

**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:	2022/62/93631/E
Site Address:	20, Kelloe Street, Cleckheaton, BD19 4EN
Description:	Demolition of existing building and erection of apartment block
Recommending Officer:	Sarah Longbottom

DECISION – CONDITIONAL FULL PERMISSION

I hereby authorise the approval of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

John Holmes

AUTHORISED OFFICER

Date: 20th December 2024

Officer Report

Site Description

The application site contains a single storey flat roofed building that was previously used as a private social and welfare club for employees and ex-employees of the neighbouring industrial site to the north. The building is currently vacant. The surrounding area is largely varied in character with both residential and commercial development directly adjacent to the site. Residential properties are located to the north east and south east, with Bradford Road running along the south western boundary of the site and a priority employment area to the north west.

Description of Proposal

Permission is sought for the erection of a three storey apartment block, comprising 9 no 2 bed apartments. A car park would serve the development to the north east of the block. The apartment block would be contemporary in design incorporating the use of flat roofs set across slightly differing levels, render/clad walls and floor to ceiling windows.

Eleven parking spaces (including 2 visitor spaces) would be provided on the land to the front of the building, in addition to a cycle store and bin store.

Patio areas would be provided to serve the ground floor apartments, with landscaping to the rear and side boundaries.

The proposed building would be faced in artificial stone, silicone white render and cladding with large expanses of glazing and a monopitch roof. The submitted plans show the building to be approx 10.5m at its highest point.

History of negotiations/amendments received

Through the course of the application, a meeting was held with the applicant and agent and amendments were subsequently received in relation to the diversion of the culvert which runs underneath the site.

A Bat Survey and Coal Mining Risk Assessment were also submitted during the course of the application.

Relevant Planning History

2021/21088 – Pre-application enquiry for erection of 3 storey apartment block – advice given

2016/93113 (to north east) - Hunsworth Lane / Savile Street, Cleckheaton - Reserved matters application pursuant to outline permission no. 2014/90225 for erection of 10 dwellings -Approved

2014/90225 (to north east) - Hunsworth Lane / Savile Street, Cleckheaton -
Outline application for residential development – Approved.

Representations

The application was publicised in accordance with the Kirklees Development Management Charter. As a result of site publicity, 6 representations have been received. The comments made are summarised as follows:

- Added traffic to the main roads and junction 26.
- Lack of adequate parking provision
- More bins blocking the roads.
- It will decrease our house prices.
- The people who rent flats next to us already cause anti-social behaviour and this will only cause more.
- Noise and disruption will be an issue.
- Lack of Privacy to houses on Kelloe Street and Willow Street
- Overshadowing to houses on Willow Street
- Cars in adjacent car park are likely to get damaged
- Concern of heavy machinery on small access road
- Would be supportive of a proposal of an appropriate size/scale building which will not interfere with my privacy or the enjoyment of my property

Through the course of the application, Councillor Andrew Pinnock contacted the case officer to enquire about the height of the development in relation to existing development, highway safety matters and the proposed acoustic fence. A response was provided in respect of these matters.

Consultation Responses

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

KC Highways DM: Proposals indicate adequate parking provision and turning for service vehicles.

KC Environmental Health: No objections subject to imposition of conditions relating to contaminated land, noise mitigation, electric vehicle charging points.

KC Lead Local Flood Authority (LLFA): No objection following submission of amended details relating to diversion of culvert. Recommend imposition of a condition in respect of this.

KC Ecology: No objection subject to imposition of condition requiring biodiversity enhancement (bat and bird boxes).

KC Waste Strategy: Provided advice in respect to waste storage and collection and recommended imposition of condition for maintenance and management of bin store.

The Coal Authority: Withdrew initial objection following submission of an adequate Coal Mining Risk Assessment.

Yorkshire Water: No objections subject to imposition of conditions relating to foul drainage

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 within the Strategic Green Infrastructure Network within the Kirklees Local Plan.

