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:	**2022/62/92405/E**
Site Address:	adj, 53, Garden Place, Dewsbury Moor, Dewsbury, WF13 4EP
Description:	Erection of detached dwelling with linked garage
Recommending Officer:	Elenya Jackson

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: 22 February 2023

OFFICER REPORT: 2022/92405

Site Description

The application site contains a brick built, two-storey middle terrace dwelling at 53 Garden Place in Dewsbury. The application site is to the rear of this dwelling. The dwelling fronts onto Garden Place, an unadopted road which leads off Church Lane to the north. There is pedestrian access to the rear of the terrace row which is taken from Garden Place. The is an area of amenity space immediately to the rear of the dwelling which sits in line with the rear amenity space of the properties immediately adjacent.

To the south of the pedestrian access to the rear of the terrace row, there is a larger garden area which is under the ownership of the applicant and is part of the same
parcel of land as the main dwelling. Within this area of land, land levels slope upwards
towards the east. A garage formerly occupied the site to the boundary of 26 Church Lane, however this has been demolished.

The surrounding area is predominantly residential nature. Whilst the terrace row on which the application dwelling is located are of a similar appearance, the wider area comprises properties which vary in terms of their character, style and design.

It is understood that the road associated with Garden Place is under shared ownership with other dwellings in the street scene.

Description of Proposal

The application has been received for the construction of a detached dwelling with a linked garage.

The proposal would face west, with a width of 9.3m across (reduced from 9.8m) with a height of 8.2m (8.7m including chimney) and an eaves height of 5.2m.

The main element of the property would have a depth of approximately 6.7m (12.1m with a link detached garage along the southern boundary). This would extend 4.4m beyond the rear elevation of the dwelling, be set back from the principle elevation of the dwelling by 4.6m and have a width of 3.4m. The garage would feature a pitched roof with a maximum height of 3.6m. The dwelling would have a porch to the principle elevation with a maximum height of 3.6m and an eaves height of 3m with a projection of 1m.

The plans indicate the proposed materials and outline the materials would feature brick to match neighbouring dwellings. The proposal would feature grey concrete roof tiles.

Two off street parking spaces would be provided to serve the dwelling.

Relevant Planning History

At 53 Garden Place – 2021/90918 – Erection of two storey and single storey rear extension and raised terrace. Granted but not implemented.

At 18 Church Lane (relating to 22-26 Church Lane) – 2011/91209 – Erection of four dwellings. Granted and implemented. There is also a Discharge of Conditions application which relates to the above permission.

Representations

The application was advertised by neighbour letters, which expired on 05/09/2022.

Amended plans were received; however, a re-consultation was not considered necessary due to the reduction in scale of the proposal, location remaining the same and no additional fenestration,

Ten representations in response to the original site publicity were received raising the following concerns:

- Disruption during building work
- Disruption to access during development
- Biodiversity within the vicinity
- Queries regarding previous permissions
- Ownership of access
- Overlooking
- Foul Waste Drainage
- Visual impact of the proposal
- Grievances relating to applicant conduct
- Impact to outlook
- Increased pollution
- Construction traffic
- Damage to property
- The property being in-keeping with the area
- Access for construction vehicles
- Removal of trees
- Impact to privacy
- Health
- Ongoing boundary disputes
- Increased crime
- Planting of trees causing damage
- Appearance of solar panels
- Proposal impacting natural surveillance
- Inaccuracies in design and access statement
- Highway safety issues caused by development
- Unequal road terrain for access

Consultation Responses

KC Highways DM: Initially, objections were raised due to concerns regarding size of the garage, bin storage and emergency vehicle access. An informal re consultation was undertaken on 15/02/2023 due to amended plans being received and this objection was removed.

KC Environmental Health: No objections subject to conditions relating to contaminated land and electric vehicle charging points.

The Coal Authority: requested conditions relating to mitigation of coal mining legacy

Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is unallocated on the Kirklees Local Plan Proposals Map

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.

