

**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:	2022/62/91299/E
Site Address:	land adj, 298, Whitechapel Road, Scholes, Cleckheaton, BD19 6HW
Description:	Erection of residential development of nine dwellings
Recommending Officer:	Emma Thompson

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.

Sarah Longbottom

AUTHORISED OFFICER

Date: 04 July 2023

Officer Report

Site Description

Land adj, 298, Whitechapel Road, Scholes, Cleckheaton

The site is located off Whitechapel Road and currently accommodates dwellings 296/298 in addition to a number of outbuildings/sheds/garage. The L shaped site also includes an area of undeveloped land to the north east. There are vast areas of hardstanding located between the buildings.

The site is located on the eastern edge of Scholes and is bound by Whitechapel Road to the south. Beyond which is designated green belt washing over existing linear development and fields to the south. Whilst currently open in nature the land to the north and west is allocated as an employment site.

The M62 is located to the east set at a lower level than the site and being separated by residential properties along Whitechapel Road.

Access currently exists adjacent to the existing dwelling directly from the main highway.

The site is not in 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 9 dwellings to the northern part of the site with access.

Plots 1-3 are shown as two storeys with small front dormers to facilitate accommodation in the roof space, whilst the remaining dwellings are two storeys in height and range from 2 to 4 bedrooms:

House type A (2 of):

4 bedroom accommodation set within the top two floors and with kitchen diner, utility and lounge at ground floor.

House Type A1 (1 of):

4 bedroom accommodation set within the top two floors and with kitchen diner, utility and lounge at ground floor.

House Types A and A1 sit in a linked format with single storey garages to the rear (north) to provide 3 parking spaces per dwelling.

House type B (1 of):

4 bedroom accommodation with lounge, dining room, kitchen/family room, cloak and wc at ground floor level.

Parking for 3 vehicles is shown within the triple garage to the south.

House Type C (1 of):

2 bedroom (one with ensuite) plus house bathroom to first floor, lounge and kitchen diner plus wc to the ground floor.

House Type C1 (2 of)

2 bedroom accommodation (one with ensuite) plus house bathroom, lounge and kitchen diner plus wc and cloaks to the ground floor.

House Type D (1 of)

3 bedroom with undercroft parking provision. The ground floor provides lounge, kitchen/diner, wc and cloaks.

House Type D1 (1 of)

3 bedroom with linked undercroft parking. The ground floor provides lounge, kitchen/diner, wc and cloaks.

Materials are shown as natural stone and artificial slate roof.

The site layout plans show parking for each plot in addition to visitor spaces, provision of bin storage to each plot in addition to biodiversity enhancement in the form of sparrow and bat boxes.

Boundary treatment is shown as timber fencing and hedging.

Access is shown in a similar position to the existing but is shown widened with improved visibility.

The existing outbuildings along the eastern boundary would be demolished as part of the proposals.

History of negotiations/amendments received

Revised plans were received addressing highway comments in addition to further information regarding the loss of a strip of employment land.

Relevant Planning History

No relevant planning history at the site.

A planning application reference 2021/92603 for land to the west and north for the erection of storage and distribution unit (Use Class B8) with ancillary offices was refused on 31 March 2023.

Representations

Final publicity date Expires:

Neighbour letters initially expired on 24th May 2022.

4 representations were received as a result of the above publicity, which objected to the initial proposal under this application. The full comments are available to view on the Council's Planning Webpage, but a summary of the concerns raised is provided below:

- No notifications
- Traffic/parking/highway and pedestrian safety
- Out of character
- Over development
- Noise mitigation in the dwellings
- Other development in the area
- Noise & disruption to local residents
- Loss of biodiversity
- Mining legacy

Consultation Responses

KC Environmental Health: No objections subject to conditions.

KC Highways Development Management: No objections subject to a condition.

KC Biodiversity: No objections subject to a condition.

Health & Safety Executive: Does not advise against.

West Yorkshire Designing out Crime Officer: No objections

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 predominantly unallocated with a small strip being part of the wider employment allocation (ES6) designated on the Kirklees Local Plan Proposals Map.