Kirklees Local Plan (LP):

- **LP 1** - Achieving Sustainable Development
- **LP 2** - Place Shaping
- **LP 3** - Location of New Development
- **LP 7** - Efficient and Effective Use of Land
- **LP 11** - Housing Mix and Affordable Housing
- **LP 20** - Sustainable Travel
- **LP 21** - Highway Safety and Access
- **LP 22** - Parking
- **LP 24** - Design
- **LP 26** - Renewable and Low Carbon Energy
- **LP 27** - Flood Risk
- **LP 28** - Drainage
- **LP 30** - Biodiversity & Geodiversity
- **LP 31** - Strategic Green Infrastructure Network
- **LP 48** - Community facilities and services
- **LP 51** - Protection and Improvement of Local Air Quality
- **LP 52** - Protection and Improvement of Environmental Quality
- **LP 53** - 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 December 2024, 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 9** - Promoting Sustainable Transport
- **Chapter 11** - Making Effective Use of Land
- **Chapter 12** - Achieving Well-Designed Places
- **Chapter 13** – Protecting Green Belt Land
- **Chapter 14** - Meeting the Challenge of Climate Change, Flooding and Coastal Change
- **Chapter 15** - Conserving and Enhancing the Natural Environment

Other Guidance Documents:

- Kirklees Highways Design Guide (2019)
- Housebuilders Design Guide (2021)
- Nationally Described Space Standards
- National Design Guide
- Biodiversity Net Gain Technical Advice Note (2021)
- Planning Applications Climate Change Guidance (2021)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 2) Impact on visual amenity
- 3) Impact on residential amenity
- 4) Impact on highway safety
- 5) Other matters
- 6) Representations
- 7) Conclusion

1 – Principle of development:

The site is without notation on the Kirklees Local Plan. Policy LP1 of the Kirklees Local Plan states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in Chapter 2 of the National Planning Policy Framework. Policy LP2 sets out that, in order to protect and enhance the character of places, all development proposals should seek to build on the opportunities and help address the challenges identified in the Local Plan.

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 2023 update of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land, and the 2022 Housing Delivery Test (HDT) measurement which was published on 19th December 2023 demonstrated that Kirklees had achieved a 67% measurement against the required level of housing delivery over a rolling 3-year period (against a pass threshold of 75%).

As the Council is currently unable to demonstrate a five-year supply of deliverable housing sites, and delivery of housing has fallen below the 75% HDT requirement, it is necessary to consider planning applications for housing development in the context of NPPF paragraph 11 which triggers a presumption in favour of sustainable development. This means that for decision making "Where there are no relevant development plan policies, or the policies which are most important for determining *the* application are out-of-date (NPPF Footnote 8), granting permission unless: (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (NPPF Footnote 7) ; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."

The Council's inability to demonstrate a five-year supply of housing land, or pass the Housing Delivery Test, weighs in favour of housing development but this has to be balanced against any adverse impacts of granting the proposal. The judgement in this case is set out in the officer's assessment.

Policy LP7 of the Kirklees Local Plan states that should encourage the efficient use of previously developed land in sustainable locations provided that it is not of high environmental value and a net density of at least 35 dwellings per hectare should be provided. Principle 4 of the Housebuilders Design Guide seeks to ensure a density of 35 dwellings per hectare or more

is achieved. Policy LP7 sets out that lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or to secure particular house types to meet local housing needs.

The site measures 1100m² and in this case, due to the nature of the development (apartment block), the density proposed would be higher than 35 dwellings per hectare. Adequate parking provision is included to serve this number of units and in this case, the proposed density is considered to be acceptable. The proposal seeks to erect a three storey apartment block comprising 9 no. 2 bed units and 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.

Loss of Existing Club

Whilst the development would result in the loss of the existing social and welfare club, this is not considered to constitute a community facility due to its private nature associated with the industrial site to the north. According to the submitted information, the membership of the club dwindled to the extent that it was sat vacant for several years until subsequently sold. As such, in this instance, the loss of the club would not equate to the loss of a community facility and the applicant is therefore not required to satisfy the requirements of Policy LP48 of the KLP.

In this case, the principle of development is considered acceptable, and the proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety. These issues along with other policy considerations will be addressed below.

2 –Impact on visual amenity:

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby Paragraph 131 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 LP24 all seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity. Policy LP24 states that proposals should promote good design by ensuring: "a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape..."