Kirklees Local Plan Policies

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 7**- Efficient and effective use of land and buildings
- **LP 11**- Housing mix and affordable housing
- **LP 20** – Sustainable travel
- **LP 21**- Highways and Access
- **LP 22** – Parking
- **LP 24** - Design
- **LP 28** – Drainage
- **LP 30-** Biodiversity and Geodiversity
- **LP47** Healthy, Active and Safe Lifestyles
- **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, and 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 8 Promoting Healthy and Safe Communities
Chapter 9 Promoting Sustainable Transport
Chapter11 Making Effective Use of Land Chapter
Chapter 12 Achieving Well Designed Places
Chapter14 Meeting the Challenge of Climate Change, Flooding and Coastal Change
Chapter15 Conserving and Enhancing the Natural Environment

Supplementary Planning Guidance
Housebuilders Design Guide SPD (2021)

Kirklees Council has adopted supplementary planning guidance on new housing development which now carries full weight in decision making. 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 this SPD will assist with ensuring enhanced consistency in both approach and outcomes relating to new housing development.

Highway Design Guide SPD (2019)
Kirklees Council has adopted supplementary planning guidance on highway design which carries full weight in decision making. This guidance indicates how the Council will usually interpret its policies regarding highway design and layout, 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 this SPD will assist with ensuring enhanced consistency in both approach and outcomes relating to highway design

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) Negotiations
7) Conditions
8) Conclusion

Paragraph 11 of the National Planning Policy Framework (NPPF) advises that plans and decisions should apply a presumption in favour of sustainable development. It adds, within the same paragraph, that where the policies in the Development Plan, deemed most relevant to the consideration of the proposal in question are out-of-date, the default position is that planning permission should be granted unless:-

a) policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed; or b) any adverse impacts of so doing would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

In the case of applications for residential development such as this, the NPPF adds that policies will normally be considered 'out of date' if the Local Planning Authority cannot demonstrate a five year supply of deliverable housing land.

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.

The Council is currently able to demonstrate a supply of 5.17 years and therefore continues to operate under a plan-led system.

Policies LP1 and LP20 of the Local Plan and Chapters 2 and 9 of the NPPF both place emphasis upon securing sustainable forms of development.

It is considered that the development proposed by this application could reasonably be viewed as meeting this aim in so far as it seeks the maximum use of land that is located within the built-up area of Dewsbury.

Additionally, the proposal would assist in meeting the housing needs of the Council. This would be 'in line' with the aims of Chapter 5 of the NPPF, which states that small developments such as this can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly.

In view of the above, and as this site is enclosed by residential development, the proposal is considered to be acceptable in principle meeting the requirements of Policies LP1 and LP20 of the Local Plan and Chapters 2, 5 and 9 of the NPPF in this regard.

2 –Impact on visual amenity:

The proposed new dwelling would be visible within Garden Place.

Within the immediate vicinity of the site, the dwellings are not uniform in appearance and there is a mixed palette of red brick, stone and render.

Principle two of the Kirklees House Builders Design Guide 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 states 'Buildings should be aligned and set-back to form a coherent building line and designed to front on to the street, including corner plots, to help create active frontages. The layout of the development should enable important views to be maintained to provide a sense of places and visual connections to surrounding areas, and seek to enable interesting townscape and landscape features to be viewed at the end of streets, working with site topography. The arrangement of buildings should consider maintaining privacy and residential amenity. Effective boundary treatments should be used to form defensible space and delineate between public and

private realm. Buildings should be arranged to take account of weather and microclimate'

Principle 13 relates to materials and detailing.

Principle 14 relates to windows and doors and states 'Principle 14 The design of windows and doors is expected to relate well to the street frontage and neighbouring properties and reflect local character in style and materials.'

The proposal is to be constructed out of brick which is in keeping with the prevailing character of the area. Details of this have not been provided however it is considered that this could be secured by condition.

Due to there being a variety of dwellings within the vicinity, the scale of the dwelling is comparable in height to the dwellings south of the application site and has been reduced since the initial receipt of the application. As the dwelling is detached and does not adjoin an existing building line on site, it is considered that the windows and detailing in the western elevation of the property would create an active frontage and relate well to the public realm.