Kirklees Local Plan (LP):

- **LP 1** – Achieving Sustainable Development
- **LP 2** – Place Shaping
- **LP 3** – Location of New Development
- **LP 7** – Efficient and Effective Use of Land and Buildings

- **LP 8** – Safeguarding employment land and premises
- **LP 20** – Sustainable Travel
- **LP 21** – Highway Safety
- **LP 22** – Parking Provision
- **LP 24** – Design
- **LP 28** – Drainage
- **LP 30** – Biodiversity and Geodiversity
- **LP 33** – Trees
- **LP 51** – Protection and Improvement of Local Air Quality
- **LP 52** – Protection and Improvement of Environmental Quality
- **LP 53** – Contaminated and Unstable Land
- **LP64** – Employment allocation

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 6** – Building a strong competitive economy
- **Chapter 8** – Promoting Health and Safe Communities
- **Chapter 9** – Promoting Sustainable Transport
- **Chapter 11** – Making Efficient Use of Land
- **Chapter 12** – Achieving Well-Designed Places
- **Chapter 14** – Meeting the Challenge of Climate Change, Coastal Change and Flooding
- **Chapter 15** – Conserving and Enhancing the Natural Environment

Other Material Considerations:

- Kirklees Highways Design Guide SPD (2019).
- Waste Management Design Guide for New Developments (Version 5, October 2020).
- Kirklees Biodiversity Net Gain Technical Advice Note (2021).
- Kirklees Housebuilders Design Guide SPD (2021).

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Impact on visual amenity
- 2) Impact on residential amenity
- 3) Impact on highway safety
- 4) Other matters

- 5) Representations
- 6) Conclusion

1 – Principle of development:

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

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

Other than a strip of land allocated for employment uses (site ES6), the majority of the site is not displayed as allocated on the KLP Policies Map. Notwithstanding the loss of the employment land, 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 Local Plan identifies a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum. National planning policy requires local planning authorities to demonstrate five years supply of deliverable housing sites against their housing requirement. The latest published five year housing land supply position for Kirklees, as set out in the Authority Monitoring Report (AMR), is 5.17 years. This includes consideration of sites with full planning permission as well as sites with outline permission or allocated in the Local Plan where there is clear evidence to justify their inclusion in the supply.

The Housing Delivery Test results are directly linked to part of the five year housing land supply calculation. The 2022 Housing Delivery Test results have yet to be published and the government is currently consulting on changes to the approach to calculating housing land supply. Once there is further clarity on the approach to be taken, the council will seek to publish a revised five year supply position. Chapter 5 of the NPPF clearly identifies that Local Authority's should seek to boost significantly the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development.

Policy generally seeks to support residential development upon unallocated sites. Thus, residential development at the site could be acceptable in principle. However, Policy LP7 of the Kirklees Local Plan establishes a desired target density of thirty-five dwellings per hectare. 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'. The provision of 9 dwellings on the site is fewer than 35/ha, however this is as a result of the retention of the two existing dwellings in addition to a large proportion of the site providing access. Given the location of the site in a, currently, semi-rural part of Scholes any increase in the density of development is likely to result in a cramped form of development that would fail to sympathetically integrate with existing development in the locality and as such a lower figure is acceptable in this instance.

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

Loss of land allocated for employment uses

The application for residential development would result in the loss of a small strip of land allocated for employment uses (part of site ES6). This land falls outside of the current planning application for development and is located within the ownership of the applicant.

The application is accompanied by a statement regarding the loss of the land for employment use. The development of the site would leave an isolated strip that is incapable of accommodating any employment use. It therefore is pragmatic to incorporate into the scheme for development of the unallocated land and will not prejudice wider development.

2 – Impact on visual amenity:

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby 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.

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 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, whilst Principle 14 notes that the design of openings is expected to relate well to the street frontage and neighbouring properties.

The dwellings are sited in the northern part of the site with the remaining strip accommodating the access and parking in addition to some landscaping features. The layout of the development echoes the established pattern at the site frontage with Whitechapel Road.

The dwellings are orientated to respond to the new access and designed to address the street. The layout ensures that each plot results in a good-sized garden to the rear, as well as space to the front, helping to maintain the suburban and green character of the area.

