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:	**2022/62/90843/E**
Site Address:	adj, The Hollins, Laburnum Road, Dewsbury Moor, Dewsbury, WF13 4QF
Description:	Erection of detached dwelling
Recommending Officer:	Callum Harrison

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.

Emma Thompson

AUTHORISED OFFICER

Date: 11.11.22

Error! Filename not specified.

Officer Report
2022/90843 - adj, The Hollins, Laburnum Road, Dewsbury Moor, Dewsbury, WF13 4QF

Site Description
The site is located off Laburnum Road from which an exist access is in place. This access serves the former Moorend Working Mens Cub located to the north of the proposed site which now serves five flats, as well as two dwelling to the east of the application site. Playing fields are located to the west of the site. The general topography of the site slopes from north to south towards Laburnum Road.

Description of Proposal
The application is seeking permission for the erection of a detached dwelling. The dwelling would be a bungalow with the principal (front) elevation to the north east of the site. The dwelling would be two bed and be of a hipped design with a protruding gable feature to both the front and rear. The dwelling would be faced in artificial stone and render to the walls, with concrete roof tiles and upvc opening. The colour of each material has not been specified. The dwelling would be set back within the plot and benefit from a larger front garden and a more modest rear garden. A private driveway would serve the dwelling with two parking spaces set to the front of the plot.

History of Negotiations
The agent has made amendments to the proposed elevation and site layout. No further amendments have been made or sought by officers.

Relevant Planning History
2011/91605 - Outline application for residential development (10 dwellings) with all matters reserved – Withdrawn.

2012/91142 - Outline application for erection of four dwellings – Approved.

2013/91056 - Reserved matters application for erection of 4 dwellings – Withdrawn.

2013/92524 - Erection of two storey apartment block for 8 no. 2 bedroom apartments – Approved.

Consultation Responses
The Coal Authority – no objections.
The Environment Agency – no objections.
KC Highways Development Management – no objections.

Representations
The application has been advertised by neighbour notification letters, a site notice, and a press notice. Final publicity expired on 13th May 2022. No representations were received.

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 in the Kirklees Local Plan (2019).

Kirklees Local Plan:
Kirklees Local Plan (KLP):

- LP1 – Achieving sustainable development
- LP2 – Place shaping
- LP3 – Location of new development
- LP11 – Housing mix and affordable housing
- LP21 – Highway safety and access
- LP22 – Parking
- LP24 – Design
- LP28 – Drainage
- LP30 – Biodiversity
- LP51 – Protection and improvement of local air quality
- LP52 – Protection and improvement of environmental quality
- LP53 – Contaminated and unstable land.

National Policies and Guidance
National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 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 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, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

Supplementary Planning Guidance / Documents:
Kirklees Council has adopted (as of 29th June 2021) supplementary planning documents for guidance on house building, house extensions and open space, to be used alongside existing SPDs previously adopted. It is now being considered in the assessment of planning applications, with full weight attached. This guidance indicates how the Council will usually interpret its policies regarding such built development, although the general thrust of the

advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF). As such, it is anticipated that these SPDs will assist with ensuring enhanced consistency in both approach and outcomes relating to development. In this case the follow SPDs are applicable:

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

Other Material Considerations:

- 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 and historic environment
2) Impact on residential amenity
3) Impact on highway safety
4) Other matters
5) Representations
6) Conclusion

1. Principle of Development

The site is without notation on the Kirklees Local Plan. Policy LP1 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 National Planning Policy Framework.

Policy LP1 goes on further to stating that: "The Council will always work pro-actively with applicants jointly to find solutions which mean that the proposal can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area''.

In this case, the application site relates unallocated land located on the edge of a predominantly residential area. The development would see one new dwelling constructed, as such, it is appropriate to consider the Local Planning Authority's overall housing position.

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.

Housing applications should be considered in the context of the presumption in favour of sustainable development.