The proposal has been amended since receipt to remove the gable ends from the principal elevation of the dwelling, the proposal now features a pitched roof with a gable end to its north and south elevation. Gable ends into the street scene is characteristic of the area and would be in-keeping with the existing street scene.

The proposal would be set back from the public realm by 9.7m and situated behind an existing garage which would reduce the dwellings prominence within the street scene.

Due to the scale, location design and materials of the proposal, it is considered that it would not cause significant harm to the visual amenity of the area and would accord with Policy LP24 of the KLP, the Housebuilders Design Guide and Chapter 12 of the NPPF.

<u>3 – Impact on residential amenity of neighbouring residents:</u>

Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account policy LP24 c), which sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers. The House Builder's Design Guide SPD goes into further detail with respect to Key Design Principle 6 on maintaining high standards of residential amenity.

26 Garden Place: adjoins the application site to the south. The plans indicate a 1.8m boundary hedge to be retained between the two dwellings.

Overlooking: The proposal would feature one side facing window at ground floor level which would be a secondary window for the proposed kitchen diner.

It is considered this would be predominantly screened by the boundary treatment between the dwellings; and as such it would not be necessary to impose a condition requiring obscure glazing.

Overshadowing/loss of light: The proposed dwelling would be situated to the north of no.26, the main dwelling would be set 3.6m away from the shared boundary between the dwellings and the garage would be set off the shared boundary and single storey. Therefore, no significant issues would arise regarding overshadowing/Loss of light.

Overbearing: The main dwelling would be set away from the private amenity space of no. 26 and the proposed garage would have an eaves height of 2.4m with the apex 2.8m away from the shared boundary. Therefore, no significant issues would arise regarding overbearing.

51 Garden Place: Would be situated approximately 26m away from the side elevation of the dwelling.

Overlooking: The proposal would not have any side facing windows at first floor level.

Overshadowing/loss of light/overbearing: The proposal would have an offset relationship with no.51 and be situated 26m away from the rear of no.51. Therefore, no significant issues would arise regarding Overshadowing/loss of light/overbearing

No.53 Garden Place: would be situated approximately 25.8m away from the proposal.

Overlooking: The proposal would not have any side facing windows at first floor level and the ground floor side facing French doors would be screened by the 1.8m fence between the dwellings.

Overshadowing/loss of light/overbearing: The proposal would have an offset relationship with no.53 and be situated 26m away from the rear of no.53. Therefore, no significant issues would arise regarding Overshadowing/loss of light/overbearing

No.55 Garden Place: would be situated approximately 25m away from the proposal.

Overlooking: The proposal would not have any side facing windows at first floor level and the ground floor side facing French doors would be screened by the 1.8m fence between the dwellings.

Overshadowing/loss of light/overbearing: The proposal would be situated 25m from no.55 and be situated 26m away from the rear of no.51. Therefore, no significant issues would arise regarding Overshadowing/loss of light/overbearing

57-63 Garden Place would be situated approximately 25-27.8m away from the proposed dwelling.
Overlooking: The proposed dwelling would not have any side facing windows at first floor level and the ground floor side facing French doors would be screened by the 1.8m fence between the dwellings.

Overshadowing/loss of light/overbearing: The proposal would be situated a sufficient distance from these dwellings be situated 26m away from the rear of no.57-63.

Therefore, no significant issues would arise regarding Overshadowing/loss of light/overbearing

No 6 Staincliffe Close: located to the rear of the proposed dwelling and there would be approximately 25m between the two dwellings and 16m between the proposed dwelling and the shared boundary.

Overlooking: The proposal would be set approximately 25m away from the main dwelling at no.6 and 16m away from the private amenity space, therefore, no significant issues would arise regarding overlooking.

Overshadowing/loss of light/overbearing: It is considered that due to the separation distance between the two dwellings, no significant issues would arise regarding overshadowing/loss of light/overbearing.

