# 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: | **2023/62/90872/W** |
| Site Address: | 459, New Mill Road, Brockholes, Holmfirth, HD9 7EF |
| Description: | Formation of vehicular access, engineering operations and formation of retaining structures |
| Recommending Officer: | Teresa Harlow |

**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: 02-Feb-2024**

# OFFICER REPORT

Application Reference: 2023/90872

Site: 459, New Mill Road, Brockholes, Holmfirth, HD9 7EF

## Site Description

The application relates to 459 New Mill Road, a semi-detached dwelling located within the residential area of Brockholes, Holmfirth. Dwellings on this section of the road are set above the level of the highway and accessed by pedestrian steps. Dwellings within the area are constructed from similar materials and are similar in design and scale.

## Description of Development

The applicant is seeking planning permission for the formation of vehicular access from New Mill Road, engineering operations to regrade land to the front of the property (to form off street parking) and formation of retaining walls. The parking space and retaining walls have already been partly constructed. The parking space would be able to accommodate 1 small vehicle off the highway, parked parallel to the road, and potentially bin storage.

The retaining wall to the rear is presently faced in breezeblock, as are the walls to the north and south of the regraded land. The amended submitted plans indicated these will be refaced in drystone construction and a balustrade added to the retaining wall to the east of the parking space. The part-constructed development is indicated to provide a level area of 4.3m in depth from the back edge of the footway by 5.4m in width – measured parallel to the road. As built, the original stepped access from the highway to the dwelling, to the south, the gate and the gate post have all be retained.

## Planning History

No relevant planning history.

## Publicity and Representations

The Council are currently undertaking the legal statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. As such, this application has been publicised via neighbour notification letters.

Final publicity date expired 16th November 2023 – no representations received to date

Holme Valley Parish Council – Defer to Kirklees Council. Concerns for insufficient plans and provision of parking.

The amended plans were not re-publicised as this did not fundamentally alter the development applied for, save for more accurately representing the development which has been undertaken.

**Consultation Responses**

KC Highways DM – "I have no objection in principle as currently the dwellings do not have any off-street parking and the proposals include the provision of… off street parking space which will remove parking from the highway.

However, in this instance the proposed off street parking spaces are shown as being only 4.3m long. This needs to be extended to 6m if possible or at least an absolute minimum of 5m otherwise vehicles parked in the spaces will overhang the adopted footway".

KC Highways Structures – Provides advice in relation to land stability in relation to the highway (nearby site, similar proposal).

**Planning Policy Background**

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) and the Holme Valley Neighbourhood Development Plan (adopted 8th December 2021).

The site is unallocated in the adopted Kirklees Local Plan

<u>Kirklees Local Plan</u>

- **LP 1 –** Achieving Sustainable Development
- **LP 2 –** Place Shaping
- **LP 21 –** Highway Safety
- **LP 22 –** Parking Provision
- **LP 24 –** Design
- **LP 30 –** Biodiversity and Geodiversity
- **LP 51 –** Protection and Improvement of Local Air Quality
- **LP53** – unstable land

<u>Holme Valley Neighbourhood Development Plan</u>

The Holme Valley Neighbourhood Development Plan was adopted on 8th December 2021 and therefore forms part of the Development Plan. Policies within the plan relevant to the consideration of this application are listed as follows: -

- Policy 1 – Protecting and Enhancing the Landscape Character of Holme Valley.
- Policy 2 – Protecting and enhancing the Built Character of the Holme Valley and Promoting High Quality Design.
- Policy 13 – Protecting Wildlife and Securing Biodiversity Net Gain.

The application site is within Landscape Character Area LCA 7: River Holme Wooded Valley.

Key landscape characteristic of the area are

- Glimpsed views towards the wider landscape through gaps between built form.
- Views across the wooded valley floor from elevated vantage points such as from Christ Church New Mill and Holy Trinity Church Hepworth.
- Stone boundary walls are common features.
- A network of Public Rights of Way (PRoW) crosses the landscape including a section of the Barnsley Boundary Walk, the Kirklees Way and the Holme Valley Circular Walk.

Key built characteristic of the area are

- Settlements characterised by a close association between built form and landscape.
- Industrial heritage features such as weirs and mill buildings.
- Mounds and hollows, which are the remains of shallow tunnels created for coal mining, as well as piles of shale material and the remains of plateways (flat stones laid across fields to assist with vehicle movement), are also found across the moorland and fields.

