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:	**2022/62/90612/W**
Site Address:	adj, 41, Greenhead Lane, Dalton, Huddersfield, HD5 8EE
Description:	Erection of dwelling with detached 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.

John Holmes

AUTHORISED OFFICER

Date: 17th May 2022

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Officer Report

Site Description

Adj 41 Greenhead Lane, Dalton, Huddersfield, HD5 8EE

The site is situated to the rear of No.41 Greenhead Lane, which is a two storey detached dwelling set at an oblique angle to Greenhead Lane. The dwelling, which is constructed from brick under a tile roof, is relatively large.

The site comprises a garden area under the same ownership of No.41, which until recently comprised of grass, but this has now mainly been cleared. The site falls away from the residential curtilage of No.41. Access is from the same vehicular access serving No.41 Greenhead Lane, and a detached garage has been removed so as to provide access to the site to the rear of No.41. Closeboard fencing sits on the rear and side boundaries of the site.

There is an extant permission at the site for a detached dwelling (2008/91842) which was confirmed by a Lawful Development Certificate (2018/91965), but the dwelling has not been constructed.

The site is within a predominantly residential area, with residential properties to either side of No.41. There is a variety of residential dwellings within the locality in terms of scale, form and appearance. To the rear and sides of the application site is also undeveloped land. A wooded area sits to the rear of the site, with some protected trees amongst it.

A minor part of the rear of the site is designated as part of a larger Urban Green Space designation (UG7) within the Kirklees Local Plan. 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 a detached dwelling.

The dwelling is proposed to be 2 ½ storey in height with a second floor within the pitched roof of the dwelling. The dwelling is proposed to be constructed from natural stone under a slate roof. The dwelling is proposed to have a linear main body, but with a heavily glazed gable element protruding from the north east side/principal wall of this dwelling. A protrusion is proposed to the south east side gable of the dwelling and this would have first floor balcony area above it. The dwelling is proposed to be ~18 metres in width, ~10.9 metres in depth, ~5.4 metres to the eaves and ~9.6 metes to the ridge.

Access is proposed from the existing access off Greenhead Lane (to be shared with No.41), and a track is proposed from the driveway of No.41 and would run along the north east boundary of the site, to a parking area to the

front/north east of the dwelling that is proposed. Space for the parking of vehicles off the road for No.41 would be provided. Garden space is proposed to the rear and south side of the dwelling.

History of negotiations/amendments received

Officers raised concerns that the garage that was initially proposed was within the Urban Green Space designation and was therefore contrary to Policy LP61 of the Kirklees Local Plan, and also recommended that the bulk of the principal elevation of the dwelling be reduced. Amended plans were submitted omitting the garage so that no built development falls within the Urban Green Space designation and the principal elevation of the dwelling was simplified, and these revisions addressed Officer concerns.

Relevant Planning History

95/93118 – Alterations and new pitched roof to existing dwelling – Approved on 1st December 1995.

96/91557 – Erection of workshop and extension to existing detached garage – Approved on 5th July 1996.

2003/93002 – Erection of detached dwelling with integral garage and detached garage for 41 Greenhead Lane – Refused by LPA on 10th September 2003, but allowed at appeal on 14th September 2004.

2007/92649 – Erection of 2 No. detached dwellings with integral garage – Refused on 10th August 2007.

2008/91842 – Erection of detached dwelling with integral garage and erection of garage and link to existing dwelling – Approved on 22nd July 2008.

2018/91965 – Lawful development certificate to confirm commencement of development approved under planning permission no. 2008/91842 within the 3 year time limit given in condition 1 – Granted on 13th November 2018.

2018/92840 – Discharge of condition (materials) on previous application 2008/91842 for erection of detached dwelling with integral garage and erection of garage and link to existing dwelling – Approved on 29th October 2018

2022/90395 – Work to TPO(s) 86/91 – Granted on 4th April 2022.

Planning permission was granted in 2004 at appeal (2003/93002) for the residential development at the site. The Council initially refused the application because they considered that the proposed dwelling would be within an area allocated as Urban Green Space within the Unitary Development Plan. However, the Planning Inspector outlined that the dwelling itself appeared to be within the urban area, and the garden would remain in its existing use, that being domestic garden.