8 Staincliffe Close: located to the rear of the proposed dwelling approximately 26m to the north east.

Overlooking: The proposal would be set approximately 26m away from the main dwelling at no.8 and have an offset relationship. Therefore, no significant issues would arise regarding overlooking.

Overshadowing/loss of light/overbearing: It is considered that due to the separation distance between the two dwellings, no significant issues would arise regarding overshadowing/loss of light/overbearing

It is considered that once occupied the dwelling is unlikely to generate significant levels of noise. However, the site is surrounded by residential properties and the occupiers of these could potentially be disturbed by noise generated during the construction process.To avoid this, it is recommended that in this instance a footnote is imposed limiting such works to between the hours of 7.30am and 6.30pm Monday to Friday, 8am and 1pm on Saturdays with no working permitted on Sundays or Public Holidays. This approach is supported by KC Environmental Health. In view of the above, it is considered that the development will be acceptable in neighbour amenity terms reasonably meeting the requirements of Policy LP24 of the Local Plan and of the Housebuilders Design Guide SPD (2021) in this regard.

4- Impact on residential amenity of future occupiers

Consideration must also be given to the amenity of future residents of the proposed dwelling. Taking into account principle 16 of the Kirklees House Builder's Design Guide which sets out that:

'*All new homes should aim to be accessible and adaptable homes to meet the changing needs of occupants over time in accordance with Building Regulations'* and that *'All new build dwellings should have sufficient internal floor space to meet basic lifestyle needs and provide high standards of amenity and living environments for future occupiers in accordance with Policy LP24'.*

National space standards require the following gross internal floor area for a three storey dwelling:

3 Bedroom, 4-person dwelling set over 2 storeys- 84 square metres
3 Bedroom, 6-person dwelling set over 2 storeys- 93 square metres
3 Bedroom, 6-person dwelling set over 2 storeys- 102 square metres

The proposed floor plans show the proposal would have 6 bed spaces and therefore is required to have an internal floor space of 102m^2 .

The proposal is shown to have an internal floor space of 108m^2 at ground floor and first floor (not including the garage) It is considered that an acceptable standard of living would be demonstrated if the proposal received planning permission.

Principle 17 of the House Builders SPD states that all new houses should have adequate access to private outdoor space. The application site has an area of approximately 637m^2 not including the access. Approximately 88.4m^2 of the site would be occupied with the footprint of the ground floor of the proposal.

Due to the proposed dwelling occupying approximately 13% of the site, it is considered that sufficient amenity space would be retained should the proposal receive permission and would not represent an overdevelopment of the site.

Overall, it has been considered that the proposal would have an acceptable impact on residential amenity and would be complaint with the aims of Policy LP24 (c) of the KLP.

5 – Impact on highway safety:

With regards to Highways Safety, Policies LP21 and 22 of the Local Plan have been considered along with the KC Highway Design guide. The policies seek to ensure that new developments have an acceptable impact on highway safety and provide sufficient parking and access to sustainable transport options.

KC Highways DM have been formally consulted as part of this application, as the proposal would intensify the domestic use at the site and features a retaining wall adjacent to the Highway.

Officers raised concerns regarding parking spaces, bin storage and the width of the access for emergency vehicles. Amended plans were received as a result and conditions have been requested should the application receive permission.

It is considered necessary to impose conditions to ensure that the driveway is appropriately surfaced and drained in accordance with standard guidance to ensure the additional hard surface does not result in an increase in surface water run-off and flood risk, details of the retaining wall are provided prior to development commencing and boundary treatments are no more than 600cm tall. This would accord with Policies LP28 and LP34 of the Local Plan.

Details of bin storage have also been presented on the proposed plans in which have been considered acceptable. Therefore, having taken into account the above, KC Highways Development Management consider the off street parking to be acceptable and therefore the application can be supported subject to the aforementioned conditions. This is to accord with Policies LP21 and LP22 of the KLP and the Councils Highways Design Guide.