Paragraph 134 of the NPPF sets out that design guides and codes carry weight in decision making. Of note, Paragraph 139 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. Also 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.”*

Further to this, Principle 13 of the Housebuilders Design Guide 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. Principle 15 states that the design of the roofline should relate well to site context.

The proposed development would consist of a three storey block of contemporary appearance, incorporating artificial stone, glazing, render and cladding with flat/monopitch roofs.

The immediate locality is characterised predominantly by traditional two storey stone dwellings and a more recent development comprising of 2.5 storey dwellings constructed of artificial stone, however immediately adjacent the site to the east are a pair of rendered dwellings. Beyond the immediate surroundings of the site, to the north and west, are modern industrial units/sheds faced in contemporary cladding.

At the time of the pre-application enquiry, Officers advised that justification would need to be provided for the proposed materials and three storey scale of the proposed building. In respect of the scale of the building, this would be comparable to that of the newer dwellings to the north and north east. Whilst minimal justification has been provided in relation to the proposed materials of construction, it is considered that taking into account the immediate context, and subject to samples of appropriate materials being provided (and this being ensured by condition), a mix of traditional and contemporary materials is considered to be acceptable in this location.

The proposed building would occupy a position set further back into the site than the existing building, with adequate separation to all site boundaries, and

the submitted 3D views plans, in conjunction with the submitted elevation plans, are considered to satisfactorily demonstrate that it would not appear incongruous in relation to existing development. Notwithstanding this, as no details of finished floor levels have been provided, it is considered reasonable in this instance to impose a condition requiring these by condition, in the interests of visual amenity (as well as residential amenity addressed below). Specific details of the bin and cycle storage areas are not set out in the submitted plans / details in terms of design. Conditions are therefore recommended to be included to ensure that details relating to bin / cycle store areas is submitted to the LPA and approved in writing.

Existing trees along the Bradford Road boundary would be retained, in addition to landscaped 'planting zones' around the building. As no specific details have been provided in respect of this, a landscaping condition is recommended to this effect, in addition to conditions relating to boundary treatments and materials of construction/design of bin and cycle stores.

It is therefore concluded that, subject to conditions, the proposed development is considered to be of an acceptable size, scale and design in this location. On this basis, the proposals are deemed to accord with the requirements of Policies LP1, LP2, LP11 and LP24 of the Kirklees Local Plan, Chapter 12 of the National Planning Policy Framework and Principles 2, 5, 6, 13, 14 and 15 of the Housebuilders Design Guide SPD.

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.”

Principle 6 of the Housebuilders Design Guide SPD highlights that *“the space between buildings can help maximise residential amenity in terms of maintaining privacy, reducing overlooking and ensuring natural light is able to penetrate buildings.....normally new build development 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 the scale of the dwellings”.*

The text supporting Principle 6 of the Kirklees Housebuilder Design Guide SPD states set out recommended minimum separation distances for two storey properties, these being:

- 21 metres between facing windows of habitable room;
- 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.

Further to this, Paragraph 135 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.

The development would result in the demolition of the existing single storey building and its replacement with a three storey apartment block. Adequate separation distances would be achieved between the development and the habitable room windows and gardens of Nos. 5-8 Willow Street to the north east (22.5m); 6m to the gable end of 208 Bradford Road to the south; 25m to Nos. 3 and 5 Hunsworth Lane to the south east, and 20m indirectly to 1-2 Kelloe Street.

In addition, in this instance an adequate separation distance would be achieved to all boundaries except for the northern boundary with the priority employment area where this separation distance varies between 0.9m and 2.0m. Given that this separation distance relates to a site for a non-residential use, it is considered to be acceptable in this instance.

The submitted 3D views demonstrate the relationship between the proposed development and the neighbouring dwellings, and as a result of the site topography and separation distances, Officers consider that the development would not result in a detrimental impact upon the amenities of adjacent occupants as a result of overshadowing or overlooking, nor would it appear overbearing. The imposition of a condition requiring details of finished floor levels would also ensure that this would be the case.

Officers consider the proposed separation distances to be acceptable on this occasion. The proposals are therefore considered to meet with the requirements of Principle 6 of the above SPD.

Due to the scale of the development and the proximity of residential properties to the site boundary, there is a potential for loss of amenity to the occupiers of nearby properties from noise, vibration, dust and artificial light from the construction phase of the development. A condition is therefore recommended requiring submission of a Construction Environmental Management Plan (CEMP).