Further to this, permission was granted in 2008 (2008/91842) for a 2 ½ storey detached dwelling on this site. The dwelling approved is displayed to be constructed from brick under a tile roof and would roughly have a 'T-shape' form. Whilst this dwelling under this 2008 permission has not been constructed, a Lawful Development Certificate (2018/91965) approved in 2018 has confirmed that the permission is extant. Under this current application, the dwelling proposed is to be sited on a relatively similar footprint as this approved dwelling, but would have a different design. Despite this different design, the extant permission is a material consideration of significant weight in respect of the acceptability of residential development on this 'backland' plot.

Representations

Final publicity expired:

Neighbour Letters expired on 5th April 2022; Site Notice expired on 8th April 2022; Press Advert expired on 8th April 2022.

No representations have been received.

Amended plans have been received, but this has only resulted in relatively modest changes to the appearance of the dwelling and the removal of the detached garage, therefore it was not considered necessary to reconsult third parties (i.e. no third party would be prejudiced).

Consultation Responses

KC Environmental Health: No objection subject to conditions.

KC Highways Development Management: No comments received.

KC Trees: No objection.

Yorkshire Water: No objection subject to a condition.

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 within the Local Plan, but a small part of the site is within an Urban Green Space designation within the Local Plan

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** – Highways Safety and Access
- **LP 22** – Parking
- **LP 24** – Design
- **LP 30** – Biodiversity and Geodiversity
- **LP 33** – Trees
- **LP 43** – Waste Management Hierarchy
- **LP 51** – Protection and Improvement of Local Air Quality
- **LP 52** – Protection and Improvement of Environmental Quality.
- **LP 53** – Contaminated Land
- **LP 61** – Urban Green Space

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 2** – Achieving Sustainable Development
- **Chapter 4** – Decision-Making
- **Chapter 5** – Delivering a Sufficient Supply of Homes
- **Chapter 8** – Promoting Health and Safe Communities
- **Chapter 9** – Promoting Sustainable Transport
- **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 Considerations:

- Kirklees Housebuilders Design Guide SPD (2021)
- Kirklees Highways Design Guide SPD (2019)
- Waste Management Design Guide for New Developments (Version 5, October 2020)

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
5) Representations
6) Conclusion

1 – Principle of development:

Sustainable Development

NPPF Paragraph 11 and Policy LP1 of the Kirklees Local Plan 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 not displayed as allocated 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.

The housing land supply position has recently been updated to provide evidence for a forthcoming planning appeal against the refusal of planning permission. The Council can currently demonstrate 5.17 years of deliverable housing land supply and therefore continues to operate under a plan-led system.

Policy generally seeks to support residential development upon unallocated sites. Thus, residential development at the site could be acceptable in principle. However, Policy LP7of the Kirklees Local Plan establishes a desired target density of thirty-five dwellings per hectare. By that standard, this site in theory, could accommodate 3 dwellings. However, Policy LP7 states this target should be 'where appropriate' and in the policy justification set out in

paragraph 6.40 that the policy allows for lower 'densities where a site would not be compatible with its surroundings'. One dwelling is proposed in this instance, but this is considered appropriate when taking into account development density in the area and the fact that one dwelling on this site has previously been considered acceptable (with this permission still remaining extant). The quantum of development is therefore considered acceptable.

Urban Green Space Designation

As noted above, the very rear of the site falls within designated Urban Green Space in the Local Plan. Policy LP61 of the Kirklees Local Plan states that: "

"Development proposals which would result in the loss of urban green space (as identified on the Policies Map) will only be permitted where:

a. *an assessment shows the open space is clearly no longer required to meet local needs for open space, sport or recreational facilities and does not make an important contribution in terms of visual amenity, landscape or biodiversity value; or*
a. *replacement open space, sport or recreation facilities which are equivalent or better in size and quality are provided elsewhere within an easily accessible location for existing and potential new users; or*
b. *the proposal is for an alternative open space, sport or recreation use that is needed to help address identified deficiencies and clearly outweighs the loss of the existing green space. The protection set out in this policy also applies to smaller valuable green spaces not identified on the Policies Map"*

A garage was initially proposed in the Urban Green Space designation but this has since been removed given the requirements of the above policy. However, as the majority of the site falls outside this designated area, that no built development is now proposed in this area and the area to be used as garden is already in a garden use, the development is not considered to conflict with Policy LP61 of the Kirklees Local Plan in that it would not result in the loss of Urban Green Space. However, the removal of permitted development rights for extensions and outbuildings is considered necessary to prevent development within this Urban Green Space.