As the proposal seeks to provide one new dwelling on unallocated land, the principle of residential development is considered acceptable given the above. The proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety. These issues, along with other policy considerations, will be addressed below.

2. Impact on Visual Amenity

General design considerations are set out in Policy LP24 of the Local Plan and Chapter 12 of the NPPF, which seek to secure good design in all developments by ensuring that they respect and enhance the character of the townscape and protect amenity. Local Plan Policy LP24 states that '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 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.

The proposed dwelling would be served off and existing access and set adjacent to some relatively new development. The neighbouring development consist of two detached bungalow. The bungalows are faced in render and are not dissimilar in appearance to the proposed dwelling. The simplistic design with the gable features offers a modern finish that is in visually coherent an in keeping with the adjacent dwellings also. Whilst officers note the dwelling does not front on to the highway, neither do the two dwellings to the east nor do the flats to the north, therefore the proposed siting is not out of character of the area. The dwelling would be of a single storey and have a very modest footprint creating a two bedroomed property. The modest nature of the dwelling means it will be somewhat secluded and hidden from the highway, thus having very little impact on the visual amenity of the street scene. The modest scale also means the dwelling suits the size of the plot and will provide suitable outdoor amenity space.

Furthermore, the application site at present is visually harmfully. It is in a poor state and offers no value to the visual amenity of the street scene. The erection of a simple, modest but high quality bungalow in a form that accords with neighbouring development would improve the visual amenity of the site. Officers note the external facing materials are to be render for the walls and concrete tiles for the roof. Officers have no issues with the materials in principle, however the colour of the render has not been specified. It shall be conditioned that the render shall be coloured white or off-white and retained thereafter, as to ensure the dwelling respects the character of the wider area. Finishing the wall with any other coloured render could be considered harmful visually.
For the reasons above, the form, scale, layout and details of the development clearly respects, enhances and improves the visual benefit the application site has on character of the townscape. The proposal, subject to the forementioned condition, clearly accords with Chapter 12 of the NPPF, Local Plan policy LP24 and The Housebuilders Design Guide SPD in regard to design and visual amenity.

3. Impact on Residential Amenity

The impact of the proposal on the amenity of surrounding properties and future occupiers of the dwellings needs to be considered in relation to Policy LP24 of the Local Plan which seeks to "provide a high standard of amenity for future and neighbouring occupiers; including maintaining appropriate distances between buildings."
This is further supported by policies set out in Chapters 12 and 15 of the NPPF. Principle 6 of the Housebuilders Design Guide SPD echoes this but precisely 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 dwelling would be set side by side to the bungalow to the east and therefore there would not be any material harm generated through this relationship with regard to residential amenity.
The dwelling is however located perpendicular to the side of no.21 Laburnum Road meaning the rear elevation of the proposed property faces towards the garden of no.21. The orientation of both no.21 and proposed dwelling means the proposed dwelling would not face directly towards the side elevation of no.21. The separation distance between the two properties is 13.5m. This separation distance accords with the Housebuilders Design Guide SPD in terms of separation distances and is notably enough to mean the dwelling does not appearing overbearing to no.21. Despite being site on notably higher land than no.21, the true bungalow style of the proposed dwelling mitigates any overbearingness and overshadowing as the overall height is kept to a minimum. Details have not been given with regard to boundary treatment to the rear, therefore it shall be conditioned for boundary treatment details to be submitted to the LPA as to ensure privacy is provided for both the proposed dwelling and no.21.
The proposed dwelling shall not be materially overlooked by any existing properties and accords with the 'Technical Housing Standards – Nationally Described Space Standards', thus officers consider it provides suitable amenity for future occupiers.

For the reasons above, subject to the condition regarding boundary treatment details, the proposed development is considered to accord with Local Plan policy LP24, Chapter 12 and 15 of the NPPF and the Housebuilders Design Guide SPD with regard to residential amenity.