The scale of development reflects existing properties in the vicinity introducing a combination of 2 and 2.5 storey buildings. The varied height and roof designs are considered to add interest to the scheme and would be typical of dwellings in the area. The site sections demonstrate how the dwellings will step down naturally within the land ensuring the scheme corresponds well within its setting. Being set to the north of existing development it will be screened by buildings located along Whitechapel Road. The street scene plans show that the development will sit comfortably affording space to existing built form and not detracting from it. The set back of the dwellings within the site will reduce any prominence of the 2.5 storey buildings.

Plots 1 and 3 form bookends to the row of three as both face outwardly ensuring visual interest from the within and externally to the site. The inclusion

of gable features to Plots 5 and 7 along with the under-croft parking area adds interest whilst contributing positively to the local vernacular.

The application includes details of boundary treatment including timber boarded fence and natural planted hedging, both are considered acceptable when taking into account the context and character of the immediate surrounding area as well as internally to the site.

The layout, scale and form of the dwelling is considered acceptable from a visual amenity perspective.

The materials proposed for construction of the dwellings and garage are natural pitch face stone walling and artificial slate roof which are considered appropriate to their setting. Further details of materials can be conditioned so as to ensure a high-quality finish.

There are limited details of landscaping. The parking area originally shown along the access has been reduced to allow for an increase in planting to soften the otherwise stark appearance. This will offer a visual improvement where there is currently hard landscaping/garage.

The development is not considered to result in any detrimental harm to visual amenity being in accordance Policy LP24(a) of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

3 – Impact on residential amenity:

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

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

Further to this, Paragraph 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 SPD goes on to state that, *“normally new build developments should seek appropriate separation distances for servicing, accommodating future adaptations and creating attractive street scenes. These should be in keeping with the character and context of the site and proportionate to scale of the dwellings.”*

The SPD also provides advised separation distances for two storey dwellings as follows:

- 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.

Due to the layout and orientation of the dwellings proposed the only direct relationship shows the gable end (and rear) of number 298 located opposite the side elevation of plot 1. An existing window in 298 would face the new property. The new dwelling does not include habitable room windows to its gable and a sufficient distance is maintained between the two mitigating any potential for overlooking/loss of privacy. The remaining development sits an adequate distance from existing residential properties so as to avoid any loss of amenity as a result of appearing overbearing/overlooking..

With regards to layout of new development the scale and positioning of the development avoids any loss of amenity to future occupants. The scheme generally meets the guidance contained in the Housebuilders SPD ensuring a good standard of amenity for future occupants. The only 'direct' relationship is between Plot 1 and Plot 4. Due to the design and internal layout of the new dwellings it is considered that the distance between the two is adequate, the orientation and principal elevations unaffected.

It is considered that the proposal would prevent undue harm to the amenities of this property in terms of loss of light, loss of outlook, overlooking or loss of privacy, or the creation of an overbearing effect to both existing and future occupants.

Amenity of the Proposed Occupiers

Principle 16 of the 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 dwelling exceeds the minimum recommendations as set out within the NDSS for such a dwelling, and the proposed rear garden is considered to be a good size for a dwelling of this scale.

Whilst the garden sizes are adequate for the properties, this should be maintained to avoid a cramped appearance and also to prevent any future overshadowing or overbearing impact on any occupants.

As such, subject to a condition, 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) and Chapter 12 of the National Planning Policy Framework.

4 – Impact on highway safety:

Paragraph 111 of the NPPF states that: *“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*

Policy LP21 of the Kirklees Local Plan states that proposals shall demonstrate that they can accommodate sustainable modes of transport and be accessed effectively and safely by all users.

The agent and KC Highways DM have been in ongoing negotiations regarding changes required requested by S38. The layout does not fully meet the Council’s criteria for adoptable roads and as such the layout would not be suitable for adoption. The Applicant is aware of this and has indicated that the layout is to remain private and will not be offered for adoption. Whilst KC Highways have suggested further agreement requiring the Applicant to establish a Management Company/Agreement for the future maintenance of the access roads, this is not considered necessary to be covered by condition and adequate for the scale of development proposed.

The layout has been subject to a Stage 1 RSA, and issues raised have been suitably addressed and it is considered that whilst not fully achieving the Council’s adoption standards, the layout is fundamentally safe and would not result in any significant highway safety issues.

There is considered to be sufficient space for bin storage on the site.

It is therefore considered that the proposal would not cause detrimental harm to the safe and efficient operation of the highway network, in accordance with Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF.