In conclusion, and subject to conditions, the proposed development is considered to be of an acceptable size, scale and design in this location. On this basis, the proposal is deemed to accord with the requirements of Policies LP1, LP2, LP11 and LP24 of the Kirklees Local Plan, Chapter 12 of the National Planning Policy Framework and Principles 2, 5, 6, 13, 14 and 15 of the Housebuilders Design Guide SPD.

Impact on amenity of future occupants

Consideration must also be given to the amenity of future residents of the proposed dwelling. Principle 16 of the Housebuilders Design Guide seeks to ensure the floorspace of dwellings accord with the 'Nationally Described Space Standards' document (March 2015). Internally, the proposed apartments would have a GIA of between 70 sq m and 76.3 sq m which would meet the minimum space standards set out in the NDSS for the provision of 2 bedroom single storey properties. Furthermore, Large expanses of glazing are proposed to communal areas and habitable rooms which, it is considered would maximise the extent of natural light entering the building.

In respect of outdoor amenity space, due to the nature of the development as an apartment block, only the ground floor apartments will have external patio areas, although areas of landscaping are proposed to the front, side and rear of the building, which would enhance the outlook of future occupants. The proposal is therefore concluded to be acceptable in this regard.

Paragraph 198 of the NPPF, contained within Chapter 15, sets out that proposals should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development. Policy LP52 of the Kirklees Local Plan is also considered to be of relevance and seeks to ensure that, amongst other things, the impact from noise for new development is acceptable. Policy LP52 sets out that development which has the potential to increase pollution from noise must be accompanied by evidence to show that the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution, so as to ensure it does not reduce the quality of life and well-being of people to an unacceptable level.

In this instance, the site backs onto the A638 Bradford Road and is also located adjacent to a priority employment area. The applicant has submitted an Environmental Noise Survey authored Paul Horsley Acoustics Ltd by dated 24 October revised 26 October 2022 Ref J3143. A baseline noise survey was conducted on the 10th to the 11th of October 2022 from a location facing Bradford Road. A specification is given for the typical construction of the building envelope to ensure the internal requirements of BS8233 are met. A specification is also given for the glazing and ventilation and the table in para 12.2.4 shows the levels would fail to meet with the Building Regulation for Overheating and so a full Mechanical Ventilation Heat Recovery (MVHR) system is recommended for dwellings, irrespective of location.

The ground floor apartments will have an external patio area and as the measured noise exceeds the upper level for external amenity space, a 2m high acoustic barrier is recommended. A specification is provided and reference is made to using the Jakoustic Barrier System supplied by Jacksons Fencing which would afford 10dB mitigation ensuring the external amenity areas meet with the external requirements of BS8233. The findings of the report are accepted by KC Environmental Health, but a condition is

recommended to ensure all works recommended in the submitted report are implemented. A separate condition is proposed in relation to boundary treatments which would include the proposed acoustic fence.

On the above basis, subject to relevant conditions, the proposed development would be acceptable from a residential amenity perspective, in accordance with Policies LP24 and LP52 of the KLP, Key Design Principles of the Housebuilders Design Guide SPD and Chapters 12 and 15 of the NPPF.

4 – Impact on highway safety:

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

The application site is located at the end of a no-through road and would provide one parking space per apartment plus two visitor spaces, in addition to internal vehicle turning at the end of Kelloe Street for a 7.0m delivery van. Kirklees Highways DM have confirmed that this is acceptable.

A bin store and cycle store is proposed to the south east of the site, close to the entrance to the building, details of which can be secured by condition.

KC Waste Strategy have commented on the submitted layout and location and size of the communal bin store and recommended a condition relating to its management and maintenance.

On the basis of the inclusion of the recommended conditions the development is considered to accord with Policies LP21, LP22 and LP24 of the KLP.

5 – Other matters:

Contaminated Land

With regard to land quality, paragraphs 187, 196 and 197 of the National Planning Policy Framework and policy LP53 of the Kirklees Local Plan which seeks to ensure land quality is maintained as part of new development are considered to be relevant.