4. Impact on Highway Safety

The access for the proposed development is a driveway from a shared access which serves the two bungalows to the east. The proposal would see 2 off-street parking spaces provided to the front of the site. The proposed off street parking spaces are of a suitable size and quantity to serve the proposed dwelling. Vehicles can also enter and exit the site in a forward gear. There is also ample space to store refuse and present it without impeding on the highway network. Details of the surfacing has not been provided however, therefore this would have to be conditioned. Given the above, subject to said condition, the scheme is considered to accord with Local Plan Policies LP21 and LP22 as well as the Highways Design Guide SPD with regard to parking and vehicle safety.

Officers note Public Right of Way (PROW) Heckmondwike 20 is not shown on the plans. Nevertheless, the PROW only extends across the existing shared access and not into this plots itself, thus the footpath will remain unaffected. Notwithstanding this, as the PROW is within the red line boundary, a condition is required to ensure the PROW remains clear. Subject to this condition, the scheme accords with Local Plan Policy LP23 and national guidance with regard to Public Rights of Way.

5. Other Matters

Carbon Budget

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. The proposal is for the erection of a detached dwelling. To ensure it contributes positively to mitigating the impact of climate change and air quality, a condition should be inserted to the decision notice requiring the provision of an electric vehicle recharging point prior to occupation of the dwelling. This is to comply with the aims of policy LP24 of the KLP and chapters 9 and 14 of the NPPF, which seek to promote sustainable transport and to support low carbon future.

Coal Mining / Contaminated Land

The application site falls within the defined Coal Mining High Risk Area. The Coal Authority and KC Environmental Health were therefore consulted. The

application has been supported by a Coal Mining Risk Assessment (CMRA), which can be considered against the findings of the coal related investigations on the site in relation to the application for the adjacent two bungalows, approved in 2016. In accordance with the consultation responses, it is considered that following the findings of the submitted CMRA and the forementioned other investigations in 2016, it has been demonstrated that the site is safe and stable, whereby no further coal mining related investigations are required with regard to stability.
However, the site has been identified as potentially having contaminated land due to its proximity to a tipping with industrial waste site and colliery (Sites 293/5 and 295/5). Therefore, further investigation is required, thus contaminated land conditions are therefore considered necessary. Subject to conditions relating to the further investigation of the potentially contaminated land, the scheme is considered to accord with Local Plan Policy LP53 and Chapter 15 of the NPPF.

Noise
The application site is set directly next to two football pitched. This is a noise generating use whereby it could be to the detriment of the future occupiers of the proposed dwelling. As such it shall be conditioned that prior to development on the superstructure, a report specifying the measures to be taken to protect the development from noise from the nearby sports pitches shall be submitted to and approved in writing by the Local Planning Authority. Subject to this condition, the application accords with Local Plan Policies LP24 and LP52.

Ecology
The application site is identified with the bat alert layer on the council's internal mapping system. Given the site currently has no vegetation and is essentially a building site in residential area, the biodiversity value of the site is low.
Nonetheless, Local Plan policy 30 and the biodiversity guidance notes states that a biodiversity net gain is required on all development. To create this net gain, a condition to secure an integrated bat box shall be required within the external wall of the new dwelling and shall be added as a condition to the decision notice. This mitigation will ensure that the proposal minimises the impact on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements as required by Local Plan policy LP30.

6. Representations
None.

7. Conclusion
The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development

would constitute sustainable development and is therefore recommended for approval.

Recommendation: **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 to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP21, LP22, LP24 and LP35 of the Kirklees Local Plan, and the aims of the National Planning Policy Framework.

3. Groundworks shall not commence until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study Report) has been submitted to and approved in writing by the Local Planning Authority.
Reason: This is a pre-commencement condition required to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 183 and 184 of the National Planning Policy Framework.

4. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition 3. Groundworks (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the Local Planning Authority.
Reason: This is a pre-commencement condition required to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 183 and 184 of the National Planning Policy Framework.

5. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 4, further groundworks shall not commence until a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.
Reason: This is a pre-commencement condition required to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 183 and 184 of the National Planning Policy Framework.

6. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 5. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered [in either

the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report] is identified or encountered on site, 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. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.
Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 183 and 184 of the National Planning Policy Framework.

7. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as the remediation measures have been completed for (that part of) the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the Local Planning Authority. Where validation has been submitted and approved in stages for different areas of the whole site, a Final Validation Summary Report shall be submitted to and approved in writing by the Local Planning Authority.
Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 183 and 184 of the National Planning Policy Framework.

8. Before development begins on the superstructure of the dwelling hereby approved, a report specifying the measures to be taken to protect the development from noise from the nearby sports pitches shall be submitted to and approved in writing by the Local Planning Authority. The report shall:-
a) Determine the existing noise climate
b) Predict the noise climate in gardens (daytime), bedrooms (night-time) and other habitable rooms of the development
c) Detail the proposed attenuation/design necessary to protect the amenity of the occupants of the new residences (including ventilation if required).
The development shall not be occupied until all works specified in the approved report have been carried out in full and such works shall be thereafter retained.
Reason: To ensure appropriate attenuation measures are incorporated in to the development to protect the amenity of future occupiers, in accordance with Policies LP24 and LP52 of the Kirklees Local Plan, Chapter 12 of the National Planning Policy Framework and the Housebuilders Design Guide Supplementary Planning Document.

9. Prior to the first occupation of any new vehicle parking areas shall be surfaced and drained in accordance with the Communities and Local Government; and Environment Agencies ‘Guidance on the permeable surfacing of front gardens (parking areas) published 13th May 2009 (ISBN 9781409804864) as amended or superseded; and thereafter retained.

Reason: In the interests of highway safety and to achieve a satisfactory layout and in the interests of sustainable drainage and to accord with Policies LP21 and LP22 of the Kirklees Local Plan and chapter 14 of the National Planning Policy Framework.

10. Prior to occupation of the dwelling, one electric vehicle recharging point shall be installed. Cable and circuitry ratings shall be provided to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. Thereafter the electric vehicle recharging point provided shall be retained.
Reason: In the interests of promoting modes of transport with ultra-low emissions and to accord with the aims of Policy LP51 and LP52 of the Kirklees Local Plan as well as the sustainability principles of the National Planning Policy Framework.

11. Prior to the occupation of the development, details of the boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall then be erected prior to the occupation of the dwelling also, and retained thereafter.
Reason: In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan, Chapter 12 of the National Planning Policy Framework and the Housebuilders Design Guide Supplementary Planning Document.

12. The external facing walls of the dwelling hereby approved shall be faced with white or off-white coloured render and retained thereafter.
Reason: In the interests of visual amenity and to accord with Policies LP24 of the Kirklees Local Plan, Chapter 12 of the National Planning Policy Framework and the Housebuilders Design Guide Supplementary Planning Document.

13. One nest integrated box suitable for bats roosting shall be installed within the exterior of the new dwelling during the construction phase before the dwelling is first occupied. The box shall be installed on either side elevation, at least 4 metres above ground and not located above windows or doors. The box shall thereafter be retained.
Reason: In the interests of enhancing the biodiversity value of the site, in accordance with Policy LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

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: Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to

be carried out. It has additional powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists or is likely to occur or recur. Failure to comply with a notice served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

Note: All noise assessments should be carried out by a competent person. Developers may wish to contact the Association of Noise Consultants http://www.association-of-noiseconsultants.co.uk/ (020 8253 4518) or the Institute of Acoustics http://www.ioa.org.uk (0300 999 9675) for a list of members.

Plans and Specifications Table:-

Plan Type	Reference	Version	Date Received
Location Plan	-	1	10/03/2022
Grouped Plans and Elevations	581.2A	2	05/05/2022
Proposed Site / Block Layout	581.1A	2	05/05/2022
Coal Mining Risk Assessment	13126	1	10/03/2022

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 Planning Authority has, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. The agent has made amendments to the proposed elevation and site layout. No further amendments have been made or sought by officers.