Whilst the principle of residential development on the site could be acceptable, the principle of the development is also subject to other considerations, which is discussed in the following report.

2 – Impact on visual amenity:

In addition, the NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby Paragraph 126 provides a principal consideration concerning design which states:

"The creation of high quality, beautiful and sustainable 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.

Policy 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…"

Paragraph 129 of the NPPF sets out that design guides and codes carry weight in decision making. Of note, Paragraph 134 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Relevant to this is the Kirklees Housebuilders Design Guide SPD 2021, which aims to ensure future housing development is of high-quality design.

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."*

Principle 5 of this SPD relates to building form and building line, and notes that buildings should be aligned and set back to form a coherent building line and designed to front on to the street.

Principle 15 states that the design of the roofline should relate well to site context. Further to this, Principle 13 states that applicants should consider the use of locally prevalent materials and finishing of buildings to reflect the character of the area, whist Principle 14 notes that the design of openings is expected to relate well to the street frontage and neighbouring properties.

In terms of siting, development along the south east side of Greenhead Road is linear, with some cul-de-sacs running from this highway. It is considered that the proposal, which is for a dwelling behind No.41 and away from the public highway, would introduce a form of 'backland' residential development which is not considered to be typical within the locality.

That being said, planning permission for a dwelling with a relatively similar footprint and orientation has been approved at the site (2008/91842) and this permission has been established to be extant under a Lawful Development Certificate in 2018 (2018/91965). As this permission is extant, this is considered to be a material consideration of significant weight in the assessment of this application, and as a consequence Officers hold the view that the proposed siting is acceptable.

In terms of scale, a 2 ½ storey dwelling is proposed. Whilst dwellings in the immediate locality tend to be no more than 2 storey in height, the second floor of the dwelling would be contained within the roof space to give the appearance of a two storey dwelling. Whilst the dwelling is likely to be higher than most other dwellings in the locality in order to achieve living accommodation in the roofspace, the dwelling would be set back from the road behind other dwellings, further down a slope from these dwellings such that it is considered that it would not appear uncharacteristically high from the public domain. Further to this, the extant permission at the site was for a dwelling of a not too dissimilar height.

It is considered that the overall footprint of the dwelling would not be too dissimilar in area in comparison to No.41 and the approved and extant dwelling at the site. It is considered that this footprint would also allow for adequate garden space and space for on-site parking so that the development does not appear cramped on the site.

It is considered that the dwelling would have a simpler form than the approved and extant dwelling at the site being largely linear, but with a gable protrusion to the front and terrace protrusion to the side. Officers requested that the number of gable features to the front of the initial dwelling proposed under this application was decreased to one to reduce the overall bulk of the dwelling, and only one gable is proposed from the principal elevation. Whilst this is still relatively bulky and would not be completely subservient with the main body of the dwelling due to its greater eaves height, it is considered acceptable given the variety in dwelling types in the locality and the set back and set down of the proposed dwelling from the road, as well as it being partially screened by existing dwellings from this highway.

Overall, the scale and massing of the dwelling is considered to be acceptable within the context it is proposed to sit within, and the overall scale and massing of the dwelling would be somewhat screened from the public domain by virtue of the siting of the site, behind existing development.

The materials proposed and detailing are considered to be acceptable within this context, especially given the eclectic mix of materials and styles within the immediate vicinity. Details of materials can be conditioned to ensure a high quality finish.

In terms of landscaping, there would be a relatively large area of hardstanding to the front of the dwelling for parking and turning, but this area would be set

back from the road, and the amount of hardstanding to the front of the site adjacent Greenhead Lane would be largely unchanged. Details of boundary treatments are unclear, but could be conditioned should permission

In summary, whilst it is considered that the proposed development would result in a 'backland' form of residential development in the locality which is not typical, there is already a permission for a dwelling on a similar footprint and this permission is extant. This permission is considered to be a material consideration that carries significant weight in the assessment of the siting of the dwelling proposed under this current application, and the siting is therefore considered to be acceptable. The development is also considered to be acceptable in terms of form, scale, appearance and landscaping from a visual amenity perspective.

Given the above, subject to conditions, it is considered that the proposal would not cause detrimental harm to the visual amenities of the locality. It is therefore considered that the proposal would comply with Kirklees Local Plan Policy LP24, Principles 2, 13, 14 and 15 of the Kirklees Housebuilders Design Guide SPD and Chapter 12 of the National Planning Policy Framework.