5 – Other matters:

Ecology

The site currently consists of two dwellings, outbuilding with a large area of hardstanding to the rear in addition to some maintained lawn and hedging to the boundary. Other than the existing dwellings the site is to be cleared. A Preliminary Ecological Assessment (PEA) has been submitted with the application, which provides a robust assessment of the site and lays out a

number of mitigation measures and recommendations. Overall, it was determined that the site is of low ecological value.

The PEA determined that the buildings present on site provide some degree of suitability for roosting bats, and as such, required additional survey. A bat survey report was received to address outstanding matters. The report details that buildings B1 a B3 contain a day roost for Common Pipistrelle. The submitted mitigation strategy ensures that the conservation status of the roosting bats on site will be retained, post development. Should approval be granted, an appropriate mitigation licence will need to be applied for, with Natural England.

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.

A Biodiversity Net Gain assessment was undertaken within the DEFRA metric 3.0, with results included in the PEA. The development proposals in their current form result in a net loss of 31% in habitats (0.1 habitat units). Given this, the development proposals in their current form do not comply to national and local planning policies pertinent to nature conservation and other options should be pursued within the development site to ensure an overall net gain can be achieved. To this end the application incorporates measures of mitigation through bat and bird boxes.

In order to meet Policy LP30 and Chapter 15 of the NPPF, all mitigation measures set out in the Bat Mitigation Strategy (Witcher Wildlife Report Ref: 220674/2.) should be implemented. A condition is required to ensure the development incorporates the approved measures to provide enhancement and mitigation.

Climate Change

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

Due to the nature of the scheme, this being a proposal providing new residential units within the site, it is considered that one electric vehicle charging point for each dwelling should be provided to aid in the contribution to climate change. Details are incorporated into the scheme and shall be conditioned should planning permission be granted.

Contamination

The site is identified as being on potentially contaminated, and as such the application is accompanied by a Geo-environmental Ground Investigation Report by Haigh Huddleston & Associates, dated April 2022 (ref: E21/7893/R001). The application has been referred to Environmental Health for comment in respect of land contamination.

The Phase I aspect of the report provides an appraisal of the site history and previous surrounding land uses, since the 1800s and an assessment of the environmental setting. Notably, Chainbarrows Farm has been on the site since 1892 and Chainbarrows Colliery was located southwest of the site from 1905 however this was inactive by 1933 and no longer shown from 1976. Aside from the historical colliery, the report details that no significant developments in the vicinity considered are likely to have an adverse effect on the site.

Potential pollutant linkages have then been identified in Section 6 of the report.

An intrusive investigation was carried out on the 15th of February 2022. Nine trial pits were dug and four ground gas monitoring wells (WS02, WS03, WS04 and WS05) were installed. A total of seven samples were then sent for chemical analysis at an accredited laboratory. The soil chemical analysis revealed one elevated level of lead (250 mg/kg) at TP01 in the western field. Notably, TP01 was topsoil containing bricks and glass. No other inorganic or organic determinants exceeded the residential with homegrown produce assessment criteria.

However, in light of the result at TP01, the report considers that fill from TP01 and 'any similar' in the western field is treated as a hotspot and removed from the site. It is then proposed the remaining topsoil should be scraped and stockpiled. The report then advises further sampling will be required to confirm the suitability of the site soils for use in residential gardens.

Kirklees Environmental Health have accepted the Phase 1 aspect of the Geo-environmental Ground Investigation Report by Haigh Huddleston & Associates, dated April 2022 (ref: E21/7893/R001) but did not accept the Phase 2 aspect due to the lack of ground gas data and ground gas assessment. Nevertheless, the investigation so far has demonstrated that contaminated land is unlikely to limit the use of the site, and remedial works could make the site suitable for the intended end use.

Following the comments of KC Environmental Health, further information has been received submitted by Haigh Huddleston Associates (ref: E21/7893/MD/02) (dated: 27th September 2022) along with • Geo-environmental Ground Investigation Report by Haigh Huddleston & Associates, dated April 2022 (ref: E21/7893/R001)

- Gas Monitoring Report (ref: E21/7893/JF/001) (dated: 6th May 2022) by Haigh Huddleston Associates
- Letter from Haigh Huddleston Associates (ref: E21/7893/MD/02) (dated: 27th September 2022)

KC Environmental Health have reviewed the additional information which satisfies concerns. Outstanding matters can satisfactorily be dealt with by conditions to ensure the site can be safely developed and occupied.