The proposed development site is shown as being potentially contaminated due to its location adjacent to former commercial premises, manufacturing textiles and asbestos products (site reference 67/1).

A Phase 1 Report by RB Geotechnical (ref: RBG314) (dated: Sept 2022) has been submitted in support of the application. The report describes that the site itself has been undeveloped since 1854 and has remain unchanged since c.1938. Between 1938 to 1957 an access path appeared on the maps and the

site looks to be set within the grounds of a mill and works building. By 1957 a building is shown on site and the site is shown surrounding the industrial estate. This is unchanged to the current day. The surrounding area has been generally industrialised since 1854. A preliminary conceptual model is presented in Section 9.5 that lists several potential pollutant pathways. Several onsite sources exist, including made ground. The report states that there are no off-site sources. Overall, the report states that 'a moderate/low risk of potential pollutant linkage to the site exists.' The report then recommends a Phase II investigation of the shallow soils for a range of potential soil contaminants.

KC Environmental Health have no objection to the application in relation to contaminated land issues subject to necessary conditions being imposed relating to further site investigation and remediation. This would ensure that the development accords with Policy LP53 of the KLP and Chapter 15 of the NPPF.

Air Quality

The site is not located within an Air Quality Management Area, although is adjacent to the A638 Bradford Road. Although considered unlikely that the development itself will impact on local air quality, there is the potential that it would be exposing future sensitive receptors into an area of poor air quality. An Air Quality Screening Assessment (ref: 80918-SRL-RP-YQ-01-S2-P1) (dated: 30/09/2022) has been submitted with the application which concludes that all projected pollutant concentrations are below the national air quality objectives and will not be exposing sensitive receptors to poor air quality, hence a detailed air quality assessment is not required. KC Environmental Health accept these conclusions, in addition to the conclusions of a dust risk assessment.

Approval under the Building Regulations will be required for any electric vehicle charging points, and therefore a condition is not necessary in this regard.

On the above basis, the proposals would accord with Policy LP51 of the KLP and guidance contained within Chapter 15 of the NPPF.

Coal Mining Legacy

Policy LP53 of the Kirklees Local Plan and paragraphs 196 and 197 of the National Planning Policy Framework are relevant which seek to ensure that a site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation.

The application site is located in the High Risk Area as defined by the Coal Authority, and as such a Coal Mining Risk Assessment Report (RBG334, January 2023) was submitted during the course of the application.

The Coal Authority considers the content and conclusions of the Coal Mining Risk

Assessment Report are sufficient for the purposes of the planning system and meets the requirements of Chapter 15 of the NPPF. No conditions are required in respect of coal mining legacy.

Ecology

Policy LP31 of the Kirklees Local Plan identifies a number of areas which form part of the Strategic Green Infrastructure Network. This policy sets out that priority will be given to safeguarding and enhancing green infrastructure networks, green infrastructure assets and the range of functions they provide.

Chapter 15 of the National Planning Policy Framework is relevant, together with The Conservation of Habitats and Species Regulations 2017 which protect, by law, the habitat and animals of certain species including newts, bats and badgers.

Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance.

The site is location with a Bat Alert area as identified by the Council's GIS mapping system. Through the course of the application, a bat survey was submitted which determined that the site provides negligible suitability for roosting bats, and the site overall provides minimal ecological value. On this basis, no further survey work is required, however in order to provide biodiversity enhancement, a condition is to be imposed requiring the provision of two bat boxes to be retained thereafter. Given the extent of green infrastructure which would remain in place, and subject to inclusion of a condition requiring a landscaping scheme to be agreed in writing by the LPA being included upon any grant of permission it is considered the proposal would have an acceptable impact with regard to the strategic green infrastructure network. Subject to conditions the proposal is therefore considered to ensure that the development accords with Policy LP30 of the KLP and policies contained within Chapter 16 of the NPPF.

In terms of Biodiversity Net Gain as set out by the statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021). The development is considered to benefit from the exemption as set out by The Biodiversity Gain Requirements (Exemptions) Regulations 2024 insofar as the application was received prior to April 2024 and there is no required for BNG to be provided in respect of the aforementioned legislation.