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 2023, 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 9** – Promoting Sustainable Transport
- **Chapter 12** – Achieving Well-Designed and beautiful places
- **Chapter 14** – Meeting the Challenge of Climate Change, Coastal Change and Flooding
- **Chapter 15** – Conserving and Enhancing the Natural Environment

Other Material Considerations

Kirklees Highway Design Guide (November 2019)
House Extensions and Alterations SPD (June 2021)

Legislation

The Town & Country Planning Act 1990 (as amended).
The Planning and Compulsory Purchase Act 2004
The Conservation of Habitats and Species Regulations 2017

**Assessment**

The following matters are considered in the assessment below –

1. Principle of development
2. Impact upon the character and appearance of the area
3. Impact upon residential amenity
4. Impact upon highway safety
5. Other matters (including climate change and biodiversity)
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 (KLP) states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. Policy LP1 goes on further to stating that:

*The Council will always work pro-actively with applicants jointly to find solutions which mean that the proposal can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.*

Policy LP2 of the KLP sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. Policy LP24 of the KLP is relevant and states that *"good design should be at the core of all proposals in the district".*

In this case, the principle of the rear extensions could be acceptable, but this is subject to an assessment against the applicable material planning considerations, which shall be discussed below:

**2 – Impact on character and appearance of the area**

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 significantly LP24 all also seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity.

Policy LP24 states that proposals should promote good design by ensuring:

*"a. the form, scale, layout and details of all development respects and enhances the character of the townscape…"*

Policies 1 and 2 and the key description of the Landscape Character Area in the HVNDP are relevant to visual amenity. In this LCA Stone boundary walls are common features.

Key Design Principles 1 and 2 of the Council's adopted House Extensions and Alterations Supplementary Planning Document (SPD) seek to ensure development is subservient to the host property and in keeping with the character of the locality.

The proposed vehicle crossing would allow a small vehicular parking space or level area of garden in front of the dwelling on a hard surfaced area. To do this significant regarding works with the erection of retaining structures are required. The development proposed would be prominent within the street scene given its scale and location to the front of the property, at the edge of the highway.

However, given the land levels on site, the host property would remain the dominant element, sitting on higher ground level than the development proposed access. The external facing material indicatively proposed for the retaining walls is acceptable given the use of the similar material within the front garden of adjacent properties along the street (dry stone face). Furthermore, there are similar forms of development within the immediate vicinity of the site, with the use of similar materials to that proposed.

Accordingly, the proposal would not compromise the character of the area or appear to be an incongruous addition to the street scene.

It is therefore considered that the proposal is acceptable having regard to policies LP24 of the Kirklees Local Plan, Policies 1 and 2 and LCA7 of the HVNDP, Principle 1 of the Council's adopted House Extensions and Alterations SPD and policies contained within Chapter 12 of the National Planning Policy Framework.

**3 – Impact on residential amenity**

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

"…maintain appropriate distances between buildings' and '…minimise impact on residential amenity of future and neighbouring occupiers."

Policy 2 of the HVNDP requires consideration of issues related to residential amenity.

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 House Extensions and Alterations SPD sets out a number of design principles which will need to be considered when assessing a proposal's impact on residential amenity, which state:

- Principle 3 – that*: "extensions and alterations should be designed to achieve reasonable levels of privacy for both inhabitants, future occupants, and neighbours."*

- Principle 4 – that: *"extensions and alterations should consider the design and layout of habitable and non-habitable rooms to reduce conflict between neighbouring properties relating to privacy, light, and outlook."*

- Principle 5 – that: *"extensions and alterations should not adversely affect the amount of natural light presently enjoyed by a neighbouring property."*

- Principle 6 – that: *"extensions and alterations should not unduly reduce the outlook from a neighbouring property."*

- Principle 7 – that*: "extensions and alterations should ensure an appropriately sized and useable area of private outdoor space is retained. Normally at least half the garden area should be retained as part of the proposals."*

Given the nature of the proposal, risks of privacy, loss of light and reducing outlook are not present. The scale of the retaining wall located to the rear of the car parking space would not impact any dwelling due to neighbouring dwellings

being located on a much higher elevation. The vehicle access would have no significant impact to neighbouring properties residential amenity. The existing steps and balustrade would not materially alter existing arrangements, with the 'as built' construction retaining the pedestrian steps in their original location and the level area in front of the dwelling already existing.