Health & Safety

The site is located within an area requiring referral to HSE. A consultee response has been received, confirming there are no objections.

Noise

The proposed development is close to the M62 and also near to employment allocation ES6. No noise assessment report has been submitted with the application. There are concerns that future occupiers at the residential development may be negatively impacted by noise from road traffic and potentially activities from the adjacent employment site. Whilst there is no current planning permission in place for the adjoining site, it is an allocated employment use and is likely to come forward for this use. Noise sensitive receptors, need protecting both from the potential employment activities and nuisance from the M62. It is recognised in the Local Plan, in respect of the nearby employment allocation, that 'residential amenity will need safeguarding through sensitive siting of buildings and landscape buffer areas along Whitechapel Road', recent plans to develop the adjoining site show significant separation and rising bund that will mitigate noise for nearby residents. Notwithstanding this, the applicant/developer must demonstrate that acceptable sound levels can be achieved in indoor and outdoor amenity areas in order to protect future occupants. Subject to condition the development proposals are in accordance with Policy LP52 and LP24 of the Kirklees Local Plan.

Construction

The Council's Environmental Health Officer has requested that construction site working times are conditioned. It is also noted that a third party has raised concerns in relation to nuisance to neighbouring properties from construction activities. Construction practices are covered by other regulations and it is not considered necessary or reasonable to attach a condition regarding site working times, but an informative regarding construction practices can be attached instead if permission is granted.

6 – Representations:

4 representations have been received overall a result of the above publicity. The majority of comments raised are addressed in the above assessment. Any other comments will be discussed below:

- No notifications
Response: The Council is undertaking site publicity in accordance with statutory requirements and as such Neighbour Notification letters were posted as required.
- Traffic/parking/highway and pedestrian safety
Response: The application has been referred and assessed by KC Highways DM. The scheme incorporates adequate parking and bin storage as well as visibility. The development is of a scale that will not contribute to matters of highway safety.
- Out of character
Response: The application is accompanied by a supporting statement outlining context and it is considered the layout and design in addition to materials is acceptable.
- Over development
Response: The level of development proposed is under the 35 per hectare advised by Policy LP7 of the Local Plan and has been designed to afford space to each dwelling. For reasons outlined in the report the level and layout is not considered to result in over development.
- Noise mitigation in the dwellings
Response: The application has been referred to KC Environmental Health for comment and a condition is recommended requiring mitigation to protect future residents.
- Other development in the area
Response: The application has been assessed on its merits and in accordance with the Kirklees Local Plan.
- Noise & disruption to local residents
Response: Any matters arising during the development should be raised with the appropriate authorities. Noise nuisance is not something that can be controlled by the Planning Department, however an advisory footnote is to be included on the decision.
- Loss of biodiversity
Response: For the reasons outlined in the above sub section the site is not considered to be of high ecological value. Required reports have been carried out and mitigation incorporated into the scheme.
- Mining legacy
Response: The site is within a low risk area as defined by the Coal Authority and as such has not required consultation with the Coal Authority.

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: 2021/93093

Officer Recommendation: Approve

Conditions:

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, LP28, LP30, LP33, LP51, LP52 and LP53 of the Kirklees Local Plan, the adopted Housebuilders SPD and Chapters 5, 8, 9, 11, 12, 14 and 15 of the National Planning Policy Framework.

3. The development shall be completed using natural stone walling and artificial slates.

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

4. Groundworks shall not commence until a Remediation Strategy by a suitably competent person 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 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. Remediation of the site shall be carried out and completed in accordance with the

Remediation Strategy approved pursuant to condition 4. 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

6. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Verification Report by a suitably competent person 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 the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Verification Report in respect of those remediation measures has been 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

7. Prior to the first occupation of the dwellings hereby approved, one electric recharging point shall be installed within the dedicated parking area of each of the dwellings hereby approved. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. The electric vehicle charging point so installed shall thereafter be retained.

Reason: In the interest of supporting low emission vehicles and to accord with the guidance contained in Policies LP24 and LP51 of the Kirklees Local Plan and Chapters 9 and 15 of the National Planning Policy Framework.