Trees

The southern boundary of the site adjacent to Bradford Road contains a line of trees which are to be retained as part of the development, two of which would be located relatively close to the building itself, although off set in relation to main habitable room windows. It is acknowledged that these may

have the potential to result in shading to some of the rooms within the rear apartments, however their presence would provide a buffer to the A638 and benefit to visual amenity. Their retention is welcomed as part of the development, in accordance with Policy LP33 of the KLP.

Drainage/Culvert

A culverted watercourse runs underneath the site, and therefore through the course of the application, the applicant was required to locate, accurately depict, and survey the culvert for size, depth, and condition. This subsequently informed the production of a culvert diversion plan and amendment to the size and siting of the proposed development. Subject to the imposition of a condition to ensure the protection, maintenance and management of the culvert, the proposals would accord with Policies LP 24 and LP28 of the KLP and Chapter 14 of the NPPF.

There are no other matters for consideration.

6 – Representations:

Six representations have been received in response to site publicity. The comments made are summarised and addressed as follows:

Added traffic to the main roads and junction 26.

Response: The development would result in the creation of 9 residential units which is not considered to amount to a significant intensification in use of the surrounding highway network.

Lack of adequate parking provision

Response: The proposed development would include adequate provision for resident and visitor parking.

More bins blocking the roads

Response: The submitted plans include the provision of waste storage and collection facilities.

It will decrease our house prices.

Response: This is not a material planning consideration in the assessment of the application.

The people who rent flats next to us already cause anti-social behaviour and this will only cause more.

Response: This is not a material planning consideration in the assessment of the application.

Noise and disruption will be an issue.

Response: Noise and disruption during the construction period would be a transient issued, however Environmental Health have powers to control hours of construction and a footnote would be imposed to this effect, should permission be granted

Lack of Privacy to houses on Kelloe Street and Willow Street.

Response: Adequate separation distances would be achieved between the development and existing residential properties, in accordance with Policy LP24 and the Housebuilders Design Guide.

Overshadowing to houses on Willow Street

Response: The proposed development would be located an adequate distance from the residential properties in order to minimise the potential impact from overshadowing.

Cars in adjacent car park are likely to get damaged

Response: Any damage occurring during the construction period would be a civil matter.

Concern of heavy machinery on small access road

Response: Kelloe Street is adopted up to the site boundary and considered to be capable of accommodating the machinery required to facilitate the development.

Would be supportive of a proposal of an appropriate size/scale building which will not interfere with my privacy or the enjoyment of my property

Response: The impact of the proposals on residential amenity has been addressed in the above assessment under the residential amenity section.

7 – Conclusion:

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

Recommendation

Approve

Decision Authorisation - Delegated Powers

Application Number: 2022/93631

Officer Recommendation: Approve

Conditions and Reasons

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision

notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord Policies LP1, LP2, LP7, LP21, LP22, LP24, LP28, LP52 and LP53 of the Kirklees Local Plan, Chapters 2, 4, 5, 9, 11, 12, 14 and 15 of the National Planning Policy Framework and principles within the Council's adopted Housebuilders Design Guide SPD.

3. Prior to development commencing on the superstructure of the development hereby approved, a scheme which details all facing and roofing materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved scheme which shall be thereafter retained.

Reason: In the interests of visual amenity and to accord with Policy LP 24 of the Kirklees Local Plan.

4. The development shall not be brought into use and there shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works in accordance with a scheme which has first been submitted to and approved by the Local Planning Authority. If discharge to public sewer is proposed, the information shall include, but not be exclusive to:-

a) evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical;

b) evidence of existing positive drainage to public sewer and the current points of connection; and

c) the means of restricting the discharge to public sewer to the existing rate less a minimum 30% reduction, based on the existing peak discharge rate during a 1 in 1 year storm event, to allow for climate change.

The development shall not be brought into use until the approved scheme has been completed which shall be retained thereafter.

Reason: To ensure that no surface water discharges take place until proper provision has been made for its disposal and in the interest of sustainable drainage, in accordance with Policy LP 28 of the Kirklees Local Plan.

5. Development shall not commence until a scheme detailing the foundations of the revised building outline (cross section showing depth in relation to pipe invert and stand off distance) and protection of the proposed diverted watercourse shown on Drawing Ref P4100-01-Rev P04 'Proposed Culvert Diversion Plan' have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a detailed maintenance and management regime for the piped watercourse. The approved scheme shall be thereafter retained for the lifetime of the development.