3 – Impact on residential amenity:

Section B of Policy LP24 of the Kirklees Local Plan states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers.

Further to this, Paragraph 130 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.

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 text supporting this principle also states that*: "For two storey houses typical minimum separation distances are advised:*

- *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.*

It is considered that the properties most likely to be affected by the proposed development are No's.39, 41 and 41a Greenhead Lane. It is considered that the proposed dwelling would be sufficiently sited so as to prevent undue harm

to the amenity of any other neighbouring properties in terms of loss of light, loss of privacy or overlooking, loss of outlook or the creation of an overbearing effect.

No.39 Greenhead Lane

Whilst the proposed dwelling would be ~20 metres away from the dwelling at No.39 to the north east, given the orientation of the proposed dwelling to this existing dwelling, no windows within the proposed dwelling would directly face the dwelling at No.39. Given this separation distance and orientation, and that the site is on a lower land level to No.39, it is considered that the proposal would not result in an undue loss of outlook, loss of privacy or loss of light for the occupiers of No.39

The windows in the principal elevation of the proposed dwelling would face towards the rear garden of No.39, but the dwelling would be over 12 metres away from this garden, and the set off is considered sufficient to prevent undue harm in terms of overlooking as well as overshadowing, despite the dwelling being to the south of this garden. As the dwelling would be at a lower land level to No.39, this would also help to mitigate overshadowing.

No.41 Greenhead Lane

The proposed dwelling would be approximately 12 metres from No.41 and 4 metres from the shared boundary. That being said, the only windows proposed in the gable north west side elevation facing directly towards this neighbouring property would be serving en-suite bathrooms so could be conditioned as obscurely glazed to prevent undue harm in terms of loss of privacy and overlooking. The separation distance between the dwellings is considered sufficient to prevent a loss of outlook to the windows within No.41, especially given that the proposed dwelling is to be on lower land to No.41 and that windows within No.41 would not directly face to the proposed dwelling given the orientation of this existing dwelling.

The proposed dwelling is relatively close to the shared boundary and located to the south east of this property, and as a result it is considered that the proposed dwelling would potentially have an overshadowing impact upon this property, notably the garden at the later hours of the day. However, given that the dwelling is proposed on lower land to No.41, and No.41 has a relatively generous garden area, it is considered that this overshadowing impact would not be unduly harmful to the occupiers of No.41.

No.41a Greenhead Lane

The proposed dwelling would be ~19 metres away from the dwelling No.41a to the north west. However, given the orientation of the proposed dwelling in relation to the existing dwelling at No.41a, the existing dwelling would not directly face towards this proposed dwelling and no windows within the proposed dwelling would directly face towards the walls of the dwelling at No.41a. Given this, and that the proposed dwelling is to be on a lower land

level than the dwelling at No.41a, it is considered that the proposal would not cause an undue loss of outlook, loss of privacy or loss of light for the occupiers of No.41a.

The proposed dwelling would be ~4.5 metres from the south west boundary of the site, and as a result, it is considered that views of the rear garden of No.41a would be achievable. However, the views would be somewhat limited by the fact that the rear boundary of No.41 would run in a relatively similar line to the north west side wall of the proposed dwelling, so the rear garden would be set at a slight angle to these proposed rear windows. Officers consider that the views would likely be of the very rear of the garden. A similar relationship was also considered acceptable for the approved and extant scheme at the site. It is therefore considered that the proposal would not cause undue harm to No.41 in terms of overlooking. The dwelling is also considered to be sufficiently set away from the neighbouring garden to prevent undue harm to No.41a in terms of overshadowing.

Surrounding undeveloped land

Whilst the proposed dwelling would be less than the advised (within the Housebuilders Design Guide SPD) 10.5 metres from the boundary of adjacent undeveloped land to the south-east and north east of the site (~4 metres at the nearest point), this undeveloped land is designated as Urban Green Space in the Local Plan therefore it is considered that this proposal is unlikely to prejudice development to the north east and south east in the near future.

The rear wall of the proposed dwelling would also be located approximately 4.5 metres from the south west boundary of the site, and beyond this is undeveloped land, but this does not benefit from a designation. Nonetheless, a relatively similar relationship was accepted under the approved and extant residential development at the site and for this reason it is considered it would be difficult to substantiate a reason for refusal on this basis given a similar development can be undertaken in any event.