8. All mitigation measures set out in the Bat Mitigation Strategy (Witcher Wildlife Report Ref: 220674/2.) dated 14/08/2022 shall be fully implemented during the course of the development hereby approved and shall thereafter be maintained.

Reason: To ensure the scheme provides a biodiversity net gain in accordance with Policy LP30 of the Kirklees Local Plan.

9. Prior to the commencement of development including demolition and ground works, a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority. The CMP shall include a timetable of all works, details of point(s) of access for construction traffic, vehicle sizes and routes, times of vehicle movements, parking for construction workers, signage, pre-development road condition surveys, wheel washing facilities within the site, lighting during construction works, hours of working, details of dust, noise and vibration suppression measures. The development shall be carried out strictly in accordance with the CMP so approved throughout the period of construction and no change therefrom shall take place without the prior written consent of the Local Planning Authority. Upon completion of the development, post-development road condition surveys and a schedule of remedial works shall be submitted to and approved in writing by the Local Planning Authority, and the approved remedial works shall be carried out following the completion of all construction works related to the development.

Reason: In the interests of amenity and highway safety, and to accord with Policies LP21 and LP52 of the Kirklees Local Plan. This pre-commencement condition is necessary to ensure appropriate measures to protect amenity and maintain highways safety are agreed at an appropriate stage of the development process.

10. Before development commences, the wall to the site frontage shall be set back to the rear of the proposed 2.4 x 43m visibility splays as shown on the approved plan and shall be cleared of all obstructions to visibility and tarmac surfaced to current standards in accordance with details that have previously been approved in writing by the Local Planning Authority.

Reason: This is a pre-commencement condition to ensure adequate visibility in the interests of highway safety and to accord with Policy LP21 of the Kirklees Local Plan and National Planning Policy Framework.

11. No development shall take place until a scheme detailing the proposed internal estate roads have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include full sections, drainage works, street lighting, signing, surface finishes and the treatment of sight lines, together with an independent safety audit covering all aspects of work. Before any building is brought into use the scheme shall be completed in accordance with the scheme shown on approved plans and retained thereafter.

Reason: This is a pre-commencement condition to ensure that suitable access is available for the development and to ensure adequate visibility in the interests of highway safety and to accord with Policy LP21 of the Kirklees Local Plan and National Planning Policy Framework.

12. Before construction work commences a report specifying the measures to be taken to protect the development from noise from all significant noise sources that are likely to affect the proposed development including road traffic and commercial premises 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: This is a pre-commencement condition to ensure that suitable noise attenuation measures can be incorporated into the development in the interest of residential amenity and to accord with Policies LP24 and LP52 of the Kirklees Local Plan and National Planning Policy Framework.

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.

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 by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2019. Reports must be prepared in accordance with the following guidance:

- *Land Contamination Risk Management (LCRM)*
- *BS 10175:2011+ A2:2017 Investigation of Potentially Contaminated Sites. Code of Practice*
- *Development on Land Affected by Contamination - Technical Guidance for Developers, Landowners & Consultants - (v11.2) June 2020 by the Yorkshire and Lincolnshire Pollution Advisory Group*

NOTE: Noisy construction related activities should not take place outside the hours of:

07.30 to 18.30 hours Mondays to Fridays

08.00 to 13.00 hours, Saturdays

With no noisy activities on Sundays or Public Holidays Institute of Air Quality Management document "Guidance on the assessment of dust from demolition and construction" Version 1.1 2014 provides detailed information regarding dust control.

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.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location Plan	0001 P1		13/4/22
Proposed Site Layout	0003 P11		27/04/23
Visibility	2060 01 rev G		27/04/23
Proposed long sections	0012 P1		13/4/22
Garage block	0011 P1		13/4/22
Proposed House Type A	0004 P2		27/04/23
Proposed House Type A1	0005 P2		27/04/23
Proposed House Type B	0006 P1		13/4/22
Proposed House Type C	0007 P1		13/4/22
Proposed House Type C1	0008 P1		13/4/22
Proposed House Type D	0009 P1		13/4/22
Proposed House Type D1	0010 P1		13/4/22
Existing Site Survey	0002 P1		13/4/22

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. Revised plans were received addressing highway comments in addition to further information regarding the loss of a strip of employment land.

Report Dated: 29th June 2023