Reason: To ensure the provision of adequate and sustainable systems of drainage in the interests of amenity, environmental wellbeing and to accord with Policies LP24 and LP28 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

6. Prior to development commencing on the superstructure of the development hereby approved, a scheme detailing the positioning, location and specification of two bat boxes (Schwegler 3FE Bat Box or similar) and two Starling boxes shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until the scheme approved by this condition has been completed, which shall be retained thereafter.

Reason: To provide an enhancement to biodiversity in line with Policy LP30 of the Kirklees Local Plan, principle 7 of the Housebuilders Design Guide and the requirements of policies with Chapter 15 of the National Planning Policy Framework.

7. Following demolition, no works (other than those required for a site investigation report) shall commence until a Phase II Intrusive Site Investigation Report by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.

Reason: This is a pre-commencement condition to ensure that land contamination issues are investigated and mitigated at an appropriate time in order to ensure the safe occupation of the site, in accordance with Policy LP53 of the Kirklees Local Plan and Chapter 15 of the of the National Planning Policy Framework.

8. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 7, further 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 that land contamination issues are investigated and mitigated at an appropriate time in order to ensure the safe occupation of the site, in accordance with Policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

9. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 8. 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: This is a pre-commencement condition to ensure that land contamination issues are investigated and mitigated at an appropriate time in order to ensure the safe occupation of the site, in accordance with Policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

10. 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 Chapter 15 of the National Planning Policy Framework.

11. Before the development is first brought into use, all works which form part of the sound attenuation scheme as specified in the Environmental Noise Survey authored Paul Horsley Acoustics Ltd by dated 24 October revised 26 October 2022 Ref J3143:

a) shall be completed; and

b) written evidence to demonstrate that the specified noise levels have been achieved shall be submitted to and approved in writing by the Local Planning Authority.

If it cannot be demonstrated that the noise levels specified in the aforementioned Noise Report have been achieved, then a further scheme shall be submitted for approval of the Local Planning Authority incorporating further measures to achieve those noise levels.

All works comprised within those further measures shall be completed and written evidence to demonstrate that the aforementioned noise levels have been achieved shall be submitted to and approved in writing by the Local Planning Authority before the development is first brought into use.

Reason: To protect the amenity of occupiers of the proposed development from noise or disturbance from nearby noise generating premises to accord with the aims of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

12. Prior to development commencing, a Construction Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the Local Planning Authority. The plan shall describe in detail the actions that will be taken to minimise adverse impacts on occupiers of nearby properties by effectively controlling:

- Noise & vibration arising from all construction related activities. This should also include suitable restrictions on the hours of working on the site including times of deliveries.
- Dust arising from all construction related activities, which should include measures to monitor and record the emissions of dust during construction
- Artificial lighting used in connection with all construction related activities and security of the construction site.

A communications plan detailing the responsible person, their contact details and how this will be communicated to local residents and the Local Authority must be included. The agreed plan shall be adhered to throughout the construction of the development.

Reason: To safeguard the amenities of the occupiers of nearby properties in accordance with Policy LP 52 of the Kirklees Local plan and Chapter 15 of the National Planning Policy Framework.

13. Before development commences on the superstructure of the development hereby approved, details of the management and maintenance of communal refuse storage areas by a designated private management company shall be submitted to and approved by the Local Planning Authority. The approved details shall be provided before first occupation and shall be so retained thereafter.

Reason: To ensure an adequate level of waste capacity storage is provided to accommodate the approved development, in the interests of residential amenity and highway safety and to accord with Kirklees Local Plan Policies LP21 and LP24 and the aims of the National Planning Policy Framework.

14. 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.

Reason: In the interests of highway safety and to achieve a satisfactory layout. Policies LP21 and LP22 of the Kirklees Local Plan, Principles 12 and 19 of the Housebuilders Design Guide Supplementary Planning Document, the Council's Highways Design Guide and the policies contained within Chapter 9 of the National Planning Policy Framework.