Future Occupiers

In terms of the amenities of the proposed occupiers, Principle 16 of the Kirklees Housebuilders Design Guide SPD states that: *"All new build dwellings should have sufficient internal floor space to meet basic lifestyle needs and provide high standards of amenity for future occupiers. Although the government has set out Nationally Described Space Standards, these are not currently adopted in the Kirklees Local Plan."* Further to this, Principle 17 of the Kirklees Housebuilders Design Guide SPD outlines that: *"All new houses should have adequate access to private outdoor space that is functional and proportionate to the size of the dwelling and the character and context of the site. The provision of outdoor space should be considered in the context of the site layout and seek to maximise direct sunlight received in outdoor spaces."*

The proposed floor area of the dwelling would clearly exceed the minimum figure recommended within the Nationally Described Space Standards for a dwelling of this scale. In addition, the amount of external amenity space for the proposed dwelling of this size is considered to be adequate.

The proposed development is therefore considered acceptable in terms of residential amenity and it is considered that the proposed development complies with Local Plan Policy LP24(b), Principles 6, 16 and 17 of the Kirklees Housebuilders Design Guide SPD and Chapter 12 of the National Planning Policy Framework.

4 – Impact on highway safety:

Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF relate to access and highway safety and are considered to be relevant to the consideration of this application. The Council's adopted Highway Design Guide and Principles 12 and 19 of the Housebuilders design guide which seek to ensure acceptable levels of off street parking, adequate waste storage facilities are provided, are also considered to be of relevance.

A 6 bedroom dwelling is proposed, but there is considered to be sufficient space to the front of the proposed dwelling for at least 3 cars, which would be in accordance with the Highways Design Guide for dwellings of this size. There would also be suitable space for turning on the site so vehicles could leave in a forward gear. The provision of this area can be conditioned prior to the first occupation of the dwelling. It is also considered there would be suitable space retained at No.41 for parking as a result of this development, in that it appears at least 3 cars could be parked externally at No.41 without blocking access to the site, and in addition this, there is also a double garage at No.41.

A similar arrangement with a shared access with No.41 was accepted under the 2008 permission (which is extant) and this is again considered acceptable. The access is considered to be of suitable width and visibility from the access is considered to be acceptable.

Principle 19 of the Kirklees Housebuilders Design Guide SPD outlines that provision for waste storage and recycling must be incorporated into the design of new developments in such a way that is convenient for both collection and use whilst having minimal visual impact on the development. There is considered to be sufficient space on the site for waste storage. In terms of collection, the proposed occupiers would have to pull their bin for quite a distance to the roadside for collection (potentially over 40 metres) which would be inconvenient, but on balance this is considered acceptable especially given a relatively similar arrangement has already been accepted at this site (and this permission is extant). Bin collection is anticipated to be a similar arrangement as to No.41.

Given the above, subject to a condition, the proposed development is considered acceptable from a highways safety perspective and is therefore considered to comply with Policies LP21 and LP22 of the Kirklees Local Plan, Principle 12 of the Kirklees Housebuilders Design Guide SPD and Chapter 9 of the National Planning Policy Framework.

5 – Other matters:

Trees:

Policy LP33 of the Kirklees Local Plan states that the Council will not grant planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity.

There are some trees within and adjoining the site, including two protected trees to the rear of the site, and a weeping willow adjacent to the proposed driveway.

The Kirklees Tree Officer has noted that the two protected oak trees will not be significantly affected by the majority of the proposals however the patio and balcony area are within the canopy of the closest adjacent Oak. A recent tree work application was approved to remove some low hanging branches and the Tree Officers states that if this work is carried out there will be no branches in close proximity to the balcony or patio. The Tree Officer has stated that the rooting area has been significantly altered within the site so the proposed built structure of the dwelling will not impact upon the adjacent trees.

The Tree Officer noted that the garage which was initially proposed may have resulted in conflict with the woodland to the rear of the site, but this has since been in removed.

The proposed driveway passes very close to a retained weeping willow which the KC Tree Officer understands is a valued tree and this is intended to be retained. The Tree Officer notes that the tree does not provide public amenity value but is a good garden specimen. The Tree Officer states that the driveway is proposed to be constructed above the existing ground level which would allow the retention of the roots of the willow however could result in compaction if a load spreading design is not used. The KC Tree Officer recommends utilising a cellular confinement system to support the raised driveway, but the Tree Officer does not consider this necessary to make the development acceptable.

Given the above, it is considered that the proposed development would not have a detrimental impact upon trees and would comply with Policy LP33 of the Kirklees Local Plan.