Principle 7 seeks to maintain adequate outdoor space to ensure a dwelling has sufficient amenity space for the current and future occupiers. The development has utilised outdoor space located to the front of the dwelling. There is adequate outdoor space within the rear garden of the dwelling, which has sufficient space for current and future occupants to use as outdoor amenity space.

It is therefore considered that in terms of residential amenity, given the location of the proposed dwelling, topography of the site and surrounding area and nature of the proposal, it would not give rise to any demonstrable adverse material impacts upon the amenities currently enjoyed by the occupiers of neighbouring dwellings within the vicinity. the proposal would comply with Policy LP24 of the Kirklees Local Plan, Policy 2 of the HVNDP, Principles 3, 4, 5, 6 and 7 of the Council's adopted House Extensions and Alterations SPD and policies within Chapter 12 of the National Planning Policy Framework

**4 – Impact on Highway Safety**

Policies LP21 and LP22 of the Kirklees Local Plan and Policies within 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 Key Design Principles 14, 15 and 16 of the Council's adopted House Extensions and Alterations SPD which seek to ensure acceptable levels of off street parking, surfacing of land and refuse storage and collection. are retained are also considered to be of relevance.

KC Highways DM were informally consulted regarding this application. The Highways team consider the proposal to be acceptable on balance. They did raise concerns regarding whether a car could park within the space, but this would be overcome if the ensuing parking arrangements were for a small single vehicle to be parked parallel to the direction of travel on the highway, this would still be only for a small car but is preferable for the free flow of traffic to remove one vehicle off the highway. This analysis is in advance of the determination of this application or any grant of highway authority approval from Highway Services to form the dropped crossing. The team have also raised concerns within a recent application relating to the size of the parking space in relation to others within the streets scene, but given there are approved permission for similar development on the road, they accept the proposal.

New Mills Road is a narrow classified road (A616) with busy two way traffic; as such, the use of on street parking as existing interrupts the free movement of traffic in this location. While the Council's standards usually require the provision of adequate internal turning facilities so that vehicles entering or leaving the classified road can do so in forward gear, in this instance the removal of a parked vehicle from this section of classified road may improve

movements than the existing situation. As such, the overall benefits to be had from the scheme outweigh the harm to be had from lack of turning facilities. In addition, there are other similar developments to that proposed within the immediate vicinity, also without adequate turning space, which have been granted planning permission. Therefore, on balance they consider that subject to conditions the proposal would not give rise to highway safety issues. It should be highlighted that if vehicles overhang the footway in due course, the right to a dropped crossing could be removed.

Footnotes relating to section 184 agreement and surface and drainage will be added to the decision notice.

KC Highway Structure Team were consulted on a similar proposed close to this site in 2023. For that proposal it was stated they would need cross-sectional drawings to show the car parking space in relation to the retaining wall. The applicant subsequently submitted some general images, and a visual inspection by the case officer, concluded that the principal retaining wall – which is around 4.5m from the back edge of the footway, would not pose a material risk to the public highway. The partly constructed walls to the north and south are yet to be altered to comply with the details shown on the indicative elevation plan – that would reduce their height slightly too.

It is considered that waste storage and collection arrangements could be improved if bins could be stored on site at footway level with clear presentation point for collection off the highway. This element of the proposal would also be in accordance with Principle 16 of the House Extensions and Alterations SPD too.

It is therefore considered that in terms of access and highway safety / parking the proposal would comply with Policies LP21 and LP22 of the Kirklees Local Plan, Principles 15 and 16 of the House Extensions and Alterations SPD and Chapter 9 of the National Planning Policy Framework. Principle 14 is discussed below.

**5 – Other matters/Climate Change**

Climate Change

On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda. Policy 13 of the HVNDP is relevant.

Principles 8-11 of the House Extensions and Alterations SPD also relate to combatting climate change and they state the following:

- Principle 8 (Energy Efficiency): Extensions and alterations should, where practicable, maximise energy efficiency.
- Principle 9 (Construction Materials): Extensions and alterations should seek to use innovative construction materials and techniques, including reclaimed and recycled materials where possible.
- Principle 10 (Renewable Energy): Extensions and alterations should consider the use of renewable energy.
- Principle 11 (Water Retention): Extensions and alterations should consider designing water retention into the proposals.