15. Prior to commencement of superstructure works, details of all hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. These shall include:

- Details of existing and proposed levels, and regrading;
- Species schedule and planting plans;
- Details of initial aftercare and long-term maintenance;

- Detailing of monitoring and remedial measures, including replacement of any trees, shrubs or planting that fails or becomes diseased within the first five years from completion;
- Details (including samples, if requested) of paving and other hard surface materials

No part of the development hereby approved shall be occupied until all hard and soft landscaping has been implemented in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority. All approved landscaping shall be retained thereafter in accordance with the approved details and approved long-term maintenance, monitoring and remedial arrangements. All areas of soft landscaping shall be retained as soft landscaping for the lifetime of the development.

Reason: In the interests of local ecological value and visual amenity and to accord with Policies LP24, LP30 and LP33 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

16. The development shall not be brought into use until secure, covered, cycle parking facilities have been provided in accordance with a scheme which has first been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include details of the location, design and materials of all cycle storage facilities. The development shall not be brought into use until the approved scheme has been implemented. The approved scheme shall be retained and maintained thereafter.

Reason: In the interests of visual amenity and access and highway safety to accord with Policies LP21, LP22 & LP24 of the Kirklees Local Plan, Principles of the Council's adopted Housebuilders Design Guide SPD and policies within Chapter 12 of the National Planning Policy Framework.

17. The development shall not be brought into use until secure, covered, waste storage facilities have been provided in accordance with a scheme which has first been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include details of the location, design and materials of all waste storage facilities. The development shall not be brought into use until the approved scheme has been implemented. The approved scheme shall be retained and maintained thereafter.

Reason: In the interests of visual amenity and access and highway safety to accord with Policies LP21, LP22 & LP24 of the Kirklees Local Plan, Principles of the Council's adopted Housebuilders Design Guide SPD and policies within Chapter 12 of the National Planning Policy Framework.

18. Development shall not commence until a scheme detailing the finished slab and floor levels of the development hereby approved together with corresponding existing and finished ground levels related to Ordnance Datum or an identifiable temporary datum has been submitted to and approved in writing by the Local Planning Authority. The construction of the development shall thereafter be carried out in accordance with the details so approved before the development is first occupied and retained.

Reason: In the interests of visual amenity and the amenity of neighbouring occupiers, to accord with Policy LP24 of the Kirklees Local Plan, Principle 6 of the Council's adopted Housebuilders Design Guide SPD and policies within Chapter 12 of the National Planning Policy Framework. This is a pre-commencement condition to ensure the ensuing development is undertaken in the interests of residential amenity of adjacent land and buildings and visual amenity.

19. Notwithstanding the details shown on the approved plans, the development shall not be brought into use until a scheme detailing the boundary treatment of the site, (which shall include details of acoustic fencing along the north west and south west boundaries) has been submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until the boundary treatment has been completed in accordance with the approved details. The scheme shall thereafter be retained.

Reason: In the interests of residential amenity of neighbouring occupiers, visual amenity and to accord with Policy LP24 of the Kirklees Local Plan, Principles 5 and 6 of the Council's adopted Housebuilders Design Guide SPD and Policies within Chapter 12 of the National Planning Policy Framework.

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.

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.

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 Location Plan	2736		08.11.2022
Existing Site Layout Plan	2736 ACU (100) 01		08.11.2022
Proposed Floor Plans, Elevations and Site Layout Plan	2736 (100) 03	B	11.04.2024
Proposed 3D Views	2736 (100) 04		08.11.2022
Air Quality Screening Assessment	80918-SRL-RP-YQ-01-S2	P1	08.11.2022
Planning Statement	2736 Kelloe Street		08.11.2022
Acoustic Report	J3143	R1	08.11.2022
Phase I Desk Study Report	September 2022	001	08.11.2022
Coal Mining Risk Assessment	RBG334 January 2023		13.01.2023
Bat Survey	22 April 2023		09.05.2023
Proposed Culvert Diversion Plan	P4100-01	Rev P04	25.06.2024

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.

Through the course of the application, a meeting was held with the applicant and agent and amendments were subsequently received in relation to the diversion of the culvert which runs underneath the site.

A bat survey and Coal Mining Risk Assessment were also submitted through the course of the application.

Report Dated: 16.12.24