Ecology:

Chapter 15 of the NPPF relates to conserving and enhancing the Natural Environment. Paragraph 179 of the NPPF outlines that decisions should promote the protection and recovery of priority species, and identify and pursue opportunities for securing net gains for biodiversity. Paragraph 180 goes on to note that if significant harm to biodiversity resulting from development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Policy LP30 of the Kirklees Local Plan and Principle 9 of the Housebuilders Design Guide SPD echo the NPPF in respect of biodiversity. They outline that development proposals should minimise impacts on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist.

The site forms part of the garden of No.41 Greenhead Lane, but has recently been cleared, and it is considered to be of relatively low ecological potential. It is therefore considered that the proposed development would unlikely cause harm to protected species. However, Policy LP30 of the Kirklees Local Plan and Principle 9 of the Kirklees Housebuilders Design SPD set out that proposals should provide net gains in biodiversity. As a consequence, and because the site is identified as being within a bat alert layer on the Council's mapping service, it is considered necessary to condition the provision of a bat and bird box on the dwelling should permission be granted.

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

Further to this, Principle 18 of the Kirklees Housebuilders Design Guide states that: *"New proposals should contribute to the Council's ambition to have net zero carbon emissions by 2038."*

Due to the nature of the scheme, this being a proposal providing a new residential unit within a sustainable urban location, it is considered that one electric vehicle charging point should be provided to aid in the contribution to climate change in order to be in accordance with Principle 18. This matter could be conditioned should planning permission be granted.

Contaminated Land:

With regard to land quality, paragraphs 174, 183 and 184 of the National Planning Policy Framework and policy Policy LP53 of the Kirklees Local Plan which seeks to ensure land quality is maintained as part of new development.

Environmental Health have recommended attaching a condition in relation to unexpected contamination after reviewing the Phase I Contaminated Land report submitted alongside the application. Should permission be granted this could be attached and it will outline that work should stop immediately if such contamination is found and that the LPA are notified.

Permitted Development Rights:

As noted above, it is considered necessary to remove permitted development rights for extensions and outbuildings to the building to prevent development on the designated Urban Green Space. In addition, this is considered necessary given the narrow depth of the rear garden and how contrived further development could appear in this location.

Extant Development:

As outlined above, permission was granted in 2008 (2008/91842) for a 2 ½ storey detached dwelling on this site and this permission is still considered to be extant. However, the construction of either this approved dwelling or the proposed dwelling (if granted consent) would prevent the construction of the other given their relatively similar siting (thereby preventing two dwellings at the site).

Construction:

KC Environmental Health have also requested a condition in relation to construction site working times. Construction practices are covered by other regulations, and construction practices are not a material consideration in the assessment of this application. However, an informative in relation to good practice could be attached should permission be granted.

Drainage:

It is noted within the application that surface water is proposed to be disposed of by sustainable drainage system and to soakaway. Yorkshire Water have requested a condition stating that no piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority. Yorkshire Water note they have requested this to ensure that the site is properly drained and in order to prevent overloading, and that surface water is not discharged to the public sewer network. However, the site is identified as being at low risk from flooding and it is considered a compliance condition in relation to surface water drainage from hard surfaces is sufficient in this instance. This matter is also covered by building regulations.

6 – Representations:

No representations have been received.

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: 2021/90612

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 LP7, LP20, LP21, LP22, LP24, LP30, LP33, LP43, LP51, LP52, LP53 and LP61 of the Kirklees Local Plan, Principles within the Kirklees Housebuilders Design Guide SPD and Chapters 5, 8, 9, 12, 13, 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 materials of the walls of the dwelling shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the dwelling shall be erected in accordance with the approved details and retained as such.
Reason: In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan, Principles 2 and 13 of the Kirklees Housebuilders Design Guide SPD and Chapter 12 of the National Planning Policy Framework.

4. Prior to the commencement of the dwelling herby approved above slab level, details of the external material for the roof 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 accord with Policy LP24 of the Kirklees Local Plan, Principles 2 and 13 of the Kirklees Housebuilders Design Guide SPD and Chapter 12 of the National Planning Policy Framework.