In view of the above it is considered that the proposal will be acceptable in highway safety terms reasonably satisfying the requirements of Policies LP21 and LP22 of the Local Plan and of the Highway Design Guide SPD (2019) in this regard.

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 an electric vehicle recharging point be provided within the site for the future occupants of the dwelling. This is to comply with the aims of Policies LP24

and LP51 of the KLP and chapters 9 and 14 of the NPPF, which seek to promote sustainable transport and to support low carbon future.

Contaminated land

The application site is located in a High Risk Coal area and close proximity to former quarry and colliery (sites300/5 and 387/5) It is considered that a condition is necessary relating to the unexpected discovery of contaminated land and a pre commencement condition to ensure the site is safe in relation to previous coal mining legacy.

As the proposal would be for a residential use and in close proximity to other residential properties, it is considered reasonable to include this as a condition for any future decision notices to ensure the proposal would accord with LP53 of the Kirklees Local Plan.

Drainage

The agent has indicated, on the submitted application form, that both foul and surface water from the developed site are to be discharged into the mains sewer. Due to the scale of the proposal, the statutory drainage bodies have not been consulted on this application so it is not currently known whether these methods of drainage would be acceptable to them in this particular instance. However, given that this site lies within a main built up area and is enclosed by residential development, it is considered very likely, on the balance of probability, that a suitable means of draining the development could be achieved in this instance. In view of this, and as control over drainage matters can reasonably be exercised through the Building Control process, it is considered that there are no reasonable drainage grounds for opposing this development.

Ecology/Trees/Bats

The site is not known to have previously been the habitat of any protected flora and fauna; however, the site is located within a Bat Alert Layer within the LPA's GIS system. As such it is deemed necessary to add a condition requiring the installation of a bat box and a sparrow box in order to provide enhancement, the development should incorporate measures to improve biodiversity opportunity, and as such conditions are imposed. In view of this it is considered that the proposal will reasonably satisfy the requirements of Policy LP30 of the Kirklees Local Plan and of Chapter 15 of the National Planning Policy Framework in ecological terms.

6 – Representations:

Nine objections were received during the consultation period and one email representation on 16.02.2023. The representations raised the following concerns:

- Disruption during building work

Response: it is considered that the construction of one dwelling would not result in significant ongoing development and would be relatively short term, as a result, this would not warrant grounds for refusal.

- Disruption to access during development

Response: it is considered that the construction of one dwelling would not result in significant ongoing development and would be relatively short term and access between parties would be a civil matter, as a result, this would not warrant grounds for refusal.

- Biodiversity within the vicinity

Response: As highlighted within the report, the site is not known to be habitat for any protected flora and fauna; however, enhancement opportunities are to be secured via condition.

- Queries regarding previous permissions

Response: Each planning application is considered on its own merits. Previous applications cannot be re-visited as part of the current application.

- Ownership of access

Response: Land ownership is a civil matter and is not a material planning consideration. The applicant has submitted Certificate B with the application confirming that several third parties have been served notice. This is a legal declaration and is acceptable for the purposes of the planning application.

- Overlooking

Response: This has been addressed in the residential amenity aspect of the report.

- Foul Waste Drainage

Response: This has been addressed in the report and permits outside of the remit of planning would be required.

- Visual impact of the proposal

Response: This has been addressed in the visual amenity aspect of the report.

- Grievances relating to applicant conduct

Response: This is a civil matter and does not form part of the planning process.

- Impact to outlook

Response: The visual impact of the development has been assessed as part of this application and outlook/view are not a material planning consideration

- Increased pollution

Response: The proposal includes electric vehicle charging points to be secured by condition and additional planting to mitigate the carbon footprint of

the dwelling. It is considered that one residential dwelling would not raise significant concerns regarding pollution.

- Construction traffic

Response: it is considered that the construction of one dwelling would not result in significant ongoing development and would be relatively short term and access between parties would be a civil matter, as a result, this would not warrant grounds for refusal. However, a condition would be added to any subsequent permission relating to hours of construction.