Considering the modest nature of the proposed development, it is considered that the proposed development would not have an impact on climate change that needs mitigation to address the climate change emergency. The submitted illustrative information indicates permeable surfacing to the new parking area with a 'drainaway' facility before drainage runs to an ACO drain. This would help prevent a material increase in surface water run-off in accordance with KDP 14 of the SPD.

Biodiversity

Principle 12 of the House Extensions and Alterations SPD states that: "alterations should consider how they might contribute towards the enhancement of the natural environment and biodiversity." Policy LP30 of the Local Plan and Policy 12 of the HVNDP are also relevant. Given the nature of the proposal, it is not considered reasonable to require biodiversity enhancements in this case.

Land Stability

Given the proximity of the works to the adopted highway and the proposal to construct new retaining structures Policy LP53 of the Local Plan has been considered. This states that 'for development identified at being at risk of instability….measures should be incorporated to...ensure...[this] does not have the potential to cause harm to people or the environment. Chapter 15 of the NPPF also considers with impact of instability.

Additional information was requested and submitted regarding the construction of the retaining walls and cross-sectional information to explain their relationship with the highway. Only illustrative details have been submitted and the picture of a typical retaining wall is not relevant to this site, as this is only for heights retained to 1450mm. The retaining walls here are higher than this.

Notwithstanding this, the NPPF at paragraph 190 states that: "Where a site is affected by...land stability issues, responsibility for securing a safe development rests with the developer and/or landowner". An advisory note to this effect will be attached to the decision notice. The applicants may/may not

have to demonstrate an AIP with Highways in relation to the works beyond this planning application too.

**6 – Representations:**

None Received.

**7 – Conclusion:**

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

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

**Recommendation** **APPROVE**

**Decision Authorisation - Delegated Powers**

**Application Number: 2023/90872**

**Officer Recommendation: Conditionally Approve**

**Conditions**

1. The development hereby permitted shall be carried out in complete accordance with the plans and specifications listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
   **Reason:** For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP2, LP21, LP22, LP24, LP30 and LP51 of the Kirklees Local Plan, Policies 1, 2 and 13 of the Holme Valley Neighbourhood Development Plan, Principles of the Council's adopted House Extensions and Alterations SPD and policies within Chapters 2, 4, 9, 12, 14 and 15 of the National Planning Policy Framework.

2. All 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 within 6-months of the date of this permission; and thereafter retained throughout the lifetime of the development.

**Reason:** In the interests of highway safety, to mitigate flood risk and to achieve a satisfactory layout to accord with Policies LP21 and LP22 of the Kirklees Local Plan, Principle 12 and 14 of the Council's House Extensions and Alterations SPD, the Council's adopted Highways Design Guide and the policies within Chapter 9 of the National Planning Policy Framework.

3. The approved walls/retaining walls shown on the approved elevation plan received 19th January 2024 shall be externally faced with drystone walling as indicated on that plan with the external materials of construction being completed within 6-months of the date of this decision. The external faces of the walls and drystone wall shall thereafter be retained with a drystone finish.
**Reason:** For the avoidance of doubt as to what is being permitted and so as
to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP2, LP24 of the Kirklees Local Plan, Policies 1, 2 of the Holme Valley Neighbourhood Development Plan, Principles of the Council's adopted House Extensions and Alterations SPD and policies within Chapter 12 of the National Planning Policy Framework.

**NOTE:** The applicant is advised that in accordance with paragraph 184 of the NPPF, where a site is affected by…land stability issues, responsibility for securing a safe development rests with the developer and/or landowner. You are advised to design the works in conjunction with an a suitably qualified engineer.

**NOTE:** The changes to the access within the adopted highway fronting the property will need to be constructed under a section 184 agreement of the 1980 Highways Act (vehicle crossings over footways and verges). 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. Interference with the highway without such permission is an offence which could lead to prosecution.

**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 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.

**NOTE:** It is the applicant's responsibility to find out whether any works approved by this planning permission, which involve excavating or

working near public highway and any highway structures including retaining walls, will require written approval from the Council's Highways Structures Section. Please contact the Highways Structures Section on Tel No. 01484-225397 for further advice on this matter.

Plans and specifications schedule:-

| **Plan Type** | **Reference** | **Version** | **Date Received** |
|---|---|---|---|
| Location Plan | TQRQM23075101741768 | | 27 March 2023 |
| Group proposed plans and elevations | | | 19th January 2024 |
| General existing block plan | | | 19th January 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 preapplication advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application.

**Report Dated:** 2nd February 2024

Coal – Low