5. Prior to the first occupation of the dwelling herby approved, a scheme detailing the boundary treatments of all the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall detail the position, height and materials of the boundary treatments. Thereafter, and prior to the first occupation of the dwelling hereby approved, the development

shall be constructed in accordance with the approved details and retained thereafter.
Reason: In the interests of visual and residential amenity, and to comply with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

6. The dwelling hereby approved shall not be occupied until all areas indicated to be private drives and parking areas on Drawing No. 2161 A(90)-02 Revision A received on 22nd April 2022 are 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, Principle 12 of the Kirklees Housebuilders Design Guide SPD and Chapters 9, 12 and 14 of National Planning Policy Framework.

7. A bat box and bird box shall be incorporated into the dwelling hereby approved; the boxes shall be long-lasting Schwegler `woodcrete' type or similar and shall be located away from sources of light. The bat and bird boxes shall be provided prior to first occupation of the dwelling hereby approved and thereafter be retained.
Reason: To enhance the biodiversity of the site in accordance with Policy LP30 of the Kirklees Local Plan, Principle 9 of the Kirklees Housebuilders Design Guide SPD and Chapter 15 of the National Planning Policy Framework.

8. 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 points so installed shall thereafter be retained.
Reason: In the interest of supporting low emission vehicles and to accord with Policies LP24 and LP51 of the Kirklees Local Plan, Principle 18 of the Kirklees Housebuilder Design Guide SPD and Chapters 9 and 15 of the National Planning Policy Framework.

9. In the event that contamination not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Groundworks in the affected area shall not recommence until either (a) a Remediation Strategy has been

submitted to and approved in writing by the Local Planning Authority or (b) the Local Planning Authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy.

Following completion of any measures identified in the approved Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. Unless otherwise approved in writing by the Local Planning Authority, no part of the site shall be brought into use until such time as the site has been remediated in accordance with the approved Remediation Strategy and a Validation Report in respect of those works has been approved in writing by the Local Planning Authority.
Reason: So as to protect future occupants of the development from any land contamination and to accord with Policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) no development included within Class(es) A and 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 safeguard the Urban Green Space designation from loss, in the interest of visual amenity and to comply with Policies LP24 and LP61 of the Kirklees Local Plan, Principle 2 of the Kirklees Housebuilders Design Guide SPD and Chapter 12 of the National Planning Policy Framework.

11. Prior to the first occupation of the dwelling hereby approved, the first and second floor north west side facing windows in the approved building shall be fixed shut, unless parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the windows are installed, and obscurely glazed (Level 3 or above), and shall be retained as such thereafter.
Reason: To restrict overlooking so as to preserve the amenity of neighbouring residents and to comply with Policy LP24 of the Kirklees Local Plan, Principle 6 of the Kirklees Housebuilders Design Guide SPD and Chapter 12 of the National Planning Policy Framework.

NOTE: Planning permission only means that in planning terms a proposal is acceptable to the Local Planning Authority. Just because you have obtained planning permission, this does not mean you always have the right to carry out the development. Planning permission gives no additional rights to carry out the work, where that work is on someone else's land, or the work will affect someone else's rights in respect of the land. For example there may be a leaseholder or tenant, or someone who has a right of way over the land, or another owner. Their rights are still valid and you are therefore advised that you should seek legal advice before carrying out the planning permission where any other person's rights are involved.

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: 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: All contamination reports shall be prepared in accordance with Model Procedures for the Management of Land Contamination – Contaminated Land report 11 (CLR11), National Planning Policy Framework (NPPF) and the Council's Advice for Development documents or any subsequent revisions of those documents.

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	-	-	21st February 2022
Proposed	2161 A(10)-01	A	22nd April 2022

Plan Type	Reference	Version	Date Received
Elevations and Floor Plans			
Proposed Site Plan	2161 A(90)-02	A	22nd April 2022
Design & Access Statement by Cadvis3d dated February 2022	2161	-	21st February 2022
Phase I: Desktop Study and Preliminary Risk Assessment by Geoenviro Solutions Limited dated December 2021	GES 2097-21 PI Repot	-	24th February 2022
Topographic Survey Page 1	5371JH/1	-	21st February 2022
Topographic Survey Page 2	5371JH/2	-	21st February 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.

Officers raised concerns that the garage that was initially proposed was within the Urban Green Space designation and was therefore contrary to Policy LP61 of the Kirklees Local Plan, and also recommended that the bulk of the principal elevation of the dwelling was reduced. Amended plans were submitted omitting the garage so that no built development falls within the Urban Green Space designation and the principal elevation of the dwelling was simplified, and these revisions addressed Officer concerns.

Report Dated: 13/05/2022

Coal Mining - Low