the new dwellings. It would thereby fail to provide a high standard of amenity for future and neighbouring occupiers, and would not accord with the aims of LP24(b) and Principle 6 of the Housebuilders Design Guide Supplementary Planning Document.
1. Proposed parking provision, at two spaces per dwelling, is deemed inadequate for a four-bedroom house taking into account the location and accessibility of the site and the size of the dwelling as required by Policy LP22 of the Kirklees Local Plan and Principle 12 of the Housebuilders Design Guide Supplementary Planning Document. It is therefore likely that the development would give rise to increased parking on the public highway. The development would therefore not ensure the safe and efficient flow of traffic as required by Policy LP21 of the Kirklees Local Plan.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Application form			21-Jan-2022
Location plan	101		21-Jan-2022
Proposed Site/Block Plan	100		21-Jan-2022
Existing floorplans	102		21-Jan-2022
Proposed ground floor plan	103		21-Jan-2022
Proposed first floor plan	104		21-Jan-2022
Existing front and side elevations	105		21-Jan-2022
Existing rear and side elevations	106		21-Jan-2022
Front aerial view	107		21-Jan-2022
Rear aerial view	108		21-Jan-2022
Proposed front elevation	109		21-Jan-2022

Plan Type	Reference	Version	Date Received
and street view			
Proposed side and rear elevations	110		21-Jan-2022
Proposed street views	111		21-Jan-2022
Design & access statement			21-Jan-2022

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. It was considered that the planning concerns identified could not be overcome by modifying the plans because the principle of building four-bedroom, two-storey dwellings on this site was considered unacceptable.

Report Dated:

21-Mar-2022