- Damage to property
- Grievances relating to applicant conduct

Response: This is a civil matter and does not form part of the planning process

- The property being in-keeping with the area

Response: This has been addressed in the visual amenity aspect of the report.

- Removal of trees

Response: The trees proposed to be removed to facilitate the development do not have a TPO and could therefore be removed without planning permission.

- Impact to privacy

Response: This has been assessed in the residential amenity section of the report

- Health

Response: Due to the scale of the development, this would not form a material planning consideration.

- Ongoing boundary disputes

Response: This is a civil matter and does not form part of the planning process

- Increased crime

Response: Due to the scale of the development, it is considered that crime mitigation measures would not be required to support the application. The dwelling would provide increased natural surveillance within the area.

- Planting of trees causing damage

Response: The planting of trees does not require planning permission and could be undertaken without an application. Therefore, in the event of any damage being sustained as a result of the development, this would be a civil matter.

- Appearance of solar panels

Response: This has been addressed in the visual amenity aspect of the report.

- Proposal impacting natural surveillance

Response: The dwelling's impact on the residential amenity of visual amenity has been assessed in the report.

- Inaccuracies in design and access statement

Response: An independent assessment has been made by KC Highways DM regarding access to and from the site. The use of the track would be a civil matter and does not form part of the planning process.

- Highway safety issues caused by development

Response: The proposals impact to the Highway has been assessed by KC Highways DM in the report.

- Ground being unlevel for access

Response: The highways aspects of the proposals have been considered acceptable by KC Highways DM.

7 – Negotiations

Officers requested alterations relating to the design of the dwelling, access widths relating to emergency vehicles being able to access the site, bin storage and garage dimensions..

8 – Proposed conditions

Along with the standard timescale condition, which is a requirement of Section 91 of the Town and Country Planning Act 1990, it is considered appropriate to add the following conditions.

Accordance with the approved plans to ensure the development is carried out in line with the officer's assessment

Samples of proposed materials are to be submitted and approved by the LPA

The proposed driveway is to be surfaced appropriately prior to first use of the dwelling in the interests of Highway Safety.

An electric vehicle charging point shall be provided prior to first occupation of the dwelling in the interests of air quality

The surface water drainage strategy for the site shall be developed in accordance with the hierarchy of drainage and where soakaways are proposed

No windows, doors or other openings, other than those shown on the approved plans, shall, at any time, be formed within any elevation of the approved house to safeguard the amenity of neighbouring residents

No development included within Classes A - E of Part 1 of Schedule 2 to that Order shall be carried out within the red line boundary of the site to safeguard the amenity of neighbouring residents and preserve the character of the area.

If 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 and a remediation strategy shall be submitted and approved by the LPA. In the interests of mitigating hazards associated with contaminated land.

A sparrow terrace nest box shall be installed to the exterior of the new dwelling before the dwelling hereby approved is first brought into us; In the interests of the biodiversity of the site and in accordance with the Wildlife & Countryside Act.

A bat box shall be installed to the exterior of the new dwelling before the dwelling hereby approved is first brought into us; In the interests of the biodiversity of the site and in accordance with the Wildlife & Countryside Act.

No construction works, or deliveries to or from the site, shall take place outside of the hours of 07.30 to 18.30 hours Mondays to Fridays and 08.00 to 13:00 hours on Saturdays. No construction works or deliveries to or from the site, shall take place at all on Sundays or Public Holidays
To safeguard the amenities of neighbouring residents during the construction Period.

9 – 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.

As set out above, 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**

Decision Authorisation - Delegated Powers
Application Number: 2022/92405
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, LP1, LP2, LP3, LP7, LP11, LP20, LP21, LP22, LP24, LP28, LP30, LP33, LP47. LP51, LP52 and LP53 of the Kirklees Local Plan, Chapters 2, 5, 8, 9,11, 12, 14 and 15 of the National Planning Policy Framework and the provisions of the Housebuilders Design Guide SPD (2021) and Highway Design Guide SPD (2019).

3. Notwithstanding the submitted details, development above slab/foundation level shall not commence until details of all external materials including walls, roofs, doors, windows, surfacing, rainwater goods and colour finishes to be used have been submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until the approved scheme has been completed. No materials other than those approved in accordance with this condition shall be used which shall thereafter be retained and maintained for the lifetime of the development.
Reason: In the interests of visual amenity to accord with Policy LP24 of the Kirklees Local Plan, The Kirklees Housebuilders Design Guide SPD and guidance contained within the National Planning Policy Framework.

4. Notwithstanding the submitted details, the proposed access from Garden Place shall be constructed with a width of 4m and shall thereafter be retained and maintained for the lifetime of the development.
Reason: In the interests of Highway Safety and to accord with Policy LP21 of the Kirklees Local Plan

5. Prior to the development being brought into use, the approved vehicle parking areas shall be surfaced and drained 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 (ISBN 9781409804864) as amended or superseded; and thereafter retained throughout the lifetime of the development.
Reason: In the interests of highway safety, to achieve a satisfactory layout and to accord with Policy LP22 of the Kirklees Local Plan.

6. No development shall take place until details of the design, including structural calculations and material to be used in the construction of retaining walls/structures near or abutting the highway have been submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until the approved scheme has been completed. Thereafter the completed scheme shall be maintained throughout the lifetime of the development.
Reason: To ensure that any new retaining structures do not compromise the stability of the highway. This is a pre-commencement condition to ensure that any construction work necessary to the retaining wall is included in the development at the appropriate stage, in order to accord with Policy LP21 of the Kirklees Local Plan.
7. Notwithstanding the submitted details, the surface water drainage strategy for the site shall be developed in accordance with the hierarchy of drainage and where soakaways are proposed, testing shall be provided to demonstrate that they are a suitable option for the site. The drainage works shall be completed in full before the approved dwelling is first occupied and shall thereafter be satisfactorily retained at all times.
Reason: To ensure the provision of an adequate drainage system in the interests
of amenity, environmental well-being, and to accord with Policies LP24, LP28 and LP52 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

8. Before the electrical system is installed a scheme detailing the dedicated facilities that will be provided for charging electric vehicles and other ultra-low emission vehicles shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall meet at least the following minimum standard for numbers and power output:-
- A Standard Electric Vehicle Charging point (of a minimum output of 16A/3.5kW) for each residential unit that has a dedicated parking space Buildings and parking spaces that are to be provided with charging points shall not be brought into use until the charging points are installed and operational. Charging points installed shall be retained thereafter.

Reason: To encourage ultra-low emission vehicles in the interests of air quality and to accord with Policies LP 21 and LP24 of the Kirklees Local Plan, the guidance contained in Chapters 9 and Chapter 15 of the National Planning Policy Framework and the West Yorkshire Low Emissions Strategy.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any subsequent legislation revoking or superseding that Order, no windows, doors or other openings, other than those shown on the approved plans, shall, at any time, be formed within any elevation of the approved dwelling.
Reason: To safeguard the privacy of the adjoining properties, in accordance with the
requirements of Policy LP24 of the Kirklees Local Plan and the provisions of the
Housebuilders Design Guide SPD (2021).

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 Classes A - E of Part 1 of Schedule 2 to that Order shall be carried out within the red line boundary of the site.
Reason: To ensure that unsatisfactory extensions and outbuildings do not have an unacceptable impact on the amenities of surrounding properties, in accordance with the requirements of Policy LP24 of the Kirklees Local Plan and the provisions of the Housebuilders Design Guide SPD (2021).

11. A sparrow terrace nest box shall be installed to the exterior of the new dwelling before the dwelling hereby approved is first brought into use and thereafter retained for the lifetime of the development
Reason: In the interests of the biodiversity of the site and in accordance with the Wildlife & Countryside Act 1981 (as amended), Conservation of Habitats and Species Regulations 2010 and, compliance with the National Planning Policy Framework.

12. A bat box shall be installed to the exterior of the new dwelling before the dwelling hereby approved is first brought into use and thereafter retained for the lifetime of the development
Reason: In the interests of the biodiversity of the site and in accordance with the Wildlife & Countryside Act 1981 (as amended), Conservation of Habitats and Species Regulations 2010 and, compliance with the National Planning Policy Framework.

13. The development shall not be occupied until the window within the first floor of the East elevation serving a bathroom of the dwelling hereby approved has been obscure glazed. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification) the obscure glazing shall thereafter be retained.
Reason: So as not to detract from the amenities of adjoining property by reason of loss of privacy and to accord with Policy LP 24 of the Kirklees Local Plan.

14. In the event that contamination, or the presence of coal 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 by a suitably competent person 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. No part of the site shall be brought into use until such time as that part of 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: To ensure the site is safe for habitation and to accord with Policy LP 53 of the Kirklees Local Plan.

15. No development shall commence until; a) a scheme of intrusive site investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and; b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.
Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 178 and 179 of the National Planning Policy Framework. This is a pre-commencement condition to ensure that the legacy of past coal mining is investigated at an appropriate time, and remediation/mitigation is integral to the development.
NOTE: The granting of planning permission does not override any private legal rights or consents that may be required. It is the responsibility of the applicant / developer to ensure that all appropriate consents are in place prior to any development commencing; during the period of construction existing access for neighbouring properties is maintained; and no damage is caused to the access driveway or surrounding properties.

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: 0800 7318765) 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. Footnote; - Adoption under Section 38 of the Highways Act: It is brought to the Applicants' notice that the Highway Development, Investment & Regeneration, Civic Centre 3, Market Street, Huddersfield HD1 2JR (Kirklees Street Care: 0800 7318765 or 'Highways.Section38@kirklees.gov.uk') must be contacted to discuss road adoption arrangements under Section 38 of the Highways Act 1980.

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 the works may be carried out.

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 (Kirklees Street Scene: 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: Electric Vehicle Charging Point
• A Standard electric vehicle charging point is one which is capable of providing a continuous supply of at least 16A (3.5kW). A 32A (7kW) is however more likely to be futureproof
• Standard charging points for single residential properties that meet the requirements specified in the latest version of “Minimum technical specification
• Electric Vehicle Homecharge Scheme (EVHS)” by the Office for Low Emission Vehicles will be acceptable. Basically, charging points that provide Mode 3 charging with a continuous output of least 16A (3.5kW) and have Type 2 sockets would be acceptable.
• The electrical supply of the final installation should allow the charging equipment to operate at full rated capacity.
• The installation must comply with all applicable electrical requirements in force at the time of installation.

NOTE: Guidance on location of the sparrow boxes is given in the following links:
www.concernfor**swift**s.com/Where**Swift**s**Nest**.asp
www.londons-**swift**s.org.uk/**Nest**boxes&Attraction.htm
http://www.swift-conservation.org/swift_bricks.htm
Bird nest opportunities should not be located above windows and doors.

NOTE: All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2021. 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 - The removal of any remaining vegetation should be undertaken outside of the bird breeding season, March to August inclusive. If any clearance work is to be carried out within this period, a nest search by a suitably qualified ecologist should be undertaken immediately preceding the works. If any active nests are present work which may cause destruction of nests or, disturbance to the resident birds must cease until the young have fledged.
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.

The conditions relate to Planning Control only. Approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information. Any other necessary consent must be obtained from the appropriate authority. If the applicant commences work without discharging conditions, they will be at risk of enforcement action and invalidating the permission if the planning condition is a pre commencement condition.

Plans and specifications schedule: -

Plan Type	Reference	Version	Date Received
Site Plan (Landscaping)		REV:C 002	4.01.2023
Proposed Detached Dwelling		REV: C 003	4.01.2023
Proposed location and site plan (access)		REV: D 001	7.02.2023
Coal Mining Risk Assessment	G22332		27.07.2022
Design and Access Statement			18.07.2022

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 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 site plans, plans and elevations have been requested during the application.